AN ACT to:
(1) prohibit severance pay for a County employee unless authorized by law;
(2) prohibit severance pay for certain employees who violate the Ethics Law;
(3) provide for certain exceptions; and
(4) generally amend the law governing severance pay for County employees.

By amending
Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-104

Chapter 33, Personnel and Human Resources
Section 33-140

By adding
Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-26
Sec. 1. Sections 1A-104 and 33-140 are amended and Section 33-26 is added as follows:

1A-104. Heads of departments and principal offices; other positions designated as non-merit.

* * *

(e) Salaries. The Executive must design a compensation system to attract and retain highly competent senior leaders as heads of departments and principal offices, and other non-merit employees in the Executive Branch. Each of these employees must be paid a salary within a salary schedule proposed by the Executive and approved by the Council in the Operating Budget of the Montgomery County Government. The salary schedule may contain a provision permitting the Executive to exceed the salary schedule established for a position for an individual employee, subject to Council approval, if the Executive finds that it is necessary to attract or retain a senior leader for a specific position. The Council must establish a salary schedule for non-merit positions in the Legislative Branch as part of the Operating Budget of the Montgomery County Government.

(f) Severance pay. The Executive or a Councilmember must not authorize any payment of money or paid administrative leave to a non-merit employee in the Executive Branch or in the Legislative Branch upon separation from County employment unless the payment is expressly authorized by law. The Executive or a Councilmember must not enter into an employment agreement with a non-merit employee that provides for any type of severance pay for an employee who is terminated with or without cause. This subsection must not be interpreted to prohibit:

(1) the payout of unused leave at termination of employment;
(2) a discontinued retirement pension authorized under Section 33-45(d) or Section 33-45(e); or

(3) severance pay under Sections 33-139 and 33-140.

33-140. Plan administration.

(a) The County Executive must establish a severance pay plan in Executive Regulations under method (2). The plan must:

(1) prohibit severance pay for an employee who admits to or is found to have violated the Ethics Law in the 12 months prior to separation from County employment; and

(2) qualify as a severance pay plan under Section 457 of the Internal Revenue Code.

* * *


The Executive must not authorize any payment of money or paid administrative leave to a merit employee upon separation from County employment unless the payment is expressly authorized by law. This Section must not be interpreted to prohibit:

(a) the payout of unused leave at termination of employment;

(b) a discontinued retirement pension authorized under Section 33-45(d); or

(c) severance pay under Sections 33-139 and 33-140.

Sec. 2. Transition.

The amendments in Section 1 must apply to any County employee who separates from County employment on or after the date this Act takes effect.
Approved:

Tom Hucker, President, County Council

12/9/2020

Date

Approved:

Marc Elrich, County Executive

12/21/2020

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

12/21/2020

Date