

HOUSE BILL 137

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HB 177/97 - CGM

1998 Regular Session  
8r0968

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By: **Delegate Curran**

Introduced and read first time: January 19, 1998

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering certain provisions relating to the Maryland Human  
4 Relations Commission; making a technical change clarifying that certain  
5 documents shall be certified to the General Counsel; specifying that the  
6 Executive Director, rather than the Chairman, shall cause a certain notice to be  
7 issued and served; expanding relief to include compensatory damages, subject to  
8 certain limitations; altering the jurisdiction of the Commission over certain  
9 employers; making stylistic changes; and generally relating to hearings and  
10 relief under the Human Relations Commission law.

11 BY repealing and reenacting, with amendments,  
12 Article 49B - Human Relations Commission  
13 Section 11 and 15(b)  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1997 Supplement)

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

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

19 11.

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

28 The case shall thereupon be heard by [a hearing examiner] AN  
29 ADMINISTRATIVE LAW JUDGE and the hearing shall be held in the county where the

1 alleged act of discrimination took place. A transcript of all testimony at the hearing  
2 shall be made. The case in support of the complaint shall be presented at the hearing  
3 by the general counsel of the Commission.

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

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

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

13 (i) Administer oaths and to issue subpoenas;

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

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

17 (2) Any subpoena shall be served by:

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

20 (ii) Personal service of process by:

21 1. An employee of the Commission;

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

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

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

30 (ii) In case of contumacy or refusal to obey a subpoena for the  
31 attendance of a witness or the production of books, papers, records, and documents,  
32 after notice to the person subpoenaed as a witness or directed to produce books,  
33 papers, records and documents, and upon a finding that the attendance and  
34 testimony of the witness or the production of the books, papers, records and  
35 documents is relevant or necessary for the proceedings of the Commission, the court

1 may issue an order requiring the attendance and testimony of the witness and the  
2 production of the books, papers, records and documents.

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

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

8 (e) (1) If upon all the evidence, the [hearing examiner] ADMINISTRATIVE  
9 LAW JUDGE finds that the respondent has engaged in any discriminatory act within  
10 the scope of any of these subtitles, the [hearing examiner] ADMINISTRATIVE LAW  
11 JUDGE shall so state the findings. The [hearing examiner] ADMINISTRATIVE LAW  
12 JUDGE shall issue and cause to be served upon the respondent an order requiring the  
13 respondent to cease and desist from the discriminatory acts and to take affirmative  
14 action to effectuate the purposes of the particular subtitle.

15 (2) If the respondent is found to have engaged in or to be engaging in an  
16 unlawful employment practice charged in the complaint, the remedy [may] :

17 (I) MAY include, but is not limited to, reinstatement or hiring of  
18 employees, with or without back pay (payable by the employer, employment agency, or  
19 labor organization, as the case may be, responsible for the unlawful employment  
20 practice)[, or any] ;

21 (II) MAY INCLUDE COMPENSATORY DAMAGES, NOT TO EXCEED  
22 \$50,000; AND

23 (III) MAY ALSO INCLUDE ANY other equitable relief that is deemed  
24 appropriate.

25 (3) The award of [monetary] BACK PAY relief UNDER PARAGRAPH (2)(I)  
26 OF THIS SUBSECTION shall be limited to a 36-month period. The complainant may  
27 not be awarded [monetary] BACK PAY relief for losses incurred between the time of  
28 the Commission's final determination and the final determination by the circuit court  
29 or higher appellate court, as the case may be. Interim earning or amounts earnable  
30 with reasonable diligence by the person or persons discriminated against shall  
31 operate to reduce the [monetary] BACK PAY relief otherwise allowable.

32 (4) In cases of discrimination other than those involving employment, in  
33 addition to the award of civil penalties as specifically provided in this article,  
34 nonmonetary relief may be granted to the complainant, except that in no event shall  
35 an order be issued that substantially affects the cost, level, or type of any  
36 transportation services.

37 (5) In cases involving transportation services which are supported fully  
38 or partially with funds from the Maryland Department of Transportation, no order  
39 may be issued which would require costs, level, or type of transportation services  
40 different from or in excess of those required to meet U.S. Department of

1 Transportation regulations adopted pursuant to § 504 of the Rehabilitation Act of  
2 1974, codified as 49 C.F.R. 27 (1984), nor would any such order be enforceable under  
3 § 12(a) of this subtitle.

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

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

11 15.

12 (b) The term "employer" means a person engaged in an industry or business  
13 who has [fifteen] ONE or more employees for each working day in each of twenty or  
14 more calendar weeks in the current or preceding calendar year, and any agent of such  
15 a person; such term does include the State of Maryland to the extent as may be  
16 provided in this article but such term does not include a bona fide private  
17 membership club (other than a labor organization) which is exempt from taxation  
18 under § 501(c) of the Internal Revenue Code.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 1998.