

CHAPTER 3

(Senate Bill 6)

AN ACT concerning

Human Services

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the "Human Services Article", to revise, restate, and recodify the laws of the State relating to the Department of Human Resources and its component parts, including the Maryland Commission for Women, the Commission on Indian Affairs, the Commission on Responsible Fatherhood, the Social Services Administration, the Family Investment Administration, and the Community Services Administration; revising, restating, and recodifying certain provisions relating to local departments of social services, local directors, and local boards; revising, restating, and recodifying certain provisions relating to public assistance, including the Family Investment Program, the Public Assistance to Adults Program, burial assistance, and food stamps; revising, restating, and recodifying certain provisions relating to community services, including the Energy Assistance Program, transitional services programs, adult services, and the Citizenship Promotion Program; revising, restating, and recodifying certain provisions relating to the Department of Disabilities, the Maryland Commission on Disabilities, the Interagency Disabilities Board, the State Disabilities Plan, the Personal Assistance Services Advisory Committee, Blind Industries and Services of Maryland, disability programs and services, and individuals with disabilities; revising, restating, and recodifying certain provisions relating to children, youth, and families, including the Advisory Council to the Children's Cabinet, local management boards, the State Coordinating Council for Children, local coordinating councils, the Children's Cabinet Fund, at-risk youth prevention and diversion programs, residential child care programs, and the Residential Child Care Capital Grant Program; revising, restating, and recodifying certain provisions relating to the Department of Juvenile Services and its facilities, programs, and services, the Interstate Compact on Juveniles, and the Juvenile Services Facilities Capital Program; revising, restating, and recodifying certain provisions relating to the Department of Aging, the Commission on Aging, the Interagency Committee on Aging Services, programs and services for seniors, continuing care, and senior citizen activities centers; revising, restating, and recodifying certain provisions relating to the Maryland Legal Services Corporation; revising, restating, and recodifying certain provisions relating to confidentiality of certain information and sharing of certain information by certain agencies; repealing certain obsolete provisions; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the laws of the State relating to human services.

BY repealing

Article 10 – Legal Officials

Section 45A through 45H and 45J through 45–O, inclusive, and the subheading
“The Maryland Legal Services Corporation”

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing

Article 30 – Deaf, Mute or Blind

In its entirety

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 41 – Governor – Executive and Administrative Departments

Section 2–501 through 2–503, inclusive, and the subtitle “Subtitle 5. At-Risk Youth Prevention and Diversion Programs”; 6–101 through 6–104, inclusive, and 6–106, and the subtitle “Subtitle 1. Creation and Organization of Department”; 6–201 through 6–204, inclusive, and the subtitle “Subtitle 2. Community Services Administration”; 6–401 through 6–406, inclusive, and the subtitle “Subtitle 4. Energy Assistance Program Act”; 6–7A–01 through 6–7A–06, inclusive, and the subtitle “Subtitle 7A. Community Attendant Services and Supports Program”; 6–901 through 6–912, inclusive, and the subtitle “Subtitle 9. Commission on Indian Affairs”; 14–901 through 14–914, inclusive, and the subtitle “Subtitle 9. Assistive Technology Guaranteed Loan Fund”; 18–401 through 18–408 and the subtitle “Subtitle 4. Commission on Responsible Fatherhood”; 18–601 through 18–604, inclusive, and the subtitle “Subtitle 6. Attendant Care Program”; and 18–701 through 18–707, inclusive, and the subtitle “Subtitle 7. Residential Child Care Capital Grant Program”

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 49C – Maryland Commission for Women

In its entirety

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 49D – Children, Youth, and Family Services

In its entirety

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 70B – Department of Aging

In its entirety

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 78A – Public Works

Section 55 and the subheading “Check Cashing”

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 83C – Juvenile Services

In its entirety

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article 88A – Department of Human Resources

Section 1, 1A, 2, 3, 3A(a), (b), (c)(1), (2), and (4), (d), and (e), 4, 5, 6, 6A, 7, and 13 through 18, inclusive, and the subheading “In General”; 44A through 53A, inclusive, 55, and 56, and the subtitle “Family Investment Program”; 62 and the subheading “Prohibited Acts”; 62A and the subheading “Funeral Expenses”; 63 through 71, inclusive, 73 through 78, inclusive, 80, 82, and 83, and the subheading “State Public Assistance Programs”; 84 through 87, inclusive, and the subheading “Community Home Care Services”; 88 and 89 and the subheading “Federal Food Coupons”; 124 through 127, inclusive, and the subtitle “Homeless Women -- Shelter”; 128 through 129A, inclusive, and the subheading “Respite Care for Developmentally and Functionally Disabled Persons”; 130A through 130E, inclusive, and the subtitle “Statewide Nutrition Assistance Program”; 130F through 130K, inclusive, and the subtitle “Maryland Emergency Food Program”; 131 through 137, inclusive, and the subtitle “Shelter, Nutrition, and Service Program for Homeless Individuals”; 138 through 141, inclusive, and 143 and the subtitle “Certified Adult Residential Environment Program”; and 145 and the subtitle “Citizenship Promotion Program”

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing

Article – Courts and Judicial Proceedings

Section 7–408

Annotated Code of Maryland

(2006 Replacement Volume and 2006 Supplement)

BY repealing

Article – State Government

Section 9–1101 through 9–1119, inclusive, and the subtitle “Subtitle 11.
Department of Disabilities”

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing

The article designation “Article 88A – Department of Human Resources”

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY adding

New Article – Human Services

Section 1–101 through 11–801, inclusive, and the various titles

Annotated Code of Maryland

BY repealing and reenacting, with amendments,

Article 1 – Rules of Interpretation

Section 25

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article 1 – Rules of Interpretation

Section 34

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 6–306

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing

Chapter 9 of the Acts of the General Assembly of 2006

Section 4

BY repealing and reenacting, with amendments,

Chapter 9 of the Acts of the General Assembly of 2006

Section 5

BY repealing and reenacting, with amendments, and transferring to the Session Laws

Article 88A – Department of Human Resources

Section 3A(c)(3) and 4A

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the following Section(s) of the Annotated Code of Maryland be repealed:

Article 10 – Legal Officials

Section 45A through 45–O, inclusive, and the subheading “The Maryland Legal Services Corporation”

Article 30 – Deaf, Mute or Blind

In its entirety

Article 41 – Governor – Executive and Administrative Departments

Section 2–501 through 2–503, inclusive, and the subtitle “Subtitle 5. At–Risk Youth Prevention and Diversion Programs”; 6–101 through 6–104, inclusive, and 6–106, and the subtitle “Subtitle 1. Creation and Organization of Department”; 6–201 through 6–204, inclusive, and the subtitle “Subtitle 2. Community Services Administration”; 6–401 through 6–406, inclusive, and the subtitle “Subtitle 4. Energy Assistance Program Act”; 6–7A–01 through 6–7A–06, inclusive, and the subtitle “Subtitle 7A. Community Attendant Services and Supports Program”; 6–901 through 6–912, inclusive, and the subtitle “Subtitle 9. Commission on Indian Affairs”; 14–901 through 14–914, inclusive, and the subtitle “Subtitle 9. Assistive Technology Guaranteed Loan Fund”; 18–401 through 18–408 and the subtitle “Subtitle 4. Commission on Responsible Fatherhood”; 18–601 through 18–604, inclusive, and the subtitle “Subtitle 6. Attendant Care Program”; and 18–701 through 18–707, inclusive, and the subtitle “Subtitle 7. Residential Child Care Capital Grant Program”

Article 49C – Maryland Commission for Women

In its entirety

Article 49D – Children, Youth, and Family Services

In its entirety

Article 70B – Department of Aging

In its entirety

Article 78A – Public Works

Section 55 and the subheading “Check Cashing”

Article 83C – Juvenile Services

In its entirety

Article 88A – Department of Human Resources

Section 1, 1A, 2, 3, 3A(a), (b), (c)(1), (2), and (4), (d), and (e), 4, 5, 6, 6A, 7, and 13 through 18, inclusive, and the subheading “In General”; 44A through 53A, inclusive, 55, and 56, and the subtitle “Family Investment Program”; 62 and the subheading “Prohibited Acts”; 62A and the subheading “Funeral

Expenses”; 63 through 71, inclusive, 73 through 78, inclusive, 80, 82, and 83, and the subheading “State Public Assistance Programs”; 84 through 87, inclusive, and the subheading “Community Home Care Services”; 88 and 89 and the subheading “Federal Food Coupons”; 124 through 127, inclusive, and the subtitle “Homeless Women -- Shelter”; 128 through 129A, inclusive, and the subheading “Respite Care for Developmentally and Functionally Disabled Persons”; 130A through 130E, inclusive, and the subtitle “Statewide Nutrition Assistance Program”; 130F through 130K, inclusive, and the subtitle “Maryland Emergency Food Program”; 131 through 137, inclusive, and the subtitle “Shelter, Nutrition, and Service Program for Homeless Individuals”; 138 through 141, inclusive, and 143 and the subtitle “Certified Adult Residential Environment Program”; and 145 and the subtitle “Citizenship Promotion Program”

Article – Courts and Judicial Proceedings

Section 7–408

Article – State Government

Section 9–1101 through 9–1119, inclusive, and the subtitle “Subtitle 11. Department of Disabilities”

The article designation “Article 88A – Department of Human Resources”

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

ARTICLE - HUMAN SERVICES

TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

SUBTITLE 1. DEFINITIONS.

1–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) COUNTY.

“COUNTY” MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

REVISOR’S NOTE: This subsection is new language added to indicate that a reference in this article to a “county” includes Baltimore City unless the reference specifically provides otherwise.

Article 1, § 14(a) provides that “county” includes Baltimore City “unless such construction would be unreasonable”. Because the word “unreasonable” in that section has been interpreted in various ways, the

Human Services Article Review Committee decided that an explicit definition of "county" should be included in this article.

(C) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the term "person".

The definition of "person" in this subsection does not include a governmental entity or unit. The Court of Appeals of Maryland has held consistently that the word "person" in a statute does not include the State, its agencies, or subdivisions unless an intention to include these entities is made manifest by the legislature. *See, e.g., Unnamed Physician v. Commission on Medical Discipline*, 285 Md. 1, 12-14 (1979).

As to the term "personal representative", *see* Art. 1, § 5.

(D) STATE.

"STATE" MEANS:

(1) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE UNITED STATES; OR

(2) THE DISTRICT OF COLUMBIA.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the term "state". This definition conforms to the definition of "state" in other revised articles of the Code. *See, e.g.,* IN § 1-101(kk), PUC § 1-101(dd), SP § 1-101(o), CS § 1-101(n), and CR § 1-101(i).

SUBTITLE 2. GENERAL PROVISIONS.

PART I. CONFIDENTIALITY OF INFORMATION.

1-201. CONFIDENTIALITY OF INFORMATION -- IN GENERAL.

(A) PROHIBITED ACT.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY NOT DISCLOSE ANY INFORMATION CONCERNING AN APPLICANT FOR OR RECIPIENT OF SOCIAL SERVICES, CHILD WELFARE SERVICES, CASH ASSISTANCE, FOOD STAMPS, OR MEDICAL ASSISTANCE THAT IS DIRECTLY OR INDIRECTLY DERIVED FROM THE RECORDS, INVESTIGATIONS, OR COMMUNICATIONS OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION OR A UNIT OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION OR THAT IS ACQUIRED IN THE COURSE OF THE PERFORMANCE OF OFFICIAL DUTIES.

(B) EXCEPTIONS.

THIS SECTION DOES NOT PROHIBIT THE DISCLOSURE OF INFORMATION:

(1) IN ACCORDANCE WITH A COURT ORDER; OR

(2) TO AN OFFICER OR EMPLOYEE OF ANY STATE OR LOCAL GOVERNMENT, THE UNITED STATES, OR A FIDUCIARY INSTITUTION, IF THE OFFICER OR EMPLOYEE IS ENTITLED TO THE INFORMATION IN AN OFFICIAL CAPACITY AND THE DISCLOSURE IS NECESSARY TO ADMINISTER PUBLIC ASSISTANCE, MEDICAL ASSISTANCE, SOCIAL SERVICES, OR CHILD WELFARE SERVICES PROGRAMS.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 6(a) and (f).

Subsection (a) of this section is revised in standard language used to state a prohibition.

In subsection (a) of this section, the prohibition that a person may not "disclose" certain information is substituted for the former prohibition that a person may not "divulge or make known" certain information for clarity and brevity.

Also in subsection (a) of this section, the reference to a "municipal corporation" is substituted for the former reference to a "city" to conform to Md. Constitution, Art. XI-E.

Also in subsection (a) of this section, the reference to a "unit of the State, a county, or a municipal corporation" is substituted for the former reference to "subdivisions or agencies thereof" for clarity and consistency. *See* General Revisor's Note to article.

Also in subsection (a) of this section, the former phrase "in any manner" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "papers [and] files" is deleted as included in the reference to "records".

Also in subsection (a) of this section, the former reference to "persons" is deleted in light of the reference to a "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (b)(2) of this section, the former reference to an "authorized" officer or employee is deleted as included in the reference to the officer or employee being "entitled to the information in an official capacity".

Also in subsection (b)(2) of this section, the reference to an employee of

“any state or local government” is substituted for the former reference to an employee of “the State [or], another state or local government” for brevity.

Also in subsection (b)(2) of this section, the former reference to “discharg[ing] responsibilities” is deleted as surplusage.

Also in subsection (b)(2) of this section, the reference to “child welfare services” programs is added for clarity. This addition is called to the attention of the General Assembly.

Subsection (c) of this section is revised in standard language used to state a penalty.

In subsection (c) of this section, the reference to a person being subject to a certain penalty “on conviction” is added to state expressly that which only was implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Also in subsection (c) of this section, the former reference to the penalty being “in the discretion of the court” is deleted as implicit in setting a maximum penalty.

Defined terms: “County” § 1-101

“Person” § 1-101

“State” § 1-101

1-202. CONFIDENTIALITY OF INFORMATION — CHILD ABUSE AND NEGLECT REPORTS AND RECORDS.

(A) PROHIBITED ACT.

EXCEPT AS OTHERWISE PROVIDED IN TITLE 5, SUBTITLES 7 AND 12 OF THE FAMILY LAW ARTICLE, § 1-203 OF THIS SUBTITLE, AND THIS SECTION, A PERSON MAY NOT DISCLOSE A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT.

(B) DISCLOSURE REQUIRED.

A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT SHALL BE DISCLOSED:

(1) UNDER A COURT ORDER;

(2) UNDER AN ORDER OF AN ADMINISTRATIVE LAW JUDGE, IF:

(I) THE REQUEST FOR DISCLOSURE CONCERNS A CASE PENDING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

(II) PROVISIONS ARE MADE TO COMPLY WITH OTHER STATE OR FEDERAL CONFIDENTIALITY LAWS AND TO PROTECT THE IDENTITY OF THE REPORTER OR OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY THE DISCLOSURE; OR

(3) ON A WRITTEN REQUEST, TO THE BALTIMORE CITY HEALTH DEPARTMENT:

(I) IF THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE; OR

(II) IF THE RECORD OR REPORT CONCERNS A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.

(C) DISCLOSURE AUTHORIZED.

A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT:

(1) MAY BE DISCLOSED ON REQUEST TO:

(I) PERSONNEL OF THE SOCIAL SERVICES ADMINISTRATION OR A LOCAL DEPARTMENT OF SOCIAL SERVICES, LAW ENFORCEMENT PERSONNEL, AND MEMBERS OF MULTIDISCIPLINARY CASE CONSULTATION TEAMS, INCLUDING AN ADDICTION SPECIALIST AS DEFINED IN TITLE 5, SUBTITLE 12 OF THE FAMILY LAW ARTICLE OR § 5-314 OF THIS ARTICLE, WHO ARE INVESTIGATING A REPORT OF KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT OR PROVIDING SERVICES TO OR ASSESSING A CHILD OR FAMILY THAT IS THE SUBJECT OF THE REPORT;

(II) LOCAL OR STATE OFFICIALS RESPONSIBLE FOR THE ADMINISTRATION OF CHILD PROTECTIVE SERVICES, OR CHILD CARE, FOSTER CARE, OR ADOPTION LICENSING, APPROVAL, OR REGULATIONS, AS NECESSARY TO CARRY OUT THEIR OFFICIAL FUNCTIONS;

(III) THE STATE COUNCIL ON CHILD ABUSE AND NEGLECT OR ITS DESIGNEE, THE STATE CITIZENS REVIEW BOARD FOR CHILDREN OR ITS DESIGNEE, OR A CHILD FATALITY REVIEW TEAM, AS NECESSARY TO CARRY OUT THEIR OFFICIAL FUNCTIONS;

(IV) A PERSON WHO IS THE ALLEGED ABUSER OR NEGLECTOR, IF THAT PERSON IS RESPONSIBLE FOR THE CHILD'S WELFARE AND PROVISIONS ARE MADE FOR THE PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE INFORMATION;

(V) A LICENSED PRACTITIONER WHO, OR AN AGENCY, INSTITUTION, OR PROGRAM THAT, IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT FOR A PURPOSE RELEVANT TO THE TREATMENT OR CARE;

(VI) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR TEMPORARY CARE AND CUSTODY OF THE CHILD, IF PROVISIONS ARE MADE FOR THE

PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE INFORMATION;

(VII) THE APPROPRIATE PUBLIC SCHOOL SUPERINTENDENT TO CARRY OUT APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTIONS FOLLOWING A REPORT OF SUSPECTED CHILD ABUSE INVOLVING A STUDENT COMMITTED BY:

1. A PUBLIC SCHOOL EMPLOYEE IN THAT SCHOOL SYSTEM;
2. AN INDEPENDENT CONTRACTOR WHO SUPERVISES OR WORKS DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM; OR
3. AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, INCLUDING A BUS DRIVER OR BUS ASSISTANT, WHO SUPERVISES OR WORKS DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM;

(VIII) THE DIRECTOR OF A LICENSED CHILD CARE FACILITY OR LICENSED CHILD PLACEMENT AGENCY TO CARRY OUT APPROPRIATE PERSONNEL ACTIONS FOLLOWING A REPORT OF SUSPECTED CHILD ABUSE OR NEGLECT ALLEGED TO HAVE BEEN COMMITTED BY AN EMPLOYEE OF THE FACILITY OR AGENCY AND INVOLVING A CHILD WHO IS CURRENTLY OR WAS PREVIOUSLY UNDER THE CARE OF THAT FACILITY OR AGENCY;

(IX) THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE; OR

(X) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A LICENSED PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER TO MAKE DISCHARGE DECISIONS CONCERNING A CHILD, WHEN THE PRACTITIONER SUSPECTS THAT THE CHILD MAY BE IN DANGER AFTER DISCHARGE BASED ON THE PRACTITIONER'S OBSERVATION OF THE BEHAVIOR OF THE CHILD'S PARENTS OR IMMEDIATE FAMILY MEMBERS; AND

(2) MAY BE DISCLOSED BY THE STATE DEPARTMENT OF EDUCATION TO THE OPERATOR OF A CHILD CARE CENTER THAT IS REQUIRED TO BE LICENSED OR TO HOLD A LETTER OF COMPLIANCE UNDER TITLE 5, SUBTITLE 5, PART VII OF THE FAMILY LAW ARTICLE OR TO A FAMILY DAY CARE PROVIDER WHO IS REQUIRED TO BE REGISTERED UNDER TITLE 5, SUBTITLE 5, PART V OF THE FAMILY LAW ARTICLE, TO DETERMINE THE SUITABILITY OF AN INDIVIDUAL FOR EMPLOYMENT IN THE CHILD CARE CENTER OR FAMILY DAY CARE HOME.

(D) LIMITATION ON DISCLOSURE TO HOSPITAL OR BIRTHING CENTER.

ONLY THE FOLLOWING INFORMATION CONCERNING CHILD ABUSE AND NEGLECT MAY BE DISCLOSED TO A PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER UNDER SUBSECTION (C)(1)(X) OF THIS SECTION:

(1) WHETHER THERE IS A PRIOR FINDING OF INDICATED CHILD ABUSE OR NEGLECT BY EITHER PARENT; AND

(2) WHETHER THERE IS AN OPEN INVESTIGATION OF CHILD ABUSE OR NEGLECT PENDING AGAINST EITHER PARENT.

(E) USE OF INFORMATION BY BALTIMORE CITY HEALTH DEPARTMENT; LIABILITY FOR UNAUTHORIZED RELEASE.

(1) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A REPORT OR RECORD UNDER SUBSECTION (B) OF THIS SECTION.

(2) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT RECEIVES A REPORT OR RECORD UNDER SUBSECTION (B) OF THIS SECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO THE DEPARTMENT OF HUMAN RESOURCES DETAILING THE PURPOSES FOR WHICH THE RECORD WAS USED.

(F) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 6(b), (c), (f), and (g).

Subsection (a) of this section is revised in standard language used to state a prohibition.

In subsection (a) of this section, the former clause "all records and reports concerning child abuse or neglect are confidential" is deleted as implicit in the prohibition that "a person may not disclose a record or report concerning child abuse or neglect".

In subsection (c)(1)(i) of this section, the reference to "the Social Services Administration or a local department of social services" is substituted for the former reference to "local or State departments of social services" for consistency with terminology used elsewhere in this article.

In subsection (c)(1)(iv) of this section, the reference to the "alleged abuser or neglecter" is substituted for the former reference to "the alleged child abuser or the person who is suspected of child neglect" for brevity and consistency with § 1-203 of this subtitle.

Subsection (f) of this section is revised in standard language used to state a penalty.

In subsection (f) of this section, the reference to a person being subject to a certain penalty "on conviction" is added to state expressly that which only was implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Also in subsection (f) of this section, the former reference to the penalty

being "in the discretion of the court" is deleted as implicit in setting a maximum penalty.

Defined term: "Person" § 1-101

1-203. DISCLOSURE OF INFORMATION -- CHILD ABUSE OR NEGLECT RESULTING IN DEATH OR SERIOUS PHYSICAL INJURY.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "LOCAL DEPARTMENT" MEANS THE DEPARTMENT OF SOCIAL SERVICES THAT HAS JURISDICTION IN THE COUNTY:

(I) WHERE THE ALLEGEDLY ABUSED OR NEGLECTED CHILD LIVES;
OR

(II) IF DIFFERENT, WHERE THE ABUSE OR NEGLECT IS ALLEGED TO HAVE TAKEN PLACE.

(3) "LOCAL DIRECTOR" MEANS THE DIRECTOR OF THE LOCAL DEPARTMENT.

(4) "MEDICAL REPORT" MEANS A PSYCHOLOGICAL, PSYCHIATRIC, THERAPEUTIC, CLINICAL, OR MEDICAL REPORT OR EVALUATION RELATED TO THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR NEGLECTOR.

