
By: Senator Collins (Baltimore County Administration)

Introduced and read first time: January 27, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 1997

CHAPTER ____

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~~ an employer with
4 fewer than a certain number of employees and is subject to a discriminatory act
5 prohibited by the Baltimore County Code to bring and maintain a civil action
6 against certain persons for damages or injunctive relief or both; establishing certain
7 conditions for commencing certain civil actions and for the award of certain relief to
8 a prevailing party; prohibiting the award of punitive damages to certain persons
9 under this Act; authorizing an award of reasonable attorneys' fees to certain
10 persons; providing for the application and termination of this Act; and generally
11 relating to private causes of action in Baltimore County concerning discriminatory
12 actions.

13 BY repealing and reenacting, with amendments,
14 Article 49B - Human Relations Commission
15 Section 40 and 42
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1996 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article 49B - Human Relations Commission
20 Section 41
21 Annotated Code of Maryland
22 (1994 Replacement Volume and 1996 Supplement)

23 BY adding to
24 Article 49B - Human Relations Commission

2

1 Section 43
2 Annotated Code of Maryland
3 (1994 Replacement Volume and 1996 Supplement)

4 Preamble

5 WHEREAS, In 1990, the Maryland Court of Appeals held in ~~McCory v. Fowler~~
6 McCrory Corp. v. Fowler that the Express Powers Act of the Annotated Code did not
7 provide adequate authority to create a private cause of action and that the creation of a
8 new private cause of action traditionally has been the province of the General Assembly
9 or the Court of Appeals; and

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

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

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

17 40.

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

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

21 41.

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

23 42.

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

29 (b) (1) An action under subsection (a) of this section shall be commenced in the
30 circuit court for the county in which the alleged discrimination took place not later than
31 2 years after the occurrence of the alleged discriminatory act.

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

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

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

6 43.

7 (A) IN BALTIMORE COUNTY, IN ACCORDANCE WITH THIS SUBTITLE, A
8 PERSON WHO IS EMPLOYED BY AN EMPLOYER WITH ~~LESS FEWER~~ THAN 15
9 EMPLOYEES AND WHO IS SUBJECTED TO AN ACT OF DISCRIMINATION PROHIBITED
10 BY THE COUNTY CODE MAY BRING AND MAINTAIN A CIVIL ACTION AGAINST THE
11 EMPLOYER WHO COMMITTED THE ALLEGED DISCRIMINATORY ACT FOR CIVIL
12 RELIEF AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION.

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

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

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

24 (I) INJUNCTIVE RELIEF;

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

26 (III) BOTH INJUNCTIVE RELIEF AND COMPENSATORY DAMAGES.

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

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

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

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

37 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be void if the
38 General Assembly enacts legislation ~~granting that grants~~ the Maryland Commission on
39 Human Relations jurisdiction over discrimination complaints against an employer who
40 has one or more employees and that provides for remedies comparable to the remedies

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1 provided by this Act, at which time the provisions of this Act shall be abrogated and of no
2 further force and effect. ~~The Executive Director of the Maryland Commission on Human~~
3 ~~Relations, within 5 days after the effective date of such legislation, shall notify the~~
4 ~~Department of Legislative Reference, 90 State Circle, Annapolis, Maryland 21401, of the~~
5 ~~change.~~

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