

SENATE BILL 738

D5, J3, J2

0lr2456
CF 0lr3236

By: **Senator Feldman**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Providers and Health Benefit Plans – Discrimination in Provision**
3 **of Services**

4 FOR the purpose of altering the actions with regard to which hospitals and related
5 institutions are prohibited from discriminating against individuals on certain bases;
6 altering the characteristics of an individual on the basis of which hospitals and
7 related institutions are prohibited from discriminating against the individual in
8 certain actions; providing that certain provisions of this Act do not prohibit certain
9 persons from refusing, withholding from, or denying any person services for certain
10 reasons except under certain circumstances; prohibiting certain persons licensed or
11 regulated by certain units in the Maryland Department of Health from refusing,
12 withholding from, or denying any person certain services on certain bases;
13 prohibiting certain persons that have a certificate of authority from the Maryland
14 Insurance Administration from refusing, withholding from, or denying any person
15 certain services on certain bases; stating the policy of the State; defining certain
16 terms; altering a certain definition; and generally relating to prohibiting
17 discrimination by health care providers and persons providing health benefit plans.

18 BY repealing and reenacting, with amendments,

19 Article – Health – General
20 Section 19–355
21 Annotated Code of Maryland
22 (2019 Replacement Volume)

23 BY repealing and reenacting, with amendments,

24 Article – State Government
25 Section 20–101
26 Annotated Code of Maryland
27 (2014 Replacement Volume and 2019 Supplement)

28 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Government
2 Section 20–4A–01 through 20–4A–03 to be under the new subtitle “Subtitle 4A.
3 Discrimination by Persons Licensed or Regulated by Maryland Department of
4 Health or Maryland Insurance Administration”
5 Annotated Code of Maryland
6 (2014 Replacement Volume and 2019 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Health – General**

10 19–355.

11 (a) **IN THIS SECTION, “GENDER IDENTITY” AND “SEXUAL ORIENTATION”**
12 **HAVE THE MEANINGS STATED IN § 20–101 OF THE STATE GOVERNMENT ARTICLE.**

13 (b) A hospital or related institution may not **REFUSE, WITHHOLD FROM, OR**
14 **DENY TO ANY INDIVIDUAL MEDICAL SERVICES OR OTHERWISE** discriminate [in
15 providing personal care for an] **AGAINST ANY** individual **WITH RESPECT TO THE**
16 **INDIVIDUAL’S MEDICAL CARE** because of the race, color, **RELIGION, SEX, AGE, [or]**
17 national origin, **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY,**
18 **GENETIC INFORMATION, OR DISABILITY** of the individual.

19 [(b)] (c) The Commission on Civil Rights shall enforce this section as provided
20 in Title 20 of the State Government Article.

21 **Article – State Government**

22 20–101.

23 (a) In Subtitles 1 through 11 of this title the following words have the meanings
24 indicated.

25 (b) “Commission” means the Commission on Civil Rights.

26 (c) “Complainant” means a person that files a complaint alleging a discriminatory
27 act under this title.

28 (d) “Discriminatory act” means an act prohibited under:

29 (1) Subtitle 3 of this title (Discrimination in Places of Public
30 Accommodation);

31 (2) Subtitle 4 of this title (Discrimination by Persons Licensed or Regulated
32 by Maryland Department of Labor);

1 (3) **SUBTITLE 4A OF THIS TITLE (DISCRIMINATION BY PERSONS**
 2 **LICENSED OR REGULATED BY MARYLAND DEPARTMENT OF HEALTH OR**
 3 **MARYLAND INSURANCE ADMINISTRATION);**

4 (4) Subtitle 5 of this title (Discrimination in Leasing of Commercial
 5 Property);

6 ~~[(4)]~~ (5) Subtitle 6 of this title (Discrimination in Employment);

7 ~~[(5)]~~ (6) Subtitle 7 of this title (Discrimination in Housing); or

8 ~~[(6)]~~ (7) Subtitle 8 of this title (Aiding, Abetting, or Attempting
 9 Discriminatory Act; Obstructing Compliance).

10 (e) “Gender identity” means the gender–related identity, appearance, expression,
 11 or behavior of a person, regardless of the person’s assigned sex at birth, which may be
 12 demonstrated by:

13 (1) consistent and uniform assertion of the person’s gender identity; or

14 (2) any other evidence that the gender identity is sincerely held as part of
 15 the person’s core identity.

16 (f) (1) “Respondent” means a person accused in a complaint of a
 17 discriminatory act.

18 (2) “Respondent” includes a person identified during an investigation of a
 19 complaint and joined as an additional or substitute respondent.

20 (g) “Sexual orientation” means the identification of an individual as to male or
 21 female homosexuality, heterosexuality, or bisexuality.

22 **SUBTITLE 4A. DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY**
 23 **MARYLAND DEPARTMENT OF HEALTH OR MARYLAND INSURANCE**
 24 **ADMINISTRATION.**

25 **20–4A–01.**

26 **IT IS THE POLICY OF THE STATE TO:**

27 (1) **PROVIDE AFFORDABLE HEALTH CARE THROUGHOUT THE STATE**
 28 **TO ALL REGARDLESS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**
 29 **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC**
 30 **INFORMATION, OR DISABILITY; AND**

1 **(2) PROHIBIT DISCRIMINATION WITH RESPECT TO THE PROVISION OF**
2 **HEALTH CARE BY ANY PERSON, IN ORDER TO PROTECT AND ENSURE THE PEACE,**
3 **HEALTH, SAFETY, PROSPERITY, AND GENERAL WELFARE OF ALL.**

4 **20-4A-02.**

5 **(A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS LICENSED OR**
6 **OTHERWISE REGULATED BY THE MARYLAND DEPARTMENT OF HEALTH FROM**
7 **REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE**
8 **TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND**
9 **REGULATIONS IMPOSED BY THE LICENSED OR REGULATED PERSON, UNLESS THE**
10 **REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE**
11 **GROUND OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL**
12 **STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR**
13 **DISABILITY.**

14 **(B) A PERSON THAT IS LICENSED OR OTHERWISE REGULATED BY A UNIT IN**
15 **THE MARYLAND DEPARTMENT OF HEALTH DESCRIBED UNDER § 2-106 OF THE**
16 **HEALTH – GENERAL ARTICLE MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY**
17 **PERSON ANY SERVICES OF THE LICENSED OR REGULATED PERSON OR OTHERWISE**
18 **DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON’S RACE, COLOR,**
19 **RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION,**
20 **GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.**

21 **20-4A-03.**

22 **(A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS REGULATED BY**
23 **THE MARYLAND INSURANCE ADMINISTRATION FROM REFUSING, WITHHOLDING**
24 **FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE TO CONFORM TO THE**
25 **USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED**
26 **BY THE REGULATED PERSON, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS**
27 **BASED ON DISCRIMINATION ON THE GROUND OF RACE, COLOR, RELIGION, SEX,**
28 **AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER**
29 **IDENTITY, GENETIC INFORMATION, OR DISABILITY.**

30 **(B) A PERSON, INCLUDING A HEALTH MAINTENANCE ORGANIZATION, THAT**
31 **PROVIDES HEALTH BENEFIT PLANS AND HAS A CERTIFICATE OF AUTHORITY ISSUED**
32 **BY THE MARYLAND INSURANCE ADMINISTRATION MAY NOT REFUSE, WITHHOLD**
33 **FROM, OR DENY ANY PERSON ANY SERVICES OF THE PERSON OR OTHERWISE**
34 **DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON’S RACE, COLOR,**
35 **RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION,**
36 **GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.