
By: Montgomery County Delegation

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House action: Adopted

Read second time: March 22, 1996

CHAPTER ____

1 AN ACT concerning

2 **Montgomery County - Transfer of Local Health Department and Local Department of**
3 **Social Services to Montgomery County Government**
4 **MC 607-96**

5 FOR the purpose of transferring the duties of the local health department and local
6 department of social services in Montgomery County to the MontgomeryCounty
7 government; declaring the intent of the General Assembly; requiring the local
8 director of the department of social services in Montgomery County to act as the
9 agent of the Secretary of Human Resources to ensure that Montgomery County
10 complies with certain grant agreements; abolishing the local department of social
11 services in Montgomery County; requiring certain State social service and public
12 assistance programs to be administered by the Montgomery County government;
13 requiring the Secretary of Human Resources to enter into a certain contract with
14 Montgomery County for the administration of certain programs; requiring the State
15 to provide certain funds to Montgomery County at certain minimum amounts in a
16 certain manner; providing for certain increases in State funding to Montgomery
17 County under certain circumstances; requiring the State to provide payment for
18 State accrued leave for certain employees; requiring the State to pay certain
19 judgments awarded against Montgomery County that arise from certain suits
20 relating to the administration of certain State programs; requiring the Secretary of
21 Human Resources and the County Executive to consult with each other; altering
22 certain duties of the health officer in Montgomery County; ~~transferring certain~~
23 ~~duties of the health officer in Montgomery County to the Montgomery County~~
24 ~~government~~; authorizing health care providers to disclose certain medical records
25 within the Montgomery County Department of Health and Human Servicesfor the
26 purpose of the coordination of services and record retention; applying certain

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1 confidentiality laws to the Montgomery County Department of Health and Human
 2 Services under certain circumstances; authorizing the county attorney for
 3 Montgomery County to represent the Montgomery County Department of Health
 4 and Human Services in contested cases under certain circumstances; applying
 5 certain activities of Montgomery County government to the contested case
 6 provisions of the State Administrative Procedure Act; requiring the county attorney
 7 for Montgomery County, in consultation with the Office of the Attorney General, to
 8 determine the applicability of the State Administrative Procedure Act to certain
 9 activities of the Montgomery County government; applying certain activities of the
 10 Montgomery County government to the Maryland Tort Claims Act under certain
 11 circumstances; altering provisions of the Maryland Public Ethics Law to provide
 12 that county employees of the Montgomery County Department of Health and
 13 Human Services are subject only to the Montgomery County Public Ethics Law;
 14 defining certain terms as applied to Montgomery County; abolishing the State merit
 15 system status of employees of the Montgomery County Department of Social
 16 Services; transferring certain State employees to the Montgomery County
 17 government; establishing certain benefits and rights for certain employees;
 18 establishing certain retirement and pension benefits and rights for certain
 19 employees under certain circumstances; requiring that certain employees be entitled
 20 to reinstatement to State service by a certain date; requiring the State to provide
 21 legal defense for the State and State employees for certain causes of action that
 22 accrue by a certain date; requiring State liability for certain causes of action; and
 23 generally relating to the transfer of duties and employees of the local health
 24 department and local department of social services in Montgomery County to the
 25 Montgomery County government.

26 BY repealing and reenacting, with amendments,
 27 Article 27 - Crimes and Punishments
 28 Section 255B(a)(4)
 29 Annotated Code of Maryland
 30 (1992 Replacement Volume and 1995 Supplement)

31 ~~BY repealing and reenacting, with amendments,~~
 32 ~~Article 29 - Washington Suburban Sanitary District~~
 33 ~~Section 5-102(e)~~
 34 ~~Annotated Code of Maryland~~
 35 ~~(1993 Replacement Volume and 1995 Supplement)~~

36 BY repealing and reenacting, with amendments,
 37 Article 88A - Social Services Administration
 38 Section 13(a) and (c)
 39 Annotated Code of Maryland
 40 (1995 Replacement Volume)

41 BY adding to
 42 Article 88A - Social Services Administration
 43 Section 13(c-1), 13A, and 13B

3

1 Annotated Code of Maryland
2 (1995 Replacement Volume)

3 BY repealing and reenacting, with amendments,
4 Article - Courts and Judicial Proceedings
5 Section 5-354(a) and 5-399.2(b)
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 1995 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Environment
10 Section 9-102, 9-518, and 11-202(a)
11 Annotated Code of Maryland
12 (1993 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Health - General
15 Section 3-306, 4-305, 10-101, 10-311, 10-312(b), 10-901(b), and 10-904
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1995 Supplement)

18 BY adding to
19 Article - Health - General
20 Section 3-310
21 Annotated Code of Maryland
22 (1994 Replacement Volume and 1995 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - State Government
25 Section 6-106, 10-202, 10-203, 12-101, 12-401, and 15-807(b)
26 Annotated Code of Maryland
27 (1995 Replacement Volume)

28 BY adding to
29 Article - State Government
30 Section 12-103.2
31 Annotated Code of Maryland
32 (1995 Replacement Volume)

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

4

1 **Article 27 - Crimes and Punishments**

2 255B.

3 (a) (4) (i) The nonprofit organization that conducts a raffle or operates a
4 game of bingo shall keep accurate books and records of all transactions occurring on
5 behalf of the raffle or game of bingo.

6 (ii) The books and records shall be kept available for examination for 2
7 years following the game of bingo or raffle that is recorded, and on request, shall be made
8 available for examination by:

- 9 1. The Montgomery County State's Attorney;
- 10 2. The Montgomery County Sheriff;
- 11 3. The Montgomery County Department of Health AND
12 HUMAN SERVICES;
- 13 4. The county attorney for Montgomery County;
- 14 5. The Department of State Police; or
- 15 6. Any designated officer or agent of the State and local
16 government offices and agencies enumerated in this subparagraph.

17 ~~**Article 29 — Washington Suburban Sanitary District**~~

18 ~~5-102.~~

19 ~~(e) The WSSC may suspend the imposition and collection of a front foot benefit~~
20 ~~assessment:~~

21 ~~(1) For any property that is otherwise assessable with respect to a sanitary~~
22 ~~sewer line if, in the WSSC's judgment, the property cannot obtain service from the sewer~~
23 ~~pipe upon which the benefit would be based;~~

24 ~~(2) For water main construction when the owner of the property that is~~
25 ~~otherwise subject to the assessment is not permitted to connect to the water main:~~

26 ~~(i) By the WSSC because of a finding by the WSSC that there is an~~
27 ~~absence of a sanitary sewer and the extension of an improved sewage system is not~~
28 ~~reasonably feasible; and~~

29 ~~(ii) Because of a finding by the county health department, OR IN~~
30 ~~MONTGOMERY COUNTY BY THE DEPARTMENT THAT INSPECTS WELL AND SEPTIC~~
31 ~~SYSTEMS, that a septic system would not be approved for the disposal of the water for~~
32 ~~which the connection is requested; or~~

33 ~~(3) For any property that is otherwise assessable for a sanitary sewer line or~~
34 ~~a water main if the property has a preexisting residential dwelling already served by a well~~
35 ~~or septic system until the property owner requests service from the sewer line or water~~
36 ~~main.~~

5

Article 88A - Social Services Administration

13.

