



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, November 5, 2019

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 10:04 A.M. on Tuesday, November 5, 2019.

PRESENT

Councilmember Nancy Navarro, President
Councilmember Gabe Albornoz
Councilmember Evan Glass
Councilmember Will Jawando

Councilmember Sidney Katz, Vice President
Councilmember Andrew Friedson
Councilmember Tom Hucker
Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

The invocation was given by Reverend Ryan Isla Pineda, St. Peter's Parish, Olney.

PRESENTATIONS - Proclamation was presented by Mr. Rice and County Executive Elrich recognizing Carbon Monoxide Awareness Month.

GENERAL BUSINESS

A. **Announcements** - Agenda and Calendar Changes

Ms. Lauer, Office of the Clerk of the Council, announced an addendum to the agenda adding an item for action to the consent calendar - approval of appointment of special counsel to Montgomery County in connection with a matter pending before a State licensing agency: Eccleston and Wolf, P.C.; and that the public hearing and action on the special appropriation to the County Government's FY20 Operating Budget, Department of Recreation - \$203,484 to provide Senior Adult Programming at the Wheaton Community Recreation Center has been postponed.

(1) B. **Receipt of Petitions - Receipt of Petitions**

There were no petitions received this week.

C. **Approved** the minutes of October 15, 2019, without objection.

Ms. Navarro congratulated Mr. Friedson on his receiving the 2019 Phyllis Campbell Newsome Public Policy Leadership Award from the Center for Nonprofit Advancement.

(2) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Rice made the motion, which carried without objection.

- A. **Introduced** a resolution supporting the “Six Triple Eight” Congressional Gold Medal Act of 2019.
- B. **Adopted Resolution 19-284**, supporting the Metropolitan Washington Council of Governments’ regional housing targets for Montgomery County.
- C. **Adopted Resolution 19-285**, confirming the County Executive’s appointments to the Human Trafficking Prevention Committee: Rose Taylor, Donna Rojas.
- D. **Adopted Resolution 19-286**, confirming the County Executive’s appointments to the Commission on Juvenile Justice: Willie Parker-Loan, Thomas Squire.
- E. **Adopted Resolution 19-287**, confirming the County Executive’s appointment to the Local Management Board for Children, Youth, and Families (Collaboration Council): Sonia Pruitt.
- F. **Adopted Resolution 19-288**, confirming the County Executive’s appointments to the Silver Spring Citizens Advisory Board: Sofia Bushen, Jay Elvove, Mulugeta Habteselassie, Janice Marquez, Daniel Moijueh, Debra Wylie.
- G. **Adopted Resolution 19-289**, confirming the County Executive’s appointment to the Community Action Board: Candance Groudine.
- H. **Adopted Resolution 19-290**, confirming the County Executive’s appointment to the Consolidated Retirees Health Benefits Trust Board of Trustees: Michael Gurevitz.
- I. **Adopted Resolution 19-291**, amending Resolution 19-24, Remembrance and Reconciliation Commission.

- J. Adopted **Resolution 19-292**, amending Resolution 19-128, Section G, FY20 Designation of Entities for Non-Competitive Award Status: Interfaith Works, Inc; Pathways to Housing DC; Inc.; and Nonprofit Montgomery Inc.
- K. **Approved** the appointment of special counsel to Montgomery County in connection with a matter pending before a State licensing agency: Eccleston and Wolf, P.C.

(3) **ACTION - FY21 Washington Suburban Sanitary Commission (WSSC) Spending Control Limits**

Present for the discussion were Vice Chair Foster, Commissioners Bayonet and Denis, Ms. Reid, General Manager/Chief Executive Officer, WSSC; and Mr. Levchenko, Senior Legislative Analyst.

Mr. Hucker, Chair of the Transportation and Environment (T&E) Committee, reviewed the Committee recommendation, as contained in the staff report.

Adopted **Resolution 19-293**, establishing spending control limits for use in the preparation of the FY21 Capital and Operating Budget of WSSC.

The T&E Committee made the motion, which passed unanimously.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #25**

(4) **Call of Bills for Final Reading**

- A. **Bill 12-19, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week**

Mr. Albornoz, Chair of the Health and Human Services (HHS) Committee, reviewed the Committee recommendations, as contained in the staff report.

