

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 368

(Delegate Cullison, *et al.*)

Health and Government Operations

Judicial Proceedings

Maryland Commission on Civil Rights - Monetary Relief

This bill alters statutory provisions that authorize the Maryland Commission on Civil Rights (MCCR) to seek civil penalties if it finds that a respondent has engaged in a discriminatory act in regard to public accommodations or persons licensed or regulated by the Maryland Department of Labor (MDL). The bill replaces references to “civil penalties” with “monetary relief,” and requires monetary relief be paid directly to the complainant (instead of the general fund). In addition to authorizing MCCR to seek increased monetary relief under specified circumstances, the bill prohibits MCCR from seeking an order awarding monetary relief under certain conditions and sets forth factors for administrative law judges (ALJ) to consider when determining the amount of monetary relief to award. Finally, the bill creates temporary reporting requirements for MCCR.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact the workload of MCCR, the Office of Administrative Hearings, or the Judiciary. Any decrease in general fund revenues from civil penalties is not anticipated to materially affect State finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill establishes certain circumstances under which specified caps on relief (as shown below) do not apply. For example, if the discriminatory act is committed by the agent or employee of the respondent, MCCR may seek an order awarding monetary

relief of up to \$25,000 if (1) the act committed by the agent or employee is determined to be discriminatory and (2) the respondent has not reasonably mitigated the harm caused by the discriminatory act. The maximum amounts that may be sought against a respondent with prior adjudications for committing discriminatory acts, as specified, also do not apply if the act is found to be malicious.

MCCR may not, however, seek an order awarding monetary relief to a complainant if (1) the discriminatory act was limited to a violation relating to accessibility; (2) the respondent, after being served, takes prompt corrective action; and (3) the respondent has not previously been the subject of a complaint, as specified.

If MCCR seeks an order awarding monetary relief before an ALJ, in determining the amount of relief to be awarded, the bill requires the ALJ to consider (1) the seriousness of the discriminatory act; (2) the good faith of the respondent; (3) the harmful effect to the public of the discriminatory act; (4) the harmful effect of the respondent's actions on the investigatory process of MCCR; and (5) the respondent's assets.

On or before July 1, 2025, and by July 1 of each of the immediately following four years, MCCR must submit a report to the Governor and the General Assembly on the effect the bill has had on persons against whom complaints have been filed, as specified.

Current Law: A “place of public accommodation” includes (1) an inn, hotel, motel, or other lodging establishment; (2) a facility serving food or alcoholic beverages, including facilities on the premises of a retail establishment or gasoline station; (3) entertainment, sports, or exhibition venues; and (4) a public or privately operated retail establishment offering goods, services, entertainment, recreation, or transportation. A separate establishment that holds itself out as serving patrons of one of the above establishments is also included if (1) it is physically located within the premises of one of the above establishments or (2) it is within the premises of which one of the above establishments is physically located.

Under State law, an owner or operator of a place of public accommodation (or an agent or employee of the owner) may not refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities, or privileges of the place of public accommodation because of the person's race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, or disability. Statute includes similar provisions regarding persons licensed or regulated by MDL. Governmental units, officers, and employees are prohibited from discrimination in public accommodations. Any structural changes, modifications, or special equipment that are necessary to accommodate an individual with a disability must be reasonable. A reasonable accommodation is defined as making a place of public accommodation suitable for access, use, and patronage by an individual with a

disability without danger to the individual’s health or safety and undue hardship or expense to the person making the accommodation.

On a finding that a respondent has engaged in a discriminatory act in relation to the prohibitions against discrimination in public accommodations/persons licensed or regulated by MDL, nonmonetary relief may be granted to the complainant, subject to specified statutory provisions regarding transportation services.

MCCR may also seek an order that assesses a civil penalty against a respondent. Generally, the maximum amount of the penalty that may be assessed is:

- if the respondent has not been adjudicated to have committed any prior discriminatory act, up to \$500;
- if the respondent has been adjudicated to have committed one other discriminatory act during the five-year period ending on the date of the filing of the current charge, up to \$1,000; and
- if the respondent has been adjudicated to have committed two or more discriminatory acts during the seven-year period ending on the date of the filing of the current charge, up to \$2,500.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Cross File: SB 666 (Senator Charles) - Judicial Proceedings.

Information Source(s): Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2024
rh/jkb Third Reader - March 20, 2024
Revised - Amendment(s) - March 20, 2024
Revised - Clarification - March 21, 2024

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