

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2024 Legislative Session

Legislative Day No. 1

Bill No. 3 -2024

Introduced by: The Chairperson at the request of the County Executive

AN ACT imposing a cap on the amount of damages that can be awarded to a person aggrieved by a prohibited employment action; and generally relating causes of action and the award of civil remedies.

Introduced and read first time _____, 2024. Ordered posted and hearing scheduled.

By order _____
Michelle Harrod, 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 _____, 2024.

By order _____
Michelle Harrod, Administrator

This Bill was read the third time on _____, 2024 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2024 at ___ a.m./p.m.

By order _____
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2024

Calvin Ball, 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 following provisions of the Howard County Code are amended:

3

4 *Title 12. Health and Social Services.*

5 *Section 12.212. “Unfair employment practices, unfair public accommodation*
6 *practices, unfair law enforcement practices, unfair financing practices—*
7 *Complaint, investigation, conciliation, decision and order, administrative*
8 *hearing, subpoena power and enforcement.”*

9

10 *Title 12. Health and Social Services .*

11 *Section 12.217 “Nonexclusive remedy”*

12

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

14 **Subtitle 2. Human Rights.**

15

16 **Section 12.212. - Unfair employment practices, unfair public accommodation**
17 **practices, unfair law enforcement practices, unfair financing practices—Complaint,**
18 **investigation, conciliation, decision and order, administrative hearing, subpoena**
19 **power and enforcement.**

20 I. *Complaint:*

21 (a) *Right to file.* Any person claiming to be aggrieved by an alleged unlawful act in
22 violation of this subtitle may file a complaint within the following time period:

23 (1) For alleged unfair employment practices, a complaint shall be filed within 300
24 days after the alleged violation has occurred or has been discovered by the
25 complainant; or

26 (2) For alleged unfair public accommodation practices, unfair law enforcement
27 practices, or unfair financing practices, a complaint shall be filed within six
28 months after the alleged violation has occurred or has been discovered by the
29 complainant.

30 (b) *Form of complaint.* All complaints shall be filed in writing, under oath, and shall
31 be upon a form provided by the Office.

- 1 (c) *Where to file.* Complaints shall be filed with the Office.
- 2 (d) *Content of complaint.* The complaint shall state the name and address of the
3 complainant and the respondent and other pertinent information as required by the
4 Administrator.
- 5 (e) *Amendment of complaint.* The complainant may reasonably amend the complaint
6 at any time after it is filed.
- 7 (f) *Withdrawal of complaint.* The complainant may withdraw the complaint at any
8 time by filing written notice with the Office.

9 II. *Settlement.* The parties may settle the complaint at any time.

10 III. *Investigation, Determination and Conciliation:*

11 (a) *Consideration of complaint:*

- 12 (1) The Administrator shall consider all complaints filed.
- 13 (2) Within 15 days of the filing of a complaint, the Administrator shall determine
14 through analysis of law and preliminary investigation if the facts alleged are
15 sufficient to establish that a violation of this subtitle may have occurred. The
16 Administrator may contact the respondent in this determination.

17 (b) *Dismissal of complaint:*

- 18 (1) If the Administrator determines that the facts alleged are insufficient to
19 establish that a violation of this subtitle may have occurred, the Administrator
20 shall dismiss the complaint.
- 21 (2) If the complaint is dismissed, the Administrator shall send a dismissal letter
22 by certified mail to the complainant stating the fact of dismissal, the reasons
23 for dismissal and the process for the complainant to seek reconsideration of
24 the Administrator's decision by the Human Rights Commission. The
25 Administrator shall send a copy of the dismissal letter by certified mail to the
26 respondent.
- 27 (3) If the complainant seeks reconsideration of the Administrator's dismissal of
28 the complaint, the complainant must send a letter to the Chairperson of the
29 Human Rights Commission within 15 days of receipt of the dismissal letter
30 stating the reasons the complainant disagrees with the dismissal of the
31 complaint.

1 (4) Within 15 days of the reconsideration request, the Chairperson of the
2 Commission shall schedule a meeting with the complainant. The Commission
3 shall send written notification of the date, place, and time of the meeting to the
4 Complainant by certified mail. At least two other Commissioners shall be
5 present at the meeting in addition to the Administrator and the Commission's
6 legal advisor.

7 a. If the Chairperson and the Commissioners determine that the complaint
8 should be investigated, the Chairperson shall so state in a letter to the
9 Administrator with a copy to the complainant. The Administrator shall
10 proceed with an investigation of the complaint.

