

MEMORANDUM

April 10, 2015

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Action:** Bill 9-15, Health and Sanitation – Bodywork Establishment – License

**Health and Human Services Committee/Public Safety Committee recommendation (6-0):
approve the Bill with amendments.**

Bill 9-15, Health and Sanitation – Bodywork Establishment - License, sponsored by the Council President at the request of the County Executive and Councilmembers Hucker, Katz, Rice, and Navarro was introduced on March 3. A public hearing was held on March 17 and a joint Health and Human Services Committee/Public Safety Committee worksession was held on March 26.

Bill 9-15 would define bodywork as the practice of using one’s hands to apply pressure on an individual’s fully clothed body or bare feet to affect the electromagnetic energy, energetic field, or energy meridians of the human body. Bodywork includes the practice of reflexology or acupressure. The Bill would require a license to operate a bodywork establishment in the County. The Department of Health and Human Services would issue the license to operate a bodywork establishment and the Police Department would be authorized to enforce the law.

Background

Many establishments have emerged in the County as fronts for human trafficking while advertising themselves as performing reflexology, acupressure, or other similar practices that do not fit the State definition of massage. The intent of Bill 9-15 is to permit legitimate establishments that practice bodywork to continue while preventing illegal human trafficking operations from operating in the County under the pretext of practicing bodywork. The Executive explained the purpose of the Bill in his transmittal memorandum at ©13 and in the Legislative Request Report at ©11-12.

Public Hearing

Captain Dinesh Patil, MCPD, representing the County Executive, supported the Bill as a useful tool to help the Department enforce existing laws against human trafficking while still permitting legitimate reflexology and acupressure businesses to continue to operate in the County. (©14-15) Jeannette Feldner, Montgomery County Chapter of the National Organization of Women (©16), Barbara Mintz, Chair, Montgomery County Human Trafficking Task Force (©17-18), Lawrence Couch, Justice and Advocacy Council of Montgomery County (©19-20), and Tony Tomasello, City Manager, Gathersburg (©21), each supported the Bill. Debra Bright Harris, President of the Montgomery County Commission for Women submitted written testimony supporting the Bill. (©22-23)

Worksession

Assistant CAO Bonnie Kirkland and Clark Beil, HHS, represented the Executive Branch. The Committee discussed the implementation of the licensing program with the Executive Branch. The Committee amended the definition of bodywork, as suggested by the Executive Branch, and made 2 technical amendments recommended by Council Staff. The Committee (6-0) recommended approval of the Bill with amendments.

Issues

1. What is the fiscal and economic impact of the Bill?

OMB estimated that the initial startup of the licensing program would require HHS staff to spend 60 hours in FY16 for training, inspections, and appeals of license denials for a total cost of \$27,300. HHS staff time would decrease significantly in future years. OMB estimated that the County would receive \$33,000 in revenue from a license fee of \$200 in FY16. Revenues and expenditures would be much less in subsequent years. The Police Department estimated no additional expenses to enforce the Bill since they have already increased enforcement efforts to eliminate human trafficking. See ©24-28.

Finance estimated that Bill 9-15 would have a positive impact on property values in the County if it is successful in reducing illegal businesses in the County. Finance could not estimate the actual impact. See ©29.

2. Should the definition of bodywork include using parts of the body other than hands?

The Bill, in lines 5-9 at ©2 would define bodywork as:

Bodywork means the practice of using one's hands to apply pressure on an individual's fully clothed body or bare feet to affect the electromagnetic energy, energetic field, or energy meridians of the human body. Bodywork includes the practice of reflexology or acupressure.

After introduction, the County Attorney's Office suggested that one could use another part of the body to apply pressure while performing bodywork other than the hands. **Committee recommendation (6-0):** amend line 5 of the Bill at ©2 as follows:

Bodywork means the practice of using one's hands or another part of the body to apply pressure on an

3. Technical amendments.

(a) Lines 24-26 at ©2 refers to the "Board." The full name of the Board should be added. It should be amended as follows:

(1) an individual with a license, registration, or other approval issued by the Maryland State Board of Chiropractic and Massage Therapy Examiners to provide massage under § 3-5A-05 of the Health Occupations Article;

(b) The reference in line 87 at ©5 to "(c)(1)(A)" should read "(c)(1)."

Committee recommendation (6-0): approve both technical amendments.

4. Would Bill 9-15 apply in municipalities?

State law permits a municipal corporation located in the County to either agree to be bound by a County law or not be bound. The County Attorney's Office compiles a chart of which Chapters of the County Code each municipal corporation has agreed should be automatically applicable unless the municipal corporation enacts an ordinance expressly exempting itself. The chart can be found at:

[http://www.amlegal.com/nxt/gateway.dll/Maryland/montgom/appendix/appendixfcountylawsapplicabletomunicipal?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:montgomeryco_md_mc](http://www.amlegal.com/nxt/gateway.dll/Maryland/montgom/appendix/appendixfcountylawsapplicabletomunicipal?f=templates$fn=default.htm$3.0$vid=amlegal:montgomeryco_md_mc)

The chart also shows which Chapters of the Code each municipal corporation has decided should not be automatically applicable unless the corporation expressly enacts an ordinance making a County law amending that Chapter applicable in the municipal corporation. Bill 9-15 would amend Chapter 24, Health and Sanitation. According to the chart, a public health law amending Chapter 24 would automatically be applicable in each municipal corporation. However, Council staff discussed this with the Rockville City Attorney's Office. It is their opinion that this law would not automatically apply in Rockville, but that they would present it to the City Manager and the City Council for consideration.

