BRIAN E. FROSH
ATTORNEY GENERAL

MEDIA CONTACTS:
PRESS@OAG.STATE.MD.US
410-576-7009

PRESS RELEASE

Attorney General Frosh Joins Brief Opposing Employment Discrimination on the Basis of Sexual Orientation

Coalition Urges Federal Appellate Court to Declare Workplace Sexual Orientation Discrimination Illegal Under Federal Law

BALTIMORE, MD (March 15, 2018) – Maryland Attorney General Brian E. Frosh today joined 15 other attorneys general in filing an amicus brief arguing that employment discrimination based on sexual orientation violates Title VII of the Civil Rights Act of 1964. In the brief filed with the Eighth Circuit Court of Appeals in the case of *Horton v. Midwest Geriatric Management, LLC*, the attorneys general urge the court to join a growing number of federal appellate courts in recognizing that Title VII's workplace protections extend to sexual orientation.

The attorneys general argue that recent federal appellate court decisions are based on the plain wording of Title VII, decades of U.S. Supreme Court precedent, and common sense. The coalition adds that there is potential danger if the court decides that Title VII does not protect against sexual orientation discrimination, as state laws outlawing sexual orientation discrimination in the workplace cannot protect residents who cross state lines to work in other states that lack similar laws.

"We cannot allow discrimination based on one's sexual orientation to be grounds for denying any person the opportunity to obtain employment," said Attorney General Frosh.

The coalition argues that Title VII clearly prohibits discrimination that would not have occurred "but for" an employee's sex – a definition at the heart of discrimination based on a worker's sexual orientation. The attorneys general also emphasize that sexual orientation discrimination is improper because it is based on the sex of the individual with whom an employee associates, a type of discrimination the Supreme Court has long found to be unlawful.

As the coalition's brief states:

"In Loving v. Virginia*, the Supreme Court held that an anti-miscegenation law violated the Equal Protection Clause of the Fourteenth Amendment, concluding that the State of Virginia could not prohibit marriages on the basis of a racial classification. Here, as in Loving, Horton alleges that he was subjected to discrimination based on his association with a member of a protected class, except that sex, rather than race, is the protected class at issue. In other words,*

treating a man who loves a man worse than a man who loves a woman is a form of sex discrimination."

Finally, the attorneys general encourage the Eighth Circuit to recognize that sexual orientation discrimination amounts to discrimination based on an employee's failure to conform to sexual stereotypes associated with their group.

In addition to Maryland, the attorneys general of California, Connecticut, the District of Columbia, Hawaii, Illinois, Iowa, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Oregon, Vermont, Virginia, and Washington also signed onto today's brief.