

Bill No. 28-20
Concerning: Human Rights and Civil Liberties – Discrimination in Public Accommodations – LGBTQ Bill of Rights
Revised: 10/06/2020 Draft No. 6
Introduced: July 7, 2020
Enacted: October 6, 2020
Executive: October 16, 2020
Effective: January 15, 2021
Sunset Date: None
Ch. 30, Laws of Mont. Co. 2020

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Glass
Co-Sponsors: Council President Katz, Councilmember Jawando, Council Vice-President Hucker,
Councilmembers Riemer, Alborno, Friedson, Navarro and Rice

AN ACT to:

- (1) prohibit discriminatory practices against certain individuals in places of public accommodation, including nursing homes and other facilities;
- (2) require certain notices to individuals; and
- (3) generally amend the laws regarding prohibited discrimination in places of public accommodation.

By amending

Chapter 27, Human Rights and Civil Liberties
Sections 27-6, 27-10, and 27-11

By adding

Chapter 27, Human Rights and Civil Liberties
Section 27-11A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 27-6, 27-10, and 27-11 are amended, and Section 27-11A is**
2 **added, as follows:**

3 **27-6. Definitions.**

4 The following words and phrases have the following meanings, unless the
5 context indicates otherwise:

6 * * *

7 *Family responsibilities* means the state of being financially or legally
8 responsible for the support or care of a person or persons, regardless of the
9 number of dependent persons or the age of any dependent person.

10 *Gender expression* includes gender as expressed by an individual’s name,
11 pronouns, clothing, hairstyle, behavior, voice, or similar characteristics.

12 *Gender identity* means an individual’s actual or perceived gender, including a
13 person’s gender-related appearance, expression, image, identity, or behavior,
14 whether or not those gender-related characteristics differ from the
15 characteristics customarily associated with the person’s assigned sex at birth.

16 *Gender-nonconforming* means gender expression that does not conform to
17 stereotypical expectations of how a male or female should appear or act.

18 * * *

19 *Source of income* means any lawful source of money, paid directly or indirectly
20 to a renter or buyer of housing, including income from:

- 21 (1) any lawful profession or occupation;
- 22 (2) any government or private assistance, grant, or loan program;
- 23 (3) any gift, inheritance, pension, annuity, alimony, child support, or
24 other lawful compensation or benefit; or
- 25 (4) any sale or pledge of any property or interest in property.

26 *Transgender individual* means an individual whose gender identity differs from
27 the individual’s assigned or presumed sex at birth.

28 *Undue hardship* means an action requiring significant difficulty or expense. In
 29 determining whether an accommodation would impose an undue hardship, the
 30 decision maker must consider:

- 31 (1) the nature and cost of the accommodation needed to comply with
 32 this article;
- 33 (2) the overall financial resources of the person who would provide
 34 the accommodation; and
- 35 (3) the impact of the accommodation on other persons.

36 * * *

37 **27-10. Scope.**

38 (a) This division applies to every public accommodation of any kind in the
 39 County whose facilities, accommodations, services, commodities, or use
 40 are offered to or enjoyed by the general public either with or without
 41 charge, such as:

- 42 (1) restaurants, soda fountains, and other eating or drinking places,
 43 and all places where food is sold for consumption either on or off
 44 the premises;
- 45 (2) inns, hotels, and motels, whether serving temporary or permanent
 46 patrons;
- 47 (3) retail stores and service establishments;
- 48 (4) hospitals, health care institutions, domiciliary care homes, nursing
 49 homes, personal care homes, and clinics;
- 50 (5) motion picture, stage, and other theaters and music, concert, or
 51 meeting halls;
- 52 (6) circuses, exhibitions, skating rinks, sports arenas and fields,
 53 amusement or recreation parks, picnic grounds, fairs, bowling

- 54 alleys, golf courses, gymnasiums, shooting galleries, billiard and
55 pool rooms, and swimming pools;
- 56 (7) public conveyances, such as automobiles, buses, taxicabs, trolleys,
57 trains, limousines, boats, airplanes, and bicycles;
- 58 (8) utilities, such as water and sewer service, electricity, telephone,
59 and cable television;
- 60 (9) streets, roads, sidewalks, other public rights-of-way, parking lots
61 or garages, marinas, airports, and hangars; and
- 62 (10) places of public assembly and entertainment of every kind.

