

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 315

(Delegate Stewart, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Public Ethics Violations and Crimes – Prohibitions and Penalties

This bill prohibits a former secretary of a principal department of the Executive Branch from assisting or representing another party for compensation in a matter that is the subject of legislative action for one calendar year after the official leaves State office. The bill’s prohibition, however, does not apply to representation of a municipal corporation, county, or State governmental entity. “Legislative action,” as it applies to the bill, does not include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government. In addition, the bill increases the minimum and maximum monetary penalties for bribery. The minimum monetary penalty is increased from \$1,000 to \$5,000, and the maximum monetary penalty is increased from \$10,000 to \$25,000.

Fiscal Summary

State Effect: General fund revenues increase minimally beginning in FY 2021 as a result of the bill’s penalty provisions for bribery cases heard in the District Court. Expenditures are not affected.

Local Effect: Local revenues increase minimally beginning in FY 2021 as a result of the bill’s penalty provisions for bribery cases heard in the circuit courts. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law:

Bribery

An individual may not bribe or attempt to bribe a public employee to influence the employee's performance of an official duty. In addition, a public employee may not demand or receive a bribe, fee, reward, or testimonial to (1) influence the employee's performance of official duties or (2) neglect or fail to perform the employee's official duties. "Public employee" means an officer or employee of the State or a political subdivision of the State and includes an executive officer of the State, a judge or judicial officer of the State, a member or officer of the General Assembly, a member of the police force of Baltimore City or the Department of State Police, and a member, officer, or executive officer of a political subdivision.

A violator is guilty of bribery, a misdemeanor punishable by 2 to 12 years imprisonment and/or a fine of \$1,000 to \$10,000. Chapter 31 of 2017 increased the minimum and maximum monetary penalties for bribery from \$100 to \$1,000 and from \$5,000 to \$10,000, respectively. On conviction, a violator may not vote or hold an office of trust or profit in the State. The State may initiate a prosecution for the offense of bribery at any time.

Restrictions on Representation and Assistance

Except for a former member of the General Assembly, a former official or employee may not assist or represent a party, other than the State, in a case, a contract, or any other specific matter for compensation if (1) the matter involves State government and (2) the former official or employee participated significantly in the matter as an official or employee. "Official," as it applies to the Maryland Public Ethics Law, means a State or public official. "Employee" means an individual who is employed by an executive unit, by the Legislative Branch, or in the Judicial Branch.

Chapter 31 of 2017 prohibits a former Governor, Lieutenant Governor, Attorney General, Comptroller, or State Treasurer from assisting or representing another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the official leaves State office. Likewise, the Act specifies that a former member of the General Assembly may not assist another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the member leaves office. The limitation does not apply to representation of a municipal corporation, county, or State governmental entity.

In addition, the Act expanded the definition of “legislative action” as it applies to the Maryland Public Ethics Law to include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government. Accordingly, “legislative action” means an official action or nonaction relating to (1) a bill, a resolution, an amendment, a nomination, an appointment, a report, or any other matter within the jurisdiction of the General Assembly; (2) a bill presented to the Governor for signature or veto; or (3) testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government. It includes introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, and veto.

However, the Act specifies that the expanded definition does not apply to the representation limit discussed above. Accordingly, “legislative action” as it applies to provisions affected by the bill, does not include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government.

The Maryland Public Ethics Law, Generally

The Maryland Public Ethics Law sets out requirements, prohibitions, and procedures that affect officials in the Legislative, Executive, and Judicial branches of government for the purpose of maintaining people’s trust in government and protecting against the improper influence and the appearance of improper influence of government.

The law is generally administered by the State Ethics Commission, with two statutory exceptions. First, the Joint Committee on Legislative Ethics must administer provisions related to conflicts of interest as they apply to members of the General Assembly. Second, the Commission on Judicial Disabilities, or another body designated by the Court of Appeals, must administer provisions related to conflicts of interest and financial disclosure as they apply to State officials of the Judicial Branch.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 202 (Senator Kagan) - Education, Health, and Environmental Affairs.

Information Source(s): State Ethics Commission; Department of Legislative Services

Fiscal Note History:
rh/lgc

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