5. Should Bill 9-15 be enacted?

Due to its central location, Montgomery County has become both a pass-through County and a final destination for human traffickers. Although Bill 9-15 would not eliminate human

trafficking in the County, it would provide the Police with another tool to enforce existing State laws prohibiting human trafficking. State licensing of massage therapy has helped to prevent human trafficking businesses from operating as a massage parlor. The State does not regulate reflexology or acupressure. In recent years, human traffickers have established businesses that advertise reflexology or acupressure as a front for illegal human trafficking. Bill 9-15 would permit a legitimate business who practices reflexology or acupressure to continue with little difficulty. It would, however, make it more difficult to operate a business purporting to provide reflexology or acupressure as a front for illegal human trafficking. **Committee recommendation (6-0):** enact the Bill with the amendments described above.

6. When should the Bill take effect?

If the Council enacts Bill 9-15 as introduced, it would take effect 90 days after it becomes law. HHS would need some time to set up a licensing system for a bodywork establishment. If the Council decides it should take effect sooner than 90 days, the Council would need to amend it to make it an expedited bill. If the Council decides it should take effect more than 90 days after it becomes law, the Council could amend the Bill to insert a later effective date. The Executive Branch representatives at the worksession recommended no change to the standard 90-day effective date. **Committee recommendation (6-0):** no change to the 90-day effective date.

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Bill No. 9-15
Concerning: Health and Sanitation -
Bodywork Establishment - License
Revised: March 26, 2015 Draft No. 6
Introduced: March 3, 2015
Expires: September 3, 2016
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive and Councilmembers Huckler, Katz,
Rice, and Navarro

AN ACT to:

- (1) require a license to operate a bodywork establishment in the County;
- (2) define bodywork;
- (3) authorize the Department of Health and Human Services to issue a license to operate a bodywork establishment;
- (4) authorize the Police Department to enforce the law; and
- (5) generally regulate the operation of a bodywork establishment in the County.

By adding

Montgomery County Code
Chapter 24, Health and Sanitation
Section 24-11B

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 24-11B is added as follows:**

2 **24-11B. Bodywork Establishments.**

3 (a) Definitions. As used in this Section, the following words and phrases
4 have the following meanings:

5 Bodywork means the practice of using one's hands or another part of the
6 body to apply pressure on an individual's fully clothed body or bare feet
7 to affect the electromagnetic energy, energetic field, or energy meridians
8 of the human body. Bodywork includes the practice of reflexology or
9 acupressure.

10 Bodywork establishment means any business that advertises bodywork
11 services or where any employee, agent, or contractor performs bodywork
12 on an individual.

13 Chief means the Chief of Police or the Chief's designee.

14 Director means the Director of the Department of Health and Human
15 Services or the Director's designee.

16 Licensee means an individual owner of a bodywork establishment or an
17 individual designated by the owner if the owner is not an individual.

18 Sexual activity means any direct or indirect physical contact between
19 persons intended to erotically stimulate either person or both persons or
20 is likely to cause such stimulation. Sexual activity includes sexual
21 intercourse, fellatio, cunnilingus, anal intercourse, masturbation, or
22 manual stimulation.

23 (b) Scope. This Section does not apply to:

24 (1) an individual with a license, registration, or other approval issued
25 by the Maryland State Board of Chiropractic and Massage Therapy
26 Examiners to provide massage under § 3-5A-05 of the Health
27 Occupations Article;

- 28 (2) an athletic trainer who:
 29 (A) is certified by a nationally recognized athletic trainer
 30 certification agency identified by the Director and works
 31 under the supervision of a physician, while functioning in
 32 the athletic trainer’s professional capacity;
 33 (B) is employed by an accredited educational institution, while
 34 performing professional duties at that institution; or
 35 (C) is employed by a professional sports team, while treating
 36 members of that team; or
 37 (3) a business in which every person who provides services is a
 38 certified massage therapist or registered massage practitioner
 39 under State law.
 40 (c) Bodywork establishment.
 41 (1) License required. A bodywork establishment must have a license
 42 issued by the Director under this Section. The licensee must be the
 43 owner of the establishment. If the owner is not an individual, the
 44 owner must designate on the application an individual as the
 45 owner’s representative. The owner’s representative must consent
 46 on the application to be so designated. The representative must
 47 accept any notice sent to the owner under this Section. If the owner
 48 does not pay any fine, penalty, or fee due under this Section, the
 49 Director may collect the fine, penalty, or fee from the owner’s
 50 representative.
 51 (2) Except as otherwise provided in this Section, the Director must,
 52 with the assistance of the Police Department, review each
 53 application and issue a bodywork establishment license if:

- 54 (A) the applicant meets the requirements of this Section and
55 completes a license application on a form provided by the
56 Director;
- 57 (B) the bodywork establishment facility meets the minimum
58 standards set by Executive Regulation;
- 59 (C) the applicant pays an application fee and license fee; and
- 60 (D) the establishment complies with all applicable zoning,
61 health, fire prevention, and building laws and regulations.
- 62 (3) The Director must conduct a pre-licensing inspection of any
63 bodywork establishment, and may conduct other inspections
64 necessary to enforce this Section.
- 65 (4) A bodywork establishment must continue to meet the minimum
66 standards set by regulation at all times.
- 67 (5) Any person who operates a bodywork establishment must permit
68 a County police officer or the Director to enter the bodywork
69 establishment at any time during operating hours, and at any other
70 time in an emergency or when the establishment is occupied.
- 71 (6) Any person who operates a bodywork establishment must not
72 allow a person to perform any sexual activity with another person
73 in the establishment.
- 74 (7) A bodywork establishment license has a term of one year and must
75 be renewed annually.
- 76 (8) A bodywork establishment license;
- 77 (A) must not be transferred from one person to another;
- 78 (B) must not be transferred from one location to another
79 location until a license is issued for the new location; and
- 80 (C) applies to a single location specified in the license.

81 (9) If an applicant for a bodywork establishment license does not own
 82 the building where the establishment would be located, the
 83 building owner must approve the use of the building as a bodywork
 84 establishment on a form provided by the Director.

85 (d) Bodywork establishment licensee.

