

# HOUSE BILL 229

D5, K3, P4

5lr0751  
CF SB 604

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By: **Delegates Dumais, Anderson, Atterbeary, Barve, Carr, Clippinger, Cullison, Fraser-Hidalgo, Frick, Frush, Gilchrist, Gutierrez, Hammen, Hixson, Kaiser, Kelly, Korman, Kramer, Lisanti, Luedtke, McIntosh, A. Miller, Moon, Morales, Pena-Melnyk, Pendergrass, Platt, Reznik, Smith, Tarlau, Valentino-Smith, B. Wilson, ~~and Zucker~~ Zucker, Angel, Barron, Bromwell, Hayes, Hill, Kipke, Krebs, McDonough, McMillan, Miele, Morgan, Oaks, Saab, Sample-Hughes, West, and K. Young**

Introduced and read first time: February 2, 2015

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Human Relations – Employment Discrimination – Protection for Interns**

3 FOR the purpose of establishing certain protections for interns and applicants for  
4 internships from certain discriminatory acts; prohibiting an employer from printing  
5 or causing to be printed or published a certain notice or advertisement relating to an  
6 internship; authorizing a notice or an advertisement indicating a certain bona fide  
7 occupational qualification for an internship; providing that a certain intern shall  
8 have access to a certain complaint resolution procedure or, under certain  
9 circumstances, may file a complaint with the Maryland Commission on Civil Rights  
10 for certain nonmonetary administrative remedies; providing that this Act does not  
11 create an employment relationship between an employer and an intern for the  
12 purposes of certain remedies or certain other provisions of law; defining a certain  
13 term; and generally relating to protections for interns from certain discriminatory  
14 acts.

15 BY repealing and reenacting, without amendments,

16 Article – State Government

17 Section 20–601(a), (c), and (d)

18 Annotated Code of Maryland

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2014 Replacement Volume)

2 BY adding to  
3 Article – State Government  
4 Section 20–610  
5 Annotated Code of Maryland  
6 (2014 Replacement Volume)

7 Preamble

8 WHEREAS, Before decisions by federal courts and the U.S. Equal Employment  
9 Opportunities Commission holding that civil rights protections do not extend to unpaid  
10 interns, interns were generally believed to have legal protection from discrimination and  
11 harassment in the workplace; and

12 WHEREAS, The changing requirements of educational programs and the economic  
13 downturn have greatly increased the number of unpaid internships; and

14 WHEREAS, Interns, who are often young, inexperienced, or seeking  
15 recommendations or regular employment, are especially vulnerable; and

16 WHEREAS, Interns have the right to feel protected from discrimination and  
17 harassment in the workplace; now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
19 That the Laws of Maryland read as follows:

20 **Article – State Government**

21 20–601.

22 (a) In this subtitle the following words have the meanings indicated.

23 (c) (1) “Employee” means an individual employed by an employer.

24 (2) Unless the individual is subject to the State or local civil service laws,  
25 “employee” does not include:

26 (i) an individual elected to public office;

27 (ii) an individual chosen by an elected officer to be on the officer’s  
28 personal staff;

29 (iii) an appointee on the policy making level; or

30 (iv) an immediate adviser with respect to the exercise of the  
31 constitutional or legal powers of an elected office.

1 (d) (1) “Employer” means:

2 (i) a person that:

3 1. is engaged in an industry or business; and

4 2. has 15 or more employees for each working day in each of  
5 20 or more calendar weeks in the current or preceding calendar year; and

6 (ii) an agent of a person described in item (i) of this paragraph.

7 (2) “Employer” includes the State to the extent provided in this title.

8 (3) Except for a labor organization, “employer” does not include a bona fide  
9 private membership club that is exempt from taxation under § 501(c) of the Internal  
10 Revenue Code.

11 **20-610.**

12 **(A) IN THIS SECTION, “INTERN” MEANS AN INDIVIDUAL WHO PERFORMS**  
13 **WORK FOR AN EMPLOYER FOR THE PURPOSE OF TRAINING IF:**

14 **(1) THE EMPLOYER IS NOT COMMITTED TO HIRE THE INDIVIDUAL AT**  
15 **THE CONCLUSION OF THE TRAINING PERIOD;**

16 **(2) THE EMPLOYER AND THE INDIVIDUAL AGREE THAT THE**  
17 **INDIVIDUAL IS NOT ENTITLED TO WAGES FOR THE WORK PERFORMED; AND**

18 **(3) THE WORK PERFORMED:**

19 **(I) SUPPLEMENTS TRAINING GIVEN IN AN EDUCATIONAL**  
20 **ENVIRONMENT THAT MAY ENHANCE THE EMPLOYABILITY OF THE INDIVIDUAL;**

