

HOUSE BILL 1120

D5, J3, J2

0lr3236
CF SB 738

By: **Delegate Kelly**

Introduced and read first time: February 6, 2020

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2020

CHAPTER _____

1 AN ACT concerning

2 **Health Care Providers and Health Benefit Plans – Discrimination in Provision**
3 **of Services**

4 FOR the purpose of ~~altering the actions with regard to which hospitals and related~~
5 ~~institutions are prohibited from discriminating against individuals on certain bases;~~
6 providing that the Secretary of Health or certain units of the Maryland Department
7 of Health have exclusive jurisdiction to enforce certain laws by certain action;
8 establishing that the Commission on Civil Rights and the Secretary or certain units
9 have concurrent jurisdiction over certain discrimination; authorizing the
10 Commission to take certain action when the Secretary or certain units have exclusive
11 jurisdiction; requiring the Secretary or certain units to notify the Commission of
12 certain hearings; requiring the Secretary or certain units to give the Commission
13 certain information regarding certain complaints under certain circumstances;
14 requiring the Secretary or certain units and the Commission to set certain
15 guidelines; altering the characteristics of an individual on the basis of which
16 hospitals and related institutions are prohibited from discriminating against the
17 individual in certain actions; providing that certain provisions of this Act do not
18 prohibit certain persons, hospitals, and related institutions from refusing,
19 withholding from, or denying any person services for certain reasons except under
20 certain circumstances; prohibiting certain persons licensed or regulated by certain
21 units in the Maryland Department of Health from refusing, withholding from, or
22 denying any person certain services on certain bases; ~~prohibiting certain persons~~
23 ~~that have a certificate of authority from the Maryland Insurance Administration~~
24 ~~from refusing, withholding from, or denying any person certain services on certain~~
25 ~~bases;~~ stating the policy of the State; defining certain terms; ~~altering a certain~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~definition, and generally relating to prohibiting discrimination by health care providers and persons providing health benefit plans.~~

BY adding to

Article – Health – General

Section 2–1001 through 2–1004 to be under the new subtitle “Subtitle 10. Prohibition on Discrimination”

Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–355

Annotated Code of Maryland
(2019 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – State Government~~

~~Section 20–101~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2019 Supplement)~~

~~BY adding to~~

~~Article – State Government~~

~~Section 20–4A–01 through 20–4A–03 to be under the new subtitle “Subtitle 4A:~~

~~Discrimination by Persons Licensed or Regulated by Maryland Department of~~

~~Health or Maryland Insurance Administration”~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2019 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Health – General

SUBTITLE 10. PROHIBITION ON DISCRIMINATION.

2–1001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COMMISSION” MEANS THE COMMISSION ON CIVIL RIGHTS.

(C) “GENDER IDENTITY” HAS THE MEANING STATED IN § 20–101 OF THE STATE GOVERNMENT ARTICLE.

1 **(D) "SEXUAL ORIENTATION" HAS THE MEANING STATED IN § 20-101 OF THE**
2 **STATE GOVERNMENT ARTICLE.**

3 **(E) "UNIT OF THE DEPARTMENT" MEANS A UNIT DESCRIBED UNDER §**
4 **2-106 OF THIS TITLE.**

5 **2-1002.**

6 **IT IS THE POLICY OF THE STATE TO:**

7 **(1) PROVIDE AFFORDABLE HEALTH CARE THROUGHOUT THE STATE**
8 **TO ALL REGARDLESS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**
9 **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY; AND**

10 **(2) PROHIBIT DISCRIMINATION WITH RESPECT TO THE PROVISION OF**
11 **HEALTH CARE BY ANY PERSON, IN ORDER TO PROTECT AND ENSURE THE PEACE,**
12 **HEALTH, SAFETY, PROSPERITY, AND GENERAL WELFARE OF ALL.**

13 **2-1003.**

14 **(A) (1) NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS PROVIDED**
15 **IN PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY OR A UNIT OF THE**
16 **DEPARTMENT HAS EXCLUSIVE JURISDICTION TO ENFORCE BY ADMINISTRATIVE**
17 **ACTION THE LAWS OF THE STATE AS PROVIDED FOR UNDER THIS ARTICLE AND THE**
18 **HEALTH OCCUPATIONS ARTICLE.**

