

BY: Delegate Palakovich Carr
(To be offered in the Montgomery County House Delegation)

AMENDMENTS TO MC 12-24
(Sprint Copy)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 5 down through “Executive” in line 13, and substitute “establishing the intent of the General Assembly; establishing the right of certain employees of the Office of the State’s Attorney in Montgomery County to organize and collectively bargain in accordance with certain personnel law governing county employees; establishing that employees of the Office of the State’s Attorney are subject to the county merit system subject to a certain exception; establishing that the Montgomery County Executive or the State’s Attorney be considered the employer of certain employees for a certain purposes; establishing certain procedures if a single bargaining representative represents county employees and employees of the Office of the State’s Attorney; requiring that there be only one collective bargaining agreement for county employees and employees of the Office of the State’s Attorney; establishing that terms of a collective bargaining agreement are subject to the budget and fiscal policies of the county; prohibiting the provisions of this Act from impairing certain rights and responsibilities of the State’s Attorney except as provide in the county merit system law and personnel regulations;”.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 11 on page 2 through line 3 on page 3, inclusive, and substitute:

“(G) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

(I) PROTECT THE RIGHT TO BARGAIN OF THE MONTGOMERY COUNTY EXECUTIVE AND THE STATE’S ATTORNEY;

(II) PRESERVE A SINGLE MASTER COLLECTIVE BARGAINING AGREEMENT TO THE EXTENT THAT A SINGLE EXCLUSIVE BARGAINING REPRESENTATIVE REPRESENTS MULTIPLE UNITS OF EMPLOYEES COVERED UNDER THE MONTGOMERY COUNTY COLLECTIVE BARGAINING LAW; AND

(III) STREAMLINE, FACILITATE, AND MAKE MORE EFFECTIVE THE COLLECTIVE BARGAINING PROCESS BY ENSURING THAT THERE SHALL BE A SINGLE COLLECTIVE BARGAINING AGREEMENT WITH BOTH THE MONTGOMERY COUNTY GOVERNMENT AND THE STATE’S ATTORNEY IF A

SINGLE EXCLUSIVE BARGAINING REPRESENTATIVE REPRESENTS BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE STATE'S ATTORNEY.

(2) NONPROBATIONARY EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, INCLUDING NONSUPERVISORY ASSISTANT STATE'S ATTORNEYS, SHALL HAVE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY IN ACCORDANCE WITH THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII, WITH REGARD TO COMPENSATION, PENSION FOR ACTIVE EMPLOYEES, FRINGE BENEFITS, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT, INCLUDING PERFORMANCE EVALUATION PROCEDURES.

(2) EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, INCLUDING NONSUPERVISORY ASSISTANT STATE'S ATTORNEYS, ARE SUBJECT TO THE COUNTY MERIT SYSTEM LAW AND PERSONNEL REGULATIONS AND MAY BE EXCLUDED FROM THOSE PROVISIONS ONLY TO THE EXTENT THAT THE APPLICABILITY OF THOSE PROVISIONS IS MADE THE SUBJECT OF COLLECTIVE BARGAINING.

(3) (I) AS TO THE EMPLOYEES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTY EXECUTIVE SHALL BE CONSIDERED THE EMPLOYER OF THE EMPLOYEES UNDER THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII, ONLY FOR THE PURPOSE OF COLLECTIVE BARGAINING FOR COMPENSATION, PENSION, FRINGE BENEFITS, AND HOURS.

(II) IF A SINGLE BARGAINING REPRESENTATIVE REPRESENTS BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY'S, ANY AND ALL TERMS AND CONDITIONS OF EMPLOYMENT SET FORTH IN ANY CURRENT AND SUBSEQUENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE COUNTY GOVERNMENT AND THE BARGAINING REPRESENTATIVE SHALL BE APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY UNLESS DIFFERENT TERMS AND CONDITIONS OF EMPLOYMENT ARE NEGOTIATED BY THE STATE'S ATTORNEY IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION.

