

Chapter 425

(House Bill 1058)

AN ACT concerning

**Public Ethics – Disclosures, Training, and Use of Confidential Information
(Integrity in High Office Act)**

FOR the purpose of requiring the State Ethics Commission to provide a certain training course to a certain State official on or after a certain date; requiring a certain official to send a copy of a certain disclosure of a certain conflict of interest to the presiding officers of the General Assembly and the Ethics Commission; requiring a certain official who takes a certain executive action and has a certain interest to provide certain information to the Ethics Commission and the Joint Committee on Legislative Ethics, except under certain circumstances; requiring the Ethics Commission to provide certain information regarding certain employment or financial interests of certain State officials to the Joint Ethics Committee; providing that the Ethics Commission is not required to provide certain documents to the Joint Ethics Committee under certain circumstances; prohibiting a former official or State employee from disclosing or using certain confidential information for certain purposes; requiring a legislator to report certain information related to a certain contractual or financial relationship with a governmental ~~or~~ entity, a quasi-governmental entity, including those involving or a certain business entity, to the Joint Ethics Committee; prohibiting the Ethics Commission and the Joint Ethics Committee from posting certain information on the Internet; requiring an individual required to disclose the name of a certain business to disclose certain information; requiring that a certain statement include a certain schedule of a certain financial or contractual relationship with a certain governmental ~~or~~ entity, a quasi-governmental entity, or business entity; prohibiting a certain individual from being required to disclose the individual's employment as a public official on a financial disclosure statement; requiring ~~a certain financial disclosure statement~~ statements of certain State officials to include certain information; altering the types of interests attributable to a certain individual filing a financial disclosure statement; defining a certain term; and generally relating to disclosures, confidential information, and public ethics.

BY renumbering

Article – General Provisions

Section 5–607(j) and (k), respectively

to be Section 5–607(l) and (m), respectively

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – General Provisions

Section 5–101(a), (l), (t), and (ll), 5–502(a), (b), and (c), and 5–607(a)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to

Article – General Provisions
Section 5–101(gg–1), 5–502(f), and 5–607(a–1), (j), and (k)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions
Section 5–205(d), 5–301, 5–303, 5–501, 5–507, 5–514(b), 5–606(a), and 5–608
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5–607(j) and (k), respectively, of Article – General Provisions of the Annotated Code of Maryland be renumbered to be Section(s) 5–607(l) and (m), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – General Provisions

5–101.

(a) In this title the following words have the meanings indicated unless:

- (1) the context clearly requires a different meaning; or
- (2) a different definition is adopted for a particular provision.

(l) “Executive action” means an act:

- (1) for which the Executive Branch of State government is responsible; and
- (2) that is taken by an official or employee of the Executive Branch.

(t) (1) “Interest” means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition.

(2) “Interest” does not include:

- (i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;
- (ii) an interest in a time or demand deposit in a financial institution;
- (iii) an interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period;
- (iv) a common trust fund or a trust that forms part of a pension or a profit-sharing plan that:
 1. has more than 25 participants; and
 2. is determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code or a qualified tuition plan established pursuant to Section 529 of the Internal Revenue Code; or
- (v) a mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit.

(GG-1) ~~(1)~~ “QUASI-GOVERNMENTAL ENTITY” MEANS AN ENTITY THAT IS CREATED BY STATE STATUTE, THAT PERFORMS A PUBLIC FUNCTION, AND THAT IS SUPPORTED IN WHOLE OR IN PART BY THE STATE BUT IS MANAGED PRIVATELY.

~~(2) “QUASI-GOVERNMENTAL ENTITY” INCLUDES THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM.~~

- (ll) “State official” means:
 - (1) a constitutional officer or officer-elect in an executive unit;
 - (2) a member or member-elect of the General Assembly;
 - (3) a judge or judge-elect of a court under Article IV, § 1 of the Maryland Constitution;
 - (4) a judicial appointee as defined in Maryland Rule 18-200.3;
 - (5) a State's Attorney;
 - (6) a clerk of the circuit court;

- (7) a register of wills; or
- (8) a sheriff.

5–205.

