

# HOUSE BILL 381

D5, K3, P4

4r1910  
CF SB 237

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By: **Delegate Dumais**

Introduced and read first time: January 23, 2014

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations – Employment Discrimination – Protections for Interns**

3 FOR the purpose of establishing that an intern is considered to be in an employment  
4 relationship with an employer for the purposes of certain protections from  
5 certain discriminatory acts, access to a certain complaint resolution procedure,  
6 and certain administrative remedies; providing that this Act does not create an  
7 employment relationship between an employer and an intern for the purposes of  
8 certain remedies or certain other provisions of law; establishing that for the  
9 purpose of determining the availability of certain remedies, “unlawful  
10 employment practice” does not include a certain act; establishing the exclusive  
11 remedies for certain discriminatory acts; defining a certain term; and generally  
12 relating to protections for interns from certain discriminatory acts.

13 BY repealing and reenacting, without amendments,  
14 Article – State Government  
15 Section 20–601(a), (c), and (d) and 20–606  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2013 Supplement)

18 BY adding to  
19 Article – State Government  
20 Section 20–610 and 20–1003.1  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2013 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – State Government  
25 Section 20–1001  
26 Annotated Code of Maryland  
27 (2009 Replacement Volume and 2013 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Government**

4 20–601.

5 (a) In this subtitle the following words have the meanings indicated.

6 (c) (1) “Employee” means an individual employed by an employer.

7 (2) Unless the individual is subject to the State or local civil service  
8 laws, “employee” does not include:

9 (i) an individual elected to public office;

10 (ii) an individual chosen by an elected officer to be on the  
11 officer’s personal staff;

12 (iii) an appointee on the policy making level; or

13 (iv) an immediate adviser with respect to the exercise of the  
14 constitutional or legal powers of an elected office.

15 (d) (1) “Employer” means:

16 (i) a person that:

17 1. is engaged in an industry or business; and

18 2. has 15 or more employees for each working day in  
19 each of 20 or more calendar weeks in the current or preceding calendar year; and

20 (ii) an agent of a person described in item (i) of this paragraph.

21 (2) “Employer” includes the State to the extent provided in this title.

22 (3) Except for a labor organization, “employer” does not include a bona  
23 fide private membership club that is exempt from taxation under § 501(c) of the  
24 Internal Revenue Code.

25 20–606.

26 (a) An employer may not:

1 (1) fail or refuse to hire, discharge, or otherwise discriminate against  
2 any individual with respect to the individual's compensation, terms, conditions, or  
3 privileges of employment because of:

4 (i) the individual's race, color, religion, sex, age, national origin,  
5 marital status, sexual orientation, genetic information, or disability unrelated in  
6 nature and extent so as to reasonably preclude the performance of the employment; or

7 (ii) the individual's refusal to submit to a genetic test or make  
8 available the results of a genetic test;

9 (2) limit, segregate, or classify its employees or applicants for  
10 employment in any way that would deprive or tend to deprive any individual of  
11 employment opportunities or otherwise adversely affect the individual's status as an  
12 employee because of:

13 (i) the individual's race, color, religion, sex, age, national origin,  
14 marital status, sexual orientation, genetic information, or disability unrelated in  
15 nature and extent so as to reasonably preclude the performance of the employment; or

16 (ii) the individual's refusal to submit to a genetic test or make  
17 available the results of a genetic test;

18 (3) request or require genetic tests or genetic information as a  
19 condition of hiring or determining benefits; or

20 (4) fail or refuse to make a reasonable accommodation for the known  
21 disability of an otherwise qualified employee.

22 (b) An employment agency may not:

23 (1) fail or refuse to refer for employment or otherwise discriminate  
24 against any individual because of the individual's race, color, religion, sex, age,  
25 national origin, marital status, sexual orientation, or disability unrelated in nature  
26 and extent so as to reasonably preclude the performance of the employment; or

27 (2) classify or refer for employment any individual on the basis of the  
28 individual's race, color, religion, sex, age, national origin, marital status, sexual  
29 orientation, or disability unrelated in nature and extent so as to reasonably preclude  
30 the performance of the employment.

31 (c) A labor organization may not:

32 (1) exclude or expel from its membership, or otherwise discriminate  
33 against, any individual because of the individual's race, color, religion, sex, age,  
34 national origin, marital status, sexual orientation, or disability unrelated in nature  
35 and extent so as to reasonably preclude the performance of the employment;

1           (2)     limit, segregate, or classify its membership, or classify or fail or  
2 refuse to refer for employment any individual, in any way that would deprive or tend  
3 to deprive the individual of employment opportunities, limit the individual's  
4 employment opportunities, or otherwise adversely affect the individual's status as an  
5 employee or as an applicant for employment because of the individual's race, color,  
6 religion, sex, age, national origin, marital status, sexual orientation, or disability  
7 unrelated in nature and extent so as to reasonably preclude the performance of the  
8 employment; or

9           (3)     cause or attempt to cause an employer to discriminate against an  
10 individual in violation of this section.

11           (d)     An employer, labor organization, or joint labor–management committee  
12 controlling apprenticeship or other training or retraining programs, including  
13 on–the–job training programs, may not discriminate against any individual in  
14 admission to, or employment in, any program established to provide apprenticeship or  
15 other training or retraining because of the individual's race, color, religion, sex, age,  
16 national origin, marital status, sexual orientation, or disability unrelated in nature  
17 and extent so as to reasonably preclude the performance of the employment.

