

HOUSE BILL 763

D2, L2

3lr0549

By: **Montgomery County Delegation**

Introduced and read first time: February 8, 2023

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Collective Bargaining for Sheriff’s Office Employees –**
3 **Binding Arbitration Procedures**

4 **MC 13–23**

5 FOR the purpose of requiring that the procedures for declaring an impasse and submitting
6 a dispute to binding arbitration be conducted in accordance with certain provisions
7 of the Montgomery County Code if the Sheriff of Montgomery County and a
8 bargaining representative are unable to reach agreement during negotiations on
9 matters applicable to employees of the Montgomery County Sheriff’s Office; and
10 generally relating to collective bargaining for employees of the Montgomery County
11 Sheriff’s Office.

12 BY repealing and reenacting, without amendments,
13 Article – Courts and Judicial Proceedings
14 Section 2–329(a) and (b)
15 Annotated Code of Maryland
16 (2020 Replacement Volume and 2022 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 2–329(f)
20 Annotated Code of Maryland
21 (2020 Replacement Volume and 2022 Supplement)

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

24 **Article – Courts and Judicial Proceedings**

25 2–329.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) This section applies only in Montgomery County.

2 (b) It is the intent of the General Assembly to:

3 (1) Protect the right to bargain of the Montgomery County Executive and
4 the Montgomery County Sheriff;

5 (2) Preserve a single master collective bargaining agreement to the extent
6 that a single exclusive bargaining representative represents multiple units of employees
7 covered under the Montgomery County Collective Bargaining Law; and

8 (3) Streamline, facilitate, and make more effective the collective
9 bargaining process by ensuring that there shall be a single collective bargaining agreement
10 with both the Montgomery County government and the Montgomery County Sheriff's Office
11 if a single exclusive bargaining representative represents both county government
12 employees and employees of the Sheriff's Office.

13 (f) (1) Nonprobationary deputy sheriffs below the rank of lieutenant and
14 nonprobationary civilian employees as defined in the Montgomery County Code, §
15 33-102(4), shall have the right to organize and bargain collectively in accordance with the
16 Montgomery County Code, Chapter 33, Article VII, with regard to compensation, pension
17 for active employees, fringe benefits, hours, and terms and conditions of employment,
18 including performance evaluation procedures.

19 (2) Employees, other than the assistant sheriffs, are subject to the county
20 merit system law and personnel regulations and may be excluded from those provisions
21 only to the extent that the applicability of those provisions is made the subject of collective
22 bargaining.

23 (3) (i) As to the employees described in paragraph (1) of this subsection,
24 the County Executive shall be considered the employer of the employees under the
25 Montgomery County Code, Chapter 33, Article VII, only for the purpose of collective
26 bargaining for compensation, pension, fringe benefits, and hours.

27 (ii) If a single bargaining representative represents both county
28 government employees and employees of the Sheriff's Office, any and all terms and
29 conditions of employment set forth in any current and subsequent collective bargaining
30 agreement between the county government and the bargaining representative shall be
31 applicable to employees of the Sheriff's Office unless different terms and conditions of
32 employment are negotiated by the Sheriff in accordance with paragraph (4) of this
33 subsection.

34 (4) (i) The Sheriff shall be considered the employer for all other
35 purposes and shall be considered the employer under the Montgomery County Code,
36 Chapter 33, Article VII, for all other terms and conditions of employment.

1 (ii) If a single bargaining representative represents both county
2 government employees and employees of the Sheriff's Office, the Sheriff shall bargain only
3 over particular matters, not involving compensation, pension, fringe benefits, and hours,
4 applicable to employees of the Sheriff's Office.

5 (iii) If the Sheriff and the bargaining representative disagree over
6 whether a matter is applicable to employees of the Sheriff's Office, the dispute shall be
7 resolved by the Labor Relations Administrator appointed under Chapter 33, Article VII of
8 the Montgomery County Code, following the procedures for the resolution of prohibited
9 practices charges and consistent with the General Assembly's intent to preserve a single
10 master collective bargaining agreement.

