Legal Update Article

Amendment to Florida Civil Rights Act Restricts Concepts Employers Can Endorse in Training

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Governor Ron DeSantis has signed HB 7, nicknamed the "Stop W.O.K.E. Act," which stands for "Stop the Wrongs to Our Kids and Employees." The new law's stated purpose is to protect individual freedoms and prevent discrimination in the workplace and in public schools. The measure expands an employer's civil liability for discriminatory employment practices under the Florida Civil Rights Act if the employer endorses certain concepts in a "nonobjective manner" during training or other required activity that is a condition of employment.

The law is slated to go into effect on *July 1, 2022*, but its fate remains uncertain. A lawsuit already has been filed in the Northern District of Florida federal court challenging HB 7 on various grounds, including that it violates employers' free speech rights.

Key Provisions

HB 7 states that subjecting an employee to workplace training that "espouses, promotes, advances, inculcates, or compels the employee to believe" certain concepts constitutes unlawful discrimination.

The law expands Florida Statutes Section 760.10 of the Florida Civil Rights Act to provide that it is discrimination to subject a person, as a condition of employment, to training that endorses any of the following concepts:

1. Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.
2. An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
3. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.
4. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin.
5. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.
6. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
7. An individual, by virtue of his or her race, color, sex, or national origin, bears

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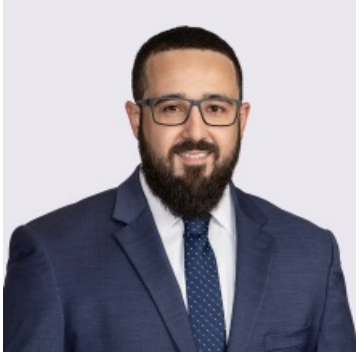

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personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part, committed in the past by other members of the same race, color, sex, or national origin.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

HB 7 also states that it does not prohibit discussion of the above concepts as part of an employer's course of training or instruction, provided such training or instruction is given in an "objective manner without the endorsement of such concepts."

HB 7 applies to public and private employers with at least 15 employees. In addition to the workplace, the bill prohibits instruction in public schools of similar concepts.

Next

Despite the pending lawsuit, employers should review their training programs on diversity, inclusion, bias, equal employment opportunity, and harassment prevention, for example, to understand the potential implications of the new law. They also should understand potential risks associated with disciplining or discharging employees who refuse to participate in mandatory training programs, even if employers do not consider the programs to violate the new law.

Jackson Lewis attorneys will follow developments on the law and are available for questions.

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