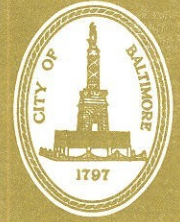


CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

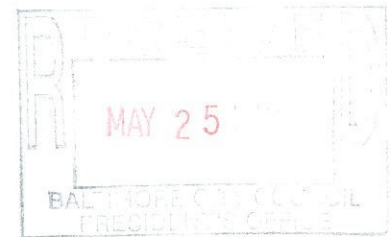


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

May 25, 2011

Honorable President and Members
of the City Council of Baltimore
c/o Karen Randle, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 10-0190R – Investigative Hearing -
Baltimore City Government – Criteria for Continued Employment

Dear President and City Council Members:

You requested that the Law Department review for form and legal sufficiency City Council Bill 10-0190R. The bill requests that the City Solicitor, the Acting Inspector General, the Director of Public Works, the Director of Human Resources, and the Labor Commissioner address the City Council on departmental and administrative policy governing the continued employment of persons convicted of criminal offenses or acts of moral turpitude.

On May 6, 2010, the Mayor issued an Executive Order which implemented the following policy:

1. A City employee shall notify his/her Agency Human Resource Officer within 24 hours of his/her arrest or conviction for any criminal offense, other than a minor traffic offense not involving the use of alcohol or drugs.
2. A City employee shall keep his/her Agency Human Resource Officer informed of the status of his/her criminal proceeding.
3. The Agency Human Resource Officer shall promptly notify his/her Appointing Authority of an employee's arrest or conviction of a criminal offense.
4. Within 72 hours of learning of an employee's arrest or criminal conviction, the Agency Human Resource Officer shall convene an informal conference with the employee (or his/her representative) to determine whether the criminal conviction undermines or interferes with the employee's ability to perform the functions of his/her position. If the employee is unavailable due to his/her incarceration, the employee shall use his/her accumulated leave (excluding sick leave) to cover the period of absence.
5. If the employee's arrest or conviction undermines or interferes with the employee's ability to perform the functions of his/her position, the employee shall be suspended pending the outcome of the criminal charges,

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or pending his/her informal conference. The Appointing Authority in his/her sole discretion shall determine whether the suspension is with or without pay.

Any violation of the Order is grounds for disciplinary action, including termination from City employment. The Order also requires the City's Human Resource Director to convene a committee to develop a comprehensive Administrative Policy pursuant to the Order.

Council Bill 10-0190R is an appropriate expression of the Council's decision to consider and determine issues related to the continued employment of persons convicted of certain offenses. *See Inlet Assocs. v. Assateague House Condominium Assoc.*, 545 A.2d 1296, 1303 (Md. 1988) (explaining that a resolution is "'an expression of opinion or mind concerning some particular item of business coming within the legislative body's official cognizance....'") (quoting *McQuillin Mun. Corp.* § 15:2 (3rd Ed.)). Furthermore, Section 9 of Article III of the City Charter states "The heads of departments ... shall appear before the City Council if requested by a majority vote of its members ...and shall be entitled to participate in the discussion of matters relating to their respective departments."

The Law Department approves Council Bill 10-0190R for form and legal sufficiency.

Very truly yours,



Ashlea H. Brown
Assistant Solicitor

cc: Angela Gibson, City Council Liaison, Mayor's Office
George Nilson, City Solicitor
Elena R. DiPietro, Chief Solicitor
Gary Gilkey, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Victor Tervalá, Assistant Solicitor