Mr. Katz provided comments in opposition to the bill, noting that there will be some winners and some losers as a result of the legislation. He stated that he was troubled that some building maintenance workers will lose their jobs and others may be forced to work extended hours.

Mr. Drummer, Senior Legislative Analyst, clarified that day porters that provide janitorial services would be covered by the legislation.

Enacted draft #3 of **Bill 12-19**, as shown at the end these minutes.

The HHS Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Jawando, Hucker, Riemer, Albornoz, Rice, Navarro.

NAYS: Friedson, Katz.

B. **Bill 30-19, Human Rights and Civil Liberties - Race Discrimination - Protective Hairstyles (CROWN Act)**

Mr. Albornoz reviewed the HHS Committee recommendations, as contained in the staff report.

Enacted draft #4 of **Bill 30-19**, as contained at the end these minutes.

The HHS Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Jawando, Hucker, Riemer, Albornoz, Rice, Friedson, Katz, Navarro.

(5) **INTERVIEW - County Executive's Appointee as Chief, Montgomery County Police Department (MCPD): Marcus Jones**

Interviewed Acting Chief Marcus Jones, the County Executive's appointee for the position of Chief, MCPD.

The meeting recessed at 12:41 P.M. and reconvened at 1:49 P.M.

(6) **PUBLIC HEARING/ACTION - Special appropriation to the County Government's FY20 Operating Budget, Department of Recreation - \$203,484 to provide Senior Adult Programming at the Wheaton Community Recreation Center**

This item was deferred.

(7) **PUBLIC HEARING/ACTION - Special appropriation to the County Government's FY20 Operating Budget, Office of the Inspector General (OIG) - \$272,881 for implementation of **Bill 11-19**, Administration - Internal Audit - Inspector General - Amendments**

The public hearing was held and the record closed.

Adopted **Resolution 19-294**, approving the subject special appropriation. Mr. Friedson made the motion, which carried unanimously.

(5) **ACTION** - County Executive's Appointee as Chief, MCPD: Marcus Jones

Adopted **Resolution 19-295**, approving the appointment of Marcus Jones as Chief, MCPD. Mr. Katz made the motion, which carried unanimously.

The meeting recessed at 1:57 P.M. and reconvened at 7:34 P.M.

(8) **PUBLIC HEARINGS on the following:**

A. **Zoning Text Amendment 19-06, Vape Shops**

The public hearing was conducted. Ms. Navarro and Mr. Hucker were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on November 18, 2019. A Planning, Housing and Economic Development (PHED) Committee worksession will be scheduled at a later date.

B. **Bill 29-19, Health and Sanitation - Electronic Cigarettes - Distribution, and Resolution to adopt Bill 29-19, Health and Sanitation - Electronic Cigarettes as a Board of Health Regulation**

The public hearing was conducted. Ms. Navarro and Mr. Hucker were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on November 18, 2019. An HHS Committee worksession is tentatively scheduled for November 25, 2019.

C. **Bill 31-19, Health and Sanitation - Electronic Cigarettes - Distribution, Use and Possession, and Resolution to adopt Bill 31-19, Health and Sanitation - Electronic Cigarettes - Distribution, Use and Possession as a Board of Health Regulation**

The public hearing was conducted. Ms. Navarro and Mr. Hucker were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on November 18, 2019. An HHS Committee worksession is tentatively scheduled for November 25, 2019.

D. **Bill 32-19, Health and Sanitation - Flavored Electronic Cigarettes, and Resolution to adopt Bill 32-19, Health and Sanitation - Flavored Electronic Cigarettes as a Board of Health Regulation**

The public hearing was conducted. Ms. Navarro and Mr. Hucker were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on November 18, 2019. An HHS Committee worksession is tentatively scheduled for November 25, 2019.

The meeting adjourned at 8:37 P.M.

This is a correct copy of Council action.

