

SENATE BILL 583

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SB 566/09 – JPR

01r0442
CF 01r2635

By: **Senators Madaleno, Conway, Forehand, Garagiola, Gladden, Harrington, Jones, King, Lenett, McFadden, Pinsky, Pugh, Raskin, and Rosapepe**
Introduced and read first time: February 5, 2010
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations – Sexual Orientation and Gender Identity**
3 **– Antidiscrimination**

4 FOR the purpose of prohibiting discrimination based on gender identity with regard to
5 public accommodations, housing, and employment; prohibiting discrimination
6 based on gender identity by certain licensed or regulated persons; prohibiting
7 discrimination based on sexual orientation or gender identity with regard to the
8 leasing of property for commercial usage or in the provision of certain services
9 or facilities; altering a certain exception for employers that relates to standards
10 concerning dress and grooming; providing that an employer is immune from
11 certain liability for certain acts to verify the gender identity of any employee or
12 applicant in response to a certain charge; making certain remedies and
13 procedures regarding discrimination applicable to discrimination based on
14 sexual orientation and gender identity; requiring certain State personnel
15 actions to be made without regard to gender identity or sexual orientation;
16 defining the term “gender identity”; making certain conforming changes; and
17 generally relating to discrimination based on sexual orientation and gender
18 identity.

19 BY renumbering

20 Article – State Government
21 Section 20–101(e) and (f), respectively
22 to be Section 20–101(f) and (g), respectively
23 Annotated Code of Maryland
24 (2009 Replacement Volume)

25 BY adding to

26 Article – State Government
27 Section 20–101(e)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (2009 Replacement Volume)

2 BY repealing and reenacting, with amendments,

3 Article – State Government

4 Section 20–302, 20–304, 20–401, 20–402, 20–501, 20–602, 20–603, 20–605(a)(2),

5 20–606(a) through (e), 20–608, 20–702(a), 20–704(a)(2), 20–705,

6 20–707(b) and (c), and 20–1103(b)

7 Annotated Code of Maryland

8 (2009 Replacement Volume)

9 BY repealing and reenacting, with amendments,

10 Article – State Personnel and Pensions

11 Section 2–302

12 Annotated Code of Maryland

13 (2009 Replacement Volume and 2009 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That Section(s) 20–101(e) and (f), respectively, of Article – State
16 Government of the Annotated Code of Maryland be renumbered to be Section(s)
17 20–101(f) and (g), respectively.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
19 read as follows:

20 **Article – State Government**

21 20–101.

22 **(E) “GENDER IDENTITY” MEANS A GENDER-RELATED IDENTITY,**
23 **APPEARANCE, EXPRESSION, OR BEHAVIOR OF AN INDIVIDUAL REGARDLESS OF**
24 **THE INDIVIDUAL’S ASSIGNED SEX AT BIRTH.**

25 20–302.

26 This subtitle does not prohibit the proprietor or employees of any establishment
27 from denying service to any person for failure to conform to the usual and regular
28 requirements, standards, and regulations of the establishment, provided that the
29 denial is not based on discrimination on the grounds of race, sex, age, color, creed,
30 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability.

31 20–304.

32 An owner or operator of a place of public accommodation or an agent or
33 employee of the owner or operator may not refuse, withhold from, or deny to any
34 person any of the accommodations, advantages, facilities, or privileges of the place of
35 public accommodation because of the person’s race, sex, age, color, creed, national
36 origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability.

1 20-401.

2 This subtitle does not prohibit any person that is licensed or regulated by the
3 Department of Labor, Licensing, and Regulation from refusing, withholding from, or
4 denying accommodations, advantages, facilities, privileges, sales, or services to any
5 person for failure to conform to the usual and regular requirements, standards, and
6 regulations of the licensed or regulated person, provided that the denial is not based
7 on discrimination on the grounds of race, sex, color, creed, national origin, marital
8 status, sexual orientation, **GENDER IDENTITY**, or disability.

9 20-402.

10 A person that is licensed or regulated by a unit in the Department of Labor,
11 Licensing, and Regulation listed in § 2-108 of the Business Regulation Article may not
12 refuse, withhold from, or deny any person any of the accommodations, advantages,
13 facilities, privileges, sales, or services of the licensed or regulated person or
14 discriminate against any person because of the person's race, sex, creed, color, national
15 origin, marital status, sexual orientation, age, **GENDER IDENTITY**, or disability.

16 20-501.

17 An owner or operator of commercial property, an agent or employee of the owner
18 or operator of commercial property, or a person that is licensed or regulated by the
19 State may not discriminate against an individual in the terms, conditions, or
20 privileges of the leasing of property for commercial use, or in the provision of services
21 or facilities in connection with the leasing of property for commercial use, because of
22 the individual's race, color, religion, sex, age, disability, marital status, **SEXUAL**
23 **ORIENTATION**, **GENDER IDENTITY**, or national origin.

