

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 2423

FISCAL  
NOTE

By Delegates Keaton and Ridenour

[Introduced January 11, 2023; Referred to the  
Committee on Workforce Development then  
Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §5-11-9b; to amend said code by adding thereto a new section, designated  
 3 §11B-2-33; and to amend said code by adding thereto a new section, designated §18-2-44,  
 4 all relating to prohibiting discriminatory "divisive acts" in the workplace; adding to the  
 5 definition "divisive acts" of the Human Rights Act; prohibiting the teaching of "divisive acts"  
 6 in West Virginia schools; and prohibiting state funding to agencies who promote "divisive  
 7 acts."

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
 BOARD OF PUBLIC WORKS; MISCELLANEOUS  
 AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 11. HUMAN RIGHTS COMMISSION.**

**§5-11-9b. Divisive acts classified as prohibited discrimination.**

1 It is the policy of the State of West Virginia not to promote race or sex stereotyping or  
 2 scapegoating in the workforce, and not to allow grant funds to be used for these purposes. In  
 3 addition, state contractors will not be permitted to inculcate such views in their employees.

4 For the purposes of definition, the phrase:

5 (a) "Divisive concepts" means the concepts that (1) one race or sex is inherently superior  
 6 to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by  
 7 virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or  
 8 unconsciously; (4) an individual should be discriminated against or receive adverse treatment  
 9 solely or partly because of his or her race or sex; (5) members of one race or sex cannot and  
 10 should not attempt to treat others without respect to race or sex; (6) an individual's moral character  
 11 is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or

12 sex, bears responsibility for actions committed in the past by other members of the same race or  
13 sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological  
14 distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic  
15 are racist or sexist, or were created by a particular race to oppress another race. The term "divisive  
16 concepts" also includes any other form of race or sex stereotyping or any other form of race or sex  
17 scapegoating.

18 (b) "Race or sex stereotyping" means ascribing character traits, values, moral and ethical  
19 codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or  
20 sex.

21 (c) "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to  
22 members of a race or sex because of their race or sex. It similarly encompasses any claim that,  
23 consciously or unconsciously, and by virtue of his or her race or sex, members of any race are  
24 inherently racist or are inherently inclined to oppress others, or that members of a sex are  
25 inherently sexist or inclined to oppress others.

## **CHAPTER 11B. DEPARTMENT OF REVENUE.**

### **ARTICLE 2. STATE BUDGET OFFICE.**

#### **§11B-2-33. Money to agencies promoting "divisive acts" prohibited.**

1 It is the policy of the State of West Virginia to prohibit state funding for state agencies who  
2 promote race or sex stereotyping or scapegoating, and it is prohibited for any state funding to go  
3 towards West Virginia agencies promoting "divisive acts."

4 For the purposes of this definition, the phrase:

5 (a) "Divisive concepts" means the concepts that (1) one race or sex is inherently superior  
6 to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by  
7 virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or  
8 unconsciously; (4) an individual should be discriminated against or receive adverse treatment

9 solely or partly because of his or her race or sex; (5) members of one race or sex cannot and  
 10 should not attempt to treat others without respect to race or sex; (6) an individual's moral character  
 11 is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or  
 12 sex, bears responsibility for actions committed in the past by other members of the same race or  
 13 sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological  
 14 distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic  
 15 are racist or sexist, or were created by a particular race to oppress another race. The term "divisive  
 16 concepts" also includes any other form of race or sex stereotyping or any other form of race or sex  
 17 scapegoating.

18 (b) "Race or sex stereotyping" means ascribing character traits, values, moral and ethical  
 19 codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or  
 20 sex.

21 (c) "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to  
 22 members of a race or sex because of their race or sex. It similarly encompasses any claim that,  
 23 consciously or unconsciously, and by virtue of his or her race or sex, members of any race are  
 24 inherently racist or are inherently inclined to oppress others, or that members of a sex are  
 25 inherently sexist or inclined to oppress others.

## CHAPTER 18. EDUCATION.

### ARTICLE 2. STATE BOARD OF EDUCATION.

#### **§18-2-44. Curriculum promoting "divisive acts" prohibited.**

1 It is the policy of the State Board of Education of West Virginia not to promote race or sex  
 2 stereotyping or scapegoating in schools, and not to allow schools to use curriculum that promotes  
 3 "divisive acts."

4 For the purposes of this definition, the phrase:

5 (a) "Divisive concepts" means the concepts that (1) one race or sex is inherently superior

6 to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by  
7 virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or  
8 unconsciously; (4) an individual should be discriminated against or receive adverse treatment  
9 solely or partly because of his or her race or sex; (5) members of one race or sex cannot and  
10 should not attempt to treat others without respect to race or sex; (6) an individual's moral character  
11 is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or  
12 sex, bears responsibility for actions committed in the past by other members of the same race or  
13 sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological  
14 distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic  
15 are racist or sexist, or were created by a particular race to oppress another race. The term "divisive  
16 concepts" also includes any other form of race or sex stereotyping or any other form of race or sex  
17 scapegoating.

18 (b) "Race or sex stereotyping" means ascribing character traits, values, moral and ethical  
19 codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or  
20 sex.

21 (c) "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to  
22 members of a race or sex because of their race or sex. It similarly encompasses any claim that,  
23 consciously or unconsciously, and by virtue of his or her race or sex, members of any race are  
24 inherently racist or are inherently inclined to oppress others, or that members of a sex are  
25 inherently sexist or inclined to oppress others.

NOTE: The purpose of this bill is to prohibit discriminatory "divisive acts" in the workplace, to prohibit the teaching of "divisive acts" in West Virginia schools, and to prohibit state funding to agencies who promote "divisive acts."

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.