

ANTIDISCRIMINATION MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin J. Miller

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Antidiscrimination Act to address pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding.

Highlighted Provisions:

This bill:

▶ includes pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding in certain provisions related to the powers of the division;

▶ includes pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding in certain provisions relating to discriminatory or prohibited employment practice; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-5-104, as last amended by Laws of Utah 2012, Chapter 369



28 **34A-5-106**, as last amended by Laws of Utah 2013, Chapter 278

29 **34A-5-107**, as last amended by Laws of Utah 2008, Chapter 382



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **34A-5-104** is amended to read:

33 **34A-5-104. Powers.**

34 (1) (a) The commission has jurisdiction over the subject of employment practices and
35 discrimination made unlawful by this chapter.

36 (b) The commission may adopt, publish, amend, and rescind rules, consistent with, and
37 for the enforcement of this chapter.

38 (2) The division may:

39 (a) appoint and prescribe the duties of investigators and other employees and agents
40 that it considers necessary for the enforcement of this chapter;

41 (b) receive, reject, investigate, and pass upon complaints alleging:

42 (i) discrimination in:

43 (A) employment;

44 (B) apprenticeship programs;

45 (C) on-the-job training programs; and

46 (D) vocational schools; or

47 (ii) the existence of a discriminatory or prohibited employment practice by:

48 (A) a person;

49 (B) an employer;

50 (C) an employment agency;

51 (D) a labor organization;

52 (E) the employees or members of an employment agency or labor organization;

53 (F) a joint apprenticeship committee; and

54 (G) vocational school;

55 (c) investigate and study the existence, character, causes, and extent of discrimination
56 in employment, apprenticeship programs, on-the-job training programs, and vocational schools
57 in this state by:

58 (i) employers;

- 59 (ii) employment agencies;
- 60 (iii) labor organizations;
- 61 (iv) joint apprenticeship committees; and
- 62 (v) vocational schools;
- 63 (d) formulate plans for the elimination of discrimination by educational or other
- 64 means;
- 65 (e) hold hearings upon complaint made against:
- 66 (i) a person;
- 67 (ii) an employer;
- 68 (iii) an employment agency;
- 69 (iv) a labor organization;
- 70 (v) the employees or members of an employment agency or labor organization;
- 71 (vi) a joint apprenticeship committee; or
- 72 (vii) a vocational school;
- 73 (f) issue publications and reports of investigations and research that:
- 74 (i) promote good will among the various racial, religious, and ethnic groups of the
- 75 state; and
- 76 (ii) minimize or eliminate discrimination in employment because of race, color, sex,
- 77 religion, national origin, age, pregnancy, childbirth, pregnancy-related conditions,
- 78 breastfeeding, or medical conditions related to breastfeeding, or disability;
- 79 (g) prepare and transmit to the governor, at least once each year, reports describing:
- 80 (i) its proceedings, investigations, and hearings;
- 81 (ii) the outcome of those hearings;
- 82 (iii) decisions the division has rendered; and
- 83 (iv) the other work performed by the division;
- 84 (h) recommend policies to the governor, and submit recommendation to employers,
- 85 employment agencies, and labor organizations to implement those policies;
- 86 (i) recommend any legislation to the governor that the division considers necessary
- 87 concerning discrimination because of:
- 88 (A) race[;];
- 89 (B) sex[;];

- 90 (C) color[;];
- 91 (D) national origin[;];
- 92 (E) religion[;];
- 93 (F) age[;];
- 94 (G) pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical
- 95 conditions related to breastfeeding; or

96 (H) disability [~~to the governor that it considers necessary~~]; and

97 (j) within the limits of any appropriations made for its operation, cooperate with other
 98 agencies or organizations, both public and private, in the planning and conducting of
 99 educational programs designed to eliminate discriminatory practices prohibited under this
 100 chapter.

101 (3) The division shall investigate alleged discriminatory practices involving officers or
 102 employees of state government if requested to do so by the Career Service Review Office.

