

# HOUSE BILL 679

P5, D5

(9lr2502)

## ENROLLED BILL

— Appropriations and Rules and Executive Nominations/Finance —

Introduced by **The Speaker (By Request – Workplace Harassment Commission) and Delegate Jones**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Workplace Harassment – Prohibitions, Liability, ~~and~~ Enforcement, and**  
3 **Prevention Training**

4 FOR the purpose of prohibiting certain individuals granted special access to the State  
5 legislative complex from unlawfully harassing or discriminating against certain  
6 individuals; requiring the Department of General Services, if requested by a certain  
7 individual, to revoke access granted to a person who violates a certain provision of  
8 this Act or a regulated lobbyist who violates a certain provision of law; altering the  
9 definition of “employee” for the purposes of certain laws governing discrimination in  
10 employment; altering the definition of “employer” for the purposes of certain laws  
11 governing discrimination in employment to include certain employers when an  
12 employee files a complaint alleging harassment; prohibiting an employer from  
13 engaging in harassment of an employee; providing that an employer is liable for  
14 certain acts or omissions and under certain circumstances in an action concerning a

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 violation of certain provisions of law based on harassment; altering the time period  
 2 within which a certain complaint alleging harassment is required to be filed;  
 3 providing that a complaint filed with a local human relations commission within a  
 4 certain time period is deemed to have complied with a certain provision of this Act;  
 5 altering the time period within which a complainant may bring a certain civil action  
 6 alleging harassment; providing that certain required sexual harassment prevention  
 7 training for State employees of a unit of the University System of Maryland may  
 8 consist of webinar, computer-based, or online training under certain circumstances;  
 9 specifying that a certain representative designated for a unit of the University  
 10 System of Maryland shall be the unit's Title IX Coordinator; defining certain terms;  
 11 providing for the construction and application of this Act; and generally relating to  
 12 workplace harassment.

13 BY repealing and reenacting, with amendments,

14 Article – General Provisions

15 Section 5–508

16 Annotated Code of Maryland

17 (2014 Volume and 2018 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – State Government

20 Section 20–601, 20–606(a), 20–1004, and 20–1013(a)

21 Annotated Code of Maryland

22 (2014 Replacement Volume and 2018 Supplement)

23 BY adding to

24 Article – State Government

25 Section 20–611

26 Annotated Code of Maryland

27 (2014 Replacement Volume and 2018 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article – State Personnel and Pensions

30 Section 2–203.1(c) and (d)(1)

31 Annotated Code of Maryland

32 (2015 Replacement Volume and 2018 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

34 That the Laws of Maryland read as follows:

35 **Article – General Provisions**

36 5–508.

37 (a) This section does not apply to a State official of the Legislative Branch or a  
 38 State official of the Judicial Branch.

1 (b) A State official may not, based on any characteristic protected by law,  
2 unlawfully harass or discriminate against:

- 3 (1) an official or employee;
- 4 (2) an intern, a page, or a fellow in any branch of State government;
- 5 (3) an individual regulated lobbyist; or
- 6 (4) a credentialed member of the press.

7 (c) (1) IN THIS SUBSECTION, "STATE LEGISLATIVE COMPLEX" MEANS  
8 THE FOLLOWING STATE-OCCUPIED BUILDINGS:

- 9 (I) THE STATE HOUSE;
- 10 (II) THE DEPARTMENT OF LEGISLATIVE SERVICES BUILDING;
- 11 (III) THE HOUSE OF DELEGATES OFFICE BUILDING; AND
- 12 (IV) THE SENATE OFFICE BUILDINGS.

13 (2) IF AN INDIVIDUAL WHO IS EXEMPT FROM REGISTRATION UNDER §  
14 5-702(B)(1) OF THIS TITLE IS GRANTED SPECIAL ACCESS TO THE STATE  
15 LEGISLATIVE COMPLEX, THE INDIVIDUAL MAY NOT, BASED ON ANY  
16 CHARACTERISTIC PROTECTED BY LAW, UNLAWFULLY HARASS OR DISCRIMINATE  
17 AGAINST:

- 18 (I) AN OFFICIAL OR EMPLOYEE;
- 19 (II) AN INTERN, A PAGE, OR A FELLOW IN ANY BRANCH OF STATE  
20 GOVERNMENT;
- 21 (III) ANOTHER INDIVIDUAL REGULATED LOBBYIST; OR
- 22 (IV) A CREDENTIALLED MEMBER OF THE PRESS.

