

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 235

(Delegate Pena-Melnyk, *et al.*)

Health and Government Operations

Judicial Proceedings

Human Relations - Sexual Orientation and Gender Identity - Antidiscrimination

This bill prohibits discrimination based on “gender identity” in labor, employment, and housing. Discrimination based on “gender identity” is also prohibited by persons licensed or regulated by the Commissioner of Financial Regulation. The bill also prohibits discrimination based on gender identity and sexual orientation in State personnel actions.

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. In addition, the bill will not have an operational or fiscal impact on the Department of Budget and Management or the State Personnel Management System.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: Gender identity is defined as a gender-related identity or appearance 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. It is also not unlawful for any person who is licensed or regulated by the Commissioner of Financial Regulation to refuse, withhold from, or deny advantages, privileges, sales, or services to any person for failure to conform to usual and regular requirements, standards, and regulations as long as the denial is not based on gender identity. Specified religious entities are also exempt with respect to the employment of individuals of a particular gender identity to perform work connected with the activities of the entity.

Current Law: Discrimination in public accommodations, labor and employment, and housing on the basis of race, sex, age, 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: According to the Transgender Law and Policy Institute, 13 states, the District of Columbia, and over 100 counties and cities 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 and sexual orientation as proscribed bases for employment discrimination.

Additional Information

Prior Introductions: SB 583 of 2010, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1022, received a hearing in the House Health and Government Operations Committee, but no further action was taken. SB 566 of 2009 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 474, received a hearing in the House Health and Government Operations Committee, but no further action was taken. Similar bills were also introduced in the 2008 and 2007 sessions.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, and Frederick counties; cities of Frederick and Havre de Grace; Office of the Attorney General (Consumer Protection
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Division); Department of Budget and Management; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; University System of Maryland; Transgender Law and Policy Institute; Department of Legislative Services

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