



Committee: Joint
Committee Review: At a future date
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #genderinclusiverestrooms

AGENDA ITEM #9
March 8, 2022
Public Hearing

SUBJECT

Bill 4-22, Human Rights and Civil Liberties – Public Accommodations – Gender Inclusive Restrooms

Lead Sponsor: Councilmember Katz and Co-Lead Sponsor: Council Vice-President Glass

Co-Sponsors: Councilmembers Jawando, Friedson, Council President Albornoz, Navarro, Hucker, Riemer, and Rice

EXPECTED ATTENDEES

Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To receive testimony, no vote expected

DESCRIPTION/ISSUE

Bill 4-22 would:

- (1) require gender-inclusive restrooms in certain places of public accommodation and County-owned buildings; and
- (2) generally amend the law regarding prohibited discrimination in public accommodations.

SUMMARY OF KEY DISCUSSION POINTS

- Bill 4-22 would establish the requirement for a single-user restroom located in a place of public accommodation or County-owned buildings to identify or display a certain sign that refers to an all-gender restroom.
- The Bill would exempt certain locations, including private restrooms in a residence; a hospital; inn, hotel, motel, or an establishment that provides lodging for transient guests; or restrooms that are only accessible from a private room or office.

This report contains:

Staff Report

Bill 4-22

LRR

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MEMORANDUM

March 4, 2022

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 4-22, Human Rights and Civil Liberties – Public Accommodations – Gender Inclusive Restrooms

PURPOSE: Public Hearing – to receive testimony

Bill 4-22, Human Rights and Civil Liberties – Public Accommodations – Gender Inclusive Restrooms sponsored by Lead Sponsor Councilmember Katz, Co-Lead-Sponsor Council Vice-President Glass with Co-Sponsors Councilmembers Jawando, Friedson, Council President Albornoz, Navarro, Hucker, Riemer, and Rice was introduced on February 15, 2022. A joint committee worksession with Government Operations and Health and Human Services is scheduled at a later date.

Bill 4-22 would:

- (1) require gender-inclusive restrooms in certain places of public accommodation and County-owned buildings; and
- (2) generally amend the law regarding prohibited discrimination in public accommodations.

PURPOSE

The purpose of Bill 4-22 is to increase accessibility for anyone to use a single-user restroom regardless of gender, gender identity, or expression, and benefit people with disabilities who have caregivers of different gender or parents with children of different gender who may require assistance using a public restroom. This Bill would help to decrease barriers, encourage full community inclusion, and strengthen dignity and personal safety for all.

BACKGROUND

In 2007, the Council enacted Bill 23-07, Non-Discrimination – Gender Identity, which prohibits discrimination in housing, employment, public accommodations, cable television service, and taxicab service on the basis of gender identity. Bill 23-07 amended Section 27-6 and defined “gender identity” as:

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

As it relates to public accommodations¹, Bill 23-07 also established gender identity² as a protected class under the County anti-discrimination law and prohibits the unfair practice of an individual to the full enjoyment of accommodations, for example, a restaurant owner could not refuse to serve an individual because of their gender identity. Even though gender identity was included as a protected class, the legislation did not specifically prohibit discrimination in the use and availability of the public restroom. Therefore, restrooms in places of public accommodations could still separate facilities based on biological gender without violating the law.

Baltimore City and Howard County have both enacted local legislation that prohibits single-occupant restrooms from being restricted to one specific sex or gender identity.

BILL DESCRIPTION

Under Bill 4-22, it would require existing or newly constructed single-user restrooms in places of public accommodations or County-owned buildings to allow restroom use by individuals of any gender and require “gender-inclusive” signage. Bill 4-22 defines, gender-inclusive signage as:

Gender-inclusive signage means a sign or display identifying a restroom that does not indicate a specific gender, such as “restroom” or “bathroom”, or a symbol indicating the restroom's availability for use by any individual regardless of gender or gender identity.

If a business or County building does not have an existing single-user restroom, the law does not require that an all-gender-inclusive restroom be made available. Rather, the law requires that at least one single-user restroom available for use must not be restricted from one gender or the other. Single-user public restroom facilities without appropriate signage will require new signs to be displayed.