23 (3) THE DEPARTMENT OF GENERAL SERVICES SHALL REVOKE THE  
24 SPECIAL ACCESS TO THE STATE LEGISLATIVE COMPLEX GRANTED TO A PERSON  
25 WHO VIOLATES THIS SUBSECTION OR A REGULATED LOBBYIST WHO VIOLATES §  
26 5-714 OF THIS SUBTITLE IF THE REVOCATION IS REQUESTED BY:

27 (I) THE SPEAKER OF THE HOUSE OR THE SPEAKER'S  
28 DESIGNEE;

1 (II) THE PRESIDENT OF THE SENATE OR THE PRESIDENT'S  
2 DESIGNEE; OR

3 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
4 LEGISLATIVE SERVICES OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

5 Article – State Government

6 20–601.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) (1) “Disability” means:

9 (i) 1. a physical disability, infirmity, malformation, or  
10 disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

11 2. a mental impairment or deficiency;

12 (ii) a record of having a physical or mental impairment as otherwise  
13 defined under this subsection; or

14 (iii) being regarded as having a physical or mental impairment as  
15 otherwise defined under this subsection.

16 (2) “Disability” includes:

17 (i) 1. any degree of paralysis, amputation, or lack of physical  
18 coordination;

19 2. blindness or visual impairment;

20 3. deafness or hearing impairment;

21 4. muteness or speech impediment; and

22 5. physical reliance on a service animal, wheelchair, or other  
23 remedial appliance or device; and

24 (ii) retardation and any other mental impairment or deficiency that  
25 may have necessitated remedial or special education and related services.

26 (c) (1) “Employee” means:

27 (I) an individual employed by an employer; OR

1                   **(II) AN INDIVIDUAL WORKING AS AN INDEPENDENT**  
2 **CONTRACTOR FOR AN EMPLOYER.**

3           (2) Unless the individual is subject to the State or local civil service laws,  
4 “employee” does not include:

5                   (i) an individual elected to public office;

6                   (ii) [an individual chosen by an elected officer to be on the officer’s  
7 personal staff;

8                   (iii)] an appointee on the policy making level; or

9                   [(iv)] **(III)** an immediate adviser with respect to the exercise of the  
10 constitutional or legal powers of an elected office.

11           (d) (1) “Employer” means:

12                   (i) a person that:

13                               1. is engaged in an industry or business; and

14                               2. **A.** has 15 or more employees for each working day in  
15 each of 20 or more calendar weeks in the current or preceding calendar year; **OR**

16                                       **B. IF AN EMPLOYEE HAS FILED A COMPLAINT ALLEGING**  
17 **HARASSMENT, HAS ONE OR MORE EMPLOYEES FOR EACH WORKING DAY IN EACH OF**  
18 **20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;**  
19 **and**

20                   (ii) an agent of a person described in item (i) of this paragraph.

21           (2) “Employer” includes the State to the extent provided in this title.

22           (3) Except for a labor organization, “employer” does not include a bona fide  
23 private membership club that is exempt from taxation under § 501(c) of the Internal  
24 Revenue Code.

25           (e) (1) “Employment agency” means:

26                   (i) a person that regularly undertakes with or without  
27 compensation to procure:

28                               1. employees for an employer; or

29                               2. opportunities for employees to work for an employer; and

1 (ii) an agent of a person described in item (i) of this paragraph.

2 (2) Except for the United States Employment Service and the system of  
3 State and local employment services receiving federal assistance, “employment agency”  
4 does not include a unit of the United States, the State, or a political subdivision of the State.

5 (f) “Genetic information” has the meaning stated in § 27–909(a)(3) of the  
6 Insurance Article.

7 (g) “Genetic test” has the meaning stated in § 27–909(a)(5) of the Insurance  
8 Article.

9 **(H) “HARASSMENT” INCLUDES HARASSMENT BASED ON RACE, COLOR,**  
10 **RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL**  
11 **ORIENTATION, GENDER IDENTITY, OR DISABILITY, AND RETAINS ITS JUDICIALLY**  
12 **DETERMINED MEANING, EXCEPT TO THE EXTENT IT IS EXPRESSLY OR IMPLIEDLY**  
13 **CHANGED IN THIS SUBTITLE.**

14 **[(h)] (I)** (1) “Labor organization” means:

15 (i) a labor organization engaged in an industry; and

16 (ii) an agent of an organization described in item (i) of this  
17 paragraph.

