

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1996 Legislative Session

Bill No. CB-83-1996

Chapter No. 57

Proposed and Presented by Council Member Estepp

Introduced by Council Members Estepp and Scott

Co-Sponsors

Date of Introduction October 1, 1996

BILL

AN ACT concerning

Confidentiality of Public Files

For the purpose of protecting the confidentiality of certain personal information and personal records in accordance with State law and make conforming corrections and amendments to the Code, and providing penalties for unauthorized disclosure.

BY repealing and reenacting with amendments:

SUBTITLE 2. ADMINISTRATION.

Section 2-294, and

SUBTITLE 16. PERSONNEL.

Sections 16-215, 16-216, and 16-217

The Prince George's County Code

(1995 Edition).

BY adding:

SUBTITLE 16. PERSONNEL.

Sections 16-217.01

The Prince George's County Code

(1995 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 2-294, 16-215, 16-216, and 16-217 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 2. ADMINISTRATION.

DIVISION 17. CODE OF ETHICS.

Sec. 2-294. Financial Disclosure.

* * * * *

(d) All statements filed pursuant to this Section shall be maintained by the Board, or an office designated by the Board, and shall be made available, during normal office hours, for examination and copying by the public, subject, however, to such reasonable fees and administrative procedures as the Council or Board may establish from time to time. The forms shall be retained for four (4) years from the date of receipt. Any person examining or copying these statements shall be required to record his name, home address, and the name of the person whose disclosure statement was examined or copied. This record shall be forwarded [upon request] within five business days to the person whose disclosure statement is so examined or copied.

* * * * *

(i) The County Executive may, by Executive Order, require persons holding County positions compensated in whole or in part by public funds and noncompensated County appointees to disclose annually, as public records, such relevant information concerning their financial affairs as he may deem necessary to promote the continued trust and confidence of the people in the Executive Branch of the County government.

[(j) The provisions of this Section shall not apply to members of the Southern Maryland Health Systems Agency established pursuant to agreement between Charles, Calvert, St. Mary's, and Prince George's Counties. Members of, and nominees to, the Southern Maryland Health Systems Agency shall comply with the financial disclosure provisions established by the agency.]

SUBTITLE 16. PERSONNEL.

DIVISION 16. PERSONNEL RECORDS.

Sec. 16-215. Records policy.

Pursuant to the provisions of Section 203[(4) of Article II] of the County Charter, and

Title 10, Subtitle 6, State Government Article, Annotated Code of Maryland, all personnel and leave records and documents contained in each employee's personnel file shall be regarded as confidential information and shall not be made available to [members of the general public] any person except [for] those persons described in Section 16-216(d) and except under circumstances otherwise authorized by applicable State or Federal statute and any regulations authorized pursuant thereto.

Sec. 16-216. Official personnel records.

(a) Official Custodian. The Personnel Officer shall be the official custodian of all employee personnel files and of all records and documents contained in each such file.

(b) Maintenance and Disposition.

(1) An official personnel file shall be established and maintained by the Personnel Officer for each former and current County employee. Each such employee personnel file shall contain all records and documents relating to employment from initial appointment through final termination of County employment. Consistent with the provisions of Section 16-197 and any other applicable law or regulation, the Personnel Officer shall develop personnel procedures, as defined in Section 16-102(a)(32), providing for the designation and maintenance of all employment records and documents in each employee personnel file as either temporary records or permanent records. Said personnel procedures shall further provide for the disposal of temporary records and the retention of permanent records.

(c) Verification of Information.

[(1) Pursuant to Section 203(4) of Article II of County Charter, all documents and records maintained in an employee's official personnel file shall be regarded as confidential information and, as such, shall not be made available for inspection or otherwise by the Personnel Officer to members of the general public, except for those persons identified in Subsection (d), below. However, t] The Personnel Officer may, for the purpose of assisting a former or current employee in establishing credit or upon the inquiry of an employe[e]r of a former or current employee, verify any such employee's full name, [address of record,] date of employment, class, title and salary.

(d) Inspection of Files.

(1) [Under personnel procedures, as defined in Section 16-102(a)(32), to be developed by the Personnel Officer, a] An employee's personnel file may be inspected by the following persons:

- (A) The employee in interest;
- (B) Any person to whom the employee in interest has given prior written authorization;
- (C) The present [or prospective] appointing authority and supervisor of the employee in interest;
- (D) The [current Chairperson of the County] Personnel Board [or any other current member designated by the Chairperson,] as necessary for the proper performance of the duties and responsibilities of the [County] Personnel Board;
- (E) The County Auditor, as necessary for the proper performance of the duties and responsibilities of the County Auditor;
- (F) The County Director of Finance, as necessary for the proper performance of the duties and responsibilities of the County Director of Finance;
- (G) The County Equal Employment Opportunity Officer for purposes of investigating appeals to the Personnel Board wherein discrimination is alleged pursuant to the provisions of Section 16-203(a)(7); and,
- (H) Any other person who has been specifically authorized by law to inspect such files.

