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**HB 394 Human Relations – Commission on Civil Rights – Appeal of Final Orders  
Hearing before the House Health & Government Operations Committee, February 13, 2024  
Position: Favorable**

**HB 394 is a simple bill to restore a right to appeal** a no-probable-cause finding by the Maryland Commission on Civil Rights (MCCR) on a discrimination complaint in a public accommodation. The bill is necessary to address the ruling of the Maryland Supreme Court in *Rowe v. Md. Comm'n on Civil Rts.*, 483 Md. 329 (2023).

In a 4-3 decision, the Court held, based on interpretation of a provision of the MCCR statute, that judicial review of these no-probable-cause rulings stops at the circuit court. Jennifer Rowe, a client of the Public Justice Center, lost all chance of having an appellate court review the dismissal of her complaint as a result. Chief Justice Fader, writing for the 3-judge dissent, analyzed the statute and concluded that it provided for that right.

**For over 40 years, everyone, including the MCCR itself, had believed that such a right of appeal existed in Maryland law.** (But a judge of the Appellate Court of Maryland raised the appellate jurisdiction sua sponte in the *Rowe* case, leading to the new interpretation extinguishing the right.)

Most MCCR complaints are dismissed on grounds of no probable cause to find that discrimination occurred. These findings often result from flawed preliminary investigations. The agency is underfunded and understaffed. No probable cause determinations are made by a single investigator with an unmanageable caseload before any effort to conciliate the dispute or hold any evidentiary hearing. Circuit courts routinely affirm the agency's determination. Such mistakes were made in Ms. Rowe's case, who was representing herself at the time, but her search for justice was cut short.

**If the agency's investigation is flawed or based on a legal error, there is now no way to have our appellate courts correct the mistake.** This also prevents our courts from developing precedent under our important and historic public accommodations civil rights law. Important civil rights are at stake—equal treatment and service in Maryland's restaurants, department stores, fitness centers—in all public accommodations—regardless of race, sex, gender, gender identity, disability, and all other legally protected classes. **So when an appeal is warranted, it must be available.**

What about the floodgates? No cause for concern here. As noted, even the MCCR believed this appeal existed until the Court ruled otherwise. But during that 40-year history, very few such appeals were filed.

HB 394 is simple and similar to 2023 Md. Laws, ch. 156, clarifying the right to appeal from decisions of another administrative agency (the Public Information Act Compliance Board.)

For the foregoing reasons, **the Public Justice Center urges a favorable report on HB 394.** Should you have any questions, please contact Debra Gardner, Legal Director, at 410-625-9409 x228 or [gardnerd@publicjustice.org](mailto:gardnerd@publicjustice.org).

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