MEMORANDUM

April 12, 2002

TO: County Council

FROM: Michael W. Cogan, Legislative Attorney

SUBJECT: Introduction: Emergency Bill 15-02, Domestic Violence Prevention and Victim Assistance

Councilmembers Andrews, Ewing, Leggett, and Denis intend to introduce Emergency Bill 15-02, Domestic Violence Prevention and Victim Assistance, on April 16. The Council’s Public Safety and Health and Human Services Committees have been examining significant operational and institutional problems at the Betty Ann Krahnke Center, a residential shelter program for victims of domestic violence and their children. The problems were brought to the Council’s attention by some residents and former residents of the Center.

Emergency Bill 15-02 would require the director of Health and Human Services to issue regulations that establish written policies and procedures for domestic violence shelter facilities regarding admission, termination, and the rights of residents. The bill would require the director to establish minimum professional qualifications for program and facility staff, including any licensing requirements to comply with law and any contract under which the facility is operated. The director would have to approve the hiring of, and could dismiss, the clinical director and would have to approve the hiring of other professional staff.

The bill would create a Commission on Domestic Violence, appointed by the Council to advise you on policies, programs, and facilities to prevent domestic violence and assist victims and their children. The Commission would review the operation of each County-supported shelter program each year and advise the Council about the facility’s effectiveness. The Commission would also monitor
innovative efforts by other government or non-governmental organizations, national statistical data, and scholarly research.

This packet contains:

- Emergency Bill 15-02
- Legislative Request Report

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AN EMERGENCY ACT to:

(1) establish a program to provide temporary shelter, health, and other residential services to victims of domestic violence and their children;

(2) establish a Commission on Domestic Violence to advise the County Council on domestic violence issues and periodically review each temporary residential facility for victims of domestic violence that receives County funds; and

(3) generally amend County law regarding programs for victims of domestic violence and their children.

By amending

Montgomery County Code
Chapter 24, Health and Sanitation
Article VI

The County Council for Montgomery County, Maryland approves the following Act:
Section 1. Article VI of Chapter 24 of the Code is amended as follows:

ARTICLE VI. DOMESTIC VIOLENCE PREVENTION AND VICTIM ASSISTANCE.

24-44. Temporary residential programs.

(a) The Department may operate or contract for one or more programs to provide temporary shelter, and related residential, health, child care, and other services, for victims of domestic violence and their children.

(b) In this Article:

1. Commission means the Commission on Domestic Violence.

2. Department means the Department of Health and Human Services.

3. Director means the director of the Department.

4. Facility means a facility that provides a temporary residential program for victims of domestic violence and their children and receives funds or other support from the County.

5. Resident means an individual who temporarily lives at a facility and receives services at the facility. Resident includes a child living at the facility with a parent, stepparent, or guardian unless the context clearly indicates otherwise.

24-45. Requirements for facilities.

(a) Each facility must comply with written policies and procedures established in regulations issued by the Director under method (2) that:

1. specify admission to and termination from facilities, including admission qualifications and priority; grounds for termination; a resident’s right to notice and review of a proposed termination;
and a requirement to provide information about alternative shelter to a resident terminated from the program;

(2) establish a “bill of rights” for residents and their children that guarantees, in addition to any other right:

(A) the right to be treated with consideration, respect, and full recognition of human dignity and individuality;

(B) the right to receive shelter and services that are safe, adequate, and appropriate and comply with federal, State, and County laws;

(C) the right to privacy;

(D) the right to be free from mental and physical abuse;

(E) the right to be free from physical and chemical restraints, except those legally prescribed by a physician for a clearly indicated medical need;

(F) the right to receive respect and privacy in a medical or mental health care program, including informed consent to treatment and confidentiality of medical and mental health records;

(G) the right to manage personal financial affairs; and

(H) the right to exercise parental rights, and fulfill parental responsibilities, for the resident’s children;

(3) guarantee each resident the right to present any grievance, or recommend to the staff or administrator of the facility, the Commission, or any other agency or person, a change in policy or service without fear of reprisal, restraint, interference, coercion, or discrimination; and
require the facility to inform a resident in writing before or
during admission to the program about the rules and rights that
apply to the resident while participating in the program.

(b) The Director must:

(1) establish minimum professional qualifications for program and
    facility staff, including any licensing requirements to comply
    with federal, State, and County law and any contract with the
    County;

(2) if a facility operates under a contract with the County, approve
    the hiring, and may require the dismissal, of the executive
    director and any clinical director of the facility, and approve the
    hiring of any other professional staff; and

(3) report to the Commission at least quarterly on the program
    census, staffing, physical facility, services provided to
    residents, finances, any serious incidents, and any other
    significant matter affecting residents or the facility that the
    Commission determines is necessary to carry out the
    Commission’s responsibilities under this Article.

24-46. Commission on Domestic Violence.

(a) Established. The County Council must appoint a Commission on
    Domestic Violence to advise the Council on policies, programs, and
    facilities to prevent domestic violence and assist victims of domestic
    violence and their children.

(b) Membership. The Commission includes the following members:

(1) Six voting members who are professionals licensed in
    Maryland with experience treating or counseling victims of
    domestic abuse. The professional members should include:
(A) a physician;
(B) a licensed clinical social worker (LCSW);
(C) a psychologist or psychiatrist;
(D) a drug or alcohol abuse counselor;
(E) a child psychologist or other child therapist; and
(F) a pediatrician, LCSW, or other professional whose primary practice is treating or counseling young victims of child abuse or neglect.

