

Bill No. 2-04
Concerning: Human Rights -
Discrimination - Family
Responsibilities
Revised: 4-9-04 Draft No. 4
Introduced: February 10, 2004
Enacted: April 13, 2004
Executive: April 23, 2004
Effective: July 23 2004
Sunset Date: None
Ch. 3, Laws of Mont. Co. 2004

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Leventhal and Praisner

AN ACT to:

- (1) define family responsibilities in the context of the County human rights law;
- (2) prohibit discrimination against persons with family responsibilities under the County employment and housing discrimination laws; and
- (3) generally amend the County human rights law regarding discrimination against persons because of family responsibilities.

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Sections 27-1, 27-5, 27-6, 27-12, 27-14, 27-16 and 27-19

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 27-1 is amended as follows:

27-1. Statement of policy.

(a) The County Council finds that discrimination because of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, genetic status, presence of children, family responsibilities, source of income, or sexual orientation adversely affects the health, welfare, peace, and safety of the community. Persons subject to discrimination suffer unemployment and under employment resulting in low family income, overcrowded housing, poor health conditions, antisocial behavior, poverty, and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced and creating conditions which endanger the public peace and order. Montgomery County's policy is to foster equal opportunity for all without regard to race, color, religious creed, ancestry, national origin, sex, marital status, age, disability, presence of children, family responsibilities, source of income, sexual orientation, or genetic status and strictly in accord with their individual merits as human beings.

Sec. 2. Section 27-5 is amended as follows:

27-5. Duties Generally

- (a) The Commission must:
- (1) Research, analyze, and disseminate information about activities and programs to eliminate prejudice, intolerance, bigotry, and discrimination.
 - (2) Conduct educational and other programs to promote equal rights and opportunities of all persons regardless of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income.
 - (3) Promote goodwill, cooperation, understanding and human relations among all persons.
 - (4) Cooperate with interested citizens, racial, religious, and ethnic groups; and community, business, professional, technical, educational, and civic organizations.

- 32 (5) Cooperate with the County Executive and all governmental agencies on
 33 matters within the Commission's jurisdiction.
- 34 (6) Study and investigate, through public or private meetings, conferences,
 35 and public hearings, conditions that could result in discrimination,
 36 prejudice, intolerance, or bigotry because of race, color, religious creed,
 37 ancestry, national origin, sex, age, marital status, disability, sexual
 38 orientation, genetic status, presence of children, family responsibilities, or
 39 source of income.
- 40 (7) Advise county residents, the County Council, the County Executive, and
 41 the various departments of County, State, and federal governments about
 42 racial, religious, and ethnic prejudice, intolerance, discrimination, and
 43 bigotry, and recommend procedures, programs, and laws to promote and
 44 protect equal rights and opportunities for all persons, regardless of race,
 45 color, religious creed, ancestry, national origin, sex, age, marital status,
 46 disability, sexual orientation, genetic status, presence of children, family
 47 responsibilities, or source of income.
- 48 (8) Work to eliminate discrimination, prejudice, intolerance, and bigotry in
 49 housing, recreation, education, health, employment, public
 50 accommodations, justice, and related matters.
- 51 (9) Initiate and receive complaints of discrimination, prejudice, intolerance,
 52 and bigotry from any person or group because of race, color, sex, age,
 53 marital status, religious creed, ancestry, national origin, disability, sexual
 54 orientation, [or] genetic status, presence of children, family
 55 responsibilities or source of income, that deprives that person or group of
 56 equal rights, protection, or opportunity in employment, real estate, and
 57 public accommodation. The Commission must:
- 58 (A) approve any conciliation agreement before the agreement in
 59 enforceable as an order of the Commission;
- 60 (B) appoint a case review board under Section 27-2(b) and (c) to
 61 consider and decide a complaint certified to the Commission under
 62 Sections 27-7(f)(2) or (g)(4), and

- 63 (C) take any other action necessary to resolve a complaint under this
- 64 Article and any other applicable law.
- 65 (10) Keep a record of the Commission's hearings and activities and minutes of
- 66 all other meetings. The Commission is a public body under the State
- 67 Public Information Act and Open Meetings Act.
- 68 (11) Provide to the County Executive and County Council:
- 69 (A) a quarterly written or oral report of Commission activities and
- 70 recommendations within 30 days after each calendar quarter; and
- 71 (B) an annual written report summarizing Commission activities,
- 72 goals, needs, and recommendations promptly after each calendar
- 73 year.
- 74 (12) Issue any other regulations under method (2) necessary to carry out this
- 75 article.
- 76 (b) If the County Executive does not object, the Commission may conduct additional
- 77 programs to relieve group tension or adverse intergroup actions resulting from
- 78 causes other than race, color, sex, religious creed, ancestry, national origin, age,
- 79 marital status, disability, sexual orientation, genetic status, presence of children,
- 80 family responsibilities, or source of income.

