



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

SUPPORT TESTIMONY

HB 469 - Employment Discrimination - Exceptions - Religious Activities of Religious Employers

The Honorable C.T. Wilson, Chair
Economic Matters Committee
Maryland House of Delegates
6 Bladen Street, Room 231
Annapolis, MD 21401

Chair Wilson, Vice-Chair Crosby, and Esteemed Members of the Economic Matters Committee:

House Bill 469 seeks to correct the constitutionally grounded interpretation of employment discrimination exceptions for religious employers in Maryland. This bill is a necessary response to the Maryland Supreme Court's ruling in *Doe v. Catholic Relief Servs.*, 484 Md. 640, 300 A.3d 116 (Md. 2023), which significantly expanded the scope of religious exemptions from the state's employment antidiscrimination laws, diverging from the General Assembly's original intent and federal constitutional principles.

The Maryland Fair Employment Practices Act (MFEPA) has historically permitted religious employers certain exemptions in hiring based on religion, sexual orientation, or gender identity, provided the employee's role was directly connected to the religious activities of the entity. However, the understanding of this exemption was traditionally limited to inherently ministerial positions, such as clergy and religious educators, in line with the First Amendment's ministerial exception as established in *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012) and *Archdiocese v. Moersen*, 399 Md. 637, 925 A.2d 659 (Md. 2007). These cases recognized the delicate balance between the rights of religious institutions to observe their faith practices through employment decisions and the rights of individuals to be free from discrimination.

However, the ruling in *John Doe v. CRS* drastically broadened this exemption to include any employee whose duties "directly further the core mission or missions of the religious entity," irrespective of whether these duties are secular or religious. This interpretation is a significant departure from previous legislative updates to MFEPA in 2001 and 2014 and extends far beyond the federally recognized ministerial exception.

Due to this ruling, any employee of a religiously affiliated organization could now fall under this exemption. This includes primarily secular roles, such as administrative staff, janitors, or fundraising personnel, who, under the current interpretation, can be discriminated against based on religion, sexual orientation, or gender identity without any state-level legal recourse. This expansive interpretation undermines the fundamental principles of equality and nondiscrimination that are cornerstones of both our state and federal constitutions.

House Bill 469 seeks to correct this troubling ruling by reverting the exemption to the Maryland Court of Appeals' original scope, applying solely to employees involved in the "religious activities" of the entity.

This clarification aligns with the General Assembly's intent and the federal constitutional standard. It ensures that while religious organizations can freely choose individuals for roles central to their religious functions, they cannot unjustly discriminate in secular positions.

For these reasons, I urge your support for House Bill 469 and respectfully request a favorable report.

Thank you,

A handwritten signature in blue ink that reads "Kris Fair". The signature is written in a cursive, flowing style.

Delegate Kris Fair
District 3, Frederick County