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By: **Delegates Hill, Patterson, and Valderrama**  
Introduced and read first time: February 9, 2001  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Civil Rights Act of 2001**

3 FOR the purpose of establishing the responsibilities and authority of certain hearing  
4 examiners and the courts in certain employment discrimination cases;  
5 authorizing a hearing examiner to enjoin certain actions and order certain  
6 damages and attorneys' fees in employment discrimination cases under certain  
7 circumstances; authorizing a complainant to bring a civil action against a person  
8 who engages in certain unlawful employment practices; providing compensatory  
9 damages, punitive damages, and other equitable or monetary relief in certain  
10 employment discrimination cases; defining certain terms; making provisions of  
11 this Act severable; and generally relating to prohibited unlawful employment  
12 practices.

13 BY repealing and reenacting, with amendments,  
14 Article 49B - Human Relations Commission  
15 Section 11(e), 14, and 15  
16 Annotated Code of Maryland  
17 (1998 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article 49B - Human Relations Commission  
20 Section 16  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume and 2000 Supplement)

23 BY adding to  
24 Article 49B - Human Relations Commission  
25 Section 16A and 16B  
26 Annotated Code of Maryland  
27 (1998 Replacement Volume and 2000 Supplement)

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

1

**Article 49B - Human Relations Commission**

2 11.

3 (e) If upon all the evidence, the hearing examiner finds that the respondent  
4 has engaged in any discriminatory act within the scope of any of these subtitles, the  
5 hearing examiner shall so state the findings. The hearing examiner shall issue and  
6 cause to be served upon the respondent an order requiring the respondent to cease  
7 and desist from the discriminatory acts and to take affirmative action to effectuate  
8 the purposes of the particular subtitle. If the respondent is found to have engaged in  
9 or to be engaging in an unlawful employment practice charged in the complaint, the  
10 remedy may include, but is not limited to, reinstatement or hiring of employees, with  
11 or without back pay (payable by the employer, employment agency, or labor  
12 organization, as the case may be, responsible for the unlawful employment practice),  
13 or any other equitable relief that is deemed appropriate. The award of [monetary  
14 relief] BACK PAY shall be limited to a 36-month period. The complainant may not be  
15 awarded monetary relief for losses incurred between the time of the Commission's  
16 final determination and the final determination by the circuit court or higher  
17 appellate court, as the case may be. Interim earning or amounts earnable with  
18 reasonable diligence by the person or persons discriminated against shall operate to  
19 reduce the monetary relief otherwise allowable. In cases of discrimination other than  
20 those involving employment, in addition to the award of civil penalties as specifically  
21 provided in this article, nonmonetary relief may be granted to the complainant,  
22 except that in no event shall an order be issued that substantially affects the cost,  
23 level, or type of any transportation services. In cases involving transportation services  
24 which are supported fully or partially with funds from the Maryland Department of  
25 Transportation, no order may be issued which would require costs, level, or type of  
26 transportation services different from or in excess of those required to meet U.S.  
27 Department of Transportation regulations adopted pursuant to Section 504 of the  
28 Rehabilitation Act of 1973, codified as 29 U.S.C. § 794, nor would any such order be  
29 enforceable under Section 12(a) of this subtitle. IN ADDITION TO THE AUTHORITY  
30 GRANTED UNDER THIS SECTION, THE HEARING EXAMINER HAS THE AUTHORITY  
31 PROVIDED UNDER THE SUBTITLE DISCRIMINATION IN EMPLOYMENT IN THIS  
32 ARTICLE.

33 14.

34 (A) THE GENERAL ASSEMBLY FINDS THAT:

35 (1) ADDITIONAL REMEDIES UNDER STATE LAW ARE NEEDED TO DETER  
36 UNLAWFUL HARASSMENT AND INTENTIONAL DISCRIMINATION IN THE WORKPLACE;  
37 AND

38 (2) LEGISLATION IS NECESSARY TO PROVIDE ADDITIONAL  
39 PROTECTIONS AGAINST UNLAWFUL DISCRIMINATION IN EMPLOYMENT.

40 (B) THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE APPROPRIATE REMEDIES  
41 FOR INTENTIONAL DISCRIMINATION AND UNLAWFUL HARASSMENT IN THE  
42 WORKPLACE.

