



State of Maryland Commission on Civil Rights

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House Bill 356 - Human Relations - Protection of the Free Exercise of Religion Position: Unfavorable

Dear Chairperson Wells, Vice Chairperson Kerr, and Members of the House Government, Labor, and Elections 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 356 attempts to give individuals a religious exemption so that they may violate existing State law by claiming that it is their protected freedom to exercise religion. The bill further states that if a governmental authority is going to substantially burden an individual’s exercise of religion, then the governmental authority must show how its actions further a compelling government interest in the least restrictive way. The bill authorizes aggrieved individuals to file for relief in court.

MCCR believes that this bill is unnecessary. Article 36 of the Maryland Declaration of Rights already protects an individual’s right to religious liberty “...unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights...”. And, of course, freedom of religion is protected by the First Amendment to the U.S. Constitution.

As introduced, HB356 poses numerous problems that would impede MCCR’s ability to investigate complaints alleging unlawful discrimination and to seek enforcement of our laws where violations occur. Maryland law is abundantly clear – it is the policy of the State to protect individuals from unlawful discrimination in the areas enforced by the Commission, including employment, housing, public accommodations, state contracts, health services, and commercial leasing. Since becoming law decades ago, numerous respondents have attempted to both justify and legitimize discriminatory actions and behaviors based on sincerely held religious beliefs. Despite these attempts, courts from the top down have, time and again, rejected such defenses.

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

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If passed, MCCR would effectively need to fight a battle on two fronts in order to enforce Maryland's statutory protections against unlawful discrimination. On one hand, MCCR would continue to conduct its investigations as it always has and in compliance with applicable law. On the other hand, HB356 would create a vehicle by which a respondent could use the court to stonewall MCCR's investigation. This distraction would require MCCR to devote already limited time and resources toward justifying its investigation, thereby prolonging the actual investigation while the complainant continues to be harmed. Many individuals with matters pending before the Commission do not have the luxury of time – their jobs, their homes, and their livelihoods are all jeopardized.

Finally, the People of Maryland do not need HB356 in order to challenge a law they believe violates their right to religious freedom. As with any law passed by the General Assembly, an individual may seek judicial review within the courts to determine the constitutionality of that law. HB356's only accomplishment is to create an additional hurdle that must be cleared so that we may carry out core functions in service to our State, many of which have already survived judicial challenges.

For these reasons, the Maryland Commission on Civil Rights urges an unfavorable vote on HB356. 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 civil rights in Maryland.