

## HB 1995 -- UNLAWFUL DISCRIMINATORY PRACTICES

SPONSOR: Miller

This bill specifies that "because" or "because of" means a protected criterion was a motivating factor in a defendant's unlawful employment or discriminatory practice, but need not have been the only factor in, or reason for, the practice. "Because" or "because of" does not apply to a claim that a defendant's otherwise neutral policy or practice has a disparate adverse impact on a protected individual or group of individuals.

The bill specifies that when a party files a motion for summary judgment in an employment case, the court must analyze the merits of the motion for summary judgment. When considering a motion for summary judgment where the plaintiff submits direct evidence of discrimination, the burden of proof shifts to the employer to provide evidence that the same employment decision would have occurred regardless of the direct evidence presented by the plaintiff. If the court determines the employer would have taken the same action regardless of the evidence submitted by the plaintiff, the court must rule in favor of the employer.

When considering a motion for summary judgment where the plaintiff does not submit direct evidence of discrimination, the burden of proof is on the plaintiff to establish an allegation of discrimination. The employer is allowed to produce evidence of non-discriminatory reasons for the employment decision and if the employer produces evidence of non-discriminatory reasons for the employment decision, the plaintiff must present facts to show the employer's explanation is insufficient or illegitimate. If the court determines that the employer relied upon non-discriminatory reasons for the employment decision, the court must rule in favor of the employer.