

Bill No. 14-20
Concerning: Human Rights and Civil Liberties – Discriminatory Employment Practices – Workplace Harassment
Revised: 03/06/2020 Draft No. 3
Introduced: March 24, 2020
Enacted: October 6, 2020
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando
Co-Sponsors: Councilmember Navarro, Glass, Albornoz, Council Vice President Hucker, Council President Katz and Councilmember Riemer and Rice

AN ACT to:

- (1) define and prohibit certain discriminatory harassment in the workplace;
- (2) define and prohibit certain sexual harassment in the workplace; and
- (3) generally amend the law regarding discriminatory employment practices.

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Sections 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:

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Sec. 1. Sections 27-19 is amended as follows:

27-19. Discriminatory employment practices.

(a) A person must not because of the race, color, religious creed, ancestry, national origin, age, sex, marital status, sexual orientation, gender identity, 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, gender identity, 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; or

(C) subject an individual to harassment, including sexual harassment;

* * *

(b) Definitions.

(1) The term "discriminate" in subsection (a) includes excluding, or otherwise denying, equal job opportunity or benefits to, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

27 (2) The term “harassment” in subsection (a) includes verbal, written,
 28 or physical conduct, whether or not the conduct would be
 29 considered sufficiently severe or pervasive under precedent
 30 applied to harassment claims, when:

31 (A) the conduct is based upon an individual’s race, color,
 32 religious creed, ancestry, national origin, age, sex, marital
 33 status, sexual orientation, gender identity, family
 34 responsibilities, genetic status, or disability;

35 (B) (i) submission to the conduct is made either explicitly
 36 or implicitly a term or condition of an individual’s
 37 employment;

38 (ii) submission to or rejection of the conduct is used as
 39 a basis for employment decisions affecting the
 40 individual; or

41 (iii) the conduct has the purpose or effect of
 42 unreasonably interfering with an individual’s work
 43 performance or creating a working environment
 44 that is perceived by the victim to be abusive or
 45 hostile; and

46 (C) a reasonable victim of discrimination would consider the
 47 conduct to be more than a petty slight, trivial
 48 inconvenience, or minor annoyance.

49 (3) The term “sexual harassment” in subsection (a) includes
 50 unwelcome sexual advances, requests for sexual favors, or other
 51 verbal, written, or physical conduct of a sexual nature, whether or
 52 not the conduct would be considered sufficiently severe or
 53 pervasive under precedent applied to harassment claims, when:

- 54 (A) (i) submission to the conduct is made either explicitly
- 55 or implicitly a term or condition of an individual’s
- 56 employment;
- 57 (ii) submission to or rejection of the conduct is used as
- 58 a basis for employment decisions affecting the
- 59 individual; or
- 60 (iii) the conduct has the purpose or effect of
- 61 unreasonably interfering with an individual’s work
- 62 performance or creating a working environment
- 63 that is perceived by the victim to be abusive or
- 64 hostile; and
- 65 (B) a reasonable victim of discrimination would consider the
- 66 conduct to be more than a petty slight, trivial
- 67 inconvenience, or minor annoyance.
- 68 * * *

Approved:



Sidney Katz, President, County Council 10/7/2020
Date

Approved:

Marc Elrich, County Executive Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council Date