
**By: Chairman, Commerce and Government Matters Committee
(Departmental - Human Relations Commission)**

Introduced and read first time: January 31, 1996

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Human Relations Commission - Hearings - Relief**

3 FOR the purpose of clarifying that certain documents shall be certified to the General
4 Counsel of the Maryland Human Relations Commission; designating that the
5 Executive Director of the Commission, rather than the Chairman, shall cause a
6 certain notice to be issued and served; expanding relief to include compensatory
7 damages for an individual and attorneys' fees and witness fees for the Human
8 Relations Commission; making technical and stylistic changes; and generally
9 relating to hearings and relief under the Human Relations Commission law.

10 BY repealing and reenacting, with amendments,
11 Article 49B - Human Relations Commission
12 Section 11
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1995 Supplement)

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

17 **Article 49B - Human Relations Commission**

18 11.

19 (a) In case of failure to reach an agreement for the elimination of the acts of
20 discrimination and upon the entry of findings to that effect, the entire file including the
21 complaint and any and all findings made shall be certified to THE GENERAL COUNSEL.
22 The [Chairman] EXECUTIVE DIRECTOR shall cause a written notice to be issued and
23 served in the name of the Commission together with a copy of the complaint requiring the
24 respondent to answer the charges of the complaint at a public hearing before [a hearing
25 examiner at a time and place certified in the notice] AN ADMINISTRATIVE LAW JUDGE.

26 The case shall thereupon be heard by [a hearing examiner] AN ADMINISTRATIVE
27 LAW JUDGE and the hearing shall be held in the county where the alleged act of
28 discrimination took place. A transcript of all testimony at the hearing shall be made. The
29 case in support of the complaint shall be presented at the hearing by the general counsel
30 of the Commission.

1 (b) The respondent may file a written answer to the complaint and appear at the
2 hearing in person, or otherwise, with or without counsel. The respondent may submit
3 testimony and shall be fully heard. He may examine and cross-examine witnesses.

4 (c) The Commission may permit reasonable amendment to be made to any
5 complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

6 (d) (1) In the administration and enforcement of the provisions of these several
7 subtitles, the Commission has power to:

8 (i) Administer oaths and to issue subpoenas;

9 (ii) Compel the attendance and testimony of witnesses; and

10 (iii) Compel the production of books, papers, records and documents
11 relevant or necessary for proceedings under the particular subtitle.

12 (2) Any subpoena shall be served by:

13 (i) Certified mail, requesting restricted delivery - Show to whom,
14 date, address of delivery; or

15 (ii) Personal service of process by:

16 1. An employee of the Commission;

17 2. Any person who is not a party and is not less than 18 years of
18 age; or

19 3. The sheriff or deputy sheriff of the political subdivision in
20 which is located the residence of the person or the main office of the firm, association,
21 partnership or corporation against whom or which the subpoena is issued.

22 (3) (i) In case of disobedience to a subpoena, the Commission may apply
23 to a circuit court in any county for an order requiring the attendance and testimony of
24 witnesses and the production of books, papers, records, and documents.

25 (ii) In case of contumacy or refusal to obey a subpoena for the
26 attendance of a witness or the production of books, papers, records, and documents, after
27 notice to the person subpoenaed as a witness or directed to produce books, papers,
28 records and documents, and upon a finding that the attendance and testimony of the
29 witness or the production of the books, papers, records and documents is relevant or
30 necessary for the proceedings of the Commission, the court may issue an order requiring
31 the attendance and testimony of the witness and the production of the books, papers,
32 records and documents.

33 (iii) Any failure to obey such an order of the court may be punished by
34 the court as a contempt thereof.

35 (iv) An order issued by the court under this subsection shall be served
36 on the person to whom it is directed by the sheriff or deputy sheriff of the political
37 subdivision where the residence or main office of the person is located.

1 (e) If upon all the evidence, the [hearing examiner] ADMINISTRATIVE LAW
 2 JUDGE finds that the respondent has engaged in any discriminatory act within the scope
 3 of any of these subtitles, the [hearing examiner] ADMINISTRATIVE LAW JUDGE shall so
 4 state the findings. The [hearing examiner] ADMINISTRATIVE LAW JUDGE shall issue
 5 and cause to be served upon the respondent an order requiring the respondent to cease
 6 and desist from the discriminatory acts and to take affirmative action to effectuate the
 7 purposes of the particular subtitle. If the respondent is found to have engaged in or to be
 8 engaging in an unlawful employment practice charged in the complaint, the remedy may
 9 include, but is not limited to, reinstatement or hiring of employees, with or without back
 10 pay (payable by the employer, employment agency, or labor organization, as the case may
 11 be, responsible for the unlawful employment practice), COMPENSATORY DAMAGES, or
 12 any other equitable relief that is deemed appropriate. The award of monetary relief shall
 13 be limited to a 36-month period. The complainant may not be awarded monetary relief
 14 for losses incurred between the time of the Commission's final determination and the
 15 final determination by the circuit court or higher appellate court, as the case may be.
 16 Interim earning or amounts earnable with reasonable diligence by the person or persons
 17 discriminated against shall operate to reduce the monetary relief otherwise allowable.
 18 THE ADMINISTRATIVE LAW JUDGE MAY ALSO AWARD ATTORNEYS' FEES AND
 19 WITNESS FEES TO THE COMMISSION. In cases of discrimination other than those
 20 involving employment, in addition to the award of civil penalties as specifically provided
 21 in this article, nonmonetary relief may be granted to the complainant, except that in no
 22 event shall an order be issued that substantially affects the cost, level, or type of any
 23 transportation services. In cases involving transportation services which are supported
 24 fully or partially with funds from the Maryland Department of Transportation, no order
 25 may be issued which would require costs, level, or type of transportation services different
 26 from or in excess of those required to meet U.S. Department of Transportation
 27 regulations adopted pursuant to Section 504 of the Rehabilitation Act of 1974, codified as
 28 49 C.F.R. 27 (1984), nor would any such order be enforceable under Section 12(a) of this
 29 subtitle.

30 (f) The provisions of subsection (e) granting the authority to award monetary
 31 relief to a complainant shall apply only to those complaints filed with the Commission on
 32 or after July 1, 1977.

33 (g) If upon all the evidence, the [hearing examiner] ADMINISTRATIVE LAW
 34 JUDGE or the Commission finds that the respondent has not engaged in any alleged
 35 discriminatory act within the scope of the particular subtitle, it shall state its findings of
 36 fact and shall similarly issue and file an order dismissing the complaint.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 38 October 1, 1996.