

# SENATE BILL 421

P4

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CF HB 528

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By: **Senator Hettleman**

Introduced and read first time: February 2, 2023

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Teleworking Programs, Policies, and Guidelines –**  
3 **Requirements**

4 FOR the purpose of establishing certain requirements for each teleworking program, policy,  
5 and guideline adopted by a certain appropriate official in State government;  
6 authorizing certain State employees to initiate a certain grievance; requiring the  
7 University System of Maryland to include in a consolidated memorandum of  
8 understanding certain terms relating to teleworking; and generally relating to  
9 telework programs in State government.

10 BY repealing and reenacting, with amendments,  
11 Article – State Personnel and Pensions  
12 Section 2–308 and 3–602  
13 Annotated Code of Maryland  
14 (2015 Replacement Volume and 2022 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – State Personnel and Pensions**

18 2–308.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Appropriate official” means:

21 (i) for the Executive Branch, the Secretary;

22 (ii) for the Judicial Branch, the State Court Administrator;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) for the Legislative Branch, the President of the Senate and the  
2 Speaker of the House, acting jointly; or

3 (iv) for each public institution of higher education, the President of  
4 the institution.

5 (3) "Public institution of higher education" means:

6 (i) a public senior higher education institution, as defined in §  
7 10–101 of the Education Article; and

8 (ii) a community college.

9 (4) "Telework" means to work at a location other than a traditional office  
10 setting or an employee's usual and customary worksite, including:

11 (i) the employee's home;

12 (ii) a satellite office; and

13 (iii) a telework center.

14 (b) This section applies to:

15 (1) all employees in:

16 (i) the Judicial, Legislative, and Executive Branches of State  
17 government; and

18 (ii) each public institution of higher education; and

19 (2) (i) all units in the Judicial, Legislative, and Executive Branches of  
20 State government, including units with independent personnel systems; and

21 (ii) each public institution of higher education.

22 (c) Each appropriate official shall:

23 (1) establish a telework program applicable to the appropriate official's  
24 branch of government or public institution of higher education; and

25 (2) adopt a telework policy and telework guidelines applicable to the  
26 appropriate official's branch of government or public institution of higher education.

27 **(D) (1) EACH TELEWORK PROGRAM, POLICY, AND GUIDELINE ADOPTED**  
28 **UNDER SUBSECTION (C) OF THIS SECTION SHALL:**

1                   **(I) PROVIDE THAT AN EMPLOYEE IS ELIGIBLE TO APPLY TO**  
2 **TELEWORK IF:**

3                   **1. THE EMPLOYEE'S DUTIES CAN BE SUCCESSFULLY**  
4 **PERFORMED AWAY FROM THE EMPLOYEE'S WORKPLACE;**

5                   **2. THE EMPLOYEE HAS A CURRENT OVERALL**  
6 **PERFORMANCE EVALUATION OF SATISFACTORY OR AN EQUIVALENT EVALUATION**  
7 **OR BETTER; AND**

8                   **3. THE EMPLOYEE HAS COMPLETED AN INITIAL**  
9 **PROBATIONARY PERIOD, IF APPLICABLE;**

10                   **(II) PROVIDE FOR THE FOLLOWING FACTORS TO CONSIDER**  
11 **WHEN EVALUATING A REQUEST TO TELEWORK:**

12                   **1. WHETHER THE JOB POSITION OR CLASSIFICATION**  
13 **HAS HISTORICALLY BEEN SUCCESSFULLY PERFORMED BY TELEWORK;**

14                   **2. WHETHER AN EMPLOYEE HAS PREVIOUSLY**  
15 **SUCCESSFULLY PERFORMED THE EMPLOYEE'S DUTIES BY TELEWORKING;**

