

Climate Assessment

Office of Legislative Oversight

Bill 44-23: Human Rights and Civil Liberties – Prospective Employees – Health Care Policy

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 44-23 will have no impact on the County's contribution to addressing climate change as it is proposing to limit inquiries by County government regarding health information of prospective employees.

BACKGROUND AND PURPOSE OF BILL 44-23

"Health information privacy" concerns the collection, storage, and use of individually identifiable information on health care or reproductive health and examines whether this "data can be collected in the first place, as well as the justifications, if any, under which data collected for one purpose can be used for another (secondary) purpose."¹

On March 21, 2023, the Council enacted legislation to protect the health information privacy of prospective County employees. Bill 5-23, Personnel and Human Resources – Prospective Employees – Health Care Privacy, prohibits the County government from asking prospective County employees certain questions regarding their healthcare or reproductive health information.²

The goal of Bill 44-23 is to protect the healthcare or reproductive health information of job applicants in the County "from unwarranted, intrusive questions by employers."³ It would do so by extending similar protections codified in Bill 5-23 to private employers in the County. More specifically, private employers in the County would be prohibited from:

- requesting health care or reproductive health information from applicants, and
- considering this information as a factor in determining whether to hire applicants.

Employers would only be permitted to request and consider "business-related health care information." The Office of Human Rights and the Commission on Human Rights would enforce the Bill.⁴

The Council introduced Bill 44-23, Human Rights and Civil Liberties – Prospective Employees – Health Care Privacy, on December 5, 2023.

ANTICIPATED IMPACTS

As the bill proposes limits to inquiries by County government regarding health information of prospective employees, OLO anticipates the bill will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁵ OLO does not offer recommendations or amendments as Bill 44-23 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Sharyl J. Nass et al., "The Value and Importance of Health Information Privacy," in Beyond the HIPAA Privacy Rule: Enhancing Privacy, Improving Health Through Research \(National Academies Press, 2009.](#)

² ["Introduction Staff Report on Bill 44-23, Human Rights and Civil Liberties – Prospective Employees – Health Care Privacy", Montgomery County Council, December 5, 2023.](#)

³ ["Press Release: Councilmembers Albornoz and Luedtke Introduce Legislation to Protect the Privacy of Employee Health Information," Montgomery County Council, December 5, 2023.](#)

⁴ ["Introduction Staff Report on Bill 44-23, Human Rights and Civil Liberties – Prospective Employees – Health Care Privacy", Montgomery County Council, December 5, 2023.](#)

⁵ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022