(2) In any event where any person described in paragraph (d)(1), above, except for the employee in interest, has inspected any employee's personnel file, any such person shall, thereafter, maintain all information acquired as a result thereof in a confidential manner and shall not divulge or make available in any other manner any of said information to [the general public, except for information regarding the employee's name and class title.] any person.

(3) In any event where the employee in interest inspects said employee's own personnel file, as provided under paragraph (d)(1), above, said employee shall be entitled to file a signed statement for inclusion in said file where the employee finds that any information

contained therein is inaccurate, incomplete, or not being maintained in accordance with applicable law if the employee is not otherwise able to have said information corrected under the supervision of the Personnel Officer.

(4) Any person, other than the employee in interest, a person authorized by the employee in interest, the Personnel Officer, or a person acting on behalf of the Personnel Officer, who reviews or examines a personnel file shall be required to record the person's name, authority to review this personnel file, and date of review on a form which shall be maintained in the personnel file. A copy of the form shall be forwarded to the employee within five business days. In the event that the personnel file of an employee who is the subject of a criminal investigation conducted by a law enforcement agency is reviewed pursuant to a subpoena or of an employee who is the subject of an administrative investigation concerning the employee's conduct pursuant to Section 16-193, the Personnel Officer shall forward a copy of the form to the employee within five business days after the subpoena allows disclosure or after ninety days of the examination by the appointing authority conducting an administrative investigation. If any person, including the employee in interest, a person authorized by the employee in interest, the Personnel Officer or appointing authority or a person acting on behalf of the Personnel Officer examines a personnel file, the date of examination, reason for examination, and identity of the person examining the file shall be recorded in one or more logs maintained by the Personnel Officer. The entry into a personnel file, by staff assigned to the Personnel Office whose job function requires regular access to such files, for the purposes of routine filing of records and/or verifying or updating information is not required to be logged.

(e) The official personnel file includes any file that contains documents relating to employment with the County, including, but not limited to, application, resumes, , documentation of disciplinary actions and related appeals, performance ratings and counseling forms, processed employee action notification (EAN) forms, supervisor's report of injury, job-related letters of commendation, training certificates, service awards, job-related personal information, and personal information provided by the employee, such as emergency telephone numbers and next of kin designations. Pre-employment physical examination or

fitness for duty examination reports and evaluations, records of required vaccinations or related waivers, infectious disease exposure reports, and benefit election and designation forms shall be maintained separately and in a manner that protects the confidentiality of medical information relating to the employee. No unofficial file shall be maintained without the express knowledge of the employee.

Sec. 16-217. Departmental or agency personnel files.

(a) Appointing authorities shall be authorized to establish and maintain separate departmental or agency personnel files regarding employees under their respective jurisdictions. All documents and records maintained in any such departmental or agency personnel file shall be maintained by the appointing authority in a confidential manner and, as such, no other persons, except those individuals specified in Section 16-216(d)(1), above, shall be permitted to inspect any such file. All documents and records pertaining to an employee's performance which are not included in the employee's performance evaluation shall be destroyed after the submission of the performance evaluation or within one year of the date the record was created.

(b) The Personnel Officer shall develop personnel procedures[, as defined in Section 16-102(a)(32),] governing the establishment, contents, maintenance, and disposition of departmental or agency personnel files. [In furtherance of the foregoing, t] The Personnel Officer shall be authorized to periodically inspect any established departmental or agency personnel files in order to insure that said files are being maintained in a manner consistent with [the aforesaid] personnel procedures.

(c) In the event that an appointing authority establishes a departmental or agency personnel file regarding any employee under the appointing authority's jurisdiction, any such employee shall be promptly notified by the appointing authority of the establishment of said personnel file. Any such employee shall be entitled to inspect the employee's file during the employee's hours of work at a time mutually agreed to by the employee and the appointing authority[; and provided further, that a]. Any such employee shall be [additionally] entitled to file a signed statement for inclusion in the employee's file under the circumstances described in Section 16-216(d)(3) as if the employee were filing a signed statement in the employee's

official personnel file.

(d) Any person, other than the employee in interest, a person authorized by the employee in interest, the Personnel Officer, the appointing authority, or a person acting on behalf of the Personnel Officer, who reviews or examines a personnel file, shall be required to record his name, authority to review the personnel file, and date of review on a form which shall be maintained in the personnel file. A copy of the form shall be forwarded to the employee within five business days. If any person, including the employee in interest, a person authorized by the employee in interest, the Personnel officer or appointing authority or a person acting on behalf of the Personnel Officer examines a personnel file, the date of examination, reason for examination, and identity of the person examining the file shall be recorded in one or more logs maintained by the Personnel Officer. The entry into a personnel file for the purpose of filing of records is not required to be logged.

SECTION 2. BE IT FURTHER ENACTED that Section 16-217.01 of the Prince George's County Code be and the same is hereby added:

SUBTITLE 16. PERSONNEL

DIVISION 16. PERSONNEL RECORDS.

Sec. 16-217.01. Criminal penalties; violations.

(a) Any person found to have violated any provision of Subtitle 16, Division 16, shall be fined up to \$1,000.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 29th day of October , 1996.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:
Stephen J. Del Giudice
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY:
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.