

## Chapter 620

(Senate Bill 920)

AN ACT concerning

### Ethics Online Disclosure Act of 2012

FOR the purpose of requiring that certain ethics statements and reports be made available to the general public on the Internet *through an online registration program*; requiring that certain ethics statements and reports be submitted in an electronic format; altering certain procedures relating to the availability of ethics statements and reports; ~~altering provisions relating to the review of certain ethics statements by the Joint Committee on Legislative Ethics; requiring the State Ethics Commission to adopt certain regulations; repealing a requirement that the Court of Appeals or its designee transmit copies of certain statements to the State Ethics Commission; providing that counties, municipal corporations, municipal corporations and boards of education are not required to post financial disclosure information on the Internet or to require that financial disclosure statements be filed electronically; requiring the governing body of a county, including Baltimore City, to post information from financial disclosure statements on the Internet and require certain local officials to file certain statements electronically; providing for the delayed implementation of certain provisions of this Act; providing that a legislator is not required to report certain information under certain circumstances if reporting the information would violate standards of client confidentiality or professional conduct; requiring a legislator to report to the Joint Ethics Committee certain information related to employment and business interests, under certain circumstances; prohibiting the Department of Legislative Services from posting on the Internet certain information reported to the Joint Ethics Committee; requiring the President of the Senate and the Speaker of the House of Delegates to jointly establish a workgroup to perform a certain review of the disclosure requirements of the Maryland Public Ethics Law; providing for the appointment of the workgroup; establishing the duties of the workgroup and requiring the workgroup to submit any recommended legislation to certain committees of the General Assembly on or before a certain date; making certain stylistic changes; providing for the termination of certain provisions of this Act;~~ and generally relating to the revision of the Maryland Public Ethics Law.

BY repealing and reenacting, with amendments,

Article – State Government

Section ~~15-512, 15-513(e), 15-602, 15-606, 15-805, and 15-813~~ *and 15-513(b) and (c)*

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article – State Government  
 Section 15–513(b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2011 Supplement)~~

BY adding to  
 Article – State Government  
 Section 15–513(d)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2011 Supplement)

~~BY repealing  
 Article – State Government  
 Section 15–610(e)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2011 Supplement)~~

Preamble

WHEREAS, The Maryland General Assembly is a part-time legislature and many of its members have outside employment and investments; and

WHEREAS, As a result, real or perceived conflicts of interest will inevitably arise for members of the General Assembly; and

WHEREAS, For these reasons, the General Assembly is committed to maximum transparency in dealing with conflicts of interest by establishing for its members stringent requirements for annual financial disclosure and disclosure of conflicts of interest; and

WHEREAS, These important disclosure requirements must be balanced with the vital duty to safeguard personal information that could lead to identity theft or other criminal activity; now, therefore,

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

**Article – State Government**

15–512.

(a) (1) (i) Except as provided in subparagraph (ii) of this paragraph, the disqualification arising under § 15–511 of this subtitle may not be suspended if the conflict is direct and personal to:

- 1. the legislator;
- 2. a member of the legislator's immediate family; or
- 3. the legislator's employer.

(ii) This paragraph does not apply to a vote on:

- 1. the annual operating budget bill, in its entirety; or
- 2. the annual capital budget bill, in its entirety.

~~(2) As to any other conflict, AND SUBJECT TO A DETERMINATION BY THE JOINT ETHICS COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION, the disqualification arising under § 15-511 of this subtitle is suspended if a legislator with an apparent or presumed conflict files with the Joint Ethics Committee a sworn statement that describes the circumstances of the apparent or presumed conflict and the legislation or class of legislation to which it relates and asserts the legislator is able to vote and otherwise participate in action relating to the legislation, fairly, objectively, and in the public interest.~~

~~(b) (1) Whenever a legislator files a statement for the suspension of the disqualification, the Joint Ethics Committee [on its own motion may issue a statement] SHALL MAKE A DETERMINATION concerning the propriety of the legislator's participation in the particular legislative action[, with reference to the applicable ethical standards of this matter].~~

~~[(2) The suspension of the disqualification by the filing of the statement is subject to further action by the Joint Ethics Committee if the question of conflict comes before it as to the same circumstances and the same legislator.]~~

~~(2) IF THE JOINT ETHICS COMMITTEE DETERMINES THAT THE LEGISLATOR'S PARTICIPATION IS IMPROPER:~~

~~(i) THE COMMITTEE SHALL NOTIFY THE LEGISLATOR OF THAT DETERMINATION IN WRITING, WITH REFERENCE TO THE APPLICABLE ETHICAL STANDARDS OF THE MATTER; AND~~