(a) [The] EXCEPT AS PROVIDED IN § 13A OF THIS ARTICLE, THE State Department shall create or continue in each county and in Baltimore City a local department of social services to be known as such with the name of the county or city prefixed thereto. In each county such local department shall have a local board appointed in accordance with the provisions of § 14 of this article and a local director appointed in accordance with subsection (b)(1) of this section.

In Baltimore City the department of social services shall have a commission of social services (herein referred to as "local commission") appointed in accordance with the provisions of § 48(d) of Article VII of the Charter of Baltimore City, 1964 Edition, and the local director of the local department in Baltimore City shall be appointed in accordance with the provisions of subsection (b)(2) of this section.

The local boards in the counties and the local commission in Baltimore City shall have all the duties and functions provided in § 14A of this article.

(c) [The] EXCEPT IN MONTGOMERY COUNTY, THE local director in each county, including Baltimore City, shall administer the social service and public assistance activities in the respective county, except child support enforcement, in accordance with § 3 of this article. Each local director has a general administrative responsibility to the State Administration. Specifically, by way of example and not in limitation, each local director has the following basic responsibilities:

(1) Long-range and short-range planning for the functions and objectives of the respective local department;

(2) Exercise of full administrative responsibility for the operations of the respective local department;

(3) Except as provided in subsection (b-1)(2) of this section or otherwise by law, appointment of all personnel of the respective local department in accordance with the provisions of the State Personnel and Pensions Article that govern the classified service;

(4) Improvement of administrative and social-work practices and procedures;

(5) Submission of periodic reports and evaluations as required by the State Administration;

(6) Submission of an annual report to the local board of the respective local department in the counties and to the local commission of the local department in Baltimore City; and

(7) Other responsibilities as may from time to time be required by the State Administration or by other applicable laws, rules and regulations.

(C-1) IN MONTGOMERY COUNTY, THE LOCAL DIRECTOR SHALL ACT AS THE AGENT OF THE SECRETARY OF HUMAN RESOURCES TO ENSURE THAT

6

1 MONTGOMERY COUNTY COMPLIES WITH RESPONSIBILITIES UNDER GRANT
2 AGREEMENTS ENTERED INTO UNDER § 13A(B) OF THIS ARTICLE.

3 13A.

4 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

5 (1) THE PURPOSE OF THIS SECTION IS TO PROVIDE BETTER
6 INTEGRATED, MORE EFFICIENT, AND ACCOUNTABLE HUMAN SERVICES DELIVERY
7 WITHIN MONTGOMERY COUNTY BY THE STATE AND COUNTY GOVERNMENTS; AND

8 (2) IMPLEMENTATION OF THIS SECTION SHALL BE COST-NEUTRAL TO
9 BOTH THE MONTGOMERY COUNTY GOVERNMENT AND THE STATE OF MARYLAND.

10 ~~(A)~~ (B) (1) IN MONTGOMERY COUNTY, THERE IS NO LOCAL DEPARTMENT
11 OF SOCIAL SERVICES. IN MONTGOMERY COUNTY, STATE SOCIAL SERVICE AND
12 PUBLIC ASSISTANCE PROGRAMS ADMINISTERED BY A LOCAL DEPARTMENT SHALL
13 BE ADMINISTERED BY THE MONTGOMERY COUNTY GOVERNMENT.

14 (2) THE GRANT AGREEMENT PROVIDED UNDER SUBSECTION (C) OF
15 THIS SECTION SHALL BE PROVIDED IN THE SAME BUDGET CATEGORIES WITHIN THE
16 STATE BUDGET AS APPROPRIATIONS FOR OTHER LOCAL DEPARTMENTS OF SOCIAL
17 SERVICES.

18 (3) NOTWITHSTANDING ANY OTHER LAW, THE PROPORTION OF STATE
19 AND FEDERAL FUNDS TO BE PAID IN FISCAL YEAR 1997 TO THE MONTGOMERY
20 COUNTY GOVERNMENT UNDER THIS SECTION RELATIVE TO THOSE FUNDS
21 PROVIDED BY THE SECRETARY TO ALL LOCAL DEPARTMENTS MAY NOT BE LESS
22 THAN THE PROPORTION OF FUNDS DISBURSED IN FISCAL YEAR 1996 TO THE
23 MONTGOMERY COUNTY DEPARTMENT OF SOCIAL SERVICES.

24 (4) AFTER FISCAL YEAR 1997, THE AMOUNT OF THE GRANT TO
25 MONTGOMERY COUNTY GOVERNMENT SHALL BE PROPORTIONALLY ADJUSTED
26 EACH YEAR TO:

27 (I) REFLECT CHANGES IN CASE LOADS, THE NUMBER OF
28 CHILDREN IN POVERTY, AND ANY OTHER RELEVANT COST FACTORS AGREED TO BY
29 THE PARTIES; AND

30 (II) ENSURE THAT THE GRANT IS EQUITABLE IN RELATION TO
31 FUNDS PROVIDED TO ALL LOCAL DEPARTMENTS.

32 ~~(B)~~ (C) THE SECRETARY OF HUMAN RESOURCES SHALL ENTER INTO A
33 GRANT AGREEMENT WITH THE MONTGOMERY COUNTY GOVERNMENT FOR
34 ADMINISTRATION IN MONTGOMERY COUNTY OF PROGRAMS ADMINISTERED BY
35 LOCAL DEPARTMENTS ELSEWHERE IN THE STATE. THE GRANT AGREEMENT SHALL:

36 (1) PROVIDE FOR REIMBURSEMENT PAYMENT TO MONTGOMERY
37 COUNTY FOR COSTS TO ADMINISTER STATE PROGRAMS, INCLUDING SALARIES,
38 OVERHEAD, GENERAL LIABILITY COVERAGE, WORKER'S COMPENSATION, AND
39 EMPLOYEE BENEFITS, AT STATE FUNDING RATES AS PROVIDED IN § 13(D) OF THIS
40 ARTICLE; AND

7

1 (2) REQUIRE THAT THE STATE SHALL CONTINUE TO PROVIDE FOR THE
 2 PAYMENT OF STATE ACCRUED LEAVE.

3 ~~(C)~~ (D) THE USE AND RELEASE OF INFORMATION CONCERNING RECIPIENTS
 4 OF STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS BY THE
 5 MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL
 6 BE GOVERNED BY THE CONFIDENTIALITY PROVISIONS OF STATE LAW AND
 7 REGULATIONS, INCLUDING § 6 OF THIS ARTICLE AND ARTICLE 49D, § 10 OF THE
 8 CODE. THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN
 9 SERVICES SHALL BE TREATED AS ONE AGENCY FOR PURPOSES OF
 10 CONFIDENTIALITY PROVISIONS OF STATE LAW AND REGULATIONS.