18 (2) “Labor organization” includes:

19 (i) an organization of any kind, an agency, or an employee  
20 representation committee, group, association, or plan:

21 1. in which employees participate; and

22 2. that exists, wholly or partly, for the purpose of dealing  
23 with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other  
24 terms or conditions of employment; and

25 (ii) a conference, general committee, joint or system board, or joint  
26 council that is subordinate to a national or international labor organization.

27 **[(i)] (J)** “Religion” includes all aspects of religious observances, practice, and  
28 belief.

29 20–606.

30 (a) An employer may not:

1 (1) fail or refuse to hire, discharge, or otherwise discriminate against any  
2 individual with respect to the individual's compensation, terms, conditions, or privileges of  
3 employment because of:

4 (i) the individual's race, color, religion, sex, age, national origin,  
5 marital status, sexual orientation, gender identity, genetic information, or disability  
6 unrelated in nature and extent so as to reasonably preclude the performance of the  
7 employment; or

8 (ii) the individual's refusal to submit to a genetic test or make  
9 available the results of a genetic test;

10 (2) limit, segregate, or classify its employees or applicants for employment  
11 in any way that would deprive or tend to deprive any individual of employment  
12 opportunities or otherwise adversely affect the individual's status as an employee because  
13 of:

14 (i) the individual's race, color, religion, sex, age, national origin,  
15 marital status, sexual orientation, gender identity, genetic information, or disability  
16 unrelated in nature and extent so as to reasonably preclude the performance of the  
17 employment; or

18 (ii) the individual's refusal to submit to a genetic test or make  
19 available the results of a genetic test;

20 (3) request or require genetic tests or genetic information as a condition of  
21 hiring or determining benefits; [or]

22 (4) fail or refuse to make a reasonable accommodation for the known  
23 disability of an otherwise qualified employee; OR

24 **(5) ENGAGE IN HARASSMENT OF AN EMPLOYEE.**

25 **20-611.**

26 **IN AN ACTION ALLEGING A VIOLATION OF THIS SUBTITLE BASED ON**  
27 **HARASSMENT, AN EMPLOYER IS LIABLE:**

28 **(1) FOR THE ACTS OR OMISSIONS TOWARD AN EMPLOYEE OR**  
29 **APPLICANT FOR EMPLOYMENT COMMITTED BY AN INDIVIDUAL WHO:**

30 **(I) UNDERTAKES OR RECOMMENDS TANGIBLE EMPLOYMENT**  
31 **ACTIONS AFFECTING THE EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT,**  
32 **INCLUDING HIRING, FIRING, PROMOTING, DEMOTING, AND REASSIGNING THE**  
33 **EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT; OR**

1                   **(II) DIRECTS, SUPERVISES, OR EVALUATES THE WORK**  
2 **ACTIVITIES OF THE EMPLOYEE; OR**

3                   **(2) IF THE NEGLIGENCE OF THE EMPLOYER LED TO THE HARASSMENT**  
4 **OR CONTINUATION OF HARASSMENT.**

5 20-1004.

6           (a) Any person claiming to be aggrieved by an alleged discriminatory act may file  
7 a complaint with the Commission.

8           (b) The complaint shall:

9                   (1) be in writing;

10                   (2) state:

11                           (i) the name and address of the person or State or local unit alleged  
12 to have committed the discriminatory act; and

13                           (ii) the particulars of the alleged discriminatory act;

14                   (3) contain any other information required by the Commission; and

15                   (4) be signed by the complainant under oath.

16           (c) (1) **(I) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
17 **SUBSECTION, A complaint shall be filed within 6 months after the date on which the**  
18 **alleged discriminatory act occurred.**

19                   **[(2)] (II) A complaint filed with a federal or local human relations**  
20 **commission within 6 months after the date on which the alleged discriminatory act occurred**  
21 **shall be deemed to have complied with SUBPARAGRAPH (I) OF this [subsection]**  
22 **PARAGRAPH.**

23                   **(2) (I) A COMPLAINT ALLEGING HARASSMENT AGAINST AN**  
24 **EMPLOYER SHALL BE FILED WITHIN 2 YEARS AFTER THE DATE ON WHICH THE**  
25 **ALLEGED HARASSMENT OCCURRED.**

