

HOUSE BILL 602

D5, K3

4lr0524

By: **The Speaker and Delegate Clippinger**

Introduced and read first time: January 24, 2024

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 26, 2024

CHAPTER _____

1 AN ACT concerning

2 **Employment Discrimination – Sexual Orientation**

3 FOR the purpose of altering certain provisions of law prohibiting employment
4 discrimination on the basis of sex and gender identity to prohibit employment
5 discrimination on the basis of sexual orientation; and generally relating to
6 employment discrimination based on sexual orientation and gender identity.

7 BY repealing and reenacting, with amendments,

8 Article – Labor and Employment

9 Section 3–304

10 Annotated Code of Maryland

11 (2016 Replacement Volume and 2023 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

13 That the Laws of Maryland read as follows:

14 **Article – Labor and Employment**

15 3–304.

16 (a) In this section, “providing less favorable employment opportunities” means:

17 (1) assigning or directing the employee into a less favorable career track, if
18 career tracks are offered, or position;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) failing to provide information about promotions or advancement in the
2 full range of career tracks offered by the employer; or

3 (3) limiting or depriving an employee of employment opportunities that
4 would otherwise be available to the employee but for the employee's sex, **SEXUAL**
5 **ORIENTATION**, or gender identity.

6 (b) (1) An employer may not discriminate between employees in any
7 occupation by:

8 (i) paying a wage to employees of one sex, **SEXUAL ORIENTATION**,
9 or gender identity at a rate less than the rate paid to employees of another sex, **SEXUAL**
10 **ORIENTATION**, or gender identity if both employees work in the same establishment and
11 perform work of comparable character or work on the same operation, in the same business,
12 or of the same type; or

13 (ii) providing less favorable employment opportunities based on sex,
14 **SEXUAL ORIENTATION**, or gender identity.

15 (2) For purposes of paragraph (1)(i) of this subsection, an employee shall
16 be deemed to work at the same establishment as another employee if the employees work
17 for the same employer at workplaces located in the same county of the State.

18 (c) Except as provided in subsection (d) of this section, subsection (b) of this
19 section does not prohibit a variation in a wage that is based on:

20 (1) a seniority system that does not discriminate on the basis of sex,
21 **SEXUAL ORIENTATION**, or gender identity;

22 (2) a merit increase system that does not discriminate on the basis of sex,
23 **SEXUAL ORIENTATION**, or gender identity;

24 (3) jobs that require different abilities or skills;

25 (4) jobs that require the regular performance of different duties or services;

26 (5) work that is performed on different shifts or at different times of day;

27 (6) a system that measures performance based on a quality or quantity of
28 production; or

29 (7) a bona fide factor other than sex, **SEXUAL ORIENTATION**, or gender
30 identity, including education, training, or experience, in which the factor:

31 (i) is not based on or derived from a gender-based differential in
32 compensation;

1 (ii) is job related with respect to the position and consistent with a
2 business necessity; and

3 (iii) accounts for the entire differential.

4 (d) This section does not preclude an employee from demonstrating that an
5 employer's reliance on an exception listed in subsection (c) of this section is a pretext for
6 discrimination on the basis of sex, **SEXUAL ORIENTATION**, or gender identity.

7 (e) An employer who is paying a wage in violation of this subtitle may not reduce
8 another wage to comply with this subtitle.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.