11 ~~(D)~~ (E) THE ADMINISTRATION OF STATE PROGRAMS BY MONTGOMERY
 12 COUNTY SHALL CONTINUE TO BE GOVERNED BY STATE AND FEDERAL
 13 REGULATIONS.

14 (F) (1) THE ADMINISTRATION OF STATE CHILD WELFARE PROGRAMS BY
 15 MONTGOMERY COUNTY SHALL BE CONDUCTED IN THE SAME MANNER AS THE
 16 ADMINISTRATION OF THE PROGRAMS IN OTHER COUNTIES.

17 (2) THE UNIT OF THE MONTGOMERY COUNTY GOVERNMENT THAT
 18 ADMINISTERS PROGRAMS UNDER PARAGRAPH (1) OF THIS SUBSECTION IS EXEMPT
 19 FROM LICENSING REQUIREMENTS IN THE SAME MANNER AS A LOCAL DEPARTMENT
 20 OF SOCIAL SERVICES.

21 ~~(E)~~ (G) (1) THE STATE SHALL PAY ANY JUDGMENT AWARDED AGAINST
 22 MONTGOMERY COUNTY OR AN EMPLOYEE OF MONTGOMERY COUNTY THAT ARISES
 23 OUT OF A SUIT COMMENCED OR PROSECUTED IN A COURT OF THE UNITED STATES
 24 RELATING TO THE ADMINISTRATION AND IMPLEMENTATION OF STATE PROGRAMS
 25 DESCRIBED IN THIS SECTION.

26 (2) THE STATE MAY NOT PAY A JUDGMENT AWARDED AGAINST A
 27 MONTGOMERY COUNTY EMPLOYEE UNDER THIS SECTION IF THE EMPLOYEE
 28 PERFORMS AN ACT OR OMISSION:

29 (I) OUTSIDE THE SCOPE OF EMPLOYMENT; OR

30 (II) WITH MALICE.

31 ~~(F)~~ (H) THE SECRETARY OF HUMAN RESOURCES AND THE COUNTY
 32 EXECUTIVE FOR MONTGOMERY COUNTY SHALL CONSULT WITH EACH OTHER ON
 33 AT LEAST A BIENNIAL BASIS TO ENSURE THAT THE OBJECTIVES OF THE SOCIAL
 34 SERVICE AND PUBLIC ASSISTANCE PROGRAMS ADMINISTERED BY THE
 35 MONTGOMERY COUNTY GOVERNMENT ARE CONSISTENT WITH THE OBJECTIVES OF
 36 THE STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS.

37 13B.

38 AS EACH REFERENCE TO A LOCAL DEPARTMENT OF SOCIAL SERVICES IN THE
 39 CODE APPLIES TO MONTGOMERY COUNTY, THE TERM MEANS THE MONTGOMERY
 40 COUNTY GOVERNMENT.

8

1 **Article - Courts and Judicial Proceedings**

2 5-354.

3 (a) Whether or not an individual receives compensation for the individual's
4 services, an employee of a county health department OR OTHER LOCAL DEPARTMENT
5 OR AGENCY functioning as a school nurse or school health aide or a member of the
6 administrative, educational, or support staff of, or an individual who serves under a
7 contract for services to, any public, private, or parochial school is immune from liability
8 for:

9 (1) Making a report required by law, if the individual acts on reasonable
10 grounds;

11 (2) Participating in a judicial proceeding that results from the individual's
12 report; and

13 (3) (i) Making a report to the appropriate school official or to a parent if
14 the individual has reasonable grounds to suspect that a student is:

15 1. Under the influence of alcoholic beverages or a controlled
16 dangerous substance;

17 2. In possession of alcoholic beverages or a controlled
18 dangerous substance; or

19 3. Involved in the illegal sale or distribution of alcoholic
20 beverages or a controlled dangerous substance.

21 (ii) This paragraph is effective only to the extent that its provisions do not
22 conflict with federal or State confidentiality laws and regulations.

23 5-399.2.

24 (b) State personnel, AS DEFINED IN § 12-101 OF THE STATE GOVERNMENT
25 ARTICLE, are immune from suit in courts of the State and from liability in tort for a
26 tortious act or omission that is within the scope of the public duties of the State personnel
27 and is made without malice or gross negligence, and for which the State or its units have
28 waived immunity under Title 12, Subtitle 1 of the State Government Article, even if the
29 damages exceed the limits of that waiver.

30 **Article - Environment**

31 9-102.

32 In addition to the duties set forth elsewhere, the ~~COUNTY~~ health officer [for each
33 county], OR IN MONTGOMERY COUNTY THE DEPARTMENT DESIGNATED BY THE
34 MONTGOMERY COUNTY GOVERNMENT, shall inspect and report on the sanitary
35 conditions of streams, sources of public water supply, and sewerage facilities in the
36 county.

37 9-518.

38 (a) (1) In this section the following words have the meanings indicated.

9

1 (2) "Commission" means the Washington Suburban Sanitary Commission.

2 (3) "Health officer" means the health officer for[:

3 (i) Montgomery County; or

4 (ii)] Prince George's County.

5 (4) "Issuing authority" means any 1 of the following authorities that is
6 authorized to issue or approve a permit:

7 (i) The Department;

8 (ii) The health officer;

9 (iii) The Montgomery County [Health Department] DEPARTMENT
10 DESIGNATED BY THE MONTGOMERY COUNTY GOVERNMENT; or

11 (iv) The Prince George's County Health Department.

12 (5) "Permit" means a permit issued or approved by the issuing authority for
13 Montgomery County or Prince George's County to install, connect to, or use an individual
14 septic system.

15 (b) This section applies only in Montgomery County and Prince George's County.

16 (c) In each county, a person shall have a permit from an issuing authority before
17 the person may install, connect to, or use an individual septic system.

18 (d) An applicant for a permit shall submit an application to the issuing authority
19 on the form that the issuing authority requires.

20 (e) (1) The health officer AND THE MONTGOMERY COUNTY DEPARTMENT
21 DESIGNATED BY THE MONTGOMERY COUNTY GOVERNMENT shall:

22 (i) Submit each application for a permit to the Commission; and

23 (ii) Notify the Commission if there is more than 1 application for a
24 permit in an area or subdivision of each county when:

25 1. The original permit application is submitted to the
26 Commission; or

27 2. This fact reasonably becomes known to the health officer.

28 (2) This subsection does not apply to an area of each county inwhich a
29 community sewerage system is not planned within 10 years under the county's
30 comprehensive plan for sewerage systems.

31 (f) (1) Within 30 days after the Commission receives an application under
32 subsection (e)(1) of this section, the Commission shall review the application and
33 comment to the health officer, in writing, on the application.