(5) "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

(B) CIRCUMSTANCES WARRANTING DISCLOSURE.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE LOCAL DIRECTOR OR THE SECRETARY MAY DISCLOSE INFORMATION CONCERNING CHILD ABUSE OR NEGLECT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IF:

(I) THE LOCAL DIRECTOR OR THE SECRETARY DETERMINES THAT THE DISCLOSURE IS NOT CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR OTHER CHILDREN IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR NEGLECTOR;

(II) THE ALLEGED ABUSER OR NEGLECTOR HAS BEEN CHARGED WITH A CRIME RELATED TO A REPORT OF CHILD ABUSE OR NEGLECT; AND

(III) THE CHILD NAMED IN A REPORT OF ABUSE OR NEGLECT HAS DIED OR SUFFERED A SERIOUS PHYSICAL INJURY, AS DEFINED IN § 3-201 OF THE CRIMINAL LAW ARTICLE.

(2) IN DETERMINING WHETHER DISCLOSURE IS CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR OTHER CHILDREN IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR NEGLECTOR

UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE LOCAL DIRECTOR OR THE SECRETARY SHALL CONSIDER THE EFFECT THAT DISCLOSURE MAY HAVE ON THE PROVISION OF SERVICES TO THE CHILD, THE CHILD'S HOUSEHOLD OR FAMILY MEMBERS, AND ANY CHILDREN IN THE CARE OF THE ALLEGED ABUSER OR NEGLECTOR.

(C) CONSULTATION WITH CERTAIN PERSONS.

BEFORE DISCLOSING THE INFORMATION:

(1) THE LOCAL DIRECTOR OR THE SECRETARY SHALL CONSULT THE PRIMARY LAW ENFORCEMENT AGENCY AND THE STATE'S ATTORNEY'S OFFICE CONCERNING WHETHER DISCLOSURE OF THE INFORMATION WOULD JEOPARDIZE OR PREJUDICE ANY RELATED INVESTIGATION OR PROSECUTION; AND

(2) THE LOCAL DIRECTOR AND THE SECRETARY SHALL CONSULT EACH OTHER.

(D) INFORMATION AUTHORIZED TO BE DISCLOSED.

THE LOCAL DIRECTOR OR THE SECRETARY MAY DISCLOSE:

(1) THE NAME OF THE ALLEGEDLY ABUSED OR NEGLECTED CHILD;

(2) THE DATE OF THE REPORT OF THE ALLEGED CHILD ABUSE OR NEGLECT AND OF ANY PRIOR OR SUBSEQUENT REPORTS;

(3) THE FINDINGS MADE BY THE LOCAL DEPARTMENT AT THE CONCLUSION OF ITS INVESTIGATION AND THE DISPOSITION MADE BY THE LOCAL DEPARTMENT BASED ON ITS FINDINGS;

(4) ANY SERVICES PROVIDED TO THE ALLEGED ABUSER OR NEGLECTOR, THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE HOUSEHOLD OR FAMILY MEMBERS;

(5) THE NUMBER OF REFERRALS FOR PROFESSIONAL SERVICES FOR THE ALLEGED ABUSER OR NEGLECTOR, THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE HOUSEHOLD OR FAMILY MEMBERS;

(6) ANY PRIOR ADJUDICATION AS A CHILD IN NEED OF ASSISTANCE OF THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR NEGLECTOR; AND

(7) ANY INFORMATION CONCERNING THE CIRCUMSTANCES OF THE ALLEGED CHILD ABUSE OR NEGLECT AND THE INVESTIGATION OF THE CIRCUMSTANCES, IF THE LOCAL DIRECTOR OR THE SECRETARY DETERMINES THAT THE DISCLOSURE IS CONSISTENT WITH THE PUBLIC INTEREST.

(E) INFORMATION PROHIBITED FROM DISCLOSURE.

(1) THE LOCAL DIRECTOR OR THE SECRETARY MAY NOT:

(I) DISCLOSE THE IDENTITY OF OR PROVIDE AN IDENTIFYING DESCRIPTION OF THE PERSON WHO MADE THE REPORT;

(II) DISCLOSE THE NAME OF A SIBLING OF THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, A PARENT OF THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AN INDIVIDUAL LEGALLY RESPONSIBLE FOR THE CHILD, OR ANOTHER HOUSEHOLD OR FAMILY MEMBER, OTHER THAN THE ALLEGED ABUSER OR NEGLECTOR;

(III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DISCLOSE A MEDICAL REPORT; OR

(IV) EXCEPT FOR THE INFORMATION DESCRIBED IN SUBSECTION (D) OF THIS SECTION, DISCLOSE THE FILE RELATING TO THE ALLEGEDLY ABUSED OR NEGLECTED CHILD.

(2) NOTWITHSTANDING TITLE 4, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE, THE LOCAL DIRECTOR OR THE SECRETARY MAY DISCLOSE A MEDICAL REPORT RELATED TO THE CAUSE OF THE CHILD'S INJURY OR DEATH AS A RESULT OF THE ALLEGED ABUSE OR NEGLECT.

(F) FORM FOR DISCLOSURE.

IN CONSULTATION WITH THE LOCAL DIRECTORS, THE SECRETARY SHALL DEVELOP A FORM FOR DISCLOSURE OF THE INFORMATION DESCRIBED IN SUBSECTION (D) OF THIS SECTION.

(G) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT GRANT A RIGHT TO ANY PERSON TO RECEIVE THE INFORMATION DESCRIBED IN SUBSECTION (D) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 6A.

In subsection (a)(3) of this section, the reference to a "local director" is substituted for the former reference to a "director" for consistency with terminology used elsewhere in this article.

In subsections (a)(4) and (d)(6) of this section, the references to a "sibling" of the child and "another child" in the household of the abuser are substituted for the former references to "siblings" of the child and "other children" in the household of the abuser in light of Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (b)(2) of this section, the conjunctive "and" is substituted for the former disjunctive "or" to clarify that the local director or the Secretary must consider the effects that disclosure may have on the provision of services to all of the individuals specified, rather than to only one of them.

In subsection (c)(2) of this section, the reference to the local director and the Secretary consulting "each other" is substituted for the former references to the local director consulting "the Secretary if the director

discloses” and the Secretary consulting “the director if the Secretary discloses” for clarity and brevity.

In subsection (e)(1)(i) of this section, the phrase “disclose the identify of” is substituted for the former phrase “[i]dentify the name of” for clarity and consistency within this subsection.

In subsection (e)(1)(ii) of this section, the references to a “sibling” of the child and “another household or family member” are substituted for the former references to the child’s “siblings” and “other household or family members” in light of Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (e)(1)(iii) of this section, the phrase “[e]xcept as provided in paragraph (2) of this subsection,” is substituted for the former phrase “except as related to the cause of the child’s injury or death as a result of the abuse or neglect” for brevity and consistency with subsection (e)(2) of this section.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the reference to “household or family members” in subsection (d)(4) and (5) of this section is unclear. The General Assembly may wish to clarify to whom these provisions apply.

Defined term: “County” § 1-101

1-204. CONSTRUCTION OF PART.

THIS PART DOES NOT PROHIBIT:

(1) THE PUBLICATION, FOR ADMINISTRATIVE OR RESEARCH PURPOSES, OF STATISTICS OR OTHER DATA THAT IS CLASSIFIED IN A MANNER THAT PREVENTS THE IDENTIFICATION OF PARTICULAR PERSONS OR CASES;

(2) THE DEPARTMENT OF HUMAN RESOURCES FROM OBTAINING AN INDIVIDUAL’S FINANCIAL RECORDS FROM A FIDUCIARY INSTITUTION IN THE COURSE OF VERIFYING THE INDIVIDUAL’S ELIGIBILITY FOR PUBLIC ASSISTANCE; OR

(3) DISCLOSURES AUTHORIZED UNDER § 1-303 OF THE FINANCIAL INSTITUTIONS ARTICLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 6(d).

In the introductory language of this section, the reference to this “part” is substituted for the former reference to this “section” to reflect the reorganization of material derived from former Art. 88A, § 6, although this part is derived, in part, from material outside former Art. 88A, § 6. No substantive change is intended.

1-205. REGULATIONS.

THE DEPARTMENT OF HUMAN RESOURCES SHALL ADOPT REGULATIONS GOVERNING ACCESS TO AND USE OF CONFIDENTIAL INFORMATION THAT THE DEPARTMENT OR A LOCAL DEPARTMENT OF SOCIAL SERVICES POSSESSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 6(e).

In this section, the reference to the Department "adopt[ing]" regulations is substituted for the former reference to the Department "issu[ing]" regulations. *See* General Revisor's Note to article.

1-206. RESERVED.

1-207. RESERVED.

PART II. INFORMATION SHARING BY AGENCIES SERVING CHILDREN, YOUTH, AND FAMILIES.

1-208. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) PERSON IN INTEREST.

"PERSON IN INTEREST" MEANS:

(1) A MINOR, IF THE INFORMATION REQUESTED CONCERNS TREATMENT TO WHICH THE MINOR HAS THE RIGHT TO CONSENT AND HAS CONSENTED UNDER TITLE 20, SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE;

(2) A PARENT, IF THE PARENTAL RIGHTS OF THE PARENT HAVE NOT BEEN TERMINATED;

(3) A GUARDIAN, CUSTODIAN, OR REPRESENTATIVE OF A MINOR, DESIGNATED BY A COURT, IF AUTHORIZED TO ACT ON BEHALF OF OR INSTEAD OF A PARENT; OR

(4) AN INDIVIDUAL AUTHORIZED TO ACT AS A SURROGATE FOR A PARENT OR GUARDIAN IN ACCORDANCE WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49D, § 3-101.

(C) PUBLIC AGENCY.

“PUBLIC AGENCY” MEANS A STATE OR LOCAL GOVERNMENT UNIT OR A QUASI-GOVERNMENTAL ENTITY.

REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(k).

No changes are made.

1–209. LEGISLATIVE INTENT.

(A) IN GENERAL.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT PUBLIC AGENCIES THAT SERVE CHILDREN, YOUTH, AND FAMILIES IN THE STATE EXCHANGE INFORMATION WITH THE WRITTEN CONSENT OF THE PERSON IN INTEREST OR ANOTHER INDIVIDUAL AUTHORIZED TO GIVE CONSENT UNDER THIS SUBTITLE.

(B) PURPOSE.

THE EXCHANGE OF INFORMATION UNDER SUBSECTION (A) OF THIS SECTION IS FOR THE PURPOSE OF:

(1) CARRYING OUT THE POLICY ESTABLISHED UNDER § 8–102 OF THIS ARTICLE FOR CHILDREN, YOUTH, AND FAMILY SERVICES;

(2) FACILITATING THE DEVELOPMENT OF A SEAMLESS SYSTEM OF FAMILY-FOCUSED SERVICES; AND

(3) ACHIEVING A COMPREHENSIVE AND COORDINATED INTERAGENCY APPROACH TO PROVIDING A CONTINUUM OF CARE THAT IS FAMILY- AND CHILD-ORIENTED.

REVISOR’S NOTE: This section formerly was Art. 49D, § 3–102.

The only changes are in style and cross-references.

Defined terms: “Person in interest” § 1–208

“Public agency” § 1–208

1–210. DISCLOSURE OF INFORMATION AND RECORDS — IN GENERAL.

NOTWITHSTANDING ANY OTHER STATE LAW AND EXCEPT AS PROVIDED IN § 1–211 OF THIS SUBTITLE, ON WRITTEN REQUEST, A PUBLIC AGENCY SHALL DISCLOSE INFORMATION AND RECORDS ON CHILDREN, YOUTH, AND FAMILIES SERVED BY THAT AGENCY TO:

(1) ANOTHER PUBLIC AGENCY THAT SERVES THE SAME CHILDREN, YOUTH, AND FAMILIES;

(2) ANOTHER PUBLIC AGENCY THAT HAS CHILDREN OR YOUTH IN A PROGRAM, HOME, OR RESIDENTIAL FACILITY FUNDED OR LICENSED BY THAT AGENCY; OR

(3) THE GOVERNOR’S OFFICE FOR CHILDREN.

REVISOR’S NOTE: This section formerly was Art. 49D, § 3–103.

The only changes are in style and cross-references.

Defined term: "Public agency" § 1-208

1-211. LIMITATIONS ON DISCLOSURE.

(A) IN GENERAL.

(1) A PUBLIC AGENCY MAY NOT DISCLOSE INFORMATION OR RECORDS UNDER § 1-210 OF THIS SUBTITLE IF:

(I) DISCLOSURE IS PROHIBITED BY FEDERAL LAW; OR

(II) THE PUBLIC AGENCY HAS NOT OBTAINED WRITTEN CONSENT IF REQUIRED BY § 1-212 OF THIS SUBTITLE.

(2) A PUBLIC AGENCY MAY DISCLOSE ONLY THE INFORMATION AND RECORDS THAT ARE IDENTIFIED SPECIFICALLY IN THE WRITTEN REQUEST.

(B) CHILD PROTECTIVE SERVICES RECORDS.

(1) A PUBLIC AGENCY MAY NOT DISCLOSE CHILD PROTECTIVE SERVICES RECORDS COLLECTED BEFORE OCTOBER 1, 1993, UNLESS THE PERSON IN INTEREST GIVES CONSENT AFTER BEING GIVEN AN OPPORTUNITY TO REVIEW THE RECORDS AND THE INFORMATION TO BE DISCLOSED.

(2) ON REQUEST, THE PERSON IN INTEREST MAY REVIEW THE ENTIRE CHILD PROTECTIVE SERVICES RECORD REGARDING THE MINOR.

(3) A PUBLIC AGENCY MAY NOT DISCLOSE TO THE PERSON IN INTEREST OR A REQUESTING PUBLIC AGENCY THE IDENTITY OF:

(I) A REPORTER OF ABUSE OR NEGLECT; OR

(II) ANOTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY THE DISCLOSURE.

(C) CONFIDENTIALITY.

INFORMATION AND RECORDS DISCLOSED TO A PUBLIC AGENCY UNDER THIS PART SHALL REMAIN CONFIDENTIAL AND, EXCEPT AS PROVIDED IN § 1-212(C) OF THIS SUBTITLE, MAY NOT BE FURTHER DISCLOSED.

(D) INFORMATION COLLECTED BY CHILDREN'S CABINET.

INFORMATION COLLECTED BY THE CHILDREN'S CABINET UNDER § 1-212 OF THIS SUBTITLE MAY NOT BE REDISCLOSED IN ANY FORM THAT REVEALS THE IDENTITY OF A RECIPIENT OF SERVICES.

REVISOR'S NOTE: This section formerly was Art. 49D, §§ 3-104 and 3-106.

The only changes are in style and cross-references.

Defined terms: "Person in interest" § 1-208

"Public agency" § 1-208

1-212. WRITTEN CONSENT.

(A) REQUIRED.

EXCEPT WHERE THE CONSENT OF THE PERSON IN INTEREST IS NOT REQUIRED BY LAW, A PUBLIC AGENCY MAY DISCLOSE INFORMATION OR RECORDS UNDER § 1-210 OF THIS SUBTITLE ONLY AFTER OBTAINING WRITTEN CONSENT FROM:

(1) THE PERSON IN INTEREST; OR

(2) ANOTHER INDIVIDUAL AUTHORIZED TO GIVE CONSENT UNDER SUBSECTION (B) OF THIS SECTION.

(B) PERSON IN INTEREST NOT REASONABLY AVAILABLE.

(1) FOR THE PURPOSES OF THIS SUBSECTION, A PERSON IN INTEREST IS CONSIDERED NOT REASONABLY AVAILABLE IF:

(I) AFTER REASONABLE ORAL OR WRITTEN INQUIRY, THE REQUESTING PUBLIC AGENCY IS UNAWARE OF THE EXISTENCE OF A PERSON IN INTEREST;

(II) AFTER REASONABLE INQUIRY, THE REQUESTING PUBLIC AGENCY CANNOT DETERMINE THE LOCATION OF A PERSON IN INTEREST; OR

(III) AFTER REASONABLE EFFORTS BY THE REQUESTING PUBLIC AGENCY TO CONTACT THE PERSON IN INTEREST, THE PERSON IN INTEREST HAS NOT RESPONDED IN A TIMELY MANNER, TAKING INTO ACCOUNT THE NEEDS OF THE MINOR FOR WHOM SERVICES ARE TO BE PROVIDED.

(2) IF THE PERSON IN INTEREST IS NOT REASONABLY AVAILABLE TO GIVE WRITTEN CONSENT, THE FOLLOWING PERSONS, NOT LISTED IN ORDER OF PRIORITY, MAY CONSENT IN WRITING TO THE RELEASE OF INFORMATION OR RECORDS REGARDING A MINOR:

(I) AN ADULT WHO IS ACTING AS THE PARENT OF A MINOR, NOT INCLUDING A TEACHER OR A BABY-SITTER;

(II) A COURT THAT HAS JURISDICTION OVER AN ACTION AFFECTING THE PARENT-CHILD RELATIONSHIP OF WHICH THE MINOR IS THE SUBJECT; OR

(III) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF JUVENILE SERVICES, OR A LOCAL DEPARTMENT OF SOCIAL SERVICES, THAT HAS THE CARE AND CUSTODY OF A MINOR.

(3) A PERSON AUTHORIZED TO CONSENT TO THE RELEASE OF INFORMATION OR RECORDS UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL CONFIRM IN WRITING THAT THE PERSON IN INTEREST IS NOT REASONABLY AVAILABLE.

(4) THE PUBLIC AGENCY RELEASING THE INFORMATION SHALL INCLUDE THE WRITTEN CONFIRMATION IN THE RECORD FROM WHICH THE INFORMATION IS RELEASED.

(C) DISCLOSURE TO CHILDREN'S CABINET.

(1) THIS SUBSECTION APPLIES:

(I) NOTWITHSTANDING ANY OTHER STATE LAW; AND

(II) IF DISCLOSURE IS NOT PROHIBITED BY FEDERAL LAW.

(2) WITHOUT THE CONSENT OF THE PERSON IN INTEREST, A PUBLIC AGENCY MAY DISCLOSE TO THE CHILDREN'S CABINET:

(I) THE NAME, ADDRESS, DATE OF BIRTH, RACE, AND SEX OF CHILDREN RECEIVING SERVICES; AND

(II) THE TYPES, DATES, AND DURATION OF SERVICES PROVIDED TO CHILDREN BY STATE AND LOCAL AGENCIES.

(3) THE CHILDREN'S CABINET MAY USE INFORMATION DISCLOSED UNDER PARAGRAPH (2) OF THIS SUBSECTION ONLY FOR PLANNING, BUDGETING, EVALUATION, AND ANALYSIS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 3-105.

In subsection (b)(1)(iii) and (2)(i) of this section, the references to a "minor" are substituted for the former references to a "child" for consistency throughout this section.

In subsection (b)(2)(iii) of this section, the phrase "that has the care and custody of a minor" is substituted for the former phrase "for a minor in the care and custody of the respective unit" for brevity and consistency.

Defined terms: "Person in interest" § 1-208

"Public agency" § 1-208

TITLE 2. DEPARTMENT OF HUMAN RESOURCES.

SUBTITLE 1. DEFINITIONS.

2-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Department of Human Resources”.

(C) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Secretary of Human Resources”.

SUBTITLE 2. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

2-201. DEPARTMENT ESTABLISHED.

THERE IS A DEPARTMENT OF HUMAN RESOURCES ESTABLISHED AS A PRINCIPAL DEPARTMENT OF THE STATE GOVERNMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 41, § 6-101(a).

It is set forth as a separate section for emphasis.

See SG § 8-201, which lists the principal departments of State government.

2-202. SECRETARY.

(A) POSITION AND APPOINTMENT.

(1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT THE SECRETARY OF HUMAN RESOURCES.

(2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

(B) OATH.

BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) RESPONSIBILITY TO GOVERNOR.

(1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

(2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR’S POLICIES ON THOSE MATTERS.

(D) COMPENSATION.

THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(E) SEAL.

THE SECRETARY SHALL HAVE A SEAL.

REVISOR'S NOTE: Subsections (a), (c), (d), and (e) of this section are new language derived without substantive change from former Art. 41, §§ 6–101(b) and the second sentence of (a) and 6–104(f).

Subsection (b) of this section is standard language added to state the requirement that an individual appointed to any office of profit or trust take the oath specified in Md. Constitution, Art. I, § 9. This addition is supported by 64 Op. Att'y Gen. 246 (1979).

In subsection (c)(2) of this section, the former reference to “counsel[ing]” the Governor is deleted as surplusage in light of the reference to “advis[ing]” the Governor.

In subsection (d) of this section, the reference to the Secretary's “compensation” is substituted for the former reference to the Secretary's “salary” for accuracy and consistency throughout this article. *See* General Revisor's Note to article.

In subsection (e) of this section, the former reference to using the seal “for purposes of authentication” of certain documents is deleted as implicit in the reference to a “seal” and for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, BR § 2–104(b), HG § 2–104(e), and SF §§ 3–204(d) and 4–204(d).

Defined terms: “Department” § 2–101
“Secretary” § 2–101

2–203. ADMINISTRATION OF DEPARTMENT.

(A) ADMINISTRATION OF DEPARTMENT.

THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

(B) AREAS OF RESPONSIBILITY IN SECRETARY'S OFFICE.

THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF RESPONSIBILITY IN THE OFFICE OF THE SECRETARY AS NECESSARY TO FULFILL EFFECTIVELY THE DUTIES ASSIGNED TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6–101(c).

Defined terms: “Department” § 2–101
“Secretary” § 2–101

2–204. DEPUTY SECRETARIES.

(A) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THREE DEPUTY SECRETARIES.

(B) TERM AND COMPENSATION.

THE DEPUTY SECRETARIES:

(1) SERVE AT THE PLEASURE OF THE SECRETARY; AND

(2) ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(C) DUTIES.

THE DEPUTY SECRETARIES HAVE THE DUTIES DELEGATED BY THE SECRETARY.

(D) ACTING SECRETARY.

THE SECRETARY SHALL DESIGNATE A DEPUTY SECRETARY TO BE THE ACTING SECRETARY WHEN THE SECRETARY IS ABSENT FROM THE STATE OR OTHERWISE UNAVAILABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-103(a).

Defined term: "Secretary" § 2-101

2-205. STAFF -- SECRETARY'S OFFICE.

(A) IN GENERAL.

IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A STAFF ATTACHED TO THE OFFICE OF THE SECRETARY.

(B) DESIGNATION OF STAFF ASSISTANTS IN CHARGE OF AREAS OF RESPONSIBILITY.

THE SECRETARY MAY DESIGNATE A STAFF ASSISTANT TO BE IN CHARGE OF A PARTICULAR AREA OF RESPONSIBILITY.

(C) EMPLOYMENT STATUS.

(1) (I) THE SECRETARY SHALL APPOINT EACH STAFF ASSISTANT IN THE OFFICE OF THE SECRETARY IN CHARGE OF A PARTICULAR AREA OF RESPONSIBILITY AND EACH PROFESSIONAL CONSULTANT.

(II) AN EMPLOYEE SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. IS IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OF, OR IS A SPECIAL APPOINTMENT UNDER, THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

2. SERVES AT THE PLEASURE OF THE SECRETARY.

(2) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL APPOINT AND REMOVE ALL OTHER EMPLOYEES IN THE OFFICE OF THE SECRETARY IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-103(b).

