

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1996 Legislative Session

Bill No. _____ CB-107-1996

Chapter No.

Proposed and Presented by _____ Council Member Estepp

Introduced by _____ Council Members Estepp and Scott

Co-Sponsors

Date of Introduction _____ October 29, 1996

BILL

AN ACT concerning

Privacy in the Work Place

For the purpose of prohibiting the electronic or mechanical recording of an oral communication of an employee except in certain circumstances, prohibiting retaliation for exercising constitutional and statutory rights, and providing penalties for violation.

BY repealing and reenacting with amendments:

SUBTITLE 16. PERSONNEL.

Section 16-110.01,

The Prince George's County Code

(1995 Edition).

By adding:

SUBTITLE 16. PERSONNEL.

Section 16-110.03,

The Prince George's County Code

(1995 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 16-110.01 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 16. PERSONNEL.

DIVISION 1. GENERAL PROVISIONS.

Sec. 16-110.01. Prohibited personnel practices.

(a) It shall be wrongful and illegal and a prohibited personnel practice for any employee who has authority to take, direct others to take, recommend, or approve any personnel action, to take or fail to take a personnel action with respect to any employee or applicant for employment solely, as a reprisal for a disclosure of information by an employee or applicant as to action taken by another employee or applicant which the employee or applicant reasonably believes evidences:

- (1) A violation of any law, rule or regulation; or
- (2) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety if such disclosure is not specifically prohibited by law.

(b) It shall be an unlawful and prohibited personnel practice to record by any electronic or mechanical device any oral communication by any employee without the express consent of each employee present at any period of time during which the communication was recorded. If any employee objects at any time to the recording of any communication, the recording shall immediately cease and the recording devices shall be removed. No electronic or mechanical recording shall be made of any communication concerning personal information required by law to remain confidential. If an electronic or mechanical recording is made, a copy of the recorded communication shall be made available, without charge, to each person present for any period of time during which the communication was recorded and a copy shall be retained by the appointing authority for a period of one year. Electronic or mechanical recording of an oral communication is permitted under the following circumstances:

- (1) The communication takes place during a meeting open to the public pursuant to Title 10, Subtitle 5, Annotated Code of Maryland;
- (2) The recorded communication is a public record subject to disclosure to any person pursuant to Title 10, Subtitle 6, Part III, Annotated Code of Maryland; or
- (3) The communication is recorded pursuant to an investigation of alleged misconduct by the employee and the communication is required by law to be recorded.

~~[(b)](c)~~ The Director of Personnel and the head of each department or agency shall be responsible for the prevention of prohibited personnel practices. Any individual to whom a department delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation. Nothing in this Subsection shall be construed to create a civil or criminal liability on the part of the Director of Personnel, department head, or any other individual who did not directly engage in a prohibited personnel practice.

~~[(c)](d)~~ A prohibited personnel practice as defined in Subsection (a) ~~or (b)~~ shall constitute a basis for the initiation of a grievance as defined in Section 16-102(a)(28).

~~[(d)](e)~~ A prohibited personnel practice as defined in Subsection (a) shall constitute a defense against an adverse action as defined in Section 16-102(a)(1) taken solely as a reprisal for a disclosure of information as set forth in Section 16-110.01(a), above.

~~(f) An employee may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to the employee's employment or threatened with any such treatment, by reason of the exercise of or demand for the rights granted in this section or by reason of the lawful exercise of the employees' statutory or constitutional rights.~~

SECTION 2. BE IT FURTHER ENACTED that Section 16-110.03 of the Prince George's County Code be and the same is hereby added:

SUBTITLE 16. PERSONNEL.

DIVISION 1. GENERAL PROVISIONS.

Sec. 16-110.03. Criminal penalties; violations.

~~(a) Any person found to have violated any provision of Section 16-110.01 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 _____ day of _____, 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.