



## 2024 South Dakota Legislature

# House Bill 1155

Introduced by: **Representative Nelson**

1 **An Act to require the consideration of certain definitions when investigating unfair**  
 2 **or discriminatory practices.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 20-13-1 be AMENDED:**

5 **20-13-1.** Terms used in this chapter mean:

6 (1) "Anti-black sentiment," actions or behaviors that minimize, marginalize, or devalue  
 7 the full participation of black people in life, including unconscious bias and  
 8 motivated acts of prejudice and violence;

9 (2) "Anti-immigrant sentiment" "anti-refugee sentiment," prejudice, discrimination,  
 10 harassment, opposition, or hostility toward individuals perceived to be from a  
 11 different country;

12 (3) "Anti-Indian sentiment," actions or behaviors that denigrate, demonize, or insult  
 13 being an Indian in the United States, including the use of historical events to blame  
 14 Indians for historical events, treating Indians and tribes as nonexistent, exploiting  
 15 or distorting Indian culture or belief, or suggesting that Indian nationhood should  
 16 be disavowed or devalued;

17 (4) "Commission," the South Dakota State Commission of Human Rights;

18 ~~(2)~~(5) "Commissioner," a member of the commission;

19 ~~(3)~~(6) "Court," the circuit court in and for the judicial circuit of the State of South Dakota  
 20 in which the alleged unfair or discriminatory practice occurred;

21 ~~(4)~~(7) "Disability," a physical or mental impairment of a person resulting from disease,  
 22 injury, congenital condition of birth, or functional disorder which substantially limits  
 23 one or more of the person's major life functions; a record of having such an  
 24 impairment; or being regarded as having such an impairment which:

25 (a) For purposes of §§ 20-13-10 to 20-13-17, inclusive, is unrelated to an  
 26 individual's ability to perform the major duties of a particular job or position,

1 or is unrelated to an individual's qualifications for employment or  
2 promotion;

3 (b) For purposes of §§ 20-13-20 to 20-13-21.1, inclusive, is unrelated to an  
4 individual's ability to acquire, rent or maintain property;

5 (c) For purposes of §§ 20-13-22 to 20-13-25, inclusive, is unrelated to an  
6 individual's ability to utilize and benefit from educational opportunities,  
7 programs and facilities at an educational institution.

8 This term does not include current illegal use of or addiction to marijuana as defined  
9 in subdivision 22-42-1(7) or a controlled substance as defined in subdivision 22-  
10 42-1(1);

11 ~~(5)~~(8) "Educational institution," any public or private institution of education and includes  
12 an academy, college, elementary or secondary school, extension course,  
13 kindergarten, nursery, school system, and any business, nursing, professional,  
14 secretarial, technical, or vocational school, and includes any agent of such  
15 institutions;

16 ~~(6)~~(9) "Employee," any person who performs services for any employer for compensation,  
17 whether in the form of wages, salary, commission, or otherwise;

18 ~~(7)~~(10) "Employer," any person within the State of South Dakota who hires or employs  
19 any employee, and any person wherever situated who hires or employs any  
20 employee whose services are to be partially or wholly performed in the State of  
21 South Dakota;

22 ~~(8)~~(11) "Employment agency," any person regularly undertaking, with or without  
23 compensation, to procure employees for an employer or to procure for employees  
24 opportunities to work for an employer and includes any agent of such a person;

25 ~~(9)~~(12) "Familial status," the relationship of individuals by birth, adoption, or  
26 guardianship who are domiciled together;

27 (13) "Homophobia," the hatred or fear of lesbian, gay, bisexual, queer, intersex, or  
28 asexual people, including prejudice, discrimination, harassment, and acts of  
29 violence brought on by the hatred or fear of lesbian, gay, bisexual, queer, intersex,  
30 or asexual people;

31 (14) "Indian," an individual of or descended from any of the indigenous peoples of  
32 North, Central, or South America, including a member of any federally recognized  
33 Indian tribe indigenous to what is now the continental United States;

