AN ACT to:

(1) require employees to attend a public ethics training course;
(2) amend the law governing appeals of a decision by the Ethics Commission;
(3) amend the law governing the Ethics Commission’s resolution of complaints;
(4) [modify the restrictions on a public employee’s participation in certain matters;]
(5) repeal an exception to the restrictions on outside employment for an elected official;
[[6]] (5) clarify an exception to soliciting or accepting certain small gifts;
[[7]] (6) modify the procedures for administering the financial disclosure process; and
[[8]] (7) generally amend the law governing public ethics.

By amending
Montgomery County Code
Chapter 19A, Ethics
Sections 19A-6, 19A-10, 19A-11, 19A-12, 19A-16, and 19A-18

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 19A-6, 19A-10, 19A-11, 19A-12, 19A-16, and 19A-18 are amended as follows:

19A-6. Authority and duties of Commission; appeal of Commission decisions.

(a) Authority. The Commission may:

(1) conduct investigations under Section 19A-9;

(2) authorize the issuance of summonses and subpoenas, and administer oaths and affirmations;

(3) impose sanctions under Section 19A-10;

(4) adopt regulations to implement this Chapter under method (2);

(5) extend a deadline for distribution or filing of forms for up to 6 months if the Commission finds that the deadline creates an unreasonable burden. An extension may apply to an individual or a class of individuals. The extension must be in writing. However, the Commission must not extend the time in which a complaint must be filed under Section 19A-10;

(6) conduct public education and information programs regarding the purpose and implementation of this Chapter;

(7) publish opinions under Section 19A-7;

(8) establish procedures to govern the conduct of Commission affairs;

(9) interpret this Chapter and advise persons as to its application; [and]

(10) require each compensated public employee to attend a Public Ethics training course of at least one hour on the following schedule:

(A) at least once every 3 years for a public employee holding a merit or a non-merit County position who is required to file a financial disclosure statement;
(B) within 30 days after beginning service as County Executive or Councilmember unless the person has attended a training course within 3 years before that date; and

(C) at such times as the Commission determines for:
   (i) every other public employee; and
   (ii) a person holding a position described in Sections 19A-17(b)(6), 19A-17(b)(7), 19A-17(b)(8), 19A-17(b)(9) or 19A-17(c)(2); and

(11) take all other necessary acts to carry out the purposes of this Chapter.

* * *

(c) Appeals. [A] The subject of a final decision [of] finding a violation by the Commission on a complaint, or a person aggrieved by a final decision on a request for a waiver[,] or request for other employment approval may [be appealed] appeal the decision to the Circuit Court under the applicable Maryland Rules of Procedure governing judicial review of administrative agency decisions. An appeal does not stay the effect of the Commission's decision unless the court hearing the appeal orders a stay. Any party aggrieved by a judgment of the Circuit Court may appeal that judgment to the Court of Special Appeals.

(d) Request for rehearing or reconsideration.

(1) [A] The subject of a final decision of the Commission finding a violation on a complaint or a person [affected] aggrieved by a final decision of the Commission on a [complaint,] request for waiver[,] or request for other employment approval may ask the Commission for a rehearing or reconsideration.

* * *
19A-10. Complaint; Adjudicatory Hearing.

(a) (1) Any individual may file a confidential written complaint with the Commission. The complaint must allege facts under oath that would support a reasonable person in concluding that a violation of this Chapter or Sections 2-109, 11B-51 or 11B-52(a) occurred.

(2) (A) The complaint must be filed within the later of 2 years after:

(i) the alleged violation; or

(ii) the complainant learned or should have learned of facts that would lead a reasonable person to conclude that a violation occurred.

(B) A complaint may not be filed more than 6 years after the alleged violation occurred.

(3) The Commission may refer the complaint to Commission staff or the County Attorney for investigation under Section 19A-9 or may retain a special counsel or other person to [conduct an investigation] investigate.

