

SENATE BILL 723

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5lr2304
CF HB 932

By: **Senators Feldman and Kagan**

Introduced and read first time: January 27, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Public Ethics – Conflicts of Interest and Blind Trust – Governor**

3 FOR the purpose of requiring the Governor within a certain period of time to place certain
4 interests into a certain certified blind trust or divest of certain interests; requiring
5 the Governor to enter into a nonparticipation agreement with the State Ethics
6 Commission for any interests not included in a blind trust; requiring a business
7 entity that seeks to obtain a State grant, competitive award, or contract to report to
8 the Ethics Commission any interest held in the business entity by the Governor or a
9 restricted individual; requiring the Governor-elect to consult with the Ethics
10 Commission to begin the process of establishing a certified blind trust or divest of
11 certain interests; and generally relating to conflicts of interest and blind trusts.

12 BY repealing and reenacting, without amendments,
13 Article – General Provisions
14 Section 5–101(a), 5–501, and 5–502(b) and (c)
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – General Provisions
19 Section 5–101(t), 5–301, 5–303, and 5–903
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2024 Supplement)

22 BY adding to
23 Article – General Provisions
24 Section 5–501.1
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2024 Supplement)

27 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Finance and Procurement
Section 13–101(a) and (c) and 17–501
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
The subtitle designation “Subtitle 5. eMaryland Marketplace” immediately
preceding Section 17–501
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY adding to
Article – State Finance and Procurement
Section 17–503
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 3–204
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
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.

(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; OR

(VI) FOR § 5-501.1 OF THIS TITLE, ANY RESIDENCE OF THE GOVERNOR FROM WHICH NO INCOME WAS DERIVED IN THE IMMEDIATELY PRECEDING YEAR.

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) Except as provided in [§ 5-502(f)] §§ 5-501.1 AND 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) Except as provided in [§ 5–502(f)] §§ 5–501.1 AND 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 1 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:

(i) the disqualification would leave a body with less than a quorum capable of acting;

(ii) the disqualified official or employee is required by law to act; or

(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.

5-501.1.

(A) IN THIS SECTION, "RESTRICTED INDIVIDUAL" MEANS:

(1) A SPOUSE OF THE GOVERNOR;

(2) A PARENT OR STEPPARENT OF THE GOVERNOR;

(3) A SIBLING OR STEPSIBLING OF THE GOVERNOR;

(4) A CHILD, STEPCHILD, FOSTER CHILD, OR WARD OF THE GOVERNOR;

(5) A MOTHER-IN-LAW OR FATHER-IN-LAW OF THE GOVERNOR;

(6) A SON-IN-LAW OR DAUGHTER-IN-LAW OF THE GOVERNOR;

(7) A GRANDPARENT OF THE GOVERNOR OR THE GOVERNOR'S SPOUSE;

(8) A GRANDCHILD OF THE GOVERNOR; OR

(9) EXCEPT FOR AN EMPLOYEE OF THE GOVERNOR, ANY INDIVIDUAL WHO RESIDES IN THE GOVERNOR'S PRIMARY RESIDENCE.

(B) (1) WITHIN 6 MONTHS AFTER TAKING THE OATH OF OFFICE THE GOVERNOR SHALL:

(I) EXCEPT AS PROVIDED IN REGULATIONS ADOPTED BY THE ETHICS COMMISSION, PLACE ALL OF THE GOVERNOR'S INTERESTS INTO A CERTIFIED BLIND TRUST APPROVED BY THE ETHICS COMMISSION AND OPERATED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE ETHICS COMMISSION; OR

(II) DIVEST ANY INTEREST THE ETHICS COMMISSION DETERMINES IS NECESSARY TO RESOLVE LIKELY OR POTENTIAL CONFLICTS OF INTEREST WITH THE GOVERNOR'S PUBLIC DUTIES.

(2) FOR GOOD CAUSE SHOWN, THE ETHICS COMMISSION MAY EXTEND THE DEADLINE TO COMPLETE THE ESTABLISHMENT OF THE CERTIFIED BLIND TRUST OR DIVESTITURE BY A REASONABLE AMOUNT OF TIME.

1 **(3) THE ETHICS COMMISSION SHALL POST ANY APPROVED**
2 **CERTIFIED BLIND TRUST AND SUPPORTING DOCUMENTS ON ITS WEBSITE.**

3 **(C) (1) THE GOVERNOR SHALL APPOINT AS THE TRUSTEE OF THE BLIND**
4 **TRUST A FINANCIAL INSTITUTION OR AN ORGANIZATION THAT HAS A MINIMUM OF 2**
5 **YEARS OF EXPERIENCE IN TRUST MANAGEMENT ACTIVITIES.**