1 (C) It is hereby declared to be the policy of the State of Maryland, in the  
2 exercise of its police power for the protection of the public safety, public health and  
3 general welfare, for the maintenance of business and good government and for the  
4 promotion of the State's trade, commerce and manufacturers to assure all persons  
5 equal opportunity in receiving employment and in all labor management-union  
6 relations regardless of race, color, religion, ancestry or national origin, sex, age,  
7 marital status, or disability unrelated in nature and extent so as to reasonably  
8 preclude the performance of the employment, and to that end to prohibit  
9 discrimination in employment by any person, group, labor organization, organization  
10 or any employer or his agents.

11 15.

12 For the purposes of this subtitle:

13 (a) The term "person" includes one or more individuals, labor unions,  
14 partnerships, associations, corporations, legal representatives, mutual companies,  
15 joint-stock companies, trusts, unincorporated organizations, trustees, trustees in  
16 bankruptcy, or receivers.

17 (B) THE TERM "COMPLAINING PARTY" MEANS THE COMMISSION OR A PERSON  
18 WHO MAY BRING AN ACTION OR PROCEEDING UNDER THIS ARTICLE.

19 [(b)] (C) The term "employer" means a person engaged in an industry or  
20 business who has fifteen or more employees for each working day in each of twenty or  
21 more calendar weeks in the current or preceding calendar year, and any agent of such  
22 a person; such term does include the State of Maryland to the extent as may be  
23 provided in this article but such term does not include a bona fide private  
24 membership club (other than a labor organization) which is exempt from taxation  
25 under § 501(c) of the Internal Revenue Code.

26 [(c)] (D) The term "employment agency" means any person regularly  
27 undertaking with or without compensation to procure employees for an employer or to  
28 procure for employees opportunities to work for an employer and includes an agent or  
29 such a person; but shall not include an agency of the United States or an agency of the  
30 State of Maryland or political subdivision thereof, except such term shall include the  
31 United States Employment Service and the system of State and local employment  
32 services receiving federal assistance.

33 [(d)] (E) The term "labor organization" means a labor organization engaged in  
34 an industry and any agent of such an organization, and includes any organization of  
35 any kind, any agency, or employee representation committee, group, association, or  
36 plan so engaged in which employees participate and which exists for the purpose, in  
37 whole or in part, of dealing with employers concerning grievances, labor disputes,  
38 wages, rates of pay, hours, or other terms or conditions of employment, and any  
39 conference, general committee, joint or system board, or joint council so engaged  
40 which is subordinate to a national or international labor organization.

41 [(e)] (F) The term "employee" means an individual employed by an employer,  
42 except that "employee" does not include any person elected to public office or any

1 person chosen by the officer to be on the officer's personnel staff, or an appointee in  
2 the policymaking level or an immediate advisor with respect to the exercise of the  
3 constitutional or legal powers of the office. The exception set forth in the preceding  
4 sentence does not include employees subject to the State or local civil service laws.

5 [(f)] (G) The term "religion" includes all aspects of religious observances and  
6 practice, as well as belief, except in those cases when the observance, practice, or  
7 belief cannot be reasonably accommodated by an employer without causing undue  
8 hardship on the conduct of the employer's business.

9 [(g)] (H) The term "disability" means any physical disability, infirmity,  
10 malformation or disfigurement which is caused by bodily injury, birth defect or illness  
11 including epilepsy, and which shall include, but not be limited to, any degree of  
12 paralysis, amputation, lack of physical coordination, blindness or visual impairment,  
13 deafness or hearing impairment, muteness or speech impediment or physical reliance  
14 on a seeing eye dog, wheelchair, or other remedial appliance or device; and any  
15 mental impairment or deficiency as, but not limited to, retardation or such other  
16 which may have necessitated remedial or special education and related services.

17 16.

18 (a) It shall be an unlawful employment practice for an employer:

19 (1) To fail or refuse to hire or to discharge any individual, or otherwise to  
20 discriminate against any individual with respect to his compensation, terms,  
21 conditions, or privileges of employment, because of such individual's race, color,  
22 religion, sex, age, national origin, marital status, or disability unrelated in nature and  
23 extent so as to reasonably preclude the performance of the employment; or

24 (2) To limit, segregate, or classify his employees or applicants for  
25 employment in any way which would deprive or tend to deprive any individual of  
26 employment opportunities or otherwise adversely affect his status as an employee,  
27 because of the individual's race, color, religion, sex, age, national origin, marital  
28 status, or disability unrelated in nature and extent so as to reasonably preclude the  
29 performance of the employment.

