

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2012, Legislative Day No. 2

Bill No. 3-12

Councilmembers Quirk, Almond, Bevins & Oliver

By the County Council, January 17, 2012

A BILL
ENTITLED

AN ACT concerning

Human Relations

FOR the purpose of prohibiting discrimination against a person in certain matters on the basis of a person's sexual orientation or gender identity or expression; providing for certain exceptions; defining terms; and generally relating to discrimination on the basis of sexual orientation or gender identity or expression.

BY repealing and re-enacting, with amendments

Section 29-1-101 (d)
Article 29- Human Relations
Title 1- In General
Baltimore County Code 2003

BY repealing and re-enacting, with amendments

Sections 29-2-101(b), 29-2-102(c) and 29-2-204(d)
Article 29 - Human Relations
Title 2 - Prohibited Practices
Baltimore County Code 2003

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY adding

Section 29-1-101 (k) and (l), 29-2-204(e) and 29-2-303(4)
Article 29- Human Relations
Title 1- In General
Baltimore County Code 2003

BY repealing and re-enacting, without amendments

Sections 29-2-104, 29-2-204 and 29-2-303
Article 29 - Human Relations
Title 2 - Prohibited Practices
Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2 MARYLAND, that Section 29-1-101 (d) of Article 29- Human Relations, Title 1- In General, of the
3 Baltimore County Code 2003, be and it is hereby repealed and re-enacted, with amendments, to read
4 as follows:

5 §29-1-101. DEFINITIONS.

6 (d) *Discrimination*. “Discrimination” means acting or failing to act or unduly delaying an
7 action regarding a person because of the person’s race, creed, religion, color, sex, age, national
8 origin, marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, or
9 physical or mental disability, in a way that the person is adversely affected in areas of:

- 10 (1) Housing;
11 (2) Employment;
12 (3) Education;
13 (4) Public accommodation; or

1 (5) Financing

2 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 29-2-101(b), 29-2-101(c)
3 and 29-2-204(d) of Article 29 - Human Relations, Title 2 - Prohibited Practices, of the Baltimore
4 County Code 2003, be and they are hereby repealed and re-enacted, with amendments, to read as
5 follows:

6 §29-2-101. Definitions.

7 (b) Discriminatory restrictive covenant. “Discriminatory restrictive covenant” means a
8 specification limiting the transfer or rental of a dwelling because of the person’s race, creed, religion,
9 color, sex, age, national origin, marital status, SEXUAL ORIENTATION, GENDER IDENTITY
10 OR EXPRESSION, or physical or mental disability.

11 §29-2-102. Prohibitions.

12 (c) Property values; change in nature of neighborhood. Whether the person is acting for
13 monetary gain or not, a person may not engage in discrimination by representing that the existing
14 or potential proximity of real property owned, used, or occupied by persons of a particular race,
15 creed, religion, physical or mental disability, color, sex, national origin, age, SEXUAL
16 ORIENTATION, GENDER IDENTITY OR EXPRESSION, or marital status may result in:

17 (1) The lowering of property values;

18 (2) A change in the racial, religious, or ethnic character of the block, neighborhood,
19 or area in which the property is located; or

1 (3) A decline in quality of the schools and institutions serving the area.

2 §29-2-204. Exceptions.

3 (d) Preferential treatment. An employer, employment agency, labor organization, or joint
4 labor-management committee may not be required to grant preferential treatment to a person because
5 of an imbalance, compared to the general public, in the percentage or total number of people with
6 the following characteristics employed, referred for employment, classified, admitted for
7 membership, or admitted to apprenticeship or training programs:

8 (1) Race;

9 (2) Creed;

10 (3) Religion;

11 (4) Physical or mental disability;

12 (5) Color;

13 (6) Sex;

14 (7) National Origin;

15 (8) Age; [or]

16 (9) SEXUAL ORIENTATION;

17 (10) GENDER IDENTITY OR EXPRESSION; OR

18 [(9)] (11) Marital status.

19 SECTION 3. AND BE IT FURTHER ENACTED, that Section 29-1-101 (k) and (l), 29-2-
20 204(e) and 29-2-303(4) be and they are hereby added to Article 29- Human Relations, Title 1- In
21 General, of the Baltimore County Code 2003, to read as follows:

1 §29-1-101. Definitions.

2 (K) SEXUAL ORIENTATION. “SEXUAL ORIENTATION MEANS THE
3 IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY,
4 HETEROSEXUALITY, OR BISEXUALITY.

5 (L) GENDER IDENTITY OR EXPRESSION. “GENDER IDENTITY OR
6 EXPRESSION” MEANS A GENDER-RELATED IDENTITY OR APPEARANCE OF AN
7 INDIVIDUAL REGARDLESS OF THE INDIVIDUAL’S ASSIGNED SEX AT BIRTH.

8 § 29-2-204

9 (E) Private or personal facilities. THIS SUBTITLE DOES NOT APPLY TO THE
10 PROVISION OF FACILITIES THAT ARE DISTINCTLY PRIVATE OR PERSONAL.

