

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: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

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:

28 the conditions thus produced and creating conditions which endanger
29 the public peace and order. Montgomery County's policy is to foster
30 equal opportunity for all without regard to race, color, religious creed,
31 ancestry, national origin, sex, marital status, age, disability, presence of
32 children, family responsibilities, source of income, sexual orientation,
33 gender identity, or genetic status and strictly in accord with their
34 individual merits as human beings.

35 * * *

36 **27-5. Duties generally**

37 (a) The Commission must:

38 * * *

39 (2) Conduct educational and other programs to promote equal rights
40 and opportunities of all persons regardless of race, color,
41 religious creed, ancestry, national origin, sex, age, marital status,
42 disability, sexual orientation, gender identity, genetic status,
43 presence of children, family responsibilities, or source of income.

44 * * *

45 (6) Study and investigate, through public or private meetings,
46 conferences, and public hearings, conditions that could result in
47 discrimination, prejudice, intolerance, or bigotry because of race,
48 color, religious creed, ancestry, national origin, sex, age, marital
49 status, disability, sexual orientation, gender identity, genetic
50 status, presence of children, family responsibilities, or source of
51 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.

85 * * *

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:

* * *

(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
 171 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,

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

188 * * *

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

197 * * *

198 (h) A person, must not because of race, color, religious creed, ancestry,
199 national origin, sex, marital status, disability, presence of children,
200 family responsibilities, source of income, sexual orientation, gender
201 identity, or age deny any other person:

202 * * *

203 **27-16. Discriminatory practices in commercial real estate.**

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

207 * * *

208 (b) A lending institution must not, because of race, color, religious creed,
209 ancestry, national origin, sex, marital status, disability, presence of
210 children, family responsibilities, sexual orientation, gender identity, or
211 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.

242 * * *

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:

257 * * *

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:

270 * * *

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;

286 * * *

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:*

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Marilyn J. Praisner, President, County Council

Date

305 *Approved:*

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Isiah Leggett, County Executive

Date

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

308

Linda Lauer, Clerk of the Council

Date