~~(ii) THE LEGISLATOR SHALL BE DISQUALIFIED FROM PARTICIPATING IN LEGISLATIVE ACTION TO WHICH THE DETERMINATION APPLIES.~~

(2) As to any other conflict, the disqualification arising under § 15-511 of this subtitle is suspended if a legislator with an apparent or presumed conflict files

with the Joint Ethics Committee a sworn statement that describes the circumstances of the apparent or presumed conflict and the legislation or class of legislation to which it relates and asserts the legislator is able to vote and otherwise participate in action relating to the legislation, fairly, objectively, and in the public interest.

(b) (1) Whenever a legislator files a statement for the suspension of the disqualification, the Joint Ethics Committee on its own motion may issue a statement concerning the propriety of the legislator's participation in the particular legislative action, with reference to the applicable ethical standards of this matter.

(2) The suspension of the disqualification by the filing of the statement is subject to further action by the Joint Ethics Committee if the question of conflict comes before it as to the same circumstances and the same legislator.

(c) A member who is disqualified from participating in legislative action under subsection (a)(1) of this section, or who chooses to be excused from participating in legislative action on a bill or class of bills because of the appearance or presumption of a conflict, shall file in a timely manner a statement with the Joint Ethics Committee that describes the circumstances of the apparent or presumed conflict.

(d) [(1)] All statements filed under this section shall be:

**(1) FILED ELECTRONICALLY ON A FORM PRESCRIBED BY THE JOINT ETHICS COMMITTEE; AND**

**(2) MAINTAINED AS a matter of public record AS PRESCRIBED IN SUBSECTION (E) OF THIS SECTION.**

[(2) The Joint Ethics Committee shall develop procedures under which a statement filed under this section may be filed electronically without any additional cost to the legislator.]

**(E) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:**

**(I) COMPILE THE STATEMENTS FILED UNDER THIS SECTION;**

**(II) MAKE THE STATEMENTS AVAILABLE FOR PUBLIC INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND**

**(III) AS TO STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, MAKE THE STATEMENTS FREELY AVAILABLE TO THE PUBLIC ~~BY PROMPTLY POSTING THE INFORMATION~~ ON THE INTERNET THROUGH AN ONLINE REGISTRATION PROGRAM.**

**(2) AS TO EACH STATEMENT, THE INTERNET POSTING SHALL INDICATE:**

**(I) WHETHER THE JOINT ETHICS COMMITTEE HAS MADE A DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION;**

**(II) THE DETERMINATION MADE, IF ANY; AND**

**(III) THE DATE, IF ANY, ON WHICH THE DETERMINATION WAS MADE.**

15-513.

(b) **(1)** A legislator shall report the following information in writing to the Joint Ethics Committee at the times and in the manner required by the Joint Ethics Committee:

~~(1)~~ **(1)** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,** if representing a person for compensation before a State or local government agency, except in a judicial proceeding or in a quasi-judicial proceeding, the name of the person represented, the services performed, and the consideration. The Joint Ethics Committee may adopt procedures to keep confidential the name of the person represented if that information is privileged or confidential pursuant to any provision of law governing proceedings before that State agency.

~~(2)~~ **(II)** if representing a State or local government agency for compensation, the name of the agency, the services performed, and the consideration.

~~(3)~~ **(III)** the name of any business enterprise subject to regulation by a State agency in which the legislator and a member of the legislator's immediate family (spouse and children living with the legislator), together or separately, have:

~~(i)~~ **1.** the lesser of:

~~A.~~ **A.** 10 percent or more of the capital stock of any corporation; or

~~B.~~ **B.** capital stock of any corporation with a cumulative value of \$25,000 or more; and

~~(ii)~~ **2.** any interest in a partnership, limited liability partnership, or limited liability company.

~~(4)~~ **(IV)** details of any contractual relationship with the State or a State agency, or a local government in the State, including the subject matter and the consideration.

~~(5)~~ **(V)** details of any transaction with the State, or a local government in the State, involving a monetary consideration.