103 (4) (a) In any hearing held under this chapter, the division may:

104 (i) subpoena witnesses and compel their attendance at the hearing;

105 (ii) administer oaths and take the testimony of any person under oath; and

106 (iii) compel any person to produce for examination any books, papers, or other
 107 information relating to the matters raised by the complaint.

108 (b) The division director or a hearing examiner appointed by the division director may
 109 conduct hearings.

110 (c) If a witness fails or refuses to obey a subpoena issued by the division, the division
 111 may petition the district court to enforce the subpoena.

112 (d) In the event a witness asserts a privilege against self-incrimination, testimony and
 113 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
 114 Immunity.

115 Section 2. Section **34A-5-106** is amended to read:

116 **34A-5-106. Discriminatory or prohibited employment practices -- Permitted**
 117 **practices.**

118 (1) It is a discriminatory or prohibited employment practice to take any action
 119 described in Subsections (1)(a) through (f).

120 (a) (i) An employer may not refuse to hire, promote, discharge, demote, or terminate

121 any person, or to retaliate against, harass, or discriminate in matters of compensation or in
122 terms, privileges, and conditions of employment against any person otherwise qualified,
123 because of:

- 124 (A) race;
- 125 (B) color;
- 126 (C) sex;
- 127 (D) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical
128 conditions related to breastfeeding;
- 129 (E) age, if the individual is 40 years of age or older;
- 130 (F) religion;
- 131 (G) national origin; or
- 132 (H) disability.

133 (ii) A person may not be considered "otherwise qualified," unless that person possesses
134 the following required by an employer for any particular job, job classification, or position:

- 135 (A) education;
- 136 (B) training;
- 137 (C) ability, with or without reasonable accommodation;
- 138 (D) moral character;
- 139 (E) integrity;
- 140 (F) disposition to work;
- 141 (G) adherence to reasonable rules and regulations; and
- 142 (H) other job related qualifications required by an employer.

143 (iii) (A) As used in this chapter, "to discriminate in matters of compensation" means
144 the payment of differing wages or salaries to employees having substantially equal experience,
145 responsibilities, and skill for the particular job.

146 (B) Notwithstanding Subsection (1)(a)(iii)(A):

147 (I) nothing in this chapter prevents increases in pay as a result of longevity with the
148 employer, if the salary increases are uniformly applied and available to all employees on a
149 substantially proportional basis; and

150 (II) nothing in this section prohibits an employer and employee from agreeing to a rate
151 of pay or work schedule designed to protect the employee from loss of Social Security payment

152 or benefits if the employee is eligible for those payments.

153 (b) An employment agency may not:

154 (i) refuse to list and properly classify for employment, or refuse to refer an individual
155 for employment, in a known available job for which the individual is otherwise qualified,

156 because of:

157 (A) race;

158 (B) color;

159 (C) sex;

160 (D) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical
161 conditions related to breastfeeding;

162 (E) religion;

163 (F) national origin;

164 (G) age, if the individual is 40 years of age or older; or

165 (H) disability; or

166 (ii) comply with a request from an employer for referral of applicants for employment

167 if the request indicates either directly or indirectly that the employer discriminates in

168 employment on account of:

169 (A) race;

170 (B) color;

171 (C) sex;

172 (D) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical
173 conditions related to breastfeeding;

174 (E) religion;

175 (F) national origin;

176 (G) age, if the individual is 40 years of age or older; or

177 (H) disability.

178 (c) A labor organization may not exclude any individual otherwise qualified from full
179 membership rights in the labor organization, expel the individual from membership in the labor

180 organization, or otherwise discriminate against or harass any of the labor organization's

181 members in full employment of work opportunity, or representation, because of:

182 (i) race;