In subsection (a) of this section, the word "may" is substituted for the former reference to the word "shall" for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, BOP §§ 5-204(e)(1) and 14-204(d), BR § 2-103(b)(1), EN § 1-403(b)(1), FI § 2-104, HG § 2-103(b)(1), HO § 17-204(d), SF §§ 3-203(c)(1), 4-203(b)(1), and 5-203(a), SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and 9-108(e)(1).

Also in subsection (a) of this section, the reference to a "staff" is substituted for the former specific reference to "assistants, professional consultants, and employees" for brevity and consistency with similar provisions in other revised articles of the Code. *See, e.g.*, BOP §§ 5-204(e)(1) and 14-204(d), BR § 2-103(b)(1), EN § 1-403(b)(1), FI § 2-104, HG § 2-103(b)(1), HO § 17-204(d), SF §§ 3-203(c)(1), 4-203(b)(1), and 5-203(a), SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and 9-108(e)(1).

In subsection (b) of this section, the former reference to the Secretary's authority to "establish areas of responsibility within the Secretary's office" is deleted as unnecessary in light of § 2-203(b) of this subtitle, which authorizes the Secretary to "establish, reorganize, or abolish areas of responsibility in the office of the Secretary".

Also in subsection (b) of this section, the term "staff assistant" is substituted for the former reference to "assistants" for consistency with subsection (c) of this section.

In subsection (c)(1)(i) of this section, the reference to "appoint[ment]" is added to state expressly that which was only implied in the former law and for consistency with subsection (c)(2) of this section.

In subsection (c)(2) of this section, the former reference to "Title 6, Subtitle 4" of the State Personnel and Pensions Article is deleted for accuracy. Title 6, Subtitle 4 does not address appointment and removal of employees.

Defined term: "Secretary" § 2-101

2-206. REMOVAL OF APPOINTEES.

IF THE SECRETARY IS REQUIRED BY LAW TO MAKE AN APPOINTMENT WITH THE APPROVAL OF THE GOVERNOR TO A PARTICULAR OFFICE IN THE DEPARTMENT AND THE APPOINTEE IS REQUIRED TO SERVE AT THE PLEASURE OF THE SECRETARY, THE SECRETARY MAY NOT REMOVE THE APPOINTEE WITHOUT FIRST OBTAINING THE GOVERNOR'S APPROVAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6–103(e).

Defined terms: "Department" § 2–101
"Secretary" § 2–101

2–207. STAFF — OTHER UNITS.

(A) APPROVAL BY SECRETARY.

THE APPOINTMENT OR REMOVAL OF PERSONNEL BY A UNIT IN THE DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

(B) AUTHORITY TO DELEGATE.

THE SECRETARY MAY DELEGATE THE POWER OF APPROVAL ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION TO THE HEAD OR GOVERNING BODY OF THE UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6–103(c).

Throughout this section, the references to a "unit" are substituted for the former list of unit types, *i.e.*, administrations, boards, commissions, divisions, and agencies, for brevity. *See* General Revisor's Note to article.

Also throughout this section, the former references to "the jurisdiction" of the Department are deleted as surplusage. All units or appointing officers in the Department's jurisdiction are "in the Department".

Defined terms: "Department" § 2–101
"Secretary" § 2–101

2–208. LEGAL COUNSEL.

(A) SCOPE.

THIS SECTION DOES NOT APPLY TO A UNIT IN THE DEPARTMENT TO THE EXTENT THAT THE UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS OWN LEGAL ADVISER OR COUNSEL.

(B) ATTORNEY GENERAL AS LEGAL ADVISER.

THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

(C) ASSIGNMENT OF ASSISTANTS.

THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER OF ASSISTANT ATTORNEYS GENERAL THAT ARE AUTHORIZED BY LAW FOR THE DEPARTMENT AND ITS UNITS.

(D) COUNSEL TO DEPARTMENT.

(1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO THE DEPARTMENT AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT CONSULTING WITH THE SECRETARY.

(2) THE COUNSEL MAY HAVE NO DUTY OTHER THAN TO GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY OR ANY OTHER OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT, AND TO PERFORM FOR THE DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

(3) THE COUNSEL SHALL PERFORM THE DUTIES SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND DISCRETION OF THE ATTORNEY GENERAL.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through the fifth and the eighth sentences and, as it related to the counsel to the Department, the sixth sentence of former Art. 41, § 6-103(d).

In subsection (a) of this section, the former reference to “agencies ... of government” in the Department is deleted in light of the generic reference to a “unit” in the Department. Correspondingly, in subsection (c) of this section, the reference to “units” is substituted for the former reference to “various departments, agencies, boards, commissions, [and] councils”. *See* General Revisor’s Note to article.

In subsection (c) of this section, the former reference to units “which are herein, or may hereafter by law be deemed to be part of the Department” is deleted as implicit in the reference to “the Department and its units”.

In subsection (d)(1) of this section, the reference to “individual” is substituted for the former reference to “counsel” for clarity because the restriction on reassignment applies to the individual designated as counsel, not to the title “counsel”.

In subsection (d)(2) of this section, the former reference to “legal” duties is deleted as surplusage.

Also in subsection (d)(2) of this section, the former phrase “from time to time” is deleted as surplusage.

The seventh sentence and, as it related to the other assistant Attorneys General, the sixth sentence of former Art. 41, § 6-103(d), which authorized the Attorney General to assign duties to assistant Attorneys General, required them to perform the assigned duties, required them to be lawyers, and provided for their compensation, are deleted as unnecessary in light of SG § 6-105.

Defined terms: “Department” § 2-101
 “Secretary” § 2-101

2-209. REGULATIONS.

(A) OFFICE OF SECRETARY.

THE SECRETARY SHALL ADOPT REGULATIONS FOR THE OFFICE OF THE SECRETARY.

(B) REVIEW OF REGULATIONS OF UNITS.

(1) THE SECRETARY SHALL REVIEW REGULATIONS PROPOSED BY A UNIT IN THE DEPARTMENT.

(2) THE SECRETARY MAY APPROVE, DISAPPROVE, OR REVISE REGULATIONS PROPOSED BY A UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-104(b).

Throughout this section, the former references to "rules" are deleted for consistency throughout this article. *See* General Revisor's Note to article.

In subsection (b) of this section, the reference to regulations that are "proposed" by a unit is added to state expressly that which was only implied by the former reference to "review[ing] ... approv[ing], disapprov[ing] or revis[ing]" regulations.

Also in subsection (b) of this section, the reference to a "unit" is substituted for the former list of unit types, *i.e.*, "administrations, divisions, boards, commissions, offices and other agencies," for brevity. *See* General Revisor's Note to article.

Also in subsection (b) of this section, the former reference to "the jurisdiction" of the Department is deleted as surplusage. All units in the Department's jurisdiction are "in the Department".

Defined terms: "Department" § 2-101
"Secretary" § 2-101

2-210. SECRETARY'S DUTIES -- BUDGET.

THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF THE SECRETARY AND FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-104(a).

The reference to a "unit" is substituted for the former list of unit types, *i.e.*, "administrations, divisions, boards, commissions, offices and agencies," for brevity. *See* General Revisor's Note to article.

The former reference to "the jurisdiction of" the Department is deleted as surplusage. All units in the Department's jurisdiction are "in" the Department. *See* General Revisor's Note to article.

Defined terms: "Department" § 2-101
 "Secretary" § 2-101

2-211. SECRETARY'S DUTIES -- PLANS AND ACTIVITIES.

(A) IN GENERAL.

THE SECRETARY IS RESPONSIBLE FOR PLANNING ACTIVITIES OF THE DEPARTMENT.

(B) AUTHORITY TO REVIEW.

THE SECRETARY MAY REVIEW AND APPROVE, DISAPPROVE, OR REVISE THE PLANS, PROPOSALS, AND PROJECTS OF UNITS IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-104(e).

In subsection (b) of this section, the reference to "units" is substituted for the former reference to "agencies" for consistency throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 2-101
 "Secretary" § 2-101

2-212. SECRETARY'S POWERS -- ASSUMPTION OF FUNCTIONS.

THE SECRETARY MAY EXERCISE OR PERFORM ANY POWER, DUTY, RESPONSIBILITY, OR FUNCTION OF ANY UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-104(c).

The former phrase "in the Secretary's discretion" is deleted as implicit in the word "may".

The reference to a "unit" is substituted for the former list of unit types, *i.e.*, "administrations, divisions, boards, commissions, offices or other agencies," for brevity. *See* General Revisor's Note to article.

The former reference to "the jurisdiction of" the Department is deleted as surplusage. All units in the Department's jurisdiction are "in" the Department. *See* General Revisor's Note to article.

Defined terms: "Department" § 2-101
 "Secretary" § 2-101

2-213. SECRETARY'S POWERS -- ADVISORY BOARDS.

IN ADDITION TO ANY ADVISORY BOARDS ESTABLISHED BY LAW, THE SECRETARY, WITH THE APPROVAL OF THE GOVERNOR, MAY CREATE ADVISORY BOARDS OR USE AS AN ADVISORY BOARD ANY EXISTING COMMISSION ESTABLISHED BY EXECUTIVE ORDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6–104(d).

The former reference to boards “as are or may be” established by law is deleted for brevity.

The former reference to advisory boards being “of such size as the Secretary deems appropriate” is deleted as implicit in the comprehensive authority to “create advisory boards”.

Defined term: “Secretary” § 2–101

SUBTITLE 3. UNITS IN DEPARTMENT; DUTIES OF DEPARTMENT.

2–301. UNITS IN DEPARTMENT.

THE FOLLOWING UNITS ARE IN THE DEPARTMENT:

- (1) THE CHILD SUPPORT ENFORCEMENT ADMINISTRATION;
- (2) THE COMMUNITY SERVICES ADMINISTRATION;
- (3) THE FAMILY INVESTMENT ADMINISTRATION;
- (4) THE SOCIAL SERVICES ADMINISTRATION;
- (5) THE MARYLAND COMMISSION FOR WOMEN; AND
- (6) ANY OTHER UNIT THAT BY LAW IS DECLARED TO BE PART OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6–102.

In the introductory language and item (6) of this section, the references to “unit[s]” are substituted for the former lists of types of units for brevity and consistency throughout this article. *See* General Revisor's Note to article.

In items (1), (3), and (5) of this section, the references to the “Child Support Enforcement Administration”, the “Family Investment Administration”, and the “Maryland Commission for Women”, respectively, are added because these units are also “in the Department”.

In item (4) of this section, the former reference to the statute that created the Social Services Administration is deleted as surplusage.

The former reference to the “Department of Human Resources Advisory Council” is deleted as obsolete. The Council was never convened and was formally abolished in 1996.

Defined term: “Department” § 2–101

2-302. MAINTENANCE OF WEBSITE.

THE DEPARTMENT SHALL MAINTAIN A WEBSITE ON WHICH TO POST NOTICES OF PETITIONS UNDER §§ 5-316(F)(3)(II), 5-3A-15(D)(3)(II), AND 5-3B-15(F)(3)(II) OF THE FAMILY LAW ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 88A, § 18.

The only change is in style.

Defined term: "Department" § 2-101

SUBTITLE 4. MARYLAND COMMISSION FOR WOMEN.

2-401. "COMMISSION" DEFINED.

IN THIS SUBTITLE, "COMMISSION" MEANS THE MARYLAND COMMISSION FOR WOMEN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49C, § 1(1).

Former Art. 49C, § 1(2) and (3), which defined "Department" and "Secretary", respectively, are deleted in light of § 2-101 of this title to the same effect.

2-402. MARYLAND COMMISSION FOR WOMEN ESTABLISHED.

(A) ESTABLISHED.

THERE IS A MARYLAND COMMISSION FOR WOMEN IN THE DEPARTMENT.

(B) REPORTING REQUIREMENT.

THE COMMISSION SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY THROUGH THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49C, § 2(f).

It is set forth as a separate section for emphasis and restated in standard language for clarity and consistency.

Defined terms: "Commission" § 2-401

"Department" § 2-101

"Secretary" § 2-101

2-403. MEMBERSHIP OF COMMISSION.

(A) COMPOSITION.

THE COMMISSION CONSISTS OF:

(1) NINE INDIVIDUALS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE;

(2) EIGHT INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE SENATE OF MARYLAND; AND

(3) EIGHT INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES.

(B) APPOINTMENT OF MEMBERS.

(1) THE FOLLOWING MEMBERS SHALL BE APPOINTED FROM AMONG APPLICANTS WHO HAVE BEEN NOMINATED AND RECOMMENDED FOR APPOINTMENT BY ORGANIZATIONS LOCATED IN THE STATE WHOSE INTERESTS RELATE TO THE STATUS OF WOMEN:

(I) FOUR MEMBERS APPOINTED BY THE GOVERNOR;

(II) FOUR MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE OF MARYLAND; AND

(III) FOUR MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES.

(2) THE FOLLOWING MEMBERS SHALL BE APPOINTED FROM APPLICANTS APPLYING ON THEIR OWN BEHALF:

(I) FIVE MEMBERS APPOINTED BY THE GOVERNOR;

(II) FOUR MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE OF MARYLAND; AND

(III) FOUR MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES.

(C) GEOGRAPHIC DIVERSITY.

TO THE EXTENT PRACTICABLE, IN MAKING APPOINTMENTS UNDER THIS SECTION, THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE SHALL ENSURE GEOGRAPHIC DIVERSITY AMONG THE MEMBERSHIP OF THE COMMISSION.

(D) TENURE; VACANCIES.

(1) THE TERM OF A COMMISSIONER IS 4 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2007.

(3) A COMMISSIONER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(4) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(E) FAILURE TO ATTEND MEETINGS.

A COMMISSIONER WHO FAILS TO ATTEND AT LEAST 50% OF THE REGULARLY SCHEDULED MEETINGS OF THE COMMISSION DURING ANY 12-MONTH PERIOD SHALL BE CONSIDERED TO HAVE RESIGNED.

(F) COMPENSATION.

COMMISSIONERS ARE NOT ENTITLED TO RECEIVE COMPENSATION FOR THEIR SERVICES.

REVISOR'S NOTE: Subsections (a), (b), (d), (e), and (f) of this section are new language derived without substantive change from former Art. 49C, § 2(a) through (e).

Subsection (c) of this section is new language added to codify § 4 of Ch. 9, Acts of 2006.

In subsection (d)(2) of this section, the reference to terms being "staggered as required by the terms provided for members of the Commission on October 1, 2007" is standard language added to reflect that the terms of the members are staggered. This addition is not intended to alter the term of any member of the Commission. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 6 in 2008; (2) 6 in 2009; (3) 6 in 2010; and (4) 6 in 2011.

Defined term: "Commission" § 2-401

2-404. CHAIR AND VICE CHAIR; OFFICERS.

(A) CHAIR AND VICE CHAIR.

THE COMMISSION SHALL ELECT A CHAIR AND A VICE CHAIR FROM AMONG ITS MEMBERS.

(B) OFFICERS.

THE COMMISSION MAY APPOINT ANY OFFICERS THAT IT CONSIDERS NECESSARY.

REVISOR'S NOTE: This section formerly was Art. 49C, § 3.

The only change is in style.

Defined term: "Commission" § 2-401

2-405. EXECUTIVE DIRECTOR.

(A) APPOINTMENT.

THE SECRETARY SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE COMMISSION.

(B) STATUS.

THE EXECUTIVE DIRECTOR SHALL BE A MERIT EMPLOYEE OF THE DEPARTMENT.

(C) COMPENSATION.

THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49C, § 3A.

In subsection (c) of this section, the reference to "compensation" is substituted for the former reference to "salary" for accuracy and consistency throughout this article. *See* General Revisor's Note to article.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the reference to a "merit employee" in subsection (b) of this section is obsolete terminology. The General Assembly may wish to clarify the service classification of the executive director under the State Personnel Management System.

Defined terms: "Commission" § 2-401

"Department" § 2-101

"Secretary" § 2-101

2-406. POWERS AND DUTIES OF COMMISSION.

(A) IN GENERAL.

(1) THE COMMISSION SHALL:

(I) STIMULATE AND ENCOURAGE STUDY AND REVIEW OF THE STATUS OF WOMEN IN THE STATE;

(II) STRENGTHEN HOME LIFE BY DIRECTING ATTENTION TO CRITICAL PROBLEMS CONFRONTING WOMEN AS WIVES, MOTHERS, HOMEMAKERS, AND WORKERS;

(III) RECOMMEND METHODS OF OVERCOMING DISCRIMINATION AGAINST WOMEN IN PUBLIC AND PRIVATE EMPLOYMENT;

(IV) ENCOURAGE WOMEN TO BECOME CANDIDATES FOR PUBLIC OFFICE;

(V) PROMOTE MORE EFFECTIVE METHODS FOR ENABLING WOMEN TO DEVELOP SKILLS, CONTINUE EDUCATION, AND BE RETRAINED;

(VI) SECURE APPROPRIATE RECOGNITION OF WOMEN'S ACCOMPLISHMENTS AND CONTRIBUTIONS TO THE STATE;

(VII) WORK TO DEVELOP HEALTHY ATTITUDES WITHIN THE FRAMEWORK OF THE COMMISSION'S RESPONSIBILITIES; AND

(VIII) INFORM THE EXECUTIVE AND LEGISLATIVE BRANCHES OF GOVERNMENT ON ISSUES CONCERNING WOMEN, INCLUDING OFFERING TESTIMONY ON THESE ISSUES BEFORE LEGISLATIVE AND ADMINISTRATIVE BODIES.

(2) THE COMMISSION MAY:

(I) ACT AS A CLEARINGHOUSE FOR ACTIVITIES TO AVOID DUPLICATION OF EFFORT; AND

(II) MAKE SURVEYS AND APPOINT ADVISORY COMMITTEES IN FIELDS INCLUDING EDUCATION, SOCIAL SERVICES, LABOR LAWS AND EMPLOYMENT POLICIES, LAW ENFORCEMENT, HEALTH AND SAFETY, NEW AND EXPANDED SERVICES, LEGAL RIGHTS, FAMILY RELATIONS, HUMAN RELATIONS, AND VOLUNTEER SERVICES.

(B) ANNUAL REPORT.

THROUGH THE SECRETARY, THE COMMISSION SHALL SUBMIT AN ANNUAL REPORT INCLUDING RECOMMENDATIONS BASED ON THE COMMISSION'S STUDIES TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

(C) COMMISSION PROHIBITED FROM ADOPTING REGULATIONS.

THE COMMISSION MAY NOT ADOPT REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49C, §§ 4, 7, and 8.

In subsection (a)(1)(i) of this section, the former phrase "throughout the State" is deleted as surplusage.

In subsection (a)(2)(i) of this section, the former reference to "all" activities is deleted as surplusage.

In subsection (a)(2)(ii) of this section, the word "including" is substituted for the former phrase "but not limited to" for brevity.

In subsection (c) of this section, the phrase "may not" is substituted for the former phrase "shall have no authority to" for consistency with similar provisions throughout the revised articles of the Code.

Also in subsection (c) of this section, the former reference to "rules" is deleted in light of the term "regulations". *See* General Revisor's Note to article.

Defined terms: "Commission" § 2-401

"Secretary" § 2-101

2-407. INTERGOVERNMENTAL RELATIONS.

EACH EXECUTIVE UNIT OF THE STATE SHALL COOPERATE FULLY WITH THE COMMISSION IN THE PERFORMANCE OF THE COMMISSION'S DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49C, § 6.

The term "unit" is substituted for the former reference to "departments and agencies" for brevity and consistency throughout this article. *See* General Revisor's Note to article.

Defined term: "Commission" § 2-401

2-408. FUNDING.

(A) FEDERAL FUNDS AND PRIVATE DONATIONS.

(1) SUBJECT TO THE APPROVAL OF THE SECRETARY, THE COMMISSION MAY ACCEPT FOR THE PURPOSES OF THIS SUBTITLE:

(I) FEDERAL FUNDS GRANTED BY CONGRESS OR EXECUTIVE ORDER; AND

(II) PRIVATE DONATIONS FROM INDIVIDUALS, ORGANIZATIONS, OR FOUNDATIONS.

(2) THE ACCEPTANCE AND USE OF FEDERAL FUNDS DOES NOT COMMIT STATE FUNDS OR OBLIGATE THE GENERAL ASSEMBLY TO CONTINUE THE PURPOSES FOR WHICH THE FEDERAL FUNDS ARE GRANTED.

(B) ANNUAL BUDGET.

THE DEPARTMENT SHALL INCLUDE THE COMMISSION IN ITS ANNUAL BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49C, § 5.

In subsection (a)(1)(ii) of this section, the former reference to "gifts" is deleted as included in the reference to "donations".

Also in subsection (a)(1)(ii) of this section, the former reference to "private" organizations is deleted as included in the reference to "private donations".

In subsection (a)(2) of this section, the reference to federal funds being "granted" is substituted for the former reference to the funds being "made available" for consistency with subsection (a)(1)(i) of this section.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (a)(1)(i) of this section to federal funds "granted by Congress or executive order" may be obsolete and unnecessarily restrictive.

Defined terms: "Commission" § 2-401

"Department" § 2-101

"Secretary" § 2-101

SUBTITLE 5. COMMISSION ON INDIAN AFFAIRS.

2-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-901(a).

No changes are made.

(B) COMMISSION.

"COMMISSION" MEANS THE COMMISSION ON INDIAN AFFAIRS.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-901(b).

No changes are made.

(C) COMMUNITY.

"COMMUNITY" MEANS A TRIBE, BAND, GROUP, OR CLAN.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-901(c).

No changes are made.

(D) INDIAN.

(1) "INDIAN" MEANS AN INDIVIDUAL OR COMMUNITY THAT IS, OR WHOSE MEMBERS ARE, DESCENDED FROM A TRIBE THAT INHABITED NORTH AMERICA BEFORE EUROPEAN CONTACT.

(2) "INDIAN" INCLUDES A NATIVE AMERICAN INDIAN, A NORTH AMERICAN INDIAN, AN AMERICAN INDIAN, AND AN ABORIGINAL AMERICAN.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-901(d).

No changes are made.

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 6-901(e), which defined "Secretary", is deleted in light of § 2-101 of this title to the same effect.

2-502. ESTABLISHED.

THERE IS A COMMISSION ON INDIAN AFFAIRS IN THE DEPARTMENT.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-902.

The only change is in style.

Defined term: "Department" § 2-101

2-503. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE NINE COMMISSION MEMBERS:

(I) A MAJORITY SHALL BE MEMBERS OF THE INDIAN COMMUNITIES OF THE STATE; AND

(II) AT LEAST THREE SHALL BE MEMBERS OF THE INDIAN COMMUNITIES THAT ARE INDIGENOUS TO THE STATE.

(B) QUALIFICATIONS.

EACH MEMBER SHALL:

(1) HAVE A DEMONSTRABLE KNOWLEDGE OF INDIAN CULTURE AND HISTORY; AND

(2) BE SENSITIVE TO THE PROBLEMS OF INDIAN COMMUNITIES.