86 (1) The licensee, if an individual, or an owner's representative
 87 designated under subsection (c)(1) [(A)], must

88 (A) submit proof of good health required by the Director;

89 (B) be at least 18 years old;

90 (C) have not been convicted of, pled guilty or nolo contendere
 91 to, or served any term of probation as a result of being
 92 charged with a:

93 (i) felony;

94 (ii) crime involving moral turpitude, including
 95 solicitation, prostitution, and related crimes;

96 (iii) violation of a controlled dangerous substances law;
 97 or

98 (iv) violation of any law regulating the practice of a health
 99 occupation;

100 (D) not permit an individual to perform bodywork services in
 101 the establishment while under the influence of a non-
 102 prescribed drug or alcoholic beverage;

103 (E) provide a passport-size photograph, fingerprints, and a list
 104 of the individual's occupation or employment for the 3 years
 105 before filing the application; and

106 (F) if the applicant is not a United States citizen, provide
 107 evidence of legal presence and employability in the United
 108 States.

109 (e) Executive Regulations. The Executive must adopt an Executive
 110 Regulation under Method (2) establishing the minimum standards for a
 111 bodywork establishment and the application process. The Executive
 112 must set application and license fees by Executive Regulation under
 113 Method (3) that substantially cover the cost of administering this Section.

114 (f) Denial or Revocation of license. The Director may refuse to issue a
 115 license under this Section, and may suspend or revoke a license issued
 116 under this Section, after a hearing for which reasonable notice has been
 117 given, if the licensee or applicant:

- 118 (1) violates any provision of this Section;
- 119 (2) submits fraudulent information in support of a license application
 120 under this Section;
- 121 (3) is convicted of, or pleads guilty or nolo contendere to, or is ordered
 122 to serve a period of probation after being charged with:
 - 123 (A) a felony;
 - 124 (B) a crime involving moral turpitude, including solicitation,
 125 prostitution, and related crimes;
 - 126 (C) violation of a controlled dangerous substance law; or
 - 127 (D) violation of any law regulating the practice of a health
 128 occupation;
- 129 (4) permits an individual to perform bodywork services in the
 130 establishment while under the influence of a non-prescribed drug
 131 or alcoholic beverage; or
- 132 (5) is grossly negligent in the performance of bodywork.

- 133 (g) Notice and opportunity for hearing.
- 134 (1) Notice. After finding that one or more grounds for denial,
- 135 suspension, or revocation of a license could exist, the Director may
- 136 serve a written notice on the licensee or applicant in person or by
- 137 regular mail, postage prepaid, addressed to the person's last known
- 138 address as maintained in the Director's file. Service on that person
- 139 by mail is effective 3 days after mailing. The Director must also
- 140 post a written notice at a conspicuous place on the establishment
- 141 for which the license was or would be issued. The written notice
- 142 must, at a minimum:
- 143 (A) state that the Director has found that the licensee or
- 144 applicant may be subject to denial, suspension, or
- 145 revocation;
- 146 (B) identify the specific grounds for the Director's findings; and
- 147 (C) set a date for a hearing on denial of the application or
- 148 suspension or revocation of the license. The hearing must
- 149 be held at least 5 days after service of the Director's notice,
- 150 unless the parties agree to an earlier date.
- 151 (2) Hearing. The Director or a designee may conduct the hearing. At
- 152 the hearing, the licensee or applicant may present evidence and
- 153 witnesses to refute the grounds cited by the Director for denying
- 154 the application or suspending or revoking the license, and the
- 155 County and any other person may submit relevant evidence. The
- 156 relevant records of the Department are part of the hearing record.
- 157 Within 3 days after the hearing closes, the person conducting the
- 158 hearing must render a decision in writing, giving the reasons for
- 159 the decision. That decision is final, subject to judicial review under

160 the Maryland Rules for review of administrative decisions in the
161 Circuit Court and the Court of Special Appeals.

162 (3) Failure to appear. A licensee or applicant who after notice does
163 not appear at a hearing waives the right to a hearing and consents
164 to the action that the Director proposed in the notice. The Director
165 may deny the application or suspend or revoke the license as
166 proposed in the notice.

167 (4) Notice and Effective Date of Suspension or Revocation. The
168 Director's written decision must be posted at the office of the
169 Director and must be served on the licensee or applicant in person
170 or by regular mail, postage prepaid, addressed to the applicant or
171 licensee's last known address as maintained in the Department's
172 files. The Director must also post a written notice of the decision
173 at a conspicuous place on the establishment for which the license
174 was or would be issued. A suspension or revocation takes effect
175 on the day the Director's decision is delivered in person or posted,
176 whichever occurs first. To facilitate enforcement of this provision,
177 the Director may require the applicant or licensee to appear at the
178 Director's office at a specific time to receive a copy of the decision
179 and be prepared to surrender the license. If a licensee or applicant
180 does not appear to receive the Director's decision, the Director's
181 decision is effective on the date and time the licensee or applicant
182 was directed to appear.

183 (5) Surrender of license and security. When a license is suspended or
184 revoked, the Director must take custody of the suspended or
185 revoked license.

- 186 (h) Upon receipt of notice of a license revocation or suspension, unless
 187 otherwise directed, the licensee must, within 24 hours:
- 188 (1) place the license in the mail, postage prepaid, addressed to the
 189 Department; or
- 190 (2) physically deliver the license to the Department.
- 191 (i) If the Department does not receive a suspended or revoked license within
 192 48 hours after notification, excluding weekends or a legal holiday, or as
 193 otherwise directed, the holder of the license violates this Section. In
 194 addition to any other penalties that may be imposed, the Director or the
 195 Chief may:
- 196 (1) remove the revoked or suspended license from the business
 197 location; and
- 198 (2) close the place of business until the person operating the business
 199 obtains a license.
- 200 (j) Appeals.
- 201 (1) Any person aggrieved by the denial, suspension, or revocation of
 202 any license under this Section may seek judicial review under the
 203 Maryland Rules for review of administrative decisions in the
 204 Circuit Court and the Court of Special Appeals.
- 205 (2) Except as provided in subsection (3), the Director's decision to
 206 deny a license must not be stayed pending appeal.
- 207 (3) Final administrative action that revokes or suspends a license may
 208 be stayed pending appeal only if:
- 209 (A) the Court finds that the public health, safety, or welfare will
 210 not be endangered during the appeal; and
- 211 (B) an appropriate bond is posted.
- 212 (k) Penalty. A person has committed a class A violation if the person:

- 213 (1) violates any provision of this Section; or
214 (2) submits fraudulent information in support of a license application
215 under this Section.

