

SB 0455 Sen Sydnor Fav Testimony Discrimination Fi

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Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony Regarding SB 455
Employment Discrimination – Time for Filing Complaints
Before the Senate Judicial Proceedings Committee
On February 9, 2021**

Good afternoon Mr. Chairman, members of the Judicial Proceedings Committee

Maryland has been dedicated to ensuring equal employment opportunity for over half a century.¹ The Maryland Commission on Civil Rights empowers employees to enforce their rights to equal employment. The power to correct employment discrimination, however, is limited by time. It takes time to obtain representation, to reach out to the Commission, or to generally build a case.

Discrimination claims are not clean cut. Direct evidence of employer discrimination is very rare,² so most claimants must rely on circumstantial evidence to establish an employment discrimination complaint:

Absent direct evidence. . . plaintiff must first demonstrate a prima facie case of disparate treatment, which requires Plaintiff to show that: (1) he is a member of a protected class; (2) he was performing at a level that met his employer’s legitimate expectations at the time of the adverse employment action; (3) he suffered an adverse employment action; and (4) his employer treated similarly situated employees outside his protected class more favorably.³

Time is critical in establishing an employment discrimination claim because a claimant usually must demonstrate that the adverse employment action is close in time to the discriminatory treatment.⁴ If a discriminatory remark is deemed a “stray comment,” or if retaliation lags after an inciting event, then valid claims may be dismissed as a matter of

¹ MD. CODE ANN., STATE GOV’T § 20-602. State Policy.

² See Kerri Lynn Stone, *Shortcuts in Employment Discrimination Law*, 56 ST. LOUIS L.J. 111, 135 (2011) (“bias in the workplace tends, due to cultural, social, and even legal pressures, to be repressed and unexpressed explicitly.”)

³ *Dones v. Donahoe*, 987 F.Supp. 2d 659, 667 (D. Md. 2013).

⁴ Stone, *supra* note 2, at 134–41.

law before addressing the merits.⁵ The implicit need to establish a pattern means that claimants need time to build their cases.

Currently, Marylanders have only six months (180 days) in which to file an employment discrimination complaint with the MCCR.⁶ Senate Bill 455 will extend the time for filing from 180 days to 300 days, allowing employees facing discrimination more time in which to recover from the discriminatory event and to obtain assistance in taking action against the discrimination. Extending the filing time in Maryland to 300 days will also put the State in sync with federal law, which permits employees 300 days to file an employment discrimination complaint in the event that they have already filed a complaint with their local or state agency.⁷

Marylanders are routinely impacted by the limited timeframe in which to file complaints. Glendora Hughes, general counsel to the Maryland Commission on Civil Rights, reported that the agency receives “3 to 8” untimely complaints per month.⁸ This does not account for the employees who report directly to the EEOC, or those who are discouraged from filing at all.

Our laws should reflect the reality that vindicating a claim of employment discrimination takes time, and six months is not good enough. For these reasons, I urge you to vote in support of SB 455.

⁵ *Id.*

⁶ MD. CODE ANN., STATE GOV'T § 20-1004(c)(1)(i).

⁷ 42 U.S.C. § 2000e-5(e)(1).

⁸ Email correspondence 01/31/2021.

LoS - Employment Discrimination Filing Extension.p

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Position: FAV

State of Maryland

Commission on Civil Rights

“Our vision is to have a State that is free from any trace of unlawful discrimination.”



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Nicolette Young, Assistant Director
Glendora C. Hughes, General Counsel

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Rabbi Binyamin Marwick
Jeff Rosen
Gina McKnight-Smith, PharmD, MBA

February 9, 2021

Senate Bill 455 – Employment Discrimination - Time for Filing Complaints **Position: Support**

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, source of income, sexual orientation, gender identity, genetic information, and physical and mental disability.

Senate Bill 455 extends the statute of limitations to file a complaint of alleged unlawful employment discrimination with the Maryland Commission on Civil Rights from 6 months to 300 days from the date of the alleged unlawful incident.

Currently, federal law with respect to employment discrimination permits an aggrieved party to file a complaint of alleged unlawful discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”) within 300 days of the alleged unlawful act. Amending state law to conform to federal law will ensure that Marylanders who believe they are a victim of unlawful employment discrimination have equal access to MCCR as they currently enjoy with the EEOC. Any additional complaints (based on age, race, color, national origin, religion, sex, disability, genetic information, sexual orientation, and/or gender identity) resulting from this bill would be eligible for federal reimbursement under MCCR’s contractual worksharing agreement with the EEOC.

For these reasons, MCCR urges the committee to vote favorably on SB455. Thank you for your consideration of this testimony. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.

SB 455 - Time for Filing Complaints.pdf

Uploaded by: Edwards, Donna

Position: FAV



MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

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President

Donna S. Edwards

Secretary-Treasurer

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**SB 455 – Employment Discrimination – Time for Filing Complaints
Senate Judicial Proceedings Committee
February 9, 2021**

SUPPORT

Donna S. Edwards

President

Maryland State and DC AFL-CIO

Chairman and members of the Committee, thank you for the opportunity to provide testimony in support SB 455 – Employment Discrimination – Time for Filing Complaints. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 340,000 union members in the state of Maryland, I offer the following comments.

