

ORDINANCE NO. 2012- 015

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF  
SHELBY COUNTY, INDIANA ADOPTING NEPOTISM POLICIES REGARDING  
EMPLOYMENT MATTERS AND  
MATTERS RELATED TO COUNTY CONTRACTS**

**WHEREAS**, pursuant to Indiana Code 36-1-20.2-9(a) (as added by Section 7 of P.L. 135-2012, which section is effective July 1, 2012), the legislative body of a unit is required to adopt a policy for the unit regarding the employment of relatives by the County, which policy includes certain minimum requirements set forth in Indiana Code 36-1-20.2; and

**WHEREAS**, pursuant to Indiana Code 36-1-21-4(a) (as added by Section 8 of P.L. 135-2012, which section is effective July 1, 2012), the legislative body of a unit is required to adopt a policy for the unit regarding contracts between the unit and relatives (or business entities wholly or partially owned by relatives) of elected officials of the unit, which policy includes certain minimum requirements set forth in Indiana Code 36-1-21; and

**WHEREAS**, the Board of Commissioners of Shelby County, Indiana as the legislative body of Shelby County, Indiana (the "County"), now desires to adopt policies applicable to any department, office or elected official of the County Government in order to ensure compliance by the County with Indiana Code 36-1-20.2-9(a) and Indiana Code 36-1-21-4(a) upon the effective date of such provisions.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of Shelby County, Indiana, as the legislative body of Shelby County, Indiana, that:

1. The Board hereby adopts the policy attached as Attachment A hereto and made a part hereof as if fully set forth herein, as the official policy of the County regarding the employment of relatives by the County.
2. The Board hereby adopts the policy attached as Attachment B hereto and made a part hereof as if fully set forth herein, as the official policy of the County regarding contracts between (i) any department, office or elected official of the County, and (ii) relatives (or businesses wholly or partially owned by relatives) of elected officials of the County.
3. The members of the Board of Commissioners, the County Council, the Auditor of the County, the legal counsel of the County, and other appropriate officers of the County are hereby authorized to take all such actions and execute all such instruments as are necessary or desirable to effectuate this Ordinance and the implementation of such policies.
4. This Ordinance shall be in full force and effect from and after its adoption.

DULY ADOPTED on this 25<sup>th</sup> day of June, 2012, by the Board of Commissioners of Shelby County, Indiana, by a vote of 2 ayes and 0 nays.

BOARD OF COMMISSIONERS OF  
SHELBY COUNTY, INDIANA

\_\_\_\_\_  
Tony Newton, President

*Kevin Nigh*

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Kevin Nigh, Member

*David Mohr*

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David Mohr, Member

ATTEST:

*Amy Glackman*  
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Amy Glackman, County Auditor

## ATTACHMENT "A"

### Shelby County Government Nepotism Policy for Employees

#### A. Key Definitions

For purposes of this policy, "*direct line of supervision*" means an elected officer or employee of the County who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does **not** include the responsibilities of the executive, legislative body or fiscal body of the County, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the County.

For purposes of this policy, "*employed*" means an individual who is employed by the County on a full-time, part-time, temporary, intermittent, or hourly basis. The term does **not** include an individual who holds only an elected office of the County. The term includes an individual who is a party to an employment contract with the County.

For the purposes of this policy, "*relative*" means any of the following:

1. A spouse;
2. A parent or stepparent;
3. A child or stepchild, including adopted children;
4. A brother, sister, stepbrother, or stepsister, including brothers or sisters by the half-blood;
5. A niece or nephew;
6. An aunt or uncle; and/or
7. A daughter-in-law or son-in-law.

#### B. Anti-Nepotism Policy Regarding Employment Matters

In order to comply with Indiana law and in order to avoid potential conflicts of interests, misunderstandings and appearances of favoritism, impropriety or bias, the legislative body has adopted the following policy to establish certain minimum requirements regarding the employment of "relatives" by any department, office or elected official of Shelby County, Indiana (the "County"). Except as otherwise provided herein, individuals who are relatives may not be employed by the County in a position that results in one relative being in the "direct line of supervision" of the other relative. Accordingly, this policy generally prohibits employment of more than one family member when that employment causes either: (1) two members of the

same family being employed in the same department; or (2) any form of reporting or supervisory relationship between family members.