24 20-602.

25 It is the policy of the State, in the exercise of its police power for the protection
26 of the public safety, public health, and general welfare, for the maintenance of
27 business and good government, and for the promotion of the State's trade, commerce,
28 and manufacturers:

29 (1) to assure all persons equal opportunity in receiving employment
30 and in all labor management-union relations, regardless of race, color, religion,
31 ancestry or national origin, sex, age, marital status, sexual orientation, **GENDER**
32 **IDENTITY**, or disability unrelated in nature and extent so as to reasonably preclude
33 the performance of the employment; and

34 (2) to that end, to prohibit discrimination in employment by any
35 person.

36 20-603.

1 This subtitle does not require:

2 (1) an employer, employment agency, labor organization, or joint
3 labor-management committee subject to this subtitle to grant preferential treatment
4 to any individual or group on the basis of the race, color, religion, sex, age, national
5 origin, **GENDER IDENTITY**, sexual orientation, or disability of the individual or group
6 because an imbalance may exist with respect to the total number or percentage of
7 individuals of any race, color, religion, sex, age, national origin, **GENDER IDENTITY**,
8 or sexual orientation or individuals with disabilities employed by the employer,
9 referred or classified for employment by the employment agency or labor organization,
10 admitted to membership or classified by the labor organization, or admitted to, or
11 employed in, any apprenticeship or other training program, compared to the total
12 number or percentage of individuals of that race, color, religion, sex, age, national
13 origin, **GENDER IDENTITY**, or sexual orientation or individuals with disabilities in the
14 State or any community, section, or other area, or in the available work force in the
15 State or any community, section, or other area; or

16 (2) an employer to reasonably accommodate an employee's religion or
17 disability if the accommodation would cause undue hardship on the conduct of the
18 employer's business.

19 20-605.

20 (a) Notwithstanding any other provision of this subtitle, this subtitle does
21 not prohibit:

22 (2) an employer from establishing [standards concerning an
23 employee's dress and grooming, if the standards are directly related to the nature of
24 the employment of the employee] **AND REQUIRING AN EMPLOYEE TO ADHERE TO
25 REASONABLE WORKPLACE APPEARANCE, GROOMING, AND DRESS STANDARDS
26 THAT ARE DIRECTLY RELATED TO THE NATURE OF THE EMPLOYMENT OF THE
27 EMPLOYEE AND THAT ARE NOT PRECLUDED BY ANY PROVISION OF STATE OR
28 FEDERAL LAW, AS LONG AS THE EMPLOYER ALLOWS ANY EMPLOYEE TO APPEAR,
29 GROOM, AND DRESS CONSISTENT WITH THE EMPLOYEE'S GENDER IDENTITY;**

30 20-606.

31 (a) An employer may not:

32 (1) fail or refuse to hire, discharge, or otherwise discriminate against
33 any individual with respect to the individual's compensation, terms, conditions, or
34 privileges of employment because of:

35 (i) the individual's race, color, religion, sex, age, national origin,
36 marital status, sexual orientation, **GENDER IDENTITY**, genetic information, or

1 disability unrelated in nature and extent so as to reasonably preclude the performance
2 of the employment; or

3 (ii) the individual's refusal to submit to a genetic test or make
4 available the results of a genetic test;

5 (2) limit, segregate, or classify its employees or applicants for
6 employment in any way that would deprive or tend to deprive any individual of
7 employment opportunities or otherwise adversely affect the individual's status as an
8 employee because of:

9 (i) the individual's race, color, religion, sex, age, national origin,
10 marital status, sexual orientation, **GENDER IDENTITY**, genetic information, or
11 disability unrelated in nature and extent so as to reasonably preclude the performance
12 of the employment; or

13 (ii) the individual's refusal to submit to a genetic test or make
14 available the results of a genetic test;

15 (3) request or require genetic tests or genetic information as a
16 condition of hiring or determining benefits; or

17 (4) fail or refuse to make a reasonable accommodation for the known
18 disability of an otherwise qualified employee.

19 (b) An employment agency may not:

20 (1) fail or refuse to refer for employment or otherwise discriminate
21 against any individual because of the individual's race, color, religion, sex, age,
22 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability
23 unrelated in nature and extent so as to reasonably preclude the performance of the
24 employment; or

25 (2) classify or refer for employment any individual on the basis of the
26 individual's race, color, religion, sex, age, national origin, marital status, sexual
27 orientation, **GENDER IDENTITY**, or disability unrelated in nature and extent so as to
28 reasonably preclude the performance of the employment.