216 *Approved:*

217 _____
George Leventhal, President, County Council Date

218 *Approved:*

219 _____
Isiah Leggett, County Executive Date

220 *This is a correct copy of Council action.*

221 _____
Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 9-15

Health and Sanitation- Bodywork Establishment- License

I. **Description:** Bill 9-15 would require a license to operate a bodywork establishment in the County. "Bodywork" includes acupuncture, reflexology, and other practices that fall outside the State definition of massage. The licenses will be issued by the Department of Health and Human Services and enforced by both DHHS and the Police Department. The law also provides general requirements for operators of a bodyworks establishment in the County and authorizes the Director of the Department of Health and Human Services to develop further regulations governing the minimum standards for these establishments to ensure the health and safety of patrons.

II. **Problem:** The Montgomery County Police Department has expressed concern about the prevalence of human trafficking and prostitution in Montgomery County. The Human Trafficking Task Force was established to address this concern. According to MCPD, Montgomery County is an attractive location for human traffickers because of its relatively high per capita income. A trafficker, usually originating from another state, will typically operate by establishing a seemingly legitimate business in Montgomery County and using it as a venue for prostitution. These "legitimate businesses" are most often massage parlors. Employees of the parlors rarely possess a massage license, as required by the State and County.

When MCPD stepped up enforcement and prosecution of the establishments for unlicensed practice of massage, they ran into several problems, two of which are addressed by the legislation. First, traffickers quickly learned that they could evade licensing requirements by holding themselves out as "reflexologists" or "acupressurists"-- practices that fall outside the state definition of "massage" for licensing purposes. Second, successful prosecution of an unlicensed massage charge, either criminally or civilly, did little prevent the continued operation of these facilities because the penalties are minimal in light of the effort involved in prosecution and the amount of money to be made in prostitution. Nothing in current law prevented traffickers from opening up a new massage or reflexology parlor in the county, even after prosecution for unlicensed massage. As a result, MCPD found itself dealing with a constant stream of reoffenders, straining enforcement resources, and neither the Department of Health and Human Services, which licenses massage parlors in the County, nor the Department of Permitting Services, which issues Use & Occupancy Permits, had sufficient authority to assist.

III. **Goals and Objectives:** The Human Trafficking Task Force is recommending this Bill in order to address gaps in the current law, making Montgomery County a less attractive location for human traffickers and improving collaboration and enforcement ability

between the Department of Health and Human Services, the Department of Permitting Services, and the Police Department.

The Task Force is also recommending a companion Zoning Text Amendment, changes to the existing Executive Regulations related to licensure of massage parlors, and new Executive Regulations as required by this Bill, if passed.

- IV. **Coordination:** Montgomery County Police Department
Department of Health and Human Services
Department of Permitting Services
Office of the County Attorney
- V. **Fiscal Impact:** To be provided
- VI. **Economic Impact:** To be provided.
- VII. **Evaluation of the Results of the Proposed Law:** Subject to the general oversight of the County Executive and County Council.
- VIII. **Experience Elsewhere:** According to MCPD, other municipalities around the country have successfully reduced human trafficking in their jurisdictions by strengthening local regulation of massage as well as acupuncture, reflexology, and related services.
- IX. **Sources of Information:** Sgt. Kenneth Penrod, MCPD, Vice and Intelligence Unit
Russell Hamill, MCPD, Assistant Chief
Ehsan Motazedi, Department of Permitting Services
Hadi Mansouri, Department of Permitting Services
Clark Beil, Department of Health and Human Services
Kristen Kalaria, Office of the County Attorney
Jim Savage, Office of the County Attorney
- X. **Application within Municipalities:** This Bill amends Chapter 24, which applies in the following municipalities: Barnesville, Brookville, Chevy Chase Village, Chevy Chase View, Chevy Chase Sec. 3, Town of Chevy Chase, Chevy Chase Sec. 5, Town of Garrett Park, Town of Glen Echo, Village of Martin's Addition, Village of North Chevy Chase, City of Takoma Park, and Town of Washington Grove.
- XI. **Penalties:** Class A Violation, subject to fines and penalties as defined by Section 1-19 of the County Code.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

February 3, 2015

Isiah Leggett
County Executive

TO: George Leventhal, President
County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Bodywork Establishment – License

I am writing to request that you introduce the attached bill and Zoning Text Amendment (ZTA) that would impose regulations on “bodyworks” establishments, which have become a common venue for human trafficking in Montgomery County.

Maryland’s central location and Montgomery County’s proximity to airports and Interstate-95 has facilitated its development as both a pass-through state and a destination for human traffickers. Traffickers utilize our highways and airports to connect victims to major east coast locations such as Montgomery County, Baltimore, and Washington, D.C. The victims in human trafficking are typically young women who are forced into lives they didn’t choose and have no way of escaping. By passing this bill, you will give our Police Department an effective and much needed tool to make inroads against this crime.

The proposed bill will require a license to operate a bodywork establishment in the County. “Bodyworks” establishments are businesses that advertise bodywork services, such as reflexology, acupressure and other practices that fall outside the State definition of massage, or where any employee, agent or contractor performs bodywork on an individual. Many bodyworks establishments have emerged as fronts for human trafficking after the State began regulating massage parlors. This bill will ensure that legal establishments can operate while providing enforcement against illegal establishments. The “bodyworks” licenses will be issued by the County’s Department of Health and Human Services (DHHS), and enforced by both DHHS and the Police Department.