(2) Five voting public members. The public members should include at least one former resident of a facility, and additional members such as:

(A) an attorney with experience representing victims of domestic abuse or child abuse or neglect;
(B) an advocate for victims of domestic abuse; and
(C) a teacher or school counselor.

(3) Up to 4 non-voting, ex officio members. The ex officio members should include:

(A) the Director or Director’s designee;
(B) the County Health Officer or the Officer’s designee;
(C) a Councilmember or the Council’s designee;
(D) the Sheriff or the Sheriff’s designee.

(c) Duties. The Commission must:

(1) advise the Council on policies and programs to prevent domestic violence and help victims and their children, including:
(A) periodically reviewing innovative efforts by other
government or non-governmental organizations, national
statistical data, and scholarly research; and

(B) proposing for Council consideration a strategic plan, and
annual updates to the plan, to address domestic violence
in the County; and

(2) review the operation of each **facility** at least once a year and
advise the Council about the **facility’s** effectiveness in serving
victims of domestic violence and their children.

(d) **Term.** An appointed professional or public member of the
**Commission** serves a 3-year term and continues to serve until the
Council appoints a successor. An **ex officio** member serves as long as
the member holds (or is designated by the holder of) the qualifying
office. The Council may remove any member, including an **ex officio**
member, by a vote of a majority of the Councilmembers in office.

(e) **Officers.** The Council annually must designate a public member as
chair, and a professional member as vice chair of the **Commission.**
The Council should not appoint an individual to serve as chair or vice
chair for more than 2 consecutive terms, including any partial term of
6 months or more.

(f) **Meetings and actions.** A majority of the voting members of the
**Commission** is a quorum for the transaction of business, and a
majority of voting members participating in a meeting is required for
any **Commission** action. The **Commission** may meet by telephone or
video conference, or any other means that allows interactive
communication. The **Commission** is a public body under the State
Open Meetings Act, but may conduct closed sessions or deny access
to records as allowed by law.

(g) **Access to records.** The **Commission** must have prompt access to any
records that the **Commission** determines are necessary to perform its
duties, including confidential records concerning an individual
resident or employee of a facility. Before a member of the
**Commission** may review a confidential record, the member must sign
an appropriate non-disclosure agreement that includes a statement of
the penalties under State law for improperly disclosing a resident’s
social service, medical, mental-health, or other record.

(h) **Other requirements.** An appointed **Commission** member:

1. is subject to the requirements of Chapter 19A and must file a
   confidential financial disclosure statement limited to human
   services activities and interests;
2. must exercise independent judgment; and
3. must serve without compensation, except for reimbursement for
   reasonable expenses, subject to appropriations.

**Sec. 2. Emergency Effective Date.**
The Council declares that an emergency exists and that this legislation is
necessary for the immediate protection of the public health and safety. This Act
takes effect on the date on which it becomes law.

**Sec. 3. Transition.**

(a) The initial term of 3 professional members and 3 public members of
the Commission on Domestic Violence, appointed under Code
Sections 24-45(a)(1) and (2), respectively, as amended by this Act, is
1 year. The initial term of all other appointed members is 2 years. The
Council must designate whether an appointment is for an initial term
of 1 or 2 years.

(b) Within 60 days after this Act becomes law, for each facility subject to Article VI of Chapter 24 of the Code, as amended by this Act, the Director of Health and Human Services must:

(1) issue as a temporary regulation, and propose to the Council under method (2), the regulations referred to in Section 24-45, as amended by this Act; and

(2) (A) certify to the County Council that the facility complies with the requirements of Article VI; or

(B) submit to the Council a plan for the facility to achieve compliance within an additional 60 days.

Approved:

Steven A. Silverman, President, County Council

Approved:

Douglas M. Duncan, County Executive

This is a correct copy of Council action.

Mary A. Edgar, CMC, Clerk of the Council
LEGISLATIVE REQUEST REPORT

Emergency Bill 15-02

Domestic Violence Prevention and Victim Assistance

DESCRIPTION: Establishes a program to provide temporary shelter, health, and other residential services to victims of domestic violence and their children. Requires the Director of Health and Human Resources to issue certain written policies and procedures for County-supported residential facilities for victims of domestic violence. Establishes a Commission on Domestic Violence to advise the County Council on domestic violence issues and periodically review each temporary residential facility for victims of domestic violence that receives County support.

PROBLEM: The County’s temporary shelter program for victims of domestic violence and their children is currently operated under a contract. Several current and former residents asked the Council to investigate operational and institutional problems at the County facility. A County Executive advisory panel issued a report detailing many of these problems and making recommendations for resolving the problems.

GOALS AND OBJECTIVES: To require written policies and institutional improvements to ensure that the County-supported shelter program provides a safe and effective opportunity for victims to escape domestic violence that respects the rights of participants.

COORDINATION: The Department of Health and Human Services and the Commission on Domestic Violence would implement the legislation.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.


APPLICATION WITHIN MUNICIPALITIES: Applies to certain County-supported facilities wherever they are located.

PENALTIES: N/A.