(d) (1) The Ethics Commission shall provide a training course of at least 2 hours on the requirements of the Maryland Public Ethics Law for an individual who:

- (i) fills a vacancy in a position that has been identified as a public official position under § 5–103 of this title; [or]
- (ii) serves in a position identified as a public official position under § 5–103 of this title; **OR**

(III) ON OR AFTER JANUARY 19, 2023, IS A STATE OFFICIAL THAT IS SUBJECT TO THE JURISDICTION OF THE ETHICS COMMISSION UNDER § 5–104(A) OF THIS TITLE.

- (2) The individual shall complete the training course within 6 months of:
 - (i) filling a vacancy; or
 - (ii) a position being identified as a public official position.

(3) The training requirement under this subsection does not apply to an individual who:

- (i) except for a member of a board of license commissioners or a liquor control board, is a public official only as a member of a commission, task force, or similar entity; or
- (ii) has completed a training course provided by the Ethics Commission while serving in another public official position.

5–301.

(a) (1) Subject to subsection (b) of this section, on written request of an entity subject to this title, the appropriate advisory body shall issue an advisory opinion regarding the application of this title.

(2) On written request of any other entity, the appropriate advisory body may issue an advisory opinion.

(b) (1) The appropriate advisory body may issue informal advice instead of an advisory opinion.

(2) **[Information] EXCEPT AS PROVIDED IN § 5-502(F) OF THIS TITLE, INFORMATION** related to informal advice provided under this subsection shall remain confidential and is not subject to the requirements of § 5-303 of this subtitle.

5-303.

(a) Each advisory opinion shall be:

(1) in writing; and

(2) published in the Maryland Register, subject to subsection (b) of this section.

(b) (1) **[Before] EXCEPT AS PROVIDED IN § 5-502(F) OF THIS TITLE, BEFORE** an advisory opinion may be made public, the advisory body shall delete:

(i) the name of the entity that is the subject of the opinion; and

(ii) to the fullest extent possible, any other information that may identify the entity.

(2) The identity of the entity that is the subject of the opinion may not be revealed.

5-501.

(a) Except as otherwise provided in subsection (c) of this section, an official or employee may not participate in a matter if:

(1) the official or employee or a qualifying relative of the official or employee has an interest in the matter and the official or employee knows of the interest; or

(2) any of the following is a party to the matter:

(i) a business entity in which the official or employee has a direct financial interest of which the official or employee reasonably may be expected to know;

(ii) a business entity, including a limited liability company or a limited liability partnership, of which any of the following is an officer, a director, a trustee, a partner, or an employee:

1. the official or employee; or

2. if known to the official or employee, a qualifying relative of the official or employee;

(iii) a business entity with which any of the following has applied for a position, is negotiating employment, or has arranged prospective employment:

1. the official or employee; or

2. if known to the official or employee, a qualifying relative of the official or employee;

(iv) if the contract reasonably could be expected to result in a conflict between the private interest and the official State duties of the official or employee, a business entity that is a party to a contract with:

1. the official or employee; or

2. if known to the official or employee, a qualifying relative of the official or employee;

(v) a business entity, either engaged in a transaction with the State or subject to regulation by the official's or employee's governmental unit, in which a direct financial interest is owned by another business entity if the official or employee:

1. has a direct financial interest in the other business entity;

and

2. reasonably may be expected to know of both financial interests; or

(vi) a business entity that:

1. the official or employee knows is a creditor or an obligee of the official or employee, or of a qualifying relative of the official or employee, with respect to a thing of economic value; and

2. as a creditor or an obligee, is in a position to affect directly and substantially the interest of the official, employee, or qualifying relative.

(a-1) (1) This subsection does not apply to an individual who is a public official only as a member of a board and who receives annual compensation that is less than 25% of the lowest annual compensation at State grade level 16.

(2) A former regulated lobbyist who is or becomes subject to regulation under this title as a public official or employee may not participate in a case, contract, or other specific matter as a public official or employee for one calendar year after the

termination of the registration of the former regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.

(b) (1) The prohibitions of subsection (a) of this section do not apply if participation is allowed:

(i) as to officials and employees subject to the authority of the Ethics Commission, by regulation of the Ethics Commission;

(ii) by the opinion of an advisory body; or

(iii) by another provision of this subtitle.

(2) This section does not prohibit participation by an official or employee that is limited to the exercise of an administrative or ministerial duty that does not affect the decision or disposition with respect to the matter.

