

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 897
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “construction;” insert “establishing a period of limitations during which a person must file a certain discrimination complaint;”; strike beginning with “requiring” in line 11 down through “pool;” in line 12; in lines 20 and 26, in each instance, strike “(2001 Replacement Volume and 2005 Supplement)” and substitute “(2006 Replacement Volume)”; and in line 23, strike “19-121” and substitute “19-120”.

AMENDMENT NO. 2

On page 2, in line 4, strike “sex, race, age, color, creed, or national origin,” and substitute “race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation,”; in line 7, after “or” insert “commercial”; in lines 15 and 16, strike “sex, race, age, color, creed, or national origin,” and substitute “race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation,”; and in line 27, strike “sex, race, age, color, creed, or national origin” and substitute “race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation,”.

On page 3, in line 30, strike “ADMINISTRATIVE” and substitute “ADJUDICATED”.

On page 4, in lines 5 and 21, in each instance, after “OR” insert “COMMERCIAL”; in lines 6 and 7, strike “SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,” and substitute “RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION,”; strike in their entirety lines 13 through 16, inclusive, and substitute:

“(C) A COMPLAINT OF DISCRIMINATION SHALL BE FILED WITHIN 4 YEARS AFTER THE DATE THE CAUSE OF ACTION ACCRUES.”;

(Over)

in lines 22 and 23, strike “SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,” and substitute “RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION,”; and strike in their entirety lines 35 and 36.

On page 5, in lines 1, 16, and 19, strike “(D)”, “(E)”, and “(F)”, respectively, and substitute “(C)”, “(D)”, and “(E)”, respectively; strike in their entirety lines 8 through 15, inclusive, and substitute:

“(2) “BUSINESS ENTITY” DOES NOT INCLUDE ANOTHER GOVERNMENTAL ENTITY THAT IS SUBJECT TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.”;

in line 18, after “PERSONAL” insert “, FAMILY, OR HOUSEHOLD”; in line 21, strike “ATTORNEY GENERAL” and substitute “MARYLAND HUMAN RELATIONS COMMISSION”; after line 22, insert:

“(F) “COMMISSION” MEANS THE MARYLAND HUMAN RELATIONS COMMISSION.”;

in line 30, after the second “OR” insert “COMMERCIAL”; and in line 32, strike “SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,” and substitute “RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION,”.

On page 6, in line 19, strike “ATTORNEY GENERAL” and substitute “EXECUTIVE DIRECTOR OF THE MARYLAND HUMAN RELATIONS COMMISSION OR THE EXECUTIVE DIRECTOR’S DESIGNEE”.

On page 7, in line 25, strike “SHALL” and substitute “DOES”; in line 32, after “STATE;” insert “AND”; and in line 35, strike “; AND” and substitute a period.

On page 8, strike in their entirety lines 1 through 3, inclusive; in lines 7, 9, 13, 16, and 30, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; in line 13, before “STATING” insert “WITHIN THE LIMITATIONS PERIOD SET FORTH IN § 19-101(C) OF THIS TITLE”; in line 14, strike “5-YEAR” and substitute “4-YEAR”; in line 15, after “RETALIATION”

insert "AGAINST THAT PERSON"; strike in their entirety lines 22 through 29, inclusive; and in lines 30 and 33, strike "(C)" and "(D)", respectively, and substitute "(B)" and "(C)", respectively.

On page 9, in line 4, strike "MARYLAND METROPOLITAN STATISTICAL AREA"; in the same line, before "TO" insert "STATE"; after line 8, insert:

"(D) (1) CONSISTENT WITH THE PUBLIC INFORMATION ACT AND THE OPEN MEETINGS ACT, THE OFFICE MAY ISSUE PROTECTIVE ORDERS FOR GOOD CAUSE TO LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, ACCESS BY ANY PERSON TO ANY DOCUMENT IN THE POSSESSION OF A PARTY.