81 **Sec. 3. Section 27-6 is amended as follows:**

82 **27-6. Definitions.**

83 The following words and phrases have the following meanings, unless the context
84 indicates otherwise:

85 (k) **Family responsibilities** means the state of being [[a contributor to]] financially or
86 legally responsible for the support or care of a person or persons [[in a dependent
87 relationship by blood or legal action]], regardless of the number of dependent
88 persons or the [[age(s)]] age of [[the]] any dependent [[person(s)]] person.

89 [(k)] (l) * * *

90 [(l)] (m) * * *

91 [(m)] (n) * * *

92 [(n)] (o) * * *

93 [(o)] (p) * * *

94 [(p)] (q) * * *

95 [(q)] (r) * * *

96 [(r)] (s) * * *

97 [(s)] (t) * * *

98 [(t)] (u) * * *

99 [(u)] (v) * * *

100 [(v)] (w) * * *

101 [(w)] (x) * * *

102 [(x)] (y) * * *

103 [(y)] (z) * * *

104 [(z)] (aa) * * *

105 [(aa)] (bb) * * *

106 [(bb)] (cc) * * *

107 [(cc)] (dd) * * *

108 [(dd)] (ee) * * *

109 [(ee)] (ff) * * *

110 [(ff)] (gg) * * *

Sec. 4. Section 27-12 is amended as follows:

27-12. Discriminatory housing practices.

- (a) A person must not, because of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, source of income, sexual orientation, or age:
- (1) refuse, or refuse to negotiate, to sell, broker, appraise, lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing;
 - (2) represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available;

- 121 (3) otherwise deny or withhold any housing from any person;
- 122 (4) include in the terms, conditions, or privileges of any sale, lease, sublease,
- 123 rental, assignment, or other transfer of any housing, any clause, condition,
- 124 or restriction discriminating against any person in the use or occupancy of
- 125 that housing;
- 126 (5) discriminate in the furnishing of any facilities, repairs, improvements, or
- 127 services, or in the terms, conditions, privileges, or tenure of occupancy of
- 128 any person.
- 129 (b) A lending institution must not because of race, color, religious creed, ancestry,
- 130 national origin, sex, marital status, disability, presence of children, family
- 131 responsibilities, source of income, sexual orientation, or age discriminate in:
- 132 (1) lending money;
- 133 (2) guaranteeing loans;
- 134 (3) accepting a deed of trust or mortgage;
- 135 (4) making available funds for the purchase, acquisition, construction,
- 136 alteration, rehabilitation, repair, or maintenance of any housing;
- 137 (5) fixing the rates, terms, conditions, or provisions of any financial
- 138 assistance; or
- 139 (6) extending any other service in connection with housing finance.
- 140 (c) (1) A person must not:
- 141 (A) publish or circulate, or cause to be published or circulated, any
- 142 housing notice, statement, listing, or advertisement;
- 143 (B) announce a policy, or use any form of application for the purchase,
- 144 lease, rental, or financing of any housing; or
- 145 (C) make any record or formal business inquiry in connection with the
- 146 prospective purchase, lease, rental, or financing of any housing;
- 147 indicating that race, color, religious creed, ancestry, national
- 148 origin, sex, marital status, disability, presence of children, family
- 149 responsibilities, source of income, sexual orientation, or age could
- 150 influence or affect any act described in subsections (a) and (b).
- 151 (2) This subsection does not prohibit:

- 152 (A) use of a logo or other means of advertising that housing is suitable
- 153 or adapted to use by persons with a disability; or
- 154 (B) keeping records or making reports required by federal, State, or
- 155 County law.

