Bill No. 16-16
Concerning: Personnel – Benefits for Domestic Partner of Employee - Repeal
Revised: June 23, 2016 Draft No. 4
Introduced: April 19, 2016
Enacted: June 28, 2016
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Leventhal
Co-Sponsor: Councilmember Katz

AN ACT to:

(1) repeal the law requiring the County to provide domestic partner benefits for certain employees; and
(2) generally amend the law regarding benefits for domestic partners.

By amending
Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-22

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

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

Sec. 1. Section 33-22 is amended as follows:

33-22. [Benefits for Domestic Partner of Employee.] <u>Reserved.</u>

[(a) *Findings and purpose.* The County has a longstanding policy, in law and practice, against employment discrimination based on sexual orientation. The County believes it is unfair to treat employees differently based solely on whether the employee's partner is legally recognized as a spouse.

The County finds that many private and public employees provide or plan to provide benefits for the domestic partners of their employees. Providing domestic partner benefits will significantly enhance the County's ability to recruit and retain highly qualified employees and will promote employee loyalty and workplace diversity.]

[(b) *General rule.* Any benefit the County provides for the spouse (including "widow" or other equivalent term) of a County employee or the spouse's dependents must be provided, in the same manner and to the same extent, for the domestic partner of a County employee and the partner's dependents, respectively. Benefits provided to an employee's domestic partner or partner's dependent must include benefits equivalent to those available for an employee's spouse or spouse's dependent under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the federal Family and Medical Leave Act, and other federal laws that apply to County employment benefits.]

[(c) Requirements for domestic partnership. To establish a domestic partnership, the employee and the employee's partner must either:

(1) satisfy all of the following requirements:

26 (A) be the same sex, unless the employee is a member of the
27 police bargaining unit or the fire and rescue employee
28 bargaining unit;
29 (B) share a close personal relationship and be responsible for
30 each other's welfare;
31 (C) have shared the same legal residence for at least 12
32 months;
33 (D) be at least 18 years old;
34 (E) have voluntarily consented to the relationship, without
35 fraud or duress;
36 (F) not be married to, or in a domestic partnership with, any
37 other person;
38 (G) not be related by blood or affinity in a way that would
39 disqualify them from marriage under State law if the
40 employee and partner were (or, for members of the police
41 bargaining unit or the fire and rescue services bargaining
42 unit, are) opposite sexes;
43 (H) be legally competent to contract; and
44 (I) share sufficient financial and legal obligations to satisfy
45 subsection (d)(2); or
46 (2) legally register the domestic partnership, if:
47 (A) a domestic partnership registration system exists in the
48 jurisdiction where the employee resides; and
49 (B) the Director of Human Resources determines that the legal
50 requirements for registration are substantially similar to
51 the requirements of this Section.]

52 [(d) Evidence of domestic partnership. The employee must provide, in a
53 form acceptable to the Office of Human Resources, the following:
54 (1) either:
55 (A) an affidavit signed by both the employee and the
56 employee's partner under penalty of perjury declaring that
57 they satisfy the requirements of subsection (c)(1); or
58 (B) an official copy of the domestic partnership registration
59 described in subsection (c)(2); and
60 (2) evidence that the employee and partner share items described in
61 at least 2 of the following subparagraphs:
62 (A) a joint housing lease, mortgage, or deed;
63 (B) joint ownership of a motor vehicle;
64 (C) a joint checking or credit account;
65 (D) designation of the partner as a primary beneficiary of the
66 employee's life insurance, retirement benefits, or residuary
67 estate under a will; or
68 (E) designation of the partner as holding a durable power of
69 attorney for health care decisions regarding the employee.
70 This paragraph does not apply to a qualified, registered domestic
71 partnership under subsection (c)(2).]
72 [(e) Termination of domestic partnership. An employee must notify the
73 Director of Human Resources within 30 days after:
74 (1) termination of the domestic partnership by death or dissolution;
75 or
76 (2) any other change in circumstances that disqualifies the
77 relationship as a domestic partnership under this Section.

78 When the domestic partnership ends, the Director must terminate or
79 continue any benefit in the same manner and to the same extent that the
80 County terminates or continues, respectively, the benefit for a former
81 spouse in equivalent circumstances (such as dissolution of a partnership
82 and divorce).]

83 [(f) Application to retirees. In this Section, "employee" includes both
84 active and retired employees.]

85 **Sec. 2. Transition.**

86 The amendments to Section 33-22 made in Section 1 do not apply to an
87 employee or retiree who is receiving domestic partner benefits or has applied for
88 domestic partner benefits before **[[**April 19, 2016**]]** June 28, 2016.

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90 *Approved:*

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92 Nancy Floreen June 29, 2016

Nancy Floreen, President, County Council Date

93 *Approved:*

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Isiah Leggett, County Executive Date

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

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Linda M. Lauer, Clerk of the Council Date

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