

SENATE BILL 604

D5, K3, P4

5lr0750
CF HB 229

By: **Senators King, Astle, Benson, Conway, Currie, DeGrange, Edwards, Feldman, Ferguson, Gladden, Guzzone, Jennings, Kagan, Kasemeyer, Kelley, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Miller, Montgomery, Muse, Nathan–Pulliam, Peters, Pinsky, Pugh, Ramirez, Raskin, Rosapepe, Salling, Waugh, Young, and Zirkin**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 2015

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
19 (2014 Replacement Volume)

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

6 Preamble

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

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

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

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

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

19 **Article – State Government**

20 20–601.

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

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

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

25 (i) an individual elected to public office;

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

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

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

31 (d) (1) “Employer” means:

- 1 (i) a person that:
- 2 1. is engaged in an industry or business; and
- 3 2. has 15 or more employees for each working day in each of
- 4 20 or more calendar weeks in the current or preceding calendar year; and
- 5 (ii) an agent of a person described in item (i) of this paragraph.
- 6 (2) "Employer" includes the State to the extent provided in this title.
- 7 (3) Except for a labor organization, "employer" does not include a bona fide
- 8 private membership club that is exempt from taxation under § 501(c) of the Internal
- 9 Revenue Code.

10 **20-610.**

11 (A) IN THIS SECTION, "INTERN" MEANS AN INDIVIDUAL WHO PERFORMS

12 WORK FOR AN EMPLOYER FOR THE PURPOSE OF TRAINING IF:

13 (1) THE EMPLOYER IS NOT COMMITTED TO HIRE THE INDIVIDUAL AT

14 THE CONCLUSION OF THE TRAINING PERIOD;

15 (2) THE EMPLOYER AND THE INDIVIDUAL AGREE THAT THE

16 INDIVIDUAL IS NOT ENTITLED TO WAGES FOR THE WORK PERFORMED; AND

17 (3) THE WORK PERFORMED:

18 (I) SUPPLEMENTS TRAINING GIVEN IN AN EDUCATIONAL

19 ENVIRONMENT THAT MAY ENHANCE THE EMPLOYABILITY OF THE INDIVIDUAL;

20 (II) PROVIDES EXPERIENCE FOR THE BENEFIT OF THE

21 INDIVIDUAL;

22 (III) DOES NOT DISPLACE REGULAR EMPLOYEES; AND

23 (IV) IS PERFORMED UNDER THE CLOSE SUPERVISION OF

24 EXISTING STAFF.

25 (B) AN EMPLOYER MAY NOT:

26 (1) FAIL OR REFUSE TO ~~HIRE, DISCHARGE~~ OFFER AN INTERNSHIP,

27 TERMINATE AN INTERNSHIP, OR OTHERWISE DISCRIMINATE AGAINST AN

28 INDIVIDUAL WITH RESPECT TO THE TERMS, CONDITIONS, OR PRIVILEGES OF

1 ~~EMPLOYMENT AS AN INTERN~~ AN INTERNSHIP BECAUSE OF THE INDIVIDUAL'S RACE,
2 COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL
3 ORIENTATION, GENDER IDENTITY, OR DISABILITY UNRELATED IN NATURE AND
4 EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE INTERNSHIP;

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

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

14 (4) DISCRIMINATE OR RETALIATE AGAINST ANY OF ITS INTERNS OR
15 APPLICANTS FOR INTERNSHIPS BECAUSE THE INDIVIDUAL HAS:

16 (I) OPPOSED ANY PRACTICE PROHIBITED BY THIS SUBTITLE;
17 OR

18 (II) MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED
19 IN ANY MANNER IN AN INVESTIGATION, A PROCEEDING, OR A HEARING UNDER THIS
20 SUBTITLE.

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

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

32 (D) AN INTERN CLAIMING TO BE AGGRIEVED BY AN ALLEGED
33 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:

Governor.

President of the Senate.

Speaker of the House of Delegates.