30 (b) It shall be an unlawful employment practice for an employment agency to  
31 fail or refuse to refer for employment, or otherwise to discriminate against, any  
32 individual because of his race, color, religion, sex, age, national origin, marital status,  
33 or disability unrelated in nature and extent so as to reasonably preclude the  
34 performance of the employment, or to classify or refer for employment any individual  
35 on the basis of his race, color, religion, sex, age, national origin, marital status, or  
36 disability unrelated in nature and extent so as to reasonably preclude the  
37 performance of the employment.

38 (c) It shall be an unlawful employment practice for a labor organization: (1) to  
39 exclude or to expel from its membership, or otherwise to discriminate against, any  
40 individual because of his race, color, religion, sex, age, national origin, marital status,  
41 or disability unrelated in nature and extent so as to reasonably preclude the  
42 performance of the employment; (2) to limit, segregate or classify its membership, or

1 to classify or fail or refuse to refer for employment any individual, in any way which  
2 would deprive or tend to deprive any individual of employment opportunities, or  
3 would limit such employment opportunities or otherwise adversely affect his status as  
4 an employee or as an applicant for employment, because of such individual's race,  
5 color, religion, sex, age, national origin, marital status, or disability unrelated in  
6 nature and extent so as to reasonably preclude the performance of the employment; or  
7 (3) to cause or attempt to cause an employer to discriminate against an individual in  
8 violation of this section.

9 (d) It shall be an unlawful employment practice for any employer, labor  
10 organization, or joint labor-management committee controlling apprenticeship or  
11 other training or retraining, including on-the-job training programs to discriminate  
12 against any individual because of his race, color, religion, sex, age, national origin,  
13 marital status, or disability unrelated in nature or extent so as to reasonably preclude  
14 the performance of the employment in admission to, or employment in, any program  
15 established to provide apprenticeship or other training.

16 (e) It is an unlawful employment practice for an employer, labor organization,  
17 or employment agency to print or cause to be printed or published any notice or  
18 advertisement relating to employment by the employer or membership in or any  
19 classification or referral for employment by the labor organization, or relating to any  
20 classification or referral for employment by the agency, indicating any preference,  
21 limitation, specification, or discrimination, based on race, color, religion, sex, age,  
22 national origin or on the basis of a disability. However, a notice or advertisement may  
23 indicate a preference, limitation, specification, or discrimination based on religion,  
24 sex, age, national origin or disability when religion, sex, age, national origin or  
25 disability is a bona fide occupational qualification for employment.

26 (f) It is an unlawful employment practice for an employer to discriminate  
27 against any of his employees or applicants for employment, for an employment agency  
28 to discriminate against any individual, or for a labor organization to discriminate  
29 against any member thereof or applicant for membership, because he has opposed  
30 any practice made an unlawful employment practice by this subtitle or because he  
31 has made a charge, testified, assisted, or participated in any manner in an  
32 investigation, proceeding, or hearing under this subtitle.

33 (g) Notwithstanding any other provision of this subtitle, (1) it is not an  
34 unlawful employment practice for an employer to hire and employ employees, for an  
35 employment agency to classify, or refer for employment any individual, for a labor  
36 organization to classify its membership or to classify or refer for employment any  
37 individual, or for an employer, labor organization or joint labor-management  
38 committee controlling apprenticeship or other training or retraining programs to  
39 admit or employ any individual in any such program, on the basis of his religion,  
40 national origin or disability in those instances where sex, age, religion, national origin  
41 or disability is a bona fide occupational qualification reasonably necessary to the  
42 normal operation of that particular business or enterprise; (2) it is not an unlawful  
43 employment practice for an employer to establish standards concerning an employee's  
44 dress and grooming if the standards are directly related to the nature of the  
45 employment of the employee; (3) it is not an unlawful employment practice for a

1 school, college, university, or other educational institution or institution of learning to  
2 hire and employ employees of a particular religion if the school, college, university, or  
3 other educational institution or institution of learning is, in whole or in substantial  
4 part, owned, supported, controlled, or managed by a particular religion or by a  
5 particular religious corporation, association, or society or if the curriculum of the  
6 school, college, university, or other educational institution or institution of learning is  
7 directed toward the propagation of a particular religion; and (4) it is not unlawful for  
8 an employer, employment agency or labor organization to observe the terms of a bona  
9 fide seniority system or any bona fide employee benefit plan such as a retirement,  
10 pension or insurance plan, which is not a subterfuge to evade the purposes of this  
11 subtitle; however, no employee benefit plan shall excuse the failure to hire any  
12 individual.

