

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

House Bill 602  
Economic Matters

(The Speaker and Delegate Clippinger)

Finance

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**Employment Discrimination – Sexual Orientation**

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This bill expands the State’s Equal Pay for Equal Work law by prohibiting employment discrimination on the basis of sexual orientation. The bill incorporates the prohibition of discrimination on the basis of sexual orientation into existing prohibitions against workplace discrimination under the Equal Pay for Equal Work law. Thus, an employer may not discriminate between employees in any occupation by providing less favorable employment opportunities based on sexual orientation or by paying a wage to employees of one sexual orientation at a rate less than the rate paid to employees of another sexual orientation, as specified under current law.

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**Fiscal Summary**

**State Effect:** Enforcement can be handled with existing resources. The bill has no effect on the State as an employer because State agencies already are prohibited from discriminating against individuals based on sexual orientation. No effect on revenues.

**Local Effect:** The bill does not materially affect local governmental operations or finances because relatively few cases should be heard in the circuit courts, and local governments currently cannot discriminate against an individual based on sexual orientation. No effect on revenues.

**Small Business Effect:** Potential meaningful.

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## Analysis

### Current Law:

#### *Unlawful Discrimination*

State law generally prohibits an employer with at least 15 employees from discharging, failing or refusing to hire, or otherwise discriminating against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment because of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability. The State and local governments are considered employers.

#### *Equal Pay for Equal Work*

Regardless of employer size, under the State's Equal Pay for Equal Work law, an employer may not discriminate between employees in any occupation by providing less favorable employment opportunities based on sex or gender identity or paying a wage to employees of one sex or gender identity at a rate less than the rate paid to employees of another sex or gender identity if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type. The State and local governments are considered employers.

When the Commissioner of Labor and Industry has determined that the State's Equal Pay for Equal Work law has been violated, the commissioner must (1) try to resolve any issue informally by mediation or (2) ask the Attorney General to bring an action on behalf of the applicant or employee. The Attorney General may bring an action in the county where the violation allegedly occurred for injunctive relief, damages, or other relief. An employee may bring an action against the employer under specified circumstances.

An employer may not discharge or otherwise discriminate against an employee or applicant because the employee or applicant makes a complaint, brings or causes an action or proceeding, or has testified or will testify in an action or a proceeding relating to Equal Pay for Equal Work. The commissioner may bring an action for injunctive relief and damages against a person who violates this.

**Small Business Effect:** Employers with fewer than 15 employees are prohibited from employment discrimination based on sexual orientation. Employers with at least 15 employees are already prohibited from employment discrimination based on sexual orientation under current law.

## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Commission on Civil Rights; Maryland Association of Counties; Maryland Municipal League; Office of the Attorney General; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Labor; Maryland Department of Transportation; Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2024  
km/mcr Third Reader - March 8, 2024

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