

Bill No. 19-21
Concerning: Finance – Reports on Settlement Agreements
Revised: 9/27/2021 Draft No. 4
Introduced: May 18, 2021
Enacted: October 5, 2021
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando
Co-Sponsors: Council President Hucker, Councilmembers Glass, Reimer, Rice and Navarro

AN ACT to:

- (1) require the County Attorney to periodically report to the County Executive and County Council regarding certain settlement agreements entered into by the County;
- (2) require the County Attorney to publish each report on the County website;
- (3) prohibit certain clause in a settlement agreement;
- (4) require the County Attorney to collect demographic information from parties;
- (5) amend the jurisdictional amount for settlement of claims by the County Attorney; and
- (6) generally amend the law regarding the settlement of claims by or against the County.

By amending

Montgomery County Code
Chapter 20, Finance
Section 20-2

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

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>

1 **Sec. 1. Section 20-2 is amended as follows:**

2 **20-2. Settlement of claims by [county attorney] County Attorney; annual reports**
 3 **required.**

4 (a) Definitions. In this Section, the following terms have the meanings
 5 indicated.

6 Civil Rights claim means an assertion by a claimant that the County or
 7 County employee injured the claimant by a violation of federal, state, or
 8 local civil rights statute.

9 Parties means a person who settles a claim or a person who allegedly
 10 committed the misconduct.

11 Self-Insurance Fund means insurance coverage, including a legal
 12 defense, provided to the County and its officials, employees, and agents
 13 under Section 20-37.

14 Self- Insurance Fund Lawsuit means a claim or legal proceeding that is
 15 covered under the Self Insurance Fund that alleges a violation of:

- 16 (1) federal or state constitutional rights;
- 17 (2) civil rights claims; or
- 18 (3) common law tort claims.

19 [[a)] (b) On behalf of the [county] County, the [county attorney] County
 20 Attorney is [hereby] authorized to [effect a settlement of] settle all claims
 21 by or against the [county] County and all court cases to which the
 22 [county] County is a party where the amount of the claim or the amount
 23 involved in the suit is:

- 24 (1) not more than [five] thirty thousand dollars [(\$5,000.00)]
 25 (\$30,000.00); or
- 26 (2) the maximum jurisdictional amount set for civil cases in District
 27 Court of Maryland under State law, whichever is greater; and

28 (3) when in the [county attorney’s] County Attorney’s judgment it is
 29 proper and advisable to do so.

30 [[(b)] (c) The [county attorney] County Attorney is further authorized to
 31 [effect] settle, with the approval of the [county executive] County
 32 Executive, [a settlement of] all other claims by or against the [county]
 33 County and all other court cases to which the [county] County is a party,
 34 when in the [county attorney’s] County Attorney’s judgment and that of
 35 the [county executive] County Executive it is advisable and proper to do
 36 so. In court cases in which the members of the [county council] County
 37 Council are parties in their capacity as such, the [county attorney] County
 38 Attorney is hereby authorized to [effect settlement] settle the cases on
 39 their behalf upon the approval of the [council] Council, except in cases
 40 where each [member of the council] Councilmember may be personally
 41 liable or responsible, in which cases settlement [shall] must be made only
 42 on behalf of each [member] Councilmember approving such settlement.

43 [[(c)] (d) The authority granted by this section [shall] must apply to all future
 44 and past settlements.

45 (e) Annual Report. By October 1 of each year, the County Attorney
 46 must submit to the County Executive and the County Council, and must
 47 publish on the County website, a written report that summarizes the
 48 settlement of each Self-Insurance Fund Lawsuit during the prior fiscal
 49 year.

50 (f) Contents of the report. For each settlement, the report must identify:

- 51 (1) the claimant or claimants;
- 52 (2) the dollar amount, or other consideration, under the settlement;
- 53 (3) the nature of the claim; [[and]]
- 54 (4) the County departments or offices involved in the claim[.];

- 55 (5) demographic information voluntarily provided by the parties; and
- 56 (6) the applicable legal authority or reason if any information relating
- 57 to the settlement is excluded because disclosure may be in
- 58 violation of federal or state law.

59 (g) *Non-disclosure clause in settlement agreements – prohibited.* The County
 60 must not agree to a non-disclosure in a settlement agreement that would
 61 prevent public disclosure of the settlement agreement. This subsection
 62 does not apply to information that is prohibited from disclosure under
 63 federal or state law.

64 (h) *Collection of Demographic Information.* The County Attorney must, at
 65 the conclusion of a settlement agreement, provide a demographic sheet
 66 for parties to voluntarily disclose demographic information. The
 67 demographic sheet must, at a minimum, collect the following data:

- 68 (1) race;
- 69 (2) ethnicity;
- 70 (3) gender identity;
- 71 (4) age;
- 72 (5) sexual orientation;
- 73 (6) religion; and
- 74 (7) any other demographic information voluntarily provided by the
- 75 parties.

76 (i) *Opt-out.* A party of a settlement agreement may choose to opt out and
 77 decline providing demographic information by signing an attestation
 78 statement provided by the County Attorney.

Approved:



10/7/2021

Tom Hucker, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date