

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 372

Introduced by Crawford, 45.

Read first time January 13, 2017

Committee: Business and Labor

1 A BILL FOR AN ACT relating to the Nebraska Fair Employment Practice Act;
2 to amend sections 48-1101, 48-1104, 48-1105, 48-1106, 48-1107,
3 48-1108, 48-1113, 48-1115, 48-1119, 48-1122, and 48-1124, Reissue
4 Revised Statutes of Nebraska, and sections 48-1102, 48-1111, and
5 48-1117, Revised Statutes Cumulative Supplement, 2016; to provide
6 protections for employees with family care responsibilities; to
7 define a term; to harmonize provisions; to provide an operative
8 date; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-1101 It is the policy of this state to foster the employment of
4 all employable persons in the state on the basis of merit regardless of
5 their race, color, religion, sex, disability, ~~or~~ national origin, or
6 family care responsibilities and to safeguard their right to obtain and
7 hold employment without discrimination because of their race, color,
8 religion, sex, disability, ~~or~~ national origin, or family care
9 responsibilities. Denying equal opportunity for employment because of
10 race, color, religion, sex, disability, ~~or~~ national origin, or family
11 care responsibilities is contrary to the principles of freedom and is a
12 burden on the objectives of the public policy of this state. The policy
13 of this state does not require any person to employ an applicant for
14 employment because of his or her race, color, religion, sex, disability,
15 ~~or~~ national origin, or family care responsibilities, and the policy of
16 this state does not require any employer, employment agency, labor
17 organization, or joint labor-management committee to grant preferential
18 treatment to any individual or to any group because of race, color,
19 religion, sex, disability, ~~or~~ national origin, or family care
20 responsibilities.

21 It is the public policy of this state that all people in Nebraska,
22 both with and without disabilities, shall have the right and opportunity
23 to enjoy the benefits of living, working, and recreating within this
24 state. It is the intent of the Legislature that state and local
25 governments, Nebraska businesses, Nebraska labor organizations, and
26 Nebraskans with disabilities understand their rights and responsibilities
27 under the law regarding employment discrimination and the prevention of
28 discrimination on the basis of disability.

29 Sec. 2. Section 48-1102, Revised Statutes Cumulative Supplement,
30 2016, is amended to read:

31 48-1102 For purposes of the Nebraska Fair Employment Practice Act,

1 unless the context otherwise requires:

2 (1) Person shall include one or more individuals, labor unions,
3 partnerships, limited liability companies, associations, corporations,
4 legal representatives, mutual companies, joint-stock companies, trusts,
5 unincorporated organizations, trustees, trustees in bankruptcy, or
6 receivers;

7 (2) Employer shall mean a person engaged in an industry who has
8 fifteen or more employees for each working day in each of twenty or more
9 calendar weeks in the current or preceding calendar year, any agent of
10 such a person, and any party whose business is financed in whole or in
11 part under the Nebraska Investment Finance Authority Act regardless of
12 the number of employees and shall include the State of Nebraska,
13 governmental agencies, and political subdivisions, but such term shall
14 not include (a) the United States, a corporation wholly owned by the
15 government of the United States, or an Indian tribe or (b) a bona fide
16 private membership club, other than a labor organization, which is exempt
17 from taxation under section 501(c) of the Internal Revenue Code;

18 (3) Labor organization shall mean any organization which exists
19 wholly or in part for one or more of the following purposes: Collective
20 bargaining; dealing with employers concerning grievances, terms, or
21 conditions of employment; or mutual aid or protection in relation to
22 employment;

23 (4) Employment agency shall mean any person regularly undertaking
24 with or without compensation to procure employees for an employer or to
25 procure for employees opportunities to work for an employer and shall
26 include an agent of such a person but shall not include an agency of the
27 United States, except that such term shall include the United States
28 Employment Service and the system of state and local employment services
29 receiving federal assistance;

30 (5) Covered entity shall mean an employer, an employment agency, a
31 labor organization, or a joint labor-management committee;

