



SYNOPSIS

Committee: Public Safety and Government Operations

Bill: 23-0378

Unlawful Practices - Discrimination Based on Characteristics or Status

Sponsor: Councilmember Burnett

Introduced: May 1, 2023

Purpose: 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.

Effective: The 30th day after the date it is enacted.

AGENCY REPORTS

Office of Equity and Civil Rights	Favorable
City Solicitor	Favorable with Amendments
Department of Human Resources	No Objection/Defers to Solicitor
Department of Health	

ANALYSIS

Current Law

Baltimore City Code Article 4 (Community Relations) Subtitle 3 (Unlawful Practices) prohibits discrimination in employment, public accommodations, education, health and welfare agencies, and housing. Article 4 Subtitle 1 defines discrimination as different treatment of a person or individual based on:

- Race
- Color

- Religion
- National origin
- Ancestry
- Sex
- Age
- Marital status
- Physical or mental disability
- Sexual orientation
- Gender identity or expression

There is an additional prohibition for discriminating against sources of income under housing. The definition also notes that discrimination includes segregation. This definition does not expressly include discrimination based on association with an individual who has a particular characteristic or status.

The Baltimore City Code is generally aligned with Title 20 of the Maryland Code (Human Relations) which prohibits discrimination in housing, employment, leasing of commercial property by persons licensed or regulated by the Department of Labor, Licensing, and Regulation, in places of public accommodation, or by government units, officers, and employees.

Federal antidiscrimination law is based on several statutes. Including Title VII of the 1964 Civil Rights Act and the Fair Housing Act. These statutes have a prohibition on discrimination on the basis of sex – which has been interpreted in some cases to include sexual orientation, gender identity, or gender expression. Cases determining this are still under litigation in Federal Court.

Bill Summary

This Bill would amend Article 4 Subtitle 3 of the Baltimore City Code to extend some of the existing protections against discrimination to include discrimination based on HIV or AIDS status, other characteristics or status, or association with individuals with a particular characteristic or status. It would also prohibit willful and repeated use of incorrect names and pronouns after being clearly informed of an individual's correct name and pronouns in employment, public accommodation, education, health and welfare agency, and housing settings. In its current form, the bill does not alter the general definition of discrimination in Article 4 Subtitle 1 to include HIV or AIDS status or association with individuals with a particular characteristic or status.

The bill also provides that it is unlawful for health and welfare agencies¹, based on an individual's sexual orientation, gender identity or expression, or HIV or AIDS status, to:

- Deny admission to a facility, transfer or deny transfer within a facility or to another facility, or discharge or evict an individual.
- Deny a request by individuals to share a room in a facility.
- Refuse to assign a room aligning with a transgender person's gender identity or reassign them to a room contrary to their identity unless requested by the individual, if rooms are assigned by gender in the facility.
- Prohibit an individual from using a restroom conforming to their gender identity.
- Harass an individual because they have used a restroom conforming with their gender identity.
- Willfully and repeatedly use an individual's incorrect name or pronouns after they have been clearly informed of the correct name and pronouns.
- Deny an individual the right to wear or be dressed in clothing, accessories, or cosmetics that are allowed for any other individual.
- Restrict the right of an individual to associate with others – including consensual sexual relationships unless that restriction applies uniformly to all individuals in a non-discriminatory manner.
- Deny or restrict medical or nonmedical care.
- Provide medical care or nonmedical care in a manner that demeans an individual's dignity or causes avoidable discomfort.

This bill would also require health and welfare agencies to prominently post their nondiscrimination policy, supporting materials, and information about filing a complaint with the Community Relations Commission.

The notice posted must include a statement that the law prohibits discrimination, including bullying, abuse, or harassment, on the basis of:

- Actual or perceived sexual orientation.
- Gender identity.
- Gender expression.
- HIV or AIDS status.
- 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.

The Office of Equity and Civil Rights notes a disparity in who has AIDS & HIV – being disproportionately members of the BIPOC communities. Seventeen percent of people living with diagnosed HIV homelessness or unstable housing. The Office of Equity and Civil Rights also supports the correct use of a person's preferred pronouns – as the willful misuse of these pronouns can cause feelings of exclusion, marginalization, and emotional distress.

The City Solicitor's office favorably approves the bill with amendments (attached in the file with the report). The Solicitor's office notes several other entities such as the federal government and state government that have anti-discrimination statutes in place but notes that these are supplemental and not meant to keep the City from enacting its own ordinances.

ADDITIONAL INFORMATION

Fiscal Note: None

Information Source(s):

- Bill 23-0378
- Baltimore City Code Article 4 (Community Relations) Subtitle 3 (Unlawful Practices)
- Maryland Code Title 20 (Human Relations) Subtitles 2-7 & Subtitle 9.
- "Know your rights - LGBTQ Rights" American Civil Liberties Union (<https://www.aclu.org/know-your-rights/lgbtq-rights>)
- Title VII of the Civil Rights Act of 1964 –US Equal Employment Opportunity Commission
- HOUSING DISCRIMINATION UNDER THE FAIR HOUSING ACT – Department of Housing and Urban Development (https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview)

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