

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 78

(Delegates Rogers and Charkoudian)

Economic Matters

Judicial Proceedings

Discrimination in Employment - Reasonable Accommodations for Applicants
With Disabilities

This bill prohibits an employer from failing or refusing to make a reasonable accommodation for the known disability of an applicant for employment. An employer is not required to reasonably accommodate the disability of an applicant if the accommodation would cause undue hardship on the conduct of the employer's business.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

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 or (2) failing or refusing to make a reasonable accommodation for the known disability of an otherwise qualified employee. Additionally, acts of harassment and retaliation against an employee by an employer are prohibited. An employer is not required to reasonably accommodate an employee's religion or disability if the accommodation would cause undue hardship on the conduct of the employer's business.

Under the Code of Maryland Regulations (COMAR), a person or entity subject to the jurisdiction of the Maryland Commission on Civil Rights may not discriminate on the basis of disability against a qualified individual with a disability with regard to recruitment, advertising, and job application procedures (COMAR 14.03.02.04). Additionally, a covered entity (1) must make a reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability; (2) is not required to provide an accommodation, if it demonstrates that the accommodation would impose undue hardship on the operation of its business or program; and (3) may not deny an employment opportunity to a qualified individual with a disability, if the basis for the denial is the need to accommodate the individual's physical or mental limitations, and this accommodation, if attempted, would be reasonable. One example of a reasonable accommodation specified in COMAR is providing *applicants* or employees with a disability with an opportunity to demonstrate their pertinent knowledge, skills, and abilities by testing methods adapted to their special circumstances if employment tests are used (COMAR 14.03.02.05).

Additional Information

Prior Introductions: HB 312 of 2020, a similar bill, received an unfavorable report from the House Economic Matters Committee. Its cross file, SB 473, received a hearing in the Senate Judicial Proceedings Committee but was withdrawn.

Designated Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; Baltimore City; Caroline, Howard, Montgomery, and Prince George's counties; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History:
fnu2/jkb

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