1 (6) Privileges of employment shall mean terms and conditions of any
2 employer-employee relationship, opportunities for advancement of
3 employees, and plant conveniences;

4 (7) Employee shall mean an individual employed by an employer;

5 (8) Commission shall mean the Equal Opportunity Commission;

6 (9) Disability shall mean (a) a physical or mental impairment that
7 substantially limits one or more of the major life activities of such
8 individual, (b) a record of such an impairment, or (c) being regarded as
9 having such an impairment. Disability shall not include homosexuality,
10 bisexuality, transvestism, transsexualism, pedophilia, exhibitionism,
11 voyeurism, gender-identity disorders not resulting in physical
12 impairments, other sexual behavior disorders, problem gambling,
13 kleptomania, pyromania, or psychoactive substance use disorders resulting
14 from current illegal use of drugs;

15 (10)(a) Qualified individual with a disability shall mean an
16 individual with a disability who, with or without reasonable
17 accommodation, can perform the essential functions of the employment
18 position that such individual holds or desires. Consideration shall be
19 given to the employer's judgment as to what functions of a job are
20 essential, and if an employer has prepared a written description before
21 advertising or interviewing applicants for the job, this description
22 shall be considered evidence of the essential functions of the job;

23 (b) Qualified individual with a disability shall not include any
24 employee or applicant who is currently engaged in the illegal use of
25 drugs when the covered entity acts on the basis of such use; and

26 (c) Nothing in this subdivision shall be construed to exclude as a
27 qualified individual with a disability an individual who:

28 (i) Has successfully completed a supervised drug rehabilitation
29 program or otherwise been rehabilitated successfully and is no longer
30 engaging in the illegal use of drugs;

31 (ii) Is participating in a supervised rehabilitation program and is

1 no longer engaging in such use; or

2 (iii) Is erroneously regarded as engaging in such use but is not
3 engaging in such use;

4 (11) Reasonable accommodation, with respect to disability, shall
5 include making existing facilities used by employees readily accessible
6 to and usable by individuals with disabilities, job restructuring, part-
7 time or modified work schedules, reassignment to a vacant position,
8 acquisition or modification of equipment or devices, appropriate
9 adjustment or modification of examinations, training manuals, or
10 policies, the provision of qualified readers or interpreters, and other
11 similar accommodations for individuals with disabilities. Reasonable
12 accommodation, with respect to pregnancy, childbirth, or related medical
13 conditions, shall include acquisition of equipment for sitting, more
14 frequent or longer breaks, periodic rest, assistance with manual labor,
15 job restructuring, light-duty assignments, modified work schedules,
16 temporary transfers to less strenuous or hazardous work, time off to
17 recover from childbirth, or break time and appropriate facilities for
18 breast-feeding or expressing breast milk. Reasonable accommodation shall
19 not include accommodations which the covered entity can demonstrate
20 require significant difficulty or expense thereby posing an undue
21 hardship upon the covered entity. Factors to be considered in determining
22 whether an accommodation would pose an undue hardship shall include:

23 (a) The nature and the cost of the accommodation needed under the
24 Nebraska Fair Employment Practice Act;

25 (b) The overall financial resources of the facility or facilities
26 involved in the provision of the reasonable accommodation, the number of
27 persons employed at such facility, the effect on expenses and resources,
28 or the impact otherwise of such accommodation upon the operation of the
29 facility;

30 (c) The overall financial resources of the covered entity, the
31 overall size of the business of a covered entity with respect to the

1 number of its employees, and the number, type, and location of its
2 facilities; and

3 (d) The type of operation or operations of the covered entity,
4 including the composition, structure, and functions of the work force of
5 such entity, and the geographic separateness and administrative or fiscal
6 relationship of the facility or facilities in question to the covered
7 entity;

8 (12) Marital status shall mean the status of a person whether
9 married or single;

10 (13) Because of sex or on the basis of sex shall include, but not be
11 limited to, because of or on the basis of pregnancy, childbirth, or
12 related medical conditions;