18           (e)     (1)     Except as provided in paragraph (2) of this subsection, an  
19 employer, labor organization, or employment agency may not print or cause to be  
20 printed or published any notice or advertisement relating to employment by the  
21 employer, membership in or any classification or referral for employment by the labor  
22 organization, or any classification or referral for employment by the employment  
23 agency that indicates any preference, limitation, specification, or discrimination based  
24 on race, color, religion, sex, age, national origin, marital status, sexual orientation, or  
25 disability.

26           (2)     A notice or advertisement may indicate a preference, limitation,  
27 specification, or discrimination based on religion, sex, age, national origin, marital  
28 status, or disability if religion, sex, age, national origin, marital status, or disability is  
29 a bona fide occupational qualification for employment.

30           (f)     An employer may not discriminate or retaliate against any of its  
31 employees or applicants for employment, an employment agency may not discriminate  
32 against any individual, and a labor organization may not discriminate or retaliate  
33 against any member or applicant for membership because the individual has:

34           (1)     opposed any practice prohibited by this subtitle; or

35           (2)     made a charge, testified, assisted, or participated in any manner in  
36 an investigation, proceeding, or hearing under this subtitle.

37     **20–610.**

1           **(A) IN THIS SECTION, “INTERN” MEANS AN INDIVIDUAL WHO PERFORMS**  
2 **WORK FOR AN EMPLOYER FOR THE PURPOSE OF TRAINING IF:**

3           **(1) THE EMPLOYER IS NOT COMMITTED TO HIRE THE INDIVIDUAL**  
4 **PERFORMING THE WORK AT THE CONCLUSION OF THE TRAINING PERIOD;**

5           **(2) THE EMPLOYER AND THE INDIVIDUAL PERFORMING THE**  
6 **WORK AGREE IN WRITING THAT THE INDIVIDUAL PERFORMING THE WORK IS**  
7 **NOT ENTITLED TO WAGES FOR THE WORK PERFORMED; AND**

8           **(3) THE WORK PERFORMED:**

9           **(I) SUPPLEMENTS TRAINING GIVEN IN AN EDUCATIONAL**  
10 **ENVIRONMENT THAT MAY ENHANCE THE EMPLOYABILITY OF THE INDIVIDUAL**  
11 **PERFORMING THE WORK;**

12           **(II) PROVIDES EXPERIENCE FOR THE BENEFIT OF THE**  
13 **INDIVIDUAL PERFORMING THE WORK;**

14           **(III) DOES NOT DISPLACE REGULAR EMPLOYEES;**

15           **(IV) IS PERFORMED UNDER THE CLOSE SUPERVISION OF**  
16 **EXISTING STAFF; AND**

17           **(V) PROVIDES NO IMMEDIATE ADVANTAGE TO THE**  
18 **EMPLOYER PROVIDING THE TRAINING AND MAY OCCASIONALLY IMPEDE THE**  
19 **OPERATIONS OF THE EMPLOYER.**

20           **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN**  
21 **INTERN IS CONSIDERED TO BE IN AN EMPLOYMENT RELATIONSHIP WITH AN**  
22 **EMPLOYER FOR THE PURPOSES OF:**

23           **(1) THE EMPLOYEE PROTECTIONS PROVIDED UNDER § 20-606 OF**  
24 **THIS SUBTITLE;**

25           **(2) ACCESS TO ANY INTERNAL PROCEDURE THE EMPLOYER HAS**  
26 **FOR RESOLVING A COMPLAINT BY AN EMPLOYEE OF SEXUAL HARASSMENT OR**  
27 **OTHER DISCRIMINATION; AND**

28           **(3) THE ADMINISTRATIVE REMEDIES PROVIDED UNDER §§**  
29 **20-1004, 20-1005, 20-1006(A) AND (B)(1), 20-1008, AND 20-1009(A), (C), (D),**  
30 **AND (E) OF THIS TITLE.**

1           **(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SECTION**  
2 **DOES NOT CREATE AN EMPLOYMENT RELATIONSHIP BETWEEN AN EMPLOYER**  
3 **AND AN INTERN FOR THE PURPOSES OF § 20-1006(B)(2), § 20-1007, §**  
4 **20-1009(B), § 20-1012, OR § 20-1013 OF THIS TITLE, OR ANY PROVISION OF THE**  
5 **LABOR AND EMPLOYMENT ARTICLE OR THE STATE PERSONNEL AND PENSIONS**  
6 **ARTICLE.**

7 20-1001.

8           **(A) [In] SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS**  
9 **SECTION, IN this part, “unlawful employment practice” means an act that is**  
10 **prohibited under § 20-606 of this title.**

11           **(B) FOR PURPOSES OF DETERMINING THE REMEDIES AVAILABLE**  
12 **UNDER THIS PART, “UNLAWFUL EMPLOYMENT PRACTICE” DOES NOT INCLUDE**  
13 **AN ACT THAT IS PROHIBITED UNDER § 20-610(B)(1) OF THIS TITLE.**

14 **20-1003.1.**

15           **THE EXCLUSIVE REMEDIES FOR AN ALLEGED VIOLATION OF §**  
16 **20-610(B)(1) OF THIS TITLE ARE:**

17           **(1) ANY INTERNAL PROCEDURE AN EMPLOYER HAS FOR**  
18 **RESOLVING A COMPLAINT BY AN EMPLOYEE OF SEXUAL HARASSMENT OR**  
19 **OTHER DISCRIMINATION; AND**

20           **(2) THE ADMINISTRATIVE REMEDIES PROVIDED UNDER §§**  
21 **20-1004, 20-1005, 20-1006(A) AND (B)(1), 20-1008, AND 20-1009(A), (C), (D),**  
22 **AND (E) OF THIS SUBTITLE.**

23           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
24 **October 1, 2014.**