13 (h) Nothing contained in this subtitle shall be interpreted to require any  
14 employer, employment agency, labor organization, or joint labor-management  
15 committee subject to this subtitle to grant preferential treatment to any individual or  
16 to any group because of the race, color, religion, sex, age, national origin or disability  
17 of the individual or group on account of an imbalance which may exist with respect to  
18 the total number or percentage of persons of any race, color, religion, sex, age,  
19 national origin or persons with disabilities employed by any employer, referred or  
20 classified for employment by any employment agency or labor organization, admitted  
21 to membership or classified by any labor agency or labor organization, admitted to  
22 membership or classified by any labor organization, or admitted to, or employed in,  
23 any apprenticeship or other training program, in comparison with the total number or  
24 percentage of persons of such race, color, religion, sex, age, national origin, or persons  
25 with disabilities in any community, State, section, or other area, or in the available  
26 work force in any community, State, section, or other area.

27 16A.

28 (A) IF THE HEARING EXAMINER FINDS THAT THE RESPONDENT HAS  
29 ENGAGED IN, OR IS ENGAGING IN, AN UNLAWFUL EMPLOYMENT PRACTICE CHARGED  
30 IN THE COMPLAINT, THE HEARING EXAMINER MAY:

31 (1) ENJOIN THE RESPONDENT FROM ENGAGING IN THE UNLAWFUL  
32 EMPLOYMENT PRACTICE;

33 (2) ORDER APPROPRIATE AFFIRMATIVE RELIEF INCLUDING  
34 REINSTATEMENT OR HIRING WITH OR WITHOUT BACK PAY PAYABLE BY THE  
35 RESPONDENT;

36 (3) AWARD ATTORNEYS' FEES WHICH MAY INCLUDE REASONABLE  
37 EXPERT FEES; AND

38 (4) ORDER ANY OTHER EQUITABLE OR MONETARY RELIEF AS THE  
39 HEARING EXAMINER DETERMINES APPROPRIATE.

40 (B) IN ADDITION TO ANY OTHER DAMAGES UNDER THIS ARTICLE, IN AN  
41 ACTION AGAINST A RESPONDENT WHO ENGAGED IN, OR IS ENGAGING IN, AN  
42 UNLAWFUL INTENTIONAL EMPLOYMENT PRACTICE (NOT AN EMPLOYMENT

1 PRACTICE THAT IS UNLAWFUL BECAUSE OF ITS DISPARATE IMPACT), THE  
2 FOLLOWING DAMAGES MAY BE AWARDED:

3 (1) COMPENSATORY DAMAGES; AND

4 (2) IF THE RESPONDENT, OTHER THAN A GOVERNMENT, GOVERNMENT  
5 AGENCY, OR A POLITICAL SUBDIVISION, ENGAGED IN THE UNLAWFUL INTENTIONAL  
6 EMPLOYMENT PRACTICE, A CIVIL PENALTY TO BE PAID TO THE GENERAL FUND OF  
7 THE STATE IN AN AMOUNT NOT EXCEEDING:

8 (I) \$10,000 IF THE RESPONDENT HAS NOT BEEN ADJUDGED TO  
9 HAVE COMMITTED ANY PRIOR UNLAWFUL EMPLOYMENT PRACTICE;

10 (II) \$25,000 IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE  
11 COMMITTED ONE OTHER UNLAWFUL EMPLOYMENT PRACTICE DURING THE 5-YEAR  
12 PERIOD ENDING ON THE DATE OF THE FILING OF THIS CHARGE; AND

13 (III) \$50,000 IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE  
14 COMMITTED TWO OR MORE UNLAWFUL EMPLOYMENT PRACTICES DURING THE  
15 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THIS CHARGE.

