



Legislation Text

File #: 23-0378, Version: 0

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: Councilmember Burnett

A Bill Entitled

An Ordinance concerning

Unlawful Practices - Discrimination Based on Characteristics or Status

For the purpose of extending certain protections against discrimination to an individual regardless of the individual's HIV or AIDS status, other characteristics or status, or association with individuals with a particular characteristic or status; prohibiting the willful use of the incorrect name or pronouns of an individual under certain circumstances; requiring a certain notice be posted in certain facilities; and generally relating to discrimination based on an individual's protected status.

By repealing and re-ordaining, with amendments

Article 4 - Community Relations
Sections 3-1 to 3-5
Baltimore City Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 4. Community Relations

Subtitle 3. Unlawful Practices

§ 3-1. Employment.

Except where a particular occupation or position reasonably requires, as an essential qualification, the employment of a person or persons of or associated with a particular race, color, religion, national origin, ancestry, sex, age, marital status, physical or mental capability, sexual orientation, [or] gender identity or expression, or HIV or AIDS status and that qualification is not adopted as a means of circumventing the purpose of this article, it is an unlawful employment practice:

- (1) for any employer to discriminate against an individual with respect to hire, tenure, promotion, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment;
- (2) for any employer, employment agency, or labor organization to practice discrimination by denying or limiting through a quota system or otherwise, employment or membership opportunities to any group or individual;
- (3) for any employer, employment agency, or labor organization, before employing an individual or admitting an individual to membership, to:
 - (i) make any inquiry about or record of an applicant's race, color, religion, national origin, ancestry, marital status, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, except as authorized or ordered by the Commission;
 - (ii) use any form of application for employment or membership that contains questions or entries about race, color, religion, national origin, ancestry, marital status, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, except as authorized or ordered by the Commission; or
 - (iii) cause to be printed, published, or circulated any notice or advertisement relating to employment or membership that indicates any preference, limitation, specification, or discrimination based on race, color, religion, national origin, ancestry, sex, age, marital status, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status;
- (4) for any employment agency to practice discrimination by failing or refusing properly to classify an individual or to refer him for employment;
- (5) for any labor organization to discriminate against any individual by limiting, segregating, or classifying its membership in any way which would deprive or tend to deprive such individual of employment opportunities or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment or would affect adversely his wages, hours, or employment conditions;
- (6) for any labor organization or employers' association established for the purpose of training apprentice candidates, acting individually or jointly, to discriminate against any person with respect to admission or membership, or with respect to terms, conditions of employment or training, placement, or any other benefits;
- (7) for any employer, employment agency, or labor organization to discriminate against any individual because he has sought psychiatric help; or
- (8) for any employer, employment agency, or labor organization to willfully and repeatedly use an individual's incorrect name or pronouns after being clearly informed of the individual's correct name or pronouns, unless otherwise required by law.

§ 3-2. Public accommodations.

It is an unlawful practice for any person, including any owner, lessee, proprietor, superintendent, manager, agent, or employee of a place of public accommodation, resort, or amusement to:

- (1) discriminate against any person by directly or indirectly withholding from or denying to such person

any of the services, advantages, facilities, or privileges offered by such place of public accommodation, resort, or amusement;

- (2) discriminate against any person, in the setting of rates or charges for any of the services, advantages, facilities, or privileges offered by such place of public accommodation, resort, or amusement; [or]
- (3) communicate, publish, advertise, or represent:
 - (i) that any services, advantages, facilities, or privileges of that place of public accommodation, resort, or amusement will be refused, withheld, or denied to any person on account of race, color, religion, national origin, ancestry, sex, marital status, physical or mental disability, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status; or
 - (ii) that the patronage or custom of any person belonging to or purporting to be of any particular race, color, religion, national origin, ancestry, sex, marital status, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, or possessing any physical or mental disability, is unwelcome, objectionable, or not acceptable, desired, or solicited; or
- (4) willfully and repeatedly use an individual's incorrect name or pronouns after being clearly informed of the individual's correct name or pronouns, unless otherwise required by law.

§ 3-3. Education.