(4) (I) THE STATE'S ATTORNEY SHALL BE CONSIDERED THE EMPLOYER FOR ALL OTHER PURPOSES AND SHALL BE CONSIDERED THE EMPLOYER UNDER THE MONTGOMERY COUNTY CODE, CHAPTER 33, ARTICLE VII, FOR ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(II) IF A SINGLE BARGAINING REPRESENTATIVE REPRESENTS BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, THE STATE'S ATTORNEY SHALL BARGAIN ONLY OVER PARTICULAR MATTERS, NOT INVOLVING COMPENSATION, PENSION, FRINGE BENEFITS, AND HOURS, APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY.

(III) IF THE STATE'S ATTORNEY AND THE BARGAINING REPRESENTATIVE DISAGREE OVER WHETHER A MATTER IS APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, THE DISPUTE SHALL BE RESOLVED BY THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER CHAPTER 33, ARTICLE VII OF THE MONTGOMERY COUNTY CODE, FOLLOWING THE PROCEDURES FOR THE RESOLUTION OF PROHIBITED PRACTICES CHARGES AND CONSISTENT WITH THE GENERAL ASSEMBLY'S INTENT TO PRESERVE A SINGLE MASTER COLLECTIVE BARGAINING AGREEMENT.

(IV) IF THE STATE'S ATTORNEY AND THE BARGAINING REPRESENTATIVE ARE UNABLE TO REACH AN AGREEMENT DURING NEGOTIATIONS ON MATTERS APPLICABLE TO EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, THE PROCEDURES FOR DECLARING AN IMPASSE AND SUBMITTING A DISPUTE TO BINDING ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH CHAPTER 33, ARTICLE VII OF THE MONTGOMERY COUNTY CODE.

(5) THERE SHALL BE ONLY ONE COLLECTIVE BARGAINING AGREEMENT COVERING BOTH COUNTY GOVERNMENT EMPLOYEES AND EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY AND ANY AGREEMENTS REACHED UNDER THIS SUBSECTION SHALL BE INCLUDED IN AN APPENDIX OR ADDENDUM TO THE AGREEMENT BETWEEN THE COUNTY GOVERNMENT AND THE BARGAINING REPRESENTATIVE.

(6) ANY REQUIRED FUNDING FOR THE TERMS OF AN AGREEMENT NEGOTIATED BY THE STATE'S ATTORNEY UNDER THIS SUBSECTION IS SUBJECT TO THE BUDGET AND FISCAL POLICIES OF THE COUNTY.

(7) EXCEPT AS PROVIDED IN THE COUNTY MERIT SYSTEM LAW AND PERSONNEL REGULATIONS, THE PROVISIONS OF THIS SUBSECTION AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND RESPONSIBILITY OF THE STATE'S ATTORNEY TO:

(I) DETERMINE THE OVERALL MISSION OF THE OFFICE OF THE STATE'S ATTORNEY AND, SUBJECT TO THE BUDGET AND FISCAL POLICIES OF THE COUNTY, THE OFFICE OF THE STATE'S ATTORNEY BUDGET;

(II) MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

(III) DETERMINE THE SERVICES TO BE RENDERED AND THE OPERATIONS TO BE PERFORMED;

(IV) DETERMINE THE OVERALL ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE CONDUCTED AND THE LOCATION OF FACILITIES;

(V) DIRECT AND SUPERVISE EMPLOYEES;

(VI) HIRE AND SELECT NEW EMPLOYEES;

(VII) ESTABLISH THE STANDARDS GOVERNING PROMOTION OF EMPLOYEES, SUBJECT TO THE COUNTY MERIT SYSTEM LAW AND PERSONNEL REGULATIONS;

(VIII) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF WORK OR FUNDS OR UNDER CONDITIONS WHEN THE EMPLOYER DETERMINES CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE;

(IX) TAKE ACTIONS TO CARRY OUT THE MISSION OF GOVERNMENT IN SITUATIONS OF EMERGENCY;

(X) TRANSFER, ASSIGN, AND SCHEDULE EMPLOYEES;

(XI) DETERMINE THE SIZE AND COMPOSITION OF THE WORKFORCE, SUBJECT TO THE COUNTY'S BUDGET AND FISCAL POLICIES;