(4) If the complaint does not allege facts sufficient to state a violation of this Chapter or the Commission finds that dismissal is consistent with the purpose of this Chapter, the Commission may dismiss the complaint. The Commission must inform the complainant of its decision to dismiss the complaint. The Commission may inform the subject of the complaint that the complaint was filed and dismissed[,] but must not disclose the identity of the complainant.

* * * * *

(n) The Commission may, at any time, refer to an appropriate prosecuting attorney any information that indicates that a criminal offense may have occurred. The Commission may, at any time, share confidential
information about a pending matter with an employee’s appointing
official and the County Attorney.


(a) Prohibitions. Unless permitted by a waiver, a public employee must not
participate in:

(1) any matter that affects, in a manner distinct from its effect on the
public generally, any:

(A) property in which the public employee holds an economic
interest;

(B) business in which the public employee has an economic
interest; or

(C) property or business in which a relative has an economic
interest, if the public employee knows about the relative's
interest;

(2) any matter if the public employee knows or reasonably should
know that any party to the matter is:

(A) any business in which the public employee has an economic
interest or is an officer, director, trustee, partner, or
employee;

(B) any business in which a relative has an economic interest, if
the public employee knows about the interest;

(C) any business with which the public employee has an active
application, is negotiating, or has any arrangement for
prospective employment;

(D) any business that is considering an application from,
negotiating with, or has an arrangement with a relative about
prospective employment, if the public employee knows about the application, negotiations, or the arrangement;

(E) any business or individual that is a party to an existing contract with the public employee or a relative, if the contract could reasonably result in a conflict between private interests and official duties;

(F) any business that is engaged in a transaction with a County agency if:
   (i) another business owns a direct interest in the business;
   (ii) the public employee or a relative has a direct interest in the other business; and
   (iii) the public employee reasonably should know of both direct interests;

(G) any business that is subject to regulation by the agency with which the public employee is affiliated if:
   (i) another business owns a direct interest in the business;
   (ii) the public employee or a relative has a direct interest in the other business; and
   (iii) the public employee reasonably should know of both direct interests; or

(H) any creditor or debtor of the public employee or a relative if the creditor or debtor can directly and substantially affect an economic interest of the public employee or relative.
any case, contract, or other specific matter affecting a party for whom, in the prior year, the public employee was required to register to engage in lobbying activity under this Chapter.

(b) Exceptions.

(1) If a disqualification under subsection (a) leaves less than a quorum capable of acting, or if the disqualified public employee is required by law to act or is the only person authorized to act, the disqualified public employee may participate or act if the public employee discloses the nature and circumstances of the conflict.

(2) Subsection (a) does not apply to an administrative or ministerial duty that does not affect an agency's decision on a matter.

(3) Paragraph (a)(1) does not apply to a public employee who is appointed to a regulatory or licensing body under a statutory provision that persons subject to the jurisdiction of the body may be represented in appointments to the body.

(4) Subparagraph (a)(2)(A) does not apply to a public employee, if the County Executive or the County Council appoints the public employee to serve as an officer, director, or trustee of a business to represent the public interest.

(5) Subparagraph (a)(2)(A) does not apply to a public employee who is an officer, director, or trustee of an organization, if the public employee discloses the relationship, is not compensated by the organization, and has no:

(A) managerial responsibility or fiduciary duty to the organization;

(B) authority to approve the organization's budget;
authority to select any officer or employee of the organization; or
(D) authority to vote on matters as a member of the governing body of the organization.

(6) If expressly authorized by regulation, subsection (a) does not apply to:
   (A) a police officer’s exercise of the officer’s police authority during approved outside employment; or
   (B) a police officer or fire/rescue employee who is exercising the employee’s official duties in an emergency affecting a business or property in which the employee or a relative of the employee has an economic interest.

[[(7) Subparagraph (a)(2) does not apply to an employee’s participation in a matter affecting a business with a principal place of business outside of the County where the employee’s economic interest is limited to ownership of publicly traded securities:
   (A) issued by a company that is part of the Standard & Poor’s 500 Index; and
   (B) the market value of the securities does not exceed $25,000.]]