34 (2) If there is more than 1 application for a permit in an areaor subdivision
35 of each county, the Commission may group these applications together for purposes of
36 review and comment.

10

1 (3) In its review and comments under this subsection, the Commission shall
2 include:

3 (i) A determination of the location of the nearest collection line of a
4 community sewerage system;

5 (ii) The capacity, feasibility, cost, and engineering conditions or
6 requirements for an extension of this collection line; and

7 (iii) If available, an estimate of the time required for this extension.

8 (g) (1) The issuing authority shall issue a permit to any applicant who meets the
9 requirements of this subtitle.

10 (2) If the Commission does not respond as required by subsection (f) of this
11 section, and if the permit otherwise complies with this section, the local health officer
12 may issue the permit.

13 (h) (1) The issuing authority shall include on each permit that the issuing
14 authority issues a requirement that the holder of a permit shall notify, in writing, any
15 buyer or lessee of the permitted property:

16 (i) That the permitted property is served by an individualseptic
17 system;

18 (ii) Of the conditions, estimate of time, and other factors that concern
19 the subsequent extension of a community sewerage system to the permitted property; and

20 (iii) If applicable, that the Commission did not review and comment on
21 the application for a permit because the permitted property was in an area of the county
22 in which at the time of the application a community sewerage system wasnot planned
23 within 10 years under the county's comprehensive plan for sewerage systems.

24 (2) The health officer AND THE MONTGOMERY COUNTY DEPARTMENT
25 DESIGNATED BY THE MONTGOMERY COUNTY GOVERNMENT:

26 (i) Shall adopt rules and regulations to carry out the provisions of this
27 subsection; and

28 (ii) May require the holder of a permit to record the information
29 required by paragraph (1) of this subsection in the land records of thecounty in which the
30 permitted property is located.

31 11-202.

32 (a) (1) The Board consists of 9 members appointed by the Governor with the
33 advice of the Secretary, and with the advice and consent of the Senate.

34 (2) Of the 9 Board members:

35 (i) 7 shall be registered environmental sanitarians appointed as
36 follows:

37 1. 1 shall be employed by private industry;

11

1 2. 2 shall be employed by the Department of the Environment;

2 3. 1 shall be employed by a local health department and be
3 employed under the State Personnel System;

4 4. 1 shall be employed by a local health department in
5 Baltimore City[,] OR Baltimore County, [or] THE Montgomery County DEPARTMENT
6 OF HEALTH AND HUMAN SERVICES, or [by] the Montgomery County Department of
7 Environmental Protection; and

8 5. 2 shall be appointed at large. Their selection shall balance
9 the Board as to geographical distribution throughout the State and may not include a
10 second selection from any jurisdiction already represented; and

11 (ii) 2 shall be consumer members.

12 (3) All Board members shall be residents of the State.

13 **Article - Health - General**

14 3-306.

15 (a) ~~It~~ EXCEPT AS PROVIDED BY AGREEMENT BETWEEN THE SECRETARY
16 AND THE LOCAL GOVERNING BODY. AND IN addition to the powers and duties set forth
17 elsewhere, each health officer has the powers and duties set forth in this section.

18 (b) A health officer may obtain samples of food and drugs for analysis.

19 (c) (1) The health officer for a county is the executive officer and secretary of the
20 county board of health.

21 (2) [The] EXCEPT IN MONTGOMERY COUNTY, THE health officer for a
22 county shall appoint the staff of the county health department.

23 (3) The health officer for a county shall have an office at an accessible place
24 in the county.

25 (4) (i) The health officer for a county shall enforce throughout the county:

26 1. Under the direction of the Secretary, the State health laws
27 and the policies, rules, and regulations that the Secretary adopts; and

28 2. Except as provided in subparagraph (ii) of this paragraph,
29 under the direction of the county board of health, the rules and regulations that the
30 county board of health adopts.

31 (ii) The health officer for a county shall enforce in each municipality
32 or special taxing district in the county the rules or regulations that the county board of
33 health adopts unless the municipality or district has a charter provision or ordinance that:

34 1. Covers the same subject matter as the county rule or
35 regulation;

36 2. Is at least as restrictive as the county rule or regulation; and

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1 3. Includes provisions for enforcement.

2 (5) A health officer shall perform any investigation or other duty or function
3 directed by the Secretary or the county board of health and submit appropriate reports to
4 them.

5 ~~(6) IN MONTGOMERY COUNTY, THE INSPECTION, INVESTIGATION,~~
6 ~~ENFORCEMENT, AND OTHER ADMINISTRATIVE DUTIES OF THE HEALTH OFFICER,~~
7 ~~INCLUDING THE DUTIES UNDER PARAGRAPH (4) OF THIS SUBSECTION, SHALL BE~~
8 ~~PERFORMED BY THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND~~
9 ~~HUMAN SERVICES.~~

10 (d) The Secretary may delegate duties, powers, and functions as provided in this
11 article to a health officer for a county or other county official authorized to administer
12 and enforce HEALTH AND environmental laws.

13 3-310.

14 UNLESS OTHERWISE PROVIDED BY STATE LAW OR REGULATION, AS EACH
15 REFERENCE TO A COUNTY HEALTH DEPARTMENT OR LOCAL HEALTH DEPARTMENT
16 IN THE CODE APPLIES TO MONTGOMERY COUNTY, THE TERM MEANS THE
17 MONTGOMERY COUNTY ~~DEPARTMENT OF HEALTH AND HUMAN SERVICES~~
18 GOVERNMENT.

19 4-305.

20 (a) This section may not be construed to impose an obligation on a health care
21 provider to disclose a medical record.

22 (b) A health care provider may disclose a medical record without the
23 authorization of a person in interest:

24 (1) (i) To the provider's authorized employees, agents, medical staff,
25 medical students, or consultants for the sole purpose of offering, providing, evaluating, or
26 seeking payment for health care to patients or recipients by the provider;

27 (ii) To the provider's legal counsel regarding only the information in
28 the medical record that relates to the subject matter of the representation; or

29 (iii) To any provider's insurer or legal counsel, or the authorized
30 employees or agents of a provider's insurer or legal counsel, for the sole purpose of
31 handling a potential or actual claim against any provider;

32 (2) If the person given access to the medical record signs an
33 acknowledgment of the duty under this Act not to redisclose any patient identifying
34 information, to a person for:

35 (i) Educational or research purposes, subject to the applicable
36 requirements of an institutional review board;

37 (ii) Evaluation and management of health care delivery systems; or

38 (iii) Accreditation of a facility by professional standard setting entities;

13

1 (3) Subject to the additional limitations for a medical record developed
2 primarily in connection with the provision of mental health services in § 4-307 of this
3 subtitle, to a government agency performing its lawful duties as authorized by an act of
4 the Maryland General Assembly or the United States Congress;

