

HOUSE BILL NO. 343

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE GILLHAM

Introduced: 2/17/22

Referred: Education, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to nondiscrimination in public education; and amending Rules 79 and
2 82, Alaska Rules of Civil Procedure."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 14.18.070 is amended to read:

5 **Sec. 14.18.070. Affirmative action.** The board shall establish procedures for
6 affirmative action programs covering both equal employment and equal educational
7 opportunity to be implemented by all school districts and regional educational
8 attendance areas determined by the board not to be in compliance with AS 14.18.010 -
9 14.18.110 [THIS CHAPTER].

10 * **Sec. 2.** AS 14.18.080 is amended to read:

11 **Sec. 14.18.080. Implementation.** (a) The board shall adopt regulations under
12 AS 44.62 (Administrative Procedure Act) to implement AS 14.18.010 - 14.18.110
13 [THIS CHAPTER].

14 (b) The Board of Regents shall adopt rules under AS 14.40.170(b)(1) to

1 implement AS 14.18.010 - 14.18.110 [THIS CHAPTER].

2 * **Sec. 3.** AS 14.18.090(a) is amended to read:

3 (a) The board shall enforce compliance by school districts and regional
4 educational attendance areas with the provisions of AS 14.18.010 - 14.18.110 [THIS
5 CHAPTER] and the regulations and procedures adopted under it by appropriate order
6 made in accordance with AS 44.62. After a hearing conducted by the office of
7 administrative hearings (AS 44.64.010) and a finding by the board that a district or a
8 regional educational attendance area is not in compliance with AS 14.18.010 -
9 14.18.110 [THIS CHAPTER] and is not actively working to come into compliance,
10 the board shall institute appropriate proceedings to abate the practices found by the
11 board to be a violation of AS 14.18.010 - 14.18.110 [THIS CHAPTER].

12 * **Sec. 4.** AS 14.18.100 is amended to read:

13 **Sec. 14.18.100. Remedies.** (a) A person aggrieved by a violation of
14 AS 14.18.010 - 14.18.110 [THIS CHAPTER] or of a regulation or procedure adopted
15 under AS 14.18.010 - 14.18.110 [THIS CHAPTER] as to primary or secondary
16 education may file a complaint with the board and has an independent right of action
17 in superior court for civil damages and for such equitable relief as the court may
18 determine.

19 (b) A person aggrieved by a violation of AS 14.18.010 - 14.18.110 [THIS
20 CHAPTER] or of a regulation or procedure adopted under AS 14.18.010 - 14.18.110
21 [THIS CHAPTER] as to postsecondary education has an independent right of action in
22 superior court for civil damages and for such equitable relief as the court may
23 determine.

24 * **Sec. 5.** AS 14.18.110 is amended to read:

25 **Sec. 14.18.110. Effect [OF CHAPTER].** AS 14.18.010 - 14.18.110 [THIS
26 CHAPTER] is supplementary to and does not supersede existing laws relating to
27 unlawful discrimination based on sex or race.

28 * **Sec. 6.** AS 14.18 is amended by adding a new section to read:

29 **Article 2. Nondiscrimination; Tenets in Public Education.**

30 **Sec. 14.18.150. Nondiscrimination; tenets.** (a) A public school may not direct
31 or otherwise compel a student or public school employee to personally affirm, adopt,

1 or adhere to, or provide training, a course of instruction, or a unit of study that directs
 2 or otherwise compels a student or public school employee to affirm, adopt, or adhere
 3 to, the following tenets:

4 (1) a given sex, race, ethnicity, religion, color, or national origin is
 5 inherently superior or inferior;

6 (2) an individual, by virtue of the individual's sex, race, ethnicity,
 7 religion, color, or national origin,

8 (A) is inherently racist, sexist, or oppressive, either consciously
 9 or subconsciously;

10 (B) is inherently responsible for actions committed in the past
 11 by other members of the same sex, race, ethnicity, religion, color, or national
 12 origin;

13 (C) should be treated adversely to achieve the goals of
 14 diversity, equity, or inclusion;

15 (D) should feel discomfort, guilt, anguish, or other forms of
 16 psychological distress;

17 (3) an individual's character or status as privileged or oppressed is
 18 determined by virtue of the individual's sex, race, ethnicity, religion, color, or national
 19 origin;

20 (4) an individual should be treated adversely based on the individual's
 21 sex, race, ethnicity, religion, color, or national origin or on the basis that an individual
 22 is inherently responsible for actions committed in the past by other members of the
 23 same sex, race, ethnicity, religion, color, or national origin;

24 (5) the doctrines of merit, excellence, hard work, fairness, neutrality,
 25 objectivity, and racial colorblindness are racist or sexist, or were created by members
 26 of a particular sex, race, ethnicity, religion, color, or national origin to oppress
 27 members of another sex, race, ethnicity, religion, color, or national origin.

28 (b) Nothing in this section prohibits discussion of the concepts listed in
 29 (a) of this section as part of a course of training or instruction, if the training or
 30 instruction is provided in an objective manner without endorsement of the concepts
 31 listed in (a) of this section.

(c) A person aggrieved by a violation of this section or of a regulation adopted under this section may bring a civil action against a public school. The person must prove by a preponderance of the evidence that the public school violated this section or a regulation adopted under this section.

(d) The court may award the prevailing party of an action for a violation under (a)(1), (2)(B) - (D), and (4) of this section

(1) declaratory or equitable relief; and

(2) reasonable attorney fees and costs.

(e) The court shall award the prevailing party of an action for a violation under (a)(2)(A), (3), and (5) of this section

(1) declaratory or equitable relief;

(2) compensatory damages, not to exceed \$10,000 against each defendant; and

(3) reasonable attorney fees and costs, not to exceed \$100,000.

(f) In this section, "public school" includes a public postsecondary institution.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. AS 14.18.150(d) and (e), enacted by sec. 1 of this Act, have the effect of changing Rules 79 and 82, Alaska Rules of Civil Procedure, by changing the award of court costs and attorney fees in certain cases.

* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. AS 14.18.150(d) and (e), enacted by sec. 1 of this Act, take effect only if sec. 2 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.