The nature of human trafficking keeps changing. We must adapt our laws to keep up and to empower our law enforcement agencies with the tools they need to protect the innocent lives of those forced into prostitution and to punish those who would destroy the lives of these victims. Your assistance is appreciated.

IL/kk

Attachments

TESTIMONY ON BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT
Bill 9-15, Health and Sanitation – Bodywork Establishment – License and ZTA 15-03,
Uses and Use Standards - Licensing

March 17, 2015

Good afternoon. I am Capt. Dinesh Patil of MCPD Special Investigations Division representing County Executive Leggett and testifying today in support of Bill 9-15 and Zoning Text Amendment 15-03. This legislation is designed to give our Police Department an effective tool to combat the proliferation of venues that are oftentimes fronts for human trafficking. Bill 9-15 is an outgrowth of the County Executive's Human Trafficking Task Force and will provide an immediate tool for our Police Department in its enforcement efforts.

Maryland's central location and Montgomery County's proximity to airports and Interstate-95 has facilitated its development as both a pass-through state and a destination for human traffickers. Traffickers utilize our highways and airports to connect victims to major east coast locations such as Montgomery County, Baltimore, and Washington, D.C. The victims in human trafficking are typically young women who are forced or coerced into lives they didn't choose.

Because the nature of human trafficking keeps changing we must adapt our laws to keep up. From 2010 through 2015, Montgomery County Police have closed 61 bodyworks establishments in the County that were serving as fronts for human trafficking, fraud, prostitution and other crimes.

The bodyworks establishment licensing bill will require a license to operate a bodywork establishment in the County. "Bodyworks" establishments are businesses that advertise bodywork services, such as reflexology, acupuncture and other practices that fall outside the State definition of massage, or where any employee, agent or contractor performs bodywork on an individual. Many "bodyworks" establishments emerged as fronts for human trafficking after the State began regulating massage. This bill will ensure that legal establishments can operate while providing enforcement against illegal establishments. The companion legislation, Zoning Text Amendment 15-03, is considered an essential part of the overall solution to the body work establishment issue.

The "bodyworks" licenses will be issued by the County's Department of Health and Human Services (DHHS), and enforced by both DHHS and the Police Department in a cooperative effort. The law also provides general requirements for operators of a bodyworks establishment in the County and authorizes the DHHS director to develop further regulations governing the minimum standards for these establishments to ensure the health and safety of patrons. Massage parlors are similarly licensed and regulated by the State and the County. The bill focuses on the operators of the establishments and does not require licensure of individual practitioners, and will therefore, not cause an undue burden to legitimate bodyworks establishments.

To have a comprehensive approach to this issue we would also ask our municipal partners to adopt this legislation if passed by the Council to ensure that these criminal organizations can't continue find safe haven in the County. We thank you for your consideration of this bill.



March 17, 2015

Good afternoon, Council President Leventhal and Council Members,

My name is Jeannette Feldner. I live in Wheaton, MD, and I am Co-President of the Montgomery County Chapter of the National Organization for Women. As a representative of this organization, I serve on the Montgomery County Human Trafficking Task Force. My mission in serving on this task force is to learn what I can do about human trafficking in this County so that I can take this information to my members and sister organizations to educate about and advocate for victims of human trafficking.

I have learned that part of the problem of human trafficking is that the I-95 corridor is a corridor for violence and trafficking and that Maryland is a hot spot for trafficking activities because we have a seaport, a major interstate highway and big sporting events.

Senator Barbara Mikulski said recently: "This is not just a women's issue. This is a human rights issue. Twenty one million people are trafficked globally every year – 21 million. It's the third largest global crime, right up there with the selling of weapons of mass destruction and with selling drugs and the drug cartels. ... This isn't about recruiting women in Asia and Central Europe. In our own country, 800,000 people are trafficked each year."

I have learned that we have a problem in Montgomery County with people running prostitution houses in brothels disguised as spas, acupuncture and reflexology businesses. Some of these have become havens for human trafficking schemes, exploiting women.

The National Organization for Women is committed to ending violence against women—much of which results from societal attitudes toward women and efforts to "keep women in their place." That is exactly what human traffickers do. And they are doing it in fake bodywork establishments all over the County.

When I seek a massage for therapeutic reasons or just for relaxation—and I have many times—I am comforted by the fact that I know they are licensed and regulated by the County. They are legitimate. When I seek a reflexologist or other bodywork practitioner—and I have—I would like to have that same comfort level.

Montgomery County NOW thanks the County Executive for putting forth Bill 9-15 for your consideration. We thank you for your work on this important issue and ask for your support for Bill 9-15 to License Bodywork Establishments in Montgomery County. If it works as intended, Bill 9-15 should diminish human trafficking by thwarting human trafficking fronts from continuing.

Thank you again.

Jeannette Feldner, Co-President

S

STATEMENT OF BARBARA S. MINTZ, MEMBER OF THE MONTGOMERY COUNTY COMMISSION FOR WOMEN AND CHAIR OF THE MONTGOMERY COUNTY HUMAN TRAFFICKING TASK FORCE

MARCH 17, 2015

Thank you for the opportunity to speak here in support of Bill 9-15 which requires a license from the Department of Health & Human Services to operate a "bodywork" establishment in the county and gives the Department the authority to develop standards and regulations that will ensure the health and safety of patrons.

I appear before you in my capacities as Chair of the Montgomery County Human Trafficking Task Force and as a Commissioner on Montgomery County Commission for Women. The Commission, recognizing the serious impact of human trafficking on women in our county, advocated for the creation of a task force. Responsive to the need for it, County Executive Ike Leggett created the task force I am proud to chair.

The membership of the task force ranges widely—from various county and state government personnel, including from this Council, to individuals from non-government organizations, all having sincere professional and personal interest in the issues raised by human trafficking in Montgomery County. It is an active group, and we have worked together in the first year of the task force's existence to begin to achieve its aims.

