



State of Maryland Commission on Civil Rights

Respect...Integrity...Effective Communication

February 14, 2024

House Bill 0469 – Employment Discrimination - Exceptions - Religious Activities of Religious Employers POSITION: Support

Governor
Wes Moore

Lt. Governor
Aruna Miller

Commission Chair
Stephanie Suerth, MPA,
CCEP

Commission Vice Chair
Janssen E. Evelyn, Esq.

Commissioners
Diane E. Bernier
Eileen M. Levitt, SPHR,
SHRM-SCP
Rabbi Binyamin
Marwick
Magdalena S. Navarro,
MSc
Jeff Rosen
Gina McKnight-Smith,
PharmD, MBA
Isabella Firth Shycoff

Officers
Executive Director
Alvin O. Gillard

Deputy Director
Cleveland L. Horton II

Assistant Director
Martine Chery

General Counsel
Glendora C. Hughes,
Esq.

Dear Chair Wilson, Vice Chair Crosby, and Members of the House Economic Matters 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.

HB 0469 addresses the August 14, 2023, Supreme Court of Maryland decision in the case of *John Doe v. Catholic Relief Services* which held that the Maryland Fair Employment Practice Act’s (MFEPA) religious entity exemption, SG § 20-604(2) bars a claim for religious, sexual orientation, and gender identity discrimination against religious organizations by employees who are performing duties that directly further the core mission of the religious entity. HB 0469 adds the word “religious” in front of the word “activities” contained in the exception to the general prohibition of employment discrimination against individuals based on religious, sexual orientation, and gender identity. The bill amends State Government Article, §20-604(2) to state that the employment discrimination statute will not apply to employees that perform work connected with the “religious” activities of the religious entity.

Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment based on race, color, religion, sex, and national origin. In order for churches to regulate church administration and engage in the free exercise of religion under the First Amendment, clergy are not permitted to bring claims under federal employment discrimination laws.

This is called “the ministerial exception”, and it only applies to employees that perform religious functions. This can include those whose primary duties consist of “engaging in church governance, supervising a religious order, or conducting religious ritual, worship, or instruction.” Employees that are not classified as clergy

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

are able to bring suits under federal employment statutes because the relevant issue does not implicate the church's constitutional rights.

HB 0469 will reinstitute that right and would mirror the federal government's framework in Maryland. This bill provides that the exception to employer discrimination suits only applies to employees that perform religious activities with a religious entity. Further, employees that do not perform religious activities with a religious entity would be protected by the state employment discrimination law.

For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on HB 0469. 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.