(2) A PROTECTIVE ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE:

(I) A DOCUMENT IN THE POSSESSION OF THE STATE OR OTHERWISE IN THE RECORD THAT IS NOT A PUBLIC RECORD; AND

(II) INFORMATION DISCLOSED IN ACCORDANCE WITH § 19-116 OF THIS SUBTITLE."

in line 11, strike "ATTORNEY GENERAL'S" and substitute "COMMISSION'S"; and strike beginning with "THE" in line 12 down through "FILED" in line 22 and substitute:

"(1) THE OFFICE MAY INVESTIGATE AND ADJUDICATE A CLAIM OF DISCRIMINATION UNDER THIS TITLE ONLY IF THE CLAIM ALLEGES THAT:

(I) THE DISCRIMINATION WAS COMMITTED BY A BUSINESS ENTITY WITHIN THE LIMITATIONS PERIOD SET FORTH IN § 19-101(C) OF THIS TITLE; AND

(II) THE DISCRIMINATION OCCURRED IN THE STATE.

(2) DISCRIMINATION IS DEEMED TO HAVE OCCURRED IN THE STATE

(Over)

ONLY IF:

(I) EACH PARTY OPERATED A PLACE OF BUSINESS IN, OR RESIDED IN, THE STATE AT THE TIME OF THE DISCRIMINATION; OR

(II) THE DISCRIMINATORY ACT WAS COMMITTED IN THE STATE”.

On page 10, in lines 4 and 5, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; in line 13, strike “WHETHER” and substitute “THAT”; strike in their entirety lines 15 through 17, inclusive; in lines 18, 23, and 26, strike “(4)”, “(5)”, and “(6)”, respectively, and substitute “(3)”, “(4)”, and “(5)”, respectively; strike beginning with “WITH” in line 26 down through “GENERAL” in line 27; strike in their entirety lines 28 through 35, inclusive, and substitute:

“(C) THE OFFICE SHALL MAKE THE INITIAL FINDINGS UNDER SUBSECTION (B) OF THIS SECTION BASED ON A PREPONDERANCE OF THE EVIDENCE.”;

in line 36, strike “(E)” and substitute “(D)”; and in line 37, strike “ATTORNEY GENERAL” and substitute “COMMISSION”.

On page 11, in line 2, strike “ATTORNEY GENERAL’S” and substitute “COMMISSION’S”; in lines 7, 27, and 34, strike “(F)”, “(G)”, and “(H)”, respectively, and substitute “(E)”, “(F)”, and “(G)”, respectively; in lines 8, 26, 28, 31, and 34, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; in line 31, after “MAY” insert “:

(I)”;

and in line 33, after “COMPLAINT” insert “; AND

(II) IF MEDIATION IS UNSUCCESSFUL, REFER THE MATTER TO THE OFFICE OF ADMINISTRATIVE HEARINGS”.

On page 12, strike in their entirety lines 3 through 9, inclusive; in lines 11, 25, and 33, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; in line 12, after “SUSTAINED” insert “OR THAT A COMPLAINANT HAS SUBMITTED A KNOWINGLY

FALSE OR FRIVOLOUS COMPLAINT"; in line 13, after "MADE" insert "OR THE COMPLAINANT WHO IS CLAIMED TO HAVE SUBMITTED A KNOWINGLY FALSE OR FRIVOLOUS COMPLAINT"; in line 14, after "HEARING" insert "IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THIS SECTION"; in line 16, after "ENTITY" insert "OR THE COMPLAINANT"; in lines 17 and 18, strike "ATTORNEY GENERAL" and substitute "COMMISSION"; in line 25, strike "COMPLAINANT" and substitute "OTHER PARTY"; in the same line, before "AND" insert "THE BUSINESS ENTITY'S REPRESENTATIVES,"; in line 27, strike "ATTORNEY GENERAL'S" and substitute "COMMISSION'S"; and in lines 31 and 32, strike "ATTORNEY GENERAL" and substitute "COMMISSION".

On page 13, in line 4, before "FOR" insert "(I)"; in line 5, after "ENTITY" insert "OR BY THE COMPLAINANT"; in the same line, strike "ATTORNEY GENERAL" and substitute "COMMISSION"; and after line 8, insert:

"(I) AT THE CONTESTED CASE HEARING, THE COMMISSION SHALL HAVE THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE.

(2) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT ANY CONTESTED CASE HEARING IN ACCORDANCE WITH ITS RULES OF PROCEDURE UNDER COMAR 28.02.01."

On pages 13 and 14, strike in their entirety the lines beginning with line 9 on page 13 through line 13 on page 14, inclusive.