16                   **3. THE OPERATIONAL NEEDS OF THE WORK UNIT;**

17                   **4. THE NUMBER OF EMPLOYEES WITHIN THE WORK UNIT**  
18 **WHO ARE TELEWORKING;**

19                   **5. THE POSSIBILITY OF A HYBRID TELEWORK AND**  
20 **IN-PERSON SCHEDULE; AND**

21                   **6. THE FLEXIBILITY OF THE EMPLOYEE'S WORK**  
22 **SCHEDULE;**

23                   **(III) PROVIDE A PROCEDURE FOR AN EMPLOYEE TO INITIATE A**  
24 **REQUEST TO TELEWORK, INCLUDING REQUIRING THE APPROPRIATE OFFICIAL TO**  
25 **RESPOND IN WRITING TO THE EMPLOYEE'S REQUEST WITHIN 7 DAYS;**

26                   **(IV) AUTHORIZE AN APPROPRIATE OFFICIAL TO TERMINATE THE**  
27 **TELEWORK AGREEMENT AFTER PROVIDING WRITTEN NOTICE 14 DAYS BEFORE THE**  
28 **DATE OF TERMINATION OF THE TELEWORK AGREEMENT, INCLUDING A WRITTEN**  
29 **EXPLANATION FOR TERMINATING THE TELEWORK AGREEMENT;**

1           **(V) PROHIBIT AN APPROPRIATE OFFICIAL FROM DENYING AN**  
2 **APPLICATION TO TELEWORK ON THE BASIS THAT THE EMPLOYEE IS UNABLE TO**  
3 **PERFORM THE EMPLOYEE’S DUTIES AWAY FROM THE EMPLOYEE’S WORKPLACE IF**  
4 **ANOTHER EMPLOYEE IN THE SAME JOB POSITION OR CLASSIFICATION IS FOUND TO**  
5 **BE ELIGIBLE TO TELEWORK;**

6           **(VI) ESTABLISH REASONABLE GOALS AND EXPECTATIONS FOR**  
7 **EACH JOB POSITION FOR WORK PERFORMED WHILE TELEWORKING;**

8           **(VII) PROHIBIT AN APPROPRIATE OFFICIAL OR AGENT OF AN**  
9 **APPROPRIATE OFFICIAL FROM ENTERING ANY EMPLOYEE’S RESIDENCE FOR THE**  
10 **PURPOSE OF APPLYING, ENFORCING, OR IMPLEMENTING ANY PROVISION OF THIS**  
11 **SUBSECTION; AND**

12           **(VIII) REQUIRE AN APPROPRIATE OFFICIAL TO MAKE**  
13 **ARRANGEMENTS FOR TELEWORKING TO BE AVAILABLE FOR ALL POSSIBLE**  
14 **EMPLOYEES IN THE EVENT OF A COMMUNICABLE DISEASE OUTBREAK.**

15           **(2) (I) AN EMPLOYEE MAY INITIATE A GRIEVANCE PROCEDURE**  
16 **FOR THE TERMINATION OF A TELEWORKING AGREEMENT UNDER PARAGRAPH**  
17 **(1)(IV) OF THIS SUBSECTION UNDER THE APPROPRIATE STATUTORY GRIEVANCE**  
18 **PROCEDURE.**

19           **(II) A DECISION MAKER IN ANY STEP OF THE GRIEVANCE**  
20 **PROCEDURE MAY REINSTATE THE EMPLOYEE’S TELEWORKING AGREEMENT.**

21           **[(d)] (E) (1) Each appropriate official may:**

22                   (i) designate the positions for which an employee would be eligible  
23 to telework; and

24                   (ii) beginning fiscal year 2023, negotiate criteria for designated  
25 telework positions if the employees affected by telework policies are represented by an  
26 exclusive representative.

27           **(2) Each appropriate official shall, to the extent practicable, maximize the**  
28 **number of eligible employees participating in the telework program established under**  
29 **subsection (c) of this section.**

30           **[(e)] (F) (1) Each appropriate official shall issue guidelines to ensure the**  
31 **adequacy of information and security protection for information and information systems**  
32 **used while teleworking.**

1           (2) The appropriate official for each unit in the Executive Branch shall  
2 develop the guidelines under paragraph (1) of this subsection in coordination with the  
3 Department of Information Technology.

