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

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

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
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 underemployment 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.
Cooperate with the County Executive and all governmental agencies on matters within the Commission's jurisdiction.

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

Advise county residents, the County Council, the County Executive, and the various departments of County, State, and federal governments about racial, religious, and ethnic prejudice, intolerance, discrimination, and bigotry, and recommend procedures, programs, and laws to promote and protect equal rights and opportunities for 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.

Work to eliminate discrimination, prejudice, intolerance, and bigotry in housing, recreation, education, health, employment, public accommodations, justice, and related matters.

Initiate and receive complaints of discrimination, prejudice, intolerance, and bigotry from any person or group because of race, color, sex, age, marital status, religious creed, ancestry, national origin, disability, sexual orientation, or genetic status, presence of children, family responsibilities, or source of income. That deprives that person or group of equal rights, protection, or opportunity in employment, real estate, and public accommodation. The Commission must:

(A) approve any conciliation agreement before the agreement in enforceable as an order of the Commission;

(B) appoint a case review board under Section 27-2(b) and (c) to consider and decide a complaint certified to the Commission under Sections 27-7(f)(2) or (g)(4), and
(C) take any other action necessary to resolve a complaint under this Article and any other applicable law.

(10) Keep a record of the Commission's hearings and activities and minutes of all other meetings. The Commission is a public body under the State Public Information Act and Open Meetings Act.

(11) Provide to the County Executive and County Council:

(A) a quarterly written or oral report of Commission activities and recommendations within 30 days after each calendar quarter; and

(B) an annual written report summarizing Commission activities, goals, needs, and recommendations promptly after each calendar year.

(12) Issue any other regulations under method (2) necessary to carry out this article.

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

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


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

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

[(k)] (l)  *  *  *
[(l)] (m)  *  *  *
[(m)] (n)  *  *  *
[(n)] (o)  *  *  *
Sec. 4. Section 27-12 is amended as follows:


(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;
otherwise deny or withhold any housing from any person;
include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing, any clause, condition, or restriction discriminating against any person in the use or occupancy of that housing;
discriminate in the furnishing of any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy of any person.

(b) A lending institution 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 discriminate in:
lending money;
guaranteeing loans;
accepting a deed of trust or mortgage;
making available funds for the purchase, acquisition, construction, alteration, rehabilitation, repair, or maintenance of any housing;
fixing the rates, terms, conditions, or provisions of any financial assistance; or
extending any other service in connection with housing finance.

(c) A person must not:
(A) publish or circulate, or cause to be published or circulated, any housing notice, statement, listing, or advertisement;
(B) announce a policy, or use any form of application for the purchase, lease, rental, or financing of any housing; or
(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, or age could influence or affect any act described in subsections (a) and (b).

This subsection does not prohibit:
(A) use of a logo or other means of advertising that housing is suitable
or adapted to use by persons with a disability; or
(B) keeping records or making reports required by federal, State, or
County law.

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

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

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

(5) 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 housing that is not in fact available or offered for sale, lease, assignment, transfer, or other disposition.

(6) 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, national origin, disability, presence of children, family responsibilities, source of income, sexual orientation, or age in the area will or may result in:

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

(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, 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.

* * *

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

* * *

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


* * *

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

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

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

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

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

(5) Housing [[facilities]], subsidized in whole or in part by the County, that 
[[provide]] provides:
Housing for adults and children who are undergoing a transition in their lives because of a change in their family relationships;

Child care services;

Career guidance; and

Counseling services.

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


(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, or age:

(1) refuse or refuse to negotiate to sell, lease, sublease, rent, assign, or otherwise transfer commercial real estate;
(2) represent that commercial real estate is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available;
(3) deny or withhold commercial real estate from any person;
(4) include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of commercial real estate any clause, condition, or restriction discriminating against any person in the use or occupancy of the real estate; or
(5) discriminate in furnishing any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy.

(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, or age:

(1) discriminate in lending money, guaranteeing loans, accepting a deed of trust or mortgage, or otherwise making available funds to acquire, construct, alter, rehabilitate, repair, or maintain commercial real estate; or
(2) discriminate in fixing the rates, terms, conditions, or provisions of financial assistance, or in extending service in connection with financial assistance.
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) publish or circulate, or cause to be published or circulated, any commercial real estate notice, statement, listing, or advertisement;

(2) announce a policy, or use any form of application for the purchase, lease, rental, or financing of commercial real estate; or

(3) make any record or formal business inquiry in connection with the prospective purchase, lease, rental, or financing of any commercial real estate.

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

* * *

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

* * *

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

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

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


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

(1) For an employer:

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

(B) limit, segregate, or classify employees in any way that would deprive or tend to affect adversely any individual's employment opportunities or status as an employee;
For an employment agency: fail or refuse to refer for employment, assign job classifications to, classify or refer for employment, or otherwise discriminate against, any individual;

For a labor organization:

(A) exclude or expel from its membership, or otherwise discriminate against any individual;

(B) limit, segregate, or classify its membership or classify, or fail or refuse to refer for employment, any individual in any way that would deprive or tend to deprive any individual of equal employment opportunities, or affect adversely the individual's employment opportunities or status as an employee or as an applicant for employment; or

(C) cause or attempt to cause an employer to discriminate against an individual in violation of this section; or

For an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training programs:

discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training.

Except as provided in paragraph 2, a person must not print, publish, or cause to be printed or published, any notice or advertisement indicating any preference, limitation, or specification based on race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, sexual orientation, family responsibilities, or genetic status relating to:

(A) employment by an employer;

(B) membership in or any classification or referral for employment by a labor organization; or

(C) any classification or referral for employment by an employment agency.

This subsection does not prohibit a notice or advertisement from indicating a preference, limitation, or specification that is a bona fide
occupational qualification for employment reasonably necessary to the
normal operation of the particular business or enterprise.

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

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

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

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

* * *

Approved:

Steven A. Silverman, President, County Council

Approved:

Douglas M. Duncan, County Executive

Date
This is a correct copy of Council action.

Mary A. Edgar, CMC, Clerk of the Council

Date

12/27/2004