(c) (1) An official or employee who otherwise would be disqualified from participation under subsection (a) of this section shall disclose the nature and circumstances of the conflict, and may participate or act, if:

[(1)] (I) the disqualification would leave a body with less than a quorum capable of acting;

[(2)] (II) the disqualified official or employee is required by law to act; or

[(3)] (III) the disqualified official or employee is the only individual authorized to act.

(2) IF THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER IS REQUIRED TO MAKE A DISCLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER, AS APPROPRIATE, SHALL SEND A COPY OF THE DISCLOSURE TO THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY AND TO THE ETHICS COMMISSION.

(D) (1) THIS SUBSECTION APPLIES ONLY TO:

(I) THE GOVERNOR;

(II) THE LIEUTENANT GOVERNOR;

(III) THE ATTORNEY GENERAL;

(IV) THE TREASURER;

(V) THE COMPTROLLER; AND

(VI) A SECRETARY OF A PRINCIPAL DEPARTMENT IN THE EXECUTIVE BRANCH.

(2) (I) AN OFFICIAL WHO TAKES EXECUTIVE ACTION THAT THE OFFICIAL KNOWS OR REASONABLY SHOULD KNOW WOULD HAVE A MATERIAL FINANCIAL IMPACT ON THE OFFICIAL OR A PERSON WHOSE INTERESTS ARE ATTRIBUTABLE TO THE OFFICIAL UNDER § 5-608 OF THIS TITLE SHALL PROVIDE THE ETHICS COMMISSION AND THE JOINT ETHICS COMMITTEE A DESCRIPTION OF THE EXECUTIVE ACTION AND THE CIRCUMSTANCES OF THE POTENTIAL IMPACT.

(II) AN OFFICIAL IS NOT REQUIRED TO MAKE A DISCLOSURE UNDER THIS PARAGRAPH IF THE IMPACT IS COMMON TO ALL MEMBERS OF:

1. THE GENERAL PUBLIC OR A LARGE CLASS OF THE GENERAL PUBLIC; OR

2. A PROFESSION OR OCCUPATION OF WHICH THE OFFICIAL IS A MEMBER.

5-502.

(a) This section does not apply to members of the General Assembly.

(b) Except as provided in subsections (c) and (d) of this section, an official or employee may not:

(1) be employed by or have a financial interest in:

(i) an entity subject to the authority of that official or employee or of the governmental unit with which the official or employee is affiliated; or

(ii) an entity that is negotiating or has entered a contract with that governmental unit or an entity that is a subcontractor on a contract with that governmental unit; or

(2) hold any other employment relationship that would impair the impartiality and independent judgment of the official or employee.

(c) The prohibitions of subsection (b) of this section do not apply:

(1) to employment or a financial interest allowed by regulation of the Ethics Commission if:

(i) the employment does not create a conflict of interest or the appearance of a conflict of interest; or

(ii) the financial interest is disclosed;

(2) to a public official who is appointed to a regulatory or licensing unit in accordance with a statutory requirement that entities subject to the jurisdiction of the unit be represented in appointments to it;

(3) as allowed by regulations adopted by the Ethics Commission, to an employee whose government duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest; or

(4) to a member of a board who holds the employment or financial interest when appointed if the employment or financial interest is disclosed publicly to the appointing authority, the Ethics Commission, and, if applicable, the Senate of Maryland before Senate confirmation.

(F) (1) NOTWITHSTANDING §§ 5-301 AND 5-303 OF THIS TITLE, IF THE ETHICS COMMISSION AUTHORIZES, BY REGULATION, EMPLOYMENT OR A FINANCIAL INTEREST UNDER SUBSECTION (C) OF THIS SECTION BY THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER, THE ETHICS COMMISSION SHALL:

(I) PROMPTLY NOTIFY THE JOINT ETHICS COMMITTEE; AND

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PROVIDE THE JOINT ETHICS COMMITTEE A COPY OF ANY AGREEMENT, OR MEMORANDUM OF UNDERSTANDING, BETWEEN THE ETHICS COMMISSION AND THE STATE OFFICIAL OR OTHER SUMMARY OF ETHICS COMMISSION ADVICE ASSOCIATED WITH THE EXCEPTION.

(2) THE ETHICS COMMISSION IS NOT REQUIRED TO PROVIDE THE JOINT ETHICS COMMITTEE WITH INTERNAL DELIBERATIVE DOCUMENTS THAT THE STAFF OF THE ETHICS COMMISSION PROVIDED TO THE ETHICS COMMISSION.

