

HOUSE BILL 1788

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8lr4002
CF 8lr4028

By: **Delegates Lam, Jones, and McIntosh**
Introduced and read first time: March 2, 2018
Assigned to: Rules and Executive Nominations
Re-referred to: Appropriations, March 5, 2018

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 29, 2018

CHAPTER _____

1 AN ACT concerning

2 ~~Public Ethics Law – Official Duties – Violations of Law~~
3 State Government – Appointments Office in the Office of the Governor –
4 Reporting

5 FOR the purpose of ~~prohibiting an official or an employee from intentionally carrying out~~
6 ~~or neglecting an official duty or responsibility in a manner that violates certain~~
7 ~~statutes related to discrimination, hiring and termination, or holding office after an~~
8 ~~appointment or nomination under certain circumstances; making certain provisions~~
9 ~~of this Act contingent on the taking effect of another Act; providing for the~~
10 ~~termination of certain provisions of this Act; and generally relating to abuse of office~~
11 requiring the Appointments Office in the Office of the Governor to submit a certain
12 annual report regarding certain activities of the Office to a certain committee of the
13 General Assembly; providing for the termination of this Act; and generally relating
14 to an annual report by the Appointments Office in the Office of the Governor.

15 ~~BY adding to~~
16 ~~Article – General Provisions~~
17 ~~Section 5–506.1~~
18 ~~Annotated Code of Maryland~~
19 ~~(2014 Volume and 2017 Supplement)~~

20 BY repealing and reenacting, with amendments,
21 Article – State Government
22 Section 8–3A–01

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 Annotated Code of Maryland
 2 (2014 Replacement Volume and 2017 Supplement)

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

5 ~~Article – General Provisions~~

6 ~~5-506.1.~~

7 ~~AN OFFICIAL OR EMPLOYEE MAY NOT INTENTIONALLY CARRY OUT OR~~
 8 ~~NEGLECT AN OFFICIAL DUTY OR RESPONSIBILITY IN A MANNER THAT VIOLATES:~~

9 ~~(1) § 2-302 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR~~

10 ~~(2) TITLE 8, SUBTITLE 3A OF THE STATE GOVERNMENT ARTICLE.~~

11 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read~~
 12 ~~as follows:~~

13 ~~Article – General Provisions~~

14 ~~5-506.1.~~

15 ~~AN OFFICIAL OR EMPLOYEE MAY NOT INTENTIONALLY CARRY OUT OR~~
 16 ~~NEGLECT AN OFFICIAL DUTY OR RESPONSIBILITY IN A MANNER THAT VIOLATES:~~

17 ~~(1) § 2-302 OF THE STATE PERSONNEL AND PENSIONS ARTICLE;~~

18 ~~(2) TITLE 8, SUBTITLE 3A OF THE STATE GOVERNMENT ARTICLE; OR~~

19 ~~(3) § 17-109 OF THE STATE GOVERNMENT ARTICLE.~~

20 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take~~
 21 ~~effect June 1, 2018, contingent on the taking effect of Chapter _____ (S.B. 687) of the Acts of~~
 22 ~~the General Assembly of 2018 and if Chapter _____ (S.B. 687) does not become effective,~~
 23 ~~Section 2 of this Act, with no further action required by the General Assembly, shall be null~~
 24 ~~and void. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of~~
 25 ~~no further force and effect.~~

26 Article – State Government

27 8-3A-01.

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

1 (2) “Appointing authority” has the meaning stated in § 1–101(b) of the
2 State Personnel and Pensions Article.

3 (3) “Office” means the Appointments Office in the Office of the Governor
4 that performs the function of recommending to the Governor the appointment or
5 nomination of an individual to serve as a member of a State or local board, commission,
6 council, committee, authority, task force, or other entity that by law requires the
7 membership to be appointed in whole or in part by the Governor, whether or not the
8 appointment or nomination is with the advice and consent of the Senate or House of
9 Delegates.

10 (b) The Office may not direct or overrule an appointing authority, the Secretary
11 of Budget and Management, or any unit of the Department of Budget and Management, on
12 any decision to appoint, promote, transfer, reassign, discipline, or terminate an employee
13 under the jurisdiction of the appointing authority.

