

# CITY COUNCIL RESEARCH DIVISION LEGISLATIVE SUMMARY



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**Bill Type and Number:** Ordinance 2020-244

**Introducer/Sponsor(s):** Council Member Bowman

**Date of Introduction:** May 12, 2020

**Committee(s) of Reference:** NCSPHS, F, R

**Date of Analysis:** May 14, 2020

**Type of Action:** Ordinance Code amendment

**Bill Summary:** The bill amends Ordinance Code Chapters 60 – Human Rights Commission, 40 – Equal Opportunity/Equal Access, 402 – Equal Employment Opportunity, 406 – Public Accommodations, and 408 – Fair Housing – to insert references to sexual orientation and gender identity as personal factors protected from discriminatory behavior in the areas of employment, public accommodations and housing. It provides definitions for “sexual orientation” and “gender identity”. It provides exemptions from the application or enforcement of these additional provisions to religious institutions and small employers. It provides for application to single-sex facilities and dress codes. The bill eliminates imprisonment from the list of potential penalties for violation of the ordinances, provides for interpretation of the ordinance, and authorizes the Office of General Counsel to make necessary codification changes.

**Background Information:** The bill adds sexual orientation and gender identity (as defined in the ordinance) to the list of race, color, religion, sex, national origin, age, disability, marital or familial status as personal characteristics which may not be the basis for discrimination in employment, public accommodations or housing. The Human Rights Commission is authorized to accept and investigate complaints of discrimination based on sexual orientation or gender identity in the three covered areas. Religious organizations (defined as a “religious corporation, association or society” interpreted consistent with Section 2000e-(1)(a), United States Code) and small employers (defined as companies with fewer than 15 employees) are exempted from the application of these provisions. The bill provides that “Nothing herein shall prohibit a business or a place of public accommodation from providing single-sex restrooms, locker rooms, shower facilities, bath houses, health spas, dormitory lodging facilities and similar facilities that are by their nature distinctly private” and that “Nothing herein shall prohibit a business from establishing and enforcing a dress code for its employees, provided that such dress code shall not be based upon sex stereotypes.” The penalties provision is amended to remove any reference to potential imprisonment for violation of this ordinance, leaving the maximum penalty as a fine of up to \$500. The “interpretation” clause provides that, if any portion of the ordinance is found to be invalid by a court of competent jurisdiction, the remainder of the ordinance shall continue to be effective as if enacted without the invalid provision.

This ordinance is being enacted in reaction to a recent 1st District Court of Appeals ruling that invalidated previous Ordinance 2017-15-E by declaring the ordinance to be unenforceable because there was no full-text version of each amended provision in the bill showing the insertion of new language. This bill inserts the necessary language to comply with the court’s ruling.

**Policy Impact Area:** Human rights ordinance application

**Fiscal Impact:** Expected to be minimal

**Analyst:** Clements