**C. Change in Relationship; Procedure to Comply**

If, as a result of marriage, birth, adoption, the creation of other family relationships, election results, or hiring decisions, two or more relatives (who are current employees of any office or department in the County) are inadvertently placed into one of the two categories described in the paragraph above, then such relatives shall determine which of such relatives will seek to transfer to another job or otherwise take action to comply with this policy. The County shall have no obligation to either: (1) create a new position or job opening for any current employee; or (2) transfer any current employee to a new or existing position or job opening if the individual does not meet all selection standards or fulfill all qualifications deemed to be required for the position by the County. If the relatives are unable to determine which individual(s) will seek to transfer into another position or otherwise take action to comply with this policy, then the Board of Commissioners of Shelby County, Indiana (the "Board of Commissioners") will make a determination to ensure the County's compliance with this policy. A determination of the Board of Commissioners may include a decision to transfer, reassign, terminate or otherwise take action regarding one of the employees to ensure compliance with this policy. A decision of the Board of Commissioners may be based upon a variety of factors and criteria, including, but not limited to: (i) staffing and other needs; (ii) the jobs being performed by the employees and the necessity of each such job relative to the continued operation of the County government, and (iii) each employee's skills, job knowledge, prior work history, job performance and abilities.

**D. County Employees Related to Elected Officers; Promotions**

[Notwithstanding the provisions of this policy and Indiana Code 36-1-20.2-10 to the contrary, in the event that an individual is an existing employee of the County to whom the provisions of this policy apply on the date such individual's relative begins serving a term of an elected office of the County, the individual may remain employed by the County and maintain the individual's position or rank even if such circumstances result in the elected officer being in the direct line of supervision of such existing employee. In addition, an existing employee described in the preceding sentence may be: (1) promoted to a position even if such promotion would result in the elected officer being in the direct line of supervision of such existing employee; or (2) promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department or a merit fire department (if applicable), even if such promotion would result in the elected officer being in the direct line of supervision of such existing employee. However, in the event that the provisions of this paragraph should apply, either the elected official or the existing employee shall file with the Board of Commissioners, no later than the date such individual's relative begins serving a term of an elected office of the County, a full disclosure statement, which must: (a) be in writing; and (b) describe the relationship between the elected official and the existing.]

**E. Employees Covered by the Policy**

[This policy does not apply to an employee who is employed by the County on or prior to July 1, 2012, unless the individual has a break in employment with the County. The following are **not** considered a break in employment with the County: (1) the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation, or (2) the individual's employment with the County is terminated followed by immediate reemployment by the County, without loss of payroll time.]

**F. Prison Matron of the County under I.C. 36-8-10-5**

[Notwithstanding any provisions of this policy and Indiana Code 36-1-20.2-10 to the contrary, the County Sheriff's spouse **may** be employed as prison matron for the County under Indiana Code 36-8-10-5, and the spouse **may** be in the County Sheriff's direct line of supervision.]

**G. Deputy Coroners of the County**

[Notwithstanding any provisions of this policy and Indiana Code 36-1-20.2-10 to the contrary, an individual: (1) who served as coroner; (2) who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana; (3) who, as coroner, received certification under IC 36-2-14-22.3; and (4) whose successor in the office of coroner is a relative of the individual; **may** be hired in the position of deputy coroner of the County and be in the County Coroner's direct line of supervision.]

**H. Annual Certification by Elected Officers**

Each elected officer of the County shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this policy or Indiana Code 36-1-20.2. Each officer shall submit the certification to the Board of Commissioners not later than December 31 of each year.

**I. Interpretation of Policy**

This policy is intended to implement the minimum requirements necessary to comply with Indiana Code 36-1-20.2, as the same may be amended from time to time. If and to the extent this policy is not in compliance with Indiana Code 36-1-20.2, this policy shall be deemed to include such terms not otherwise included herein, and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this policy to implement the minimum requirements set forth in Indiana Code 36-1-20.2. To the extent this policy is inconsistent with any provision of Indiana law, including, without limitation, Indiana Code 36-1-20.2., such other provisions of Indiana law shall control. If any portion of this policy is held or deemed to be, or is, invalid, illegal, inoperable or unenforceable, the validity, legality, operability and enforceability of the

remaining portions of this policy shall not be affected, and this policy shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

**J. Right to Review Application of Policy and Make Amendments**

The County reserves the right to review the specific facts of any case where this policy is implicated and make exceptions on a case-by-case basis consistent with the provisions of Indiana law, including, without limitation, the provisions of Indiana Code 36-1-20.2. Furthermore, the County reserves the right to modify or amend the provisions of this policy from time to time consistent with the provisions of the provisions of Indiana law, including, without limitation, the provisions of Indiana Code 36-1-20.2.