21 **(II) PROVIDES EXPERIENCE FOR THE BENEFIT OF THE**  
22 **INDIVIDUAL;**

23 **(III) DOES NOT DISPLACE REGULAR EMPLOYEES; AND**

24 **(IV) IS PERFORMED UNDER THE CLOSE SUPERVISION OF**  
25 **EXISTING STAFF.**

26 **(B) AN EMPLOYER MAY NOT:**

1           **(1) FAIL OR REFUSE TO ~~HIRE, DISCHARGE~~ OFFER AN INTERNSHIP,**  
2 **TERMINATE AN INTERNSHIP, OR OTHERWISE DISCRIMINATE AGAINST AN**  
3 **INDIVIDUAL WITH RESPECT TO THE TERMS, CONDITIONS, OR PRIVILEGES OF**  
4 **~~EMPLOYMENT AS AN INTERN~~ AN INTERNSHIP BECAUSE OF THE INDIVIDUAL'S RACE,**  
5 **COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL**  
6 **ORIENTATION, GENDER IDENTITY, OR DISABILITY UNRELATED IN NATURE AND**  
7 **EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE INTERNSHIP;**

8           **(2) LIMIT, SEGREGATE, OR CLASSIFY ITS INTERNS OR APPLICANTS**  
9 **FOR INTERNSHIPS IN ANY WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE ANY**  
10 **INDIVIDUAL OF INTERNSHIP OPPORTUNITIES OR OTHERWISE ADVERSELY AFFECT**  
11 **THE INDIVIDUAL'S STATUS AS AN INTERN BECAUSE OF THE INDIVIDUAL'S RACE,**  
12 **COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL**  
13 **ORIENTATION, GENDER IDENTITY, OR DISABILITY UNRELATED IN NATURE AND**  
14 **EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE INTERNSHIP;**

15           **(3) FAIL OR REFUSE TO MAKE A REASONABLE ACCOMMODATION FOR**  
16 **THE KNOWN DISABILITY OF AN OTHERWISE QUALIFIED INTERN; OR**

17           **(4) DISCRIMINATE OR RETALIATE AGAINST ANY OF ITS INTERNS OR**  
18 **APPLICANTS FOR INTERNSHIPS BECAUSE THE INDIVIDUAL HAS:**

19                   **(I) OPPOSED ANY PRACTICE PROHIBITED BY THIS SUBTITLE;**  
20 **OR**

21                   **(II) MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED**  
22 **IN ANY MANNER IN AN INVESTIGATION, A PROCEEDING, OR A HEARING UNDER THIS**  
23 **SUBTITLE.**

24           **(c) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
25 **AN EMPLOYER MAY NOT PRINT OR CAUSE TO BE PRINTED OR PUBLISHED ANY**  
26 **NOTICE OR ADVERTISEMENT RELATING TO AN INTERNSHIP WITH THE EMPLOYER**  
27 **THAT INDICATES ANY PREFERENCE, LIMITATION, SPECIFICATION, OR**  
28 **DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**  
29 **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.**

30           **(2) A NOTICE OR AN ADVERTISEMENT MAY INDICATE A PREFERENCE,**  
31 **LIMITATION, SPECIFICATION, OR DISCRIMINATION BASED ON RELIGION, SEX, AGE,**  
32 **NATIONAL ORIGIN, MARITAL STATUS, OR DISABILITY IF RELIGION, SEX, AGE,**  
33 **NATIONAL ORIGIN, MARITAL STATUS, OR DISABILITY IS A BONA FIDE OCCUPATIONAL**  
34 **QUALIFICATION FOR THE INTERNSHIP.**

35           **(d) AN INTERN CLAIMING TO BE AGGRIEVED BY AN ALLEGED**  
36 **DISCRIMINATORY ACT PROHIBITED UNDER THIS SECTION:**

1 (1) SHALL HAVE ACCESS TO ANY INTERNAL PROCEDURE THE  
2 EMPLOYER HAS FOR RESOLVING A COMPLAINT BY AN EMPLOYEE OF SEXUAL  
3 HARASSMENT OR OTHER DISCRIMINATION; OR

4 (2) IF THE EMPLOYER DOES NOT HAVE AN INTERNAL PROCEDURE  
5 FOR RESOLVING A COMPLAINT OF SEXUAL HARASSMENT OR OTHER  
6 DISCRIMINATION, MAY FILE A COMPLAINT WITH THE COMMISSION FOR THE  
7 NONMONETARY ADMINISTRATIVE REMEDIES PROVIDED UNDER SUBTITLE 10 OF  
8 THIS TITLE.

9 (E) THIS SECTION DOES NOT CREATE AND MAY NOT BE CONSTRUED AS  
10 CREATING AN EMPLOYMENT RELATIONSHIP BETWEEN AN EMPLOYER AND AN  
11 INTERN FOR THE PURPOSES OF:

12 (1) A CIVIL CAUSE OF ACTION OR MONETARY DAMAGES UNDER  
13 SUBTITLE 10 OF THIS TITLE;

14 (2) ANY PROVISION OF THE LABOR AND EMPLOYMENT ARTICLE; OR

15 (3) ANY PROVISION OF THE STATE PERSONNEL AND PENSIONS  
16 ARTICLE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2015.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.