

HOUSE BILL 1161

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P2

2000 Regular Session  
0lr1452  
CF 0lr1961

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By: **Delegates Rosenberg, Hixson, McIntosh, Clagett, Bronrott, Riley,  
Dobson, Benson, Bobo, Paige, Hurson, Dypski, Mandel, Swain, and  
Grosfeld**

Introduced and read first time: February 11, 2000  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Discrimination - Grants and Procurement Contracts**

3 FOR the purpose of prohibiting State agencies from approving certain financial  
4 assistance to a recipient that engages in certain discriminatory practices;  
5 requiring those agencies to monitor their financial assistance programs to  
6 ensure that recipients do not engage in discrimination; requiring each recipient  
7 to certify that discrimination is prohibited and to incorporate a  
8 nondiscrimination clause into its documents within a certain period after  
9 delivery of the financial assistance; providing a penalty for any recipient that  
10 fails to incorporate a nondiscrimination clause into its documents in a timely  
11 manner; requiring that a recipient submit certain information to the approving  
12 agency on a form required by the agency; requiring that the nondiscrimination  
13 clause placed in State procurement contracts contain a prohibition against  
14 discrimination based on sexual orientation; and generally relating to prohibiting  
15 discrimination in the making of State grants or procurement contracts.

16 BY adding to  
17 Article 83A - Department of Business and Economic Development  
18 Section 1-205  
19 Annotated Code of Maryland  
20 (1998 Replacement Volume and 1999 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article - State Finance and Procurement  
23 Section 13-219  
24 Annotated Code of Maryland  
25 (1995 Replacement Volume and 1999 Supplement)

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

**Article 83A - Department of Business and Economic Development**

1-205.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "FINANCIAL ASSISTANCE" MEANS LOANS, GRANTS, OR LOAN GUARANTEES ISSUED BY THE STATE UNDER THIS ARTICLE OR ANY OTHER PROVISION OF THE ANNOTATED CODE OF MARYLAND.

(3) "RECIPIENT" MEANS ANY ORGANIZATION WHICH IS THE ULTIMATE RECIPIENT OR INTENDED BENEFICIARY OF A LOAN, GRANT, OR A LOAN GUARANTEED BY THE STATE.

(B) (1) A STATE AGENCY MAY NOT APPROVE STATE FINANCIAL ASSISTANCE TO ANY RECIPIENT THAT ENGAGES IN DISCRIMINATORY PRACTICES BASED ON PHYSICAL OR MENTAL DISABILITY, SEX, RACE, AGE, COLOR, CREED, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR POLITICAL OR RELIGIOUS OPINION OR AFFILIATION.

(2) ANY DOCUMENT EVIDENCING THE STATE'S AGREEMENT TO PROVIDE FINANCIAL ASSISTANCE SHALL CONTAIN A PROHIBITION AGAINST THE RECIPIENT DISCRIMINATING IN ANY MANNER ON THE BASIS OF PHYSICAL OR MENTAL DISABILITY, SEX, RACE, AGE, COLOR, CREED, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR POLITICAL OR RELIGIOUS OPINION OR AFFILIATION.

(3) EACH STATE AGENCY SHALL MONITOR ITS FINANCIAL ASSISTANCE PROGRAMS TO ENSURE THAT RECIPIENTS DO NOT ENGAGE IN DISCRIMINATORY PRACTICES.

(C) (1) ON OR BEFORE THE DATE OF ANY DELIVERY OF FINANCIAL ASSISTANCE, AN AUTHORIZED OFFICER OF EACH RECIPIENT SHALL CERTIFY THAT DISCRIMINATION IS PROHIBITED BY THE RECIPIENT.

(2) (I) WITHIN 90 DAYS OF DELIVERY OF FINANCIAL ASSISTANCE, THE ORGANIZATIONAL DOCUMENTS OF THE RECIPIENT SHALL CONTAIN A NONDISCRIMINATION CLAUSE THAT STATES THAT THE RECIPIENT DOES NOT DISCRIMINATE IN ANY MANNER ON THE BASIS OF PHYSICAL OR MENTAL DISABILITY, SEX, RACE, AGE, COLOR, CREED, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR POLITICAL OR RELIGIOUS OPINION OR AFFILIATION.

(II) A RECIPIENT THAT FAILS TO INCLUDE THE NONDISCRIMINATION CLAUSE IN ORGANIZATIONAL DOCUMENTS, WITHIN 90 DAYS OF THE DELIVERY OF FINANCIAL ASSISTANCE, SHALL REPAY THE AWARD TO THE APPROVING AGENCY, WITH INTEREST CALCULATED AT A RATE DETERMINED BY THE APPROVING AGENCY.

(D) (1) A RECIPIENT OF STATE FINANCIAL ASSISTANCE SHALL SUBMIT TO THE APPROVING AGENCY, AT THE AGENCY'S REQUEST, INFORMATION RELATING TO

1 THE RECIPIENT'S OPERATIONS AND ITS ACTIONS AS THEY RELATE TO  
2 DISCRIMINATION BASED ON PHYSICAL OR MENTAL DISABILITY, SEX, RACE, AGE,  
3 COLOR, CREED, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR POLITICAL OR  
4 RELIGIOUS OPINION OR AFFILIATION.

5 (2) THE INFORMATION SHALL BE FURNISHED ON A FORM REQUIRED BY  
6 THE AGENCY.

7 **Article - State Finance and Procurement**

8 13-219.

9 (a) This section is broadly applicable to all procurements by the State.

10 (b) Each contract for procurement shall include a nondiscrimination clause as  
11 provided in this section.

12 (c) The nondiscrimination clause shall:

13 (1) prohibit discrimination in any manner by the contractor against an  
14 employee or applicant for employment because of sex, race, age, color, creed, [or]  
15 national origin, OR SEXUAL ORIENTATION;

16 (2) require the contractor to include a similar clause in every subcontract  
17 except a subcontract for standard commercial supplies or raw materials; and

18 (3) require each contractor and subcontractor subject to this clause to  
19 post conspicuously a notice that sets forth the provisions of the clause in a place that  
20 is available to employees and applicants for employment.

21 (d) If the nondiscrimination clause is omitted from a contract or subcontract  
22 subject to this section, the State may declare the contract to be void. In that event, the  
23 contractor is entitled to the reasonable value of work that has been performed and  
24 materials that have been provided.

25 (e) If a contractor willfully fails to comply with the requirements of the  
26 nondiscrimination clause and the contract is partly executory, the State may compel  
27 the contractor to continue to perform under the contract, but the State:

28 (1) is liable for no more than the reasonable value of work performed and  
29 materials provided after the date on which the breach of contract was or should have  
30 been discovered; and

31 (2) shall deduct any money that has been paid under the contract from  
32 the money that becomes due under item (1) of this subsection.

33 (f) If a subcontractor willfully fails to comply with the requirements of a  
34 nondiscrimination clause, the contractor may void the subcontract. In that event, the  
35 contractor is liable for no more than the reasonable value of work performed or  
36 materials provided.

1 (g) (1) Any person, including an employee or prospective employee, who has  
2 information about a violation of this section or a nondiscrimination clause may inform  
3 the Board.

4 (2) The Board:

5 (i) shall cause an immediate investigation of the charge; and

6 (ii) if it concludes that the charge is true, may invoke any remedy  
7 available by law.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2000.