- 183 (ii) sex;
- 184 (iii) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical
- 185 conditions related to breastfeeding;
- 186 (iv) religion;
- 187 (v) national origin;
- 188 (vi) age, if the individual is 40 years of age or older; or
- 189 (vii) disability.
- 190 (d) Unless based upon a bona fide occupational qualification, or required by and given
- 191 to an agency of government for security reasons, an employer, employment agency, or labor
- 192 organization may not print, or circulate, or cause to be printed or circulated, any statement,
- 193 advertisement, or publication, use any form of application for employment or membership, or
- 194 make any inquiry in connection with prospective employment or membership that expresses,
- 195 either directly or indirectly:
- 196 (i) any limitation, specification, or discrimination as to:
- 197 (A) race;
- 198 (B) color;
- 199 (C) religion;
- 200 (D) sex;
- 201 (E) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical
- 202 conditions related to breastfeeding;
- 203 (F) national origin;
- 204 (G) age, if the individual is 40 years of age or older; or
- 205 (H) disability; or
- 206 (ii) the intent to make any limitation, specification, or discrimination described in
- 207 Subsection (1)(d)(i).
- 208 (e) A person, whether or not an employer, an employment agency, a labor organization,
- 209 or the employees or members of an employer, employment agency, or labor organization, may
- 210 not:
- 211 (i) aid, incite, compel, or coerce the doing of an act defined in this section to be a
- 212 discriminatory or prohibited employment practice;
- 213 (ii) obstruct or prevent any person from complying with this chapter, or any order

214 issued under this chapter; or

215 (iii) attempt, either directly or indirectly, to commit any act prohibited in this section.

216 (f) (i) An employer, labor organization, joint apprenticeship committee, or vocational
217 school, providing, coordinating, or controlling apprenticeship programs, or providing,
218 coordinating, or controlling on-the-job-training programs, instruction, training, or retraining
219 programs may not:

220 (A) deny to, or withhold from, any qualified person, the right to be admitted to, or
221 participate in any apprenticeship training program, on-the-job-training program, or other
222 occupational instruction, training or retraining program because of:

223 (I) race;

224 (II) color;

225 (III) sex;

226 (IV) pregnancy, childbirth, ~~[or]~~ pregnancy-related conditions, breastfeeding, or medical
227 conditions related to breastfeeding;

228 (V) religion;

229 (VI) national origin;

230 (VII) age, if the individual is 40 years of age or older; or

231 (VIII) disability;

232 (B) discriminate against or harass any qualified person in that person's pursuit of
233 programs described in Subsection (1)(f)(i)(A)~~[-or to]~~ because of:

234 (I) race;

235 (II) color;

236 (III) sex;

237 (IV) pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical
238 conditions related to breastfeeding;

239 (V) religion;

240 (VI) national origin;

241 (VII) age, if the individual is 40 years of age or older; or

242 (VIII) disability;

243 (C) discriminate against such a person in the terms, conditions, or privileges of
244 programs described in Subsection (1)(f)(i)(A), because of:

245 (I) race;

246 (II) color;

247 (III) sex;

248 (IV) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical

249 conditions related to breastfeeding;

250 (V) religion;

251 (VI) national origin;

252 (VII) age, if the individual is 40 years of age or older; or

253 (VIII) disability; or

254 [~~(C)~~] (D) except as provided in Subsection (1)(f)(ii), print, publish, or cause to be

255 printed or published, any notice or advertisement relating to employment by the employer, or

256 membership in or any classification or referral for employment by a labor organization, or

257 relating to any classification or referral for employment by an employment agency, indicating

258 any preference, limitation, specification, or discrimination based on:

259 (I) race;

260 (II) color;

261 (III) sex;

262 (IV) pregnancy, childbirth, [~~or~~] pregnancy-related conditions, breastfeeding, or medical

263 conditions related to breastfeeding;

264 (V) religion;

265 (VI) national origin;

266 (VII) age, if the individual is 40 years of age or older; or

267 (VIII) disability.

268 (ii) Notwithstanding Subsection (1)(f)(i)[~~(C)~~](D), if the following is a bona fide

269 occupational qualification for employment, a notice or advertisement described in Subsection

270 (1)(f)(i)[~~(C)~~](D) may indicate a preference, limitation, specification, or discrimination based

271 on:

272 (A) race;

273 (B) color;

274 (C) religion;

275 (D) sex;

276 (E) pregnancy, childbirth, [or] pregnancy-related conditions, breastfeeding, or medical
277 conditions related to breastfeeding;

278 (F) age;

279 (G) national origin; or

280 (H) disability.

