

Intracouncil: Nov. 7, 2011
Public hearing: Nov. 21, 2011
Council action: Dec. 5, 2011
Executive action: Dec. 6, 2011
Effective date: Feb. 5, 2012

County Council of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 12

Bill No. 54-2011

Introduced by: Council Members Calvin Ball, Mary Kay Sigaty, Jennifer Terrasa and Courtney Watson

AN ACT amending the Health and Social Services Title of the Howard County Code to include gender identity and expression as a classification protected against certain types of unlawful, discriminatory practices; and generally relating to the Human Rights law of Howard County.

Introduced and read first time November 7, 2011. Ordered posted and hearing scheduled.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on November 21, 2011.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator

This Bill was read the third time on December 5, 2011 and Passed , Passed with amendments _____, Failed _____.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ^{6th} day of Dec, 2011 at 3:00 a.m./p.m.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator

Approved by the County Executive Dec. 6th, 2011.

Ken Ulman
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; 'TEXT IN SMALL CAPITALS' indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the**
2 **Howard County Code is amended to read as follows:**

3

4 **By repealing and reenacting without amendment**

5 **Title 12. Health and Social Services**

6 **Subtitle 2. Human Rights**

7 **Section 12.200(I)**

8 **Section 12.210(II)**

9 **Section 12.210(III)**

10

11 **By amending**

12 **Title 12. Health and Social Services**

13 **Subtitle 2. Human Rights**

14 **Section 12.200 (II)**

15 **Section 12.207 (I)(a)**

16 **Section 12.208(I)(a)**

17 **Section 12.208(I)(d)**

18 **Section 12.209(I)(a)**

19 **Section 12.210(I)(a)**

20 **Section 12.210(I)(b)**

21 **Section 12.211 (I)(a)**

22 **By renumbering**

23 **Title 12. Health and Social Services**

24 **Subtitle. Human Rights**

25 **Sections 12.201 (IX)-(XVII)**

26 **By adding**

27 **Title 12. Health and Social Services**

28 **Subtitle. Human Rights**

29 **Section 12.201 (IX) "Gender identity or expression"**

30

31

1 Source of income, OR

2 GENDER IDENTITY OR EXPRESSION

3 are contrary to the public policy of Howard County.

4

5 **12.201. Definitions.**

6

7 IX. *GENDER IDENTITY OR EXPRESSION* MEANS A GENDER-RELATED IDENTITY OR APPEARANCE
8 OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S ASSIGNED SEX AT BIRTH.

9 ~~[[IX.]]~~ X. *Handicap* means with respect to an individual:

10 (a) A physical or mental impairment which substantially limits one or more of the
11 individual's major life activities; or

12 (b) A record of having such an impairment; or

13 (c) Being regarded as having such an impairment.

14 But the term "handicap" does not include current illegal use of or addiction to a controlled
15 dangerous substance as defined in section 102 of the Controlled Substance Act (21 U.S.C.
16 802).

17 ~~[[X.]]~~ XI. *Hearing* means an inquiry, forum, investigation or meeting conducted pursuant
18 to this subtitle. Hearings may be closed pursuant to the requirements of article 76 of the
19 Annotated Code of Maryland concerning meetings of public bodies.

20 ~~[[XI.]]~~ XII. *Occupation* means the lawful activity of one's life, regardless of income. It
21 includes but is not limited to students, welfare recipients or retired persons.

22 ~~[[XII.]]~~ XIII. *Office* means the Office of Human Rights established pursuant to this
23 subtitle.

24 ~~[[XIII.]]~~ XIV. *Person* means one or more individuals, corporations, partnerships,
25 associations, labor organizations, legal representatives, mutual companies, financial
26 institutions, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in
27 bankruptcy, agents, receivers or fiduciaries, the government of Howard County and its
28 agencies.

29 ~~[[XIV.]]~~ XV. *Personal appearance* means outward appearance of a person with regard to
30 hair style, facial hair, physical characteristics or manner of dress. It does not relate to a

1 requirement of cleanliness, uniforms or prescribed attire, when uniformly applied, for
2 admittance to a public accommodation or to a class of employees.

3 ~~[[XV.]]~~XVI. *Political opinion* means the opinions of persons relating to:

- 4 Government,
- 5 The conduct of government,
- 6 Political parties,
- 7 Candidates for election, or
- 8 Elected office-holders.

9 ~~[[XVI.]]~~XVII. *Respondent* means a person against who a complaint is filed pursuant to
10 section 12.207B or 12.212 or this subtitle. *Respondent* includes a person identified during
11 an investigation of a complaint and joined as an additional or substitute respondent.

12 ~~[[XVII.]]~~XVIII. *Sexual orientation* means the preference or practice of an individual
13 as to homosexuality, heterosexuality or bisexuality. This section is not intended to permit a
14 sexual practice prohibited by law.

15

16 **Sec. 12.207. - Unlawful housing practices.**

17 I. *Definitions.* Words and phrases used in this section have their usual meanings except
18 as defined below:

19 (a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying
20 any action regarding any person(s) because of:

- 21 Race,
- 22 Creed,
- 23 Religion,
- 24 Handicap,
- 25 Color,
- 26 Sex,
- 27 National origin,
- 28 Age,
- 29 Occupation,
- 30 Marital status,
- 31 Political opinion,

1 Sexual orientation,
2 Personal appearance,
3 Familial status, [[or]]
4 Source of income, OR

5 GENDER IDENTITY OR EXPRESSION

6 in such a way that such person(s) are adversely affected in the area of housing.