(C) APPLICATIONS.

(1) AN APPLICANT FOR MEMBERSHIP ON THE COMMISSION SHALL SUBMIT UNDER OATH A LIST OF THE APPLICANT'S QUALIFICATIONS, INCLUDING:

(I) EDUCATIONAL HISTORY; AND

(II) EMPLOYMENT BACKGROUND OR OTHER RELEVANT EXPERIENCE.

(2) AN APPLICANT FOR MEMBERSHIP ON THE COMMISSION AS AN INDIAN MEMBER SHALL SUBMIT DOCUMENTATION OR PROOF OF INDIAN STATUS UNDER THE SWORN AND NOTARIZED SIGNATURE OF THE CUSTODIAN OF RECORDS OF THE MEMBERSHIP ROLLS OF THAT INDIAN'S COMMUNITY.

(3) THE GOVERNOR MAY REQUIRE THE PRODUCTION OF ANY OTHER DOCUMENTS TO PROVE:

(I) THE QUALIFICATIONS OF THE APPLICANT; OR

(II) THE STANDING OR HISTORY OF THE INDIAN COMMUNITY TO WHICH THE APPLICANT CLAIMS MEMBERSHIP.

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER MAY NOT SERVE MORE THAN 6 YEARS CONSECUTIVELY.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-903.

The only changes are in style.

Defined terms: "Commission" § 2-501

"Community" § 2-501

"Indian" § 2-501

2-504. CHAIR; VICE CHAIR.

THE COMMISSION SHALL ELECT ANNUALLY A CHAIR AND A VICE CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-904.

No changes are made.

Defined term: "Commission" § 2-501

2-505. MEETINGS; COMPENSATION.

(A) MEETINGS.

THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR, A MAJORITY OF THE MEMBERS, OR THE SECRETARY.

(B) COMPENSATION.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) MAY RECEIVE REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-905.

The only changes are in style.

Defined terms: "Commission" § 2-501

"Secretary" § 2-101

2-506. ADMINISTRATOR.

(A) APPOINTMENT.

(1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL APPOINT AN ADMINISTRATOR.

(2) THE ADMINISTRATOR MAY NOT BE A MEMBER OF THE COMMISSION.

(3) THE ADMINISTRATOR SERVES AT THE PLEASURE OF THE COMMISSION, SUBJECT TO THE CONCURRENCE OF THE SECRETARY.

(B) CLASSIFICATION OF SERVICE.

THE ADMINISTRATOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(C) DUTIES.

SUBJECT TO THE RULES AND POLICIES OF THE COMMISSION AND THE ADMINISTRATIVE SUPERVISION OF THE SECRETARY IN ACCORDANCE WITH THIS TITLE, THE ADMINISTRATOR SHALL:

(1) ADMINISTER THE ACTIVITIES OF THE COMMISSION; AND

(2) SUPERVISE THE APPOINTMENT AND REMOVAL OF PERSONNEL WHOM THE COMMISSION EMPLOYS.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-906.

The only changes are in style.

Defined terms: "Commission" § 2-501

"Secretary" § 2-101

2-507. DUTIES OF COMMISSION.

THE COMMISSION SHALL:

(1) INITIATE, DIRECT, AND COORDINATE PROJECTS THAT FURTHER THE UNDERSTANDING OF INDIAN HISTORY AND CULTURE;

(2) SURVEY HISTORIC BUILDINGS, SITES, ARTIFACTS, ARCHIVES, AND REPOSITORIES AND PUBLISH AND DISSEMINATE THE RESULTS;

(3) MAKE A COMPREHENSIVE STUDY OF THE INFLUENCE OF INDIGENOUS INDIAN TRIBES AND THEIR INFLUENCE ON MARYLAND HISTORY AND CULTURE, INCLUDING AS SUBJECTS OF THE STUDY:

(I) CHEROKEES;

(II) CHIPPEWAS;

(III) CHOPTANKS;

(IV) CREEKS;

(V) CREES;

(VI) DELAWARES;

- (VII) HALIWAS;
- (VIII) LUMBEEES;
- (IX) NANTICOKES;
- (X) PISCATAWAYS;
- (XI) POTOMACS;
- (XII) RAPPAHANNOCKS;
- (XIII) SEMINOLES;
- (XIV) SUSQUEHANNAS; AND
- (XV) WICOMICOS;

(4) STUDY THE STATUS OF ALL INDIAN COMMUNITIES IN THE STATE AND ASSIST THEM IN OBTAINING RECOGNITION FROM THE FEDERAL GOVERNMENT;

(5) STUDY THE ECONOMIC AND SOCIAL NEEDS OF INDIANS IN THE STATE AND MAKE RECOMMENDATIONS TO MEET THESE NEEDS;

(6) LOCATE, PRESERVE, AND DISSEMINATE TO THE PUBLIC INFORMATION ABOUT SIGNIFICANT BUILDINGS AND SITES RELATING TO INDIAN HISTORY AND CULTURE IN THE STATE; AND

(7) PUBLISH AN ANNUAL REPORT AND ANY OTHER MATERIAL THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-907.

The only changes are in style.

Defined terms: "Commission" § 2-501

"Community" § 2-501

"Indian" § 2-501

2-508. REVENUES.

(A) SOURCES; TYPES OF REVENUE.

(1) THE COMMISSION MAY SEEK MONEY FROM THE FEDERAL GOVERNMENT, FOUNDATIONS, AND PRIVATE SOURCES IN ADDITION TO STATE FINANCING.

(2) THE COMMISSION MAY ACCEPT GIFTS, GRANTS, DONATIONS, BEQUESTS, OR ENDOWMENTS FOR ANY OF ITS PURPOSES.

(B) NONREVERSION OF MONEY.

MONEY RECEIVED UNDER SUBSECTION (A) OF THIS SECTION, AND INCOME AND FEES DERIVED FROM EDUCATIONAL MATERIALS AND ACTIVITIES OF THE COMMISSION ARE NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) AUDIT.

MONEY MAINTAINED UNDER THIS SECTION IS SUBJECT TO AUDIT BY THE STATE, INCLUDING THE LEGISLATIVE AUDITOR.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-908.

No changes are made.

Defined term: "Commission" § 2-501

2-509. MARYLAND INDIAN STATUS.

(A) ESTABLISHMENT OF RECOGNITION PROCESS.

SUBJECT TO THE APPROVAL OF THE SECRETARY, THE COMMISSION MAY BY REGULATION ESTABLISH A PROCESS FOR AN INDIAN COMMUNITY THAT IS INDIGENOUS TO THE STATE TO APPLY TO THE COMMISSION FOR RECOGNITION OF MARYLAND INDIAN STATUS.

(B) RECOMMENDATION TO GOVERNOR.

(1) IF THE COMMISSION FINDS THAT A PETITIONING GROUP MEETS THE REQUIREMENTS FOR RECOGNITION, THE COMMISSION MAY RECOMMEND TO THE GOVERNOR THAT IT BE GRANTED RECOGNITION OF MARYLAND INDIAN STATUS.

(2) A MEMBER OF THE COMMISSION MAY NOT VOTE OR PARTICIPATE IN DELIBERATIONS ON AN APPLICATION FOR RECOGNITION OF MARYLAND INDIAN STATUS MADE BY THE PETITIONING GROUP TO WHICH THE MEMBER BELONGS.

(C) EXECUTIVE ORDER.

(1) THE GOVERNOR MAY ISSUE AN EXECUTIVE ORDER PROVIDING RECOGNITION OF MARYLAND INDIAN STATUS TO THE PETITIONING GROUP.

(2) THE EXECUTIVE ORDER:

(I) SHALL BE SUBMITTED TO THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW; AND

(II) SHALL TAKE EFFECT 30 DAYS AFTER IT IS SUBMITTED.

(D) EFFECT OF SECTION.

(1) THIS SECTION DOES NOT:

(I) CREATE A RIGHT OF OWNERSHIP OR ANY OTHER RIGHT TO LAND;

(II) CREATE A BENEFIT OR ENTITLEMENT OF ANY KIND;

(III) IMPAIR EXISTING RIGHTS, BENEFITS, OR ENTITLEMENTS BELONGING TO INDIANS LIVING IN THE STATE;

(IV) IMPAIR EXISTING JUDICIAL RULINGS OF THE STATE REGARDING INDIANS OF THE STATE; OR

(V) GIVE THE COMMISSION THE POWER TO ESTABLISH STANDARDS FOR MEMBERSHIP IN AN INDIAN COMMUNITY.

(2) THE POWER TO ESTABLISH STANDARDS FOR MEMBERSHIP IN AN INDIAN COMMUNITY IS RESERVED TO THE COMMUNITY.

(3) AN ACT OR FAILURE TO ACT BY THE COMMISSION UNDER THIS SECTION DOES NOT CREATE A PRIVATE CAUSE OF ACTION UNDER STATE LAW.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-909.

The only changes are in style.

Defined terms: "Commission" § 2-501

"Community" § 2-501

"Indian" § 2-501

"Secretary" § 2-101

2-510. AFFIDAVIT.

BEFORE FORMAL RECOGNITION OF MARYLAND INDIAN STATUS, MEMBERS OF THE PETITIONING GROUP SHALL SUBMIT AN AFFIDAVIT RENOUNCING ALL TRIBAL RIGHTS OF OWNERSHIP OF LAND IN THE STATE.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-910.

No changes are made.

Defined term: "Indian" § 2-501

2-511. REGULATIONS.

(A) IN GENERAL.

(1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT §§ 2-509 AND 2-510 OF THIS SUBTITLE.

(2) THE REGULATIONS SHALL:

(I) CREATE THE APPLICATION PROCESS;

(II) SET GENEALOGICAL STANDARDS; AND

(III) SPECIFY THE STANDARDS TO BE SATISFIED BY AN INDIAN COMMUNITY APPLYING FOR FORMAL RECOGNITION OF MARYLAND INDIAN STATUS.

(B) STANDARDS.

(1) THE STANDARDS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GENERALLY CONSISTENT WITH THE STANDARDS OF THE UNITED STATES BUREAU OF INDIAN AFFAIRS FOR TRIBAL RECOGNITION BY THE UNITED STATES.

(2) THE STANDARDS SHALL TAKE INTO ACCOUNT THE SPECIAL CIRCUMSTANCES OF INDIANS INDIGENOUS TO THE STATE.

(3) THE STANDARDS SHALL REQUIRE:

(I) THAT THE PETITIONING GROUP BE IDENTIFIED FROM HISTORICAL TIMES UNTIL THE PRESENT AS INDIAN;

(II) THAT THE MEMBERS OF THE PETITIONING GROUP BE DESCENDANTS FROM AN INDIAN TRIBE THAT EXISTED HISTORICALLY AND IS INDIGENOUS TO THE STATE OR DERIVED FROM HISTORICAL TRIBES THAT WERE INDIGENOUS TO THE STATE BEFORE 1790;

(III) THAT THE MEMBERS OF THE PETITIONING GROUP BE DESCENDANTS OF AN INDIAN TRIBE THAT HISTORICALLY INHABITED A SPECIFIC AREA IN THE STATE BEFORE 1790; AND

(IV) THAT THE MEMBERSHIP OF THE PETITIONING GROUP BE COMPOSED PRINCIPALLY OF INDIVIDUALS WHO ARE NOT MEMBERS OF ANY OTHER INDIAN COMMUNITY.

(4) THE COMMISSION MAY ADOPT REGULATIONS TO ESTABLISH ANY OTHER STANDARDS THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-911.

The only changes are in style.

Defined terms: "Commission" § 2-501

"Community" § 2-501

"Indian" § 2-501

2-512. FALSE STATEMENTS OR REPRESENTATIONS.

(A) PROHIBITED.

IN A MATTER WITHIN THE SCOPE OF THIS SUBTITLE, A PERSON MAY NOT:

(1) KNOWINGLY AND WILLFULLY FALSIFY OR CONCEAL A MATERIAL FACT BY TRICK, SCHEME, OR DEVICE;

(2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION; OR

(3) MAKE OR USE A FALSE WRITING OR DOCUMENT KNOWING THE WRITING OR DOCUMENT CONTAINS A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR ENTRY.

(B) PENALTY.

EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

REVISOR'S NOTE: This section formerly was Art. 41, § 6-912.

The only changes are in style.

Defined term: "Person" § 1-101

TITLE 3. LOCAL DEPARTMENTS OF SOCIAL SERVICES.

SUBTITLE 1. DEFINITIONS.

3-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(c).

No changes are made.

The definition of the term "Department" in former Art. 88A, § 44A(c) was applicable only to former Art. 88A, §§ 44A through 56, which are revised in Title 5, Subtitle 3 of this article. However, the term "Department" was also used in former provisions of Article 88A that are revised in this title. In this revision, the definition of "Department" in former Art. 88A, § 44A(c) is made applicable to this title. No substantive change is intended.

(C) LOCAL BOARD.

(1) "LOCAL BOARD" MEANS THE BOARD OF SOCIAL SERVICES IN A COUNTY.

(2) "LOCAL BOARD" INCLUDES THE COMMISSION OF SOCIAL SERVICES IN BALTIMORE CITY.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to a "local board of social services".

(D) LOCAL DEPARTMENT.

"LOCAL DEPARTMENT" MEANS:

(1) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR CONTINUED IN A COUNTY UNDER § 3-201 OF THIS TITLE; OR

(2) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY GOVERNMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, §§ 13B and 44A(g).

In item (1) of this subsection, the former reference to "Baltimore City" is deleted in light of § 1-101 of this article, which defines "county" to include Baltimore City.

The definition of the term "local department" in former Art. 88A, § 44A(g) was applicable only to former Art. 88A, §§ 44A through 56, which are revised in Title 5, Subtitle 3 of this article. However, the term "local department" was also used in former provisions of Article 88A that are revised in this title. In this revision, the definition of "local department" in former Art. 88A, § 44A(g) is made applicable to this title. No substantive change is intended.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the references to the "Montgomery County government" throughout this subtitle and in §§ 4-101 and 5-101 of this article are vague. The General Assembly may wish to clarify which unit of the Montgomery County government functions as the local department of social services.

Defined term: "County" § 1-101

(E) LOCAL DIRECTOR.

"LOCAL DIRECTOR" MEANS THE DIRECTOR OF A LOCAL DEPARTMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to a "director of a local department of social services".

(F) LOCAL GOVERNING AUTHORITY.

"LOCAL GOVERNING AUTHORITY" MEANS:

(1) IN REFERENCES TO EXECUTIVE AUTHORITY:

(I) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT DOES NOT HAVE A CHARTER FORM OF GOVERNMENT;

(II) THE HIGHEST EXECUTIVE AUTHORITY OF A COUNTY THAT HAS A CHARTER FORM OF GOVERNMENT; OR

(III) THE MAYOR OF BALTIMORE CITY;

(2) IN REFERENCES TO PURELY LEGISLATIVE AUTHORITY:

(I) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT DOES NOT HAVE A CHARTER FORM OF GOVERNMENT;

(II) THE COUNTY COUNCIL OF A COUNTY THAT HAS A CHARTER FORM OF GOVERNMENT; OR

(III) THE CITY COUNCIL OF BALTIMORE CITY;

(3) IN REFERENCES TO COMBINED EXECUTIVE AND LEGISLATIVE AUTHORITY:

(I) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT DOES NOT HAVE A CHARTER FORM OF GOVERNMENT;

(II) THE COUNTY COUNCIL AND THE HIGHEST EXECUTIVE AUTHORITY OF A COUNTY THAT HAS A CHARTER FORM OF GOVERNMENT; OR

(III) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 4.

In the introductory language of items (1) and (3) of this subsection, the reference to "authority" is substituted for the former references to "action" and "power", respectively, for consistency within this subsection.

The former phrase "as used in this article", which referred to former Article 88A, is deleted for accuracy. This article contains material outside the scope of former Article 88A. Provisions from former Article 88A that used the term "local governing authority" are revised in this title. No substantive change is intended.

(G) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Secretary of Human Resources".

SUBTITLE 2. GENERAL PROVISIONS.

3-201. LOCAL DEPARTMENTS -- IN GENERAL.

(A) CREATION OF LOCAL DEPARTMENTS.

(1) THIS SUBSECTION DOES NOT APPLY IN MONTGOMERY COUNTY.

(2) THE DEPARTMENT SHALL CREATE OR CONTINUE A LOCAL DEPARTMENT IN EACH COUNTY.

(3) A LOCAL DEPARTMENT SHALL BE REFERRED TO AS THE DEPARTMENT OF SOCIAL SERVICES PRECEDED BY THE NAME OF THE COUNTY.

(B) LOCAL BOARDS AND LOCAL DIRECTORS.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A LOCAL DEPARTMENT SHALL HAVE A LOCAL BOARD AND A LOCAL DIRECTOR APPOINTED IN ACCORDANCE WITH THIS TITLE.

(C) COMMISSION OF SOCIAL SERVICES IN BALTIMORE CITY.

IN BALTIMORE CITY, THE LOCAL DEPARTMENT SHALL HAVE A COMMISSION OF SOCIAL SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences and, as it related to establishing a commission of social services in Baltimore City, the third sentence of former Art. 88A, § 13(a).

In subsection (a)(1) of this section, the phrase “[t]his subsection does not apply in Montgomery County” is substituted for the former phrase “[e]xcept as provided in § 13A of this article” for clarity. Former Art. 88A, § 13A established that there is no local department in Montgomery County and that programs administered by a local department are provided by the Montgomery County government.

In subsection (a)(2) of this section, the reference to the “Department” is substituted for the former obsolete reference to the “State Department” for accuracy.

Also in subsection (a)(2) of this section, the former reference to “Baltimore City” is deleted in light of § 1–101 of this article, which defines “county” to include Baltimore City.

In subsection (b) of this section, the phrase “[e]xcept as provided in subsection (c) of this section” is added for clarity because subsection (c) of this section establishes that Baltimore City has a local commission of social services.

Also in subsection (b) of this section, the reference to a local board and a local director being appointed “in accordance with this title” is substituted for the former references to a local board being appointed “in accordance with the provisions of § 14 of this article” and a local director being appointed “in accordance with subsection (b)(1) of this section” for brevity and to reflect the reorganization of former Art. 88A, §§ 13(b)(1) and 14 into this title.

In subsection (c) of this section, the former parenthetical “(herein referred to as “local commission”)” is deleted as unnecessary in light of § 3–101(d) of this title, which defines “local board” to include the commission of social services in Baltimore City.

Also in subsection (c) of this section, the former phrase “and the local director of the local department in Baltimore City shall be appointed in accordance with the provisions of subsection (b)(2) of this section” is deleted as unnecessary in light of subsection (b) of this section, which provides that local directors are appointed “in accordance with this title”.

The last sentence of former Art. 88A, § 13(a), which provided that “[t]he local boards in the counties and the local commission in Baltimore City shall have all the duties and functions provided in § 14A of this article” is deleted as unnecessary in light of § 3–503 of this title, which establishes

the duties and functions of local boards.

Defined terms: "County" § 1-101

"Department" § 3-101

"Local board" § 3-101

"Local department" § 3-101

"Local director" § 3-101

3-202. LOCAL DEPARTMENTS -- FUNDING.

(A) STATE AND FEDERAL FUNDS.

ADMINISTRATIVE COSTS THAT A LOCAL DEPARTMENT INCURS IN CARRYING OUT THIS SUBTITLE AND SUBTITLE 3 OF THIS TITLE SHALL BE PAID WITH STATE OR FEDERAL FUNDS AS THE DEPARTMENT PRESCRIBES.

(B) COUNTY FUNDS.

THIS SECTION DOES NOT PROHIBIT A COUNTY FROM APPROPRIATING ADDITIONAL FUNDS FOR ADMINISTRATIVE COSTS OF A LOCAL DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13(d).

In subsection (a) of this section, the word "incurs" is added for clarity.

Also in subsection (a) of this section, the phrase "in carrying out this subtitle and Subtitle 3 of this title" is substituted for the former phrase "for the purpose of this section" for clarity and to reflect the reorganization of former Art. 88A, § 13 in this title. No substantive change is intended.

Also in subsection (a) of this section, the reference to costs being paid "out of allotments from" State or federal funds is deleted as surplusage.

Also in subsection (a) of this section, the reference to the "Department" is substituted for the former obsolete reference to the "State Department" for accuracy.

Defined terms: "County" § 1-101

"Department" § 3-101

"Local department" § 3-101

SUBTITLE 3. LOCAL DIRECTORS.

3-301. IN GENERAL.

(A) "LOCAL EXECUTIVE AUTHORITY" DEFINED.

IN THIS SECTION, "LOCAL EXECUTIVE AUTHORITY" MEANS:

(1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, THE COUNTY EXECUTIVE OF A COUNTY THAT HAS A CHARTER FORM OF GOVERNMENT;

(2) THE COUNTY COUNCIL OF TALBOT COUNTY OR WICOMICO COUNTY;

(3) THE COUNTY COMMISSIONERS OF A COUNTY THAT DOES NOT HAVE A CHARTER FORM OF GOVERNMENT; OR

(4) THE MAYOR OF BALTIMORE CITY.

(B) APPOINTMENT.

(1) IN EACH COUNTY, THE LOCAL DIRECTOR SHALL BE APPOINTED WITH THE CONCURRENCE OF THE SECRETARY AND THE APPROPRIATE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE.

(2) THE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE SHALL MEET AND CONSULT WITH THE LOCAL BOARD BEFORE THE APPOINTMENT OF THE LOCAL DIRECTOR.

(C) QUALIFICATIONS.

A LOCAL DIRECTOR SHALL HAVE:

(1) A MASTER'S DEGREE IN SOCIAL WORK OR A RELATED FIELD;

(2) AT LEAST 5 YEARS OF PROFESSIONAL EMPLOYMENT IN SOCIAL SERVICES ADMINISTRATION OR SUPERVISION; AND

(3) ANY OTHER QUALIFICATIONS AND TRAINING THAT THE SECRETARY REQUIRES BY REGULATION.

(D) EVALUATIONS.

(1) THE SECRETARY, THE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE, AND THE LOCAL BOARD SHALL:

(I) AT LEAST ANNUALLY, EVALUATE THE LOCAL DIRECTOR IN WRITING; AND

(II) JOINTLY REVIEW THEIR RESPECTIVE EVALUATIONS WITH THE LOCAL DIRECTOR.

(2) IN CONSULTATION WITH THE LOCAL BOARD, THE LOCAL GOVERNING AUTHORITY OF EACH COUNTY SHALL ESTABLISH BY ORDINANCE OR RESOLUTION THE PROCESS FOR EVALUATING THE LOCAL DIRECTOR.

(3) THE SECRETARY SHALL:

(I) ESTABLISH BY REGULATION THE PROCESS BY WHICH THE SECRETARY WILL EVALUATE THE LOCAL DIRECTORS; AND

(II) NOTIFY THE LOCAL BOARD OF ANY SIGNIFICANT DEFICIENCIES IN THE ADMINISTRATION OF THE LOCAL DEPARTMENT.

(E) REMOVAL.