Bill 9-15 is in part the result of the efforts of the task force. It also is in part the product of a growing public awareness that the task force has tried to foster of the need to take reasonable action where possible to curtail the underlying criminal activity and reduce the number of human trafficking victims in our county. And it is in part the result of the commitment of our county government to give attention at this time to the egregious situation of businesses operating throughout the county, unchecked, with a facade of legitimacy, while in fact operating as criminal enterprises in which subjugated women with little will or choice provide sexual services unlawfully for the financial gain of those who control them.

Licensing of business in MC is hardly a novel concept, and it has been effectively applied to massage parlors. Bodywork establishments, however, have

operated without the constraints of county licensure, and that latitude immediately translates into offering patrons unfettered physical contact, which, of course, means sex. The workers in these establishments are almost relatively young women, including underage girls. In many cases, these are women from Asia who do not speak English, are bound for one reason or another to the owners of the establishments, and are basically prostitutes acting under the false cover of reflexology and acupressure.

In our initial work as a task force, we identified the bodyworks business as a clear-cut and significant target for remedial legislation. There is no rational basis for exempting them from licensing requirements that exist for other physical contact enterprises. On the other hand, there is a clear danger to the county in allowing these businesses to continue as uncontrolled human trafficking crucibles.

And with enforcement of licensing violations by both the DHHS and our county police, we can expect that imposing licensing will have an immediate and continuing effect in curtailing the use of reflexology and acupressure services for illicit prostitution and the coercion of women that underlies it.

It is highly unlikely that current bodyworks business owners engaged in human trafficking will be willing or able to comply with even modest licensing conditions that might be mandated under the law and regulations coming out of Bill 9-15. Those that do comply are much more likely to then function as legitimate tax-paying enterprises, providing whatever benefits their physical services can afford patrons.

For these reasons, and as one meaningful, reasonable action government can take to address the human trafficking problem here in Montgomery County, I urge the Council to enact the pending legislation.

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Testimony Presented
to the Montgomery County Council
in support of
Bill 9-15, Bodywork Establishment-License
March 17, 2015

Lawrence E. Couch, Member
Justice and Advocacy Council of Montgomery County
Archdiocese of Washington

My name is Lawrence Couch. I appreciate the opportunity to testify in support of Bill 9-15, Bodywork Establishment-License. I speak on behalf of the Justice and Advocacy Council of Montgomery County, an official voice of the Archdiocese of Washington. The proposed legislation would require bodyworks establishments to be licensed by the county, which would require them to be inspected by the Department of Health and Human Services and the Montgomery County Department of Police.

Sgt. Ken Penrod, supervisor of the Montgomery police vice and intelligence unit, has stated “In seven years, I’ve never seen a legal body works establishment.” According to Sgt. Penrod, the police expect the application and licensing requirements “will eliminate many of those establishments because they don’t want to go through the process.” Without background checks and licensing, businesses that run afoul of the law can easily move and set up in another location under a new name.

While officials emphasize that the proposed legislation will not eliminate sex trafficking, it would provide a new tool to help police push back against a growing source of the problem. In addition to addressing the specific issue posed by unlicensed bodyworks establishments, the passage of this legislation will help to raise the awareness of human trafficking in Montgomery County.

In 2008, along with other faith and civic groups, the Justice and Advocacy Council testified in support of the Domestic Workers Bill of Rights. Sponsored by Councilmembers George Leventhal and Marc Elrich, the bill sought to improve the working conditions of domestic workers here in Montgomery County. The bill was subsequently passed unanimously by the County Council and signed into law by the County Executive.

Today we have another opportunity to protect vulnerable people from being exploited here in Montgomery County. As with the abuse of domestic workers, many of us do not realize the extent of human trafficking in our affluent community.

The Catholic Church, citing International Labour Organization estimates, calculates that 2.4 million people are trafficked at any given time, with traffickers receiving more than \$32 billion a year.

Pope Francis stated, “God is a love that is manifested in every human being; everyone is equal and ought to be afforded the same liberty and dignity.” Ignoring this fact, the Pope added, “is an abhorrent crime” that manifests itself as “modern slavery...an offense against humanity with victims from every walk of life, but above all amongst the poor.”

Please consider favorably this important legislation. Thank you.

Testimony of the City of Gaithersburg
Before the Montgomery County Council on
Bill 9-15 Health and Sanitation Bodywork Establishment License

Tuesday, March 17, 2015

Good afternoon President Leventhal and members of the Council. My name is Tony Tomasello and I'm the City Manager of Gaithersburg. I'm here to provide an administrator's view on Bill 9-15 Health and Sanitation Bodywork Establishment License. The City appreciates the extensive work of the County's Human Trafficking Task Force that served as the catalyst for this important piece of legislation.

Bill 9-15 would require licenses from the County's Department of Health and Human Services (HHS) for establishments that fall outside the definition of massage parlors. It would also allow HHS to revoke a business license if they are charged with violating local laws related to the operation of the business.

Last summer, the City's Code Enforcement Division in conjunction with Montgomery County Police investigated several of these businesses after receiving complaints that they were possible fronts for illegal activities. Unfortunately, from a code standpoint the City only requires that a business hold a valid Use and Occupancy permit with the business' legal name and current owner. Unless the inspectors actually witness illegal activity the City is limited in its ability to impose additional regulations on this type of use.

A requirement of having to obtain an additional license from HHS to operate Bodywork business would assist by clearly defining these types of establishments from a permitting standpoint.

It's my understanding that the cities across the Country have seen an influx of these Bodyworks businesses and have faced similar challenges in regulating them. Bill 9-15 would be an excellent enforcement tool and serve to discourage illicit businesses from operating in our community.

While passage of this bill will not automatically have it apply within the City, staff believes that this would very useful and have recommended that the Mayor and Council consider adopting this section of the County Code so it is applicable within the City.

Thank you for the opportunity to testify on the Bill 9-15. The City looks forward to collaborating with our County partners on making our communities safer for residents and visitors alike.



