



# Montgomery County Council

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## **Bill Providing Equal Benefits to Same Sex Domestic Partners of Employees of County Contractors Becomes Law Jan. 1**

**Councilmember Navarro Was Chief Sponsor of Legislation  
Applying to Employees Working on Certain County Contracts**

ROCKVILLE, Md., December 30, 2010—An “equal benefits” bill that will extend to employees of many contractors and subcontractors performing work for Montgomery County—a benefit already granted to County employees—will become law on Jan. 1. District 4 Councilmember Nancy Navarro was the chief sponsor of Bill 37-09, which was unanimously approved by the Council in February and also had the support of County Executive Isiah Leggett.

The County has a longstanding policy, in law and practice, against employment discrimination based on sexual orientation. Montgomery County already grants equal benefits to a same sex domestic partner of a County employee that are offered to an employee’s spouse, through Bill 29-99, effective March 3, 2000. Bill 37-09 extends this law to many employees of County contractors and subcontractors.

The legislation extends equal benefits to a same-sex domestic partner of a covered employee in a domestic partnership recognized under a marriage license or civil union granted out of state or as defined in the new law. The legislation only covers employees who perform work for the County on a contract that is currently covered by either the County’s Wage Requirements Law or the recently enacted Prevailing Wage Law.

Benefits that may be extended under the legislation could include bereavement leave, family medical leave, sick leave, health benefits, dental benefits, disability insurance,

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life insurance and retirement benefits. Under the Equal Benefits Law, if a required benefit cannot reasonably be provided to a domestic partner, the contractor or subcontractor must pay the employee the cash equivalent.

“When it comes to civil rights, it is critical that we treat contract employees with the same respect as County employees regarding same-sex benefits for their domestic partners. This is a matter of basic fairness,” said Councilmember Navarro. “Because we are a large County with a diversity of employment situations, we have people who provide services and do outstanding work over long periods of time, but who do it working as contractors instead of as County employees. This should not stop them from receiving the same benefits as their opposite-sex counterparts.”

Some of the important exclusions from the bill are:

- Non-construction services contracts for less than \$50,000
- Contractors with less than 10 employees
- Contracts with government agencies or non-profit organizations
- Contracts for public utility services
- Emergency contracts
- Bridge contracts based upon a contract awarded by another government agency
- Construction contracts valued at less than \$500,000 or financed by State or Federal grants

The law defines domestic partnership as a relationship between two individuals of the same sex that has been licensed as a civil union or marriage in a jurisdiction where such a civil union is permitted. Domestic partnership is also defined as an unlicensed relationship between two individuals of the same sex who share a close personal relationship and are responsible for each other’s welfare; have shared the same legal residence for at least 12 months; are at least 18 years old; have voluntarily consented to the relationship without fraud or duress; are not married to, or in a domestic partnership with any other person; are not related by blood or affinity in a way that would disqualify them from marriage under State law if the employee and partner were opposite sexes; are each legally competent to contract; share financial obligations; and legally register the domestic partnership if a domestic partnership registration system exists in the jurisdiction where the employee resides.

A contractor or subcontractor must not discharge or otherwise retaliate against an employee for asserting any right under the Equal Benefits Law, or for filing a complaint of a violation. The law provides that an aggrieved employee, as a third-party beneficiary may, by civil action, recover the cash equivalent of any benefit denied in violation of the law. The County may perform audits and investigate any complaint of a violation. In the instance of a demonstrated violation, the law provides for sanctions, including withholding payment due the contractor and liquidated damages.

The law applies to any contract awarded on or after Jan. 1, 2011, but does not apply to any renewal or extension of a contract that was originally awarded before Jan. 1, 2011.

Maryland currently grants limited rights to same sex couples through legislation passed in 2008 to establish “domestic partnerships” in the state. According to *Equality Maryland*, the 2008 State laws included 11 protections for domestic partners, including hospital visitation and the making of funeral arrangements for each other. The organization said the State laws also make allowance for a domestic partner's name to be added or removed from the deed of a residence, without incurring a tax liability, as with married spouses.

Montgomery County’s law granting equal benefits to County employees was upheld by the Maryland Court of Appeals in the case *Tyma v. Montgomery County*, 369 Md. 497 (Md. 2002).

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