



State of Maryland Commission on Civil Rights

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February 27, 2025

House Bill 1261 - Employment Discrimination - Intent Position: Support

Dear Chairperson Wilson, Vice Chairperson Crosby, and Members of the House Economic Matters Committee:

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

House Bill 1261 codifies disparate impact theory, an incredibly valuable tool established by *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) that has been instrumental in the enforcement of federal, State, and local employment anti-discrimination laws for decades. Disparate impact theory holds that an employment practice is unlawful if it adversely affects one group of protected people more than another despite the practice being applied neutrally and without intent to discriminate. HB1261 carves out an exception for employment practices justified by a legitimate business necessity that do not have other less discriminatory means of accomplishing that necessity.

Because HB1261 codifies existing case law, it will not have an impact on the way MCCR currently enforces Maryland’s employment anti-discrimination protections found in Title 20 of the State Government Article. Rather, HB1261 insulates Maryland from potential legal challenges seeking to overturn *Griggs* and, more specifically, the use of disparate impact theory that the U.S. Supreme Court says is a violation of both the Civil Rights Act of 1964 and the Fair Housing Act of 1968.

Historically, more than 50% of MCCR’s annual complaint intakes are employment discrimination matters¹. As we at the Commission have seen over the years, it is becoming increasingly more common for employers to engage in covert acts of discrimination as opposed to overt, blatantly discriminatory acts. These employment practices, when taken at face value, appear neutral and harmless. However, when implemented, these practices have

¹ In FY2024, MCCR received 676 total complaints, 388 of which were complaints alleging unlawful employment discrimination. Additionally, during FY2024 the EEOC transferred 355 employment discrimination complaints to MCCR for investigation.

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

a disproportionately adverse impact against protected classes covered by Maryland law, such as racial minorities, individuals with disabilities, and women². Another increasing trend that's held true for many years, according to MCCR's Annual Reports³, is an employer retaliating against an employee for filing a grievance, either internally or with a governmental enforcement agency such as MCCR, attempting to rectify the alleged discriminatory practice⁴. If disparate impact theory were to be overturned, many victims of unlawful employment discrimination seeking relief would be left without protection by the spirit of Maryland law. HB1261 makes disparate impact theory both the spirit and the letter of the law.

For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on HB1261. Thank you for your time and consideration of the information contained in this letter. MCCR looks forward to the continued opportunity to work with you to promote and improve fair housing and civil rights in Maryland.

² In FY2024, race, disability, and sex discrimination complaints were the top 3 identified protected classes with 562, 531, and 302 allegations, respectively.

³ <https://mccr.maryland.gov/Pages/Publications.aspx>

⁴ In FY2024, retaliation in employment complaints was alleged 850 times, making it the #1 complaint among all employment matters. Harassment and race were #2 with 562 allegations each.