

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:

Sec. 1. Sections 27-7 and 27-8 are amended and Chapter 27, Article XIV is added as follows:

27-7. Administration and enforcement.

(a) *Filing complaints.* Any person subjected to a discriminatory act or practice in violation of this Article, or any group or person seeking to enforce this Article or Articles X, XI, XII, [or] XIII, or XIV may file with the Director a written complaint, sworn to or affirmed under the penalties of perjury, that must state:

- (1) the particulars of the alleged violation;
- (2) the name and address of the person alleged to have committed the violation; and
- (3) any other information required by law or regulation.

* * *

(f) *Initial determination, dismissal before hearing.*

- (1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this Article or Articles X, XI, XII, [or] XIII, or XIV occurred and promptly send the determination to the complainant and the respondent.
- (2) If the Director determines that there are no reasonable grounds to believe a violation occurred, and the complainant appeals the determination to the Commission within 30 days after the Director sends the determination to the complainant, the Director promptly must certify the complaint to the Commission. The Commission must appoint a case review board to consider the appeal. The board may hear oral argument and must:
 - (A) dismiss the complaint without a hearing;
 - (B) order the Director to investigate further; or

28 (C) set the matter for a hearing by a hearing examiner or the
29 board itself, and consider and decide the complaint in the
30 same manner as if the Director had found reasonable
31 grounds to believe that a violation of this Article or Articles
32 X, XI, XII, [or] XIII, or XIV occurred.

33 (3) If the Director determines that there are reasonable grounds to
34 believe a violation occurred, the Director must attempt to
35 conciliate the matter under subsection (g).

36 * * *

37 **27-8. Penalties and relief.**

38 (a) *Damages and other relief for complainant.* After finding a violation
39 of this Article or Articles X, XI, [or] XIII, or XIV, the case review board
40 may order the payment of damages (other than punitive damages) and
41 any other relief that the law and the facts warrant, such as:

- 42 (1) compensation for:
 - 43 (A) reasonable attorney's fees;
 - 44 (B) property damage;
 - 45 (C) personal injury;
 - 46 (D) unreimbursed travel or other reasonable expenses;
 - 47 (E) damages not exceeding \$500,000 for humiliation and
48 embarrassment, based on the nature of the humiliation and
49 embarrassment, including its severity, duration,
50 frequency, and breadth of observation by others;
 - 51 (F) financial losses resulting from the discriminatory act or a
52 violation of Article X or XIV; and
 - 53 (G) interest on any damages from the date of the discriminatory
54 act or violation, as provided in subsection (c);

- 55 (2) equitable relief to prevent the discrimination or the violation of
- 56 Articles X, XI, [or] XIII, or XIV and otherwise effectuate the
- 57 purposes of this Chapter;
- 58 (3) consequential damages, such as lost wages from employment
- 59 discrimination or a violation of Article X or higher housing costs
- 60 from housing discrimination, for up to 2 years after the violation,
- 61 not exceeding the actual difference in expenses or benefits that the
- 62 complainant realized while seeking to mitigate the consequences
- 63 of the violation (such as income from alternate employment or
- 64 unemployment compensation following employment
- 65 discrimination); and
- 66 (4) any other relief that furthers the purposes of this Article or Articles
- 67 X, XI, [or] XIII, or XIV, or is necessary to eliminate the effects of
- 68 any 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:

- (1) a managerial or confidential employee;
- (2) an employee who works in an executive, administrative, or professional capacity;

81 (3) an employee who earns more than twice the wage requirement
 82 established under Section 11B-33A;

83 (4) [[an employee who works as a security officer solely on Saturday
 84 or Sunday; or

85 (5)]] an employee who temporarily replaces a building maintenance
 86 worker who is absent for less than one week.

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

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

96 Covered location means an office building or contiguous group of office
 97 buildings under common ownership or management occupying a total of
 98 350,000 square feet or more in the County with an occupancy rate of 50% or
 99 more. Covered location does not include:

100 (1) an office building or group of office buildings owned by the
 101 United States, any State, or any local government; or

102 (2) a building used primarily for apartment or condominium dwelling
 103 units, retail stores, hospitals, schools, warehouses, parking
 104 garages, or data centers.

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

107 Employ means to engage a person to work for compensation.

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

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

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

114 **27-84. Minimum work week; enforcement.**

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

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

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

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

127 (1) retaliate against any person for:

128 (A) lawfully opposing any violation of this Article; or

129 (B) filing a complaint, testifying, assisting, or participating in
 130 any manner in an investigation, proceeding, or hearing
 131 under this Article; or

132 (2) obstruct or prevent enforcement or compliance with this Article.

133 **Sec. 2. Effective date.**

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

Approved:



Nancy Navarro, President, County Council

11/6/19

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Mary Anne Paradise, Acting, Clerk of the Council

Date