On page 14, in lines 14 and 23, strike "(10)" and "(11)", respectively, and substitute "(3)" and "(4)", respectively; in line 14, before "THE" insert:

"(I) AT THE CONCLUSION OF THE CONTESTED CASE HEARING, THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE A WRITTEN DECISION.

(II);

in lines 15, 17, and 19, strike "(I)", "(II)", and "(III)", respectively, and substitute "1.", "2.", and "3.",

(Over)

respectively; in lines 20 and 39, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; and in lines 29 and 34, in each instance, strike “ATTORNEY GENERAL’S” and substitute “COMMISSION’S”.

On page 15, in line 1, strike “90” and substitute “180”; strike in their entirety lines 3 through 8, inclusive; in lines 9, 16, 29, and 35, strike “(I)”, “(J)”, “(L)”, and “(M)”, respectively, and substitute “(H)”, “(I)”, “(J)”, and “(K)”, respectively; in lines 9, 30, 33, 35, and 36, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; and strike in their entirety lines 21 through 28, inclusive.

On pages 15 and 16, strike in their entirety the lines beginning with line 40 on page 15 through line 2 on page 16, inclusive.

On page 16, in line 3, strike “(O)” and substitute “(L)”; in line 15, strike “SHALL” and substitute “MAY”; in line 18, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; strike beginning with “, PROVIDED” in line 18 down through “REMEDY;” in line 24; and in line 37, strike “, INCLUDING, BUT NOT LIMITED TO, LIQUIDATED DAMAGES”.

On page 17, in line 2, strike “OR”; in line 5, after “CIRCUMSTANCES” insert “; OR

(7) MEDIATION”;

in lines 7, 11, 16, and 36, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; in line 10, strike “SO”; in the same line, strike “THAT THEY ARE WHOLLY” and substitute “AND”; in line 14, strike “CLEARLY”; in line 15, strike “EXTRAORDINARY”; and strike beginning with “ATTORNEY” in line 26 down through “GENERAL’S” in line 27 and substitute “COMMISSION’S”.

On page 18, in line 3, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; in line 10, strike “FULLY”; strike beginning with “, AND” in line 13 down through “THEREUNDER” in line 14; in lines 15 and 16, strike “SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,” and substitute “RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION,”; in lines 17 and 39, in each instance, after “OR” insert “COMMERCIAL”; in line 26, after “A” insert “MATERIAL”; in line 29, after “SANCTIONS.” insert “THIS CLAUSE IS NOT ENFORCEABLE BY OR FOR THE BENEFIT

OF, AND CREATES NO OBLIGATION TO, ANY THIRD PARTY.”; and in line 41, strike “SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,” and substitute “RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION,”.

On page 19, strike beginning with “AS” in line 7 down through “BID.” in line 13; in lines 15 and 36, in each instance, strike “5” and substitute “4”; strike beginning with “A” in line 15 down through “BIDDER” in line 16 and substitute “THERE HAS BEEN A FINAL ADJUDICATED DETERMINATION”; in line 17, strike “ALLEGING” and substitute “IN THE STATE OF MARYLAND”; strike beginning with “, AND” in line 24 down through “THEREUNDER” in line 25; in line 29, after “AGREEMENT,” insert “UPON THE MARYLAND HUMAN RELATIONS COMMISSION’S REQUEST, AND ONLY AFTER THE FILING OF A COMPLAINT AGAINST THE COMPANY UNDER TITLE 19 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AS AMENDED FROM TIME TO TIME.”; strike beginning with “(A)” in line 30 down through “REQUESTED,” in line 33; in line 37, after “THE” insert “STATE OF”; strike beginning with “STATE” in line 37 down through “AREA” in line 38; in line 40, strike “FULLY”; and strike beginning with “, AND” in line 45 down through “POLICY” in line 46.

On page 20, in line 10, after “THE” insert “ELIGIBILITY FOR BIDDING,”; in line 11, strike “ADMINISTRATIVE” and substitute “ADJUDICATED”; in lines 14 and 16, in each instance, strike “ATTORNEY GENERAL” and substitute “COMMISSION”; and strike in their entirety lines 20 through 36, inclusive.

On page 21, strike in their entirety lines 1 through 3, inclusive; and in line 11, strike “July 1, 2006” and substitute “October 1, 2006”.