

HOUSE BILL 1402

L2, E2

4lr0802

By: **Montgomery County Delegation**

Introduced and read first time: February 9, 2024

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County – State’s Attorney’s Office Personnel – Application of**
3 **County Personnel Laws and Collective Bargaining**

4 **MC 12–24**

5 FOR the purpose of ~~requiring that certain employees of the Montgomery County State’s~~
6 ~~Attorney’s Office be subject to the Montgomery County personnel laws governing~~
7 ~~county employees; authorizing certain employees of the Office to organize and~~
8 ~~bargain collectively for terms and conditions of employment; requiring, for purposes~~
9 ~~of collective bargaining, the Montgomery County Executive and the Montgomery~~
10 ~~County State’s Attorney to be considered the employer of certain employees of the~~
11 ~~Office for certain purposes; subjecting funds required for a collective bargaining~~
12 ~~agreement negotiated with the State’s Attorney to the approval of the Montgomery~~
13 ~~County Executive; establishing the right of certain employees of the Office of the~~
14 ~~State’s Attorney in Montgomery County to organize and collectively bargain in~~
15 ~~accordance with certain personnel law governing county employees; establishing~~
16 ~~that employees of the Office of the State’s Attorney are subject to the county merit~~
17 ~~system law and personnel regulations; establishing certain requirements related to~~
18 ~~collective bargaining for employees of the Office, including requirements related to~~
19 ~~who the employer of the employees is for the purpose of collectively bargaining over~~
20 ~~certain matters, the number of collective bargaining agreements that there can be,~~
21 ~~and the application of the budget and fiscal policies of the county to collective~~
22 ~~bargaining agreements; prohibiting the provisions of this Act and any agreement~~
23 ~~made under it from impairing certain rights and responsibilities of the State’s~~
24 ~~Attorney except as provided in the county merit system law and personnel~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 regulations; and generally relating to Montgomery County State's Attorney's Office
2 personnel.

3 BY repealing and reenacting, without amendments,
4 Article – Criminal Procedure
5 Section 15–416(a)
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2023 Supplement)

8 BY adding to
9 Article – Criminal Procedure
10 Section 15–416(g)
11 Annotated Code of Maryland
12 (2018 Replacement Volume and 2023 Supplement)

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

15 **Article – Criminal Procedure**

16 15–416.

17 (a) This section applies only in Montgomery County.

18 ~~(G) (1) EACH ELIGIBLE, FULL-TIME, NONEXEMPT EMPLOYEE OF THE~~
19 ~~STATE'S ATTORNEY'S OFFICE SHALL BE SUBJECT TO THE MONTGOMERY COUNTY~~
20 ~~PERSONNEL LAWS GOVERNING COUNTY EMPLOYEES.~~

21 ~~(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION,~~
22 ~~EMPLOYEES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING~~
23 ~~NONSUPERVISORY ASSISTANT STATE'S ATTORNEYS, MAY ORGANIZE AND BARGAIN~~
24 ~~COLLECTIVELY IN ACCORDANCE WITH CHAPTER 33, ARTICLE VII OF THE~~
25 ~~MONTGOMERY COUNTY CODE FOR COMPENSATION, INCLUDING PENSION AND~~
26 ~~FRINGE BENEFITS, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.~~

27 ~~(3) THE COUNTY EXECUTIVE SHALL BE CONSIDERED THE EMPLOYER~~
28 ~~OF AN EMPLOYEE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION FOR THE~~
29 ~~PURPOSE OF COLLECTIVE BARGAINING FOR HOURS AND COMPENSATION,~~
30 ~~INCLUDING PENSION AND FRINGE BENEFITS.~~

31 ~~(4) (I) THE STATE'S ATTORNEY SHALL BE CONSIDERED THE~~
32 ~~EMPLOYER OF AN EMPLOYEE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION~~
33 ~~FOR THE PURPOSE OF COLLECTIVE BARGAINING FOR ALL OTHER TERMS AND~~
34 ~~CONDITIONS OF EMPLOYMENT NOT LISTED IN PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(H) THE FUNDING REQUIRED FOR A COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY THE STATE'S ATTORNEY UNDER THIS PARAGRAPH IS SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE.~~

(G) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

(I) PROTECT THE RIGHT OF THE MONTGOMERY COUNTY EXECUTIVE AND THE STATE'S ATTORNEY TO BARGAIN;

(II) PRESERVE A SINGLE MASTER COLLECTIVE BARGAINING AGREEMENT TO THE EXTENT THAT A SINGLE EXCLUSIVE BARGAINING REPRESENTATIVE REPRESENTS MULTIPLE UNITS OF EMPLOYEES COVERED UNDER THE MONTGOMERY COUNTY COLLECTIVE BARGAINING LAW; AND

(III) STREAMLINE, FACILITATE, AND MAKE MORE EFFECTIVE THE COLLECTIVE BARGAINING PROCESS BY ENSURING THAT THERE IS A SINGLE COLLECTIVE BARGAINING AGREEMENT WITH BOTH THE MONTGOMERY COUNTY GOVERNMENT AND THE STATE'S ATTORNEY IF A SINGLE EXCLUSIVE BARGAINING REPRESENTATIVE REPRESENTS BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE STATE'S ATTORNEY.