COMMISSION FOR WOMEN

Isiah Leggett
County Executive

Debra Bright Harris, Ed.D.
President

March 17, 2015

TESTIMONY IN SUPPORT OF Bill 9-15

TO: The Honorable George Leventhal, President, and Members
Montgomery County Council

FROM: Dr. Debra Bright Harris, President
Montgomery County Commission for Women

SUBJECT: Bill 9-15: Health and Sanitation - Bodywork Establishment – License

The Montgomery County Commission for Women (CFW) is both an advisory board and a department of the Montgomery County Government. The advisory board is comprised of 15 county residents appointed by the County Executive and confirmed by the County Council and charged with the responsibility of advising the County Executive, the County Council, the public, and the agencies of the county, state and federal government on the issues of concern to women. In a five-pronged approach to advocating women's issues, the Commission for Women:

- Focuses primarily on identifying inequities in laws, policies, practices and procedures, and recommending and promoting remedies
- Conducts research and investigations, analyzes economic, political, and social trends, and provides education on women's issues in the community
- Holds hearings and publishes informational materials
- Holds an annual legislative briefing in partnership with many other women's organizations, and
- Sets priority projects annually

The positions put forward in this document are those of the Commission for Women alone, and do not necessarily reflect the position of the County Executive or the County Council.

The Commission, recognizing the serious impact of human trafficking on women in our county, advocated for the creation of a human trafficking task force in Montgomery County. The Montgomery County Human Trafficking Task force has been instrumental in the creation of Bill

9-15. Consistent with its mission and legislative mandate, the CFW supports Bill 9-15 Health and Sanitation – Bodyworks Establishment – License because it requires a license from the Department of Health & Human Services (DHHS) to operate a "bodywork" establishment in the county and gives the Department the authority to develop standards and regulations that will ensure the health and safety of patrons. Introduced on March 3, 2015, Bill 9-15 strictly prohibits human sex trafficking taking place in bodyworks establishments.

According to the United States Department of State Trafficking in Persons (TIP) report, about 800,000 people are trafficked each year in the United States. Statistics in the state of Maryland are striking. The Maryland Human Trafficking Task Force, along with federal law enforcement partners, have identified 200 total victims of trafficking since January 2013. According to data from the National Human Trafficking Resource Center, 135 human trafficking cases were reported in the state of Maryland in 2014. Of these cases, 91 were sex trafficking cases. That is one too many cases.

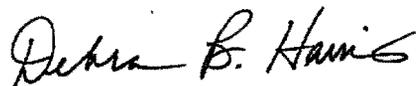
Montgomery County is an attractive area for traffickers because it is considered to be high income and centrally located in the DMV area. With enforcement of licensing violations by both the DHHS and our county police, we can expect that imposing licensing will have an immediate and continuing effect in curtailing the use of reflexology and acupressure services for illicit prostitution and the coercion of women that underlies it.

According to a 2011 report written by the Polaris Project, bodyworks establishments and "fake" massage parlors are common locations for human sex trafficking. Because these businesses operate under the guise of a legitimate business, they often go undetected as perpetrators in the sex trafficking world. The CFW believes Bill 9-15 establishes a law that will serve as a deterrent for these locations to be used for trafficking. Specifically, the bill would:

- Define "bodyworks" establishments and the parameters in which they must operate by requiring a license.
- Empower law enforcement to take action against anyone committing human trafficking acts in these establishments.
- Protect women and girls from being "employed" in these illegitimate bodyworks businesses.

Being forced into a life of prostitution can have a negative effect on psychological, physical, and health outcomes for women and young girls. President Leventhal and council members, we urge you to support safety for women and girls forced into a life of being trafficked by voting in favor of Bill 9-15.

Sincerely,



Dr. Debra Bright Harris, *President*
Montgomery County Commission for Women



ROCKVILLE, MARYLAND

MEMORANDUM

March 23, 2015

TO: George Leventhal, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Bill 9-15, Health and Sanitation - Bodywork Establishment - License

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Joseph F. Beach, Director, Department of Finance
Tom Manger, Chief, Department of Police
Uma Ahluwalia, Director, Department of Human Health Service
David Platt, Department of Finance
Pofen Salem, Office of Management and Budget
Alex Espinosa, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Executive Regulation 9-15
Health and Sanitation – Bodywork Establishment - License

1. Executive Regulation Summary (Enter narrative that explains the purpose of the regulation).

Bill 9-15 would define bodywork as the practice of using one's hands to apply pressure on an individual's fully clothed body or bare feet to affect the electromagnetic energy, energetic field, or energy meridians of the human body. Bodywork includes the practice of reflexology or acupressure. The Bill would require a license to operate a bodywork establishment in the County. The Department of Health and Human Services would issue the license to operate a bodywork establishment and the Police Department would be authorized to enforce the law

Bill 9-15 would require a license to operate a bodywork establishment in the County. "Bodywork" includes acupressure, reflexology, and other practices that fall outside the State definition of massage.

The bill permits the Department of Health and Human Services (DHHS) to issue a license.

Enforcement will be performed by both DHHS and the Police Department.

The law provides general requirements for operators of bodyworks establishments and authorizes DHHS to develop further regulations governing the minimum standards to ensure the health and safety of patrons.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Initial enforcement and licensure will have a fiscal impact on DHHS. A survey in Yelp has potentially 160 bodywork establishments located within the county. Conversations with the Maryland Reflexology Association informed DHHS there are only 5 members located within Montgomery County. Establishments will require a pre-licensing inspection by DHHS. It is estimated that the Inspections may require approximately 90 minutes per facility. Initial enforcement will result in closure of businesses not capable of meeting licensing requirements and denial of licensing will require hearings resulting in additional County expenditures.

It is projected that not all 160 establishments, and possibly closer to the 5 Montgomery County members of the Maryland Reflexology Association, will need licensure or be capable to meet licensing requirements adversely affecting both future revenue and expenditures.