(1) A LOCAL DIRECTOR MAY BE REMOVED FROM OFFICE WITH THE CONCURRENCE OF THE SECRETARY AND THE APPROPRIATE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE.

(2) THE APPROPRIATE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE SHALL MEET AND CONSULT WITH THE LOCAL BOARD BEFORE THE REMOVAL OF A LOCAL DIRECTOR.

(F) SERVICE CLASSIFICATION.

(1) A LOCAL DIRECTOR SHALL BE IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

(2) EACH DEPUTY DIRECTOR AND ASSISTANT DIRECTOR OF THE BALTIMORE CITY DEPARTMENT OF SOCIAL SERVICES SHALL BE IN THE MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the list of executive authorities in the counties.

Subsections (b) through (f) of this section are new language derived without substantive change from former Art. 88A, § 13(b) and (b-1).

Throughout this section, the former references to "Baltimore City" are deleted in light of § 1-101 of this article, which defines "county" to include Baltimore City.

In subsection (a)(1) of this section, the phrases "[e]xcept as provided in item (2) of this subsection" and "of a county that has a charter form of government" are added for clarity.

In subsection (a)(3) of this section, the phrase "of a county that does not have a charter form of government" is added for clarity.

In the introductory language of subsection (c) of this section, the former phrase "at a minimum" is deleted as implicit in the stated qualifications.

In subsection (c)(3) of this section, the former reference to a "rule" is deleted in light of the term "regulation". *See* General Revisor's Note to article.

In the introductory language of subsection (d)(1) of this section, the reference to the "local executive authority or its designee" is substituted for the former reference to the "county or Baltimore City" for consistency with subsections (b) and (e) of this section.

In subsection (d)(1)(ii) of this section, the former requirement that evaluations of local directors be reviewed "annually" is deleted as inconsistent with the requirement that the local directors be evaluated "at least annually".

In subsection (d)(2) of this section, the defined term "local governing authority" is substituted for the former reference to the "governing body" for consistency.

In subsection (e)(2) of this section, the former phrase "from office" is deleted as surplusage.

In subsection (f) of this section, the former references to appointments “on or after October 1, 1992” and “after May 1, 1989” are deleted as obsolete.

Defined terms: “County” § 1-101

“Local board” § 3-101

“Local department” § 3-101

“Local director” § 3-101

“Local governing authority” § 3-101

“Secretary” § 3-101

3-302. RESPONSIBILITIES.

(A) ADMINISTRATION OF PROGRAMS.

(1) THIS SECTION DOES NOT APPLY IN MONTGOMERY COUNTY.

(2) EXCEPT FOR CHILD SUPPORT ENFORCEMENT, A LOCAL DIRECTOR SHALL ADMINISTER THE SOCIAL SERVICE AND PUBLIC ASSISTANCE ACTIVITIES IN THE COUNTY IN ACCORDANCE WITH TITLE 4, SUBTITLE 2 AND TITLE 5, SUBTITLE 2 OF THIS ARTICLE.

(B) GENERAL ADMINISTRATIVE RESPONSIBILITIES.

A LOCAL DIRECTOR HAS A GENERAL ADMINISTRATIVE RESPONSIBILITY TO THE SOCIAL SERVICES ADMINISTRATION AND THE FAMILY INVESTMENT ADMINISTRATION.

(C) BASIC RESPONSIBILITIES.

THE RESPONSIBILITIES OF A LOCAL DIRECTOR INCLUDE:

(1) LONG-RANGE AND SHORT-RANGE PLANNING FOR THE FUNCTIONS AND OBJECTIVES OF THE LOCAL DEPARTMENT;

(2) ADMINISTERING THE OPERATIONS OF THE LOCAL DEPARTMENT;

(3) EXCEPT AS PROVIDED IN § 3-301(F)(2) OF THIS SUBTITLE OR AS OTHERWISE PROVIDED BY LAW, APPOINTING PERSONNEL OF THE LOCAL DEPARTMENT IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE;

(4) IMPROVING ADMINISTRATIVE AND SOCIAL WORK PRACTICES AND PROCEDURES;

(5) SUBMITTING PERIODIC REPORTS AND EVALUATIONS THAT THE SOCIAL SERVICES ADMINISTRATION AND THE FAMILY INVESTMENT ADMINISTRATION REQUIRE;

(6) SUBMITTING AN ANNUAL REPORT TO THE LOCAL BOARD; AND

(7) UNDERTAKING ANY OTHER RESPONSIBILITIES REQUIRED BY THE SOCIAL SERVICES ADMINISTRATION, THE FAMILY INVESTMENT ADMINISTRATION, OR APPLICABLE LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13(c).

Subsection (a)(1) of this section is new language substituted for the former phrase “[e]xcept in Montgomery County” for clarity and accuracy.

In subsection (a)(2) of this section, the former reference to “Baltimore City” is deleted in light of § 1–101 of this article, which defines “county” to include Baltimore City.

In subsections (b) and (c)(5) and (7) of this section, the references to the “Social Services Administration” and the “Family Investment Administration” are substituted for the former obsolete references to the “State Administration” for accuracy.

In the introductory language of subsection (c) of this section, the word “include” is substituted for the former phrase “[s]pecifically, by way of example and not in limitation” for brevity in light of Art. 1, § 30, which provides that “includes” means “by way of illustration and not by way of limitation”.

Also in the introductory language of subsection (c) of this section, the former word “basic” is deleted as surplusage.

In subsection (c)(2) of this section, the word “administering” is substituted for the former phrase “exercise of full administrative responsibility for” for brevity.

In subsection (c)(3) of this section, the former reference to “Title 6, Subtitle 4” of the State Personnel and Pensions Article is deleted for accuracy. SP Title 6, Subtitle 4 does not address appointment and removal of employees.

In subsection (c)(6) of this section, the former reference to “the local commission of the local department in Baltimore City” is deleted in light of § 3–101(d) of this title, which defines “local board” to include the commission of social services in Baltimore City.

In subsection (c)(7) of this section, the former phrase “from time to time” is deleted as surplusage.

Also in subsection (c)(7) of this section, the former references to “rules” and “regulations” are deleted as included in the reference to “laws”. *See* General Revisor’s Note to article.

The Human Services Article Review Committee notes for consideration by the General Assembly that the references to the “Social Services Administration and the Family Investment Administration” in subsections (b) and (c)(5) and (7) of this section may be too limited, since programs in other units in the Department and other units of State government are also administered through the local departments. The General Assembly may wish to include references to other units in these subsections.

Defined terms: “Local board” § 3–101

“Local department” § 3–101

“Local director” § 3–101

3–303. MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, THE LOCAL DIRECTOR SHALL ACT AS THE AGENT OF THE SECRETARY TO ENSURE THAT MONTGOMERY COUNTY COMPLIES WITH RESPONSIBILITIES UNDER GRANT AGREEMENTS ENTERED INTO IN ACCORDANCE WITH § 3–403 OF THIS TITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13(c–1).

Defined terms: “Local director” § 3–101

“Secretary” § 3–101

SUBTITLE 4. MONTGOMERY COUNTY.

3–401. LEGISLATIVE INTENT.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(1) THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE BETTER INTEGRATED, MORE EFFICIENT, AND ACCOUNTABLE HUMAN SERVICES DELIVERY IN MONTGOMERY COUNTY BY THE STATE AND COUNTY; AND

(2) IMPLEMENTATION OF THIS SUBTITLE SHALL BE COST NEUTRAL TO BOTH THE STATE AND MONTGOMERY COUNTY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13A(a).

In items (1) and (2) of this section, the former references to the “governments” and “government”, respectively, are deleted as surplusage.

3–402. ADMINISTRATION OF PROGRAMS.

(A) ADMINISTRATION BY MONTGOMERY COUNTY GOVERNMENT.

IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY GOVERNMENT SHALL ADMINISTER STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS THAT IN OTHER COUNTIES ARE ADMINISTERED BY A LOCAL DEPARTMENT.

(B) STATE PROGRAMS.

THE ADMINISTRATION OF STATE PROGRAMS BY MONTGOMERY COUNTY IS GOVERNED BY STATE AND FEDERAL REGULATIONS.

(C) STATE CHILD WELFARE PROGRAMS.

(1) MONTGOMERY COUNTY SHALL ADMINISTER STATE CHILD WELFARE PROGRAMS IN THE SAME MANNER AS THE PROGRAMS ARE ADMINISTERED IN OTHER COUNTIES.

(2) THE UNIT OF THE MONTGOMERY COUNTY GOVERNMENT THAT ADMINISTERS THE PROGRAMS UNDER PARAGRAPH (1) OF THIS SUBSECTION IS EXEMPT FROM LICENSING REQUIREMENTS IN THE SAME MANNER AS LOCAL DEPARTMENTS IN OTHER COUNTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13A(b)(1), (e), and (f).

In subsection (a) of this section, the first sentence of former Art. 88A, § 13A(b)(1), which provided that "[i]n Montgomery County, there is no local department of social services", is deleted as unnecessary in light of § 3-101(e) of this title, which includes the Montgomery County government in the definition of "local department", and § 3-201(a) of this title, which excludes Montgomery County from the required creation of a local department.

In subsections (a) and (c)(2) of this section, the phrase "in other counties" is added for clarity.

In subsection (b) of this section, the former reference to "continu[ing]" to be governed by State and federal regulations is deleted as surplusage.

Defined terms: "County" § 1-101
 "Local department" § 3-101

3-403. FUNDING.

(A) GRANT AGREEMENT.

THE SECRETARY SHALL ENTER INTO A GRANT AGREEMENT WITH THE MONTGOMERY COUNTY GOVERNMENT FOR THE ADMINISTRATION IN MONTGOMERY COUNTY OF PROGRAMS ADMINISTERED IN OTHER COUNTIES BY LOCAL DEPARTMENTS.

(B) GRANT REQUIREMENTS.

THE GRANT AGREEMENT SHALL:

(1) PROVIDE FOR PAYMENT TO MONTGOMERY COUNTY FOR THE COSTS OF ADMINISTERING STATE PROGRAMS AT STATE FUNDING RATES AS PROVIDED IN § 3-202 OF THIS TITLE:

(I) INCLUDING SALARIES, OVERHEAD, GENERAL LIABILITY COVERAGE, WORKERS' COMPENSATION, AND EMPLOYEE BENEFITS; BUT

(II) EXCLUDING AMOUNTS ATTRIBUTABLE TO COUNTY SALARIES OR BENEFITS THAT EXCEED COMPARABLE STATE SALARIES OR BENEFITS;

(2) REQUIRE THE STATE TO PAY FOR STATE ACCRUED LEAVE; AND

(3) UTILIZE THE SAME BUDGET CATEGORIES AS APPROPRIATIONS IN THE STATE BUDGET FOR LOCAL DEPARTMENTS IN OTHER COUNTIES.

(C) GRANT AMOUNT.

(1) NOTWITHSTANDING ANY OTHER LAW, THE PROPORTION OF STATE AND FEDERAL FUNDS PAID IN FISCAL YEAR 1997 TO THE MONTGOMERY COUNTY GOVERNMENT UNDER THIS SECTION RELATIVE TO THE FUNDS PROVIDED BY THE SECRETARY TO ALL LOCAL DEPARTMENTS MAY NOT BE LESS THAN THE PROPORTION OF FUNDS DISBURSED IN FISCAL YEAR 1996 TO THE MONTGOMERY COUNTY DEPARTMENT OF SOCIAL SERVICES.

(2) AFTER FISCAL YEAR 1997, THE AMOUNT OF THE GRANT TO THE MONTGOMERY COUNTY GOVERNMENT SHALL BE PROPORTIONALLY ADJUSTED EACH YEAR TO:

(I) REFLECT CHANGES IN CASE LOADS, THE NUMBER OF CHILDREN IN POVERTY, AND ANY OTHER RELEVANT COST FACTORS THE PARTIES AGREE TO; AND

(II) ENSURE THAT THE GRANT IS EQUITABLE IN RELATION TO THE FUNDS PROVIDED TO ALL LOCAL DEPARTMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13A(b)(2), (3), and (4) and (c).

In subsection (a) of this section, the phrase "in other counties" is substituted for the former phrase "elsewhere in the State" for clarity.

In the introductory language of subsection (b) of this section, the former phrase "provided under subsection (c) of this section" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to "pay[ing]" for accrued leave is substituted for the former reference to "continu[ing] to provide for the payment of" for brevity.

In subsection (b)(3) of this section, the phrase "in other counties" is added to distinguish between the Montgomery County government and other local departments.

Defined terms: "County" § 1-101

"Local department" § 3-101

"Secretary" § 3-101

3-404. CONFIDENTIALITY OF INFORMATION.

(A) MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES IS CONSIDERED TO BE ONE AGENCY FOR PURPOSES OF CONFIDENTIALITY PROVISIONS OF STATE LAW.

(B) USE AND RELEASE OF INFORMATION.

THE USE AND RELEASE OF INFORMATION CONCERNING RECIPIENTS OF STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS BY THE MONTGOMERY

COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES IS GOVERNED BY THE CONFIDENTIALITY PROVISIONS OF STATE LAW, INCLUDING TITLE 1, SUBTITLE 2 OF THIS ARTICLE.

REVISOR'S NOTE: This section is derived without substantive change from former Art. 88A, § 13A(d).

In subsections (a) and (b) of this section, the former references to "regulations" are deleted as included in the references to "State law". See General Revisor's Note to article.

3-405. BIENNIAL REVIEW.

THE SECRETARY AND THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY SHALL CONSULT WITH EACH OTHER AT LEAST EVERY OTHER YEAR TO ENSURE THAT THE OBJECTIVES OF THE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS ADMINISTERED BY THE MONTGOMERY COUNTY GOVERNMENT ARE CONSISTENT WITH THE OBJECTIVES OF THE STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13A(h).

Defined term: "Secretary" § 3-101

3-406. AWARD OF JUDGMENTS.

(A) SCOPE.

THIS SECTION IS NOT A WAIVER OF IMMUNITY UNDER THE ELEVENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

(B) JUDGMENTS AGAINST THE COUNTY.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STATE SHALL PAY ANY JUDGMENT AWARDED AGAINST MONTGOMERY COUNTY OR AN EMPLOYEE OF MONTGOMERY COUNTY THAT ARISES OUT OF AN ACTION COMMENCED OR PROSECUTED IN A COURT OF THE UNITED STATES RELATING TO THE ADMINISTRATION AND IMPLEMENTATION OF STATE PROGRAMS DESCRIBED IN THIS SUBTITLE.

(2) THE STATE MAY NOT PAY A JUDGMENT AWARDED AGAINST AN EMPLOYEE OF MONTGOMERY COUNTY UNDER THIS SECTION FOR AN ACT OR OMISSION COMMITTED:

- (I) OUTSIDE THE SCOPE OF EMPLOYMENT; OR
- (II) WITH MALICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 13A(g).

In subsection (b)(1) of this section, the phrase "[e]xcept as provided in paragraph (2) of this subsection" is added for clarity.

SUBTITLE 5. LOCAL BOARDS.

3-501. IN GENERAL.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY IN BALTIMORE CITY.

(B) ESTABLISHMENT.

EACH LOCAL DEPARTMENT SHALL HAVE A LOCAL BOARD.

(C) COMPOSITION.

A LOCAL BOARD CONSISTS OF AT LEAST 9 BUT NO MORE THAN 13 MEMBERS AS PROVIDED BY LOCAL LAW ENACTED BY THE LOCAL GOVERNING AUTHORITY.

(D) APPOINTMENT OF MEMBERS.

(1) ON JULY 1 OF EACH YEAR, EACH LOCAL GOVERNING AUTHORITY SHALL DESIGNATE ONE MEMBER OF THE LOCAL GOVERNING AUTHORITY TO SERVE AS AN EX OFFICIO MEMBER OF THE LOCAL BOARD.

(2) (I) THE OTHER MEMBERS OF THE LOCAL BOARD SHALL BE APPOINTED BY THE LOCAL GOVERNING AUTHORITY.

(II) THE LOCAL GOVERNING AUTHORITY SHALL SEEK OUT AND APPOINT INDIVIDUALS WHO:

1. HAVE A HIGH DEGREE OF INTEREST, CAPACITY, AND OBJECTIVITY; AND

2. IN THE AGGREGATE, GIVE A COUNTYWIDE REPRESENTATIVE CHARACTER TO THE LOCAL BOARD.

(E) CHAIRMAN.

ON JULY 1 OF EACH YEAR, EACH LOCAL BOARD SHALL SELECT A CHAIRMAN.

(F) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF A LOCAL BOARD:

(1) MAY NOT RECEIVE COMPENSATION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) TENURE; VACANCIES.

(1) (I) 1. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

2. IN CHARLES COUNTY, THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

(II) A TERM EXPIRES ON JUNE 30 OF THE YEAR OF EXPIRATION.

(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(IV) ONCE AN APPOINTED MEMBER OF A LOCAL BOARD SERVES TWO CONSECUTIVE FULL TERMS, THE MEMBER IS INELIGIBLE FOR REAPPOINTMENT FOR A PERIOD OF 1 YEAR.

(2) IF A VACANCY OCCURS DURING THE TERM OF A MEMBER, THE LOCAL GOVERNING AUTHORITY SHALL APPOINT OR DESIGNATE A SUCCESSOR TO SERVE FOR THE REMAINDER OF THE TERM.

(H) ATTENDANCE AT MEETINGS.

IF A MEMBER OF A LOCAL BOARD FAILS TO ATTEND AT LEAST 50% OF THE LOCAL BOARD'S MEETINGS DURING A PERIOD OF TWELVE CONSECUTIVE MONTHS:

(1) THE MEMBER MAY BE CONSIDERED TO HAVE RESIGNED; AND

(2) THE CHAIRMAN MAY DECLARE THAT A VACANCY EXISTS.

(I) ELECTION OR APPOINTMENT TO PUBLIC OFFICE.

(1) THIS SUBSECTION DOES NOT APPLY TO AN EX OFFICIO MEMBER OF A LOCAL BOARD.

(2) IF A MEMBER OF A LOCAL BOARD IS ELECTED OR APPOINTED TO POLITICAL OR PUBLIC OFFICE:

(I) THE LOCAL GOVERNING AUTHORITY MAY CONSIDER THE MEMBER TO HAVE RESIGNED; AND

(II) THE CHAIRMAN SHALL DECLARE THAT A VACANCY EXISTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 14(a)(1) and (b) through (f).

In subsection (b) of this section, the former phrase "appointed as hereinafter provided and herein referred to as the local board" is deleted as surplusage.

In subsection (c) of this section, the former reference to a local law "and" enacted by the local governing authority is deleted as surplusage.

Subsection (f) of this section is revised in standard language used to provide for reimbursement of expenses.

In subsection (g)(1)(i) and (iv) of this section, the references to an "appointed" member are added for clarity.

In subsection (g)(1)(iv) of this section, the phrase "[o]nce an appointed member of a local board serves" is substituted for the former phrase "[u]pon the expiration of" for clarity.

In subsection (g)(2) of this section, the former words “for any reason” and “unexpired” are deleted as surplusage and implicit in the context of the provision.

In subsection (h) of this section, the former phrase “and the chairman of the board shall” is deleted for clarity in light of the provision’s context that it is a discretionary act on the part of the chairman to declare that a vacancy exists and not a mandatory act as the former word “shall” would imply.

In subsections (h) and (i) of this section, the former references to filling a vacancy “in the manner provided in subsection (c) of this section” are deleted as surplusage.

In subsection (i) of this section, the former phrase “during the member’s tenure of office on the local board” is deleted as surplusage.

Defined terms: “Local board” § 3–101

“Local department” § 3–101

“Local governing authority” § 3–101

REVISOR’S NOTE TO SECTION:

Former Art. 88A, § 14(a)(2), which required that “each local board chairman shall serve as liaison between the local board and the State Board”, is deleted as obsolete. This requirement was enacted in 1980. The former State Board of Social Services was abolished in 1984, but the reference to the State Board in former Art. 88A, § 14(a)(2) was never repealed.

3–502. BALTIMORE CITY SOCIAL SERVICES COMMISSION.

THE BALTIMORE CITY SOCIAL SERVICES COMMISSION SHALL BE APPOINTED IN ACCORDANCE WITH ARTICLE VII, § 58 OF THE CHARTER OF BALTIMORE CITY, 1996 EDITION.

REVISOR’S NOTE: This section is new language derived without substantive change from the first clause of the third sentence of former Art. 88A, § 13(a).

The reference to “Article VII, § 58 of the Charter of Baltimore City, 1996 Edition” is substituted for the former obsolete reference to “§ 48(d) of Article VII of the Charter of Baltimore City, 1964 Edition”.

3–503. DUTIES AND FUNCTIONS OF LOCAL BOARDS.

THE DUTIES AND FUNCTIONS OF A LOCAL BOARD INCLUDE:

(1) TO ADVISE THE LOCAL DIRECTOR AS TO THE LOCAL APPLICATION OF STATE POLICIES OR PROCEDURES;

(2) TO BE WELL INFORMED ON LOCAL DEPARTMENTAL ACTIVITIES;

(3) TO COMMUNICATE TO THE RESIDENTS OF THE COUNTY, BROAD AND COMPREHENSIVE INFORMATION AS TO THE OBJECTIVES, POLICIES, PROGRAMS, AND PROBLEMS OF LOCAL SOCIAL SERVICES AND PUBLIC ASSISTANCE ADMINISTRATION;

(4) TO REVIEW THE PERIODIC EVALUATION OF THE LOCAL DEPARTMENT PREPARED BY THE DEPARTMENT AND CONSULT WITH THE LOCAL DIRECTOR AS TO THE PROPER IMPLEMENTATION OF THE RECOMMENDATIONS AND ANY RECOMMENDATIONS MADE BY THE LOCAL BOARD AS A RESULT OF ITS EVALUATION OF THE LOCAL DEPARTMENT;

(5) TO REVIEW AND TRANSMIT TO THE SECRETARY AND THE LOCAL GOVERNING AUTHORITY:

(I) THE ANNUAL REPORT OF THE LOCAL DIRECTOR ON THE ACTIVITIES OF THE LOCAL DEPARTMENT; AND

(II) ANY CHANGES IN POLICIES OR PROCEDURES THE LOCAL BOARD RECOMMENDS;

(6) TO REVIEW AND MAKE RECOMMENDATIONS REGARDING THE ANNUAL ESTIMATE OF FUNDS NEEDED FOR SOCIAL SERVICES AND PUBLIC ASSISTANCE PURPOSES IN THE COUNTY;

(7) (I) TO CONSULT WITH THE LOCAL DIRECTOR REGARDING ANY NEW SERVICE THAT MIGHT BE INSTITUTED BY THE LOCAL DIRECTOR OR THE LOCAL BOARD TO MEET AN UNMET NEED IN THE COUNTY;

(II) TO APPROVE OR DISAPPROVE THE LOCAL DIRECTOR'S EVALUATION OF THE READINESS OF THE LOCAL DEPARTMENT TO TAKE ON THE NEW SERVICE AND THE PROPRIETY OF THE NEW SERVICE WITHIN THE STATE PLAN; AND

(III) TO PRESENT TO THE DEPARTMENT:

1. SUGGESTED NEW SERVICES THAT THE LOCAL BOARD APPROVES, REGARDLESS OF WHETHER THE RECOMMENDATION ORIGINATED FROM THE LOCAL DIRECTOR OR THE LOCAL BOARD; AND

2. THE RECOMMENDATIONS OF BOTH THE LOCAL DIRECTOR AND THE LOCAL BOARD;

(8) TO TAKE ACTIVE STEPS TO SECURE THE APPROPRIATION OF LOCAL FUNDS BY THE LOCAL GOVERNING AUTHORITY TO MEET NEEDS THAT ARE:

(I) NOT FINANCED BY OR AVAILABLE THROUGH ANY OTHER FEDERAL, STATE, OR LOCAL PLAN, PROJECT, OR PROGRAM; AND

(II) NOT IN CONFLICT WITH THE STATE PLAN;

(9) TO MEET WITH THE SECRETARY PERIODICALLY AT THE REQUEST OF THE SECRETARY OR THE LOCAL BOARD;

(10) TO ESTABLISH AND MAINTAIN EFFECTIVE LIAISON WITH THE LOCAL GOVERNING AUTHORITY;

(11) IN CONJUNCTION WITH THE DEPARTMENT, TO SERVE AS AN ADVOCATE FOR SOCIAL SERVICES AND PUBLIC ASSISTANCE PROGRAMS ON THE LOCAL, STATE, AND FEDERAL LEVELS;

(12) TO WORK TO IDENTIFY PRIVATE, STATE, AND FEDERAL GRANT SOURCES FOR SOCIAL SERVICES AND PUBLIC ASSISTANCE PROGRAMS;

(13) IN CONJUNCTION WITH THE DEPARTMENT, TO DEVELOP AND IMPLEMENT AN EDUCATIONAL AND PUBLIC RELATIONS PROGRAM FOR PUBLIC AND ELECTED OFFICIALS ON THE LOCAL, STATE, AND FEDERAL LEVEL; AND

(14) IN CONJUNCTION WITH THE DEPARTMENT AND THE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE, TO EVALUATE THE LOCAL DIRECTOR AND MAKE RECOMMENDATIONS BASED ON THE EVALUATION TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 14A.

