



Testimony of Andrew Adelman, Esq.
on behalf of the
Metropolitan Washington Employment Lawyers Association (“MWELA”)
in support of HB1055 (Commission on Nondiscrimination)

March 6, 2025

To the Chair and Members of the Committee:

I am pleased to testify on behalf of the Metropolitan Washington Employment Lawyers Association (MWELA) regarding HB1055, which establishes the Commission on Nondiscrimination to study nondiscrimination laws and make recommendations on legislation to address deficiencies. I am a member of MWELA, an association of over 350 attorneys in Maryland, the District of Columbia, and Virginia whose practice is dedicated primarily to the representation of employees and advancement of civil rights in the workplace. MWELA is among the largest affiliates of the National Employment Lawyers Association (NELA), the country’s largest voluntary bar association whose members represent individuals in employment matters. As someone who practices in Maryland on a regular basis, my practice and that of many other MWELA members is devoted to enabling Maryland employees and individuals to live their lives free from discrimination. Much of the practice of many MWELA members involves claims under Maryland’s state and local antidiscrimination statutes, such as the Maryland Fair Employment Practices Act (“MFEPA,” at Title 20 of the State Government Code).

Currently, Maryland law prohibits discrimination on the basis of a wide range of protected characteristics, including but not limited to race, color, religion or creed, sex, age, ancestry or national origin, marital status, physical or mental disability, sexual orientation, gender identity, and military status. Maryland law forbids discrimination on those illicit criteria in many facets of life, including employment, housing, places of public accommodation, health insurance, etc. A number of important changes could be made to MFEPA to expand protections and to bring it up to the high standard shown in other states’ civil rights laws. In the employment arena, for example, the human rights laws of California, Illinois, and New York City make employers strictly liable for unlawful harassment of employees by their supervisors, a more stringent standard than federal law.

Maryland has not yet taken this step to promote accountability for employers and the recourse for employees subjected to serious sexual, racial, and other forms of harassment.

There are also gaps in coverage between and among other areas of our anti-discrimination laws that limit the reach and effectiveness of these provisions. Examples include MFEPA’s very limited definition of “place of public accommodation,” Md. Code Ann., State Gov’t § 20-301, and the lack of any statutory prohibition on discrimination in contracting. Additionally, while the number of protected characteristics may seem broad, the State may consider whether and why certain protected categories are missing, for example discrimination on the basis of family responsibilities, homelessness, or status as a survivor of domestic violence, each of which is covered by antidiscrimination statutes in other jurisdictions. The Commission on Nondiscrimination would be able to study these gaps, understand whether a legislative fix is warranted, and make recommendations to the State Legislature as necessary.

Importantly, Maryland state antidiscrimination law confers a private right of action—a right of individuals, not only governmental authorities, to bring lawsuits for discrimination—in only two areas: employment and housing. *See* Md. Code Ann., State Gov’t §§ 20-1013, 20-1035. It appears that no other Maryland civil rights statute that prohibits discrimination allows an individual to bring their claims in court. This relegates them to often inadequate administrative remedies, or to none at all. For example, an individual who is denied use of a hotel because of their race cannot bring their claims to court under state law. *See, e.g., Binks v. Ally Bank*, No. SAG-20-496, 2020 U.S. Dist. LEXIS 174344, at *6 (D. Md. Sep. 22, 2020) (“[I]t is evident that the [Maryland] legislature created no private right of action for persons in Plaintiff’s position [asserting discrimination in a place of public accommodation], and her only recourse rests with the Maryland Commission on Civil Rights.”). A transgender person who is denied health insurance coverage by their health insurance plan for medically necessary care because of their gender identity cannot bring their claims to court. *See* Md. Code Ann., Ins. § 15-1A-22(d). At most, these individuals can file administrative charges with the Maryland Commission on Civil Rights, a resource-constrained entity that has never meaningfully litigated any discrimination claims. A right without a remedy is no right at all. The weaker the enforcement of the State’s anti-discrimination laws, the less often wrongdoers will be held accountable for violating them. The Commission on Nondiscrimination can analyze these gaps to determine whether and where to provide a legislative remedy.

Additionally, there are many local jurisdictions within Maryland that have robust laws but no enforcement mechanism. Specifically, Section 20-1202 of the State

Government Code authorizes individuals to bring claims of discrimination pursuant to only a few county codes: those of Howard County, Montgomery, and Prince George’s. Jurisdictions such as Frederick County and Harford County have anti-discrimination laws that are robust on paper, but are enforceable only by small and under-resourced local civil rights offices. The Commission established by HB1055 will be able to study local anti-discrimination laws and consider whether they, too, should confer private rights of action. The Commission established by HB1055 will study these and other anti-discrimination laws and determine whether they are effective and provide appropriate protections for Maryland workers and citizens.

The State of Maryland holds itself out as a bastion of civil rights and a protector of marginalized communities. To effectively achieve that vision, Maryland must have robust and effective civil rights laws. This may be especially necessary at the state level with the rollback of many civil rights protections currently underway at the federal level. For example, the US Equal Employment Opportunity Commission has announced that it plans to revoke its 2024 guidance on harassment in the workplace, including protections for transgender employees, and it has also stopped processing complaints of discrimination on the basis of sexual orientation and gender identity. The Trump Administration plans to eliminate (or at least severely cut back) the Department of Education, and eliminate regulations under Title IX of the Education Amendments of 1972 that protect transgender and gender-nonconforming students. Maryland must be able to respond to these challenges consistent with its vision for strong protection of its residents on important civil rights issues.

The Commission on Nondiscrimination will be empowered to evaluate the strengths, opportunities, and barriers to Maryland’s civil rights statutes by bringing together and providing a voice for all stakeholders, including those from the executive and legislative branches of state government, the plaintiff’s bar, the management bar, and the judiciary, among others. These efforts, led by the strong civil rights advocates we hope and expect to see appointed as Commissioners, will help to streamline and strengthen the State’s anti-discrimination laws. These efforts will help to streamline and strengthen the State’s anti-discrimination laws in a way to come closer to the shared goal of eradicating invidious discrimination in a fair and evenhanded manner. MWELA’s hope is that the Commission will study the gaps in coverage between and among Maryland’s anti-discrimination laws which too often make the anti-discrimination provisions aspirational rather than reality.

MWELA urges you to approve HB1055.

Testimony of Andrew Adelman, Esq., on behalf of the
Metropolitan Washington Employment Lawyers Association (“MWELA”)
in support of HB1055 (Commission on Nondiscrimination)
Page 4 of 4

Thank you.

A handwritten signature in blue ink, appearing to read 'Andrew Adelman', with a stylized flourish at the end.

Andrew Adelman
Correia & Puth, PLLC
1400 16th Street NW, Suite 450
Washington, DC 20036
Tel: (202) 602-6500
aadelman@correiaputh.com