13 (14) Harass because of sex shall include making unwelcome sexual
14 advances, requesting sexual favors, and engaging in other verbal or
15 physical conduct of a sexual nature if (a) submission to such conduct is
16 made either explicitly or implicitly a term or condition of an
17 individual's employment, (b) submission to or rejection of such conduct
18 by an individual is used as the basis for employment decisions affecting
19 such individual, or (c) such conduct has the purpose or effect of
20 unreasonably interfering with an individual's work performance or
21 creating an intimidating, hostile, or offensive working environment;

22 (15) Unlawful under federal law or the laws of this state shall mean
23 acting contrary to or in defiance of the law or disobeying or
24 disregarding the law;

25 (16) Drug shall mean a controlled substance as defined in section
26 28-401;

27 (17) Illegal use of drugs shall mean the use of drugs, the
28 possession or distribution of which is unlawful under the Uniform
29 Controlled Substances Act, but shall not include the use of a drug taken
30 under supervision by a licensed health care professional or any other use
31 authorized by the Uniform Controlled Substances Act or other provisions

1 of state law;~~and~~

2 (18) Individual who is pregnant, who has given birth, or who has a
3 related medical condition shall mean an individual with a known
4 limitation who, with or without reasonable accommodation, can perform the
5 essential functions of the employment position that such individual
6 holds, desires, or may be temporarily assigned to. Consideration shall be
7 given to the employer's judgment as to what functions of a job are
8 essential, and if an employer has prepared a written description before
9 advertising or interviewing applicants for the job, this description
10 shall be considered evidence of the essential functions of the job; ~~and -~~

11 (19) Family care responsibility shall mean providing direct and
12 ongoing care for a person's spouse, child, parent, sibling, grandchild,
13 or grandparent or a child or parent of such person's spouse.

14 Sec. 3. Section 48-1104, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-1104 It shall be an unlawful employment practice for an employer:

17 (1) To fail or refuse to hire, to discharge, or to harass any
18 individual, or otherwise to discriminate against any individual with
19 respect to compensation, terms, conditions, or privileges of employment,
20 because of such individual's race, color, religion, sex, disability,
21 marital status, ~~or~~ national origin, or family care responsibilities; or

22 (2) To limit, advertise, solicit, segregate, or classify employees
23 in any way which would deprive or tend to deprive any individual of
24 employment opportunities or otherwise adversely affect such individual's
25 status as an employee, because of such individual's race, color,
26 religion, sex, disability, marital status, ~~or~~ national origin, or family
27 care responsibilities.

28 Sec. 4. Section 48-1105, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 48-1105 It shall be an unlawful employment practice for an
31 employment agency to fail or refuse to refer for employment, or otherwise

1 to discriminate against, any individual because of race, color, religion,
2 sex, disability, marital status, ~~or~~ national origin, or family care
3 responsibilities, or to classify or refer for employment any individual
4 on the basis of race, color, religion, sex, disability, marital status,
5 ~~or~~ national origin, or family care responsibilities.

6 Sec. 5. Section 48-1106, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-1106 It shall be an unlawful employment practice for a labor
9 organization:

10 (1) To exclude or to expel from its membership, or otherwise to
11 discriminate against, any individual because of race, color, religion,
12 sex, disability, marital status, ~~or~~ national origin, or family care
13 responsibilities;

14 (2) To limit, segregate, or classify its membership, or to classify
15 or fail or refuse to refer for employment any individual, in any way
16 which would deprive or tend to deprive any individual of employment
17 opportunities, or would limit such employment opportunities or otherwise
18 adversely affect such individual's status as an employee or as an
19 applicant for employment, because of such individual's race, color,
20 religion, sex, disability, marital status, ~~or~~ national origin, or family
21 care responsibilities; or

22 (3) To cause or attempt to cause an employer to discriminate against
23 an individual in violation of this section.