7

8 **Sec. 12.208. - Unlawful employment practices.**

9 I. *Definitions.* Words and phrases used in this section have their usual meanings except
10 as defined below:

11 (a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying
12 any action regarding any person because of:

13 Race,
14 Creed,
15 Religion,
16 Handicap,
17 Color,
18 Sex,
19 National origin,
20 Age,
21 Occupation,
22 Marital status,
23 Political opinion,
24 Sexual orientation,
25 Personal appearance, [[or]]
26 Familial status, OR

27 GENDER IDENTITY OR EXPRESSION

28 in such a way that such person(s) are adversely affected in the area of employment.

29 DISCRIMINATION DOES NOT INCLUDE PROVIDING SERVICES OR ACCOMMODATIONS TO
30 EMPLOYEES THAT ARE DISTINCTLY PERSONAL OR PRIVATE IN NATURE.

31

1 (d) *Preferential treatment:*

2 (1) No employer, employment agency, labor organization or joint labor management
3 committee may be required to grant preferential treatment to any person(s) because of
4 any unbalance, compared to the general public, in the percentage or total number of
5 people with the following characteristics employed, referred for employment,
6 classified, admitted for membership or admitted to apprenticeship or training
7 programs:

8 Race,

9 Creed,

10 Religion,

11 Handicap,

12 Color,

13 Sex,

14 National origin,

15 Age,

16 Occupation,

17 Marital status,

18 Political opinion,

19 Sexual orientation,

20 Personal appearance, [[or]]

21 Familial status[[]], OR

22 GENDER IDENTITY OR EXPRESSION.

23
24 **Sec. 12.209. - Unlawful law enforcement practices.**

25 I. *Definitions.* Words and phrases used in this section shall have their usual meanings
26 except as defined below:

27 (a) *Discrimination/discriminatory* means acting or failing to act, or unduly delaying
28 any action regarding any person(s) because of:

29 Race,

30 Creed,

31 Religion,

1 Handicap,
2 Color,
3 Sex,
4 National origin,
5 Age,
6 Occupation,
7 Marital status,
8 Political opinion,
9 Sexual orientation,
10 Personal appearance, [[or]]
11 Familial status, OR
12 GENDER IDENTITY OR EXPRESSION

13 in such a way that the person(s) are adversely affected in the area of law enforcement.

14

15 **Sec. 12.210. - Unlawful public accommodations practices.**

16 I. *Definitions.* Words and phrases used in this section shall have their usual meanings,
17 except as defined below:

18 (a) *Discrimination/discriminatory* means acting, or failing to act or unduly delaying
19 any action regarding any person(s) because of:

20 Race,
21 Creed,
22 Religion,
23 Handicap,
24 Color,
25 Sex,
26 National origin,
27 Age,
28 Occupation,
29 Marital status,
30 Political opinion,
31 Sexual orientation,

1 Personal appearance, [[or]]
2 Familial status, OR
3 GENDER IDENTITY OR EXPRESSION

4 in such a way that the person(s) are adversely affected in the area of public
5 accommodations.

6 (b) *Public accommodations* means any place which holds itself out as inviting the
7 public to utilize its goods and services, whether or not for profit. PUBLIC
8 ACCOMMODATIONS DOES NOT INCLUDE ACCOMMODATIONS THAT ARE DISTINCTLY
9 PRIVATE OR PERSONAL.

10 II. *Unlawful practices* means it shall be unlawful if, because of discrimination, an owner
11 or operator (or his/her agent) of public accommodations denies any person any of the
12 accommodations, advantages, facilities or privileges of such public accommodations.

13 III. *Exemptions.* This section shall not apply to:

14 (a) Those portions of a private club or similar establishment which is not in fact
15 open to the general public, except to the extent that the facilities of such
16 establishments are made available to the customers or patrons of an establishment
17 within the scope of this section.

18 (b) Owner occupied establishments containing less than two rental rooms or
19 apartments.

20 **Sec. 12.211. - Unlawful financing practices.**

21 I. *Definitions.* Words and phrases used in this section shall have their usual meanings
22 except as defined below:

23 (a) *Discrimination/discriminatory* means acting or failing to act or unduly delaying
24 any action regarding any persons because of:

- 25 Race,
- 26 Creed,
- 27 Religion,
- 28 Handicap,
- 29 Color,

1 Sex,
2 National origin,
3 Age,
4 Occupation,
5 Marital status,
6 Political opinion,
7 Sexual orientation,
8 Personal appearance, [[or]]
9 Familial status, OR
10 GENDER IDENTITY OR EXPRESSION
11 in such a way that such person or persons are adversely affected in the area of financing.
12
13 ***Section 2. And Be It Further Enacted by the County Council of Howard County,***
14 ***Maryland, that this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 6, 2011.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2011.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2011.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2011.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2011.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2011.

Stephen M. LeGendre, Administrator to the County Council