**(VI) ANY PRIMARY EMPLOYMENT OR BUSINESS INTEREST AND THE EMPLOYER OF THE LEGISLATOR OR THE SPOUSE OF THE LEGISLATOR, EXCEPT FOR EMPLOYMENT AS A LEGISLATOR.**

**(2) A LEGISLATOR, ON THE WRITTEN ADVICE OF THE COUNSEL TO THE JOINT ETHICS COMMITTEE, IS NOT REQUIRED TO REPORT ANY INFORMATION UNDER THIS PARAGRAPH IF REPORTING THE INFORMATION WOULD VIOLATE STANDARDS OF CLIENT CONFIDENTIALITY OR PROFESSIONAL CONDUCT.**

(c) [(1)] All reports filed under this section shall be:

**(1) FILED ELECTRONICALLY ON A FORM REQUIRED BY THE JOINT ETHICS COMMITTEE; AND**

**(2) MAINTAINED AS a matter of public record AS REQUIRED IN SUBSECTION (D) OF THIS SECTION.**

[(2) The Joint Ethics Committee shall develop procedures under which a report required under this section may be filed electronically without any additional cost to the legislator.]

**(D) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:**

~~(1)~~ **(I)** COMPILE THE REPORTS FILED UNDER THIS SECTION;

~~(2)~~ **(II)** MAKE THE REPORTS AVAILABLE FOR PUBLIC INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND

~~(3)~~ **(III)** AS TO REPORTS FILED ON OR AFTER JANUARY 1, 2013, AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, MAKE THE REPORTS FREELY AVAILABLE TO THE PUBLIC BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET THROUGH AN ONLINE REGISTRATION PROGRAM.

**(2) THE DEPARTMENT OF LEGISLATIVE SERVICES MAY NOT POST ON THE INTERNET INFORMATION RELATED TO CONSIDERATION RECEIVED THAT IS REPORTED UNDER SUBSECTION (B) OF THIS SECTION.**

~~15-602.~~

~~(a) Except as otherwise provided in this subtitle, a statement filed under § 15-601, § 15-603, § 15-604, or § 15-605 of this subtitle shall:~~

- ~~(1) be filed ELECTRONICALLY with the Ethics Commission;~~
  - ~~(2) be filed under oath;~~
  - ~~(3) be filed on or before April 30 of each year;~~
  - ~~(4) cover the calendar year immediately preceding the year of filing;~~
- and
- ~~(5) contain the information required in § 15-607 of this subtitle.~~

~~(b) [Notwithstanding subsection (a)(1) of this section, a] THE ETHICS COMMISSION SHALL PROMPTLY TRANSMIT TO THE JOINT ETHICS COMMITTEE THE TEXT OF A statement filed by a member of the General Assembly [shall be filed in duplicate with the Joint Ethics Committee].~~

~~(c) (1) In addition to the statement filed under § 15-601 of this subtitle, a member of the General Assembly shall file ELECTRONICALLY a preliminary disclosure on or before the seventh day of the regular legislative session if there will be a substantial change in the statement covering the calendar year immediately preceding the year of filing, as compared to the next preceding calendar year.~~

~~(2) A member of the General Assembly whose statement under § 15-601 of this subtitle will not contain a substantial change is not required to file a preliminary disclosure under paragraph (1) of this subsection.~~

~~(3) The Joint Ethics Committee shall:~~

- ~~(i) prescribe the form of a preliminary disclosure under this subsection; and~~
- ~~(ii) determine which aspects of financial disclosure are subject to this subsection.~~

~~(4) A preliminary disclosure shall be filed [and], maintained, and [may be disclosed,] POSTED ON THE INTERNET in the same manner prescribed for a statement filed under § 15-601 of this subtitle.~~

~~(d) (1) The Ethics Commission shall develop procedures [under which] FOR THE ELECTRONIC FILING OF a statement under this subtitle [may be filed electronically and without additional cost to the individual who files the statement].~~

~~(2) (i) To comply with the requirement of paragraph (1) of this subsection, the Ethics Commission may adopt regulations to modify the format for disclosure of information required under § 15-607 of this subtitle.~~

~~(ii) THE ETHICS COMMISSION SHALL ADOPT PROCEDURES TO ALLOW THE ETHICS COMMISSION TO GRANT EXCEPTIONS TO THE REQUIREMENT THAT ALL STATEMENTS BE FILED ELECTRONICALLY.~~

~~(iii) The regulations adopted under this paragraph shall be consistent with the intent of this title.~~

~~(e) (1) If the financial disclosure statement filed electronically under subsection (d) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by an electronic signature that:~~

~~(i) is in the financial disclosure statement or attached to and made part of the financial disclosure statement; and~~

~~(ii) is made expressly under the penalties for perjury.~~

~~(2) An electronic signature made under paragraph (1) of this subsection subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.~~