24 Sec. 6. Section 48-1107, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 48-1107 It shall be an unlawful employment practice for any
27 employer, labor organization, or joint labor-management committee
28 controlling apprenticeship or other training or retraining, including on-
29 the-job training programs to discriminate against any individual because
30 of race, color, religion, sex, disability, marital status, ~~or~~ national
31 origin, or family care responsibilities in admission to, or employment

1 in, any program established to provide apprenticeship or other training.

2 Sec. 7. Section 48-1108, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 48-1108 Notwithstanding any other provision of the Nebraska Fair
5 Employment Practice Act:

6 (1) It shall not be an unlawful employment practice for an employer
7 to hire and employ employees, for an employment agency to classify or
8 refer for employment any individual, for a labor organization to classify
9 its membership or to classify or refer for employment any individual, or
10 for an employer, labor organization, or joint labor-management committee
11 controlling apprenticeship or other training or retraining programs to
12 admit or employ any individual in any such program on the basis of
13 religion, sex, disability, marital status, ~~or~~ national origin, or family
14 care responsibilities in those certain instances when religion, sex,
15 disability, marital status, ~~or~~ national origin, or a family care
16 responsibility is a bona fide occupational qualification reasonably
17 necessary to the normal operation of that particular business or
18 enterprise; and

19 (2) It shall not be an unlawful employment practice for a school,
20 college, university, or other educational institution or institution of
21 learning to hire and employ employees of a particular religion if such
22 school, college, university, or other educational institution or
23 institution of learning is, in whole or in substantial part, owned,
24 supported, controlled, or managed by a particular religion or by a
25 particular religious corporation, association, or society or if the
26 curriculum of such school, college, university, or other educational
27 institution of learning is directed toward the propagation of a
28 particular religion.

29 Sec. 8. Section 48-1111, Revised Statutes Cumulative Supplement,
30 2016, is amended to read:

31 48-1111 (1) Except as otherwise provided in the Nebraska Fair

1 Employment Practice Act, it shall not be an unlawful employment practice
2 for an employer to apply different standards of compensation, or
3 different terms, conditions, or privileges of employment pursuant to a
4 bona fide seniority or merit system or a system which measures earnings
5 by quantity or quality of production or to employees who work in
6 different locations, if such differences are not the result of an
7 intention to discriminate because of race, color, religion, sex,
8 disability, marital status, ~~or~~ national origin, or family care
9 responsibilities, nor shall it be an unlawful employment practice for an
10 employer to give and to act upon the results of any professionally
11 developed ability test if such test, its administration, or action upon
12 the results is not designed, intended, or used to discriminate because of
13 race, color, religion, sex, disability, marital status, ~~or~~ national
14 origin, or family care responsibilities.

15 It shall not be an unlawful employment practice for a covered entity
16 to deny privileges of employment to an individual with a disability when
17 the qualification standards, tests, or selection criteria that screen out
18 or tend to screen out or otherwise deny a job or benefit to an individual
19 with a disability:

20 (a) Have been shown to be job-related and consistent with business
21 necessity and such performance cannot be accomplished by reasonable
22 accommodation, as required by the Nebraska Fair Employment Practice Act
23 and the federal Americans with Disabilities Act of 1990; or

24 (b) Include a requirement that an individual shall not pose a direct
25 threat, involving a significant risk to the health or safety of other
26 individuals in the workplace, that cannot be eliminated by reasonable
27 accommodation.

28 It shall not be an unlawful employment practice to refuse employment
29 based on a policy of not employing both husband and wife if such policy
30 is equally applied to both sexes.

31 (2) Except as otherwise provided in the Nebraska Fair Employment

1 Practice Act, women affected by pregnancy, childbirth, or related medical
2 conditions shall be treated the same for all employment-related purposes,
3 including receipt of employee benefits, as other persons not so affected
4 but similar in their ability or inability to work, and nothing in this
5 section shall be interpreted to provide otherwise.

6 This section shall not require an employer to provide employee
7 benefits for abortion except when medical complications have arisen from
8 an abortion.