281 (2) Nothing contained in Subsections (1)(a) through (1)(f) shall be construed to
282 prevent:

283 (a) the termination of employment of an individual who, with or without reasonable
284 accommodation, is physically, mentally, or emotionally unable to perform the duties required
285 by that individual's employment;

286 (b) the variance of insurance premiums or coverage on account of age; or

287 (c) a restriction on the activities of individuals licensed by the liquor authority with
288 respect to persons under 21 years of age.

289 (3) (a) It is not a discriminatory or prohibited employment practice:

290 (i) for an employer to hire and employ employees, for an employment agency to
291 classify or refer for employment any individual, for a labor organization to classify its
292 membership or to classify or refer for employment any individual or for an employer, labor
293 organization, or joint labor-management committee controlling apprenticeship or other training
294 or retraining programs to admit or employ any individual in any such program, on the basis of
295 religion, sex, pregnancy, childbirth, [or] pregnancy-related conditions, age, national origin, [or]
296 disability, breastfeeding, or medical conditions related to breastfeeding, in those certain
297 instances where religion, sex, pregnancy, childbirth, [or] pregnancy-related conditions, age, if
298 the individual is 40 years of age or older, national origin, [or] disability, breastfeeding, or
299 medical conditions related to breastfeeding is a bona fide occupational qualification reasonably
300 necessary to the normal operation of that particular business or enterprise;

301 (ii) for a school, college, university, or other educational institution to hire and employ
302 employees of a particular religion if:

303 (A) the school, college, university, or other educational institution is, in whole or in
304 substantial part, owned, supported, controlled, or managed by a particular religious corporation,
305 association, or society; or

306 (B) the curriculum of the school, college, university, or other educational institution is

307 directed toward the propagation of a particular religion;

308 (iii) for an employer to give preference in employment to:

309 (A) the employer's:

310 (I) spouse;

311 (II) child; or

312 (III) son-in-law or daughter-in-law;

313 (B) any person for whom the employer is or would be liable to furnish financial

314 support if those persons were unemployed;

315 (C) any person to whom the employer during the preceding six months has furnished

316 more than one-half of total financial support regardless of whether or not the employer was or

317 is legally obligated to furnish support; or

318 (D) any person whose education or training was substantially financed by the employer

319 for a period of two years or more.

320 (b) Nothing in this chapter applies to any business or enterprise on or near an Indian

321 reservation with respect to any publicly announced employment practice of the business or

322 enterprise under which preferential treatment is given to any individual because that individual

323 is a native American Indian living on or near an Indian reservation.

324 (c) Nothing in this chapter shall be interpreted to require any employer, employment

325 agency, labor organization, vocational school, joint labor-management committee, or

326 apprenticeship program subject to this chapter to grant preferential treatment to any individual

327 or to any group because of the race, color, religion, sex, age, national origin, pregnancy,

328 childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to

329 breastfeeding, or disability of the individual or group on account of an imbalance which may

330 exist with respect to the total number or percentage of persons of any race, color, religion, sex,

331 age, national origin, pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or

332 medical conditions related to breastfeeding, or disability employed by any employer, referred or

333 classified for employment by an employment agency or labor organization, admitted to

334 membership or classified by any labor organization, or admitted to or employed in, any

335 apprenticeship or other training program, in comparison with the total number or percentage of

336 persons of that race, color, religion, sex, age, national origin, pregnancy, childbirth,

337 pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding, or

338 disability in any community or county or in the available work force in any community or
339 county.

340 (4) It is not a discriminatory or prohibited practice with respect to age to observe the
341 terms of a bona fide seniority system or any bona fide employment benefit plan such as a
342 retirement, pension, or insurance plan that is not a subterfuge to evade the purposes of this
343 chapter, except that no such employee benefit plan shall excuse the failure to hire an individual.

344 (5) Notwithstanding Subsection (4), or any other statutory provision to the contrary, a
345 person may not be subject to involuntary termination or retirement from employment on the
346 basis of age alone, if the individual is 40 years of age or older, except:

347 (a) under Subsection (6); and

348 (b) when age is a bona fide occupational qualification.