~~15-606.~~

~~(a) (1) The Ethics Commission [and the Joint Ethics Committee] shall:~~

~~(i) maintain the statements submitted under this subtitle [and, during normal office hours,];~~

~~(ii) make the statements available to the public for examination and copying;~~

~~(iii) BEGINNING JULY 1, 2013, MAKE FREELY AVAILABLE TO THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET, THE STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, BY:~~



~~1. A MEMBER OR MEMBER ELECT OF THE GENERAL ASSEMBLY;~~

~~2. A STATE OFFICIAL OR STATE OFFICIAL ELECT, EXCEPT A STATE OFFICIAL OR STATE OFFICIAL ELECT WHO FILES A STATEMENT REQUIRED BY § 15-601(B) OR § 15-610 OF THIS SUBTITLE;~~

~~3. THE HEAD OF EACH CABINET-LEVEL AGENCY OF THE EXECUTIVE BRANCH; AND~~

~~4. THE HEAD OF EACH INDEPENDENT AGENCY OF THE EXECUTIVE BRANCH THAT THE ETHICS COMMISSION DETERMINES IS COMPARABLE TO A CABINET-LEVEL AGENCY; AND~~

~~(IV) BEGINNING JULY 1, 2015, MAKE FREELY AVAILABLE TO THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET, ALL STATEMENTS FILED ON OR AFTER JANUARY 1, 2015.~~

~~(2) The Ethics Commission [and the Joint Ethics Committee] may charge a reasonable fee and adopt administrative procedures for the examination and copying of a statement.~~

~~[(b) (1) The Ethics Commission and the Joint Ethics Committee shall maintain a record of:~~

~~(i) the name and home address of each individual who examines or copies a statement under this section; and~~

~~(ii) the name of the individual whose statement was examined or copied.~~

~~(2) On the request of the individual whose statement was examined or copied, the Ethics Commission or the Joint Ethics Committee shall forward a copy of that record to that individual.]~~

~~(B) THE JOINT ETHICS COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL COMPILE AND MAINTAIN THE STATEMENTS FILED BY MEMBERS OF THE GENERAL ASSEMBLY AND POST THE INFORMATION ON THE INTERNET IN THE SAME MANNER AS REPORTS AND STATEMENTS ARE FILED UNDER §§ 15-512 AND 15-513 OF THIS TITLE.~~

~~15-610.~~

~~[(c) Within 30 days after receiving a statement under this section, the Court of Appeals or its designee shall transmit a copy of the statement to the Ethics Commission.]~~

~~15-805.~~

~~(a) (1) In this section the following words have the meanings indicated:~~

~~(2) "Elected local official" includes:~~

~~(i) any individual who holds an elective office of a county or municipal corporation; and~~

~~(ii) a candidate for elective office as a local official of a county or municipal corporation.~~

~~(3) "Local official" includes an individual, designated as a local official, whose position is funded wholly or partly by the State.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the financial disclosure provisions enacted by a county or municipal corporation under § 15-803 of this subtitle shall be similar to the provisions of Subtitle 6 of this title, but shall be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.~~

~~(2) The financial disclosure provisions for elected local officials enacted by a county or municipal corporation under § 15-803 of this subtitle shall be equivalent to or exceed the requirements of Subtitle 6 of this title, but shall be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.~~

~~(c) (1) This subtitle does not compel the governing body of a county or municipal corporation to require a local official to file a financial disclosure statement except:~~

~~(i) when the personal interest of the local official will present a potential conflict with the public interest in connection with an anticipated public action of the local official; and~~

~~(ii) at least annually to report on gifts received by the local official.~~

~~(2) The provisions shall require:~~

~~(i) that a statement filed under paragraph (1)(i) of this subsection be filed sufficiently in advance of the action to provide adequate disclosure to the public; and~~

~~(ii) a statement filed by an elected local official under subsection (b)(2) of this section to be filed on or before April 30 of each year.~~

~~(3) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION IS NOT REQUIRED TO:~~

~~(i) POST INFORMATION FROM FINANCIAL DISCLOSURE STATEMENTS ON THE INTERNET; OR~~

~~(ii) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.~~

~~(4) THE GOVERNING BODY OF A COUNTY, INCLUDING BALTIMORE CITY, SHALL:~~

~~(i) POST INFORMATION FROM FINANCIAL DISCLOSURE STATEMENTS ON THE INTERNET; AND~~

~~(ii) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.~~

~~(d) Financial disclosure provisions applicable to a candidate shall be consistent with the provisions applicable to an incumbent holding the office involved.~~