5 (4) Subject to the additional limitations for a medical record developed
6 primarily in connection with the provision of mental health services in § 4-307 of this
7 subtitle, to another health care provider for the sole purpose of treating the patient or
8 recipient on whom the medical record is kept;

9 (5) If a claim has been or may be filed by, or with the authorization of a
10 patient or recipient on behalf of the patient or recipient, for covered insureds, covered
11 beneficiaries, or enrolled recipients only, to third party payors and their agents, if the
12 payors or agents have met the applicable provisions of Title 19, Subtitle 13 of the Health
13 - General Article, including nonprofit health service plans, health maintenance
14 organizations, fiscal intermediaries and carriers, the Department of Health and Mental
15 Hygiene and its agents, the United States Department of Health and Human Services and
16 its agents, or any other person obligated by contract or law to pay for the health care
17 rendered for the sole purposes of:

18 (i) Submitting a bill to the third party payor;

19 (ii) Reasonable prospective, concurrent, or retrospective utilization
20 review or predetermination of benefit coverage;

21 (iii) Review, audit, and investigation of a specific claim for payment of
22 benefits; or

23 (iv) Coordinating benefit payments in accordance with the provisions
24 of Article 48A of the Code under more than 1 sickness and accident, dental, or hospital
25 and medical insurance policy;

26 (6) If a health care provider makes a professional determination that an
27 immediate disclosure is necessary, to provide for the emergency health care needs of a
28 patient or recipient;

29 (7) Except if the patient has instructed the health care provider not to make
30 the disclosure, or if the record has been developed primarily in connection with the
31 provision of mental health services, to immediate family members of the patient or any
32 other individual with whom the patient is known to have a close personal relationship, if
33 made in accordance with good medical or other professional practice; or

34 (8) To organ and tissue procurement personnel under the restrictions of §
35 5-408 of this article at the request of a physician for a patient whose organs and tissues
36 may be donated for the purpose of evaluating the patient for possible organ and tissue
37 donation; OR

38 (9) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF THE PURPOSE OF
39 THE MEDICAL RECORD DISCLOSURE IS FOR THE COORDINATION OF SERVICES AND
40 RECORD RETENTION WITHIN THE MONTGOMERY COUNTY DEPARTMENT OF
41 HEALTH AND HUMAN SERVICES.

14

1 (C) (1) THE DISCLOSURE OF MEDICAL RECORDS UNDER SUBSECTION (B)(9) OF
2 THIS SECTION TO A PERSON THAT IS NOT EMPLOYED BY OR UNDER CONTRACT
3 WITH THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN
4 SERVICES SHALL BE CONDUCTED IN ACCORDANCE WITH THIS SUBTITLE.

5 (2) UNDER PROVISIONS OF STATE LAW REGARDING CONFIDENTIALITY,
6 THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES
7 SHALL BE CONSIDERED TO BE ONE AGENCY.

8 10-101.

9 (a) In this title the following words have the meanings indicated.

10 (b) "Administration" means the Mental Hygiene Administration.

11 (c) (1) "Admission" means the process by which an individual is accepted as a
12 resident in:

13 (i) An inpatient facility; or

14 (ii) A Veterans' Administration hospital in this State that provides
15 care or treatment for individuals who have mental disorders.

16 (2) "Admission" includes the physical act of the individual entering the
17 facility or Veterans' Administration hospital.

18 (d) "Director" means the Director of Mental Hygiene.

19 (e) (1) Except as otherwise provided in this title, "facility" means any public or
20 private clinic, hospital, or other institution that provides or purports to provide treatment
21 or other services for individuals who have mental disorders.

22 (2) "Facility" does not include a Veterans' Administration hospital.

23 ~~(f) "Health department" means, in Montgomery County, the Department of [~~
24 ~~Addiction, Victim, and Mental Health Services] HEALTH AND HUMAN SERVICES.~~

25 [(g) (1) "Health officer" means, in Montgomery County, the Director of the
26 Department of Addiction, Victim, and Mental Health Services.

27 (2) The Director of the Department of Addiction, Victim, and Mental
28 Health Services shall have:

29 (i) 1. A master's degree in public health and at least 2 years of
30 work in the field of public health; or

31 2. At least 5 years of work in the field of public health; and

32 (ii) Any other qualifications and training in the field of public health
33 that the Secretary requires by rule or regulation.

34 (3) The Director of the Department of Addiction, Victim, and Mental
35 Health Services need not be a physician, if the Director has an associate director who:

36 (i) Is a physician; and

15

1 (ii) Meets the qualifications of this subsection.]

2 [(h)] ~~(G)~~ (F) (1) "Mental disorder" means a behavioral or emotional illness that
3 results from a psychiatric or neurological disorder.

4 (2) "Mental disorder" includes a mental illness that so substantially impairs
5 the mental or emotional functioning of an individual as to make care ortreatment
6 necessary or advisable for the welfare of the individual or for the safety of the person or
7 property of another.

8 (3) "Mental disorder" does not include mental retardation.

9 [(i)] ~~(H)~~ (G) "State Advisory Council" means the State Advisory Council on
10 Mental Hygiene.

11 [(j)] ~~(I)~~ (H) "State facility" means a facility that is owned or operated by the
12 Department.

13 [(k)] ~~(J)~~ (I) "Treatment" means any professional care or attention that is given
14 in a facility, private therapeutic group home for children and adolescents, or Veterans'
15 Administration hospital to improve or to prevent the worsening of a mental disorder.

16 10-311.

17 (a) Each county advisory committee and intercounty advisory committee shall
18 have no fewer than 6 meetings per year at the times and places that thecommittee
19 determines.

20 (b) [Staff] EXCEPT IN MONTGOMERY COUNTY, STAFF services for each county
21 advisory committee or intercounty advisory committee shall be provided by the health
22 officer for the appropriate county.

23 10-312.

24 (b) Each county advisory committee and intercounty advisory committee shall:

25 (1) Monitor, review and evaluate the allocation and adequacy ofpublicly
26 funded mental health services within the county through means such as conducting or
27 participating in site visits;

28 (2) Determine the needs of the county mental health system, including
29 quality of services, gaps in the system, and interagency coordination;

30 (3) Participate in the development of the local mental health plan and local
31 mental health budget;

32 (4) (i) Prepare and disseminate an annual report to the following:

33 1. The health officer;

34 2. IN MONTGOMERY COUNTY, THE DIRECTOR OF THE
35 MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES;

36 3. The county mental health director;

16

- 1 [3.] 4. The governing body of the appropriate county;
- 2 [4.] 5. The director of the local core service agency, if any;
- 3 [5.] 6. The regional mental health director;
- 4 [6.] 7. The Director;
- 5 [7.] 8. The Secretary; and
- 6 [8.] 9. The Maryland Advisory Council on Mental Hygiene;
- 7 and

8 (ii) Include in the annual report, at a minimum, the following:

- 9 1. A description of the progress of the county mentalhealth
- 10 system;
- 11 2. Recommendations on actions needed to improve the system;
- 12 3. Recommendations on priorities for allocation of funds; and
- 13 4. In accordance with those priorities and after consideration of
- 14 financial resources, recommendations on appropriate allocation of funds;

15 (5) Review and comment upon the annual core service agency or county

16 mental health plan and preliminary budget, prior to submission of the budget to the State;

17 and

18 (6) Review and comment upon the annual fiscal report.