156 * * *

157 (e) A person must not:

- 158 (1) directly or indirectly induce or attempt to induce any person to transfer an
- 159 interest in any housing by representations regarding the existing or
- 160 potential proximity of real property owned, used, or occupied by any
- 161 person of any particular race, sex, color, religious creed, ancestry, national
- 162 origin, disability, source of income, sexual orientation, age, [or] the
- 163 presence of children, family responsibilities.
- 164 (2) promote, induce, influence, or attempt to promote, induce, or influence by
- 165 the use of postal cards, letters, circulars, telephone, visitation, or any other
- 166 means, directly or indirectly, a property owner, occupant, or tenant to list
- 167 for sale, sell, remove from, lease, assign, transfer, or otherwise dispose of
- 168 any housing having the effect of inciting neighborhood unrest or
- 169 community tension in any street, block, neighborhood, or any other area
- 170 by referring to the race, sex, color, religious creed, ancestry, national
- 171 origin, disability, presence of children, family responsibilities, source of
- 172 income, sexual orientation, or age of actual or anticipated neighbors,
- 173 tenants, or other prospective buyers or occupants of any housing.
- 174 (3) make or cause another person to make a statement or in any other manner
- 175 attempt to incite neighborhood unrest or community tension in any street,
- 176 block, neighborhood, or any other area to obtain a listing of any housing
- 177 for sale, rental, assignment, transfer, or other disposition by referring to
- 178 the race, sex, color, religious creed, ancestry, national origin, disability,
- 179 presence of children, family responsibilities, source of income, sexual
- 180 orientation, or age of actual or anticipated neighbors, tenants, or other
- 181 prospective buyers or occupants of any housing where the statement is

182 false or materially misleading or where there is insufficient basis to judge
 183 its truth or falsity to warrant making the statement.

184 (4) make any representation to any prospective purchaser or lessee that any
 185 housing in a particular block, neighborhood, or area may undergo, is
 186 undergoing, or has undergone a change with respect to racial, color,
 187 religious, nationality, presence of children, family responsibilities, source
 188 of income, disability, sex, sexual orientation, age, or ethnic composition.

189 (5) place a sign or other display either purporting to offer for sale, lease,
 190 assignment, transfer, or other disposition, or tending to lead to the belief
 191 that a bona fide offer is being made to sell, lease, assign, transfer, or
 192 otherwise dispose of any housing that is not in fact available or offered for
 193 sale, lease, assignment, transfer, or other disposition.

194 (6) induce or attempt to induce the sale or listing for sale of any housing by
 195 representing that the presence or anticipated presence of persons of any
 196 particular race, sex, color, religious creed, ancestry, national origin,
 197 disability, presence of children, family responsibilities, source of income,
 198 sexual orientation, or age in the area will or may result in:

- 199 (A) lower property values;
- 200 (B) increased criminal or antisocial behavior in the area; or
- 201 (C) a decline in quality of the schools serving the area.

202 (7) induce or attempt to induce the sale or listing for sale of any housing by
 203 representing that the presence or anticipated presence of persons of any
 204 particular race, sex, color, religious creed, ancestry, sexual orientation,
 205 presence of children, family responsibilities, source of income, or national
 206 origin in the area will or may result in a change in the racial, color,
 207 religious, age, nationality, or ethnic composition of the block,
 208 neighborhood, or area where the property is located.

209 * * *

210 (g) A person, must not because of race, color, religious creed, ancestry, national
 211 origin, sex, marital status, disability, presence of children, family responsibilities,
 212 source of income, sexual orientation, or age deny any other person:

213 (1) access to or membership or participation in any multiple-listing service,
214 real estate brokers' organization, or other service, organization, or facility
215 relating to the business of buying, selling, or renting housing in the
216 County, or

217 (2) discriminate against any person in the terms or conditions of the access,
218 membership, or participation in any multiple-listing service, real estate
219 brokers' organization, or other service, organization, or facility relating to
220 the business of buying, selling, or renting housing.

221 * * *

222 **Sec. 5. Section 27-14 is amended as follows:**

223 **27-14. Applicability of division.**

224 * * *

225 (b) The prohibitions in this division against discriminating on account of age,]or] the
226 presence of children, or family responsibilities do not apply to any:

227 (1) Housing [[facilities]] for the elderly that [[are]] is required by federal,
228 state, county, or municipal [[regulations]] law to restrict occupancy to
229 individuals of a minimum age and other members of their household over
230 [[the age of eighteen (18)]] 18 years old;

231 (2) Housing [[facilities]] whose declaration, bylaws, charter, or other
232 incorporating documents restrict that housing to occupancy by individuals
233 [[sixty-two (62)]] 62 years [[of age]] old or older and other members of
234 their household over [[the age of eighteen (18)]] 18 years old;