## ATTACHMENT "B"

### Nepotism Policy – Contracting with the County

#### A. Key Definitions

For purposes of this policy, "*elected official*" means any member of: (a) the Board of Commissioners of the Shelby County, or (b) the Shelby County Council.

For the purposes of this policy, "*relative*" means any of the following:

1. A spouse;
2. A parent or stepparent;
3. A child or stepchild, including adopted children;
4. A brother, sister, stepbrother, or stepsister, including brothers or sisters by the half-blood;
5. A niece or nephew;
6. An aunt or uncle; and/or
7. A daughter-in-law or son-in-law.

#### B. Anti-Nepotism Policy Regarding Shelby County Contracts

In order to comply with Indiana law and in order to avoid potential conflicts of interests, misunderstandings and appearances of favoritism, impropriety or bias, the legislative body has adopted the following policy to establish certain minimum requirements regarding contracts between (i) any department, office or elected official of Shelby County, Indiana (the "County"), and (ii) "relatives" (or businesses wholly or partially owned by relatives) of "elected officials" of the County. Except as otherwise provided herein, Shelby County may enter into or renew a contract for the procurement of goods and services or a contract for public works with either: (i) an individual who is a relative of an elected official, or (ii) a business entity that is wholly or partially owned by a relative of an elected official; only if the requirements of this policy are satisfied and such contract would not result in a violation of Indiana Code 35-44-1-3 by the elected official.

#### C. Procedure to Comply

Notwithstanding any provisions of this policy and Indiana Code 36-1-21, the County may enter into or renew a contract with an individual or business entity described in the paragraph above only if the following conditions are met:

1. The elected official shall file with the Board of Commissioners of Shelby County, Indiana (the "Board of Commissioners") a full disclosure statement, which must: (a) be in writing; (b) describe the contract or purchase to be made by the County; (c) describe the relationship that the elected official has to the individual or business entity with whom the County seeks to contract or from whom the County seeks to purchase; (d) be affirmed under penalty of perjury; (e) be submitted to the legislative body of the County and be accepted by the legislative body of the County in a public meeting of the legislative body prior to final action on the contract or purchase; and (f) be filed, not later than fifteen (15) days after final action on the contract or purchase, with (i) the State board of accounts, and (ii) the clerk of the circuit court of the County.

2. The appropriate agency of the County shall file a certified statement with the Board of Commissioners: (a) that the contract amount or purchase price was the lowest amount or price bid or offered; or (b) setting forth the reasons why the vendor or contractor was selected.

3. The County satisfies any other contracting requirements under Indiana Code 5-22 (concerning the purchase of goods or services) or Indiana Code 36-1-12 (concerning public works).

4. The elected official also complies with the disclosure provisions required by Indiana Code 35-44-1-3, if applicable.

#### **D. Annual Certification by Elected Officers**

Each elected officer of the County shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this policy or Indiana Code 36-1-21. Each officer shall submit the certification to the Board of Commissioners not later than December 31 of each year.

#### **E. Interpretation of Policy**

This policy is intended to implement the minimum requirements necessary to comply with Indiana Code 36-1-21, as the same may be amended from time to time. If and to the extent this policy is not in compliance with Indiana Code 36-1-21, this policy shall be deemed to include such terms not otherwise included herein, and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this policy to implement the minimum requirements set forth in Indiana Code 36-1-21. To the extent this policy is inconsistent with any provision of Indiana law, including, without limitation, Indiana Code 36-1-21., such other provisions of Indiana law shall control. If any portion of this



policy is held or deemed to be, or is, invalid, illegal, inoperable or unenforceable, the validity, legality, operability and enforceability of the remaining portions of this policy shall not be affected, and this policy shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

**F. Right to Review Application of Policy and Make Amendments**

The County reserves the right to review the specific facts of any case where this policy is implicated and make exceptions on a case-by-case basis consistent with the provisions of Indiana law, including, without limitation, the provisions of Indiana Code 36-1-21. Furthermore, the County reserves the right to modify or amend the provisions of this policy from time to time consistent with the provisions of the provisions of Indiana law, including, without limitation, the provisions of Indiana Code 36-1-21.