
Labor & Workplace Standards Committee

SSB 6313

Brief Description: Concerning an employee's right to publicly file a complaint or cause of action for discrimination in employment contracts and agreements.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Wellman, Frockt, Cleveland, Kuderer, Ranker, Conway and Saldaña).

Brief Summary of Substitute Bill

- Provides that a provision of an employment contract or agreement is against public policy and is void and unenforceable if it requires an employee to waive the right to publicly pursue a cause of action under the Washington Law Against Discrimination or federal antidiscrimination laws or publicly file a complaint with the appropriate state or federal agency, or if it requires a dispute resolution process that is confidential.

Hearing Date: 2/20/18

Staff: Trudes Tango (786-7384).

Background:

Antidiscrimination Laws.

The federal law, Title VII of the Civil Rights Act of 1964, and the Washington Law Against Discrimination (WLAD) prohibit discrimination in employment based on a person's protected status, which includes race, national origin, sex, veteran or military status, sexual orientation, and disability. The United States Equal Employment Opportunity Commission enforces federal laws prohibiting employment discrimination and the Human Rights Commission (Commission) administers and enforces the WLAD. Under the WLAD, the Commission investigates complaints alleging discriminatory unfair practices committed by employers and attempts to eliminate any unfair practice through conference, conciliation, and persuasion. If an agreement

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with the employer is not reached, the Commission requests the appointment of an administrative law judge who may require the employer to cease and desist and may award damages or order other affirmative action to effectuate the purposes of the law. An aggrieved person may also bring a civil cause of action based on employment discrimination.

Washington courts have held that the right to be free from discrimination is nonnegotiable and cannot be waived in contract.

Alternative Dispute Resolution.

Alternative Dispute Resolution (ADR) allows parties to resolve disputes using forums other than an open, public court setting. The most commonly used techniques are mediation and arbitration. Mediation is usually a confidential, voluntary, nonbinding process that uses a neutral third party to guide parties to a resolution. In arbitration, a neutral third party is chosen to hear both sides of the case, then resolves it by rendering a decision or award. Arbitration proceedings are similar to court trials, although arbitration can either be binding or nonbinding on the parties, depending on the agreement between the parties in advance.

Summary of Bill:

A provision of an employment contract or agreement is against public policy and is void and unenforceable if it:

- requires an employee to waive the right to publicly pursue a cause of action under the WLAD or federal antidiscrimination laws or publicly file a complaint with the appropriate state or federal agency; or
- requires a dispute resolution process that is confidential.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.