



## **Nondiscrimination Bill Would Affirm “Alternative” Sexual Behaviors**

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Applicable Bill: **Senate Bill 1534**

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*By proposing to add “sexual orientation” to the classifications protected under the State’s Equal Employment Opportunity law, Senate Bill 1534 would grant special legal protections to individuals based on their involvement in “alternative” sexual behaviors and would create inequity in State hiring and employment.*

### **BACKGROUND:**

Senate Bill 1534 proposes to: (1) create a new “legislative personnel nondiscrimination policy,” and (2) amend the State Personnel Act to provide legal protection from employment discrimination on the basis of an individual’s “sexual orientation.” The bill defines “sexual orientation” as **“actual or perceived heterosexuality, homosexuality, or bisexuality, or a person’s gender-related identity or expression.”**

Because legislative personnel are already covered under the state’s Equal Employment Opportunity law the creation of a new “legislative personnel nondiscrimination policy” is unnecessary. The only change that is being proposed by SB 1534 is the addition of the term “sexual orientation” to various sections of the State Personnel Act.

### **ANALYSIS:**

**The term “Sexual Orientation” appears nowhere in State law.** SB 1534 would be the first instance in state law where “sexual orientation” is recognized as a protected classification. According to the U.S. Supreme Court, such protections have been typically reserved for groups with: (1) a shared immutable [unchangeable] characteristic, (2) economic deprivation and (3) a history of political powerlessness. The gay, lesbian, transgender, transsexual and bisexual community seeking the special rights proposed by SB 1534 meets none of these criteria.

**SB 1534 would create inequity in State hiring and employment and would put the State at risk of constant employment litigation.** Under this bill, an applicant for employment with the State could simply mention in a job interview that they were involved in an alternative sexual lifestyle. If they were not hired, they could then sue the State for discrimination, and the State would have the burden to prove why another individual was better qualified and why the applicant was not the subject of discrimination. The same would be true for an existing State employee seeking a promotion or raise. The threat of such lawsuits could put pressure on the State to give preferential employment treatment to job applicants and existing employees who disclose that they are involved in alternative sexual lifestyles.

**The real purpose of SB 1534 is to grant legal recognition and a specially protected legal status to alternative sexual behaviors.** SB 1534 is not really about protecting individuals from discrimination in employment, but it is about legally recognizing and legitimizing alternative sexual behaviors. If this bill becomes law, a precedent will be set that will open the State up to a myriad of lawsuits seeking to overturn centuries-old laws, which protect our citizens from the harmful effects of deviant sexual behaviors, including sexually transmitted diseases such as HIV/AIDS.

### **ACTION:**

**OPPOSE Senate Bill 1534.**