Further, the Bill defines “public single-user” as “a single-occupancy restroom for public use with at least one water closet and an entry door that can be locked from the inside by the occupant.” Restrooms that include one toilet must be made available for use by any gender or gender identity. In the alternative, a multi-stall restroom with more than one stall and each stall locks, but the restroom door does not lock, can be restricted to one gender or the other – male or female. So even if the stall doors have locks, the restroom itself is not a “single-user” because it is available to more than one individual.

¹ Under County Code § 27-10, the law provides the different kinds of public accommodations.

² County Code § 27-11

The legislation does not apply to private restrooms in a residence; a hospital; inn, hotel, motel, or an establishment that provides lodging for transient guests; or restrooms that are only accessible from a private room or office.

The requirements of the bill would be enforced by the Director of the Department of Permitting Services, the Department of Health and Human Services, or any other agency as designated by the Chief Administrative Officer. A violation of the requirement would constitute a Class A violation.

This packet contains:

Bill 4-22

LRR

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Bill No. 4-22
Concerning: Human Rights and Civil Liberties – Public Accommodations – Gender Inclusive Restrooms
Revised: 02/11/2022 Draft No. 3
Introduced: _____
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

AN ACT to:

- (1) require gender-inclusive restrooms in certain places of public accommodation and County-owned buildings; and
- (2) generally amend the law regarding discrimination in public accommodations.

By adding

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Section 27-11B

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 27-11B is added as follows:

27-11B. Gender-Inclusive Single-User Restrooms.

(a) Definitions.

In this Section, the following terms have the meanings indicated:

Gender-inclusive signage means a sign or display identifying a restroom that does not indicate a specific gender, such as “restroom” or “bathroom”, or a symbol indicating the restroom’s availability for use by any individual regardless of gender or gender identity.

Place of public accommodation has the meaning stated in Section 27-10.

Public single-user restroom means a single-occupancy restroom for public use with at least one water closet and an entry door that can be locked from the inside by the occupant. A public single-user restroom does not include a private restroom in a residence, hospital, inn, hotel, motel, or restrooms that are only accessible from a private room or office.

(b) Gender-inclusive public single-user restrooms – required. A public single-user restroom, existing or newly-built, in a place of public accommodation or County-owned building, must be:

- (1) made available for use by individuals of any gender; and**
- (2) identified with gender-inclusive signage.**

(c) Enforcement and Penalties.

(1) Who may enforce. The following have the authority to enforce this Section:

- (A) The Department of Permitting Services;**
- (B) The Department of Health and Human Services; and**
- (C) any other agency designated by the Chief Administrative Officer.**

- 27 (2) A person authorized to enforce this Section must not issue a
28 citation unless the violation still exists 30 days after an initial
29 notice of violation.
- 30 (3) A violation of this Section is a Class A violation.

LEGISLATIVE REQUEST REPORT

Bill 4-22

Human Rights and Civil Liberties – Public Accommodations – Gender Inclusive Restrooms

DESCRIPTION:	Bill 4-22 would require gender-inclusive restrooms in certain places of public accommodation and County-owned buildings, as well as generally amend the law regarding discrimination in public accommodations.
PROBLEM:	County law does not specifically prohibit discrimination on the basis of gender identity in a place of accommodation as it relates to the availability and use of a public restroom. Currently, an owner of a business or County-owned building can restrict a single-occupant restroom to one specific gender – male or female.
GOALS AND OBJECTIVES:	The purpose of Bill 4-22 is to increase accessibility for anyone to use a single-user restroom regardless of gender, gender identity, or expression, and benefit people with disabilities who have caregivers of different gender or parents with children of different gender who may require assistance using a public restroom. This Bill would help to decrease barriers, encourage full community inclusion, and strengthen dignity and personal safety.
COORDINATION:	Office of Legislative Oversight (OLO)
FISCAL IMPACT:	To be provided
ECONOMIC IMPACT:	To be provided
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	To be provided
EVALUATION:	To be done.
EXPERIENCE ELSEWHERE:	Baltimore City and Howard County, MD; Seattle, WA; Berkeley and Santa Fe, CA; Austin, TX; and Philadelphia, PA
SOURCE OF INFORMATION:	Ludeen McCartney-Green, Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	N/A
PENALTIES:	A violation of this Section is a Class A violation.

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