19 10-901.

20 (b) The Secretary shall:

21 (1) Through the regional mental health director, provide a county with

22 consultative staff services to help ascertain local needs and plan and establish local

23 mental health programs;

24 (2) Review and evaluate local programs and personnel practices;

25 (3) Make recommendations to the governing body [and], health officer of a

26 county, AND THE DIRECTOR OF THE MONTGOMERY COUNTY DEPARTMENT OF

27 HEALTH AND HUMAN SERVICES on the local program and personnel practices;

28 (4) Review and either approve or disapprove the plans and budgets that a

29 county governing body submits for State funding under Part I of this subtitle; and

30 (5) Exercise any other power or duty required to carry out PartI of this

31 subtitle.

32 10-904.

33 (a) [The] EXCEPT IN MONTGOMERY COUNTY, THE health officer for a county

34 is responsible for:

35 (1) The mental health services program in the county; and

17

1 (2) Supervising generally the mental health services and facilities that the
2 county health department provides or supports.

3 (b) The health officer for a county shall:

4 (1) With the advice of the regional mental health director, revise annually
5 the county plan for providing or contracting for services, including aftercare, and facilities
6 and for any other matters necessary or desirable to carry out Part I of this subtitle;

7 (2) Prepare annually a budget for carrying out the plan;

8 (3) Assure that the staff and professional services meet the standards that
9 the Secretary adopts;

10 (4) Submit to the mental health advisory committee and the governing body
11 for the county an annual report on the county program, including an account of
12 expenditures and an estimate of anticipated needs for the next year;

13 (5) Facilitate the work of the county or intercounty mental health advisory
14 committee; and

15 (6) Perform any other duty necessary to carry out Part I of this subtitle.

16 ~~(C) IN MONTGOMERY COUNTY, ALL SUPERVISORY RESPONSIBILITIES AND~~
17 ~~ADMINISTRATIVE DUTIES OF A HEALTH OFFICER IN THIS TITLE SHALL BE CARRIED~~
18 ~~OUT BY THE DIRECTOR OF THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH~~
19 ~~AND HUMAN SERVICES.~~

20 **Article - State Government**

21 6-106.

22 (a) Except as otherwise provided by law, the Attorney General has general charge
23 of the legal business of the State.

24 (b) Except as otherwise provided by law, the Attorney General is the legal adviser
25 of and shall represent and otherwise perform all of the legal work for each officer and
26 unit of the State government.

27 (c) Except as provided in subsection (d) of this section or in any other law, an
28 officer or unit of the State government may not employ or be represented by a legal
29 adviser or counsel other than the Attorney General or a designee of the Attorney
30 General.

31 (d) (1) A State institution may employ counsel to represent the institution in a
32 habeas corpus proceeding.

33 (2) A unit of the State government may employ counsel if:

34 (i) an investigation by an investigating committee of the General
35 Assembly affects the unit;

36 (ii) the Attorney General represents both the investigating committee
37 and the unit;

18

1 (iii) the Attorney General gives the Board of Public Works and the unit
2 written notice that representation by the Attorney General involves or reasonably may
3 involve a conflict of interest; and

4 (iv) the Board of Public Works approves the employment of counsel by
5 the unit.

6 (3) UNLESS OTHERWISE AGREED TO BY THE ATTORNEY GENERAL AND
7 THE COUNTY ATTORNEY FOR MONTGOMERY COUNTY, THE COUNTY ATTORNEY
8 FOR MONTGOMERY COUNTY MAY REPRESENT THE MONTGOMERY COUNTY
9 DEPARTMENT OF HEALTH AND HUMAN SERVICES IN A CONTESTED CASE UNDER
10 TITLE 10, SUBTITLE 2 OF THIS ARTICLE.

11 10-202.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) "Agency" means:

14 (1) an officer or unit of the State government authorized by law to
15 adjudicate contested cases; or

16 (2) a unit that:

17 (i) is created by general law;

18 (ii) operates in at least 2 counties; and

19 (iii) is authorized by law to adjudicate contested cases.

20 (c) "Agency head" means:

21 (1) an individual or group of individuals in whom the ultimate legal
22 authority of an agency is vested by any provision of law; OR

23 (2) ~~THE OFFICER OF STATE GOVERNMENT WHO~~ SECRETARY OF THE
24 STATE DEPARTMENT THAT IS RESPONSIBLE FOR STATE PROGRAMS THAT ARE
25 ADMINISTERED BY THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND
26 HUMAN SERVICES.

27 (d) (1) "Contested case" means a proceeding before an agency to determine:

28 (i) a right, duty, statutory entitlement, or privilege of a person that is
29 required by statute or constitution to be determined only after an opportunity for an
30 agency hearing; or

31 (ii) the grant, denial, renewal, revocation, suspension, or amendment
32 of a license that is required by statute or constitution to be determined only after an
33 opportunity for an agency hearing.

34 (2) "Contested case" does not include a proceeding before an agency
35 involving an agency hearing required only by regulation unless the regulation expressly, or
36 by clear implication, requires the hearing to be held in accordance with this subtitle.

37 (e) "Office" means the Office of Administrative Hearings.

19

1 (f) "License" means all or any part of permission that:

2 (1) is required by law to be obtained from an agency;

3 (2) is not required only for revenue purposes; and

4 (3) is in any form, including:

5 (i) an approval;

6 (ii) a certificate;

7 (iii) a charter;

8 (iv) a permit; or

9 (v) a registration.

10 (g) "Presiding officer" means the board, commission, agency head, administrative
11 law judge, or other authorized person conducting an administrative proceeding under this
12 subtitle.

13 10-203.

14 (a) This subtitle does not apply to:

15 (1) the Legislative Branch of the State government or an agency of the
16 Legislative Branch;

17 (2) the Judicial Branch of the State government or an agency of the Judicial
18 Branch;

19 (3) the following agencies of the Executive Branch of the State government:

20 (i) the Governor;

21 (ii) the Department of Assessments and Taxation;

22 (iii) the Insurance Division of the Department of Labor, Licensing, and
23 Regulation except as specifically provided in Article 48A of the Code;

24 (iv) the Injured Workers' Insurance Fund;

25 (v) the Maryland Parole Commission of the Department of Public
26 Safety and Correctional Services;

27 (vi) the Public Service Commission;

28 (vii) the Maryland Tax Court;

29 (viii) the State Workers' Compensation Commission;

30 (ix) the Maryland Automobile Insurance Fund; or

31 (x) the Patuxent Institution Board of Review, when acting on a parole
32 request;

20

1 (4) an officer or unit not part of a principal department of State government
2 that:

3 (i) is created by or pursuant to the Maryland Constitution or general
4 or local law;

5 (ii) operates in only 1 county; and

6 (iii) is subject to the control of a local government or is funded wholly
7 or partly from local funds;

8 (5) unemployment insurance claim determinations, tax determinations, and
9 appeals in the Department of Business and Economic Development except as specifically
10 provided in Subtitle 5 of Title 8 of the Labor and Employment Article; or

11 (6) any other entity otherwise expressly exempted by statute.