Oftentimes, a worker may not know that they have been a victim of employment discrimination. Months may go by without them ever knowing that discrimination was the reason they did not get that promotion or raise, wrongfully believing it was for some other merit-based reason. Conversations with other workers or communications they have seen may then finally make them aware that they were a victim of discrimination in the workplace.

SB 455 recognizes this problem, by extending from 6 months to 300 days the ability to file a complaint for an unlawful business practice. Bad businesses or bad leadership at a business will do whatever they can to avoid a worker from knowing that they were denied advancement or employment due to discrimination, so it is incumbent that we create a longer period to file for the victims of discrimination. We cannot have a system that allows bad actors to simply “wait it out” to avoid consequences for their bad actions.

We ask for a favorable vote on SB 455.

LoS - Employment Discrimination Filing Extension.p

Uploaded by: Hughes, Glendora

Position: FAV

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February 9, 2021

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For these reasons, MCCR urges the committee to vote favorably on SB455. Thank you for your consideration of this testimony. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.

SB0455 MD NARAL SUPPORT.docx.pdf

Uploaded by: Philip, Diana

Position: FAV



SB0455 Employment Discrimination – Time for Filing Complaints

Presented to the Honorable Will Smith and Members of the Senate Judicial Proceedings Committee

February 9, 2021 1:00 p.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland urges the Senate Judicial Proceedings Committee to issue **a favorable report on SB0455 Employment Discrimination – Time for Filing Complaints**, sponsored by Senator Charles Sydnor.

Our organization is an advocate for reproductive health, rights, and justice. Pregnant people have the right to fulfill their pregnancy and parenting desires while employed in a workplace free of discrimination and harassment. Expanding the period for filing a discrimination complaint will allow those experiencing discrimination a longer period of time to report harassment, and work to end discriminatory practices that impact pregnant people. Everyone has the right to maintain a healthy pregnancy, and no one should be forced out of their job due to their decision to have a family.

Harassment and discrimination exist in many forms and are not always overt and easily identified in the workplace. In 1978, Congress enacted the Pregnancy Discrimination Act (PDA) to define that discrimination on the basis of pregnancy, childbirth, or other related medical conditions is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964.¹ However, since this law was enacted, there have been thousands of violations. Nationally, from 1997-2011 there were approximately 6,000 federal pregnancy discrimination charges filed with the U.S. Equal Employment Opportunity Commission (EEOC), and this number has been increasing.² Notably, women of color and low-income workers have been severely disproportionately impacted by workplace discrimination. The National Partnership for Women and Families shows that in fiscal years between 2011 and 2015, Black or African American women filed 28.6% of pregnancy discrimination charges with the EOCC, while only making up an estimated 14.3% of the female labor force.³

Every person should have the opportunity to report discrimination and harassment violations that happen to them in the workplace and should not be pressured by a limited reporting window for these claims. The extension of time also allows the employee to learn after giving birth about any instances of discrimination while the employee was working during her pregnancy, such as being passed over for promotion or denied a professional development opportunity due to antiquated stereotypes. This bill will offer further protection to pregnant, expectant, and parenting Marylanders, and ensure that women can continue working without fear or harassment from their colleagues. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on SB0455**. Thank you for your time and consideration.

¹ Enforcement Guidance on Pregnancy Discrimination and Related Issues. U.S. Equal Employment Opportunity Commission <https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues>

² Efforts to Combat Pregnancy Discrimination. Center for American Progress. <https://www.americanprogress.org/issues/women/news/2018/11/02/460353/efforts-combat-pregnancy-discrimination/>

³ The National Partnership for Women and Families. Data Brief Fiscal Years 2011-2015 <https://www.nationalpartnership.org/our-work/resources/economic-justice/pregnancy-discrimination/by-the-numbers-women-continue-to-face-pregnancy-discrimination-in-the-workplace.pdf>

(Closing argument sentence or two)

For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on bill#**. Thank you for your time and consideration.

(Citations are linked when possible and in Chicago Style)

SB 455 Employment Discrimination - Time For Filing

Uploaded by: Siri, Michelle

Position: FAV

BILL NO.: Senate Bill 455
TITLE: Employment Discrimination – Time for Filing Complaints
COMMITTEE: Judicial Proceedings
DATE: February 9, 2021
POSITION: SUPPORT

Senate Bill 455 seeks to extend the time period in which to file a complaint for unlawful employment practices (other than harassment¹) with the Maryland Commission on Civil Rights from 6 months to 300 days. As operators of a statewide employment law hotline, the WLC frequently receives telephone calls from individuals who are being discriminated against, or refused accommodations, in their workforce but who have no recourse due to the untimeliness of their filing. This bill would change that.