16 (C) IF THE ACTS CONSTITUTING AN UNLAWFUL EMPLOYMENT PRACTICE  
17 THAT IS THE OBJECT OF THE CHARGE ARE COMMITTED BY THE SAME NATURAL  
18 PERSON WHO HAS BEEN PREVIOUSLY ADJUDGED TO HAVE COMMITTED AN ACT  
19 CONSTITUTING AN UNLAWFUL EMPLOYMENT PRACTICE, THEN THE CIVIL  
20 PENALTIES SET FORTH IN THIS SECTION MAY BE IMPOSED WITHOUT REGARD TO  
21 THE PERIOD OF TIME WITHIN WHICH ANY SUBSEQUENT UNLAWFUL EMPLOYMENT  
22 PRACTICE OCCURRED.

23 (D) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED  
24 UNDER THIS SECTION FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN,  
25 SUFFERING, MENTAL ANGUISH, AND OTHER NONPECUNIARY LOSSES, AND THE  
26 AMOUNT OF CIVIL PENALTIES AWARDED UNDER THIS SECTION, MAY NOT EXCEED,  
27 FOR EACH COMPLAINING PARTY:

28 (1) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 14 AND  
29 FEWER THAN 101 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE  
30 CURRENT OR PRECEDING CALENDAR YEAR, \$50,000;

31 (2) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 100 AND  
32 FEWER THAN 201 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE  
33 CURRENT OR PRECEDING CALENDAR YEAR, \$100,000;

34 (3) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 200 AND  
35 FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE  
36 CURRENT OR PRECEDING CALENDAR YEAR, \$200,000; AND

37 (4) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 500  
38 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR  
39 PRECEDING CALENDAR YEAR, \$300,000.

1 (E) IN CASES WHERE AN UNLAWFUL EMPLOYMENT PRACTICE INVOLVES A  
2 REASONABLE ACCOMMODATION, DAMAGES MAY NOT BE AWARDED UNDER THIS  
3 SECTION:

4 (1) IF THE PERSON WITH THE DISABILITY HAS INFORMED THE COVERED  
5 ENTITY THAT ACCOMMODATION IS NEEDED; AND

6 (2) IF, IN CONSULTATION WITH THE PERSON WITH THE DISABILITY, THE  
7 COVERED ENTITY DEMONSTRATES GOOD FAITH EFFORTS TO IDENTIFY AND MAKE  
8 REASONABLE ACCOMMODATION THAT:

9 (I) WOULD PROVIDE THE INDIVIDUAL WITH AN EQUALLY  
10 EFFECTIVE OPPORTUNITY; AND

11 (II) WOULD NOT CAUSE AN UNDUE HARDSHIP ON THE OPERATION  
12 OF THE BUSINESS.

13 (F) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE SCOPE OF, OR THE  
14 RELIEF AVAILABLE UNDER, ANY OTHER PROVISION OF STATE OR FEDERAL LAW.

15 16B.

16 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
17 COMPLAINING PARTY MAY BRING A CIVIL ACTION ALLEGING AN UNLAWFUL  
18 EMPLOYMENT PRACTICE AGAINST A RESPONDENT PROVIDED:

19 (I) THE COMPLAINANT INITIALLY FILED A COMPLAINT WITH THE  
20 COMMISSION AGAINST THE RESPONDENT ALLEGING THE UNLAWFUL EMPLOYMENT  
21 PRACTICE; AND

22 (II) AT LEAST 180 DAYS HAVE ELAPSED SINCE THE FILING OF THE  
23 COMPLAINT.

24 (2) (I) A COMPLAINING PARTY MAY NOT COMMENCE A CIVIL ACTION  
25 UNDER THIS SUBSECTION FOR AN UNLAWFUL EMPLOYMENT PRACTICE THAT FORMS  
26 THE BASIS OF A CHARGE ISSUED BY THE COMMISSION IF A HEARING ON THE  
27 RECORD UNDER THIS SUBTITLE WITH RESPECT TO THE CHARGE HAS BEEN  
28 COMMENCED BY AN ADMINISTRATIVE LAW JUDGE; AND

29 (II) AFTER THE BEGINNING OF THE TRIAL OF A CIVIL ACTION THAT  
30 IS COMMENCED BY A COMPLAINANT UNDER AN ACT OF CONGRESS OR THIS  
31 SUBTITLE AND THAT SEEKS RELIEF FOR AN ALLEGED UNLAWFUL EMPLOYMENT  
32 PRACTICE, AN ADMINISTRATIVE LAW JUDGE MAY NOT CONTINUE ADMINISTRATIVE  
33 PROCEEDINGS UNDER THIS SECTION FOR THE SAME ALLEGED UNLAWFUL  
34 EMPLOYMENT PRACTICE.