63 **27-11. Discriminatory practices – in general.**

- 64 (a) An owner, lessee, operator, manager, agent, or employee of any place of
65 public accommodation in the County must not, with respect to the
66 accommodation:
- 67 (1) make any distinction with respect to any person based on race,
68 color, sex, marital status, religious creed, ancestry, national origin,
69 disability, sexual orientation, gender expression, HIV status, or
70 gender identity in connection with:
- 71 (A) admission;
- 72 (B) service or sales; or
- 73 (C) price, quality, or use of any facility or service;
- 74 (2) display, circulate or publicize or cause to be displayed, circulated
75 or publicized, directly or indirectly, any notice, communication, or
76 advertisement that states or implies:
- 77 (A) any distinction in the availability of any facility, service,
78 commodity, or activity related to the accommodation that
79 would violate paragraph (1), or

(B) that the patronage or presence of any person is unwelcome, objectionable, unacceptable, or not desired or solicited on account of any person’s race, color, sex, marital status, religious creed, ancestry, national origin, disability, sexual orientation, gender expression, HIV status, or gender identity;

* * *

27-11A. Discriminatory practices – specific protections for LGBTQ individuals in care facilities.

(a) Legislative findings and statement of policy.

(1) The County has a goal to ensure that every resident can live without fear of discrimination based on sex—including on the basis of gender identity or sexual orientation. To achieve this goal the county will:

(A) protect LGBTQ community members from discrimination in all public facilities, including health and personal care facilities;

(B) ensure medical providers respect the gender identity and pronouns of all patients;

(C) strengthen access to care facilities for sexual minorities and all gender identities; and

(D) ensure that all public accommodations in Montgomery County adhere to non-discrimination laws.

(2) The County Council finds that ending and preventing harassment among LGBTQ individuals requires substantial coordination and cooperation among federal, state, and local governments, as well as private sector service providers and community organizations.

107 (b) Definitions. In this Section, the following terms have the meanings
 108 indicated.

109 Care facility or facility means a place of public accommodation that
 110 provides direct personal care or health care to individuals, such as a
 111 hospital, clinic, nursing home, domiciliary care home, or personal care
 112 home.

113 Harass includes requiring an individual to show identity documents to
 114 gain entrance to a restroom available to other individuals of the same
 115 gender identity.

116 (c) Discriminatory practices prohibited under Section 27-11 include when an
 117 owner, lessee, operator, manager, agent, or employee of any care facility
 118 in the County, based on an individual's sexual orientation, gender
 119 identity, gender expression, or HIV status:

120 (1) denies admission to a facility, transfers or refuses to transfer the
 121 individual within a facility or to another facility, or discharges or
 122 evicts an individual from a facility;

123 (2) denies a request by individuals to share a room in a facility;

124 (3) if rooms are assigned by gender, assigns, reassigns, or refuses to
 125 assign a room to a transgender individual other than in accordance
 126 with the individual's gender identity, unless at the individual's
 127 request;

128 (4) prohibits an individual from using, or harasses an individual who
 129 seeks to use or does use, a restroom available to other individuals
 130 of the same gender identity, regardless of whether the individual is
 131 making a gender transition or appears to be gender-
 132 nonconforming;

- 133 (5) willfully and repeatedly ~~[[fails to use]]~~ uses an individual's ~~[[s]]~~
 134 incorrect name or pronouns after being clearly informed of the
 135 correct name or pronouns;
- 136 (6) denies an individual the right to wear or be dressed in clothing,
 137 accessories, or cosmetics that are allowed for any other individual;
- 138 (7) restricts an individual's right to associate with other individuals,
 139 including the right to consensual sexual relations, unless the
 140 restriction uniformly applies to all individuals in a
 141 nondiscriminatory manner;
- 142 (8) denies or restricts medical or nonmedical care; or
- 143 (9) provides medical or nonmedical care in a manner that, to a
 144 similarly situated reasonable individual, unduly demeans the
 145 individual's dignity or causes avoidable discomfort.
- 146 (d) Notice requirements. A facility must post prominently, and must include
 147 with any materials that describe the facility's nondiscrimination policies,
 148 a notice that:
- 149 (1) meets the requirements of subsection (e); and
- 150 (2) is in a form prescribed by the Director.
- 151 (e) The notice required under subsection (d) must include:
- 152 (1) a statement that the ~~[[facility does not discriminate or allow]]~~ law
 153 prohibits discrimination, including bullying, abuse, or harassment,
 154 on the basis of:
- 155 (A) actual or perceived sexual orientation, gender identity,
 156 gender expression, or HIV status; or
- 157 (B) an association with another individual on account of that
 158 individual's actual or perceived sexual orientation, gender
 159 identity, gender expression, or HIV status; and

160 (2) information about filing a complaint with the Commission on
161 Human Rights.

Approved:



Sidney Katz, President, County Council 10/7/2020
Date

Approved:



Marc Elrich, County Executive 10/16/2020
Date

This is a correct copy of Council action.



Selena Mendy Singleton, Esq., Clerk of the Council 10/16/2020
Date