9 Nothing in this section shall preclude an employer from providing
10 employee benefits for abortion under fringe benefit programs or otherwise
11 affect bargaining agreements in regard to abortion.

12 Sec. 9. Section 48-1113, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 48-1113 Nothing in the Nebraska Fair Employment Practice Act shall
15 be interpreted to require any employer, employment agency, labor
16 organization, or joint labor-management committee subject to the act to
17 grant preferential treatment to any individual or to any group because of
18 the race, color, religion, sex, disability, marital status, ~~or~~ national
19 origin, or family care responsibilities of such individual or group on
20 account of an imbalance which may exist with respect to the total number
21 or percentage of persons of any race, color, religion, sex, disability,
22 marital status, ~~or~~ national origin, or family care responsibilities
23 employed by any employer, referred or classified for employment by any
24 employment agency or labor organization, admitted to membership or
25 classified by any labor organization, or admitted to, or employed in, any
26 apprenticeship or other training program, in comparison with the total
27 number or percentage of persons of such race, color, religion, sex,
28 disability, marital status, ~~or~~ national origin, or family care
29 responsibilities in any community, section, or other area, or in the
30 available work force in any community, section, or other area.

31 Sec. 10. Section 48-1115, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 48-1115 It shall be an unlawful employment practice for an employer,
3 labor organization, or employment agency to print or publish or cause to
4 be printed or published any notice or advertisement relating to
5 employment by such an employer or membership in or any classification or
6 referral for employment by such a labor organization, or relating to any
7 classification or referral for employment by such an employment agency,
8 indicating any preference, limitation, specification, or discrimination
9 based on race, color, religion, sex, disability, marital status, ~~or~~
10 national origin, or family care responsibilities, except that such a
11 notice or advertisement may indicate a preference, limitation,
12 specification, or discrimination based on religion, sex, disability,
13 marital status, ~~or~~ national origin, or family care responsibilities when
14 religion, sex, disability, marital status, ~~or~~ national origin, or a
15 family care responsibility is a bona fide occupational qualification for
16 employment.

17 Sec. 11. Section 48-1117, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 48-1117 The commission shall have the following powers and duties:

20 (1) To receive, investigate, and pass upon charges of unlawful
21 employment practices anywhere in the state;

22 (2) To hold hearings, subpoena witnesses, compel their attendance,
23 administer oaths, and take the testimony of any person under oath and, in
24 connection therewith, to require the production for examination of any
25 books and papers relevant to any allegation of unlawful employment
26 practice pending before the commission. The commission may make rules as
27 to the issuance of subpoenas, subject to the approval by a constitutional
28 majority of the elected members of the Legislature;

29 (3) To cooperate with the federal government and with local agencies
30 to effectuate the purposes of the Nebraska Fair Employment Practice Act,
31 including the sharing of information possessed by the commission on a

1 case that has also been filed with the federal government or local
2 agencies if both the employer and complainant have been notified of the
3 filing;

4 (4) To attempt to eliminate unfair employment practices by means of
5 conference, mediation, conciliation, arbitration, and persuasion;

6 (5) To require that every employer, employment agency, and labor
7 organization subject to the act shall (a) make and keep such records
8 relevant to the determinations of whether unlawful employment practices
9 have been or are being committed, (b) preserve such records for such
10 periods, and (c) make such reports therefrom, as the commission shall
11 prescribe by regulation or order, after public hearing, as reasonable,
12 necessary, or appropriate for the enforcement of the act or the
13 regulations or orders thereunder. The commission shall, by regulation,
14 require each employer, labor organization, and joint labor-management
15 committee subject to the act which controls an apprenticeship or other
16 training program to maintain such records as are reasonably necessary to
17 carry out the purposes of the act, including, but not limited to, a list
18 of applicants who wish to participate in such program, including the
19 chronological order in which such applications were received, and to
20 furnish to the commission, upon request, a detailed description of the
21 manner in which persons are selected to participate in the apprenticeship
22 or other training program. Any employer, employment agency, labor
23 organization, or joint labor-management committee which believes that the
24 application to it of any regulation or order issued under this section
25 would result in undue hardship may either apply to the commission for an
26 exemption from the application of such regulation or order or bring a
27 civil action in the district court for the district where such records
28 are kept. If the commission or the court, as the case may be, finds that
29 the application of the regulation or order to the employer, employment
30 agency, or labor organization in question would impose an undue hardship,
31 the commission or the court, as the case may be, may grant appropriate