6 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
7 **PARAGRAPH, THE GOVERNOR MAY NOT RECEIVE FROM A TRUSTEE APPOINTED**
8 **UNDER PARAGRAPH (1) OF THIS SUBSECTION COMMUNICATIONS REGARDING**
9 **MANAGEMENT OF OR INCOME FROM THE BLIND TRUST AS A TRUSTOR OR**
10 **BENEFICIARY OF THE BLIND TRUST AT ANY TIME DURING THE GOVERNOR'S TERM**
11 **OF OFFICE.**

12 **(II) THE GOVERNOR MAY RECEIVE FROM A TRUSTEE**
13 **APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION COMMUNICATIONS**
14 **NECESSARY TO PREPARE AND FILE THE GOVERNOR'S PERSONAL INCOME TAX**
15 **RETURNS.**

16 **(D) (1) THE GOVERNOR MAY NOT FAIL TO INCLUDE ANY INTEREST IN A**
17 **BLIND TRUST WITHOUT THE WRITTEN APPROVAL OF THE ETHICS COMMISSION.**

18 **(2) FOR ANY INTEREST NOT INCLUDED IN A BLIND TRUST UNDER**
19 **PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING AN INTEREST EXEMPTED UNDER**
20 **REGULATIONS ADOPTED BY THE ETHICS COMMISSION UNDER THIS SECTION, THE**
21 **GOVERNOR SHALL ENTER INTO A NONPARTICIPATION AGREEMENT WITH THE**
22 **ETHICS COMMISSION THAT PROHIBITS THE GOVERNOR FROM PARTICIPATING IN**
23 **ANY WAY IN A MATTER THAT INVOLVES THE INTEREST, INCLUDING A MATTER**
24 **BEFORE THE BOARD OF PUBLIC WORKS.**

25 **(3) NOTWITHSTANDING §§ 5-301 AND 5-303 OF THIS TITLE, THE**
26 **ETHICS COMMISSION SHALL:**

27 **(I) POST ON ITS WEBSITE ANY NONPARTICIPATION**
28 **AGREEMENT ENTERED INTO WITH THE GOVERNOR; AND**

29 **(II) PROVIDE A COPY OF ANY NONPARTICIPATION AGREEMENT**
30 **ENTERED INTO WITH THE GOVERNOR TO:**

31 **1. THE PRESIDING OFFICERS OF THE GENERAL**
32 **ASSEMBLY;**

1 2. THE JOINT ETHICS COMMITTEE; AND

2 3. THE EXECUTIVE SECRETARY AND THE GENERAL
3 COUNSEL OF THE BOARD OF PUBLIC WORKS.

4 (4) BY JANUARY 31 EACH YEAR, THE GOVERNOR SHALL CERTIFY TO
5 THE ETHICS COMMISSION IN A FORM REQUIRED BY THE ETHICS COMMISSION THAT
6 THE GOVERNOR HAS:

7 (I) OBTAINED NO NEW INTERESTS IN THE IMMEDIATELY
8 PRECEDING YEAR THAT ARE NOT INCLUDED IN THE BLIND TRUST; OR

9 (II) ENTERED INTO A NONPARTICIPATION AGREEMENT WITH
10 THE ETHICS COMMISSION FOR ANY NEW INTEREST OBTAINED IN THE IMMEDIATELY
11 PRECEDING YEAR THAT WAS NOT INCLUDED IN THE BLIND TRUST.

12 (E) (1) THIS SUBSECTION APPLIES TO A BUSINESS ENTITY THAT THE
13 GOVERNOR OR RESTRICTED INDIVIDUAL, TOGETHER OR SEPARATELY, HAS:

14 (I) FOR A CORPORATION, 10% OR MORE OF THE CAPITAL
15 STOCK; OR

16 (II) FOR A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR
17 LIMITED LIABILITY CORPORATION, ANY INTEREST.

18 (2) A BUSINESS ENTITY THAT SEEKS TO OBTAIN A STATE GRANT,
19 COMPETITIVE AWARD, OR CONTRACT, INCLUDING A CONTRACT FOR THE SALE OR
20 PURCHASE OF REAL OR PERSONAL PROPERTY, SHALL REPORT TO THE ETHICS
21 COMMISSION IN A FORM REQUIRED BY THE ETHICS COMMISSION ANY INTEREST
22 HELD IN THE BUSINESS ENTITY BY THE GOVERNOR OR A RESTRICTED INDIVIDUAL.

23 (3) THE ETHICS COMMISSION SHALL POST ANY REPORT IT RECEIVES
24 UNDER PARAGRAPH (2) OF THIS SUBSECTION ON ITS WEBSITE.

25 (F) (1) THE ETHICS COMMISSION MAY GRANT AN EXEMPTION TO THE
26 REQUIREMENT TO PLACE AN INTEREST IN A BLIND TRUST UNDER SUBSECTION (B)
27 OF THIS SECTION.