4           (3) Guidelines issued under this section shall, at a minimum, include  
5 requirements necessary to:

6                   (i) control access to and protect unit information and information  
7 systems;

8                   (ii) limit the introduction of vulnerabilities to unit information  
9 systems;

10                  (iii) protect information systems not under control of the unit that are  
11 used for teleworking;

12                  (iv) safeguard wireless and other communications capabilities that  
13 are used for teleworking; and

14                  (v) prevent inappropriate use of official time or resources in violation  
15 of a unit's policies.

16           (4) An employee determined to be eligible to participate in a telework  
17 program established under subsection (c) of this section shall receive and acknowledge the  
18 guidelines issued under this section before participating in the telework program.

19           **[(f)] (G)** On or before December 1 each year, each unit of State government, or  
20 the principal department in which the unit is located, shall report to the Senate Budget  
21 and Taxation Committee and the House Appropriations Committee, in accordance with §  
22 2-1257 of the State Government Article, on the number of eligible and participating  
23 employees in the applicable telework program established under subsection (c) of this  
24 section.

25 3-602.

26           (a) Subject to subsections (b) and (c) of this section, with regard to the University  
27 System of Maryland, if an exclusive representative represents more than one bargaining  
28 unit of employees and requests to bargain a consolidated memorandum of understanding,  
29 the Chancellor and the exclusive representative shall negotiate the terms of one  
30 consolidated memorandum of understanding to apply to all bargaining units for employees  
31 of all system institutions represented by the exclusive representative.

32           (b) (1) A consolidated memorandum of understanding shall include terms  
33 relating to:

34                   (i) contracting out or supplementing bargaining unit work;

- 1 (ii) duration of the consolidated memorandum of understanding;
- 2 (iii) employee rights;
- 3 (iv) grievance and appeals of discipline;
- 4 (v) health, safety, and welfare, including personal protective  
5 equipment;
- 6 (vi) insurance related to health and other benefits;
- 7 (vii) union stewards;
- 8 (viii) labor management committees;
- 9 (ix) layoffs and recall;
- 10 (x) leave;
- 11 (xi) maintenance of membership;
- 12 (xii) management rights;
- 13 (xiii) nondiscrimination;
- 14 (xiv) performance evaluations;
- 15 (xv) personnel files;
- 16 (xvi) probationary periods;
- 17 (xvii) recognition and scope;
- 18 (xviii) retirement benefits;
- 19 **(XIX) TELEWORKING;**
- 20 **[(xix)] (XX) tuition remission;**
- 21 **[(xx)] (XXI) rights and responsibilities of essential workers;**
- 22 **[(xxi)] (XXII) union rights; and**
- 23 **[(xxii)] (XXIII) wages and salaries.**

1                   (2)   (i)    A president of a system institution, or the president's designee,  
2 and the exclusive representative shall negotiate and enter into a separate agreement  
3 regarding the following matters:

- 4                               1.    designation of essential employees;
- 5                               2.    student breaks and holidays;
- 6                               3.    hours of work;
- 7                               4.    other compensation that does not directly impact wages or  
8 salary;
- 9                               5.    shift differentials; **AND**
- 10                              6.    [teleworking; and
- 11                              7.] uniforms and equipment.

12                   (ii)   A consolidated memorandum of understanding may not include  
13 terms relating to the matters listed in subparagraph (i) of this paragraph.

14                   (3)   For a matter particular to a system institution that is not listed in  
15 paragraph (1) or (2) of this subsection, the matter shall be negotiated:

16                           (i)   on mutual agreement and in writing, by the exclusive  
17 representative and the president of the system institution or the president's designee; or

18                           (ii)  if the parties in item (i) of this paragraph cannot mutually agree,  
19 as part of the consolidated memorandum of understanding.

20                   (c)   On conclusion of negotiations under this section, all matters of agreement  
21 regarding matters listed in subsection (b)(1) and (b)(3) of this section shall be included in  
22 the consolidated memorandum of understanding.

23                   (d)   Subject to § 3-603 of this subtitle, the effective date of a consolidated  
24 memorandum of understanding under this section shall be July 1 to align with the fiscal  
25 year of the University System of Maryland and shall continue in effect until a subsequent  
26 June 30.

27                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2023.