

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 857
Finance

(Senator Waldstreicher)

Labor and Employment - Civic and Related Activities - Protection (Maryland
Employee Civic Activity and Lawful Expression Protection Act)

This bill prohibits an employer from taking specific actions related to the political and civic activities of employees or applicants for employment, including prohibitions against (1) taking adverse action against an employee for engaging in protected civic activity, political activity, or lawful expression or (2) requiring an applicant for employment to disclose the applicant's engagement in political or civic activity or lawful expression unless the disclosure is related to specific job requirements. For positions subject to statutory or regulatory speech restrictions, an employer may impose job-related restrictions only if they are narrowly tailored to achieve a legitimate government interest. The bill specifies remedies and penalties for violations of its provisions, and the bill's provisions are severable.

Fiscal Summary

State Effect: *The Office of the Attorney General (OAG) did not respond to repeated requests for information about the bill's fiscal and operational effects; therefore, a reliable estimate of the bill's effects on OAG is not feasible. Other State agencies can likely implement the bill with existing budgeted resources, as it generally reflects protections and restrictions for State employees under current law. No effect on revenues.*

Local Effect: The bill does not materially affect local governmental operations or finances as it generally reflects existing protections and restrictions for local governmental employees.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Adverse action” includes discharge, demotion, discipline, failure to promote, reduction of compensation, reassignment with materially adverse terms, or any other action that would dissuade a reasonable individual from engaging in protected activity.

“Civil activity” means a lawful effort to influence public policy, social conditions, government action, elections, corporate accountability, or community welfare, including charitable activity.

“Employee” includes (1) an apprentice; (2) an intern; (3) a part-time employee; and (4) a temporary employee. “Employer” includes (1) a unit of State or local government; and (2) a person that acts directly or indirectly in the interest of an employer.

“Lawful expression” includes (1) assembly; (2) association; (3) contributions (or the refusal to contribute); (4) speech; and (5) symbolic conduct; and (6) online expression.

“Off-duty civic activity” means a civic activity in which the employee engages outside work hours, off the employer’s premises, and without use of the employer’s equipment or other property (unless the use is expressly authorized by the employer).

“Political activity” includes (1) ballot initiative or referendum advocacy; (2) campaigning; (3) canvassing; (4) fundraising; (5) online political communications; (6) petitioning; (7) providing or preparing legislative or administrative testimony; (8) running for public office; (9) symbolic political expression; and (10) volunteering.

Exceptions

The bill’s protections do not apply to conduct that materially and demonstrably prevents an employee from performing *bona fide* job duties or reveals trade secrets or proprietary information. Additionally, it does not protect conduct that (1) constitutes unlawful harassment, threats, or violence, or (2) violates statutory confidentiality or professional responsibility obligations. The employer has the burden to prove that conduct by an employee is exempt from the application of this bill by a preponderance of evidence.

Prohibited Conduct

In addition to the prohibitions specified above, an employer may not:

- retaliate against an employee for refusing to participate in employer-favored political activity, endorsements, donations, or captive-audience meetings;
- maintain or enforce a policy that restricts lawful, protected off-duty civic activity;
- maintain, share, or use a list or database to disadvantage an employee or applicant because of activity protected under the bill;
- coerce an employee to make political contributions; attend political or public-relations events; endorse or oppose a candidate, party, cause, or public policy; or sign, publish, or disseminate political statements as a condition of employment.

Actions and Remedies

A person aggrieved by an employer's violation of the bill may bring a civil action in a circuit court for appropriate injunctive relief and damages without being required to exhaust all administrative remedies. An action must be filed within two years after the alleged violation.

An action may be brought individually, jointly, or as a class action. In a class action challenging employer policies or patterns and practices, the court must liberally construe certification.

Any action taken against an employee within 120 days after the employee engages in protected activity creates a rebuttable presumption of retaliation.

If a court finds that an employer discharged an employee in violation of the bill, the court must award the employee a minimum of three times lost wages plus one year of wages. The court may not use evidence of mitigation to reduce the minimum award required, as specified.

In addition to any other relief, the court may grant:

- reinstatement to the same or equivalent position;
- back pay, including lost wages and benefits;
- front pay where reinstatement is impracticable;
- compensatory damages for emotional distress, reputational harm, and other consequential damages;
- treble damages attributable to lost wages;
- punitive damages for willful or malicious violations;
- reasonable attorney's fees and litigation costs; and
- expungement of disciplinary records.

Public Enforcement

If an individual believes that an employer has violated the bill, the individual may file a complaint with the Attorney General, who may investigate and use all legal remedies available.

Waivers Null and Void

A waiver or limitation of rights protected by the bill is contrary to public policy and void. Furthermore, an agreement to arbitrate may not waive or diminish any right or remedy provided by this title.

Notice

Employers with 50 or more employees must post a notice of the protections established under this bill in a location accessible to all employees. The notice must be in a language understood by the majority of the workforce and based on a form developed by the Maryland Department of Labor. Additionally, by January 1 of each year, employers must provide the same notice to each employee electronically.

Current Law: State employees may freely participate in any political activity and express any political opinion but may not engage in political activity while on the job during working hours or advocate the overthrow of the government by unconstitutional or violent means.

Generally, a local government employee may freely participate in any political activity and express any political opinion but may not engage in political activity while on the job during working hours or advocate the overthrow of the government by unconstitutional or violent means. A local government employee may not be required to provide a political service. A person who violates these provisions is guilty of a misdemeanor and on conviction is subject to imprisonment for up to six months and/or a fine of up to \$3,000.

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, military status, or disability. The State and local governments are considered employers

Additional Information

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

Designated Cross File: HB 1356 (Delegate Lopez, *et al.*) - Government, Labor, and Elections.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, and Garrett counties; Maryland Association of Counties; City of College Park; City of Frostburg; Maryland Municipal League; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Labor; Maryland Department of Transportation; Department of Legislative Services

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