

MCCR - SB 451 -Support. Unlawful Employment Practi

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Position: FAV

State of Maryland

Commission on Civil Rights

“Our vision is to have a State that is free from any trace of unlawful discrimination.”



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February 15, 2022

Senate Bill 451 – Unlawful Employment Practice - Tolling Statute of Limitations **POSITION: Support**

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, health services and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, and source of income.

Senate Bill 451 amends State Government Article, Title 20 by proposing that the running of the statute of limitations be tolled when an administrative charge is pending before MCCR for allegations of unlawful employment practices. Currently, the time limit countdown begins when the act of discrimination occurs and does not exclude the time the agency takes to probe the charge. This means if the agency investigates for a longer period and the clock runs out, then persons aggrieved are unable to file private civil action.

For a person aggrieved to bring a civil suit for unlawful employment practices, they must first exhaust the administrative processes. Additionally, the person must allow at least 180 days to lapse from the filing of the administrative charge. The language in SB 451 mirrors the language contained in the discriminatory housing section of State Government Article, Title 20, specifically Section 20-1035 (b)(2) which details an exclusion for any time taken for administrative proceedings when computing the relevant statute of limitations.

This change would make procedures for unlawful employment practices consistent with procedures for violations of our fair housing laws. There is no reason to have two different sets of rules for persons aggrieved depending on the type of discrimination. Persons who want to exercise their right to file a private civil action as provided in the fair housing law should not be penalized for complying with the required administrative exhaustion.

MCCR’s Biennial Civil Rights & Fair Housing Gala Celebration: April 30, 2022

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For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on SB 451. Thank you for your time and consideration of the information contained in this letter. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.

SB 451_MDCC_Unlawful Employment Practice-Statute o

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LEGISLATIVE POSITION:

Unfavorable

Senate Bill 451

Unlawful Employment Practice – Statute of Limitations - Tolling

Senate Judicial Proceedings Committee

Tuesday, February 15, 2022

Dear Chairman Smith and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,500 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

SB 451 establishes tolling for the period of time during which a complainant may file a civil action alleging an unlawful employment practice while other administrative charges are pending.

This legislation opens up Maryland employers to longer periods of time in which lawsuits alleging unlawful employment practices can be brought, exposing them to additional liability and creating an even more challenging and uncertain business environment. Maryland employers are unfortunately accustomed to alleged complaints filed under either federal or State processes being dragged on for extended periods of time before findings are rendered. Tolling that time period until administrative charges are resolved time period before the official time period begins only extends the time which employees and witnesses can move on or forget or for evidence to be lost or altered, making it more difficult for employers to defend themselves against alleged violations. Finally, SB 451 is unclear as to which administrative charge takes precedence in being finalized. Would the timeline for a complaint to be filed begin after the first administrative charge has been resolved? Or would all pending charges, potentially federal, State, and local, need to be resolved for the timeline to begin.

Finally, it is important to remember that the timelines which already exist in statute were designed to appropriately balance an employer's right to defend themselves against an employee's right to hold employers accountable. Altering the balance of these timelines changes the equity between employer and employee rights.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 451**.