
By: Senator Collins (Baltimore County Administration)

Introduced and read first time: January 27, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County - Discrimination Laws - Civil Actions**

3 FOR the purpose of authorizing a person who is employed by a certain employer and is
4 subject to a discriminatory act prohibited by the Baltimore County Code to bring
5 and maintain a civil action against certain persons for damages or injunctive relief;
6 establishing certain conditions for commencing certain civil actions and for the
7 award of certain relief to a prevailing party; prohibiting the award of punitive
8 damages to certain persons under this Act; providing for the application and
9 termination of this Act; and generally relating to private causes of action in
10 Baltimore County concerning discriminatory actions.

11 BY repealing and reenacting, with amendments,
12 Article 49B - Human Relations Commission
13 Section 40 and 42
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1996 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article 49B - Human Relations Commission
18 Section 41
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1996 Supplement)

21 BY adding to
22 Article 49B - Human Relations Commission
23 Section 43
24 Annotated Code of Maryland
25 (1994 Replacement Volume and 1996 Supplement)

26 Preamble

27 WHEREAS, In 1990, the Maryland Court of Appeals held in *McCory v. Fowler* that
28 the Express Powers Act of the Annotated Code did not provide adequate authority to
29 create a private cause of action and that the creation of a new private cause of action
30 traditionally has been the province of the General Assembly or the Court of Appeals; and

2

1 WHEREAS, The General Assembly believes that it is important to provide full
2 protection of the law to all citizens and that allowing private causes of action for
3 violations of certain acts of discrimination prohibited by the Baltimore County Code,
4 under certain circumstances, is appropriate; now, therefore,

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

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

8 40.

9 (A) [This] SECTION 42 OF THIS subtitle applies in Montgomery County, Prince
10 George's County, and Howard County.

11 (B) SECTION 43 OF THIS SUBTITLE APPLIES IN BALTIMORE COUNTY.

12 41.

13 In this subtitle, "prevailing party" has the meaning stated in 42 U.S.C. § 1988.

14 42.

15 (a) In MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, AND HOWARD
16 COUNTY, IN accordance with this subtitle, a person who is subjected to an act of
17 discrimination prohibited by the county code may bring and maintain a civil action against
18 the person who committed the alleged discriminatory act for damages, injunctive relief, or
19 other civil relief.

20 (b) (1) An action under subsection (a) of this section shall be commenced in the
21 circuit court for the county in which the alleged discrimination took place not later than
22 2 years after the occurrence of the alleged discriminatory act.

23 (2) Subject to the provisions of paragraph (1) of this subsection, an action
24 under subsection (a) of this section alleging employment or public accommodation
25 discrimination may not be commenced sooner than 45 days after the aggrieved person
26 files a complaint with the county agency responsible for handling violations of the county
27 discrimination laws.

28 (3) Subject to the provisions of paragraph (1) of this subsection, an action
29 under subsection (a) of this section alleging real estate discrimination may be commenced
30 at any time.

31 (c) In a civil action under this [subtitle] SECTION, the court, in its discretion,
32 may allow the prevailing party reasonable attorney's fees, expert witness fees, and costs.

33 43.

34 (A) IN BALTIMORE COUNTY, IN ACCORDANCE WITH THIS SUBTITLE, A
35 PERSON WHO IS EMPLOYED BY AN EMPLOYER WITH LESS THAN 15 EMPLOYEES AND
36 WHO IS SUBJECTED TO AN ACT OF DISCRIMINATION PROHIBITED BY THE COUNTY
37 CODE MAY BRING AND MAINTAIN A CIVIL ACTION AGAINST THE EMPLOYER WHO
38 COMMITTED THE ALLEGED DISCRIMINATORY ACT FOR CIVIL RELIEF AS PROVIDED
39 UNDER SUBSECTION (C) OF THIS SECTION.

1 (B) (1) AN ACTION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
2 COMMENCED IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE ALLEGED
3 DISCRIMINATION TOOK PLACE NOT LATER THAN 2 YEARS AFTER THE OCCURRENCE
4 OF THE ALLEGED DISCRIMINATORY ACT.

5 (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (1) OF THIS
6 SUBSECTION, AN ACTION UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE
7 COMMENCED SOONER THAN 60 DAYS AFTER THE AGGRIEVED PERSON FILES A
8 COMPLAINT WITH THE COUNTY AGENCY RESPONSIBLE FOR HANDLING VIOLATIONS
9 OF THE COUNTY DISCRIMINATION LAWS.

10 (C) (1) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY ALLOW
11 THE PREVAILING PARTY:

12 (I) INJUNCTIVE RELIEF;

13 (II) COMPENSATORY DAMAGES, INCLUDING BACK PAY; OR

14 (III) BOTH INJUNCTIVE RELIEF AND COMPENSATORY DAMAGES.

15 (2) A PREVAILING PARTY MAY NOT BE AWARDED PUNITIVE DAMAGES
16 UNDER THIS SECTION.

17 (3) THE COURT, IN ITS DISCRETION, MAY ALLOW THE PREVAILING
18 PARTY REASONABLE ATTORNEYS' FEES.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this
20 Act shall be applied prospectively to acts occurring on or after October 1, 1997.

21 SECTION 3. AND BE IT FURTHER ENACTED, That any case filed under this
22 Act that is pending in the Circuit Court for Baltimore County upon the termination of
23 this Act shall continue under and remain subject to the jurisdiction of the Circuit Court as
24 if this Act were in effect.

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be void if the
26 General Assembly enacts legislation granting the Maryland Commission on Human
27 Relations jurisdiction over discrimination complaints against an employer who has one or
28 more employees, at which time the provisions of this Act shall be abrogated and of no
29 further force and effect. The Executive Director of the Maryland Commission on Human
30 Relations, within 5 days after the effective date of such legislation, shall notify the
31 Department of Legislative Reference, 90 State Circle, Annapolis, Maryland 21401, of the
32 change.

33 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.