26                   **(II) A COMPLAINT FILED WITH A FEDERAL HUMAN RELATIONS**  
27 **COMMISSION WITHIN 6 MONTHS OR A LOCAL HUMAN RELATIONS COMMISSION**  
28 **WITHIN 2 YEARS AFTER THE DATE ON WHICH THE ALLEGED HARASSMENT**  
29 **OCCURRED SHALL BE DEEMED TO HAVE COMPLIED WITH SUBPARAGRAPH (I) OF**  
30 **THIS PARAGRAPH.**



1 (d) The Commission, on its own motion, and by action of at least three  
2 commissioners, may issue a complaint in its name in the same manner as if the complaint  
3 had been filed by an individual, if:

4 (1) the Commission has received reliable information from an individual  
5 that a person has been or is engaged in a discriminatory act; and

6 (2) after a preliminary investigation by the Commission's staff authorized  
7 by the chair or vice-chair, the Commission is satisfied that the information warrants the  
8 filing of a complaint.

9 20-1013.

10 (a) In addition to the right to make an election under § 20-1007 of this subtitle, a  
11 complainant may bring a civil action against the respondent alleging an unlawful  
12 employment practice, if:

13 (1) the complainant initially filed a timely administrative charge or a  
14 complaint under federal, State, or local law alleging an unlawful employment practice by  
15 the respondent;

16 (2) at least 180 days have elapsed since the filing of the administrative  
17 charge or complaint; and

18 (3) **(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH,** the  
19 civil action is filed within 2 years after the alleged unlawful employment practice occurred;  
20 **OR**

21 **(II) IF THE COMPLAINT IS ALLEGING HARASSMENT, THE CIVIL**  
22 **ACTION IS FILED WITHIN 3 YEARS AFTER THE ALLEGED HARASSMENT OCCURRED.**

23 **Article – State Personnel and Pensions**

24 2-203.1.

25 (c) (1) Each State employee shall complete at least a cumulative 2 hours of  
26 in-person or virtual, interactive training on sexual harassment prevention within:

27 (i) 6 months after the employee's initial appointment; and

28 (ii) every 2-year period thereafter.

29 (2) The training required under paragraph (1) of this subsection shall  
30 include:

1 (i) information on the federal and State laws concerning the  
2 prohibition of sexual harassment;

3 (ii) best practices in prevention and correction of sexual harassment,  
4 abusive conduct, and retaliation;

5 (iii) remedies and procedures available to victims of sexual  
6 harassment in employment; and

7 (iv) additional training for supervisors regarding information on:

8 1. properly responding to complaints of sexual harassment  
9 and preventing further abuse and retaliation; and

10 2. creating and maintaining a workplace culture in which  
11 sexual harassment is not tolerated.

12 **(3) (I) THIS PARAGRAPH APPLIES ONLY TO A UNIT OF THE**  
13 **UNIVERSITY SYSTEM OF MARYLAND.**

14 **(II) THE TRAINING REQUIRED UNDER PARAGRAPH (1) OF THIS**  
15 **SUBSECTION MAY CONSIST OF WEBINAR, COMPUTER-BASED, OR ONLINE TRAINING.**

16 ~~**(III)**~~ **(III) IF THE TRAINING REQUIRED UNDER PARAGRAPH (1)**  
17 **OF THIS SUBSECTION CONSISTS OF WEBINAR, COMPUTER-BASED, OR ONLINE**  
18 **TRAINING, THE TRAINING ALSO SHALL INCLUDE AN EVALUATIVE COMPONENT THAT:**

19 1. **ENSURES EMPLOYEE ENGAGEMENT IN THE TRAINING;**  
20 **AND**

21 2. **ASSESSES EMPLOYEE COMPREHENSION OF TRAINING**  
22 **OBJECTIVES.**

23 (d) (1) (i) Each unit shall designate a representative to coordinate with the  
24 Commission to implement the training State employees are required to complete under  
25 subsection (c) of this section.

26 (ii) **FOR A UNIT OF THE UNIVERSITY SYSTEM OF MARYLAND,**  
27 **THE REPRESENTATIVE DESIGNATED UNDER SUBPARAGRAPH (I) OF THIS**  
28 **PARAGRAPH SHALL BE THE UNIT'S TITLE IX COORDINATOR.**

29 (iii) A unit may incorporate the training into existing employment  
30 training for new employees and supervisors.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
2 preempt or prevail over any local ordinance, resolution, law, or rule that requires that an  
3 employer have more than one employee for purposes of a complaint alleging employment  
4 discrimination based on sexual harassment.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
6 apply only prospectively and may not be applied or interpreted to have any effect on or  
7 application to any cause of action arising before the effective date of this Act.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.