

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 474 (Delegate Pena-Melnyk, *et al.*)
Health and Government Operations

Human Relations - Sexual Orientation and Gender Identity - Antidiscrimination

This bill prohibits discrimination based on “gender identity” in public accommodations, labor and employment, and housing. Gender identity is defined as a gender-related identity, appearance, expression, or behavior of an individual regardless of the individual’s assigned sex at birth. The bill exempts the rental of rooms or apartments in an owner’s principal residence from provisions of the bill relating to housing discrimination. The exemption for apartments is limited to an owner-occupied dwelling with up to five rental units. The bill specifies that it is not unlawful for an employer to establish and require an employee to adhere to certain reasonable workplace appearance, grooming, and dress standards as long as an employee is allowed to appear, groom, and dress consistent with the employee’s gender identity.

The bill also prohibits discrimination based on gender identity and sexual orientation in State personnel actions and in the leasing of property for commercial usage.

Fiscal Summary

State Effect: None. Although the bill may result in additional cases for the Judiciary, the Human Relations Commission, and the Office of Administrative Hearings, any increase in workload is expected to be minimal and can be absorbed within existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Discrimination in public accommodations, labor and employment, and housing on the basis of race, sex, creed, color, religion, national origin, marital status, disability, and sexual orientation is prohibited.

Chapter 340 of 2001 added a prohibition against discrimination in public accommodations, labor and employment, and housing on the basis of sexual orientation to the prior list of prohibitions. The Act did not specifically prohibit discrimination in State personnel actions on the basis of sexual orientation.

Background: To date, at least 13 states and the District of Columbia have passed laws prohibiting discrimination based upon gender identity. Since 2002, Baltimore City has had laws prohibiting discrimination based upon gender identity and expression in employment, public accommodations, education, and housing. In November 2007, the Montgomery County Council amended the County Code to include gender identity as a covered basis under county law prohibiting discrimination in employment, housing, cable television services, and taxicab services. Governor O'Malley issued an executive order in August 2007 that included gender identity and expression as a proscribed basis for employment discrimination.

Additional Information

Prior Introductions: HB 1598 of 2008 received a hearing in the House Health and Government Operations Committee, but no further action was taken. Its cross file, SB 976, was referred to the Senate Rules Committee, but no further action was taken. HB 945 of 2007 received a hearing in the House Health and Government Operations Committee, but no further action was taken. Its cross file, SB 516, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 566 (Senator Madaleno, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Budget and Management; Human Relations Commission; Department of Labor, Licensing, and Regulation; Baltimore City; Montgomery County; Transgender Law and Policy Institute; Department of Legislative Services

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mcp/kdm

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