1 relief;

2 (6) To report, not less than once every two years, to the Clerk of
3 the Legislature and the Governor, on the hearings it has conducted and
4 the decisions it has rendered, the other work performed by it to carry
5 out the purposes of the act, and to make recommendations for such further
6 legislation concerning abuses and discrimination because of race, color,
7 religion, sex, disability, marital status, ~~or~~ national origin, or family
8 care responsibilities, as may be desirable. The report shall also include
9 the number of complaints filed under the act alleging a violation of
10 subdivision (2) of section 48-1107.01 and the resolution of such
11 complaints. The report submitted to the Clerk of the Legislature shall be
12 submitted electronically. Each member of the Legislature shall receive an
13 electronic copy of the report required by this subdivision by making a
14 request for it to the chairperson of the commission; and

15 (7) To adopt and promulgate rules and regulations necessary to carry
16 out the duties prescribed in the act.

17 Sec. 12. Section 48-1119, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 48-1119 (1) In case of failure to eliminate any unlawful employment
20 practice by informal methods of conference, conciliation, persuasion,
21 mediation, or arbitration, the commission may order a public hearing. If
22 such hearing is ordered, the commission shall cause to be issued and
23 served a written notice, together with a copy of the complaint, requiring
24 the person, employer, labor organization, or employment agency named in
25 the complaint, hereinafter referred to as respondent, to answer such
26 charges at a hearing before the commission at a time and place which
27 shall be specified in such notice. Such hearing shall be within the
28 county where the alleged unlawful employment practice occurred. The
29 complainant shall be a party to the proceeding, and in the discretion of
30 the commission any other person whose testimony has a bearing on the
31 matter may be allowed to intervene therein. Both the complainant and the

1 respondent, in addition to the commission, may introduce witnesses at the
2 hearing. The respondent may file a verified answer to the allegations of
3 the complaint and may appear at such hearing in person and with or
4 without counsel. Testimony or other evidence may be introduced by either
5 party. All evidence shall be under oath and a record thereof shall be
6 made and preserved. Such proceedings shall, so far as practicable, be
7 conducted in accordance with the rules of evidence applicable in the
8 district courts of the State of Nebraska, and shall be of public record.

9 (2) No person shall be excused from testifying or from producing any
10 book, document, paper, or account in any investigation, or inquiry by, or
11 hearing before the commission when ordered to do so, upon the ground that
12 the testimony or evidence, book, document, paper, or account required of
13 such person may tend to incriminate such person in or subject such person
14 to penalty or forfeiture; but no person shall be prosecuted, punished, or
15 subjected to any forfeiture or penalty for or on account of any act,
16 transaction, matter, or thing concerning which such person shall have
17 been compelled under oath to testify or produce documentary evidence,
18 except that no person so testifying shall be exempt from prosecution or
19 punishment for any perjury committed by such person in his or her
20 testimony. Such immunity shall extend only to a natural person who, in
21 obedience to a subpoena, gives testimony under oath or produces evidence,
22 documentary or otherwise, under oath. Nothing in this subsection shall be
23 construed as precluding any person from claiming any right or privilege
24 available to such person under the fifth amendment to the Constitution of
25 the United States.