12 (b) This subtitle does apply to:

13 (1) the property tax assessment appeals boards; and

14 (2) as to requests for correction of certificates of death under § 5-310(d)(2)
15 of the Health - General Article, the office of the Chief Medical Examiner.

16 (c) A public hearing required or provided for by statute or regulation before an
17 agency takes a particular action is not an agency hearing under § 10-202(d) of this subtitle
18 unless the statute or regulation:

19 (1) expressly requires that the public hearing be held in accordance with this
20 subtitle; or

21 (2) expressly requires that any judicial review of the agency determination
22 following the public hearing be conducted in accordance with this subtitle.

23 (D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THIS
24 SUBTITLE DOES APPLY TO A CONTESTED CASE THAT ARISES FROM A STATE
25 PROGRAM ADMINISTERED BY THE MONTGOMERY COUNTY DEPARTMENT OF
26 HEALTH AND HUMAN SERVICES IN THE SAME MANNER AS THE SUBTITLE APPLIES
27 TO A COUNTY HEALTH DEPARTMENT OR LOCAL DEPARTMENT OF SOCIAL
28 SERVICES.

29 (2) FOR PURPOSES OF THIS SUBTITLE, THE COUNTY ATTORNEY FOR
30 MONTGOMERY COUNTY, AFTER CONSULTATION WITH THE OFFICE OF THE
31 ATTORNEY GENERAL, SHALL DETERMINE IF THE MONTGOMERY COUNTY
32 DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTERS A STATE PROGRAM.

33 (3) THIS SUBSECTION IS NOT INTENDED TO EXTEND OR LIMIT THE
34 AUTHORITY OF THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND
35 HUMAN SERVICES TO ADMINISTER STATE PROGRAMS IN THE MANNER OF A
36 COUNTY HEALTH DEPARTMENT OR LOCAL DEPARTMENT OF SOCIAL SERVICES.

21

1 12-101.

2 (A) In this subtitle, unless the context clearly requires otherwise, "State
3 personnel" means:

4 (1) a State employee or official who is paid in whole or in part by the
5 Central Payroll Bureau in the Office of the Comptroller of the Treasury;

6 (2) an employee or official of the:

7 (i) Maryland Transportation Authority;

8 (ii) Injured Workers' Insurance Fund;

9 (iii) Maryland Stadium Authority;

10 (iv) Maryland Environmental Service;

11 (v) overseas programs of the University College of the University of
12 Maryland System; and

13 (vi) Maryland Economic Development Corporation;

14 (3) a person who:

15 (i) is a member of a State board, commission, or similar State entity;
16 or

17 (ii) 1. is providing a service to or for the State;

18 2. is not paid in whole or in part by the State; and

19 3. satisfies all other requirements for designation as State
20 personnel as may be set forth in regulations adopted by the Treasurer pursuant to Title 10
21 of this article;

22 (4) an individual who, without compensation, exercises a part of the
23 sovereignty of the State;

24 (5) a student enrolled in a State educational institution:

25 (i) who is providing services to third parties in the course of
26 participation in an approved clinical training or academic program;

27 (ii) who, as determined by the Treasurer, is required to have liability
28 insurance covering claims arising from services to third parties performed by the student
29 in the course of the approved clinical training or academic program;

30 (iii) who, as determined by the Treasurer, cannot obtain commercial
31 liability insurance at an affordable cost; and

32 (iv) who, as determined by the Treasurer, may be required to
33 contribute to an insurance program for claims arising from services to third parties
34 performed by the student in the course of the approved clinical training or academic
35 program;

22

1 (6) a sheriff or deputy sheriff of a county or Baltimore City; or

2 (7) an employee of a county who is assigned to a local department of social
3 services, INCLUDING A MONTGOMERY COUNTY EMPLOYEE WHO CARRIES OUT
4 STATE PROGRAMS ADMINISTERED UNDER ARTICLE 88A, § 13A(B) OF THE CODE.

5 (B) IN THIS SUBTITLE, A UNIT OF THE STATE GOVERNMENT INCLUDES THE
6 MONTGOMERY COUNTY GOVERNMENT TO THE EXTENT THAT MONTGOMERY
7 COUNTY ADMINISTERS A STATE PROGRAM UNDER ARTICLE 88A, § 13A(B) OF THE
8 CODE.

9 12-103.2.

10 (A) IN THIS SECTION, "TORT CLAIM" MEANS A TORT CLAIM FILED IN STATE
11 COURT AGAINST THE MONTGOMERY COUNTY GOVERNMENT RELATING TO THE
12 ADMINISTRATION OF A STATE PROGRAM UNDER ARTICLE 88A, § 13A(B) OF THE
13 CODE.

14 (B) A TORT CLAIM SHALL BE CONSIDERED, DEFENDED, SETTLED, AND PAID
15 IN THE SAME MANNER AS ANY OTHER CLAIM COVERED BY THE MONTGOMERY
16 COUNTY SELF-INSURANCE FUND.

17 (C) LIABILITY FOR A TORT CLAIM MAY NOT EXCEED THE INSURANCE
18 COVERAGE GRANTED TO UNITS OF STATE GOVERNMENT UNDER TITLE 9 OF THE
19 STATE FINANCE AND PROCUREMENT ARTICLE.

20 (D) (1) THE STATE TREASURER IS NOT LIABLE UNDER § 9-107(C) OF THE
21 STATE FINANCE AND PROCUREMENT ARTICLE FOR A TORT CLAIM.

22 (2) FOR TORT CLAIMS, THE DUTIES, RESPONSIBILITIES, AND
23 LIABILITIES OF THE TREASURER UNDER THIS SUBTITLE SHALL BE ASSUMED BY THE
24 MONTGOMERY COUNTY SELF-INSURANCE FUND.

25 12-401.