235 (3) Retirement [[communities that are]] community located in a planned
236 retirement community zone as [[described]] defined in Section 59-C-7.4
237 [[of this Code]];

238 (4) Housing [[facilities]] that the [[human relations]] Commission
239 [[determines]] finds limited [[the occupants of the housing facility]]
240 occupancy to adults on or before February 5, 1984; and

241 (5) Housing [[facilities]], subsidized in whole or in part by the County, that
242 [[provide]] provides:

- 243 [[a.]] (A) Housing for adults and children who are undergoing a transition
- 244 in their lives because of a change in their family relationships;
- 245 [[b.]] (B) Child care services;
- 246 [[c.]] (C) Career guidance; and
- 247 [[d.]] (D) Counseling services.

* * *

Sec. 6. Section 27-16 is amended as follows:

27-16. Discriminatory practices in commercial real estate.

- 251 (a) A person must not, because of race, color, religious creed, ancestry, national
- 252 origin, sex, marital status, disability, presence of children, family responsibilities,
- 253 sexual orientation, or age:
- 254 (1) refuse or refuse to negotiate to sell, lease, sublease, rent, assign, or
- 255 otherwise transfer commercial real estate;
- 256 (2) represent that commercial real estate is not available for inspection, sale,
- 257 lease, sublease, rental, assignment, or other transfer when it is available;
- 258 (3) deny or withhold commercial real estate from any person;
- 259 (4) include in the terms, conditions, or privileges of any sale, lease, sublease,
- 260 rental, assignment, or other transfer of commercial real estate any clause,
- 261 condition, or restriction discriminating against any person in the use or
- 262 occupancy of the real estate; or
- 263 (5) discriminate in furnishing any facilities, repairs, improvements, or
- 264 services, or in the terms, conditions, privileges, or tenure of occupancy.
- 265 (b) A lending institution must not, because of race, color, religious creed, ancestry,
- 266 national origin, sex, marital status, disability, presence of children, family
- 267 responsibilities, sexual orientation, or age:
- 268 (1) discriminate in lending money, guaranteeing loans, accepting a deed of
- 269 trust or mortgage, or otherwise making available funds to acquire,
- 270 construct, alter, rehabilitate, repair, or maintain commercial real estate; or
- 271 (2) discriminate in fixing the rates, terms, conditions, or provisions of
- 272 financial assistance, or in extending service in connection with financial
- 273 assistance.

274 (c) A person must not because of race, color, religious creed, ancestry, national
 275 origin, sex, marital status, disability, presence of children, family responsibilities,
 276 source of income, sexual orientation, or age:

- 277 (1) publish or circulate, or cause to be published or circulated, any
 278 commercial real estate notice, statement, listing, or advertisement;
- 279 (2) announce a policy, or use any form of application for the purchase, lease,
 280 rental, or financing of commercial real estate; or
- 281 (3) make any record or formal business inquiry in connection with the
 282 prospective purchase, lease, rental, or financing of any commercial real
 283 estate.

284 This subsection does not prohibit the use of a logo or other means of advertising
 285 that any commercial real estate is suitable or adapted to use by persons with a
 286 disability.

287 * * *

288 (e) A person must not:

- 289 (1) induce or attempt to induce, by direct or indirect methods, any person to
 290 transfer commercial real estate by representations regarding the existing or
 291 potential proximity of real estate owned, used, or occupied by any person
 292 of any particular race, color, religious creed, ancestry, national origin, sex,
 293 marital status, disability, sexual orientation, age,]or] the presence of
 294 children, or family responsibilities;
- 295 (2) represent to any prospective purchaser or lessee that any commercial real
 296 estate in a particular area may undergo, is undergoing, or has undergone a
 297 change with respect to racial, color, religious creed, ancestry, nationality,
 298 marital status, disability, presence of children, family responsibilities, sex,
 299 sexual orientation, ethnic composition, or age of occupants of the area; or
- 300 (3) place a sign or other display either purporting to offer for sale, lease,
 301 assignment, transfer, or other disposition, or tending to lead to the belief
 302 that a bona fide offer is being made to sell, lease, assign, transfer, or
 303 otherwise dispose of any commercial real estate that is not in fact available
 304 or offered for sale, lease, assignment, transfer, or other disposition,

305 because of race, color, religious creed, ancestry, national origin, sex,
 306 marital status, disability, presence of children, family responsibilities,
 307 sexual orientation, or age.

