


**MEMORANDUM**

September 22, 2017

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Expedited Bill 29-17, Domestic Partner Survivor Benefits – LOSAP – Employees’ Retirement System - Eligibility

Expedited Bill 29-17, Domestic Partner Survivor Benefits – LOSAP – Employees’ Retirement System - Eligibility, sponsored by Lead Sponsor Councilmembers Navarro and Katz and Council Vice President Riemer, was introduced on September 12, 2017. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for September 28, at 10:30 a.m.

Bill 29-17 would:

- clarify the definition of a domestic partner for receiving County survivor benefits;
- limit County survivor benefits for a domestic partner of a local fire and rescue department volunteer to a domestic partner registered with the County on or before June 27, 2016; and
- limit County survivor benefits for a domestic partner of a County employee under the County retirement systems to a domestic partner registered with the County on or before June 27, 2016.

**Background**

Bill 16-16, enacted by the Council on June 28, 2016 and signed into law by the Executive on July 7, 2016, repealed the law providing domestic partner benefits for County employees. The law included a grandfather clause that permitted a County employee receiving domestic partner benefits on June 27, 2016 to retain those benefits. Although Bill 16-16 repealed the County law requiring the County to provide the same benefits to a domestic partner that it provides for a spouse, including widow or widower benefits, the Bill did not remove references to domestic partner survivor benefits for volunteer firefighters under the Length of Service Awards Program and County employee survivor benefits under the County retirement laws.

Expedited Bill 29-17 would limit domestic partner survivor benefits to a person who registered a domestic partnership with the County on or before June 27, 2016, making these survivor benefits consistent with the general repeal of domestic partner benefits in Bill 16-16.

This packet contains:

Expedited Bill 29-17

Legislative Request Report

Circle #

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Expedited Bill No. 29-17  
Concerning: Domestic Partner Survivor  
Benefits – LOSAP – Employees’  
Retirement System – Eligibility  
Revised: July 24, 2017 Draft No. 4  
Introduced: September 20, 2017  
Expires: March 12, 2019  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Navarro and Katz and Council Vice President Riemer

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**AN EXPEDITED ACT** to:

- (1) clarify the definition of a domestic partner for the purpose of receiving County survivor benefits;
- (2) limit County survivor benefits for a domestic partner of a local fire and rescue department volunteer to a domestic partner registered on or before a certain date;
- (3) limit County survivor benefits for a domestic partner of a County employee under the County retirement systems to a domestic partner registered with the County on or before a certain date; and
- (4) generally amend the laws governing survivor benefits for a domestic partner.

By amending

Montgomery County Code  
Chapter 21, Fire and Rescue Services  
Section 21-21

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-6, 33-35, and 33-113

<b>Boldface</b>	<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           **Sections 21-21, 33-6, 33-35, and 33-113 are amended as follows:**

2   **21-21. Length of service award program for volunteers.**

3           There is a length of service award program for local fire and rescue department  
4           volunteers.

5           (a)    [*Definition*] Definitions. In this Section, the following words and phrases  
6                have the following meanings:

7                [*active*] Active volunteer means a local fire and rescue department  
8                volunteer who accumulates at least 50 points in a calendar year under the  
9                point system in subsection (k).

10              Domestic partner means a person who was registered as a domestic  
11              partner of an active volunteer with the Fire Chief on or before June 27,  
12              2016 in a domestic partnership that did not end before the active  
13              volunteer's death.

14   \*       \*       \*

15           (e)    *Survivor's benefit.*

16                (1)    A local fire and rescue department volunteer's surviving spouse or  
17                domestic partner qualifies for a survivor's benefit on the volunteer's  
18                death if:

19                    (A)   the surviving spouse or partner submits an application for  
20                    the benefit; and

21                    (B)   the volunteer met the:

22                           (i)    years-of-service requirement for a length of service  
23                           benefit under subsection (c); or

24                           (ii)   requirements for a disability benefit under subsection  
25                           (d).

26                (2)    The volunteer's surviving spouse or domestic partner must receive  
27                a monthly award payment until the spouse's death or remarriage,

28 or partner's death [or establishment of another domestic  
29 partnership], equal to 50 percent of the:

30 (A) length of service benefit for which the volunteer met the  
31 years-of-service requirement; or

32 (B) volunteer's disability benefit.

33 \* \* \*

34 [(1) *Definition.* In this Section, "domestic partner" or "partner" means a  
35 person whose relationship with the volunteer would meet the  
36 requirements for a domestic partner under Section 33-22 if the volunteer  
37 were a County employee.]

38 **33-6. Definitions.**

39 In this article, the following words and phrases have the following meanings:

40 *Board:* The merit system protection board as described in section 403 of the  
41 county charter.

42 *County employees:* All persons employed by the county regardless of merit  
43 system status.

44 *Domestic partner.* A person who [meets the requirements of Section 33-22] was  
45 registered as the domestic partner of a County employee with the Office of  
46 Human Resources on or before June 27, 2016 in a domestic partnership that did  
47 not end before the County employee's death. This definition applies throughout  
48 this Chapter unless otherwise indicated.

49 \* \* \*

50 **33-35. Definitions.**

51 In this Article, the following words and phrases have the following meanings:

52 \* \* \*

53 *Domestic partner:* A person who [meets the requirements of Section 33-22] was  
54 registered as the domestic partner of a member with the Office of Human

55 Resources on or before June 27, 2016 in a domestic partnership that did not end  
56 before the member's death.

57 \* \* \*

58 **33-113. Definitions.**

59 In this Division the following words and phrases have the following meanings:

60 [(a)] *Account balances* means the balance credited to the retirement account of  
61 a participant under the retirement savings plan as of the valuation date preceding  
62 the date of distribution determined without regard to vesting, including:

- 63 (1) any participant contributions (including contributions picked up by
- 64 the County);
- 65 (2) County contributions; and
- 66 (3) rollover contributions.