11 b. If the Chairperson and the Commissioners determine that the complaint
12 should be dismissed, the Chairperson shall so state in a letter sent by
13 certified mail to the complainant with a copy to the Administrator.

14 (5) If the Commission dismisses the complaint, and the complainant wishes to
15 pursue the matter, the complainant may bring a suit seeking a declaratory
16 judgment in the Circuit Court for Howard County.

17 (c) *Authorization of complaint for investigation.* If the Administrator determines that
18 the facts alleged are sufficient to establish that a violation of this subtitle may
19 have occurred, the Administrator shall authorize the complaint for investigation.

20 (d) *Determination after investigation.* Within 180 days of the authorization of a
21 complaint for investigation, the Administrator shall issue written findings of the
22 results of the investigation which shall state whether or not there is reasonable
23 cause to believe that a violation of this subtitle may have occurred. Due to exigent
24 circumstances, the time period may be extended for an additional 180 days at the
25 discretion of the Administrator. The findings shall:

26 (1) Summarize the factual background of the case.

27 (2) Contain the basis for the finding of reasonable cause or no reasonable cause.

28 (3) Outline the next appropriate steps as provided in subsections 12.212III(e) and
29 (f) of this subtitle.

30 (4) Be sent by certified mail to all parties.

31 (e) *Findings of reasonable cause and conciliation:*

- 1 (1) Within 30 days of a finding of reasonable cause to believe that a violation of
2 this subtitle may have occurred, the Administrator shall attempt to rectify the
3 violation by conference, conciliation and persuasion.
- 4 (2) Any conciliation agreement for elimination of the violation shall be reduced to
5 a legally enforceable written instrument signed by the complainant,
6 respondent and the Administrator or their authorized representatives.
- 7 (3) If no conciliation agreement is reached, the Administrator shall notify all
8 parties by certified mail of the failure to conciliate and shall refer the matter to
9 the Commission for a public administrative hearing under the provisions of
10 subsection IV. below.
- 11 (f) *Findings of no reasonable cause.* With the finding of no reasonable cause to
12 believe that a violation of this subtitle may have occurred, the Administrator will
13 issue a decision and order:
- 14 (1) Advising the parties of their right, within 20 days of the finding, to request an
15 administrative appeal hearing before the Commission;
- 16 (2) Detailing the method for requesting the hearing; and
- 17 (3) Requiring any prospective appellant to list the reasons for appeal.

18 IV. *Administrative Hearings:*

- 19 (a) *Failure to conciliate.* The Human Rights Commission shall hold an administrative
20 hearing in case of failure to reach an agreement for the rectification of violations
21 under subsection 12.212III(e) above.
- 22 (b) *After issuance of finding of no reasonable cause.* The Commission may hold an
23 administrative hearing upon the request of any party if the Administrator has
24 issued a finding of no reasonable cause.
- 25 (c) *Certification of file, transmittal of documents.* The Administrator shall certify the
26 entire file and his/her finding and transmit the documents to the Commission.
- 27 (d) *Distribution of complaint.* The Chairperson of the Commission shall send all
28 parties a copy of the complaint requiring the respondent to answer the charges at a
29 public hearing.
- 30 (e) *Notice.* The Chairperson shall issue and serve on all parties a notice, by certified
31 mail, giving the time and place of the public hearing before the Commission.

- 1 (f) *Rules and procedure.* The Commission shall conduct the hearing in accordance
2 with its rules of procedure and applicable law. All hearings are de novo.
- 3 (g) *Oaths, subpoenas.* In the administration and enforcement of its duties, the
4 Commission may administer oaths and issue subpoenas using the same standards
5 and procedures as in subsection VI. of this section.
- 6 (h) *Consideration of evidence; purpose.* The Commission shall consider all evidence
7 to determine whether the respondent has engaged in act(s) which violate the
8 provisions of this subtitle.
- 9 (i) *Dismissal—Decision and order.* If the Commission finds that the respondent has
10 not engaged in acts which violate the provisions of this subtitle, it shall issue a
11 written decision and order, stating its findings of fact and ordering the dismissal
12 of the complaint. The Commission shall serve each party with the decision and
13 order.
- 14 (j) *Violations; decision and order; appropriate action.* If the Commission finds that
15 the respondent has engaged in acts which violate the provisions of this subtitle, it
16 shall issue a written decision and order stating its findings, ordering the
17 respondent to cease and desist from the act(s) and ordering appropriate action to
18 carry out the purposes of this subtitle. The Commission shall serve each party
19 with the decision and order.
- 20 (1) *Affirmative action.* SUBJECT TO THE LIMIT SET FORTH IN SECTION 12.217III OF
21 THIS SUBTITLE REGARDING UNFAIR EMPLOYMENT PRACTICES, THE [[The]]
22 affirmative action ordered by the Commission may include, but is not limited
23 to:
- 24 (i) Reinstatement or hiring of employees.
- 25 (ii) Back pay (payable by the employer, employment agency or labor
26 organization responsible for the unlawful employment practice). The
27 claimant's interim earnings (or amounts earnable with reasonable diligence)
28 shall operate to reduce monetary relief otherwise allowable.
- 29 (iii) Reasonable and customary attorney's fees.
- 30 (iv) Nonmonetary relief.
- 31 (v) Any other equitable relief that is deemed appropriate.

