

SB 494: Providing Needed Clarity for Employees and Businesses

Inconsistent employer size thresholds and unclear statute of limitations in the Virginia Human Rights Act (HRA) confuse businesses and employees.

When the HRA was amended in 2020, the law failed to include important terms and included internal contradictions that are causing problems for employers and employees. For example, someone working for an employer that has between 5 and 15 employees is protected under the law if they are harassed and then fired, or denied a pregnancy accommodation, but not if they are demoted for refusing an unwanted sexual advance or because of their race. Virginia is an outlier in having such a complicated civil rights law.

A simple technical fix is needed to standardize the employer size threshold and add a modest statute of limitations, which wasn't included in the original law.

This bill will provide consistency and clarity to the Human Rights Act.

- **Clarifies “5 or more employees” employer-size threshold across all HRA discrimination claims.**
 - This eliminates confusion caused by the current differing size thresholds for discriminatory discharge (5+) and pregnancy accommodations protections (5+) versus employment discrimination not resulting in discharge (15+).
 - Most states’ anti-discrimination laws apply to employers with fewer than 15 employees, including Maryland, Illinois, South Dakota, and North Dakota. Some state civil rights laws apply to all employers regardless of size.
- **Provides a 2-year statute of limitations for filing a discrimination charge with the Division on Human Rights, and 1-year statute of limitations for filing in court after receiving a right to sue letter from the Division.**
 - A 2-year statute of limitations aligns the main HRA provisions with the statute of limitations in much of Virginia tort law and the HRA’s pregnancy accommodations protections, avoiding confusion for workers and businesses.
 - Ohio, Michigan, Washington, Vermont, New York, Oregon, and California have statutes of limitations of 2 or more years.
- **Makes an award of “attorney fees and costs” for a victim of workplace discrimination mandatory instead of permissive.**
 - This is important for helping workers, especially workers in low-wage jobs, obtain competent legal representation in discrimination cases.
 - This will encourage private attorneys to enforce these workplace protections at no cost to taxpayers.

We urge your support of this bill.

Organizations Supporting this Bill

Virginia Domestic and Sexual Violence Action Alliance – Care in Action – YWCA Richmond – Virginia AFL-CIO – Strelka Employment Law – Pro-Choice Virginia – National Women’s Law Center – AAUW-VA – First Shift Justice Project – Metropolitan Washington Employment Lawyers Association – Virginia Poverty Law Center – Virginia Employment Lawyers Association – League of Women Voters of Virginia – Birth in Color RVA