Any additional revenue would be associated with the issuance of a license to operate a Bodywork establishment. We believe that the activities in a Bodywork establishment are most similar to those already included in COMCOR Chapter 24 section 11. This regulation establishes the requirements of licensure and the fees to operate a Massage establishment. Currently, there are no Massage businesses that meet the requirements to be licensed.

The Montgomery County Police Department estimates that they will have no additional expenditures, as they have already increased their attempts at enforcement of such establishments under current law.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Estimated Expenditures	FY16	FY17	FY18	FY19	FY20	FY21
# of staff to be trained	20	1	1	1	1	1
# hours per training per staff	1	1	1	1	1	1
# of initial inspections	160	5	5	5	5	5
# of hours per inspection	1.5	1.5	1.5	1.5	1.5	1.5
# of appeals	39	1	1	1	1	1
# of hours per appeal hearings	5	5	5	5	5	5
Cost per hour -	60	61.80	63.65	65.56	67.53	69.56
Total PC Expenditures	\$27,300	\$834	\$859	\$885	\$912	\$939

Assumptions for Estimated Expenditures
 Training - In FY16, 20 staff will require approximately 1 hour of training related to inspections on body work establishments. Assumes staff turnover of 1 per year for FY17-21.
 Inspections - FY16 inspections based on the Yelp survey of possible Bodywork establishments in the County. For FY17-21 assumes 5 new initial inspections each year.
 Appeal Hearings
 For FY16-21 - assumes 25% of those establishments that were denied a license will appeal the decision.
 Cost per hour is based on the FY16 average hourly salary of EHS II position in Environmental Health & Regulatory Services.
 For FY17-21 - assumes a 3% increase in compensation and benefits each year

Revenue Estimate Bill 9-15	FY16		FY17		FY18		FY19		FY20		FY21		
	Fee	#	Revenue	#	Revenue	#	Revenue	#	Revenue	#	Revenue		
Initial Establishment Application (Non-refundable)	\$200	160	32,000	5	1,000	5	1,000	5	1,000	5	1,000	5	1,000
Establishment License	\$200	5	1,000	7	1,400	9	1,800	11	2,200	13	2,600	15	3,000
Duplicate License	\$10	0	-										
Additional charge for filing renewal application after expiration	\$100	0	-										
Establishment Change of Location	\$1,000	0	-										
Total Estimated Revenue			33,000		2,400		2,800		3,200		3,600		4,000

Assumptions -

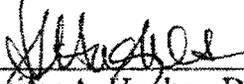
Revenue is based on the selected fees from COMCOR 24-11 - The Massage Establishment License fee was reduced to \$200 for the Bodyworks estimate.

Number of licenses issued in FY16 is based on the number of licensed Massage facilities (0) and the current number of bodyworks establishments that are members of the Maryland Reflexology Association (5).

For FY17-21 - there will be 5 new initial establishment applications, and 2 of the 5 will be licensed each year (one with initial application and one on appeal).

4. An actuarial analysis through the entire amortization period for each regulation that would affect retiree pension or group insurance costs.
N/A
5. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.
None at this time.
6. An estimate of the staff time needed to implement the regulation.
See assumptions in the estimated expenditure table in # 3 above.
7. An explanation of how the addition of new staff responsibilities would affect other duties.
The first year approximately 240 hours (.11FTE) would be needed, and would be absorbed by the HHS Department.
8. An estimate of costs when an additional appropriation is needed.
N/A
9. A description of any variable that could affect revenue and cost estimates.
Once the bill is initially passed, it is believed that only a minimum of legitimate bodywork businesses is projected to meet licensure. Revenue and costs will be minimized.
10. Ranges of revenue or expenditures that are uncertain or difficult to project.
All of the expenditure and revenue is difficult to project due to the uncertainty of the number of bodywork establishments in Montgomery County. In addition to that unknown number we do not know how many of those bodywork businesses are exempt from Executive Regulation because they hire only certified massage therapist or registered massage practitioner permitted under state law.
11. If a regulation is likely to have no fiscal impact, why that is the case.
N/A
12. Other fiscal impacts or comments.
N/A
13. The following contributed to and concurred with this analysis:
Clark Beil, Sr. Administrator, DHHS Licensure and Regulatory Services
Kenneth Welch, Environmental Health Manager, DHHS Licensure and Regulatory Services
Patricia Stromberg, DHHS Budget

Assistant Chief Russell Hamill, Montgomery County Police Department
Bruce Meier, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

3/25/15

Date

Economic Impact Statement
Bill 9-15, Health and Sanitation-Bodywork Establishment- License

Background:

This Bill would require a license to operate a bodywork business establishment in the County. The Department of Health and Human Services would issue the license to operate a bodywork establishment and the Police Department would be authorized to enforce the law.

1. The sources of information, assumptions, and methodologies used.

It is assumed that this Bill will assist the Police Department in making inroads against illegitimate bodywork businesses and human trafficking. Only legitimate bodywork businesses with demonstrated credentials would be licensed. The potential number of legitimate bodywork businesses wishing to acquire a business license is unknown and can't be estimated at this time as no data are available.

2. A description of any variable that could affect the economic impact estimates.

The number of legitimate bodywork businesses applying for a license.

3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

It is anticipated that this Bill will have a positive effect on property values by controlling the spread of illegitimate bodywork businesses, however, it is impossible to quantify the impact due to the lack of data. For the legitimate bodywork businesses licensed in the County, the County will receive some positive economic benefit as with any business in County. No estimate of the economic benefit is possible due to the lack of data.

4. If a Bill is likely to have no economic impact, why is that the case?

The economic impact of this bill is unknown. It is anticipated to have a positive impact by assisting the Police Department in eliminating illegitimate bodywork businesses conducting prostitution and human trafficking.

5. The following contributed to or concurred with this analysis: David Platt, Mary Casciotti, and Rob Hagedoorn, Finance.



Joseph F. Beach, Director
Department of Finance

3/6/15

Date