11 (E) THIS SUBTITLE DOES NOT PROHIBIT AN EMPLOYER FROM ESTABLISHING
12 AND REQUIRING AN EMPLOYEE TO ADHERE TO REASONABLE WORKPLACE
13 APPEARANCE, GROOMING, AND DRESS STANDARDS THAT ARE DIRECTLY RELATED
14 TO THE NATURE OF THE EMPLOYMENT OF THE EMPLOYEE AND THAT ARE NOT
15 PRECLUDED BY ANY PROVISION OF STATE OR FEDERAL LAW, AS LONG AS THE
16 EMPLOYER ALLOWS ANY EMPLOYEE TO APPEAR, GROOM, AND DRESS CONSISTENT
17 WITH THE EMPLOYEE’S GENDER IDENTITY.

18 § 29-2-303

1 This subtitle does not apply to:

2 (1) A portion of a private club or similar establishment which is not open to the public
3 except to the extent that the facilities of the establishment are made available to the customers or
4 patrons of an establishment within the scope of this section;

5 (2) An owner-occupied establishment containing less than two rental rooms or apartments;[
6 and]

7 (3) The county government, the county Board of Education, or the county community
8 college[.]; AND

9 (4) THE PROVISION OF ACCOMMODATIONS THAT ARE DISTINCTLY PRIVATE
10 OR PERSONAL.

11 SECTION 4. AND BE IT FURTHER ENACTED, that Sections 29-2-104, 29-2-204 and 29-
12 2-303 of Article 29 - Human Relations, Title 2 - Prohibited Practices, of the Baltimore County Code
13 2003, be and they are hereby repealed and re-enacted, without amendments, to read as follows:

14
15 §29-2-104. Exceptions.

16 (a) Age-related dwellings. As to discrimination based on age only, this subtitle does not apply to:

17 (1) A medical, health, or educational institution established for a specific age group;

1 (2) A domiciliary, retirement, or senior citizens' home or facility; or

2 (3) A facility for preschool children licensed as required in the Family Law Article of the
3 Annotated Code of Maryland.

4 (b) *Owner-occupied dwelling.* This subtitle does not apply to discrimination in the rental of a room
5 or apartment in an owner-occupied dwelling containing only one rental unit.

6 (c) *Private membership clubs.* This subtitle does not prohibit a private club, not in fact open to the
7 public and which as an incident to its primary purpose or purposes provides lodgings, which it owns
8 or operates for other than a commercial purpose, from limiting the rental or occupancy of those
9 lodgings to its members or from giving preference to its members.

10 (d) *Religious organization dwellings.* A religious organization, association, or society or a nonprofit
11 institution or organization operated, supervised, or controlled by or in conjunction with a religious
12 organization may limit the sale, rental, or occupancy of dwellings which it owns or operates for other
13 than commercial purposes to persons of the same religion and may give preferences to persons of
14 the same religion.

15 §29-2-204. Exceptions.

16 (a) *Bona fide occupational qualifications.* This subtitle does not apply to bona fide occupational
17 qualifications that are demonstrated to be reasonable, necessary, and relevant to the normal operation
18 of the particular business or enterprise, when established by:

19 (1) An employer in hiring, assigning, compensating, or discharging individuals;

1 (2) An employment agency in classifying or referring individuals;

2 (3) A labor organization in classifying members; or

3 (4) An employer or labor organization in denying an individual admittance to a program of
4 apprenticeship, training, or retraining.

5 (b) Religious educational institutions. This subtitle does not apply to an educational institution in
6 hiring and employing persons of a particular religion if:

7 (1) The educational institution is owned, supported, controlled, or managed, in whole or in
8 substantial part, by a particular church, synagogue, or other religious organization or
9 corporation; and

10 (2) The curriculum is designed to comply, in whole or in part, with the doctrines or tenets of
11 a particular religion.

12 (c) Bona fide seniority or employee benefit plans.

13 (1) This subtitle does not apply to a bona fide seniority system.

14 (2) (i) This subtitle does not apply to a bona fide employee benefit plan such as a
15 retirement, pension, or insurance plan, if the system or plan is not a subterfuge to
16 evade the purpose of this subtitle.

17 (ii) An employee benefit plan may not excuse the failure to hire a person.

18 (3) In accordance with 29 U.S.C. § 623, a seniority system or employee benefit plan may not
19 require or allow the involuntary retirement of an individual who is between the ages of 40

1 years old and 70 years old because of the individual's age.

2 (d) Preferential treatment. An employer, employment agency, labor organization, or joint labor-
3 management committee may not be required to grant preferential treatment to a person because of
4 an imbalance, compared to the general public, in the percentage or total number of people with the
5 following characteristics employed, referred for employment, classified, admitted for membership,
6 or admitted to apprenticeship or training programs:

7 (1) Race;

8 (2) Creed;

9 (3) Religion;

10 (4) Physical or mental disability;

11 (5) Color;

12 (6) Sex;

13 (7) National origin;

14 (8) Age; or

15 (9) Marital status.

16 §29-2-303. Exceptions.

17 This subtitle does not apply to:

1 (1) A portion of a private club or similar establishment which is not open to the public except
2 to the extent that the facilities of the establishment are made available to the customers or
3 patrons of an establishment within the scope of this section;

4 (2) An owner-occupied establishment containing less than two rental rooms or apartments;
5 and

6 (3) The county government, the county Board of Education, or county community college.

7 SECTION 4 5. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five
8 days after its enactment.

b00312.wpd