1 V. *Appeal*:

2 (a) *Right to appeal*. Within 30 days of the Commission's issuance of a decision and
3 order, any party to the proceeding may appeal the decision and order to the
4 Circuit Court of Howard County.

5 (b) *Procedure*. Appeals shall be in accordance with the Maryland Rules of Procedure
6 providing for appeals from administrative agencies.

7 (c) *Legal representation*. The Commission shall be a party to all appeals and shall be
8 represented at any such hearing by the County Office of Law.

9 VI. *Oaths and Subpoena Powers*:

10 (a) *Administrator*. In the administration and enforcement of any of the provisions of
11 this subtitle, the Administrator may administer oaths and issue subpoenas to
12 compel:

13 The attendance and testimony of witnesses, and

14 The production of records and documents relevant and necessary for proceedings
15 under this subtitle.

16 (b) *Service of subpoena*. Any subpoena shall be forwarded for service to the sheriff or
17 deputy sheriff of the political subdivision in which is located the residence of the
18 person or the main office of the firm, association, partnership or corporation to
19 whom the subpoena is issued.

20 (c) *Enforcement of subpoena*. In case of disobedience to the subpoena, the
21 Administrator, represented by the Office of Law, shall apply to a court of
22 competent jurisdiction for an order to enforce the subpoena.

23 VII. *Injunctive Relief*:

24 (a) *Civil action*. If, after the filing of a complaint, the Administrator reasonably
25 believes that civil action to preserve the status quo or to prevent irreparable harm
26 is advisable, the Administrator may bring any action necessary to preserve the
27 status quo or to prevent the irreparable harm.

28 (b) *Legal representation*. The Administrator shall be represented by the Office of
29 Law.

1 (c) *Circuit Court for Howard County*. Any action, including but not limited to an
2 action to obtain temporary injunctive relief, shall be brought in the Circuit Court
3 for Howard County.

4 VIII. *Enforcement*. If any respondent refuses to comply with a decision and order of the
5 Commission, the Commission may bring an action in the Circuit Court for Howard
6 County to enforce compliance with the decision and order.

7
8 **Section 12.217. Nonexclusive remedy.**

9 I. *Rights*. The provisions of this subtitle vest in all persons in Howard County the right
10 to be free of any practices prohibited by this subtitle.

11 II. *Action at Law*. Any person who is aggrieved by an act prohibited by this subtitle
12 may bring an action in law or in equity in the Circuit Court for Howard County to
13 seek damages, including counsel fees, redress of injury or injunctive relief arising
14 out of any such prohibited act.

15 III. *LIMIT ON DAMAGES FOR UNLAWFUL EMPLOYMENT PRACTICES*. THE SUM OF THE AMOUNT
16 OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT AGGRIEVED BY AN
17 UNLAWFUL EMPLOYMENT PRACTICE PROHIBITED BY SECTION 12.208 OF THIS SUBTITLE
18 FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE,
19 MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, OR NONPECUNIARY LOSSES, MAY NOT
20 EXCEED:

21 (A) \$50,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN
22 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR
23 PRECEDING CALENDAR YEAR;

24 (B) \$100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE
25 THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT
26 OR PRECEDING CALENDAR YEAR;

27 (C) \$200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE
28 THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT
29 OR PRECEDING CALENDAR YEAR; AND

1 (D) \$300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH
2 OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR
3 YEAR.

4 ~~[[III]]~~ IV. *Termination of Administrative Process.* If the aggrieved person brings an
5 action before the Circuit Court of Howard County or any other court of competent
6 jurisdiction, in a matter which is pending before the Office or the Commission, the
7 Office or Commission shall close the case and cease all proceedings on the matter.

8

9 ***Section 3. And Be It Further Enacted by the County Council of Howard County,***
10 ***Maryland, that this Act shall become effective 61 days after its enactment.***