Extending the timeline in which to file a complaint does multiple things. Under federal law, an employee has 300 calendar days to bring a complaint to the EEOC *if a state or local agency enforces a state or local law that prohibits employment discrimination on the same basis*. In Maryland, the Maryland Commission on Civil Rights enforces the Maryland Fair Employment Act; as such, employees in Maryland have 300 days to file a complaint for a violation of federal law. However, for those comparable state laws, potential litigants have only six months to bring a complaint to the MCCR. Thus it makes sense to extend the timeline for complaints in parallel state laws. SB 455 would simply conform our timeline with federal government's filing requirements, eliminating confusion and streamlining the complaint process.

Secondly, it is helpful as timeliness is one of the most frequent issues we see with callers on our Employment Law Hotline; employees are often afraid of reporting, traumatized from the treatment they have received, and late in filing their complaints. Additionally, many workers are intimidated by the legal process and struggle to find an affordable attorney to represent them. The current time frame of six months does not provide enough time to fully navigate that process. This effectively shuts them out of administrative and judicial process entirely, leaving them with no recourse. By extending the time frame, more employees will be able to find representation and bring their claims.

The WLC supports SB 455 for seeking to expand the relief currently available for employees who have been harassed and discriminated against by their employers. For the above reasons, the Women's Law Center of Maryland urges a favorable report for SB 455.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

¹The Workplace Harassment Act of 2019 modified Maryland law so that claims of harassment may be filed with the local human relations commission within 2 years. (SB679/CH222 2019).

SB 455 Employment Discrimination.pdf

Uploaded by: Walmsley, Keith

Position: FAV



Maryland Developmental Disabilities Council

EMPOWERMENT • OPPORTUNITY • INCLUSION

Judicial Proceedings Committee

February 9, 2021

SB 455: Employment Discrimination – Time for Filing Complaints

Position: Support

The Maryland Developmental Disabilities Council (DD Council) is an independent, public policy organization that works to improve policies, programs and services that support people with developmental disabilities and their families in our communities. The DD Council is led by people with developmental disabilities and their families. **From that perspective, the DD Council supports SB 455 because it promotes equal employment for more people with disabilities, ensures more employers cannot discriminate and gives employees with disabilities more time to file a complaint.**

WHY is this legislation important?

Five federal laws that protect people with disabilities from discrimination in employment and the hiring process and create different requirements.¹ Most notably, the Americans with Disabilities Act (ADA): Title I, prohibits discriminating against people with disabilities in all employment-related activities; and Title II, prohibits discrimination in state and local government services, programs and activities.

In addition, in 1974, Maryland recognized some rights of people with disabilities and prohibited certain types of discrimination in employment and added certain protections for people with disabilities to Maryland's laws against discrimination. Currently, the Maryland Commission on Civil Rights (MCCR) enforces Maryland's laws against discrimination.

- In 2018, 81% of all complaints MCCR received were in the area of employment discrimination.
- 162 complaints claimed discrimination on the basis of disability.
- Disability was the second most frequently selected protected class among employment discrimination complaints filed with MCCR, second only to race.²

WHAT does this legislation do?

- Extends from 6 months to 300 days the time periods within which a person claiming discrimination can file a complaint with the Commission on Civil Rights.

Despite these federal and state laws prohibiting discrimination, the unemployment and under-employment rate of people with developmental disabilities is disproportionately higher than the general public. In fact, 2010 census data shows that there is a nearly **70% unemployment rate among working age adults with significant disabilities.**

Marylanders with disabilities and their families clearly express their desire to lead independent lives and to contribute and participate fully in their communities and the economy. This bill is another step to help make this a reality.

Contact: Keith Walmsley, Director of Public Policy Initiatives, kwalmsley@md-council.org

¹ The Americans with Disabilities Act, the Rehabilitation Act, the Workforce Investment Act, the Vietnam Era Veterans' Readjustment Assistance Act, and the Civil Service Reform Act.

² State of Maryland Commission on Civil Rights, January 1, 2019. *2018 Annual Report: Building Bridges of Opportunity & Understanding.*

SB455-Unfavorable - The Greater Bethesda Chamber o

Uploaded by: Italiano, Ginanne

Position: UNF

February 9, 2021

Senator William C. Smith, Jr.
Chair, Judicial Proceedings Committee
Maryland State Senate
2 East
Miller Senate Office Building
Annapolis, MD 21401

RE: SB455 - Employment Discrimination - Time for Filing Complaints

Position: **OPPOSE**

Dear Senator Smith, Vice Chair Waldstreicher and Members of the Committee:

On behalf of our 500-member businesses and more than 45,000 employees in Montgomery County, this letter is in **Opposition to SB455 - Employment Discrimination - Time for Filing Complaints**.

SB455 extends from six months to 300 days the time period in which a person has to file a complaint with the Commission on Civil Rights, alleging an unlawful employment practice, other than harassment, from the date that the alleged act occurred.

Our members are concerned about and disagree with the recommended expansion of time when a person can file a complaint. We believe that 182 days is more than enough time for an employee to decide whether or not to formally file a complaint. Increasing the time frame for filing complaints could enable contentious employees to file retaliatory claims because they don't like their employer. In addition, the time extension subjects employers and employees to prolonged time periods in which to resolve allegations as well as unlawful employment practices.

We ask you to please vote UNFAVORABLE on SB455 and thank you for your consideration of our remarks.

Sincerely,



Allie Williams
President & CEO