19 **(2) THE COMMISSION ON CIVIL RIGHTS HAS CONCURRENT**
20 **JURISDICTION WITH THE SECRETARY OR A UNIT OF THE DEPARTMENT OVER**
21 **ALLEGED DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, SEX, AGE,**
22 **NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR**
23 **DISABILITY.**

24 **(B) WHEN THE SECRETARY OR A UNIT OF THE DEPARTMENT HAS**
25 **EXCLUSIVE JURISDICTION UNDER SUBSECTION (A) OF THIS SECTION, THE**
26 **COMMISSION MAY:**

27 **(1) REFER COMPLAINTS ABOUT DISCRIMINATORY PRACTICES TO THE**
28 **SECRETARY OR THE UNIT OF THE DEPARTMENT;**

29 **(2) APPEAR BEFORE THE SECRETARY OR THE UNIT OF THE**
30 **DEPARTMENT AS A PARTY AT A HEARING ABOUT DISCRIMINATORY PRACTICES;**

1 (3) MAKE RECOMMENDATIONS ABOUT DISCRIMINATORY PRACTICES
2 TO THE SECRETARY OR THE UNIT OF THE DEPARTMENT;

3 (4) REPRESENT A COMPLAINANT IN A PROCEEDING AUTHORIZED
4 UNDER THIS ARTICLE OR THE HEALTH OCCUPATIONS ARTICLE THAT IS RELATED
5 TO DISCRIMINATORY PRACTICES; OR

6 (5) APPEAL AS A PARTY AGGRIEVED BY AN ORDER OR DECISION OF
7 THE SECRETARY OR THE UNIT OF THE DEPARTMENT IN A PROCEEDING
8 AUTHORIZED UNDER THIS ARTICLE OR THE HEALTH OCCUPATIONS ARTICLE THAT
9 IS RELATED TO DISCRIMINATORY PRACTICES.

10 (C) THE SECRETARY OR A UNIT OF THE DEPARTMENT SHALL NOTIFY THE
11 COMMISSION OF ANY HEARING SCHEDULED ON A COMPLAINT ABOUT ALLEGED
12 DISCRIMINATORY PRACTICES.

13 (D) ON REQUEST OF THE COMMISSION AND UNLESS THE COMPLAINANT
14 OBJECTS, THE SECRETARY OR A UNIT OF THE DEPARTMENT SHALL GIVE THE
15 COMMISSION ALL INFORMATION REGARDING ANY COMPLAINT ALLEGING
16 DISCRIMINATORY PRACTICES RECEIVED BY THE SECRETARY OR UNIT OF THE
17 DEPARTMENT.

18 (E) THE SECRETARY OR A UNIT OF THE DEPARTMENT AND THE
19 COMMISSION SHALL SET GUIDELINES FOR DETERMINING WHEN ALLEGATIONS OF
20 DISCRIMINATORY PRACTICES IN A COMPLAINT ARE SUFFICIENT TO WARRANT A
21 HEARING.

22 2-1004.

23 (A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS LICENSED OR
24 OTHERWISE REGULATED BY THE DEPARTMENT OR A UNIT OF THE DEPARTMENT
25 FROM REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR
26 FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS,
27 AND REGULATIONS IMPOSED BY THE LICENSED OR REGULATED PERSON, UNLESS
28 THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE
29 GROUND OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL
30 STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.

31 (B) A PERSON THAT IS LICENSED OR OTHERWISE REGULATED BY THE
32 DEPARTMENT OR A UNIT IN THE DEPARTMENT MAY NOT DISCRIMINATE AGAINST
33 ANY PERSON BECAUSE OF THE PERSON'S RACE, COLOR, RELIGION, SEX, AGE,
34 NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR
35 DISABILITY.

19-355.

(a) IN THIS SECTION, “GENDER IDENTITY” AND “SEXUAL ORIENTATION” HAVE THE MEANINGS STATED IN § 20-101 OF THE STATE GOVERNMENT ARTICLE.

(B) THIS SECTION DOES NOT PROHIBIT A HOSPITAL OR RELATED INSTITUTION THAT IS LICENSED OR OTHERWISE REGULATED BY THE DEPARTMENT OR A UNIT OF THE DEPARTMENT FROM REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED BY THE LICENSED OR REGULATED HOSPITAL OR RELATED INSTITUTION, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.

