

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 53 (The Speaker)(By Request - Department of Legislative Services - Code Revision)

Health and Government Operations

Judicial Proceedings

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**Human Relations - Substantive Modifications**

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This code revision bill repeals obsolete provisions of law relating to discrimination and the Maryland Commission on Human Relations (MCHR), adds specified classes of people against whom various types of discrimination is prohibited, alters the definition of “disability” in the housing discrimination subtitle, and clarifies certain procedures relating to the filing and appealing of discrimination claims.

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**Fiscal Summary**

**State Effect:** None. The majority of the bill’s changes are technical in nature and do not directly affect governmental finances. Any increase in discrimination complaints due to the bill’s changes can be absorbed within existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary/Current Law:** Currently, all administrative hearings in discrimination cases are conducted by administrative law judges employed by the Office of Administrative Hearings. This bill repeals an obsolete provision of law that relates to hearing examiners appointed by MCHR.

A person licensed or regulated by a unit in the Department of Labor, Licensing, and Regulation is prohibited from discriminating on the basis of race, sex, creed, color,

national origin, marital status, sexual orientation, or disability. This bill adds age as a protected class.

Discrimination in various aspects of employment by employers, employment agencies, and labor unions on the basis of race, color, religion, sex, age, national origin, sexual orientation, or disability is prohibited. This bill adds marital status as a protected class.

State law defines “disability” for purposes of the “Discrimination in Housing” subtitle as: (1) a disability that substantially limits one or more of an individual’s major life activities; (2) a record of having a disability that substantially limits one or more of an individual’s major life activities; or (3) being regarded as having a disability that substantially limits one or more of an individual’s major life activities. This bill substitutes “physical or mental impairment” for “disability” within the definition for consistency with the federal fair housing law.

MCHR regulations specify that a complainant has a right to file a request for reconsideration if there is a finding of no probable cause to believe that a discriminatory act has been committed. Although a “request for reconsideration” is referenced in the current statute, the express provision granting a right to file a request for reconsideration is found only in MCHR regulations. This bill states expressly in statute that a complainant has that right. (*See* COMAR 14.03.01.06.)

The bill also specifies that unless a timely appeal is filed with MCHR, a decision and order issued by an administrative law judge shall become the final order of the Commission. This is consistent with current regulations. (*See* COMAR 14.03.01.09.)

The bill clarifies that, when a complaint has reached the administrative hearing stage, an administrative law judge, rather than MCHR, may allow any complaint or answer to be reasonably amended.

Under State law, a person may not receive any remuneration for participation in a racial demonstration in the State. A violator is guilty of a misdemeanor and subject to imprisonment not exceeding one year and/or a fine not exceeding \$1,000. The Office of the Attorney General has advised that an attempt to enforce this section would violate the First Amendment as well as Article 40 of the Maryland Declaration of Rights. This bill repeals that law.

The bill also corrects cross-references and clarifies language in the Transportation Article.

**Background:** This is a companion bill to HB 51, which repeals most of Article 49B and recodifies it in a new Title to the State Government Article to be known as “Title 20.

Human Relations.” The new Title is a product of the continuing revision of the Annotated Code of Maryland by the legal staff of the Office of Policy Analysis of the Department of Legislative Services. During the code revision process, every effort is made to ensure that a proposed revision conforms as nearly as possible to the intent of the General Assembly, and any issues involving the interpretation of an aspect of current law are highlighted in the appropriate revisor’s note. In other instances, the staff and Article Review Committee have used revisor’s notes to call to the attention of the General Assembly fundamental policy issues that are beyond the purview of the revision process. This bill addresses a number of the revisor’s notes.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Commission on Human Relations, Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2009  
mam/kdm Revised - House Third Reader - March 30, 2009

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Analysis by: Jennifer K. Botts

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510