Approved/Signed by the Clerk

Mary Anne Paradise
Acting Clerk of the Council

Bill No. 12-19
 Concerning: Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week
 Revised: October 7, 2019 Draft No. 3
 Introduced: May 7, 2019
 Enacted: November 5, 2019
 Executive: _____
 Effective: January 1, 2021
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Riemer
 Co-Sponsors: Councilmembers Jawando, Hucker, Council President Navarro and
 Councilmember Rice

AN ACT to:

- (1) require certain employers in the County to provide certain building maintenance workers with a minimum work week;
- (2) provide enforcement by the Office of Human Rights and the Human Rights Commission;
- (3) authorize the Human Rights Commission to award certain relief; and
- (4) generally regulate the minimum work week for certain workers in the County.

By amending

Montgomery County Code
 Chapter 27, Human Rights and Civil Liberties
 Sections 27-7 and 27-8, and

By adding

Montgomery County Code
 Chapter 27, Human Rights and Civil Liberties
 Article XIV, Minimum Work Week for Building Maintenance Workers
 Sections 27-83 and 27-84

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:

- 47 embarrassment, including its severity, duration, frequency, and
- 48 breadth of observation by others;
- 49 (F) financial losses resulting from the discriminatory act or a violation
- 50 of Article X or XIV; and
- 51 (G) interest on any damages from the date of the discriminatory act or
- 52 violation, as provided in subsection (c);
- 53 (2) equitable relief to prevent the discrimination or the violation of Articles X,
- 54 XI, [or] XIII, or XIV and otherwise effectuate the purposes of this
- 55 Chapter;
- 56 (3) consequential damages, such as lost wages from employment
- 57 discrimination or a violation of Article X or higher housing costs from
- 58 housing discrimination, for up to 2 years after the violation, not exceeding
- 59 the actual difference in expenses or benefits that the complainant realized
- 60 while seeking to mitigate the consequences of the violation (such as
- 61 income from alternate employment or unemployment compensation
- 62 following employment discrimination); and
- 63 (4) any other relief that furthers the purposes of this Article or Articles X, XI,
- 64 [or] XIII, or XIV, or is necessary to eliminate the effects of any
- 65 discrimination prohibited under this Article.

* * *

ARTICLE XIV. MINIMUM WORK WEEK FOR BUILDING MAINTENANCE WORKERS.

27-83. Definitions.

As used in this Article:

Building maintenance worker means an individual employed at a covered location [[as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent]] performing janitorial services. A building maintenance worker does not include:

- 75 (1) a managerial or confidential employee;
- 76 (2) an employee who works in an executive, administrative, or professional
- 77 capacity;
- 78 (3) an employee who earns more than twice the wage requirement established
- 79 under Section 11B-33A;
- 80 (4) [[an employee who works as a security officer solely on Saturday or
- 81 Sunday; or
- 82 (5)]] an employee who temporarily replaces a building maintenance worker
- 83 who is absent for less than one week.

Covered employer means any person, individual, proprietorship, partnership, joint venture, corporation, Limited Liability Company, trust, association, or other entity operating and doing business in the County that employs one or more persons as a building maintenance worker at a covered location in the County. Covered employer includes the County government, but does not include the United States, any State, or any other local government.

Covered leave means paid or unpaid leave voluntarily used by a building maintenance worker as authorized by Federal, State, or County law, a collective bargaining agreement, or a written employee handbook.

Covered location means an office building or contiguous group of office buildings under common ownership or management occupying a total of 350,000 square feet or more in the County with an occupancy rate of 50% or more. Covered location does not include:

- (1) an office building or group of office buildings owned by the United States, any State, or any local government; or
- (2) a building used primarily for apartment or condominium dwelling units, retail stores, hospitals, schools, warehouses, parking garages, or data centers.

Director means the Executive Director of the Office of Human Rights and includes the Executive Director’s designee.

Employ means to engage a person to work for compensation.

Minimum work week means the minimum number of compensated hours provided to a building maintenance worker in any work week.

Office means a room, set of rooms, or a building where the business of a commercial or industrial organization or of a professional person is conducted.

Work week means a fixed regularly recurring period of 168 hours or 7 consecutive 24 hour periods.

27-84. Minimum work week; enforcement.

(a) Minimum work week. [[The]] Except as provided in subsection (b), the minimum work week for each employee working as a building maintenance worker at a covered location for a covered employer must be at least 30 hours unless the employee is taking covered leave.

