

HOUSE BILL 183

D5

0lr0353
CF 0lr1441

By: **Delegates Barron, Ivey, and Korman**

Introduced and read first time: January 16, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations – Employment Discrimination – Waiver of Immunity From**
3 **Suit in Federal Court and Venue**

4 FOR the purpose of waiving the State’s right to immunity from suit brought in a certain
5 federal court alleging certain employment discrimination; authorizing certain
6 actions alleging discrimination to be brought in a federal court of competent
7 jurisdiction; and generally relating to employment discrimination, State immunity,
8 and venue.

9 BY repealing and reenacting, with amendments,
10 Article – State Government
11 Section 20–903, 20–1012(a), 20–1013(b), 20–1032(a)(2)(ii), 20–1036(a) and (b), and
12 20–1037(b)
13 Annotated Code of Maryland
14 (2014 Replacement Volume and 2019 Supplement)

15 Preamble

16 WHEREAS, The Eleventh Amendment to the United States Constitution provides
17 in part that “[t]he Judicial power of the United States shall not be construed to extend to
18 any suit in law or equity, commenced or prosecuted against one of the United States by
19 Citizens of another State”; and

20 WHEREAS, The U.S. Supreme Court has construed the Eleventh Amendment to
21 establish that an unconsenting state is immune from suits brought in federal courts by the
22 state’s own citizens as well as by citizens of another state; and

23 WHEREAS, The Fourth Circuit Court of Appeals has recently held that a state must
24 explicitly waive immunity under the Eleventh Amendment in order to be sued in federal
25 court; now, therefore,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – State Government

20–903.

The State, its officers, and its units may not raise sovereign immunity as a defense against an **ACTION OR** award in an employment discrimination case under this title **FILED IN A STATE OR FEDERAL COURT OF COMPETENT JURISDICTION**.

20–1012.

(a) Within 60 days after an election is made under § 20–1007 of this subtitle, the Commission shall file a civil action in the circuit court for the county where the alleged unlawful employment practice occurred **OR IN A FEDERAL COURT OF COMPETENT JURISDICTION**.

20–1013.

(b) A civil action under this section shall be filed in the circuit court for the county where the alleged unlawful employment practice occurred **OR IN A FEDERAL COURT OF COMPETENT JURISDICTION**.

20–1032.

(a) (2) The action shall be:

(ii) filed in the circuit court for the county where the dwelling that is the subject of the alleged discriminatory housing practice is located **OR IN A FEDERAL COURT OF COMPETENT JURISDICTION**.

20–1036.

(a) The Commission may commence a civil action in the appropriate circuit court **OR IN A FEDERAL COURT OF COMPETENT JURISDICTION** if the Commission has probable cause to believe that:

(1) (i) a person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this part and Subtitle 7 of this title; or

(ii) any group of persons has been denied any of the rights granted by this part and Subtitle 7 of this title; and

(2) the resistance or denial raises an issue of general public importance.

1 (b) The Commission or other party at whose request a subpoena is issued under
2 this part may enforce a subpoena in appropriate proceedings in the circuit court for the
3 county in which the person to whom the subpoena was addressed resides, was served, or
4 transacts business **OR IN A FEDERAL COURT OF COMPETENT JURISDICTION.**

5 20–1037.

6 (b) An action under this section shall be brought in the circuit court for the county
7 where the dwelling that is the subject of the alleged discriminatory housing practice is
8 located **OR IN A FEDERAL COURT OF COMPETENT JURISDICTION.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2020.