11 **(IV) IF THE SHERIFF AND THE BARGAINING REPRESENTATIVE**
12 **ARE UNABLE TO REACH AN AGREEMENT DURING NEGOTIATIONS ON MATTERS**
13 **APPLICABLE TO EMPLOYEES OF THE SHERIFF'S OFFICE, THE PROCEDURES FOR**
14 **DECLARING AN IMPASSE AND SUBMITTING A DISPUTE TO BINDING ARBITRATION**
15 **SHALL BE CONDUCTED IN ACCORDANCE WITH CHAPTER 33, ARTICLE VII OF THE**
16 **MONTGOMERY COUNTY CODE.**

17 (5) There shall be only one collective bargaining agreement covering both
18 county government employees and employees of the Sheriff's Office and any agreements
19 reached under this paragraph shall be included in an appendix or addendum to the
20 agreement between the county government and the bargaining representative.

21 (6) Any required funding for the terms of an agreement negotiated by the
22 Sheriff under this subsection is subject to the budget and fiscal policies of the county.

23 (7) Except as provided in the county merit system law and personnel
24 regulations, the provisions of this subsection and any agreement made under it may not
25 impair the right and responsibility of the Sheriff to:

26 (i) Determine the overall mission of the Sheriff's Office and, subject
27 to the budget and fiscal policies of the county, the Sheriff's Office budget;

28 (ii) Maintain and improve the efficiency and effectiveness of
29 operations;

30 (iii) Determine the services to be rendered and the operations to be
31 performed;

32 (iv) Determine the overall organizational structure, methods,
33 processes, means, and personnel by which operations are to be conducted and the location
34 of facilities;

35 (v) Direct and supervise employees;

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- 1 (vi) Hire and select new employees;
- 2 (vii) Establish the standards governing promotion of employees,
3 subject to the county merit system law and personnel regulations;
- 4 (viii) Relieve employees from duties because of lack of work or funds
5 or under conditions when the employer determines continued work would be inefficient or
6 nonproductive;
- 7 (ix) Take actions to carry out the mission of government in situations
8 of emergency;
- 9 (x) Transfer, assign, and schedule employees;
- 10 (xi) Determine the size and composition of the workforce, subject to
11 the county's budget and fiscal policies;
- 12 (xii) Set the standards of productivity and technology;
- 13 (xiii) Establish employee performance standards and evaluate
14 employees;
- 15 (xiv) Make and implement systems for awarding outstanding service
16 increments, extraordinary performance awards, and other merit awards, subject to the
17 budget and fiscal policies of the county;
- 18 (xv) Introduce new or improved technology, research, development,
19 and services;
- 20 (xvi) Control and regulate the use of machinery, equipment, and other
21 property and facilities of the Sheriff's Office;
- 22 (xvii) Maintain internal security standards;
- 23 (xviii) Create, alter, combine, contract out, or abolish any operation,
24 unit, or other division or service, except that:
- 25 1. Contracting out work that will displace employees may not
26 be undertaken by the employer unless 90 days prior to signing the contract, or on another
27 date of notice as agreed to by the parties, written notice has been given to the certified
28 representative and the contracting out of work shall be consistent with any applicable
29 provision of the Montgomery County Code; and
- 30 2. Any displacement of bargaining unit members shall be
31 conducted in a manner that is consistent with any applicable provision of the Montgomery
32 County Code and any applicable collective bargaining agreement;

1 (xix) Suspend, discharge, or otherwise discipline:

2 1. Sworn employees for cause under the Maryland Law
3 Enforcement Officers' Bill of Rights; and

4 2. Civilian employees, subject to the county merit system law
5 and collective bargaining agreement where applicable, provided that, subject to § 404 of the
6 Montgomery County Charter, any action to suspend, discharge, or otherwise discipline a
7 civilian employee may be subject to the grievance procedure set forth in the collective
8 bargaining agreement; and

9 (xx) Issue and enforce rules, policies, and regulations necessary to
10 carry out the functions of this paragraph and all other managerial functions that are not
11 inconsistent with law or the terms of the collective bargaining agreement.

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