35 (3) AT THE TIME THAT A FORMAL COMPLAINT IS FILED BY A  
36 COMPLAINANT WITH THE COMMISSION, THE COMMISSION SHALL NOTIFY THE  
37 PARTIES IN WRITING OF:



1 (I) THE RIGHT TO FILE A CIVIL ACTION AND THAT THE TIME FOR  
2 FILING AN ACTION SHALL TERMINATE IF THE TRIAL BEFORE AN ADMINISTRATIVE  
3 LAW JUDGE HAS COMMENCED; AND

4 (II) THE DIFFERENT REMEDIES POTENTIALLY AVAILABLE TO THE  
5 COMPLAINANT THROUGH THE ADMINISTRATIVE PROCESS AND THE COURTS.

6 (4) UPON TIMELY APPLICATION, THE COURT MAY, IN ITS DISCRETION,  
7 PERMIT THE COMMISSION TO INTERVENE IN THE CIVIL ACTION UPON  
8 CERTIFICATION THAT THE CASE IS OF IMPORTANCE TO THE GENERAL PUBLIC.

9 (B) (1) THE CIRCUIT COURT OF THE COUNTY SHALL HAVE JURISDICTION  
10 OVER ACTIONS BROUGHT UNDER THIS SECTION IN ACCORDANCE WITH § 1-501 OF  
11 THE COURTS ARTICLE, INCLUDING ANY PETITION IN EQUITY SEEKING INJUNCTIVE  
12 RELIEF.

13 (2) THE CIVIL ACTION MAY BE BROUGHT IN THE CIRCUIT COURT OF THE  
14 COUNTY:

15 (I) WHERE THE UNLAWFUL EMPLOYMENT PRACTICE IS ALLEGED  
16 TO HAVE BEEN COMMITTED; OR

17 (II) WHERE THE RECORDS RELEVANT TO THE UNLAWFUL  
18 EMPLOYMENT PRACTICE ARE MAINTAINED AND ADMINISTERED.

19 (3) THE CIRCUIT COURT IN THE JURISDICTION IN WHICH THE CASE HAS  
20 BEEN DOCKETED SHALL EXPEDITE THE HEARING AND DETERMINE THE CASE.

21 (C) IF THE COURT FINDS THAT THE RESPONDENT HAS ENGAGED IN OR IS  
22 ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE CHARGED IN THE  
23 COMPLAINT, THE COURT MAY:

24 (1) ENJOIN THE RESPONDENT FROM ENGAGING IN THE UNLAWFUL  
25 EMPLOYMENT PRACTICE;

26 (2) ORDER APPROPRIATE AFFIRMATIVE RELIEF INCLUDING  
27 REINSTATEMENT OR HIRING WITH OR WITHOUT BACK PAY PAYABLE BY THE  
28 RESPONDENT;

29 (3) AWARD ATTORNEYS' FEES WHICH MAY INCLUDE REASONABLE  
30 EXPERT FEES; AND

31 (4) ORDER ANY OTHER EQUITABLE OR MONETARY RELIEF AS THE  
32 COURT DETERMINES APPROPRIATE.

33 (D) (1) IN ADDITION TO ANY OTHER DAMAGES, IN AN ACTION BROUGHT BY  
34 A COMPLAINING PARTY AGAINST A RESPONDENT WHO ENGAGED IN, OR IS  
35 ENGAGING IN, AN UNLAWFUL INTENTIONAL EMPLOYMENT PRACTICE (NOT AN  
36 EMPLOYMENT PRACTICE THAT IS UNLAWFUL BECAUSE OF ITS DISPARATE IMPACT)  
37 THE FOLLOWING DAMAGES MAY BE AWARDED:

1 (I) COMPENSATORY DAMAGES; AND

2 (II) PUNITIVE DAMAGES AGAINST THE RESPONDENT, OTHER THAN  
3 A GOVERNMENT, GOVERNMENT AGENCY, OR A POLITICAL SUBDIVISION, IF:

4 1. THE RESPONDENT ENGAGED IN THE UNLAWFUL  
5 INTENTIONAL EMPLOYMENT PRACTICE WITH MALICE; AND

6 2. A CIVIL PENALTY AS PROVIDED IN § 16A OF THIS SUBTITLE  
7 HAS NOT PREVIOUSLY BEEN ASSESSED AGAINST THE RESPONDENT AND PAID.

