

Bill No. 23-07
Concerning: Non-discrimination-Gender Identity
Revised: 11/9/2007 Draft No. 6
Introduced: September 11, 2007
Enacted: November 13, 2007
Executive: November 21, 2007
Effective: February 20, 2008
Sunset Date: None
Ch. 18, Laws of Mont. Co. 2007

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Trachtenberg, Ervin, and Elrich

AN ACT to:

- (1) prohibit discrimination in housing, employment, public accommodations, cable television service, and taxicab service on the basis of gender identity; and
- (2) generally amend County laws regarding discrimination.

By amending

Montgomery County Code
Chapter 8A, Cable Communications
Section 8A-15

Chapter 27, Human Rights and Civil Liberties
Sections 27-1, 27-5, 27-6, 27-10, 27-11, 27-12, 27-16, 27-19, and 27-22

Chapter 53, Taxicabs and Limousines
Section 53-313

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:

1 **Sec. 1. Sections 8A-15, 27-1, 27-5, 27-6, 27-10, 27-11, 27-12, 27-16, 27-19,**
 2 **27-22, and 53-313 are amended as follows:**

3 **8A-15. Service discrimination and exclusive programming agreements**
 4 **prohibited**

5 (a) Unless approved by the County and to the extent consistent with federal
 6 law, a franchisee must not, in its rates or charges, or in the availability
 7 of the services or facilities of its system, or in any other respect, grant
 8 undue preferences or advantages to any subscriber or potential
 9 subscriber, or to any user or potential user, nor subject any of these
 10 persons to any undue prejudice or any disadvantage. A franchisee must
 11 have a uniform rate structure for its services throughout the franchise
 12 area. A franchisee must not deny, delay, or otherwise burden service or
 13 discriminate against subscribers or users on the basis of age, race,
 14 religion, color, sex, sexual orientation, gender identity, handicap,
 15 national origin, or marital status, except for discounts for the elderly and
 16 handicapped

17 * * *

18 **27-1. Statement of Policy**

19 (a) The County Council finds that discrimination because of race, color,
 20 religious creed, ancestry, national origin, age, sex, marital status,
 21 disability, genetic status, presence of children, family responsibilities,
 22 source of income, [or] sexual orientation, or gender identity adversely
 23 affects the health, welfare, peace, and safety of the community. Persons
 24 subject to discrimination suffer unemployment and under employment
 25 resulting in low family income, overcrowded housing, poor health
 26 conditions, antisocial behavior, poverty, and lack of hope, injuring the
 27 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, gender identity, or genetic status and strictly in accord with their individual merits as human beings.

* * *

27-5. Duties generally

(a) The Commission must:

* * *

(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, gender identity, genetic status, presence of children, family responsibilities, or source of income.

* * *

(6) Study and investigate, through public or private meetings, conferences, and public hearings, conditions that could result in discrimination, prejudice, intolerance, or bigotry because of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, gender identity, genetic status, presence of children, family responsibilities, or source of income.

52 (7) Advise county residents, the County Council, the County
53 Executive, and the various departments of County, State, and
54 federal governments about racial, religious, and ethnic prejudice,
55 intolerance, discrimination, and bigotry and recommend
56 procedures, programs, and laws to promote and protect equal
57 rights and opportunities for all persons, regardless of race, color,
58 religious creed, ancestry, national origin, sex, age, marital status,
59 disability, sexual orientation, gender identity, genetic status,
60 presence of children, family responsibilities, or source of income.

61 * * *

62 (9) Initiate and receive complaints of discrimination, prejudice,
63 intolerance, and bigotry from any person or group because of
64 race, color, sex, age, marital status, religious creed, ancestry,
65 national origin, disability, sexual orientation, gender identity,
66 genetic status, presence of children, family responsibilities or
67 source of income, that deprives that person or group of equal
68 rights, protection, or opportunity in employment, real estate, and
69 public accommodation. The Commission must:

70 * * *

71 (b) If the County Executive does not object, the Commission may conduct
72 additional programs to relieve group tension or adverse intergroup
73 actions resulting from causes other than race, color, sex, religious creed,
74 ancestry, national origin, age, marital status, disability, sexual
75 orientation, gender identity, genetic status, presence of children, family
76 responsibilities, or source of income.