29 (c) A labor organization may not:

30 (1) exclude or expel from its membership, or otherwise discriminate
31 against, any individual because of the individual's race, color, religion, sex, age,
32 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability
33 unrelated in nature and extent so as to reasonably preclude the performance of the
34 employment;

1 (2) limit, segregate, or classify its membership, or classify or fail or
2 refuse to refer for employment any individual, in any way that would deprive or tend
3 to deprive the individual of employment opportunities, limit the individual's
4 employment opportunities, or otherwise adversely affect the individual's status as an
5 employee or as an applicant for employment because of the individual's race, color,
6 religion, sex, age, national origin, marital status, sexual orientation, **GENDER**
7 **IDENTITY**, or disability unrelated in nature and extent so as to reasonably preclude
8 the performance of the employment; or

9 (3) cause or attempt to cause an employer to discriminate against an
10 individual in violation of this section.

11 (d) An employer, labor organization, or joint labor-management committee
12 controlling apprenticeship or other training or retraining programs, including
13 on-the-job training programs, may not discriminate against any individual in
14 admission to, or employment in, any program established to provide apprenticeship or
15 other training or retraining because of the individual's race, color, religion, sex, age,
16 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability
17 unrelated in nature and extent so as to reasonably preclude the performance of the
18 employment.

19 (e) (1) Except as provided in paragraph (2) of this subsection, an
20 employer, labor organization, or employment agency may not print or cause to be
21 printed or published any notice or advertisement relating to employment by the
22 employer, membership in or any classification or referral for employment by the labor
23 organization, or any classification or referral for employment by the employment
24 agency that indicates any preference, limitation, specification, or discrimination based
25 on race, color, religion, sex, age, national origin, marital status, sexual orientation,
26 **GENDER IDENTITY**, or disability.

27 (2) A notice or advertisement may indicate a preference, limitation,
28 specification, or discrimination based on religion, sex, age, national origin, marital
29 status, or disability if religion, sex, age, national origin, marital status, or disability is
30 a bona fide occupational qualification for employment.

31 20-608.

32 An employer shall be immune from liability under this title or under the
33 common law arising out of reasonable acts taken by the employer to verify the sexual
34 orientation **OR GENDER IDENTITY** of any employee or applicant in response to a
35 charge filed against the employer on the basis of sexual orientation **OR GENDER**
36 **IDENTITY**.

37 20-702.

38 (a) It is the policy of the State:

1 (1) to provide for fair housing throughout the State to all, regardless of
2 race, color, religion, sex, familial status, national origin, marital status, sexual
3 orientation, **GENDER IDENTITY**, or disability; and

4 (2) to that end, to prohibit discriminatory practices with respect to
5 residential housing by any person, in order to protect and insure the peace, health,
6 safety, prosperity, and general welfare of all.

7 20–704.

8 (a) This subtitle does not apply to:

9 (2) with respect to discrimination on the basis of sex, sexual
10 orientation, **GENDER IDENTITY**, or marital status:

11 (i) the rental of rooms in any dwelling, if the owner maintains
12 the dwelling as the owner’s principal residence; or

13 (ii) the rental of any apartment in a dwelling that contains not
14 more than five rental units, if the owner maintains the dwelling as the owner’s
15 principal residence.

16 20–705.

17 Except as provided in §§ 20–703 and 20–704 of this subtitle, a person may not:

18 (1) refuse to sell or rent after the making of a bona fide offer, refuse to
19 negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to
20 any person because of race, color, religion, sex, disability, marital status, familial
21 status, sexual orientation, **GENDER IDENTITY**, or national origin;

22 (2) discriminate against any person in the terms, conditions, or
23 privileges of the sale or rental of a dwelling, or in the provision of services or facilities
24 in connection with the sale or rental of a dwelling, because of race, color, religion, sex,
25 disability, marital status, familial status, sexual orientation, **GENDER IDENTITY**, or
26 national origin;

27 (3) make, print, or publish, or cause to be made, printed, or published,
28 any notice, statement, or advertisement with respect to the sale or rental of a dwelling
29 that indicates any preference, limitation, or discrimination based on race, color,
30 religion, sex, disability, marital status, familial status, sexual orientation, **GENDER**
31 **IDENTITY**, or national origin, or an intention to make any preference, limitation, or
32 discrimination;

33 (4) represent to any person, because of race, color, religion, sex,
34 disability, marital status, familial status, sexual orientation, **GENDER IDENTITY**, or

1 national origin, that any dwelling is not available for inspection, sale, or rental when
2 the dwelling is available; or

3 (5) for profit, induce or attempt to induce any person to sell or rent
4 any dwelling by representations regarding the entry or prospective entry into the
5 neighborhood of a person of a particular race, color, religion, sex, disability, marital
6 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin.

7 20–707.

