

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 62
Appropriations

(Delegate Simpson)

Finance

State Employee Rights and Protections - Personnel Actions and Harassment -
Investigation of Complaints

This bill extends the timeframe for an investigation to be conducted and a written decision issued – from within 30 days to within 60 days – after a complaint alleging harassment or discrimination is received from an Executive Branch employee or an applicant for employment. The timeframe may be extended up to an additional 30 days if the employee or applicant who filed the complaint grants written authorization to the equal employment officer investigating the complaint.

Fiscal Summary

State Effect: None. The change is procedural in nature and does not directly affect governmental finances. The Department of Budget and Management advises that many equal employment officers already request an extension of time on investigations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: State law governs both personnel actions by public-sector employers (such as State agencies and local governments) and private-sector employers through various rights granted to employees and prohibitions against certain activities and actions. For example, all employers are expressly prohibited from, among other things, (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 an applicant for employment; and (3) engaging in harassment of an employee. "Harassment" includes sexual harassment and other unwelcome and offensive conduct, which need not be severe or pervasive, when (1) the conduct is based on race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or disability and (2) affects someone's working environment or employment, as specified.

Specific to State employees in, and applicants to be employed by, the Executive Branch of State government, most employment and appointment decisions (with limited exceptions for certain special appointments) must be made without regard to the employee's or applicant's political affiliation, belief, or opinion. For a general employee, any other nonmerit factor is also prohibited from being considered; however, this prohibition does not apply for management positions and appointments. An employee or applicant may file, with the head of a principal unit, a written complaint that alleges a violation of this requirement; however, the complaint must be filed within one year after the complainant first knew of or reasonably should have known of the alleged violation that is the basis for the complaint.

A State employee in, or an applicant to be employed by, the Executive Branch of State government, may file with the head of a principal unit a written complaint that alleges harassment by the employer; such a complaint must be filed within two years after the alleged violation that is the basis for the complaint.

Within 30 days after a complaint is received, an equal employment officer, under the direction of the fair practices officer, must investigate the complaint and recommend a proposed decision to the head of the principal unit; the head of the principal unit must issue a written decision to the complainant and may grant any appropriate relief. Within 10 days after receiving a decision, a complainant may appeal the decision in writing to the Secretary of Budget and Management. Within 30 days after an appeal is received, the Secretary of Budget and Management (or designee) must either dismiss the complaint or take appropriate remedial action and issue to the parties a written decision that includes notice of any remedial action taken.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 133 (Senator Klausmeier) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Transportation; Maryland Commission on Civil Rights; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2024
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