(a) *In general.*

It is an unlawful educational practice for any person, any educational institution, or any owner, superintendent, teacher, professor, manager, trustee, or officer of an educational institution to:

- (1) discriminate in admissions to such institutions or to restrict or limit the same by quota or otherwise;
- (2) discriminate in the admission of any student to any course or courses of study or programs offered by or in any such educational institution;
- (3) discriminate against any student with respect to any of the facilities of such institution otherwise afforded to students or available to students, whether or not such facilities or accommodations are on or off the campus or owned, rented, or leased for the benefit of students;
- (4) discriminate or promote discrimination by any organization officially recognized by such educational institution with respect to any extra-curricular activities, whether or not those activities take place on or off the campus of said educational institution; except that it shall not be considered to be discriminatory if such organizations restrict their membership or their activities to one sex or the other;
- (5) discriminate against any person in the establishment of rates, fees, or tuition for any service or program offered by such educational institution, or by any owner, superintendent, teacher, professor, manager, or officer thereof;
- (6) communicate, publish, advertise, or represent:
 - (i) that any of the courses, services, programs, facilities, lectures, affairs, or privileges are

withheld from or denied to any person on a discriminatory basis; or

- (ii) that any person is unwelcome, objectionable, or unacceptable because of race, color, religion, national origin, ancestry, sex, marital status, physical or mental disability, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status; [or]
- (7) discriminate in admissions to such institutions or in admission to any course or courses of study or programs offered by any educational institution because of a mental or physical disability of a student except where specific physical or mental skills may be reasonably required; or
- (8) willfully and repeatedly use an individual's incorrect name or pronouns after being clearly informed of the individual's correct name or pronouns, unless otherwise required by law.

(b) *Exemptions.*

This section is subject to the exemptions based upon religious principles provided in § 1-1(f) of this article.

§ 3-4. Health and welfare agencies.

(a) *In general.*

It is an unlawful practice for any health and welfare agency or any owner, supervisor, staff person, director, manager, or officer of a health and welfare agency to:

- (1) discriminate against any person by refusing, denying, or withholding from him any of the services, programs, benefits, facilities, or privileges of any health and welfare program or service;
- (2) discriminate against any person in the setting of rates or charges for any of the services, programs, benefits, facilities, or privileges of any such agency; or
- (3) communicate, publish, advertise, or represent:
 - (i) that any of the services, programs, benefits, facilities, or privileges of any health and welfare agency are withheld from or denied to any person on a discriminatory basis; or
 - (ii) that the patronage of any person is unwelcome, objectionable, or unacceptable because of race, color, religion, national origin, ancestry, sex, marital status, physical or mental disability, sexual orientation, [or] gender identity or expression, or HIV or AIDS status; or
- (4) based on an individual's sexual orientation, gender identity or expression, or HIV or AIDS status:
 - (i) deny admission to a facility, transfer or refuse to transfer the individual within a facility or to another facility, or discharge or evicts an individual from a facility;
 - (ii) deny a request by individuals to share a room in a facility;
 - (iii) if rooms are assigned by gender, assign, reassign, or refuse to assign a room to a transgender individual other than in accordance with the individual's gender identity,

unless at the individual's request;

- (iv) prohibit an individual from using, or harassing an individual who seeks to use or does use, a restroom available to other individuals of the same gender identity, regardless of whether the individual is making a gender transition or appears to be gender-nonconforming;
- (v) willfully and repeatedly use an individual's incorrect name or pronouns after being clearly informed of the individual's correct name or pronouns, unless otherwise required by law;
- (vi) deny an individual the right to wear or be dressed in clothing, accessories, or cosmetics that are allowed for any other individual;
- (vii) restrict an individual's right to associate with other individuals, including the right to consensual sexual relations, unless the restriction uniformly applies to all individuals in a nondiscriminatory manner;
- (viii) deny or restrict medical or nonmedical care; or
- (ix) provide medical or nonmedical care in a manner that, to a similarly situated reasonable individual, unduly demeans the individual's dignity or causes avoidable discomfort.

(b) *Notice requirement.*

(1) *In general.*

A facility must post prominently, and must include with any materials that describe the facility's nondiscrimination policies, a notice that:

- (i) meets the requirements of this subsection; and
- (ii) is in a form prescribed by the Director.