~~15-813.~~

~~(a) (1) In accordance with this section, a school board:~~

~~(i) may adopt financial disclosure regulations applicable to officials and employees of that school system; and~~

~~(ii) shall adopt financial disclosure regulations applicable to members of the school board.~~

~~(2) (i) The regulations adopted under paragraph (1)(i) of this subsection shall apply to:~~

~~1. the superintendent of that school system; and~~

~~2. subject to subparagraph (iii) of this paragraph, those other officials and employees of that school system designated by the school board.~~

~~(ii) The regulations adopted under paragraph (1)(ii) of this subsection shall apply to:~~

- ~~1. each member of the school board; and~~
- ~~2. if the school board is an elected board under Title 3, Subtitle 1, Part III of the Education Article, each candidate for election to the school board.~~

~~(iii) The regulations may not apply to a classroom teacher unless the teacher has additional duties, not normally expected of classroom teachers, that cause the teacher for other reasons to be covered by the financial disclosure regulations.~~

~~(b) (1) Except as provided in subsection (c) of this section, the regulations adopted under subsection (a)(1)(i) of this section shall be similar to the provisions of Subtitle 6 of this title, but may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.~~

~~(2) The regulations adopted under subsection (a)(1)(ii) of this section shall be equivalent to or exceed the requirements of Subtitle 6 of this title, but may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.~~

~~(c) (1) (i) This paragraph does not compel a school board to require an individual to file a financial disclosure statement except:~~

- ~~1. when the personal interest of the individual will present a potential conflict with the public interest in connection with an anticipated public action of the individual; and~~
- ~~2. at least annually to report on gifts received by the individual.~~

~~(ii) The regulations adopted under subsection (a)(1)(i) of this section shall require that a statement filed under subparagraph (i)1 of this paragraph be filed sufficiently in advance of the public action to provide adequate disclosure to the public.~~

~~(2) The regulations adopted under subsection (a)(1)(ii) of this section shall require that a statement filed by a member of a board of education be filed on or before April 30 of each year.~~

~~(3) A SCHOOL BOARD IS NOT REQUIRED TO:~~

~~(I) POST INFORMATION FROM FINANCIAL DISCLOSURE STATEMENTS ON THE INTERNET; OR~~

~~(II) REQUIRE A MEMBER OF THE SCHOOL BOARD OR A CANDIDATE FOR ELECTION TO THE SCHOOL BOARD TO FILE FINANCIAL DISCLOSURE STATEMENTS ELECTRONICALLY.~~

~~(d) Except as provided for a member of a board of education under this Part II, unless a school board adopts and maintains financial disclosure regulations under this subtitle, the provisions enacted by the county under § 15-805 of this subtitle shall apply to:~~

~~(1) the superintendent of that school system; and~~

~~(2) the other officials and employees of the school system that the governing body of that county designates.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The President of the Senate of Maryland and the Speaker of the Maryland House of Delegates jointly shall establish a workgroup during the 2012 interim to perform a comprehensive and coordinated review of the disclosure requirements of the Maryland Public Ethics Law as it applies to State and local governments.

(b) The President and the Speaker may appoint to the workgroup in their discretion:

(1) members of the General Assembly;

(2) representatives of the Maryland State Ethics Commission;

(3) representatives of State, county, and municipal governments;

(4) representatives of private sector agencies that promote and encourage government accountability;

(5) representatives of public sector employees' unions; and

(6) any other interested party.

(c) The workgroup shall:

(1) review current methods used to provide access to public ethics disclosures and consider any alternative methods that could be made available to citizens and interested parties to more easily access public ethics disclosures;

(2) consider options for verifiable notification of electronic or postal access into a public ethics disclosure to be made to the person who is the subject of the inquiry;

(3) consider the feasibility and desirability of requiring different levels of public ethics disclosure for different categories of persons based on the person's position of authority and policy making duties;

(4) review the information that is currently required to be disclosed and determine:

(i) additional information that should be required to be disclosed; and

(ii) information that is currently disclosed that no longer needs to be disclosed;

(5) consider the implications of current and any proposed disclosure requirements under the Maryland Public Ethics Law on counties and municipal corporations;

(6) review the composition, duties, and procedures of the Joint Ethics Committee;

(7) review any other aspect of the disclosure requirements under the Maryland Public Ethics Law; and

(8) on or before December 31, 2012, submit, in accordance with § 2-1246 of the State Government Article, any recommended legislation for the 2013 regular session to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ June 1, 2012. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of May 31, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 22, 2012.**