5-507.

Except in the discharge of an official duty, an official or employee **OR A FORMER OFFICIAL OR EMPLOYEE** may not disclose or use confidential information acquired by reason of the [official's or employee's] **INDIVIDUAL'S** public position **OR FORMER PUBLIC POSITION** and not available to the public:

(1) for personal economic benefit; or

(2) for the economic benefit of another.

5-514.

(b) (1) A legislator shall report the following information in writing to the Joint Ethics Committee at the times and in the manner required by the Joint Ethics Committee:

(i) subject to paragraph (2) of this subsection, if representing a person for compensation before a State or local government agency, except in a judicial proceeding or in a quasi-judicial proceeding, the name of the person represented, the services performed, and the consideration;

(ii) if representing a State or local government agency for compensation, the name of the agency, the services performed, and the consideration;

(iii) the name of any business enterprise subject to regulation by a State agency in which the legislator and a member of the legislator's immediate family (spouse and children living with the legislator), together or separately, have:

1. the lesser of:

A. 10% or more of the capital stock of any corporation; or

B. capital stock of any corporation with a cumulative value of \$35,000 or more; and

2. any interest in a partnership, limited liability partnership, or limited liability company;

(iv) **EXCEPT FOR EMPLOYMENT AS A LEGISLATOR, details, INCLUDING THE SUBJECT MATTER AND CONSIDERATION, of any FINANCIAL OR contractual relationship, INCLUDING A FINANCIAL OR CONTRACTUAL RELATIONSHIP INVOLVING A BUSINESS ENTITY WHOSE INTERESTS ARE ATTRIBUTABLE TO THE LEGISLATOR UNDER § 5-608 OF THIS TITLE, with:**

1. THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM;

2. a governmental ~~OR~~ ENTITY OF THE STATE OR A LOCAL GOVERNMENT IN THE STATE; OR

3. A QUASI-GOVERNMENTAL entity of the State or a local government in the State[, including the subject matter and the consideration];

(v) details of any transaction with a governmental entity of the State or a local government in the State involving a monetary consideration;

(vi) except for employment as a legislator, the name of any:

1. primary employer of the legislator;
2. primary employer of the legislator's spouse; and
3. business from which the legislator or the legislator's spouse receives earned income as a result of an ownership interest in the business;

(vii) except in a judicial or quasi-judicial proceeding, the name of any client of the legislator or of a business entity in which the legislator has an ownership interest if the legislator:

1. is assisting the client in seeking a State or local government contract, license, or other competitive award; and
2. will receive or expects to receive a direct financial benefit as a result of the award of the contract, license, or other competitive award to the client; and

(viii) if the legislator's spouse is an individual regulated lobbyist, the name of each entity that has engaged the lobbyist for lobbying purposes.

(2) A legislator, on the written advice of the Counsel to the Joint Ethics Committee, is not required to report any information under this subsection if reporting the information would violate standards of client confidentiality or professional conduct.

(3) The Joint Ethics Committee may adopt procedures to keep confidential the name of the person represented in a report filed under paragraph (1)(i) of this subsection if that information is privileged or confidential under any law governing proceedings before that State or local government agency.

5-606.

(a) (1) (i) Except as provided in paragraph (3) of this subsection, the Ethics Commission and the Joint Ethics Committee shall maintain the statements submitted under this subtitle and, during normal office hours, make the statements available to the public for examination and copying.

(ii) Except as provided in paragraph (2) of this subsection, the Ethics Commission and the Joint Ethics Committee may charge a reasonable fee and adopt administrative procedures for the examination and copying of a statement.

(2) Except as provided in paragraph (3) of this subsection, for statements submitted on or after January 1, 2019, the Ethics Commission shall make freely available to the public on the Internet, through an online registration program, a financial disclosure statement required under § 5–601(a) of this subtitle and a preliminary disclosure required under § 5–602(c) of this subtitle that is filed by:

- (i) a State official;
- (ii) a candidate for office as a State official; or
- (iii) a secretary of a principal department in the Executive Branch.

(3) The Ethics Commission and the Joint Ethics Committee may not:

(I) provide public access to a portion of a statement that is filed after January 1, 2019, and that includes an individual’s home address that the individual has identified as the individual’s home address; **OR**

(II) POST ON THE INTERNET INFORMATION RELATED TO CONSIDERATION RECEIVED THAT IS REPORTED UNDER § 5–607(J) OF THIS SUBTITLE.