~~(B) (C)~~ A hospital or related institution may not ~~REFUSE, WITHHOLD FROM, OR DENY TO ANY INDIVIDUAL MEDICAL SERVICES OR OTHERWISE~~ discriminate [in providing personal care for an] AGAINST ANY individual WITH RESPECT TO THE INDIVIDUAL’S MEDICAL CARE because of the race, color, RELIGION, SEX, AGE, [or] national origin, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, ~~GENETIC INFORMATION, OR DISABILITY~~ of the individual.

~~[(b)] (C) (D)~~ The Commission on Civil Rights shall enforce this section as provided in Title 20 of the State Government Article.

~~Article State Government~~

~~20-101.~~

~~(a) In Subtitles 1 through 11 of this title the following words have the meanings indicated.~~

~~(b) “Commission” means the Commission on Civil Rights.~~

~~(c) “Complainant” means a person that files a complaint alleging a discriminatory act under this title.~~

~~(d) “Discriminatory act” means an act prohibited under:~~

~~(1) Subtitle 3 of this title (Discrimination in Places of Public Accommodation);~~

~~(2) Subtitle 4 of this title (Discrimination by Persons Licensed or Regulated by Maryland Department of Labor);~~

~~(3) SUBTITLE 4A OF THIS TITLE (DISCRIMINATION BY PERSONS
LICENSED OR REGULATED BY MARYLAND DEPARTMENT OF HEALTH OR
MARYLAND INSURANCE ADMINISTRATION);~~

~~(4) Subtitle 5 of this title (Discrimination in Leasing of Commercial
Property);~~

~~[(4)] (5) Subtitle 6 of this title (Discrimination in Employment);~~

~~[(5)] (6) Subtitle 7 of this title (Discrimination in Housing); or~~

~~[(6)] (7) Subtitle 8 of this title (Aiding, Abetting, or Attempting
Discriminatory Act; Obstructing Compliance).~~

~~(e) "Gender identity" means the gender-related identity, appearance, expression,
or behavior of a person, regardless of the person's assigned sex at birth, which may be
demonstrated by:~~

~~(1) consistent and uniform assertion of the person's gender identity; or~~

~~(2) any other evidence that the gender identity is sincerely held as part of
the person's core identity.~~

~~(f) (1) "Respondent" means a person accused in a complaint of a
discriminatory act.~~

~~(2) "Respondent" includes a person identified during an investigation of a
complaint and joined as an additional or substitute respondent.~~

~~(g) "Sexual orientation" means the identification of an individual as to male or
female homosexuality, heterosexuality, or bisexuality.~~

~~**SUBTITLE 4A. DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY
MARYLAND DEPARTMENT OF HEALTH OR MARYLAND INSURANCE
ADMINISTRATION.**~~

~~**20 4A 01.**~~

~~**IT IS THE POLICY OF THE STATE TO:**~~

~~**(1) PROVIDE AFFORDABLE HEALTH CARE THROUGHOUT THE STATE
TO ALL REGARDLESS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,
MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC
INFORMATION, OR DISABILITY; AND**~~

~~(2) PROHIBIT DISCRIMINATION WITH RESPECT TO THE PROVISION OF HEALTH CARE BY ANY PERSON, IN ORDER TO PROTECT AND ENSURE THE PEACE, HEALTH, SAFETY, PROSPERITY, AND GENERAL WELFARE OF ALL.~~

~~20-4A-02.~~

~~(A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS LICENSED OR OTHERWISE REGULATED BY THE MARYLAND DEPARTMENT OF HEALTH FROM REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED BY THE LICENSED OR REGULATED PERSON, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.~~

~~(B) A PERSON THAT IS LICENSED OR OTHERWISE REGULATED BY A UNIT IN THE MARYLAND DEPARTMENT OF HEALTH DESCRIBED UNDER § 2-106 OF THE HEALTH GENERAL ARTICLE MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY PERSON ANY SERVICES OF THE LICENSED OR REGULATED PERSON OR OTHERWISE DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.~~

~~20-4A-03.~~

~~(A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS REGULATED BY THE MARYLAND INSURANCE ADMINISTRATION FROM REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED BY THE REGULATED PERSON, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.~~

~~(B) A PERSON, INCLUDING A HEALTH MAINTENANCE ORGANIZATION, THAT PROVIDES HEALTH BENEFIT PLANS AND HAS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE ADMINISTRATION MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY PERSON ANY SERVICES OF THE PERSON OR OTHERWISE DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.