8 (b) (1) A person whose business includes engaging in residential real
9 estate–related transactions may not discriminate against any person in making
10 available a transaction, or in the terms or conditions of a transaction, because of race,
11 color, religion, sex, disability, marital status, familial status, sexual orientation,
12 **GENDER IDENTITY**, or national origin.

13 (2) Paragraph (1) of this subsection does not prohibit a person engaged
14 in the business of furnishing appraisals of real property from taking into consideration
15 factors other than race, color, religion, sex, disability, marital status, familial status,
16 sexual orientation, **GENDER IDENTITY**, or national origin.

17 (c) A person may not, because of race, color, religion, sex, disability, marital
18 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin:

19 (1) deny a person access to, or membership or participation in, a
20 multiple–listing service, real estate brokers’ organization, or other service,
21 organization, or facility relating to the business of selling or renting dwellings; or

22 (2) discriminate against a person in the terms or conditions of
23 membership or participation.

24 20–1103.

25 (b) Whether or not acting under color of law, a person may not, by force or
26 threat of force, willfully injure, intimidate, interfere with, or attempt to injure,
27 intimidate, or interfere with:

28 (1) any person because of race, color, religion, sex, disability, marital
29 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin and
30 because the person is or has been:

31 (i) selling, purchasing, renting, financing, occupying, or
32 contracting or negotiating for the sale, purchase, rental, financing, or occupation of
33 any dwelling; or

34 (ii) applying for or participating in any service, organization, or
35 facility relating to the business of selling or renting dwellings;

1 (2) any person because the person is or has been, or in order to
2 intimidate the person or any other person or any class of persons from:

3 (i) participating, without discrimination on account of race,
4 color, religion, sex, disability, marital status, familial status, sexual orientation,
5 **GENDER IDENTITY**, or national origin, in any of the activities, services, organizations,
6 or facilities described in item (1) of this subsection; or

7 (ii) affording another person or class of persons the opportunity
8 or protection to participate in any of the activities, services, organizations, or facilities
9 described in item (1) of this subsection; or

10 (3) any person because the person is or has been, or in order to
11 discourage the person or any other person from:

12 (i) lawfully aiding or encouraging other persons to participate,
13 without discrimination on account of race, color, religion, sex, disability, marital
14 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin, in
15 any of the activities, services, organizations, or facilities described in item (1) of this
16 subsection; or

17 (ii) participating lawfully in speech or peaceful assembly
18 opposing any denial of the opportunity to participate in any of the activities, services,
19 organizations, or facilities described in item (1) of this subsection.

20 **Article – State Personnel and Pensions**

21 2–302.

22 (a) The State recognizes and honors the value and dignity of every person
23 and understands the importance of providing employees and applicants for
24 employment with a fair opportunity to pursue their careers in an environment free of
25 discrimination or harassment prohibited by law.

26 (b) (1) Except as provided in paragraph (2) of this subsection or by other
27 law, all personnel actions concerning a State employee or applicant for employment in
28 State government shall be made without regard to:

29 (i) age;

30 (ii) ancestry;

31 (iii) color;

32 (iv) creed;

- 1 **(V) GENDER IDENTITY;**
2 **[(v)] (VI) marital status;**
3 **[(vi)] (VII) mental or physical disability;**
4 **[(vii)] (VIII) national origin;**
5 **[(viii)] (IX) race;**
6 **[(ix)] (X) religious affiliation, belief, or opinion; [or]**
7 **[(x)] (XI) sex; OR**
8 **(XII) SEXUAL ORIENTATION.**

9 (2) A personnel action may be taken with regard to age, sex, or
10 disability to the extent that age, sex, or physical or mental qualification is required by
11 law or is a bona fide occupational qualification.

12 (c) (1) Each State employee is expected to assume personal responsibility
13 and leadership in ensuring fair employment practices and equal employment
14 opportunity in Maryland State government.

15 (2) Employment discrimination and harassment by State managers,
16 supervisors, or other employees is prohibited.

17 (3) A State employee who violates this subtitle is subject to
18 disciplinary action by the employee's appointing authority, including the termination
19 of State employment.

20 (d) The Equal Employment Opportunity Program in Title 5, Subtitle 2 of this
21 article governs all employees of any unit in the Executive Branch of State government,
22 including a unit with an independent personnel system.

23 (e) (1) At least annually, the Secretary shall report on the Equal
24 Employment Opportunity Program established in § 5-202 of this article to the Joint
25 Committee on Fair Practices and State Personnel Oversight.

26 (2) The head of a personnel system in the Legislative and Judicial
27 branches may report periodically on equal employment opportunity programs and
28 policies in effect in that personnel system to the Joint Committee on Fair Practices
29 and State Personnel Oversight.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2010.