349 (6) Nothing in this section prohibits compulsory retirement of an employee who has
350 attained at least 65 years of age, and who, for the two-year period immediately before
351 retirement, is employed in a bona fide executive or a high policymaking position, if:

352 (a) that employee is entitled to an immediate nonforfeitable annual retirement benefit
353 from the employee's employer's pension, profit-sharing, savings, or deferred compensation
354 plan, or any combination of those plans; and

355 (b) the benefit described in Subsection (6)(a) equals, in the aggregate, at least \$44,000.

356 Section 3. Section **34A-5-107** is amended to read:

357 **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**

358 **Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.**

359 (1) (a) Any person claiming to be aggrieved by a discriminatory or prohibited
360 employment practice may, or that person's attorney or agent may, make, sign, and file with the
361 division a request for agency action.

362 (b) Every request for agency action shall be verified under oath or affirmation.

363 (c) A request for agency action made under this section shall be filed within 180 days
364 after the alleged discriminatory or prohibited employment practice occurred.

365 (d) The division may transfer a request for agency action filed with the division
366 pursuant to this section to the federal Equal Employment Opportunity Commission in
367 accordance with the provisions of any work-share agreement that is:

368 (i) between the division and the Equal Employment Opportunity Commission; and

369 (ii) in effect on the day on which the request for agency action is transferred.
370 (2) Any employer, labor organization, joint apprenticeship committee, or vocational
371 school who has an employee or member who refuses or threatens to refuse to comply with this
372 chapter may file with the division a request for agency action asking the division for assistance
373 to obtain the employee's or member's compliance by conciliation or other remedial action.
374 (3) (a) Before a hearing is set or held as part of any adjudicative proceeding, the
375 division shall promptly assign an investigator to attempt a settlement between the parties by
376 conference, conciliation, or persuasion.
377 (b) If no settlement is reached, the investigator shall make a prompt impartial
378 investigation of all allegations made in the request for agency action.
379 (c) The division and its staff, agents, and employees:
380 (i) shall conduct every investigation in fairness to all parties and agencies involved;
381 and
382 (ii) may not attempt a settlement between the parties if it is clear that no discriminatory
383 or prohibited employment practice has occurred.
384 (d) An aggrieved party may withdraw the request for agency action prior to the
385 issuance of a final order.
386 (4) (a) If the initial attempts at settlement are unsuccessful, and the investigator
387 uncovers insufficient evidence during the investigation to support the allegations of a
388 discriminatory or prohibited employment practice set out in the request for agency action, the
389 investigator shall formally report these findings to the director or the director's designee.
390 (b) Upon receipt of the investigator's report described in Subsection (4)(a), the director
391 or the director's designee may issue a determination and order for dismissal of the adjudicative
392 proceeding.
393 (c) A party may make a written request to the Division of Adjudication for an
394 evidentiary hearing to review de novo the director's or the director's designee's determination
395 and order within 30 days of the date the determination and order for dismissal is issued.
396 (d) If the director or the director's designee receives no timely request for a hearing, the
397 determination and order issued by the director or the director's designee becomes the final order
398 of the commission.
399 (5) (a) If the initial attempts at settlement are unsuccessful and the investigator

400 uncovers sufficient evidence during the investigation to support the allegations of a
401 discriminatory or prohibited employment practice set out in the request for agency action, the
402 investigator shall formally report these findings to the director or the director's designee.

403 (b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the
404 director or the director's designee may issue a determination and order based on the
405 investigator's report.

406 (ii) A determination and order issued under this Subsection (5)(b) shall:

407 (A) direct the respondent to cease any discriminatory or prohibited employment
408 practice; and

409 (B) provide relief to the aggrieved party as the director or the director's designee
410 determines is appropriate.

411 (c) A party may file a written request to the Division of Adjudication for an evidentiary
412 hearing to review de novo the director's or the director's designee's determination and order
413 within 30 days of the date the determination and order is issued.