28 (2) IN GRANTING AN EXEMPTION UNDER PARAGRAPH (1) OF THIS
29 SUBSECTION, THE ETHICS COMMISSION MAY CONSIDER ISSUES IT DETERMINES
30 APPROPRIATE TO PREVENT CONFLICTS OF INTEREST, INCLUDING WHETHER THE
31 INTEREST:

1 **(I) INVOLVES A CLOSELY HELD CORPORATION OR A FAMILY**
2 **BUSINESS;**

3 **(II) IS READILY MARKETABLE;**

4 **(III) HAS AN IMPACT UNIQUE TO THE GOVERNOR; OR**

5 **(IV) IS SUBJECT TO ANY RESTRICTIONS OR ENCUMBRANCES.**

6 **(G) THE ETHICS COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT**
7 **THIS SECTION, INCLUDING REGULATIONS THAT ESTABLISH STANDARDS AND**
8 **REQUIREMENTS FOR THE TYPES OF INTERESTS THAT MAY BE EXEMPTED FROM THE**
9 **REQUIREMENT TO PLACE AN INTEREST IN A BLIND TRUST UNDER SUBSECTION (B)**
10 **OF THIS SECTION.**

11 5-502.

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

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

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

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

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

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

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

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

27 (ii) the financial interest is disclosed;

28 (2) to a public official who is appointed to a regulatory or licensing unit in
29 accordance with a statutory requirement that entities subject to the jurisdiction of the unit
30 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.

5–903.

(a) **(1)** Except as provided in § 5–716 of this title, a person that knowingly and willfully violates Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both.

(2) A PERSON THAT KNOWINGLY AND WILLFULLY VIOLATES § 5–501.1(E) OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(b) If the person is not an individual, each officer or partner who knowingly authorizes or participates in a violation of **§ 5–501.1(E) OR** Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to the penalty specified in subsection (a) of this section.

(c) A fine assessed under this section shall be distributed to the Fair Campaign Financing Fund established under § 15–103 of the Election Law Article.

Article – State Finance and Procurement

13–101.

(a) In this subtitle the following words have the meanings indicated.

(c) “eMaryland Marketplace” or “eMaryland Marketplace Advantage” means the Internet–based procurement system managed by the Department of General Services.

Subtitle 5. eMaryland Marketplace[– Use by Certain Persons].

17–501.

(a) In this subtitle the following words have the meanings indicated.

(b) “eMaryland Marketplace” has the meaning stated in § 13–101 of this article.

(c) “Procurement” means procurement by competitive sealed bidding, competitive sealed proposals, or noncompetitive negotiation.

17-503.

(A) IN THIS SECTION, “RESTRICTED INDIVIDUAL” HAS THE MEANING STATED IN § 5-501.1 OF THE GENERAL PROVISIONS ARTICLE.

(B) THE DEPARTMENT OF GENERAL SERVICES SHALL INCLUDE WITH EACH NOTICE OF A PROCUREMENT PUBLISHED ON EMARYLAND MARKETPLACE ON OR AFTER OCTOBER 1, 2025, A CHECK-OFF BOX TO INDICATE AN OWNERSHIP INTEREST BY THE GOVERNOR OR A RESTRICTED INDIVIDUAL IN THE BIDDER OR OFFEROR AS REPORTED UNDER § 5-501.1 OF THE GENERAL PROVISIONS ARTICLE.

Article – State Government

3-204.

(a) To inform career civil servants about program goals and new policies and to establish communication with the administration of the incumbent Governor, the Governor-elect may circulate questionnaires or otherwise obtain information from the administration.

(b) The Governor-elect may ask any question that will help to carry out the purpose of this subtitle, including a question that is intended to obtain:

(1) a description of a program;

(2) a recommendation and justification for expansion, limitation, or elimination of a service;

(3) a projection of future developments or needs in a program;

(4) a recommendation for an administrative change;

(5) a comment on anticipated federal developments that might affect a program or the State budget; or

(6) an elaboration of procedural details.

(c) The incumbent Governor shall direct that all official documents, vital information, and procedural manuals are to be made available to the Governor-elect.

(D) THE GOVERNOR-ELECT SHALL CONSULT WITH THE STATE ETHICS COMMISSION TO BEGIN THE PROCESS OF ESTABLISHING A CERTIFIED BLIND TRUST

1 OR DIVESTING OF PRIVATE INTERESTS IN ACCORDANCE WITH § 5-501.1 OF THE
2 GENERAL PROVISIONS ARTICLE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2026, the
4 State Ethics Commission shall review and update its regulations governing blind trusts
5 and restrictions on employment, financial interests, and participation in State matters.

6 SECTION 3. AND BE IT FURTHER ENACTED, That:

7 (1) the requirements of Section 1 of this Act shall apply to the Governor
8 beginning on the effective date of the regulations required under Section 2 of this Act; and

9 (2) the Governor shall comply with the requirements of Section 1 of this
10 Act within 6 months after the effective date of the regulations required under Section 2 of
11 this Act.

12 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2025.