

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 455

(Senator Sydnor)

Judicial Proceedings

Health and Government Operations

Employment Discrimination - Time for Filing Complaints

This bill increases the time for filing a complaint with the Maryland Commission on Civil Rights (MCCR) that alleges an unlawful employment practice other than harassment. A complaint must be filed within 300 days after the date on which the alleged discriminatory act occurred. A complaint filed with a federal human relations commission within six months or a local human relations commission within 300 days must be deemed to have complied with the requirements.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances, as discussed below.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Under § 20-602 of the State Government Article, it is State policy to assure that all persons have equal opportunity in employment and in all labor management-union relations. As such, discrimination in employment is prohibited on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or disability (unrelated in nature and extent so as to reasonably preclude the performance of the employment).

On any of these bases or because of an individual's refusal to submit to or make available the results of a genetic test, an employer may not (1) fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to the individual's compensation, terms, conditions or privileges or (2) limit, segregate, or classify its employees or applicants for employment in any way that deprives or tends to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee. An employer is also prohibited from (1) requesting or requiring genetic tests or genetic information as a condition of hiring or determining benefits; (2) failing or refusing to make a reasonable accommodation for the known disability of an otherwise qualified employee; or (3) engaging in harassment of an employee. Furthermore, statute includes additional prohibitions specific to unlawful employment practices by employment agencies and labor organizations, as well as those related to training programs, advertisements, and retaliation.

MCCR is the State agency charged with the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and State contracting. Complaints regarding discrimination in employment must be filed with MCCR within six months of when the alleged discriminatory act occurred. A complaint filed with a federal or local human relations commission within six months after the date on which the alleged discriminatory act occurred must be deemed to have complied with this requirement. A complaint alleging harassment against an employer must be filed within two years after the date on which the alleged harassment occurred. A complaint filed with a federal human relations commission within six months or a local human relations commission within two years after the date on which the alleged harassment occurred must be deemed to have complied with the statute of limitations.

Statute also specifies a process by which an individual may bring a civil action against a respondent that alleges an unlawful employment practice. Civil actions in circuit court generally must be filed within two years of when the alleged unlawful employment practice occurred. In addition, the complainant must have initially filed a timely administrative charge or a complaint under federal, State, or local law and 180 days must have elapsed since that filing.

State Revenues: MCCR has a work-sharing agreement with the U.S. Equal Employment Opportunity Commission (EEOC) to investigate employment discrimination complaints where the State and federal laws converge. MCCR advises that the bill's provisions related to the statute of limitations for discrimination in employment conforms with federal law; therefore, MCCR may be eligible for an increased amount of EEOC reimbursement if it is able to close more complaints under this contract. However, it is assumed that any increase in the number of complaints is likely to be minimal. As such, State revenues are not materially affected.

State Expenditures: MCCR advises that each investigative staff member handles up to 78 cases on an annual basis. According to its annual report, MCCR received 609 employment discrimination complaints in fiscal 2020; those complaints accounted for 79% of the total complaints received in that fiscal year. MCCR further advises that it can likely handle any additional complaints with existing resources. However, if caseloads increase substantially beyond what is anticipated, general fund expenditures increase to hire additional investigative staff. The salary and benefits for one investigator is approximately \$80,000 annually.

The bill is not anticipated to materially affect the finances or operations of the Judiciary or the Office of Administrative Hearings.

Additional Information

Prior Introductions: HB 728 of 2020, as amended, passed the House and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 1007, remained in the Senate Rules Committee. HB 1262 of 2019, a similar bill, passed the House with amendments and received a hearing in the Senate Judicial Proceeding Committee, but no further action was taken.

Designated Cross File: HB 290 (Delegate Hill, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Commission on Civil Rights; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2021
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Analysis by: Tyler Allard

Direct Inquiries to:
(410) 946-5510
(301) 970-5510