(2) NONPROBATIONARY EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, INCLUDING NONSUPERVISORY ASSISTANT STATE'S ATTORNEYS, SHALL HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY IN ACCORDANCE WITH THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII, WITH REGARD TO COMPENSATION, PENSION FOR ACTIVE EMPLOYEES, FRINGE BENEFITS, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT, INCLUDING PERFORMANCE EVALUATION PROCEDURES.

(3) EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, INCLUDING NONSUPERVISORY ASSISTANT STATE'S ATTORNEYS:

(I) ARE SUBJECT TO THE COUNTY MERIT SYSTEM LAW AND PERSONNEL REGULATIONS; AND

(II) MAY BE EXCLUDED FROM THOSE PROVISIONS ONLY TO THE EXTENT THAT THE APPLICABILITY OF THOSE PROVISIONS IS MADE THE SUBJECT OF COLLECTIVE BARGAINING.

(4) (I) AS TO THE EMPLOYEES DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY EXECUTIVE SHALL BE CONSIDERED THE EMPLOYER OF THE EMPLOYEES UNDER THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII, ONLY FOR THE PURPOSE OF COLLECTIVE BARGAINING FOR COMPENSATION, PENSION, FRINGE BENEFITS, AND HOURS.

1 (II) IF A SINGLE EXCLUSIVE REPRESENTATIVE REPRESENTS
2 BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE OFFICE OF THE
3 STATE'S ATTORNEY, THE TERMS AND CONDITIONS OF EMPLOYMENT OF ANY
4 CURRENT AND SUBSEQUENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE
5 COUNTY GOVERNMENT AND THE EXCLUSIVE BARGAINING REPRESENTATIVE ARE
6 APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY UNLESS
7 DIFFERENT TERMS AND CONDITIONS OF EMPLOYMENT ARE NEGOTIATED BY THE
8 STATE'S ATTORNEY IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.

9 (5) (I) THE STATE'S ATTORNEY SHALL BE CONSIDERED THE
10 EMPLOYER FOR ALL OTHER PURPOSES AND SHALL BE CONSIDERED THE EMPLOYER
11 UNDER THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII, FOR ALL
12 OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

13 (II) IF A SINGLE EXCLUSIVE BARGAINING REPRESENTATIVE
14 REPRESENTS BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE
15 OFFICE OF THE STATE'S ATTORNEY, THE STATE'S ATTORNEY SHALL BARGAIN ONLY
16 OVER PARTICULAR MATTERS, NOT INVOLVING COMPENSATION, PENSION, FRINGE
17 BENEFITS, AND HOURS, APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE
18 STATE'S ATTORNEY.

19 (III) IF THE STATE'S ATTORNEY AND THE EXCLUSIVE
20 BARGAINING REPRESENTATIVE DISAGREE OVER WHETHER A MATTER IS
21 APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, THE
22 DISPUTE SHALL BE RESOLVED BY THE LABOR RELATIONS ADMINISTRATOR
23 APPOINTED UNDER THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII,
24 FOLLOWING THE PROCEDURES FOR THE RESOLUTION OF PROHIBITED PRACTICES
25 CHARGES AND CONSISTENT WITH THE GENERAL ASSEMBLY'S INTENT TO PRESERVE
26 A SINGLE MASTER COLLECTIVE BARGAINING AGREEMENT.

27 (IV) IF THE STATE'S ATTORNEY AND THE EXCLUSIVE
28 BARGAINING REPRESENTATIVE ARE UNABLE TO REACH AN AGREEMENT DURING
29 NEGOTIATIONS ON MATTERS APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE
30 STATE'S ATTORNEY, THE PROCEDURES FOR DECLARING AN IMPASSE AND
31 SUBMITTING A DISPUTE TO BINDING ARBITRATION SHALL BE CONDUCTED IN
32 ACCORDANCE WITH THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII.

33 (6) THERE SHALL BE ONLY ONE COLLECTIVE BARGAINING
34 AGREEMENT COVERING BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES
35 OF THE OFFICE OF THE STATE'S ATTORNEY AND ANY AGREEMENTS REACHED
36 UNDER THIS SUBSECTION SHALL BE INCLUDED IN AN APPENDIX OR ADDENDUM TO
37 THE AGREEMENT BETWEEN THE COUNTY GOVERNMENT AND THE EXCLUSIVE
38 BARGAINING REPRESENTATIVE.