26 In this subtitle, "State personnel" means:

27 (1) a regular classified or unclassified employee of the State whose
28 compensation:

29 (i) is provided by a State appropriation; or

30 (ii) is paid wholly or partly from State funds;

31 (2) an employee who is under the jurisdiction of the Department of
32 Personnel;

33 (3) an officer, warrant officer, or enlisted member of the organized militia;

34 (4) an employee of the Maryland Port Administration, as described in §
35 6-204(n) of the Transportation Article;

36 (5) a member or employee of a board of trustees for a community college;

23

1 (6) EXCEPT IN MONTGOMERY COUNTY, an employee of a county health
2 department;

3 (7) a member or employee of the Baltimore City Board of School
4 Commissioners or of a county board of education;

5 (8) a member of the Board of Visitors of the Maryland School for the Deaf;

6 (9) a member or employee of a board of supervisors for a soil conservation
7 district;

8 (10) a person who, as a volunteer, is providing a service to or for the State;

9 (11) a person who, for or under contract with a unit of the State or a local
10 government, performs an emergency service during a state of emergency under Article
11 16A of the Code;

12 (12) any other individual who, with or without compensation, holds a position
13 that requires the exercise of discretion and of a part of the sovereignty of the State;
14 [and]

15 (13) any other State officer or State employee; AND

16 (14) A MONTGOMERY COUNTY EMPLOYEE WHO ADMINISTERS A STATE
17 PROGRAM UNDER ARTICLE 88A, § 13A(B) OF THE CODE.

18 15-807.

19 (b) In Montgomery County, "local official" includes:

20 (1) each member and employee of the Montgomery County Revenue
21 Authority;

22 (2) each commissioner and employee of the Montgomery County Housing
23 Opportunities Commission; and

24 (3) [if the Ethics Commission determines that the County Ethics Law is
25 more stringent than the State Ethics Law, the] County employees of the [County health
26 department, each of whom shall be covered by both the County Ethics Law and the State
27 Ethics Law] MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN
28 SERVICES.

29 SECTION 2. AND BE IT FURTHER ENACTED, That:

30 (a) Except for the local director, the State Personnel Management System
31 classified service employee status of employees of the Montgomery County Department
32 of Social Services shall be abolished. All employees of the Montgomery County
33 Department of Social Services shall continue in their current positions subject to the
34 Montgomery County merit system. Personnel actions affecting the employees shall be
35 governed by Montgomery County law. An employee who has not completed a
36 probationary period by the effective date of this Act continues on probation in the same
37 manner as a county employee hired on the same date as the employee who is transferred
38 under this Act. The State personnel files of an employee transferred under this Act shall
39 be made available to the Montgomery County appointing authority. When taking a

24

1 personnel action, the appointing authority may consider a personnel action taken prior to
 2 the transfer under this Act. All grievances, appeals and other personnel actions accruing
 3 on or before the effective date of this Act shall be decided under procedures used for
 4 classified service employees in the State Personnel Management System.

5 (b) An employee transferred under this Act shall receive no diminution in
 6 compensation or accrued leave solely as a result of this Act taking effect. Accumulated
 7 annual, sick, and compensatory leave shall be credited to the employee in amounts that
 8 equal the greater of the State or county balance for each type of leave. The employee may
 9 accumulate annual leave in excess of that allowed under applicable Montgomery County
 10 law up to ~~a the maximum of 360 hours~~ allowable State carryover leave in effect on
 11 October 1, 1996. The employee shall be entitled to the same amount of military leave
 12 allowable under State law. Length of service earned by an employee transferred under
 13 this Act shall be used in determining length of service as a county employee for the
 14 purpose of determining leave accrual and reduction in force rights. An employee who
 15 elects not to be transferred under this Act shall be entitled to be separated from service
 16 and granted reduction in force rights in the State system. An employee transferred under
 17 this Act shall have the option to receive the health and other employee benefits available
 18 to new Montgomery County employees at the time the option is elected or the employee
 19 may elect to continue to receive the employee benefits the employee is receiving at the
 20 effective date of this Act, including county health benefits that duplicate those offered
 21 through the State. An employee may continue to receive State employee benefits as long
 22 as the employee remains an employee of Montgomery County and, with the exception of
 23 health benefits, has not elected to receive the same type of benefits from Montgomery
 24 County. Montgomery County shall pay the employer contribution for State employee
 25 benefits at the State rate. State employee benefits may not be reinstated once the
 26 employee discontinues the benefit unless the employee again becomes employed by an
 27 entity that provides its employees with State employee benefits subject to a break in
 28 service or employment limitations. Under this section, an employee benefit does not
 29 include membership in an employee retirement system and an employee may elect to
 30 retain State employee benefits only if the employee was an employee of the Montgomery
 31 County Department of Social Services on July 1, 1996.

32 (c) An employee transferred under this Act shall be entitled to reinstatement to
 33 State service on or before October 1, 2001. Accumulated sick leave shall be credited to an
 34 employee reinstated within that period.

35 SECTION 3. AND BE IT FURTHER ENACTED, That:

36 (a) An employee transferred under this Act may continue as a member of the
 37 State Employees' Retirement System or the State Pension System for Employees as long
 38 as the employee remains employed by Montgomery County provided that the employee
 39 was an employee of the Montgomery County Department of Social Services on July 1,
 40 1996. Montgomery County shall pay to the Board of Trustees of the State Retirement and
 41 Pensions System the normal contribution rate of the State, the accrued liability
 42 contribution rate of the State, and the employer contribution otherwise required to be
 43 made by the State on behalf of the member. The Board of Trustees shall certify to
 44 Montgomery County the amount payable under this section. The Board of Trustees may
 45 certify the amount on an annual basis or as payrolls are paid. Montgomery County shall
 46 pay the amount certified by the Board of Trustees within 45 days. On notification by the

25

1 Secretary of the Board of Trustees that a delinquency exists, the StateComptroller
2 immediately shall exercise the right of set off against any money due or coming due to
3 Montgomery County plus interest and penalty equal to the amount established under §
4 21-310(b)(3) of the State Personnel and Pensions Article.

5 (b) An employee transferred under this Act may elect to become a member of the
6 Montgomery County Retirement Savings Plan or its successor if the election is made by
7 April 1, 1997. In that event, the employee shall be treated for retirement purposes as a
8 new Montgomery County employee hired at the time of election, the employee may not
9 be entitled to claim a transfer of service credit under § 37-203 of the State Personnel and
10 Pensions Article, and the employee shall be treated for retirement purposes as having
11 separated from State employment under §§ 22-216 and 23-214 of the State Personnel and
12 Pensions Article. An employee may not be reinstated as a member of the State retirement
13 system unless the employee again becomes employed by an entity that provides its
14 employees with State retirement benefits subject to any applicable limitations in Titles 22
15 and 23 of the State Personnel and Pensions Article.

16 SECTION 4. AND BE IT FURTHER ENACTED, That the State shall provide a
17 legal defense for itself and the employees transferred under this Act for any and all claims
18 or causes of action that first accrued before the effective date of this Act to the same
19 extent the State was obligated to provide a legal defense prior to the enactment of this
20 Act. The State shall be liable for all such claims or causes of action including those
21 described in the Maryland Tort Claims Act and the Workers' Compensation Act, that
22 first accrued before the effective date of this Act and to the same extent the State was
23 liable prior to the effective date of this Act.

24 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1996.