

## Defective Gender Identity Bill Fails the O'Malley Test

Although Governor Martin O'Malley signed the first Gender Identity Law in the State, defective Gender Identity laws such as Montgomery County's highly contested law and **HB474/SB566** fail to give even basic exemptions required by Gov. O'Malley.

- HB474 and SB566 state that "GENDER IDENTITY" MEANS A GENDER-RELATED IDENTITY, APPEARANCE, EXPRESSION, OR BEHAVIOR OF AN INDIVIDUAL.
- **While Biological Sex is often easily determined, significance of thoughts, self identity, appearance (eg. long hair on a young man) and other behavior is not always clear to the average citizen.**
- Behavior, appearance and thoughts can change from day to day making compliance very difficult.
- The Baltimore City law helped to protect citizens from lawsuits and fines created by these confusing bills by including the following exemptions for bathrooms, religious organizations, schools and employers.

(1) *"it is NOT discrimination for any person to provide separate toilet facilities for males and females."*

(2) *"it is NOT discrimination for an educational institution to restrict its student body and student activities to one sex or the other;"*

(3) *"it is NOT discrimination for an employer to disqualify a person with a physical or mental disability when the nature or extent of the disability makes the person unfit or unsuited for the job;"*

(4) *"it is NOT discrimination for any religious or denominational institution to .... make any selection as is calculated by the institution to promote religious principles for which it is established;"*

(5) *"it is NOT discrimination for an educational institution to provide special educational or recreational programs for individuals with a physical or mental disability;"*

The Baltimore City law further helped to protect their citizens from lawsuits and fines by not creating a "private cause of action".

Maryland's Gordon-Feinblatt law firm, when discussing Montgomery County's gender identity law, points out: "A similar law is in place in Baltimore City, but unlike the Montgomery County ordinance, it does not create a private cause of action." Maryland state law effective October 1, 2007 also grants "employees statewide the right to bring a private cause of action, with the right to ask for jury trials, and receive compensatory and punitive damages under Maryland's anti-discrimination law ("Article 49B")."

# **VOTE NO ON HB474 / SB566**