67 [(b)] *Board or Board of Investment Trustees* means the Board of Investment  
68 Trustees established under Article III.

69 [(c)] *County* means the Montgomery County Government and, when  
70 applicable, any participating agency.

71 [(d)] *County service* means any period of County employment during which a  
72 participant is:

- 73 (1) in pay status, or
- 74 (2) on an approved leave of absence without pay on or after January
- 75 1, 2002.

76 Domestic partner means a person who was registered as the domestic partner of  
77 a participant with the Office of Human Resources on or before June 27, 2016 in  
78 a domestic partnership that did not end before the participant's death.

79 [(e)] *Employee* means any eligible elected or appointed County official and  
80 any full-time or career part-time County employee.

81 [(f)] *Employee organization* means any organization that:

- 82 (1) admits employees to membership;
- 83 (2) has as a primary purpose the representation of employees in
- 84 collective bargaining; and
- 85 (3) is certified as an employee organization under applicable law.

86 [(g)] *Former participant* means any individual with an account balance in the  
87 retirement savings plan who has ceased to be a participant.

88 [(h)] *Investment manager* means a person or entity who exercises discretion to  
89 manage all or part of the assets of an institutional investor. The investment  
90 manager is a fiduciary as defined in Section 33-35.

91 [(i)] *Merit System Protection Board* means the Merit System Protection Board  
92 established in the Charter.

93 [(j)] *Non-public safety employee* means any employee who is not a public  
94 safety employee.

95 [(k)] *Normal retirement date* means the first day of the month after the month  
96 in which the participant reaches age 62.

97 [(l)] *Participant* means an employee who is participating in the retirement  
98 savings plan.

99 [(m)] *Participant's contribution account* means the portion of a participant's  
100 account balances in the retirement savings plan that is attributable to participant  
101 contributions, including contributions picked up by the County, and any gains  
102 or losses attributable to those contributions.

103 [(n)] *Plan year* means the 12-month period beginning January 1 and ending on  
104 December 31 each year.

105 [(o)] *Public safety employee* means any employee who is a:

- 106 (1) sworn officer of the Police Department;
- 107 (2) paid firefighter, paid fire officer, or paid rescue service worker of
- 108 the Montgomery County Fire and Rescue Service;

- 109 (3) sworn deputy sheriff;  
110 (4) correctional officer; or  
111 (5) County employee who provides services to a correctional facility  
112 and designated as a public safety employee by the Chief Administrative  
113 Officer.

114 [(p)] *Regular earnings* means gross pay for actual hours worked, including  
115 paid leave, but not including overtime, without reduction for participant  
116 contributions that are picked up under Section 33-116(a), or contributions to any  
117 County deferred compensation plan or statutory fringe benefit program. If a  
118 participant is required to take any furlough, as defined in personnel regulations  
119 under Section 33-7(b) or a collective bargaining agreement, regular earnings  
120 must include any amount the participant would have received if the participant  
121 had not been required to take any furlough.

122 [(q)] *Retirement accounts* means the required participant contributions  
123 account, a County contributions account, and any rollover contributions  
124 account.

125 [(r)] *Rollover contributions* means that portion of a participant's account  
126 balances in the retirement savings plan that is attributable to any assets  
127 transferred or rolled over to the retirement savings plan from another eligible  
128 retirement plan as defined in the Internal Revenue Code Section 402(c). No  
129 after-tax contributions may be transferred or rolled over into the retirement  
130 savings plan.

131 [(s)] *Valuation date* means the last business day of March, June, September,  
132 and December of each plan year, and any other date the Board establishes in a  
133 uniform and nondiscriminatory manner for determining the fair market value of  
134 the assets of the retirement savings plan.

135 **Effective Date.**

136           The Council declares that this legislation is necessary for the immediate  
137 protection of the public interest. This Act takes effect on the date it becomes law.

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139 *Approved:*

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Roger Berliner, President, County Council

Date

141 *Approved:*

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Isiah Leggett, County Executive

Date

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

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Linda M. Lauer, Clerk of the Council

Date



## LEGISLATIVE REQUEST REPORT

Expedited Bill 29-17

*Domestic Partner Survivor Benefits – LOSAP – Employees Retirement System - Eligibility*

**DESCRIPTION:** Expedited Bill 29-17 would limit domestic partner survivor benefits to a person who registered a domestic partnership with the County on or before June 27, 2016, making these survivor benefits consistent with the general repeal of domestic partner benefits in Bill 16-16.

**PROBLEM:** Bill 16-16, enacted by the Council on June 28, 2016 and signed into law by the Executive on July 7, 2016, repealed the law providing domestic partner benefits for County employees. The law included a grandfather clause that permitted a County employee receiving domestic partner benefits on June 27, 2016 to retain those benefits. Although Bill 16-16 generally repealed the County law authorizing domestic partner benefits, the Bill did not remove references to domestic partner survivor benefits for volunteer firefighters under the Length of Service Awards Program and County employee survivor benefits under the County retirement laws.

**GOALS AND OBJECTIVES:** To ensure that survivor benefits for domestic partners is consistent with the law governing other County benefits.

**COORDINATION:** Office of Human Resources

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Robert H. Drummer, Senior Legislative Attorney

**APPLICATION WITHIN MUNICIPALITIES:** Not applicable.

**PENALTIES:** None.