(2) *Contents.*

The notice required under this subsection must include:

- (i) a statement that the law prohibits discrimination, including bullying, abuse, or harassment, on the basis of:
 - (A) actual or perceived sexual orientation, gender identity, gender expression, or HIV or AIDS status; or
 - (B) an association with another individual on account of that individual's actual or perceived sexual orientation, gender identity, gender expression, or HIV or AIDS status; and
- (ii) information about filing a complaint with the Community Relations Commission.

§ 3-5. Housing.

(a) *In general.*

It is an unlawful discriminatory housing practice, because of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, physical or mental disability, sexual orientation, gender identity or expression, [or] source of income, or HIV or AIDS status, for any person having the right to sell, rent, lease, control, construct, or manage any dwelling constructed or to be constructed, or for any employee of such a person:

- (1) to refuse to negotiate for the sale or rental or to refuse to sell or rent or otherwise deny to or withhold any dwelling from any person;
- (2) to discriminate against any person in the terms, conditions, or privileges of the sale or rental of any dwelling or in the furnishing of facilities or services in connection therewith;
- (3) to refuse to receive or transmit a bona fide offer to purchase, rent, or lease any dwelling from any person;
- (4) to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination, or any intention to make any such preference, limitation, or discrimination;
- (5) to represent to any person that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- (6) to discriminate in allowing or disallowing a person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership, or participation;
- (7) to include in any transfer, sale, or rental of housing any restrictive covenant that discriminates;
- (8) to honor or exercise, or attempt to honor or exercise any discriminatory covenant pertaining to housing;
- (9) to refuse to consider 2 or more applicants' incomes when they seek to buy or rent a dwelling or dwelling unit;
- (10) to refuse to consider alimony or child support awarded by a court and received by an applicant as a valid source of income, when that source can be verified as to its amount, length of time received, and regularity of receipt;
- (11) to request or consider information about birth control practices in evaluating any prospective buyer or lessee of a dwelling;
- (12) to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a mental or physical disability of:
 - (i) that buyer or renter;
 - (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - (iii) any person associated with that buyer or renter; [or]

(13) to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a mental or physical disability of:

(i) that person;

(ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(iii) any person associated with that person; or

(14) to willfully and repeatedly use an individual's incorrect name or pronouns after being clearly informed of the individual's correct name or pronouns, unless otherwise required by law.

(a-1) *Source of income exception.*

(1) *Qualifying housing development defined.*

In this subsection, “qualifying housing development” means a development consisting of 5 or more contiguous rental dwelling units in which 20% or more of the dwelling units are rented to persons whose source of income is derived in whole or in part from housing assistance certificates or vouchers issued under the United States Housing Act of 1937.

(2) *Exception.*

The prohibitions in subsection (a) of this section, as they relate to source of income, do not apply to a qualifying housing development in Baltimore City.

(3) *Termination of subsection.*

The exception in this subsection automatically expires on June 30, 2023, unless the City Council, after causing an appropriate study to be undertaken, conducting public hearings, and hearing testimonial evidence, finds that the exception remains in the public interest, in which case this subsection may be extended for 4 more years.

(b) *Persons with disabilities.*

(1) For purposes of subsections (a)(12) and (a)(13), discrimination includes:

(i) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(ii) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(iii) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing

Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that:

- (A) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
- (B) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- (C) all premises within such dwellings contain the following features of adaptive design:
 - 1. an accessible route into and through the dwelling;
 - 2. light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - 3. reinforcements in bathroom walls to allow later installation of grab bars; and
 - 4. usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(2) As used in this subsection, the term “covered multifamily dwellings” means:

- (i) buildings consisting of 4 or more units if such buildings have 1 or more elevators; and
- (ii) ground floor units in other buildings consisting of 4 or more units.

(3) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(c) *Unlawful insuring practices.*

It is an unlawful insuring practice for any person to refuse to enter into or to discriminate in the terms, conditions, or privileges of a contract of insurance against hazards to a dwelling because of the race, color, religion, national origin, ancestry, sex, age, marital status, familial status, physical or mental disability, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, of any person owning, residing in, or residing in the vicinity of the dwelling.