In the introductory language of this section, the reference to “a local board” is substituted for the former reference to “[t]he board of each local department of social services in the counties and the local commission of the Department of Social Services in Baltimore City” for brevity in light of § 3–101(d) of this title, which defines “local board” to mean the board of social services in a county and to include the commission of social services in Baltimore City.

Also in the introductory language of this section, the word “includes” is substituted for the former phrase “(specifically, by way of example and not in limitation)” for brevity in light of Art. 1, § 30, which provides that “includes” means “by way of illustration and not by way of limitation”.

Throughout this section, the former references to “Baltimore City” are deleted in light of § 1–101 of this article, which defines “county” to include Baltimore City.

In items (4) and (7)(iii) of this section, the references to the “Department” are substituted for the former obsolete references to the “State Administration” for accuracy.

In item (6) of this section, the former word “suitable” is deleted as surplusage and implicit in the submission of recommendations.

In items (11) and (12) of this section, the references to “public assistance” programs are added for consistency with items (3) and (6) of this section.

In item (14) of this section, the former phrase “with regards to the local director” is deleted as surplusage.

Also in item (14) of this section, the reference to “the local executive

authority or its designee" is substituted for the former reference to "the county or Baltimore City" for consistency with § 3-301(d) of this title.

Defined terms: "County" § 1-101

"Department" § 3-101

"Local board" § 3-101

"Local department" § 3-101

"Local director" § 3-101

"Local governing authority" § 3-101

"Secretary" § 3-101

SUBTITLE 6. MISCELLANEOUS PROVISIONS.

3-601. LEGAL SERVICES TO LOCAL DEPARTMENTS.

(A) REPRESENTATION OF LOCAL DEPARTMENT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ATTORNEY TO, OR AN ATTORNEY DESIGNATED BY, THE LOCAL GOVERNING AUTHORITY IN EACH COUNTY SHALL INSTITUTE AND DEFEND EACH CIVIL ACTION IN WHICH THE LOCAL DEPARTMENT IS A PARTY.

(2) IN CECIL COUNTY, THE LOCAL DEPARTMENT MAY SECURE THE SERVICES OF ATTORNEYS TO REPRESENT IT IN ALL LEGAL MATTERS AFFECTING THE LOCAL DEPARTMENT.

(B) INSTITUTION OF ACTION.

ACTIONS IN WHICH THE LOCAL DEPARTMENT IS A PARTY SHALL BE INSTITUTED IN THE NAME OF THE LOCAL DEPARTMENT.

(C) ATTORNEY'S FEES.

(1) THE COURT MAY AWARD ATTORNEY'S FEES TO AN ATTORNEY REPRESENTING A LOCAL DEPARTMENT IN AN ACTION TO RECOVER:

(I) FROM THE ESTATE OF A RECIPIENT OF ANY TYPE OF PUBLIC ASSISTANCE, THE AMOUNT PAID TO THE RECIPIENT DURING THE RECIPIENT'S LIFETIME; OR

(II) FROM A RECIPIENT OF ANY TYPE OF PUBLIC ASSISTANCE, THE AMOUNT PAID TO THE RECIPIENT BEFORE THE RECIPIENT RECEIVES ANY PROPERTY OR INCOME IN EXCESS OF THE AMOUNT STATED IN THE RECIPIENT'S APPLICATION FOR ASSISTANCE AND IN EXCESS OF THE RECIPIENT'S NEED.

(2) THE AMOUNT OF FEES AWARDED BY THE COURT SHALL BE DEDUCTED FROM THE GROSS AMOUNT OF THE RECOVERY IN THE ACTION.

(3) THE NET AMOUNT OF THE RECOVERY SHALL BE TURNED OVER TO THE LOCAL DEPARTMENT TO BE DIVIDED AMONG THE STATE, THE COUNTY, AND THE FEDERAL GOVERNMENT IN PROPORTION TO THE AMOUNT PAID BY EACH.

(D) OTHER LEGAL SERVICES.

(1) EXCEPT AS OTHERWISE PROVIDED, AN ATTORNEY WHO PROVIDES ANY OTHER LEGAL SERVICES ON BEHALF OF A LOCAL DEPARTMENT SHALL BE PAID THE FEES THE DEPARTMENT SETS.

(2) ATTORNEY'S FEES UNDER THIS SUBSECTION SHALL BE PAID OUT OF REGULAR ADMINISTRATIVE FUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 7.

In subsections (a)(1), (b), and (c)(1) and (2) of this section, the references to a civil "action" are substituted for the former references to "cases" and "suits" for consistency with the Maryland Rules.

In subsections (a)(1) and (b) of this section, the former references to an "interested" party are deleted as surplusage.

In subsections (a)(1) and (c)(3) of this section, the former references to "Baltimore City" are deleted in light of § 1-101 of this article, which defines "county" to include Baltimore City.

In subsection (a)(1) of this section, the phrase "[e]xcept as provided in paragraph (2) of this subsection," is added for clarity.

Also in subsection (a)(1) of this section, the former phrase "as defined in § 4 of this article" is deleted as surplusage.

In subsection (b) of this section, the phrase "[a]ctions in which the local department is a party" is substituted for the former phrase "[a]ll such suits" for clarity.

In subsection (c)(1) of this section, the phrase "[t]he court may award attorney's fees" is substituted for the former phrase "may be allowed such fees for their services as may be fixed by the court" for brevity and consistency with similar provisions elsewhere in the Code.

Also in subsection (c)(1) of this section, the phrase "[a]n attorney representing a local department" is substituted for the former phrase "such attorneys" for clarity.

In subsection (d)(1) of this section, the phrase "[e]xcept as otherwise provided" is substituted for the former phrase "[f]or such other legal services ... not provided for otherwise" for clarity and brevity.

Also in subsection (d)(1) of this section, the phrase "an attorney who provides any other legal services" is substituted for the former phrase "[f]or such other legal services as are required of such attorneys" for clarity.

Also in subsection (d)(1) of this section, the former phrase "from time to time" is deleted as surplusage.

Also in subsection (d)(1) of this section, the reference to the "Department"

is substituted for the former obsolete reference to the "State Department" for accuracy.

In subsection (d)(2) of this section, the phrase "[a]ttorney's fees under this section shall be paid out of" is substituted for the former phrase "the cost thereof to be borne" for clarity.

In subsections (a)(1) and (c)(3) of this section, the former references to "Baltimore City" are deleted in light of § 1-101 of this article, which defines "county" to include Baltimore City.

Defined terms: "County" § 1-101

"Department" § 3-101

"Local department" § 3-101

"Local governing authority" § 3-101

3-602. AUDITS OF LOCAL DEPARTMENTS.

(A) BIENNIAL AUDIT.

AT LEAST ONCE EVERY 2 YEARS, THE DEPARTMENT SHALL:

(1) CONDUCT OR CONTRACT FOR A FINANCIAL AND COMPLIANCE AUDIT OF EACH LOCAL DEPARTMENT; AND

(2) PREPARE A WRITTEN REPORT OF THE AUDIT FINDINGS.

(B) AUDITING STANDARDS.

THE AUDIT SHALL COMPLY WITH THE AUDITING STANDARDS ISSUED BY THE INSTITUTE OF INTERNAL AUDITORS.

(C) DISTRIBUTION OF WRITTEN REPORT.

THE WRITTEN REPORT OF THE AUDIT FINDINGS SHALL BE DISTRIBUTED TO:

(1) THE LOCAL BOARD; AND

(2) THE LOCAL GOVERNING AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 3(a)(3).

In the introductory language of subsection (a) of this section, the reference to the "Department" is substituted for the former reference to the "State Department" to conform to current practice. Audits of the local departments are performed through the Office of Inspector General in the Department.

In the introductory language of subsection (c) of this section, the former phrase "as appropriate" is deleted as surplusage.

In subsection (c)(1) of this section, the defined term "local board" is substituted for the former reference to the "local board or commission of

social services in each county and Baltimore City” for brevity and consistency.

In subsection (c)(2) of this section, the defined term “local governing authority” is substituted for the former references to the “county executive”, “county commissioners and county councils”, “Mayor of Baltimore City”, and “City Council of Baltimore City” for brevity.

Defined terms: “Department” § 3–101

“Local board” § 3–101

“Local department” § 3–101

“Local governing authority” § 3–101

TITLE 4. SOCIAL SERVICES.

SUBTITLE 1. DEFINITIONS.

4–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) ADMINISTRATION.

“ADMINISTRATION” MEANS THE SOCIAL SERVICES ADMINISTRATION.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Social Services Administration”.

As to the substitution of the defined term “Administration” for the former references to the “State Administration” and the “State Department” throughout this title, *see* General Revisor’s Note to title.

(C) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(c).

No changes are made.

The definition of the term “Department” in former Art. 88A, § 44A(c) was applicable only to former Art. 88A, §§ 44A through 56, which are revised in Title 5, Subtitle 3 of this article. However, the term “Department” was also used in former provisions of Article 88A that are revised in this title. In this revision, the definition of “Department” in former Art. 88A, § 44A(c) is made applicable to this title. No substantive change is intended.

(D) EXECUTIVE DIRECTOR.

“EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF SOCIAL SERVICES.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Executive Director of Social Services”.

(E) LOCAL DEPARTMENT.

“LOCAL DEPARTMENT” MEANS:

(1) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR CONTINUED IN A COUNTY UNDER § 3–201 OF THIS ARTICLE; OR

(2) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY GOVERNMENT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 88A, §§ 13B and 44A(g).

The former reference to “Baltimore City” is deleted as included in the reference to a “county”.

The definition of the term “local department” in former Art. 88A, § 44A(g) was applicable only to former Art. 88A, §§ 44A through 56, which are revised in Title 5, Subtitle 3 of this article. However, the term “local department” was also used in former provisions of Article 88A that are revised in this title. In this revision, the definition of “local department” in former Art. 88A, § 44A(g) is made applicable to this title. No substantive change is intended.

Defined term: “County” § 1–101

(F) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(k).

No changes are made.

The definition of the term “Secretary” in former Art. 88A, § 44A(k) was applicable only to former Art. 88A, §§ 44A through 56, which are revised in Title 5, Subtitle 3 of this article. However, the term “Secretary” was also used in former provisions of Article 88A that are revised in this title. In this revision, the definition of “Secretary” in former Art. 88A, § 44A(k) is made applicable to this title. No substantive change is intended.

SUBTITLE 2. SOCIAL SERVICES ADMINISTRATION.

4–201. ESTABLISHED.

THERE IS A SOCIAL SERVICES ADMINISTRATION IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 1(a) and the first and second sentences of former Art. 41, § 6–106.

It is set forth as a separate section for emphasis and restated in standard language for clarity and consistency.

The former reference to being “continued as the same State Department of Social Services hitherto existing” is deleted as surplusage.

The former references to the use of the terms “State Administration” and “State Department” are deleted as unnecessary in light of § 4–101(b) of this title to the same effect.

Defined term: “Department” § 4–101

4–202. AUTHORITY OF SECRETARY.

THE ADMINISTRATION AND THE EXECUTIVE DIRECTOR EXERCISE THEIR AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY STATE LAW SUBJECT TO THE AUTHORITY OF THE SECRETARY UNDER ANY STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 1(c).

In this section and throughout this subtitle, the defined term “Executive Director” is substituted for the former references to the “State Director of Social Services” and the “State Director” to conform to current practice.

The phrase “under any State law” is substituted for the former phrases “by the provisions of this article or by any other laws of this State” and “as set forth in Article 41 of this Code or elsewhere in the laws of Maryland” for brevity.

Defined terms: “Administration” § 4–101
 “Executive Director” § 4–101
 “Secretary” § 4–101

4–203. EXECUTIVE DIRECTOR.

(A) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THE EXECUTIVE DIRECTOR.

(B) QUALIFICATIONS.

THE EXECUTIVE DIRECTOR SHALL BE A COMPETENT PERSON WITH ADEQUATE TRAINING AND PRACTICAL EXPERIENCE IN SOCIAL WELFARE WORK.

(C) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

(D) COMPENSATION.

THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 2(a).

In subsection (c) of this section, the word "serves" is substituted for the former phrase "shall hold office" for brevity and clarity.

Also in subsection (c) of this section, the former reference to "[t]he State Director holding office on August 31, 1970" is deleted as obsolete.

In subsection (d) of this section, the reference to being "entitled to the compensation provided in the State budget" is substituted for the former reference to being "paid for his services such compensation as may be provided in the budget" for conformity with standard language.

Defined terms: "Executive Director" § 4-101
"Secretary" § 4-101

4-204. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

(A) IN GENERAL.

(1) THE EXECUTIVE DIRECTOR IS THE ADMINISTRATIVE HEAD OF THE ADMINISTRATION.

(2) THE EXECUTIVE DIRECTOR SHALL DEVOTE THE EXECUTIVE DIRECTOR'S WHOLE TIME TO THE DUTIES OF THE OFFICE.

(B) ADMINISTRATIVE AND SUPERVISORY DUTIES.

SUBJECT TO STATE AND FEDERAL LAWS GOVERNING THE ADMINISTRATION OF SOCIAL SERVICES, THE EXECUTIVE DIRECTOR SHALL:

(1) ADMINISTER AND ORGANIZE THE ADMINISTRATION;

(2) SUPERVISE THE SOCIAL SERVICE ACTIVITIES OF THE LOCAL DEPARTMENTS; AND

(3) SUPERVISE OTHER AGENCIES AND INSTITUTIONS UNDER THE SUPERVISION OF THE ADMINISTRATION.

(C) PERSONNEL.

(1) THE EXECUTIVE DIRECTOR MAY PRESCRIBE THE NUMBER AND MINIMUM QUALIFICATIONS OF THE PERSONNEL ENGAGED IN THE ADMINISTRATION OF THE ACTIVITIES OF THE ADMINISTRATION AND OF THE LOCAL DEPARTMENTS THAT ARE FINANCED WHOLLY OR PARTLY BY THE ADMINISTRATION.

(2) (I) AS PROVIDED IN THE STATE BUDGET, THE EXECUTIVE DIRECTOR MAY APPOINT THE PERSONNEL REQUIRED TO PROPERLY PERFORM THE DUTIES OF THE ADMINISTRATION.

(II) EXCEPT AS OTHERWISE PROVIDED, APPOINTMENT AND REMOVAL OF ALL PAID PERSONNEL UNDER THIS TITLE ARE SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(D) BUDGET ESTIMATES.

THE EXECUTIVE DIRECTOR SHALL SUBMIT BUDGET ESTIMATES FOR THE ADMINISTRATION TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 1(b) and 2(c), (d), and (b)(1) and, as it related to social services, (2).

In the introductory language of subsection (b) of this section, the former reference to "the rules and regulations prescribed in accordance with law" are deleted as included in the reference to "State and federal laws".

In subsection (b)(2) of this section, the reference to the "social service activities" of the local departments is added for clarity.

In subsection (c)(1) of this section, the former parenthetical phrase "hereinafter referred to as 'local departments'" is deleted in light of § 4-101(d) of this title to the same effect.

Also in subsection (c)(1) of this section, the former reference to local departments "created or continued under the provisions of § 13 of this article" is deleted in light of § 4-101(d) of this title to the same effect.

In subsection (c)(2)(i) of this section, the reference to "personnel" is substituted for the former reference to "employees" for consistency with subsection (c)(1) and (2)(ii) of this section.

Also in subsection (c)(2)(i) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (c)(2)(ii) of this section, the reference to "this title" is substituted for the former reference to "this article" to reflect the change in the organization of provisions formerly contained in Article 88A.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(2) of this section, the requirement that the Executive Director devote "whole time" to the duties of the office may be obsolete.

Defined terms: "Administration" § 4-101

"Executive Director" § 4-101

"Local department" § 4-101

"Secretary" § 4-101

4-205. POWERS AND DUTIES OF ADMINISTRATION.

(A) SOCIAL SERVICES.

(1) THE ADMINISTRATION SHALL BE THE CENTRAL COORDINATING AND DIRECTING AGENCY OF ALL SOCIAL SERVICE ACTIVITIES IN THE STATE, INCLUDING:

(I) CHILD WELFARE SERVICES; AND

(II) ANY OTHER SOCIAL SERVICE ACTIVITIES FINANCED WHOLLY OR PARTLY BY THE ADMINISTRATION.

(2) FOR THE PURPOSES OF THESE DUTIES, CHILD WELFARE SERVICES PROVIDED TO A MINOR MAY CONTINUE AFTER THE MINOR'S EIGHTEENTH BIRTHDAY BUT NOT BEYOND THE MINOR'S TWENTY-FIRST BIRTHDAY.

(B) SUPERVISION OF LOCAL DEPARTMENTS.

THE ADMINISTRATION SHALL SUPERVISE, DIRECT, AND CONTROL THE ACTIVITIES OF THE LOCAL DEPARTMENTS THAT IT FINANCES WHOLLY OR PARTLY.

(C) SUPERVISION OF INSTITUTIONS CARING FOR CHILDREN.

THE ADMINISTRATION SHALL SUPERVISE ALL PUBLIC AND PRIVATE INSTITUTIONS THAT HAVE CARE, CUSTODY, OR CONTROL OF ABUSED, ABANDONED, DEPENDENT, OR NEGLECTED CHILDREN, EXCEPT:

(1) INSTITUTIONS UNDER THE AUTHORITY OF THE DEPARTMENT OF JUVENILE SERVICES; AND

(2) AGENCIES, PERSONS, OR INSTITUTIONS DESIGNATED BY THE DEPARTMENT OF JUVENILE SERVICES UNDER § 9-217 OF THIS ARTICLE.

(D) SITE VISITS AND INSPECTIONS.

(1) THE ADMINISTRATION MAY VISIT ANY STATE-AIDED INSTITUTION, ORGANIZATION, OR AGENCY ENGAGED IN SOCIAL SERVICE OR WELFARE ACTIVITIES AND INSPECT THOROUGHLY ITS MANAGEMENT, BUILDINGS, AND EQUIPMENT.

(2) VISITS AND INSPECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE:

(I) AT REASONABLY CONVENIENT HOURS; AND

(II) WITH REASONABLE REGARD TO THE ESTABLISHED DISCIPLINE, REGULATIONS, AND CUSTOMS OF THE INSTITUTION, ORGANIZATION, OR AGENCY.

(E) DESIGNATION OF AGENTS.

AS DESIRABLE OR NECESSARY FOR THE PURPOSE OF THIS TITLE, THE ADMINISTRATION MAY DESIGNATE EXISTING AGENCIES OR ORGANIZATIONS IN THE STATE AS THE ADMINISTRATION'S AGENTS.

(F) ANNUAL REPORT.

BEFORE THE START OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE ADMINISTRATION SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 3(c), (e), (f), (g), and (a)(2) and, as it related to social service activities, (1).

In subsection (a)(2) of this section, the reference to “duties” is substituted for the former reference to “powers” for consistency with subsection (a)(1) of this section.

Also in subsection (a)(2) of this section, the reference to a “minor” is substituted for the former reference to “persons under the age of 18” for brevity and consistency. *See* Art. 1, § 24.

In subsection (b) of this section, the former reference to local departments “in the counties and in Baltimore City” is deleted as surplusage.

In the introductory language of subsection (c) of this section, the reference to “abused” children is added for accuracy and consistency with provisions in other revised articles relating to child welfare. *See, e.g.*, CJ Title 3, Subtitle 8; FL Title 5, Subtitle 5, Part III; and FL Title 5, Subtitle 7. This addition is called to the attention of the General Assembly.

In subsection (e) of this section, the reference to “this title” is substituted for the former reference to “this article” to reflect the change in the organization of the provisions formerly contained in Article 88A.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that subsection (f) of this section requires the Administration to submit its annual report to the Governor only. The General Assembly may wish to add a requirement that the report also be submitted to the General Assembly, in accordance with SG § 2-1246.

Defined terms: “Administration” § 4-101

“Local department” § 4-101

“Person” § 1-101

4-206. AUTOMATED STATEWIDE SYSTEM.

THE DEPARTMENT MAY DEVELOP AND IMPLEMENT AN AUTOMATED STATEWIDE SYSTEM AND RELATED ADMINISTRATIVE PROCEDURES TO ACHIEVE EFFECTIVELY AND EFFICIENTLY THE PURPOSES OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 88A, § 3(b).

The reference to the “Department” is substituted for the former reference to the “State Department” to conform to current practice. All of the automated statewide systems used by units in the Department of Human Resources are provided by the Department. This substitution is called to the attention of the General Assembly.

Defined term: “Department” § 4-101

4-207. REGULATIONS.

(A) IN GENERAL.

SUBJECT TO § 2-209(B) OF THIS ARTICLE, THE EXECUTIVE DIRECTOR MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE DUTIES IMPOSED ON THE EXECUTIVE DIRECTOR BY LAW.

(B) RECORDS.