- 1     ~~(10)~~(15) "Intern," a student or trainee who works, sometimes without pay, at an  
2             organization, industry, trade, or occupation in order to gain work experience or  
3             earn academic credit;
- 4     (16) "Islamophobia, the fear, prejudice, discrimination, and hatred of Muslims or those  
5             perceived to be Muslim that leads to provocation, hostility, and intolerance by  
6             means of threat, harassment, abuse, incitement, or intimidation of Muslims or  
7             those perceived to be Muslim;
- 8     ~~(11)~~(17) "Labor organization," includes any person, employee representation  
9             committee, plan in which employees participate, or other organization which exists  
10            wholly or in part for the purpose of dealing with employers concerning grievances,  
11            labor disputes, wages, rates of pay, hours, or other terms or conditions of  
12            employment;
- 13    ~~(12)~~(18) "Person," includes one or more individuals, partnerships, associations, limited  
14            liability companies, corporations, unincorporated organizations, mutual companies,  
15            joint stock companies, trusts, agents, legal representatives, trustees, trustees in  
16            bankruptcy, receivers, labor organizations, public bodies, public corporations, and  
17            the State of South Dakota, and all political subdivisions and agencies thereof;
- 18    ~~(13)~~(19) "Public accommodations," any place, establishment, or facility of whatever  
19            kind, nature, or class that caters or offers services, facilities, or goods to the  
20            general public for a fee, charge, or gratuitously. Public accommodation does not  
21            mean any bona fide private club or other place, establishment, or facility which is  
22            by its nature distinctly private, except when such distinctly private place,  
23            establishment, or facility caters or offers services, facilities, or goods to the general  
24            public for fee, charge, or gratuitously, it shall be deemed a public accommodation  
25            during such period of use;
- 26    ~~(14)~~(20) "Public service," any public facility, department, agency, board, or commission,  
27            owned, operated, or managed by or on behalf of the State of South Dakota, any  
28            political subdivision thereof, or any other public corporation;
- 29    ~~(15)~~(21) "Real estate broker" and "real estate salesman," real estate broker and real  
30            estate salesman as defined by § 36-21A-6 or as licensed pursuant to § 36-21A-  
31            47;
- 32    ~~(16)~~(22) "Real property," any right, title, interest in or to the possession, ownership,  
33            enjoyment, or occupancy of any parcel of land, any building situated thereon, or  
34            any portion of such building;

1 ~~(17)~~(23) "Service animal in training," any dog undergoing individual training to provide  
 2 specific disability-related work or service for an individual with a disability. Dogs  
 3 are recognized as being in training to provide disability-specific assistance only  
 4 after they have completed basic obedience training and are housebroken;

5 ~~(18)~~(24) "Service animal trainer," any person who trains service animals for individuals  
 6 with disabilities as an employee, contractor, or volunteer of a nationally recognized  
 7 service animal training program;

8 (25) "Sexism," harassment, discrimination, or prejudice based on sex, gender, gender  
 9 identity, or gender expression;

10 (26) "Transphobia," the dislike, fear, or prejudice against any individual based on the  
 11 individual's gender identity differing from the individual's sex assigned at birth, or  
 12 against the transgender community as a whole;

13 ~~(19)~~(27) "Unfair or discriminatory practice," any act or attempted act which because of  
 14 race, color, creed, religion, sex, ancestry, disability, or national origin accords  
 15 unequal treatment or separation or segregation of any person, or denies, prevents,  
 16 limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit,  
 17 or otherwise adversely affect, the benefit or enjoyment by any person of  
 18 employment, labor union membership, housing accommodations, property rights,  
 19 education, public accommodations, and public services.

20 **Section 2. That a NEW SECTION be added to chapter 20-13:**

21 It is an unfair or discriminatory practice if any adverse or unequal treatment  
 22 prohibited by this chapter is based on homophobia, Islamophobia, sexism, transphobia,  
 23 or anti-Indian, anti-black, anti-immigrant, or anti-refugee sentiment.

24 In reviewing, investigating, or deciding whether an alleged violation of this chapter  
 25 is based on homophobia, Islamophobia, sexism, transphobia, or anti-Indian, anti-black,  
 26 anti-immigrant, or anti-refugee sentiment, the Division of Human Rights must consider  
 27 this chapter's definitions of homophobia, Islamophobia, sexism, transphobia, or anti-  
 28 Indian, anti-black, anti-immigrant, and anti-refugee sentiment.

29 Nothing in this section may be construed to diminish or infringe upon any protected  
 30 right under U.S. Const., amend. I or S.D. Const., Art. VI, § 5, or to conflict with any  
 31 federal, state, or local discrimination law.