26 (3) After the conclusion of the hearing, the commission shall,
27 within ten days of the receipt of the transcript or the receipt of the
28 recommendations from the hearing officer, make and file its findings of
29 fact and conclusions of law and make and enter an appropriate order. The
30 hearing officer need not refer to the page and line numbers of the
31 transcript when making his or her recommendation to the commission. Such

1 findings of fact and conclusions of law shall be in sufficient detail to
2 enable a court on appeal to determine the controverted questions
3 presented by the proceedings and whether proper weight was given to the
4 evidence. If the commission determines that the respondent has
5 intentionally engaged in or is intentionally engaging in any unlawful
6 employment practice, it shall issue and cause to be served on such
7 respondent an order requiring such respondent to cease and desist from
8 such unlawful employment practice and order such other affirmative action
9 as may be appropriate which may include, but shall not be limited to,
10 reinstatement or hiring of employees, with or without backpay. Backpay
11 liability shall not accrue from a date more than two years prior to the
12 filing of the charge with the commission. Interim earnings or amounts
13 earnable with reasonable diligence by the person or persons discriminated
14 against shall operate to reduce the backpay otherwise allowable.

15 (4) A complainant who has suffered physical, emotional, or financial
16 harm as a result of a violation of section 48-1104 or 48-1114 may, at any
17 stage of the proceedings prior to dismissal, file an action directly in
18 the district court of the county where such alleged violation occurred.
19 If the complainant files a district court action on the charge, the
20 complainant shall provide written notice of such filing to the
21 commission, and such notification shall immediately terminate all
22 proceedings before the commission. The district court shall docket and
23 try such case as any other civil action, and any successful complainant
24 shall be entitled to appropriate relief, including temporary or permanent
25 injunctive relief, general and special damages, reasonable attorney's
26 fees, and costs.

27 (5) No order of the commission shall require the admission or
28 reinstatement of an individual as a member of a labor organization or the
29 hiring, reinstatement, or promotion of an individual as an employee, or
30 the payment to him or her of any backpay, if such individual was refused
31 admission, suspended, or expelled, or was refused employment or

1 advancement or was suspended or discharged for any reason other than
2 discrimination on account of race, color, religion, sex, disability,
3 marital status, ~~or~~ national origin, or family care responsibilities or in
4 violation of section 48-1114. If the commission finds that a respondent
5 has not engaged in any unfair employment practice, it shall within thirty
6 days state its findings of fact and conclusions of law. A copy of any
7 order shall be served upon the person against whom it runs or his or her
8 attorney and notice thereof shall be given to the other parties to the
9 proceedings or their attorneys. Such order shall take effect twenty days
10 after service thereof unless otherwise provided and shall continue in
11 force either for a period which may be designated therein or until
12 changed or revoked by the commission.

13 (6) Except as provided in subsection (4) of this section, until a
14 transcript of the record of the proceedings is filed in the district
15 court as provided in section 48-1120, the commission may, at any time
16 upon reasonable notice and in such a manner it shall deem proper, modify
17 or set aside, in whole or in part, any finding or order made by it.

18 Sec. 13. Section 48-1122, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 48-1122 Every contract to which the state or any of its political
21 subdivisions is a party shall contain a provision requiring the
22 contractor and his or her subcontractors not to discriminate against any
23 employee or applicant for employment, to be employed in the performance
24 of such contract, with respect to his or her hire, tenure, terms,
25 conditions, or privileges of employment, because of his or her race,
26 color, religion, sex, disability, ~~or~~ national origin, or family care
27 responsibilities.

28 Sec. 14. Section 48-1124, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 48-1124 Nothing contained in the Nebraska Fair Employment Practice
31 Act shall be deemed to repeal any of the provisions of the civil rights

1 law, any other law of this state, or any municipal ordinance relating to
2 discrimination because of race, creed, color, religion, sex, disability,
3 ~~or national origin, or family care responsibilities.~~

4 Sec. 15. This act becomes operative on January 1, 2018.

5 Sec. 16. Original sections 48-1101, 48-1104, 48-1105, 48-1106,
6 48-1107, 48-1108, 48-1113, 48-1115, 48-1119, 48-1122, and 48-1124,
7 Reissue Revised Statutes of Nebraska, and sections 48-1102, 48-1111, and
8 48-1117, Revised Statutes Cumulative Supplement, 2016, are repealed.