(XII) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;

(XIII) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND EVALUATE EMPLOYEES;

(XIV) MAKE AND IMPLEMENT SYSTEMS FOR AWARDING OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS, AND OTHER MERIT AWARDS, SUBJECT TO THE BUDGET AND FISCAL POLICIES OF THE COUNTY;

(XV) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH, DEVELOPMENT, AND SERVICES;

(XVI) CONTROL AND REGULATE THE USE OF MACHINERY, EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE OFFICE OF THE STATE'S ATTORNEY;

(XVII) MAINTAIN INTERNAL SECURITY STANDARDS;

(XVIII) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY OPERATION, UNIT, OR OTHER DIVISION OR SERVICE, EXCEPT THAT:

1. CONTRACTING OUT WORK THAT WILL DISPLACE EMPLOYEES MAY NOT BE UNDERTAKEN BY THE EMPLOYER UNLESS 90 DAYS PRIOR TO SIGNING THE CONTRACT, OR ON ANOTHER DATE OF NOTICE AS AGREED TO BY THE PARTIES, WRITTEN NOTICE HAS BEEN GIVEN TO THE CERTIFIED REPRESENTATIVE AND THE CONTRACTING OUT OF WORK SHALL BE CONSISTENT WITH ANY APPLICABLE PROVISION OF THE MONTGOMERY COUNTY CODE; AND

2. ANY DISPLACEMENT OF BARGAINING UNIT MEMBERS SHALL BE CONDUCTED IN A MANNER THAT IS CONSISTENT WITH ANY APPLICABLE PROVISION OF THE MONTGOMERY COUNTY CODE AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT;

(XIX) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR JUST CAUSE SUBJECT TO THE COUNTY MERIT SYSTEM LAW AND COLLECTIVE BARGAINING AGREEMENT WHERE APPLICABLE, PROVIDED THAT, SUBJECT TO § 404 OF THE MONTGOMERY COUNTY CHARTER, ANY ACTION TO SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE A CIVILIAN EMPLOYEE MAY BE SUBJECT TO THE GRIEVANCE PROCEDURE SET FORTH IN THE COLLECTIVE BARGAINING AGREEMENT; AND

(XX) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS NECESSARY TO CARRY OUT THE FUNCTIONS OF THIS SUBSECTION AND ALL OTHER MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH LAW OR THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT.

EXPLANATION OF THE AMENDMENTS:

AMENDMENT NO. 1

Makes a technical change to the purpose paragraph.

AMENDMENT NO. 2

Strikes the existing language and provides that nonprobationary employees of the Office of the State's Attorney (Office), including nonsupervisory Assistant State's Attorneys (ASAs) have the right to organize and bargain collectively under the county's collective bargaining laws in Chapter 33, Article VII of the Montgomery County Code for compensation, pension for active employees, fringe benefits, hours, and terms and conditions of employment such as performance evaluation procedures. Disputes over certain matters arising between the bargaining representative and the State's Attorney are also resolved under Chapter 33, Article VII.

The amendments also specify the employees of the Office, including nonsupervisory ASAs, are by default subject to the county's merit system. However, employees of the Office may be excluded from the merit system provisions through collective bargaining.

For purposes of collective bargaining, the County Executive is the employer for of Office employees when bargaining for compensation, pension, fringe benefits, and hours of employment. The State's Attorney is considered the employer when bargaining for all other terms and conditions of employment. If a single bargaining representative represents both county employees and Office employees, the terms and conditions of employment for any current and subsequent agreement apply to the Office employees, unless different terms and conditions are negotiated by the State's Attorney. There is to only be one collective bargaining agreement in place covering county employees and Office employees, and any agreements reached under are to be added in an appendix or addendum.

Any funding required for the terms of a collective bargaining agreement negotiated by the State's Attorney is subject to the budget and fiscal policies of the county.

Finally, the amendments specify that, unless there is an exception in the county merit system and personnel regulations, the provisions of the bill do not impair certain rights and responsibilities of the State's Attorney.