77 **27-6. Definitions**

78 The following words and phrases have the following meanings, unless the
79 context indicates otherwise:

80 * * *

81 Gender identity means an individual's actual or perceived gender, including a
82 person's gender-related appearance, expression, image, identity, or behavior, whether
83 or not those gender-related characteristics differ from the characteristics customarily
84 associated with the person's assigned sex at birth.

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86 **27-10. Scope.**

87 * * *

88 (c) ~~[[This]]~~ [[Except as provided in Section 27-11(c) and 27-11(d), this]]
89 This division does not apply to accommodations that are distinctly
90 private or personal.

92 **27-11. Discriminatory practices**

93 (a) An owner, lessee, operator, manager, agent, or employee of any place of
94 public accommodation in the County must not, with respect to the
95 accommodation:

96 (1) make any distinction with respect to any person based on race,
97 color, sex, marital status, religious creed, ancestry, national
98 origin, disability, [or] sexual orientation, or gender identity in
99 connection with:

100 * * *

101 (2) display, circulate or publicize or cause to be displayed, circulated
102 or publicized, directly or indirectly, any notice, communication,
103 or advertisement that states or implies:

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(B) that the patronage or presence of any person is unwelcome, objectionable, unacceptable, or not desired or solicited on account of any person's race, color, sex, marital status, religious creed, ancestry, national origin, disability, [or] sexual orientation, or gender identity;

* * *

[[(c) A person must not deny any person access to the equal use of any restroom, shower, dressing room, locker room, or similar facility associated with the gender identity that the person publicly or exclusively expresses or asserts.]]

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, gender identity, or age:

* * *

(b) 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, gender identity, or age, discriminate in:

* * *

(c) Without limiting the general application of Subsection (b), 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, gender identity, or age:

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(d) (1) A person must not:

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(C) make any record or formal business inquiry in connection with the prospective purchase, lease, rental, or financing of any housing;

indicating that race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, source of income, sexual orientation, gender identity, or age could influence or affect any act described in subsections (a), (b), and (c).

* * *

(f) A person must not:

(1) directly or indirectly induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of real property owned, used, or occupied by any person of any particular race, sex, color, religious creed, ancestry, national origin, disability, source of income, sexual orientation, gender identity, age, the presence of children, or family responsibilities.

(2) promote, induce, influence, or attempt to promote, induce, or influence by the use of postal cards, letters, circulars, telephone, visitation, or any other means, directly or indirectly, a property owner, occupant, or tenant to list for sale, sell, remove from, lease, assign, transfer, or otherwise dispose of any housing having the effect of inciting neighborhood unrest or community tension in any street, block, neighborhood, or any other area by

158 referring to the race, sex, color, religious creed, ancestry, national
159 origin, disability, presence of children, family responsibilities,
160 source of income, sexual orientation, gender identity, or age of
161 actual or anticipated neighbors, tenants, or other prospective
162 buyers or occupants of any housing.

163 (3) make or cause another person to make a statement or in any other
164 manner attempt to incite neighborhood unrest or community
165 tension in any street, block, neighborhood, or any other area to
166 obtain a listing of any housing for sale, rental, assignment,
167 transfer, or other disposition by referring to the race, sex, color,
168 religious creed, ancestry, national origin, disability, presence of
169 children, family responsibilities, source of income, sexual
170 orientation, gender identity, or age of actual or anticipated
71 neighbors, tenants, or other prospective buyers or occupants of
172 any housing where the statement is false or materially misleading
173 or where there is insufficient basis to judge its truth or falsity to
174 warrant making the statement.

175 (4) make any representation to any prospective purchaser or lessee
176 that any housing in a particular block, neighborhood, or area may
177 undergo, is undergoing, or has undergone a change with respect
178 to racial, color, religious, nationality, presence of children, family
179 responsibilities, source of income, disability, sex, sexual
180 orientation, gender identity, age, or ethnic composition.