8 (2) THE COMPENSATORY DAMAGES AWARDED UNDER THIS  
9 SUBSECTION ARE IN ADDITION TO ANY BACK PAY, OR ANY INTEREST ON THE BACK  
10 PAY, AND ANY OTHER EQUITABLE RELIEF THAT THE COMPLAINING PARTY IS  
11 ENTITLED TO RECOVER UNDER ANY OTHER PROVISION OF LAW.

12 (E) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED  
13 UNDER THIS SECTION FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN,  
14 SUFFERING, MENTAL ANGUISH, AND OTHER NONPECUNIARY LOSSES, AND THE  
15 AMOUNT OF PUNITIVE DAMAGES AWARDED UNDER THIS SECTION, MAY NOT  
16 EXCEED, FOR EACH COMPLAINING PARTY:

17 (1) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 14 AND  
18 FEWER THAN 101 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE  
19 CURRENT OR PRECEDING CALENDAR YEAR, \$50,000;

20 (2) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 100 AND  
21 FEWER THAN 201 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE  
22 CURRENT OR PRECEDING CALENDAR YEAR, \$100,000;

23 (3) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 200 AND  
24 FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE  
25 CURRENT OR PRECEDING CALENDAR YEAR, \$200,000; AND

26 (4) IN THE CASE OF A RESPONDENT WHO HAS MORE THAN 500  
27 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR  
28 PRECEDING CALENDAR YEAR, \$300,000.

29 (F) IN CASES WHERE AN UNLAWFUL EMPLOYMENT PRACTICE INVOLVES A  
30 REASONABLE ACCOMMODATION, DAMAGES MAY NOT BE AWARDED UNDER THIS  
31 SECTION:

32 (1) IF THE PERSON WITH THE DISABILITY HAS INFORMED THE COVERED  
33 ENTITY THAT ACCOMMODATION IS NEEDED; AND

34 (2) IF, IN CONSULTATION WITH THE PERSON WITH THE DISABILITY, THE  
35 COVERED ENTITY DEMONSTRATES GOOD FAITH EFFORTS TO IDENTIFY AND MAKE  
36 REASONABLE ACCOMMODATION THAT:

1 (I) WOULD PROVIDE THE INDIVIDUAL WITH AN EQUALLY  
2 EFFECTIVE OPPORTUNITY; AND

3 (II) WOULD NOT CAUSE AN UNDUE HARDSHIP ON THE OPERATION  
4 OF THE BUSINESS.

5 (G) (1) IF A COMPLAINING PARTY SEEKS COMPENSATORY OR PUNITIVE  
6 DAMAGES UNDER THIS SECTION:

7 (I) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

8 (II) THE COURT SHALL NOT INFORM THE JURY OF THE  
9 LIMITATIONS DESCRIBED IN SUBSECTION (E) OF THIS SECTION.

10 (2) WHERE APPROPRIATE AND TO THE EXTENT AUTHORIZED BY LAW,  
11 THE USE OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION, INCLUDING  
12 SETTLEMENT NEGOTIATIONS, CONCILIATION, FACILITATION, MEDIATION,  
13 FACT-FINDING, MINITRIALS, AND ARBITRATION IS ENCOURAGED TO RESOLVE  
14 DISPUTES ARISING UNDER THIS SUBTITLE.

15 (H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE SCOPE OF, OR THE  
16 RELIEF AVAILABLE UNDER, ANY OTHER PROVISION OF FEDERAL OR STATE LAW.

17 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
18 Act or the application thereof to any person or circumstance is held invalid for any  
19 reason in a court of competent jurisdiction, the invalidity does not affect other  
20 provisions or any other application of this Act which can be given effect without the  
21 invalid provision or application, and for this purpose the provisions of this Act are  
22 declared severable.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
24 effect October 1, 2001.