[[(8) Subparagraph (a)(1) does not apply to an employee’s economic interest that is limited to the ownership of publicly traded securities issued by a company with a principal place of business outside the County if the market value of the securities does not exceed $50,000.]]

*       *       *

19A-12. Restrictions on other employment and business ownership.

*       *       *

- 8 -
(c) **Exceptions.**

(1) Subsections (a) and (b) do not apply to:

   (A) a public employee who is appointed to a regulatory or licensing body under a statutory provision that persons subject to the jurisdiction of the body may be represented in appointments to it;

   (B) a public employee whose government duties are ministerial, if the employment does not create a conflict of interest; or

   (C) a member of a board, commission, or similar body in regard to employment held when the member was appointed if the employment was publicly disclosed before appointment to the appointing authority, and to the County Council when confirmation is required. The appointing authority must forward a record of the disclosure to the Commission, which must keep a record of the disclosure on file; or

   (D) an elected public employee in regard to employment held at the time of election, if the employment is disclosed to the County Board of Elections before the election. The Commission must file the disclosure received from the County Director of Elections with the financial disclosure record of the elected public employee.

(2) If expressly authorized by regulation, subparagraph (b)(1)(A) and paragraph (b)(2) do not prohibit a police officer from working outside employment for an organization solely because that organization is located in the County or in the district where the officer is assigned.
19A-16. Soliciting or accepting gifts.

(d) Subsection (c) does not apply to:

1. meals and beverages consumed in the presence of the restricted donor or sponsoring entity at a function attended by at least 20 persons or, if fewer than 20 persons attend, meals and beverages consumed in the presence of the restricted donor or sponsoring entity which do not exceed $50 in value from the same source in any calendar year;

2. ceremonial gifts or awards that have insignificant monetary value;

3. unsolicited gifts, [of nominal value] except for cash or cash equivalents, that do not exceed $20 in cost [, or trivial items of informational value];

4. reasonable expenses for food, travel, lodging, and scheduled entertainment of the public employee, given in return for the public employee's participation in a panel or speaking at a meeting;

5. a gift to an elected official, if the gift:
   (A) is a courtesy extended to the office; [[and]]
   (B) consists of tickets or free admission for the elected official and one guest to attend a charitable, cultural, civic, labor trade, or political event attended by at least 20 participants, including meals and beverages served at the event; and
   (C) is provided by the person sponsoring the event.

6. any item that is solely informational or of an advertising nature, including a book, report, periodical, or pamphlet, if the resale value of the item is $20 or less;

7. gifts from a relative;
(8) honoraria for speaking to or participating in a meeting if the offering of the honorarium is not related to the employee’s official position and is unsolicited; or

(9) a specific gift or class of gifts which the Commission exempts from this Section after finding in writing that accepting the gift or class of gifts is not detrimental to the impartial conduct of the business of a County agency.

* * * * *


* * * *

(h) The Chief Administrative Officer must establish and maintain an electronic system to facilitate filing of and public access to financial disclosure statements required under this Article. Any electronic system must report an accurate list of each public employee required to file a statement under Section 19A-17, whether the employee is required to file under subsections 19A-17(a), (b), or (c), and include the employee’s position, necessary contact information, the reviewer, and whether the report is an initial, annual, or final report. This list should be current and correspond to personnel records and records of memberships in boards, committees and commissions. Any electronic system must be able to generate reports upon request of the Chief Administrative Officer, the Council Administrator, or the Commission detailing who is required to file and the current state of compliance by public employees with financial disclosure filing and review requirements under this Article. [The County Executive must annually, or more frequently as requested,] The Ethics Commission must, upon request, provide the list of employees designated to file financial disclosure reports to the Council. The
Commission must make all necessary accommodations for any person who does not have access to the electronic system.
Approved:

[Signature]
3/3/2021
Tom Hucker, President, County Council

Approved:

[Signature]
3/11/2021
Marc Elrich, County Executive

This is a correct copy of Council action.

[Signature]
3/11/2021
Selena Mendy Singleton, Esq., Clerk of the Council