(1) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS COVERING THE CUSTODY, USE, AND PRESERVATION OF THE RECORDS OF THE ADMINISTRATION AND THE LOCAL DEPARTMENTS CONCERNING APPLICANTS FOR AND RECIPIENTS OF SOCIAL SERVICES.

(2) THE USE OF THE RECORDS OF THE ADMINISTRATION AND THE LOCAL DEPARTMENTS BY ANY OTHER GOVERNMENTAL UNIT SHALL BE LIMITED TO THE PURPOSES FOR WHICH THE RECORDS ARE FURNISHED.

(C) FEDERAL MATERIAL.

(1) ALL REGULATIONS OR DIRECTIVES IMPLEMENTED BY THE EXECUTIVE DIRECTOR THAT ARE BASED ON FEDERAL LAW, RULES, REGULATIONS, OR GUIDELINES SHALL HAVE THE FEDERAL MATERIAL:

(I) REFERENCED IN THE TEXT OF THE STATE MATERIAL; OR

(II) ATTACHED PERMANENTLY TO THE STATE MATERIAL.

(2) THE DEPARTMENT SHALL FURNISH TO EACH OF THE LOCAL DEPARTMENTS AT LEAST ONE UP-TO-DATE COPY OF ALL CURRENT FEDERAL REGULATIONS APPLICABLE TO THE OPERATIONS OF THE LOCAL DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 5, as it related to social services.

In subsections (a), (b)(1), and the introductory language of (c)(1) of this section, the former references to "rules" are deleted in light of the term "regulations". *See* General Revisor's Note to article.

In subsection (a) of this section, the phrase "[s]ubject to § 2-209(b) of this article" is substituted for the former phrases "after approval or revision thereof by the Secretary" and "subject to the authority of the Secretary ... as set forth in Article 41 of this Code, or elsewhere in the laws of Maryland" for brevity. Section 2-209(b) of this article requires the Secretary to review regulations proposed by a unit in the Department and authorizes the Secretary to approve, disapprove, or revise those regulations.

Also in subsection (a) of this section, the former reference to adopting regulations "from time to time" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to regulations

“when adopted ... hav[ing] the force and effect of law” is deleted as surplusage.

In subsection (b)(1) and (2) of this section, the former references to “papers, files, and communications” are deleted as included in the reference to “records”.

In subsection (b)(2) of this section, the reference to a “governmental unit” is substituted for the former reference to an “agency or department of government” for brevity. *See* General Revisor’s Note to article.

In subsection (c)(2) of this section, the defined term “local department[s]” is substituted for the former reference to “local offices” for consistency with terminology used throughout this title.

Defined terms: “Administration” § 4–101

“Department” § 4–101

“Executive Director” § 4–101

“Local department” § 4–101

GENERAL REVISOR’S NOTE TO SUBTITLE:

The third through sixth sentences of former Art. 41, § 6–106, which transferred the “rights, powers, duties, obligations, and functions” of the former State Department of Social Services to the Social Services Administration and the Family Investment Administration, are deleted as obsolete.

The second and third sentences of former Art. 88A, § 3(b), which authorized the Social Services Administration, in implementing an automated statewide system, to assume functions otherwise assigned to local departments, and required any changes in functions to be effected by executive order, are deleted as obsolete.

Former Art. 88A, § 3(d), which authorized the Social Services Administration to “cause charges to be formulated” against certain entities engaged in charitable, social services, or welfare activities, issue summonses for witnesses and documents, administer oaths, and take testimony, and authorized the Governor to withhold appropriations from an entity charged, is deleted as obsolete.

SUBTITLE 3. MISCELLANEOUS PROVISIONS.

4–301. CHILD WELFARE WORKFORCE.

(A) COMPREHENSIVE PLAN.

THE SECRETARY SHALL IMPLEMENT A COMPREHENSIVE PLAN TO RECRUIT, TRAIN, AND RETAIN CHILD WELFARE CASEWORKERS AND CASEWORK SUPERVISORS WHO MEET THE REQUIREMENTS OF THIS SECTION.

(B) QUALIFICATIONS FOR EMPLOYMENT.

(1) THE SECRETARY SHALL HIRE AS CASEWORKERS ONLY HUMAN SERVICES PROFESSIONALS, SUCH AS:

(I) SOCIAL WORKERS LICENSED IN ACCORDANCE WITH TITLE 19 OF THE HEALTH OCCUPATIONS ARTICLE;

(II) PSYCHOLOGISTS LICENSED IN ACCORDANCE WITH TITLE 18 OF THE HEALTH OCCUPATIONS ARTICLE;

(III) PROFESSIONAL COUNSELORS CERTIFIED IN ACCORDANCE WITH TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE;

(IV) NURSES LICENSED IN ACCORDANCE WITH TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE;

(V) SCHOOL PSYCHOLOGISTS CERTIFIED IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER TITLE 6, SUBTITLE 7 OF THE EDUCATION ARTICLE; AND

(VI) HUMAN SERVICE WORKERS WHO:

1. HAVE A DEGREE IN AN APPROPRIATE BEHAVIORAL SCIENCE;

2. HAVE COMPLETED THE MANDATORY PRESERVICE TRAINING AND COMPETENCY TEST; AND

3. ARE SUPERVISED BY LICENSED SOCIAL WORKERS.

(2) THE SECRETARY MAY RETAIN PERMANENT EMPLOYEES EMPLOYED ON OR BEFORE DECEMBER 31, 1998 WHO DO NOT HAVE THE QUALIFICATIONS SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION IF THE SECRETARY FINDS THAT THE EMPLOYEES ARE PERFORMING THEIR DUTIES SATISFACTORILY.

(C) TRAINING AND TESTING OF CASEWORKERS.

THE SECRETARY SHALL:

(1) IMPLEMENT A PRESERVICE TRAINING PROGRAM AND COMPETENCY TEST FOR NEWLY EMPLOYED CASEWORKERS;

(2) REQUIRE THAT ALL NEW CASEWORK STAFF:

(I) BE HIRED PROVISIONALLY;

(II) COMPLETE A 40-HOUR PRESERVICE TRAINING PROGRAM; AND

(III) PASS A COMPETENCY TEST BEFORE BEING GRANTED PERMANENT EMPLOYMENT STATUS; AND

(3) IMPLEMENT MANDATORY STANDARDS FOR CONTINUING EDUCATION FOR ALL CASEWORKERS AND CASEWORK SUPERVISORS THAT REQUIRE THAT EMPLOYEES WHO FAIL TO OBTAIN THE REQUIRED CONTINUING EDUCATION CREDITS BE SUBJECT TO DISCIPLINARY ACTION, INCLUDING DEMOTION, SUSPENSION, AND DISMISSAL.

(D) LIMITATIONS ON HIRING CONTRACTUAL CASEWORKERS.

(1) THE SECRETARY MAY NOT EMPLOY HUMAN SERVICES PROFESSIONALS ON A CONTRACTUAL BASIS AS CASEWORKERS OR CASEWORK SUPERVISORS, EXCEPT AS REQUIRED TO MEET AN UNANTICIPATED NEED RESULTING FROM:

(I) A SIGNIFICANT AND UNEXPECTED INCREASE IN REPORTS OF CHILD ABUSE OR NEGLECT, OR BOTH; OR

(II) A SIGNIFICANT AND UNEXPECTED INCREASE IN THE FOSTER CARE OR KINSHIP CARE CASELOAD, OR BOTH.

(2) A CASEWORKER OR CASEWORK SUPERVISOR CONTRACTUAL POSITION MAY NOT EXIST LONGER THAN 1 YEAR.

(E) CONTRACTS FOR CASEWORK SERVICES.

WHENEVER THE SECRETARY CONTRACTS WITH AN OUTSIDE ENTITY FOR CASEWORK SERVICES, THE SECRETARY SHALL REQUIRE THE CONTRACTOR TO COMPLY WITH THE EMPLOYMENT QUALIFICATIONS, TRAINING CURRICULUM, PRESERVICE AND IN-SERVICE TRAINING, AND COMPETENCY TESTING REQUIRED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 3A.

In subsection (a) of this section, the reference to "child welfare" caseworkers and casework supervisors is added for clarity. *See* Ch. 554, Acts of 1998.

Also in subsection (a) of this section, the former requirement that the Secretary implement a comprehensive plan "[b]y December 31, 1998," is deleted as obsolete.

Also in subsection (a) of this section, the former requirement that the Secretary "develop" a comprehensive plan is deleted as implicit in the requirement that the Secretary "implement" a comprehensive plan.

In subsection (b)(1) of this section, the former requirement that the Secretary hire as caseworkers only human services professionals "[o]n or after January 1, 1999," is deleted as obsolete.

In subsection (b)(1)(vi) of this section, the former reference to human service workers who "must" have certain qualifications is deleted as surplusage.

In subsection (b)(2) of this section, the reference to permanent employees "employed on or before December 31, 1998" is substituted for the former reference to "existing" permanent employees for clarity.

In subsection (c) of this section, the former references to the Secretary: (1) implementing a preservice training curriculum "[b]y December 31, 1998,;" (2) requiring that "on or after January 1, 1999," all new casework staff be

hired provisionally, complete a preservice training program, and pass a competency test; and (3) implementing mandatory standards for continuing education for caseworkers “[b]y January 1, 1999,” are deleted as obsolete.

Also in subsection (c) of this section, the former references to the Secretary being required to “develop” a preservice training curriculum, a mandatory in-service training program, and mandatory standards for continuing education for caseworkers are deleted as implicit in the references to the Secretary being required to “implement” these requirements.

In subsection (c)(1) of this section, the reference to a preservice training “program” is substituted for the former reference to a “curriculum” for consistency within this section.

In subsection (c)(3) of this section, the reference to “casework supervisors” is substituted for the former reference to “casework supervisory staff” for consistency within this section.

Also in subsection (c)(3) of this section, the reference to mandatory standards “that require that” employees be subject to disciplinary action is substituted for the former reference to mandatory standards “mandating” that employees be subject to disciplinary action for clarity.

Also in subsection (c)(3) of this section, the former reference to “a set of” mandatory standards is deleted as surplusage.

In subsection (d)(1) of this section, the reference to “human services professionals” is substituted for the former reference to “professional” caseworkers or casework supervisors for clarity and consistency with subsection (b)(1) of this section.

Also in subsection (d)(1) of this section, the former prohibition against the Secretary “hir[ing] professional caseworkers or casework supervisors on a contractual basis” is deleted as implicit in the prohibition against the Secretary “employ[ing]” human services professionals on a contractual basis as caseworkers or casework supervisors.

Also in subsection (d)(1) of this section, the former prohibitions against the Secretary hiring professional caseworkers or casework supervisors on a contractual basis “after June 30, 1999,” and employing professional caseworkers or casework supervisors on a contractual basis “after June 30, 2000,” are deleted as obsolete.

In subsection (d)(1)(i) of this section, the phrase “or both” is added for clarity and consistency with subsection (d)(1)(ii) of this section.

In subsection (d)(1)(ii) of this section, the reference to the kinship “care” caseload is added for clarity.

In subsection (e) of this section, the requirement that a contractor “comply” with certain requirements is substituted for the former requirement that

the contractor “meet” certain requirements for accuracy.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the reference to the “foster care or kinship care caseload” in subsection (d)(1)(ii) of this section may be too narrow. The General Assembly may wish to substitute a reference to the “out-of-home placement caseload”. *See* Ch. 539, Acts of 1998.

REVISOR’S NOTE TO SECTION:

Former Art. 88A, § 3A(c)(3), which required the Secretary to develop and implement a mandatory in-service training program and competency testing program for caseworkers employed on or before December 31, 1998, and required those caseworkers to complete the training program and pass a competency test before December 31, 1999, in order to continue their employment, is transferred to the Session Laws. These provisions are obsolete because all affected caseworkers passed the test, resigned, or were reassigned to a noncaseload class. The provisions are decodified and retained in the law, however, for historical purposes.

Defined term: “Secretary” § 4-101

4-302. FEDERAL FUNDS.

THE ADMINISTRATION MAY:

- (1) ACCEPT ANY FEDERAL FUNDS OR COMMODITIES;
- (2) MANAGE AND DISPOSE OF ANY FEDERAL FUNDS OR COMMODITIES AS REQUIRED BY FEDERAL LAW; AND
- (3) APPLY THE FEDERAL SOCIAL SECURITY ACT OR ANY OTHER FEDERAL LAW RELATING TO SOCIAL SERVICES TO THE BENEFIT OF THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 15, as it related to social services.

In items (1) and (2) of this section, the reference to federal funds “or” commodities is substituted for the former reference to federal funds “and” commodities to clarify that the Administration may accept, manage, and dispose of federal funds, or commodities, or both.

In item (2) of this section, the former phrase “in whatever manner” is deleted as surplusage.

In item (3) of this section, the reference to the authority to “apply” the federal Social Security Act “to the benefit of the State” is substituted for the former reference to “tak[ing] advantage” of the federal Social Security Act for clarity.

Also in item (3) of this section, the reference to the federal Social Security Act “or” any other federal law is substituted for the former reference to the federal Social Security Act “and” any other federal act to clarify that the

Administration may apply the federal Social Security Act, another federal law, or both.

Also in item (3) of this section, the former reference to the Social Security Act “and any amendments and supplements thereto” is deleted in light of Art. 1, § 21, which provides that whenever a provision of law refers to any other law, the reference applies to any subsequent amendment to that other law unless the referring provision expressly provides otherwise.

Defined term: “Administration” § 4–101

4–303. RECOUPMENT OF OVERPAYMENTS.

(A) IN GENERAL.

THE ADMINISTRATION SHALL MAKE EVERY EFFORT TO RECOUP OVERPAYMENTS MADE TO RECIPIENTS THAT THE STATE IS AUTHORIZED TO RECOUP UNDER FEDERAL LAW.

(B) PROCEDURE.

THE ADMINISTRATION SHALL ESTABLISH AN ADMINISTRATIVE PROCEDURE, IN ACCORDANCE WITH FEDERAL LAW, TO BE FOLLOWED WHEN THE ADMINISTRATION HAS REASON TO BELIEVE THAT AN OVERPAYMENT HAS BEEN MADE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 16A.

In subsections (a) and (b) of this section, the former references to “applicable” federal law are deleted as surplusage.

Also in subsections (a) and (b) of this section, the former references to federal “rules, regulations, or guidelines” are deleted as included in the references to federal “law”.

In subsection (b) of this section, the former reference to “October 1, 1977” is deleted as obsolete.

Defined term: “Administration” § 4–101

GENERAL REVISOR’S NOTE TO TITLE:

Former Art. 88A, § 4A, which stated the intent that any requirement for a local government contribution to the costs of social services or public assistance programs was intended to be repealed and terminated when Art. 88A, § 18A was repealed in 1978, and which repealed any provision of the Code inconsistent with that intent, appears to be obsolete. However, to avoid any inadvertent substantive effect its repeal might have, it is transferred to the Session Laws.

Throughout this title, the defined term “Administration” is substituted for the former obsolete references to the “State Administration” and the “State Department”.

TITLE 5. PUBLIC ASSISTANCE.

SUBTITLE 1. DEFINITIONS.

5-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) ADMINISTRATION.

"ADMINISTRATION" MEANS THE FAMILY INVESTMENT ADMINISTRATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Family Investment Administration".

As to the substitution of the defined term "Administration" for the former references to the "State Administration" and the "State Department" throughout this title, *see* General Revisor's Note to title.

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(c).

No changes are made.

(D) EXECUTIVE DIRECTOR.

"EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF FAMILY INVESTMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Executive Director of Family Investment".

(E) LOCAL DEPARTMENT.

"LOCAL DEPARTMENT" MEANS:

(1) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR CONTINUED IN A COUNTY UNDER § 3-201 OF THIS ARTICLE; OR

(2) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY GOVERNMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, §§ 13B and 44A(g).

The former reference to "Baltimore City" is deleted as included in the reference to a "county".

(F) LOCAL DIRECTOR.

“LOCAL DIRECTOR” MEANS THE DIRECTOR OF A LOCAL DEPARTMENT.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to a “director of a local department of social services” or a “local director of social services”.

(G) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(k).

No changes are made.

SUBTITLE 2. FAMILY INVESTMENT ADMINISTRATION.

5-201. ESTABLISHED.

THERE IS A FAMILY INVESTMENT ADMINISTRATION IN THE DEPARTMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 88A, § 1A(a).

It is set forth as a separate section for emphasis and restated in standard language for clarity and consistency.

Defined term: “Department” § 5-101

5-202. AUTHORITY OF SECRETARY.

THE ADMINISTRATION AND THE EXECUTIVE DIRECTOR EXERCISE THEIR AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY STATE LAW SUBJECT TO THE AUTHORITY OF THE SECRETARY UNDER ANY STATE LAW.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 1A(c).

The phrase “under any State law” is substituted for the former phrases “under this article or any other law of this State” and “as set forth in Article 41 of this Code or elsewhere in the laws of this State” for brevity.

Defined terms: “Administration” § 5-101

“Executive Director” § 5-101

“Secretary” § 5-101

5-203. EXECUTIVE DIRECTOR.

(A) IN GENERAL.

THE EXECUTIVE DIRECTOR IS THE HEAD OF THE ADMINISTRATION.

(B) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THE EXECUTIVE DIRECTOR.

(C) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

(D) COMPENSATION.

THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: Subsections (a), (b), and (c) of this section are new language derived without substantive change from the first and second sentences of former Art. 88A, § 1A(b).

Subsection (d) of this section is standard language added for consistency with § 4-203 of this article.

In subsection (c) of this section, the word "serves" is substituted for the former phrase "shall hold office" for brevity and clarity.

Defined terms: "Administration" § 5-101

"Executive Director" § 5-101

"Secretary" § 5-101

5-204. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

(A) ADMINISTRATIVE AND SUPERVISORY DUTIES.

SUBJECT TO STATE AND FEDERAL LAWS GOVERNING THE ADMINISTRATION OF PUBLIC ASSISTANCE, THE EXECUTIVE DIRECTOR SHALL:

(1) ORGANIZE AND ADMINISTER THE ADMINISTRATION;

(2) SUPERVISE THE PUBLIC ASSISTANCE ACTIVITIES OF THE LOCAL DEPARTMENTS; AND

(3) SUPERVISE OTHER AGENCIES AND INSTITUTIONS UNDER THE SUPERVISION OF THE ADMINISTRATION.

(B) PERSONNEL.

(1) THE EXECUTIVE DIRECTOR MAY PRESCRIBE THE NUMBER AND MINIMUM QUALIFICATIONS OF THE PERSONNEL ENGAGED IN THE ADMINISTRATION OF THE ACTIVITIES OF THE ADMINISTRATION AND OF THE LOCAL DEPARTMENTS THAT ARE FINANCED WHOLLY OR PARTLY BY THE ADMINISTRATION.

(2) (I) AS PROVIDED IN THE STATE BUDGET, THE EXECUTIVE DIRECTOR MAY APPOINT THE PERSONNEL REQUIRED TO PROPERLY PERFORM THE DUTIES OF THE ADMINISTRATION.

(II) EXCEPT AS OTHERWISE PROVIDED, APPOINTMENT AND REMOVAL OF ALL PAID PERSONNEL UNDER THIS TITLE ARE SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) BUDGET ESTIMATES.

THE EXECUTIVE DIRECTOR SHALL SUBMIT BUDGET ESTIMATES FOR THE ADMINISTRATION TO THE SECRETARY.

(D) QUALITY CONTROL.

THE EXECUTIVE DIRECTOR SHALL:

(1) DEVELOP A COMPREHENSIVE PROCESS TO:

(I) SYSTEMATICALLY ANALYZE CASH ASSISTANCE PAYMENT ERRORS;

(II) FORMULATE STRATEGIES, INCLUDING IMPROVEMENTS IN THE ELIGIBILITY DETERMINATION PROCESS, TO REDUCE THE ERRORS; AND

(III) MONITOR IMPLEMENTATION OF THE STRATEGIES;

(2) REQUIRE EACH LOCAL DEPARTMENT TO SUBMIT ANNUAL PLANS THAT CONTAIN MEASURABLE OBJECTIVES, INCLUDING OBJECTIVES FOR PARTICIPATION IN WORK ACTIVITIES, TO MEET THE GOALS OF THE FAMILY INVESTMENT PROGRAM; AND

(3) MONITOR THE SUCCESS OF THE LOCAL DEPARTMENTS IN ACHIEVING THE OBJECTIVES OF THE PLANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 1(b), 1A(d) and the third sentence of (b), and 2(c), (d) and, as it related to public assistance, (b)(2).

In subsection (a)(2) of this section, the reference to the "public assistance activities" of the local department is added for clarity.

In the introductory language of subsection (b) of this section, the former reference to the "rules and regulations prescribed in accordance with law" is deleted as included in the reference to "State and federal laws".

In subsection (b)(1) of this section, the former parenthetical phrase "hereinafter referred to as 'local departments'" is deleted in light of § 5-101(e) of this title to the same effect.

Also in subsection (b)(1) of this section, the former reference to local departments "created or continued under the provisions of § 13 of this article" is deleted in light of § 5-101(e) of this title to the same effect.

In subsection (b)(2)(i) of this section, the reference to "personnel" is substituted for the former reference to "employees" for consistency with subsection (b)(1) and (2)(ii) of this section.

Also in subsection (b)(2)(i) of this section, the former phrase “from time to time” is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the reference to “this title” is substituted for the former reference to “this article” to reflect the change in the organization of provisions formerly contained in Article 88A.

Defined terms: “Administration” § 5-101

“Executive Director” § 5-101

“Local department” § 5-101

“Secretary” § 5-101

5-205. POWERS AND DUTIES OF ADMINISTRATION.

(A) PUBLIC ASSISTANCE.

THE ADMINISTRATION SHALL BE THE CENTRAL COORDINATING AND DIRECTING AGENCY OF ALL PUBLIC ASSISTANCE PROGRAMS IN THE STATE, INCLUDING:

- (1) THE FAMILY INVESTMENT PROGRAM AND RELATED CASH BENEFIT PROGRAMS;
- (2) PUBLIC ASSISTANCE TO ADULTS;
- (3) EMERGENCY ASSISTANCE;
- (4) FOOD STAMPS;
- (5) MEDICAL ASSISTANCE ELIGIBILITY DETERMINATIONS; AND
- (6) ANY OTHER PUBLIC ASSISTANCE ACTIVITIES FINANCED WHOLLY OR PARTLY BY THE ADMINISTRATION.

(B) SUPERVISION OF LOCAL DEPARTMENTS.

THE ADMINISTRATION SHALL SUPERVISE, DIRECT, AND CONTROL THE ACTIVITIES OF THE LOCAL DEPARTMENTS THAT IT FINANCES WHOLLY OR PARTLY.

(C) SITE VISITS AND INSPECTIONS.

(1) THE ADMINISTRATION MAY VISIT ANY STATE-AIDED INSTITUTION, ORGANIZATION, OR AGENCY ENGAGED IN PUBLIC ASSISTANCE ACTIVITIES AND INSPECT THOROUGHLY ITS MANAGEMENT, BUILDINGS, AND EQUIPMENT.