1 **(7) ANY REQUIRED FUNDING FOR THE TERMS OF AN AGREEMENT**
2 **NEGOTIATED BY THE STATE'S ATTORNEY UNDER THIS SUBSECTION IS SUBJECT TO**
3 **THE BUDGET AND FISCAL POLICIES OF THE COUNTY.**

4 **(8) EXCEPT AS PROVIDED IN THE COUNTY MERIT SYSTEM LAW AND**
5 **PERSONNEL REGULATIONS, THE PROVISIONS OF THIS SUBSECTION AND ANY**
6 **AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND RESPONSIBILITY OF**
7 **THE STATE'S ATTORNEY TO:**

8 **(I) DETERMINE THE OVERALL MISSION OF THE OFFICE OF THE**
9 **STATE'S ATTORNEY AND, SUBJECT TO THE BUDGET AND FISCAL POLICIES OF THE**
10 **COUNTY, THE OFFICE OF THE STATE'S ATTORNEY'S BUDGET;**

11 **(II) MAINTAIN AND IMPROVE THE EFFICIENCY AND**
12 **EFFECTIVENESS OF OPERATIONS;**

13 **(III) DETERMINE THE SERVICES TO BE RENDERED AND THE**
14 **OPERATIONS TO BE PERFORMED;**

15 **(IV) DETERMINE THE OVERALL ORGANIZATIONAL STRUCTURE,**
16 **METHODS, PROCESSES, MEANS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE**
17 **CONDUCTED AND THE LOCATION OF FACILITIES;**

18 **(V) DIRECT AND SUPERVISE EMPLOYEES;**

19 **(VI) HIRE AND SELECT NEW EMPLOYEES;**

20 **(VII) ESTABLISH THE STANDARDS GOVERNING PROMOTION OF**
21 **EMPLOYEES;**

22 **(VIII) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF**
23 **WORK OR FUNDS OR UNDER CONDITIONS WHEN THE EMPLOYER DETERMINES**
24 **CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE;**

25 **(IX) TAKE ACTIONS TO CARRY OUT THE MISSION OF**
26 **GOVERNMENT IN SITUATIONS OF EMERGENCY;**

27 **(X) TRANSFER, ASSIGN, AND SCHEDULE EMPLOYEES;**

28 **(XI) DETERMINE THE SIZE AND COMPOSITION OF THE**
29 **WORKFORCE, SUBJECT TO THE COUNTY'S BUDGET AND FISCAL POLICIES;**

30 **(XII) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;**

1 (XIII) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND
2 EVALUATE EMPLOYEES;

3 (XIV) MAKE AND IMPLEMENT SYSTEMS FOR AWARDING
4 OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS,
5 AND OTHER MERIT AWARDS, SUBJECT TO THE BUDGET AND FISCAL POLICIES OF THE
6 COUNTY;

7 (XV) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH,
8 DEVELOPMENT, AND SERVICES;

9 (XVI) CONTROL AND REGULATE THE USE OF MACHINERY,
10 EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE OFFICE OF THE
11 STATE'S ATTORNEY;

12 (XVII) MAINTAIN INTERNAL SECURITY STANDARDS;

13 (XVIII) SUBJECT TO PARAGRAPH (9) OF THIS SUBSECTION,
14 CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY OPERATION, UNIT, OR
15 OTHER DIVISION OR SERVICE;

16 (XIX) SUBJECT TO PARAGRAPH (10) OF THIS SUBSECTION,
17 SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR JUST CAUSE
18 SUBJECT TO THE COUNTY MERIT SYSTEM LAW AND COLLECTIVE BARGAINING
19 AGREEMENT WHERE APPLICABLE; AND

20 (XX) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS
21 NECESSARY TO CARRY OUT THE FUNCTIONS OF THIS SUBSECTION AND ALL OTHER
22 MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH LAW OR THE TERMS
23 OF THE COLLECTIVE BARGAINING AGREEMENT.

24 (9) (I) IF CONTRACTING OUT WORK WILL DISPLACE EMPLOYEES,
25 THE STATE'S ATTORNEY MAY NOT ENTER INTO THE CONTRACT UNLESS 90 DAYS
26 BEFORE SIGNING THE CONTRACT, OR ON ANOTHER DATE OF NOTICE AS AGREED TO
27 BY THE PARTIES, WRITTEN NOTICE HAS BEEN GIVEN TO THE EXCLUSIVE
28 BARGAINING REPRESENTATIVE AND THE CONTRACT IS CONSISTENT WITH ANY
29 APPLICABLE PROVISION OF THE MONTGOMERY COUNTY CODE.

30 (II) ANY DISPLACEMENT OF BARGAINING UNIT MEMBERS
31 SHALL BE CONDUCTED IN A MANNER THAT IS CONSISTENT WITH ANY APPLICABLE
32 PROVISION OF THE MONTGOMERY COUNTY CODE AND ANY APPLICABLE
33 COLLECTIVE BARGAINING AGREEMENT.

1 **(10) SUBJECT TO § 404 OF THE MONTGOMERY COUNTY CHARTER, ANY**
2 **ACTION TO SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE A CIVILIAN**
3 **EMPLOYEE MAY BE SUBJECT TO THE GRIEVANCE PROCEDURE ESTABLISHED IN THE**
4 **COLLECTIVE BARGAINING AGREEMENT.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.