(d) *Unlawful financing practices.*

It is an unlawful financial practice for any person:

- (1) to discriminate against any person because of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, physical or mental disability, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, in connection with an application for financial assistance for the purchase, construction, improvement, repair, or maintenance of a dwelling or for financial assistance secured by residential real estate, including but not limited to rates, terms, conditions, privileges, or other provisions of financial assistance or in the extension of related services;

- (2) to use a form of application for financial assistance for the purchase, construction, improvement, repair, or maintenance of a dwelling, or for financial assistance secured by residential real estate, or to make inquiry or keep a record in connection thereto which indicates, directly or indirectly, discrimination;
- (3) to discriminate by refusing to give full recognition to the income of each applicant, the total income and expenses of all applicants who become or are prepared to become joint obligors for the purchase of a dwelling;
- (4) to refuse to consider alimony or child support awarded by a court and received by an applicant as a valid source of income, when that source can be verified as to its amount, length of time received, and regularity of receipt; or
- (5) to discriminate in appraising the value of residential real property.

(e) *Unlawful representations.*

It is an unlawful practice for a person, for the purpose of inducing or discouraging a real estate transaction:

- (1) to represent that a change has occurred or will or may occur with respect to race, color, religion, national origin, ancestry, sex, age, marital status, physical or mental disability, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, in the composition of the owners or occupants in the block, neighborhood, or area in which the dwelling is located; or
- (2) to represent that a change with respect to race, color, religion, national origin, ancestry, sex, age, marital status, physical or mental disability, sexual orientation, [or] gender identity or expression, HIV or AIDS status, or association with an individual with a certain characteristic or status, in the composition of the owners or occupants in the block, neighborhood, or area in which the dwelling is located will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools.

(f) *Restrictive covenants declared void.*

- (1) Any restrictive covenant, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, is declared to be null, void, and of no effect, and contrary to public policy, as well as contrary to the Constitution and the laws of the United States.
- (2) Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant until the covenant has been deleted from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

(g) *Exemptions - single-sex housing.*

Nothing in this section shall be construed to bar any person from renting or advertising any dwelling for occupancy by a single sex, where the physical limitations or configuration of the housing facility, or considerations of personal privacy or personal safety, make it inappropriate for the facility to be occupied by persons of both sexes.

(h) *Exemptions - housing for older persons.*

- (1) Nothing in this section regarding familial status or age shall apply to housing for older persons.
- (2) As used in this section “housing for older persons” means housing:
 - (i) provided under any city, state, or federal program specifically designed and operated to assist elderly persons (as defined in the city, state, or federal program);
 - (ii) intended for, and occupied solely by, persons 62 years of age or older; or
 - (iii) intended and operated for occupancy by at least 1 person 55 years of age or older per unit.
- (3) For housing to qualify as housing for older persons, the following conditions are required:
 - (i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
 - (ii) that at least 80% of the units are occupied by at least 1 person 55 years of age or older per unit; and
 - (iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (4) Housing shall not fail to meet the requirements for housing for older persons by reason of:
 - (i) persons residing in such housing as of the date of enactment of this ordinance who do not meet the age requirements of paragraph (2)(ii) or (iii) of this subsection, provided that new occupants of such housing meet the age requirements of paragraph (2)(ii) or (iii) of this subsection; or
 - (ii) unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of paragraph (2)(ii) or (iii) of this subsection.

(i) *Exemptions - owner-occupied dwellings; religious institutions.*

Nothing in this section shall apply:

- (1) to the rental of a dwelling unit in a building which contains not more than 4 dwelling units, provided the owner resides in 1 of the units;
- (2) to the rental of not more than 2 rooming units in a dwelling unit by any person if the person resides in the dwelling unit; or
- (3) to a religious institution, or to an organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious corporation, association or society, to the extent that the religious corporation, association or society limits, or gives preference in the sale, lease, rental, assignment, or sublease of residential real property which it owns or operates for other than a commercial purpose, to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained; provided that membership in such religion is not restricted on account of race, color, or national origin.

(j) *Exemptions - governmental occupancy limits.*

Nothing in this section limits the applicability of local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(k) *Exemptions - persons convicted of certain drug offenses.*

Nothing in this section prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in § 102 of the Controlled Substances Act (21 U.S.C. 802) or a controlled dangerous substance as defined in § 277, Article 27 - Crimes and Punishments, Annotated Code of Maryland, 1987 Replacement Volume, as amended.

Section 2. And be it further ordained, That this Ordinance takes effect on the 30th day after the date it is enacted.