308 * * *

309 (g) A person must not because of race, color, religious creed, ancestry, national
 310 origin, sex, marital status, disability, presence of children, family responsibilities,
 311 source of income, sexual orientation, or age:

312 (1) deny any other person access to or membership or participation in any
 313 multiple-listing service, real estate brokers' organization, or other service,
 314 organization, or facility relating to the business of buying, selling, or
 315 renting commercial real estate; or

316 (2) discriminate against any person in the terms or conditions of the access,
 317 membership, or participation in any multiple-listing service, real estate
 318 brokers' organization, or other service, organization, or facility relating to
 319 the business of buying, selling, or renting commercial real estate.

320 **Sec. 7. Section 27-19 is amended as follows:**

321 **27-19. Discriminatory employment practices.**

322 (a) A person must not because of the race, color, religious creed, ancestry, national
 323 origin, age, sex, marital status, sexual orientation, family responsibilities, or
 324 genetic status of any individual or disability of a qualified individual, or because
 325 of any reason that would not have been asserted but for the race, color, religious
 326 creed, ancestry, national origin, age, sex, marital status, disability, sexual
 327 orientation, family responsibilities, or genetic status:

328 (1) For an employer:

329 (A) fail or refuse to hire, fail to accept the services of, discharge any
 330 individual, or otherwise discriminate against any individual with
 331 respect to compensation, terms, conditions, or privileges of
 332 employment; or

333 (B) limit, segregate, or classify employees in any way that would
 334 deprive or tend to affect adversely any individual's employment
 335 opportunities or status as an employee;

- 336 (2) For an employment agency: fail or refuse to refer for employment, assign
 337 job classifications to, classify or refer for employment, or otherwise
 338 discriminate against, any individual;
- 339 (3) For a labor organization:
- 340 (A) exclude or expel from its membership, or otherwise discriminate
 341 against any individual;
- 342 (B) limit, segregate, or classify its membership or classify, or fail or
 343 refuse to refer for employment, any individual in any way that
 344 would deprive or tend to deprive any individual of equal
 345 employment opportunities, or affect adversely the individual's
 346 employment opportunities or status as an employee or as an
 347 applicant for employment; or
- 348 (C) cause or attempt to cause an employer to discriminate against an
 349 individual in violation of this section; or
- 350 (4) For an employer, labor organization, or joint labor-management
 351 committee controlling apprenticeship or other training programs:
 352 discriminate against any individual in admission to, or employment in, any
 353 program established to provide apprenticeship or other training.
- 354 * * *
- 355 (d) (1) Except as provided in paragraph 2, a person must not print, publish, or
 356 cause to be printed or published, any notice or advertisement indicating any
 357 preference, limitation, or specification based on race, color, religious creed,
 358 ancestry, national origin, age, sex, marital status, disability, sexual orientation,
 359 family responsibilities, or genetic status relating to:
- 360 (A) employment by an employer;
- 361 (B) membership in or any classification or referral for employment by
 362 a labor organization; or
- 363 (C) any classification or referral for employment by an employment
 364 agency.
- 365 (2) This subsection does not prohibit a notice or advertisement from
 366 indicating a preference, limitation, or specification that is a bona fide

367 occupational qualification for employment reasonably necessary to the
368 normal operation of the particular business or enterprise.

369 (e) Notwithstanding any other provision of this division, it is not an unlawful
370 employment practice:

371 (1) for an employer to hire and employ employees, for an employment agency
372 to classify or refer for employment any individual, for a labor organization
373 to classify its membership or to classify or refer for employment any
374 individual, or for an employer, labor organization or joint labor-
375 management committee controlling apprenticeship or other training or
376 retraining programs, to admit or employ any individual in any program, on
377 the basis of race, color, religious creed, age, sex, marital status, national
378 origin, ancestry, disability, sexual orientation, family responsibilities, or
379 genetic status based on a bona fide occupational qualification reasonably
380 necessary to the normal operation of that particular business or enterprise;

381 (2) for a religious corporation, association, or society to hire and employ
382 employees of a particular religion; or

383 (3) for an employer to deny employment on the basis of religious creed if the
384 observance, practice, or belief cannot be reasonably accommodated by an
385 employer without causing undue hardship on the conduct of the
386 employer's business.

387 * * *

388 *Approved:*

389

Steven A. Silverman, President, County Council

Date

390 *Approved:*

391

Douglas M. Duncan, County Executive

Date

392 *This is a correct copy of Council action.*

393

Mary A. Edgar, CMC, Clerk of the Council

Date