5–607.

(a) A statement that is required under § 5–601(a) of this subtitle shall contain schedules disclosing the information and interests specified in this section, if known, for the individual making the statement for the applicable period.

(A–1) AN INDIVIDUAL WHO IS REQUIRED TO DISCLOSE THE NAME OF A BUSINESS UNDER THIS SECTION SHALL DISCLOSE ANY OTHER NAMES THAT THE BUSINESS IS TRADING AS OR DOING BUSINESS AS.

(J) (1) THE STATEMENT SHALL INCLUDE A SCHEDULE OF ANY FINANCIAL OR CONTRACTUAL RELATIONSHIP WITH:

(I) THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM;

(II) A GOVERNMENTAL ~~OR~~ ENTITY OF THE STATE OR A LOCAL GOVERNMENT IN THE STATE; OR

(III) A QUASI–GOVERNMENTAL ENTITY OF THE STATE OR LOCAL GOVERNMENT IN THE STATE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FOR EACH FINANCIAL OR CONTRACTUAL RELATIONSHIP, THE SCHEDULE SHALL

INCLUDE A DESCRIPTION OF THE RELATIONSHIP, THE SUBJECT MATTER OF THE RELATIONSHIP, AND THE CONSIDERATION.

(3) AN INDIVIDUAL, OTHER THAN A STATE OFFICIAL OR CANDIDATE TO BE A STATE OFFICIAL, MAY NOT BE REQUIRED TO DISCLOSE THE INDIVIDUAL'S EMPLOYMENT AS A PUBLIC OFFICIAL.

(K) TO THE EXTENT NOT REPORTED UNDER SUBSECTIONS (A) THROUGH (J) OF THIS SECTION, A STATEMENT FILED ON OR AFTER JANUARY 1, 2023 BY THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER SHALL INCLUDE:

(1) THE NAME OF EACH FOR-PROFIT BUSINESS ENTITY IN WHICH THE INDIVIDUAL HAS A 10% OR GREATER INTEREST; AND

(2) THE NAME OF EACH PERSON WHO OWNS A 10% OR GREATER INTEREST IN ANY ENTITY DISCLOSED UNDER ITEM (1) OF THIS SUBSECTION.

5-608.

(a) The following are deemed to be interests of the individual under § 5-607(b), (c), [and] (d), **(J)**, AND **(K)** of this subtitle:

(1) an interest held by a spouse or child of the individual, if the interest was controlled, directly or indirectly, by the individual at any time during the applicable period;

(2) an interest held, **AT ANY TIME DURING THE APPLICABLE PERIOD**, by:

(I) a business entity in which the individual held a [30%] 10% or greater interest [at any time during the applicable period];

(II) A BUSINESS ENTITY DESCRIBED IN ITEM (I) OF THIS ITEM IN WHICH THE BUSINESS ENTITY HELD A 25% OR GREATER INTEREST;

(III) A BUSINESS ENTITY DESCRIBED IN ITEM (II) OF THIS ITEM IN WHICH THE BUSINESS ENTITY HELD A 50% OR GREATER INTEREST; AND

(IV) A BUSINESS ENTITY IN WHICH THE INDIVIDUAL DIRECTLY OR INDIRECTLY, THROUGH AN INTEREST IN ONE OR A COMBINATION OF OTHER BUSINESS ENTITIES, HOLDS A 10% OR GREATER INTEREST; and

(3) an interest held by a trust or an estate in which, at any time during the applicable period, the individual:

- (i) held a reversionary interest;
- (ii) was a beneficiary; or
- (iii) if a revocable trust, was a settlor.

(b) Subsection (a)(2) of this section does not affect:

(1) the requirement under § 5–607(b) of this subtitle of disclosure of real estate interests held in the name of a partnership, limited liability partnership, or limited liability company in which the individual holds an interest; or

(2) the requirement under § 5–607(c) of this subtitle of disclosure of all partnerships, limited liability partnerships, or limited liability companies in which the individual holds an interest.

(c) For the purposes of § 5–607 of this subtitle, interests held by a blind trust may not be considered to be interests of the person making the statement if the blind trust is approved by the Ethics Commission in accordance with regulations adopted under § 5–501(b) or § 5–502(c) of this title and is operated in compliance with those regulations.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.