(b) A covered employer may preserve up to 30% of the total hours scheduled for all building maintenance workers at a covered location for part-time workers with a minimum shift of 4 hours per day and 20 hours per week per covered building maintenance worker.

[[b)] (c) Complaints. A building maintenance worker who is aggrieved by a violation of this Article may file a complaint with the Director under Section 27-7.

[[c)] (d) Retaliation prohibited. A person must not:

- (1) retaliate against any person for:
 - (A) lawfully opposing any violation of this Article; or
 - (B) filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Article; or
- (2) obstruct or prevent enforcement or compliance with this Article.

Sec. 2. Effective date.

This Act takes effect on [[July 1, 2020]] January 1, 2021.

Bill No. 30-19
 Concerning: Human Rights and Civil Liberties – Race Discrimination – Protective Hairstyles (CROWN Act)
 Revised: 10/28/2019 Draft No. 4
 Introduced: September 24, 2019
 Enacted: November 5, 2019
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmember Jawando and Council President Navarro
 Co-Sponsors: Councilmembers Riemer, Hucker, Alborno, Glass and Rice

AN ACT to:

- (1) prohibit discrimination based on certain protective hairstyles; and
- (2) generally amend County laws regarding discrimination.

By amending

Montgomery County Code
 Chapter 8A, Cable Communications
 Section 8A-15

Chapter 23A, Group Homes
 Section 23A-10

Chapter 27, Human Rights and Civil Liberties
 Section 27-6

Chapter 33, Personnel and Human Resources
 Section 33-72

Chapter 53, Taxicabs
 Section 53-312

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. Sections 8A-15, 23A-10, 27-6, 33-72, and 53-312 are amended as follows:**

2 **8A-15. Service discrimination and exclusive programming agreements prohibited.**

3 (a) Unless approved by the County and to the extent consistent with federal law, a
4 franchisee must not, in its cable service rates or charges, or in the availability of
5 its cable services, or in any other respect, grant undue preferences or advantages
6 to any subscriber or potential subscriber, or to any user or potential user, nor
7 subject any of these persons to any undue prejudice or any disadvantage. Unless
8 prohibited by applicable federal law, the County may require the franchisee to
9 have a uniform rate structure for its cable services throughout the franchise area.
10 A franchisee must not deny, delay, or otherwise burden service or discriminate
11 against subscribers or users on the basis of age, race, religion, color, sex, sexual
12 orientation, gender identity, handicap, national origin, or marital status, except for
13 discounts for the elderly and handicapped, as defined in Chapter 27.

14 * * *

15 **23A-10. License conditions.**

16 * * *

17 (h) *Discrimination.* A group home provider must not discriminate in admitting or
18 providing care to an individual because of the individual's race, color, religion,
19 national origin, or disability, as defined in Chapter 27.

20 * * *

21 **27-6. Definitions.**

22 The following words and phrases have the following meanings, unless the context
23 indicates otherwise:

24 * * *

25 Protective hairstyles *[[includes]]* are those hairstyles necessitated by, or resulting from,
26 the immutable characteristics of a hair texture associated with race, such as braids, locks,
27 afros, curls, and twists.

28 * * *

29 Race includes immutable traits *[[historically]]* associated with race, including hair texture
30 and protective hairstyles.

31 * * *

32 **33-72. Employee organization responsibilities.**

33 It shall be the responsibility of every employee organization not to:

34 * * *

35 (e) Discriminate against an employee with regard to the terms or conditions of
36 membership because of race, color, religion, creed, sex, age, national origin,
37 ancestry, or marital status, as defined in Chapter 27.

38 **53-312. Duty to accept and convey passengers.**

39 * * *

40 (b) A driver must not refuse to transport a passenger because of the passenger's
41 disability, race, color, marital status, religious creed, age, sex, national origin,
42 sexual orientation, gender identity, or geographic location, as defined in Chapter
43 27.

44 * * *

45 **Sec. 2.**

46 This Act is known as the “Montgomery County CROWN (Creating a Respectful and
47 Open World for Natural Hair) Act.”