14 (c) Only an appointing authority may delegate in writing the authority to act on
15 the appointing authority’s behalf, but only to an employee or officer under the jurisdiction
16 of the appointing authority.

17 (d) An appointing authority may not delegate the authority to make the final
18 decision on the termination of an employee.

19 (e) An appointing authority shall notify the Secretary of Budget and Management
20 of any delegation of authority authorized under this section by providing the Secretary a
21 copy of the delegation.

22 **(F) ON OR BEFORE DECEMBER 31, 2018, AND ON OR BEFORE DECEMBER**
23 **31 EACH YEAR THEREAFTER, THE OFFICE SHALL, IN ACCORDANCE WITH § 2–1246**
24 **OF THE STATE GOVERNMENT ARTICLE, SUBMIT A REPORT TO THE JOINT**
25 **COMMITTEE ON FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT ON THE**
26 **OFFICE’S ACTIVITIES REGARDING EMPLOYEES THAT ARE UNDER THE JURISDICTION**
27 **OF AN APPOINTING AUTHORITY THAT INCLUDES:**

28 **(1) THE NUMBER OF REFERRALS OR REQUESTS MADE FROM ANY**
29 **APPOINTING AUTHORITY TO THE OFFICE ON EMPLOYEE APPOINTMENTS,**
30 **PROMOTIONS, REASSIGNMENTS, DISCIPLINARY ACTIONS, OR TERMINATIONS;**

31 **(2) THE REASONS FOR THE REFERRALS OR REQUESTS SPECIFIED**
32 **UNDER ITEM (1) OF THIS SUBSECTION, CATEGORIZED IN THE AGGREGATE AND BY**
33 **APPOINTING AUTHORITY;**

34 **(3) THE TYPE OF INFORMATION PROVIDED BY THE OFFICE TO AN**
35 **APPOINTING AUTHORITY AS A RESULT OF A REFERRAL OR REQUEST MADE UNDER**
36 **ITEM (1) OF THIS SUBSECTION, COMPILED IN THE AGGREGATE BY TYPE AND**
37 **NUMBER OF INSTANCES USING THE FOLLOWING CATEGORIES:**

1 (I) CRIMINAL BACKGROUND INFORMATION;

2 (II) PERSONAL FINANCIAL INFORMATION;

3 (III) ORGANIZATIONAL OR POLITICAL AFFILIATIONS;

4 (IV) CONTROVERSIAL STATEMENTS OR PERSPECTIVES; AND

5 (V) OTHER CONFLICTS OF INTEREST;

6 (4) THE WRITTEN POLICY OF THE OFFICE ON PROVIDING
 7 INFORMATION TO AN APPOINTING AUTHORITY REGARDING AN EMPLOYEE
 8 APPOINTMENT, PROMOTION, REASSIGNMENT, DISCIPLINARY ACTION, OR
 9 TERMINATION:

10 (I) ON REQUEST OR REFERRAL OF AN APPOINTING AUTHORITY;
 11 AND

12 (II) WHEN NOT REQUESTED BY AN APPOINTING AUTHORITY;

13 (5) THE NUMBER OF APPLICANTS AND EMPLOYEES REQUIRED TO
 14 COMPLETE A FORM FROM THE OFFICE THAT COLLECTS PERSONAL INFORMATION
 15 AND THE TYPE OF FORMS THAT ARE REQUIRED TO BE SUBMITTED;

16 (6) THE NUMBER OF APPLICANTS AND EMPLOYEES THAT ARE
 17 REQUIRED TO COMMUNICATE WITH THE OFFICE REGARDING A PERSONNEL
 18 DECISION; AND

19 (7) A STATEMENT THAT THE OFFICE IS IN COMPLIANCE WITH THIS
 20 SECTION.

21 SECTION 4. 2. AND BE IT FURTHER ENACTED, That, ~~subject to the provisions~~
 22 ~~of Section 3 of this Act,~~ this Act shall take effect June 1, 2018. It shall remain effective for
 23 a period of 2 years and 1 month and, at the end of June 30, 2020, this Act, with no further
 24 action required by the General Assembly, shall be abrogated and of no further force and
 25 effect.