181 * * *

182 (6) induce or attempt to induce the sale or listing for sale of any
183 housing by representing that the presence or anticipated presence
184 of persons of any particular race, sex, color, religious creed,

ancestry, national origin, disability, presence of children, family responsibilities, source of income, sexual orientation, gender identity, or age in the area will or may result in:

* * *

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

* * *

(h) 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, gender identity, or age deny any other person:

* * *

27-16. Discriminatory practices in commercial real estate.

(a) A person must not, because of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, sexual orientation, gender identity, or age:

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(b) A lending institution must not, because of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, sexual orientation, gender identity, or age:

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(c) 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, gender identity, or age:

* * *

(e) A person must not:

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

239 religious creed, ancestry, national origin, sex, marital status,
 240 disability, presence of children, family responsibilities, sexual
 241 orientation, gender identity, or age.

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243 (g) A person must not because of race, color, religious creed, ancestry,
 244 national origin, sex, marital status, disability, presence of children,
 245 family responsibilities, source of income, sexual orientation, gender
 246 identity, or age:

247 * * *

248 **27-19. Discriminatory employment practices.**

249 (a) A person must not because of the race, color, religious creed, ancestry,
 250 national origin, age, sex, marital status, sexual orientation, gender
 251 identity, family responsibilities, or genetic status of any individual or
 252 disability of a qualified individual, or because of any reason that would
 253 not have been asserted but for the race, color, religious creed, ancestry,
 254 national origin, age, sex, marital status, disability, sexual orientation,
 255 gender identity, family responsibilities, or genetic status:

256 (1) For an employer:

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258 [[C) deny any person access to the equal use of any restroom,
 259 shower, dressing room, locker room, or similar facility
 260 associated with the gender identity that the person publicly
 261 or exclusively expresses or asserts.]]

262 * * *

263 (d) (1) Except as provided in paragraph 2, a person must not print,
 264 publish, or cause to be printed or published, any notice or
 265 advertisement indicating any preference, limitation, or

266 specification based on race, color, religious creed, ancestry,
 267 national origin, age, sex, marital status, disability, sexual
 268 orientation, gender identity, family responsibilities, or genetic
 269 status relating to:

* * *

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

273 (1) for an employer to hire and employ employees, for an
 274 employment agency to classify or refer for employment any
 275 individual, for a labor organization to classify its membership or
 276 to classify or refer for employment any individual, or for an
 277 employer, labor organization or joint labor-management
 278 committee controlling apprenticeship or other training or
 279 retraining programs, to admit or employ any individual in any
 280 program; on the basis of race, color, religious creed, age, sex,
 281 marital status, national origin, ancestry, disability, sexual
 282 orientation, gender identity, family responsibilities, or genetic
 283 status based on a bona fide occupational qualification reasonably
 284 necessary to the normal operation of that particular business or
 285 enterprise;

* * *

287 (k) An employer may require an employee to adhere to reasonable
 288 workplace appearance, grooming, and dress standards that are
 289 nondiscriminatory and not precluded by any provision of state or federal
 290 law. However, an employer must allow an employee to appear, groom,
 291 and dress consistent with the employee's gender identity.

292 **27-22. Discrimination through intimidation.**

293 A person must not: willfully and maliciously destroy, injure, or deface another
294 person's real or personal property, or willfully and maliciously injure another person,
295 with the intent to intimidate or attempt to intimidate any person because of race,
296 religion, national origin, disability, [or] sexual orientation, or gender identity.

297 **53-313. Duty to accept and convey passengers.**

298 * * *

299 (b) A driver must not refuse to transport a passenger because of the
300 passenger's disability, race, color, marital status, religious creed, age,
301 sex, national origin, sexual orientation, gender identity, or geographic
302 location.

303 *Approved:*

304 Marilyn J. Praisner 11/14/07
Marilyn J. Praisner, President, County Council Date

305 *Approved:*

306 Isiah Leggett Nov 26, 2007
Isiah Leggett, County Executive Date

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

308 Linda M. Lauer 11/27/07
Linda Lauer, Clerk of the Council Date