414 (d) If the director or the director's designee receives no timely request for a hearing, the
415 determination and order issued by the director or the director's designee in accordance with
416 Subsection (5)(b) becomes the final order of the commission.

417 (6) In any adjudicative proceeding to review the director's or the director's designee's
418 determination that a prohibited employment practice has occurred, the division shall present the
419 factual and legal basis of the determination or order issued under Subsection (5).

420 (7) (a) Prior to commencement of an evidentiary hearing:

421 (i) the party filing the request for agency action may reasonably and fairly amend any
422 allegation; and

423 (ii) the respondent may amend its answer.

424 (b) An amendment permitted under this Subsection (7) may be made:

425 (i) during or after a hearing; and

426 (ii) only with permission of the presiding officer.

427 (8) (a) If, upon all the evidence at a hearing, the presiding officer finds that a
428 respondent has not engaged in a discriminatory or prohibited employment practice, the
429 presiding officer shall issue an order dismissing the request for agency action containing the
430 allegation of a discriminatory or prohibited employment practice.

431 (b) The presiding officer may order that the respondent be reimbursed by the
432 complaining party for the respondent's attorneys' fees and costs.

433 (9) If upon all the evidence at the hearing, the presiding officer finds that a respondent
434 has engaged in a discriminatory or prohibited employment practice, the presiding officer shall
435 issue an order requiring the respondent to:

436 (a) cease any discriminatory or prohibited employment practice; and

437 (b) provide relief to the complaining party, including:

438 (i) reinstatement;

439 (ii) back pay and benefits;

440 (iii) attorneys' fees; and

441 (iv) costs.

442 (10) Conciliation between the parties is to be urged and facilitated at all stages of the
443 adjudicative process.

444 (11) (a) Either party may file with the Division of Adjudication a written request for
445 review before the commissioner or Appeals Board of the order issued by the presiding officer
446 in accordance with:

447 (i) Section [63G-4-301](#); and

448 (ii) Chapter 1, Part 3, Adjudicative Proceedings.

449 (b) If there is no timely request for review, the order issued by the presiding officer
450 becomes the final order of the commission.

451 (12) An order of the commission under Subsection (11)(a) is subject to judicial review
452 as provided in:

453 (a) Section [63G-4-403](#); and

454 (b) Chapter 1, Part 3, Adjudicative Proceedings.

455 (13) The commission shall have authority to make rules concerning procedures under
456 this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

457 (14) The commission and its staff may not divulge or make public any information
458 gained from any investigation, settlement negotiation, or proceeding before the commission
459 except as provided in Subsections (14)(a) through (d).

460 (a) Information used by the director or the director's designee in making any
461 determination may be provided to all interested parties for the purpose of preparation for and

462 participation in proceedings before the commission.

463 (b) General statistical information may be disclosed provided the identities of the
464 individuals or parties are not disclosed.

465 (c) Information may be disclosed for inspection by the attorney general or other legal
466 representatives of the state or the commission.

467 (d) Information may be disclosed for information and reporting requirements of the
468 federal government.

469 (15) The procedures contained in this section are the exclusive remedy under state law
470 for employment discrimination based upon:

471 (a) race;

472 (b) color;

473 (c) sex;

474 (d) retaliation;

475 (e) pregnancy, childbirth, ~~[or]~~ pregnancy-related conditions, breastfeeding, or medical
476 conditions related to breastfeeding;

477 (f) age;

478 (g) religion;

479 (h) national origin; or

480 (i) disability.

481 (16) (a) The commencement of an action under federal law for relief based upon any
482 act prohibited by this chapter bars the commencement or continuation of any adjudicative
483 proceeding before the commission in connection with the same claims under this chapter.

484 (b) The transfer of a request for agency action to the Equal Employment Opportunity
485 Commission in accordance with Subsection (1)(d) is considered the commencement of an
486 action under federal law for purposes of Subsection (16)(a).

487 (c) Nothing in this Subsection (16) is intended to alter, amend, modify, or impair the
488 exclusive remedy provision set forth in Subsection (15).

Legislative Review Note
as of 1-8-15 6:31 PM

Office of Legislative Research and General Counsel