

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 728

(Delegate Hill, *et al.*)

Health and Government Operations

Judicial Proceedings

Employment Discrimination – Time for Filing Complaints

This bill increases the time for filing a complaint with the Maryland Commission on Civil Rights (MCCR) that alleges an unlawful employment practice other than harassment. A complaint must be filed within 300 days after the date on which the alleged discriminatory act occurred. A complaint filed with a federal human relations commission within six months or a local human relations commission within 300 days must be deemed to have complied with the requirements.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations and finances, as discussed below.

Local Effect: Any additional cases filed in the circuit courts can be handled with existing resources.

Small Business Effect: Minimal.

Analysis

Current Law: Under § 20-602 of the State Government Article, it is State policy to assure that all persons have equal opportunity in employment and in all labor management-union relations. As such, discrimination in employment is prohibited on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or disability (unrelated in nature and extent so as to reasonably preclude the performance of the employment).

On any of these bases or because of an individual's refusal to submit to or make available the results of a genetic test, an employer may not (1) fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to the individual's compensation, terms, conditions or privileges or (2) limit, segregate, or classify its employees or applicants for employment in any way that deprives or tends to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee. An employer is also prohibited from (1) requesting or requiring genetic tests or genetic information as a condition of hiring or determining benefits or (2) failing or refusing to make a reasonable accommodation for the known disability of an otherwise qualified employee. Additionally, acts of harassment and retaliation against an employee by an employer are prohibited.

Complaints regarding discrimination in employment must be filed with MCCR within six months of when the alleged discriminatory act occurred. A complaint filed with a federal or local human relations commission within six months after the date on which the alleged discriminatory act occurred must be deemed to have complied with this requirement. A complaint alleging harassment against an employer must be filed within two years after the date on which the alleged harassment occurred. A complaint filed with a federal human relations commission within six months or a local human relations commission within two years after the date on which the alleged harassment occurred must be deemed to have complied with the statute of limitations.

Civil actions in circuit court generally must be filed within two years of when the alleged unlawful employment practice occurred, but only if the complainant initially filed a timely administrative complaint under federal, State, or local law and 180 days have elapsed since the filing of the administrative complaint.

Background: MCCR is the State agency charged with the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and State contracting. According to its most recent annual report, employment discrimination complaints accounted for 85% of the total complaints received in fiscal 2019.

State Revenues: MCCR has a work-sharing agreement with the U.S. Equal Employment Opportunity Commission (EEOC) to investigate employment discrimination complaints where the State and federal laws converge. MCCR advises that the bill's provisions related to the statute of limitations for discrimination in employment conforms with federal law; therefore, MCCR may be eligible for an increased amount of EEOC reimbursement if it is able to close more complaints under this contract. However, it is assumed that any increase in the number of complaints is likely to be minimal. As such, State revenues are not materially affected.

State Expenditures: MCCR advises that investigative staff handle an average of 80 cases each on an annual basis. During fiscal 2019, MCCR handled a total of 804 employment complaints. MCCR further advises that it can likely handle any additional cases with existing resources. To the extent that complaints and cases increase substantially beyond what is anticipated, general fund expenditures increase to hire additional civil rights officers. The salary and benefits for one full-time civil rights officer is approximately \$70,000 annually.

The bill is not anticipated to materially affect the finances or operations of the Judiciary or the Office of Administrative Hearings.

Additional Information

Prior Introductions: HB 1262 of 2019, a similar bill, passed the House with amendments and received a hearing in the Senate Judicial Proceeding Committee, but no further action was taken.

Designated Cross File: SB 1007 (Senator Sydnor) - Rules.

Information Source(s): Maryland Commission on Civil Rights; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Department of Legislative Services

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