

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 768 (Senator Washington)
 Judicial Proceedings

Nondiscrimination and LGBTQ+ Individuals

This bill (1) expresses that it is the policy of the State to provide equal access to justice to all and prohibit discrimination, as specified, with respect to the State’s court, child welfare, housing and community development, human services, and juvenile services systems; (2) extends specified prohibitions against discrimination in employment, housing, and public accommodations by a unit, officer, or employee of the State or a county or municipal corporation to a contractor, grantee, or other program or entity receiving public funds; and (3) requires adding “creed” and “gender identity” to a list of protected factors in a residential child care program provider’s Residents’ Bill of Rights.

Fiscal Summary

State Effect: General fund expenditures increase to provide training to employees and contractors, and potentially for the Maryland Commission on Civil Rights (MCCR) to investigate additional complaints, as discussed below. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	37,500	50,000	50,000	50,000	50,000
Net Effect	(\$37,500)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government finances and operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Legislative Policy and Extension of Prohibitions Against Discrimination

The bill expresses that it is the policy of the State – with respect to the State’s court, child welfare, housing and community development, human services, and juvenile services systems – to (1) provide equal access to justice to all, regardless of race, color, creed, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability; (2) improve safety, well-being, and stability for lesbian, gay, bisexual, transgender, queer, questioning, and gender nonconforming (LGBTQ+) youth served by or eligible to be served by the systems; (3) ensure that families, kin, and prospective and current foster and adoptive parents are protected from discrimination on the basis of nonmerit factors while benefitting from or participating in the systems’ services; (4) prohibit discrimination on the basis of nonmerit factors, including race, color, creed, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability in the administration of services; and (5) provide appropriate training to employees and contractors of the systems regarding LGBTQ+ individuals.

Under current law, the State generally prohibits discrimination in employment, housing, and public accommodations on the basis of various factors, *including* race, sex, color, national origin, marital status, sexual orientation, gender identity, or disability. The factors that are explicitly protected with respect to each topic area vary slightly, depending on the issue. Pursuant to § 20-901 of the State Government Article, a unit, officer, or employee of the State, a county, or a municipal corporation may not engage in specified discriminatory acts regarding employment, housing, and public accommodations. The bill extends this prohibition to a contractor, grantee, or other program or entity receiving public funds.

Residential Child Care Providers: Residents’ Bill of Rights

Under current law, a residential child care provider (also referred to as a group home) must conspicuously post a Residents’ Bill of Rights in the provider’s facility. The bill of rights must express, among other rights, a resident’s right to be treated fairly and receive appropriate educational and guidance services in an environment that is free of abuse. The bill of rights must also state that a resident has a right not to be discriminated against on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business.

The bill requires that, in addition to the factors above, the bill of rights must also state that a resident may not be discriminated against on the basis of creed or gender identity.

State/Local Fiscal Effect:

Complaints and Civil Actions

MCCR notes that numerous provisions of the bill may already be covered under existing protections in State law relating to prohibited discriminatory acts. However, to the extent that the bill results in an increase in the number of complaints that MCCR receives and investigates, additional general funds may be required to ensure that MCCR is able to meet current production standards and contractual obligations to the federal government, with whom MCCR has work-sharing agreements to investigate employment and housing discrimination complaints where the State and federal laws converge. *For illustrative purposes only*, if caseloads were to increase substantially, requiring additional investigative staff, the salary and benefits for one investigator is approximately \$80,000 annually.

Any potential increase in complaints to MCCR may subsequently lead to an increase in administrative appeals and civil actions filed in the circuit courts. Nonetheless, any increase in caseloads is not anticipated to materially affect the finances or operations of the Judiciary or the circuit courts.

Training Programs

General fund expenditures increase to provide appropriate training to employees and contractors regarding LGBTQ+ individuals. For example, the Department of Housing and Community Development estimates that providing appropriate training under the bill to employees and contractors costs approximately \$50,000 annually. Information from other affected State entities varies. The Judiciary advises only of a likely fiscal impact to provide the training; however the Department of Juvenile Services does not anticipate a fiscal impact associated with the bill. The Department of Human Services did not respond to a request to provide an estimate regarding the fiscal impact of the bill. However, the Department of Legislative Services notes that because the bill does not mandate specific training requirements (*e.g.*, a minimum number of hours or distinguish between one-time/periodic training), it is likely that any unknown expenditures associated with the bill's training requirements are not significant.

Department of General Services

The Department of General Services (DGS) advises that it needs to include language in procurement solicitations to ensure that companies are aware of the State's requirements relating to nondiscrimination of LGBTQ+ individuals. Furthermore, when vetting a

company for award of a contract with the State, DGS needs to create a mechanism (such as an affidavit incorporated with the solicitation materials) to ensure that the company complies with nondiscrimination policies. Any costs associated with updating the State's procurement contracts and solicitation templates is not anticipated to materially affect DGS finances or operations.

Small Business Effect: To the extent a small business contractor, grantee, or other entity that receives public funds is not already covered under current nondiscrimination law, the bill prohibits them from engaging in specified discriminatory acts. Such entities contracting with the State in the provision of specified services also have to receive training on LGBTQ+ individuals.

Residential child care providers may incur minimal expenses in printing and distributing new residents' bill of rights materials.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1088 (Delegate Acevero) - Health and Government Operations.

Information Source(s): Department of Commerce; Maryland Commission on Civil Rights; Howard, Montgomery, and Prince George's counties; City of Bowie; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Juvenile Services; Department of Natural Resources; Board of Public Works; Maryland Department of Transportation; Maryland Energy Administration; Department of Legislative Services

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