(2) VISITS AND INSPECTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE:

(I) AT REASONABLY CONVENIENT HOURS; AND

(II) WITH REASONABLE REGARD FOR THE ESTABLISHED DISCIPLINE, REGULATIONS, AND CUSTOMS OF THE INSTITUTION, ORGANIZATION, OR AGENCY.

(D) DESIGNATION OF AGENTS.

AS DESIRABLE OR NECESSARY FOR THE PURPOSE OF THIS TITLE, THE ADMINISTRATION MAY DESIGNATE EXISTING AGENCIES OR ORGANIZATIONS IN THE STATE AS THE ADMINISTRATION'S AGENTS.

(E) ANNUAL REPORT.

BEFORE THE START OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE ADMINISTRATION SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 3(e), (f), (g), (a)(2) and, as it related to public assistance activities, the first sentence of (1), and the second and third sentences of § 1A(a).

In subsection (b) of this section, the former reference to local departments "in the counties and in Baltimore City" is deleted as surplusage.

In subsection (c) of this section, the reference to "public assistance activities" is substituted for the former reference to "welfare" activities for clarity and consistency with terminology used throughout this subtitle.

In subsection (d) of this section, the reference to "this title" is substituted for the former reference to "this article" to reflect the change in the organization of the provisions formerly contained in Article 88A.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that subsection (e) of this section requires the Administration to submit its annual report to the Governor only. The General Assembly may wish to add a requirement that the report also be submitted to the General Assembly, in accordance with SG § 2-1246.

Defined terms: "Administration" § 5-101

"Local department" § 5-101

"Secretary" § 5-101

5-206. AUTOMATED STATEWIDE SYSTEM.

THE DEPARTMENT MAY DEVELOP AND IMPLEMENT AN AUTOMATED STATEWIDE SYSTEM AND RELATED ADMINISTRATIVE PROCEDURES TO ACHIEVE EFFECTIVELY AND EFFICIENTLY THE PURPOSES OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 88A, § 1A(a) and the first sentence of § 3(b).

The reference to the "Department" is substituted for the former reference to the "State Department" to conform to current practice. All of the automated statewide systems used by the units in the Department of Human Resources are provided by the Department. This substitution is called to the attention of the General Assembly.

Defined term: "Department" § 5-101

5-207. REGULATIONS.

(A) IN GENERAL.

SUBJECT TO § 2-209(B) OF THIS ARTICLE, THE EXECUTIVE DIRECTOR MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE DUTIES IMPOSED ON THE EXECUTIVE DIRECTOR BY LAW.

(B) RECORDS.

(1) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS COVERING THE CUSTODY, USE, AND PRESERVATION OF THE RECORDS OF THE ADMINISTRATION AND THE LOCAL DEPARTMENTS CONCERNING APPLICANTS FOR AND RECIPIENTS OF PUBLIC ASSISTANCE.

(2) THE USE OF THE RECORDS OF THE ADMINISTRATION AND THE LOCAL DEPARTMENTS BY ANY OTHER GOVERNMENTAL UNIT SHALL BE LIMITED TO THE PURPOSES FOR WHICH THE RECORDS ARE FURNISHED.

(C) FEDERAL MATERIAL.

(1) ALL REGULATIONS OR DIRECTIVES IMPLEMENTED BY THE EXECUTIVE DIRECTOR THAT ARE BASED ON FEDERAL LAW, RULES, REGULATIONS, OR GUIDELINES SHALL HAVE THE FEDERAL MATERIAL:

(I) REFERENCED IN THE TEXT OF THE STATE MATERIAL; OR

(II) ATTACHED PERMANENTLY TO THE STATE MATERIAL.

(2) THE DEPARTMENT SHALL FURNISH TO EACH OF THE LOCAL DEPARTMENTS AT LEAST ONE UP-TO-DATE COPY OF ALL CURRENT FEDERAL REGULATIONS APPLICABLE TO THE OPERATIONS OF THE LOCAL DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 88A, § 1A(b) and, as it related to public assistance, § 5.

Throughout this section, the former references to "rules" are deleted in light of the term "regulations". *See* General Revisor's Note to article.

In subsection (a) of this section, the phrase "[s]ubject to § 2-209(b) of this article" is substituted for the former phrases "after approval or revision thereof by the Secretary" and "subject to the authority of the Secretary as set forth in Article 41 of this Code, or elsewhere in the laws of Maryland" for brevity. Section 2-209(b) of this article requires the Secretary to review regulations proposed by a unit in the Department and authorizes the Secretary to approve, disapprove, or revise those regulations.

Also in subsection (a) of this section, the former reference to adopting regulations "from time to time" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to regulations

“when adopted ... hav[ing] the force and effect of law” is deleted as surplusage.

In subsection (b)(1) and (2) of this section, the former references to “papers, files, and communications” are deleted as included in the reference to “records”.

In subsection (b)(2) of this section, the reference to a “governmental unit” is substituted for the former reference to an “agency or department of government” for brevity. *See* General Revisor’s Note to article.

In subsection (c)(2) of this section, the defined term “local department[s]” is substituted for the former reference to “local offices” for consistency with terminology used throughout this title.

Defined terms: “Administration” § 5–101

“Department” § 5–101

“Executive Director” § 5–101

“Local department” § 5–101

“Secretary” § 5–101

SUBTITLE 3. FAMILY INVESTMENT PROGRAM.

5–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(a).

The only changes are in style.

(B) FIP.

“FIP” MEANS THE FAMILY INVESTMENT PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(d).

The only changes are in style.

(C) NONPROFIT ORGANIZATION.

“NONPROFIT ORGANIZATION” MEANS A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(h).

The only changes are in style.

(D) RECIPIENT.

“RECIPIENT” MEANS EACH INDIVIDUAL IN A FIP CASE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 44A(j).

The reference to "each individual" is substituted for the former reference to "all individuals" in light of Art. 1, § 8, which provides that the singular generally includes the plural.

Defined term: "FIP" § 5-301

(E) TEMPORARY CASH ASSISTANCE.

"TEMPORARY CASH ASSISTANCE" MEANS THE CASH ASSISTANCE COMPONENT OF THE FIP THAT IS FUNDED WHOLLY OR PARTLY THROUGH TITLE IV, PART A, OF THE SOCIAL SECURITY ACT.

REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(l).

The only changes are in style.

Defined term: "FIP" § 5-301

(F) THIRD PARTY PAYEE.

"THIRD PARTY PAYEE" MEANS:

- (1) AN INDIVIDUAL THAT THE DEPARTMENT APPROVES;
- (2) A NONPROFIT ORGANIZATION;
- (3) A FOR-PROFIT ORGANIZATION; OR
- (4) A GOVERNMENTAL UNIT, INCLUDING A LOCAL DEPARTMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 44A(m).

In item (4) of this subsection, the reference to a governmental "unit" is substituted for the former reference to a governmental "entity" for consistency with terminology used throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 5-101

"Local department" § 5-101

"Nonprofit organization" § 5-301

(G) TRANSITIONAL ASSISTANCE.

"TRANSITIONAL ASSISTANCE" MEANS ASSISTANCE PROVIDED TO A RECIPIENT WHOSE TEMPORARY CASH ASSISTANCE HAS BEEN TERMINATED FOR NONCOMPLIANCE WITH FIP REQUIREMENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 44A(n).

The former reference to a "FIP" recipient is deleted as redundant. *See* the

definition of “recipient” in this section.

Defined terms: “FIP” § 5–301

“Recipient” § 5–301

“Temporary cash assistance” § 5–301

(H) WORK ACTIVITY.

“WORK ACTIVITY” MEANS:

- SECTOR;
- (1) JOB SEARCH ACTIVITY;
 - (2) SUBSIDIZED EMPLOYMENT IN EITHER THE PUBLIC OR PRIVATE
 - (3) WORK EXPERIENCE;
 - (4) ON-THE-JOB TRAINING;
 - (5) COMMUNITY SERVICE;
 - (6) TRAINING DIRECTLY RELATED TO EMPLOYMENT; OR
 - (7) EDUCATION DIRECTLY RELATED TO EMPLOYMENT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 44A(e) and (i).

In the introductory language of this subsection, the former reference to “any of the following” is deleted as surplusage.

In item (6) of this subsection, the word “or” is substituted for the former conjunctive “and” to clarify that any one of the listed activities qualifies as a “work activity”.

The former reference to “grant diversion” in former Art. 88A, § 44A(i)(3) and the former definition of “grant diversion” in former Art. 88A, § 44A(e), are deleted as included in the reference to “subsidized employment”.

REVISOR’S NOTE TO SECTION: Former Art. 88A, § 44A(b), which defined “[c]ooperative living project”, is deleted as obsolete. Provisions relating to cooperative living projects were repealed by Ch. 593, Acts of 1997.

Former Art. 88A, § 44A(f), which defined “[i]ndividualized case–management project”, is deleted as obsolete. Provisions relating to individualized case–management projects were repealed by Ch. 593, Acts of 1997.

Former Art. 88A, § 44A(c), (g), and (k), which defined “Department”, “local department”, and “Secretary”, respectively, are revised in § 5–101 of this title.

5–302. ESTABLISHED; PURPOSE.

(A) FIP ESTABLISHED.

THERE IS A FAMILY INVESTMENT PROGRAM IN THE DEPARTMENT.

(B) PURPOSE.

THE PRIMARY PURPOSE OF THIS SUBTITLE IS TO SUPPORT FAMILY EFFORTS TO ACHIEVE AND MAINTAIN SELF-SUFFICIENCY THROUGH SERVICES AND FINANCIAL AID GEARED TO INDIVIDUAL FAMILY NEEDS.

REVISOR'S NOTE: Subsection (a) of this section is new language added to conform to similar provisions elsewhere in this article.

Subsection (b) of this section formerly was Art. 88A, § 45.

No changes are made.

5-303. DUTIES OF SECRETARY.

THE SECRETARY SHALL:

(1) IMPLEMENT A FIP THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND FEDERAL LAW;

(2) SUPERVISE THE ADMINISTRATION BY LOCAL DEPARTMENTS OF THE FIP UNDER THIS SUBTITLE;

(3) COOPERATE WITH THE FEDERAL GOVERNMENT IN MATTERS OF MUTUAL CONCERN PERTAINING TO FEDERAL FUNDING FOR THE FIP; AND

(4) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 46(a).

In item (1) of this section, the former requirement that the Secretary "establish" a FIP is deleted as obsolete.

In item (4) of this section, the former reference to "necessary or desirable" regulations is deleted as surplusage.

Defined terms: "FIP" § 5-301

"Local department" § 5-101

"Secretary" § 5-101

5-304. LOCAL GOVERNMENT HIRING PLANS.

(A) IN GENERAL.

WORKING WITH APPROPRIATE LOCAL GOVERNMENT OFFICIALS, THE SECRETARY AND EACH LOCAL DIRECTOR SHALL DEVELOP AND IMPLEMENT A LOCAL GOVERNMENT HIRING PLAN UNDER WHICH LOCAL GOVERNMENTS MAY HIRE RECIPIENTS.

(B) COMPONENTS OF PLAN.

FOR EACH JURISDICTION, THE LOCAL GOVERNMENT HIRING PLAN SHALL INCLUDE:

- (1) A LIST OF THE UNITS THAT MOST EASILY COULD HIRE RECIPIENTS;
 - (2) A LIST OF THE EMPLOYMENT POSITIONS MOST SUITABLE FOR RECIPIENTS;
 - (3) PROPOSALS TO RECRUIT RECIPIENTS;
 - (4) EMPLOYMENT RETENTION STRATEGIES; AND
 - (5) A TARGET NUMBER OF RECIPIENTS TO BE RECRUITED.
- (C) RESPONSIBILITIES OF LOCAL DIRECTORS.

EACH LOCAL DIRECTOR SHALL:

- (1) DEVELOP AND SUBMIT THE LOCAL GOVERNMENT HIRING PLAN IN ACCORDANCE WITH A SCHEDULE AND FORMAT THAT THE SECRETARY DETERMINES;
 - (2) IMPLEMENT IN A TIMELY MANNER THE PROPOSALS AND STRATEGIES IN THE LOCAL GOVERNMENT HIRING PLAN;
 - (3) ACHIEVE THE TARGET NUMBERS IN THE LOCAL GOVERNMENT HIRING PLAN; AND
 - (4) DEVELOP AND SUBMIT REPORTS TO THE SECRETARY IN ACCORDANCE WITH A SCHEDULE AND FORMAT THAT THE SECRETARY DETERMINES.
- (D) ANNUAL REPORT.

ON OR BEFORE NOVEMBER 1 OF EACH YEAR AND IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF COUNTIES, THE SECRETARY SHALL REPORT, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL ASSEMBLY, ON:

- (1) THE DEVELOPMENT OF THE LOCAL GOVERNMENT HIRING PLAN; AND
- (2) THE NUMBER OF RECIPIENTS HIRED AND RETAINED BY LOCAL GOVERNMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 46(b).

Throughout this section, the term "local government hiring plan" is substituted for the former references to "local department plan" and "local plan" for consistency.

In subsections (a) and (b) of this section, the former references to "FIP" recipients are deleted as redundant. *See* the definition of "recipient" in § 5-301. Correspondingly in subsection (d) of this section, the former

reference to “welfare” recipients is deleted.

In subsection (a) of this section, the former reference to local governments hiring recipients “to work in local government” is deleted as redundant.

In subsection (c)(4) of this section, the reference to a schedule and format that the Secretary “determines” is substituted for the former reference to a schedule and format “to be developed” by the Secretary for consistency with subsection (c)(1) of this section.

In subsection (d)(1) of this section, the former reference to the plan “encouraged under this paragraph” is deleted as surplusage.

Defined terms: “Local director” § 5–101

“Recipient” § 5–301

“Secretary” § 5–101

5–305. INSTITUTIONS OF HIGHER EDUCATION.

(A) MARYLAND HIGHER EDUCATION COMMISSION.

IN COOPERATION WITH THE DEPARTMENT, THE MARYLAND HIGHER EDUCATION COMMISSION SHALL:

(1) IDENTIFY AND PROMOTE EFFORTS AT INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE ASSISTANCE TO RECIPIENTS; AND

(2) COORDINATE EFFORTS AMONG INSTITUTIONS OF HIGHER EDUCATION TO ENCOURAGE AND IDENTIFY STUDENT VOLUNTEERS TO HELP RECIPIENTS WITH EDUCATIONAL AND EMPLOYMENT-RELATED SERVICES, INCLUDING:

- (I) LITERACY TRAINING;
- (II) MENTORING;
- (III) RESUME WRITING; AND
- (IV) JOB INTERVIEWING SKILLS.

(B) INSTITUTIONS OF HIGHER EDUCATION.

AN INSTITUTION OF HIGHER EDUCATION SHALL:

(1) MEET WITH THE LOCAL DEPARTMENT ABOUT DEVELOPING SERVICES FOR RECIPIENTS IN THE JURISDICTION IN WHICH THE INSTITUTION IS LOCATED;

(2) ADVISE THE LOCAL DEPARTMENT OF THE SERVICES AVAILABLE FOR RECIPIENTS; AND

(3) ON OR BEFORE SEPTEMBER 15 OF EACH YEAR, PROVIDE TO THE MARYLAND HIGHER EDUCATION COMMISSION A REPORT ON EFFORTS TO:

- (I) ENCOURAGE AND IDENTIFY STUDENT VOLUNTEERS; AND

(II) IDENTIFY SERVICES PROVIDED UNDER THIS SECTION.

(C) ANNUAL REPORT.

ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE MARYLAND HIGHER EDUCATION COMMISSION SHALL SUBMIT A REPORT, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE JOINT COMMITTEE ON WELFARE REFORM ON THE SERVICES PROVIDED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 47(d).

Throughout subsections (a) and (b) of this section, the former references to a "FIP" recipient are deleted as redundant. *See* the definition of "recipient" in § 5-301.

In subsection (a)(2) of this section, the word "including" is substituted for the former phrase "such as" for clarity in light of Article 1, § 30, which provides that "including" is used "by way of illustration and not by way of limitation".

In subsections (b)(3) and (c) of this section, the phrase "on or before" September 15 and December 1, respectively, is substituted for the former word "by" those dates for clarity.

Defined terms: "Department" § 5-101

"Local department" § 5-101

"Recipient" § 5-301

5-306. CONTRACTING POWERS OF DEPARTMENT.

IN PROVIDING ASSISTANCE UNDER THIS SUBTITLE, THE DEPARTMENT MAY CONTRACT WITH:

- (1) CHARITABLE ORGANIZATIONS;
- (2) PRIVATE ORGANIZATIONS;
- (3) RELIGIOUS ORGANIZATIONS; AND
- (4) INSTITUTIONS OF HIGHER EDUCATION.

REVISOR'S NOTE: This section formerly was Art. 88A, § 47(a).

The only changes are in style.

Defined term: "Department" § 5-101

5-307. RELIGIOUS ORGANIZATIONS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A RELIGIOUS ORGANIZATION MAY PARTICIPATE IN THE FIP ON THE SAME BASIS AS ANY OTHER NONGOVERNMENTAL ENTITY.

(B) ACCEPTANCE OF ASSISTANCE NOT REQUIRED.

AN INDIVIDUAL MAY NOT BE REQUIRED TO ACCEPT ASSISTANCE FROM A RELIGIOUS ORGANIZATION IF ACCEPTANCE WOULD VIOLATE THE INDIVIDUAL'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES.

(C) RELIGIOUS DISCRIMINATION.

AN ORGANIZATION FUNDED UNDER THE FIP MAY NOT DISCRIMINATE ON THE BASIS OF RELIGION, RELIGIOUS BELIEF, OR REFUSAL TO PARTICIPATE IN A RELIGIOUS PRACTICE WITH RESPECT TO ANY INDIVIDUAL'S RECEIPT OF SERVICE UNDER THE FIP.

(D) NOTICE OF RIGHTS.

THE DEPARTMENT SHALL PROVIDE ALL RECIPIENTS WITH CLEAR AND TIMELY NOTICE OF THEIR RIGHTS UNDER § 104(E) OF THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 47(b), (c), (e), and (f).

In subsections (a) and (c) of this section, the defined term "FIP" is substituted for the former references to the "Family Investment Program" and "Program" for consistency throughout this subtitle.

In subsection (d) of this section, the defined term "recipients" is substituted for the former reference to "persons receiving benefits under the Family Investment Program" for brevity and consistency throughout this subtitle.

Also in subsection (d) of this section, the reference to the "federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996" is substituted for the former reference to "P.L. 104-193 (1996)" for clarity. *See* 42 U.S.C. 604a.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Recipient" § 5-301

5-308. ELIGIBILITY FOR ASSISTANCE.

(A) IN GENERAL.

(1) A FAMILY MAY BE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE ONLY IF THE FAMILY INCLUDES:

(I) A MINOR CHILD WHO RESIDES WITH A CUSTODIAL PARENT OR OTHER ADULT CARETAKER WHO IS A RELATIVE OF THE CHILD; OR

(II) A PREGNANT INDIVIDUAL.

(2) ASSISTANCE SHALL BE PROVIDED TO AN APPLICANT OR RECIPIENT UNDER THIS SUBTITLE ONLY IF THE APPLICANT OR RECIPIENT:

(I) RESIDES IN THE STATE AT THE TIME OF APPLICATION FOR ASSISTANCE;

(II) IF APPLICABLE:

1. HAS APPLIED FOR CHILD SUPPORT SERVICES WITH THE APPROPRIATE LOCAL CHILD SUPPORT ENFORCEMENT OFFICE AT THE TIME OF APPLICATION FOR ASSISTANCE; AND

2. COMPLIES WITH THE REQUIREMENTS OF THE LOCAL CHILD SUPPORT ENFORCEMENT OFFICE;

(III) HAS ENGAGED IN JOB SEARCH ACTIVITIES AS REQUESTED BY THE DEPARTMENT;

(IV) PARTICIPATES IN WORK ACTIVITY UNDER THIS SUBTITLE; AND

(V) MEETS ALL OTHER FIP REQUIREMENTS THAT THE SECRETARY ESTABLISHES BY REGULATION.

(B) EXEMPTIONS.

(1) AN INDIVIDUAL MAY NOT BE REQUIRED TO MEET THE WORK ACTIVITY REQUIREMENT UNDER SUBSECTION (A)(2)(IV) OF THIS SECTION IF THE INDIVIDUAL IS EXEMPT UNDER CRITERIA THE SECRETARY ESTABLISHES.

(2) THE CRITERIA SHALL INCLUDE EXEMPTIONS FOR:

(I) ADULTS WHO ARE REQUIRED TO CARE FOR A CHILD WHO IS A RECIPIENT UNDER THE AGE OF 1 YEAR; AND

(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ADULTS AND CHILDREN WHO ARE RECIPIENTS AND WHO ARE SEVERELY DISABLED.

(3) AN INDIVIDUAL'S EXEMPTION BECAUSE OF SEVERE DISABILITY IS LIMITED TO 12 MONTHS UNLESS:

(I) THE INDIVIDUAL APPLIES FOR SUPPLEMENTAL SECURITY INCOME; AND

(II) THE APPLICATION IS APPROVED, PENDING, OR ON APPEAL.

(C) LEGAL IMMIGRANTS.

SUBJECT TO THE STATE BUDGET, A LEGAL IMMIGRANT IS ENTITLED TO ASSISTANCE UNDER THIS SUBTITLE IF THE IMMIGRANT:

(1) MEETS FIP ELIGIBILITY REQUIREMENTS UNDER THIS SUBTITLE AND ANY OTHER REQUIREMENTS IMPOSED BY THE STATE; AND

(2) (I) ARRIVED IN THE UNITED STATES BEFORE AUGUST 22, 1996; OR

(II) ARRIVED IN THE UNITED STATES ON OR AFTER AUGUST 22, 1996 AND IS NOT ELIGIBLE FOR FEDERALLY FUNDED CASH ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 48.

In the introductory language of subsection (a)(2) of this section, the reference to an "applicant or recipient" is substituted for the former reference to an "applicant for or recipient of assistance" for brevity.

In subsection (a)(2)(ii) of this section, the phrase "if applicable" is added for clarity and accuracy.

In subsection (b)(1) of this section, the phrase "[a]n individual may not be required to meet the work activity requirement under subsection (a)(2)(iv) of this section" is added for clarity.

In subsection (b)(2)(ii) of this section, the former reference to "children 16 years of age and older who are not in school and who are severely disabled" is deleted as unnecessary in light of the reference to "adults and children who are recipients and who are severely disabled".

In the introductory language of subsection (c) of this section, the former phrase "[i]n addition to the provisions of this section" is deleted as surplusage.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(2)(ii)2 of this section, the General Assembly may wish to substitute a reference to the "regulations of the Child Support Enforcement Administration" for the reference to the "requirements of the local child support enforcement office" to ensure that all applicants and recipients are subject to uniform requirements statewide.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Recipient" § 5-301

"Secretary" § 5-101

"Work activity" § 5-301

5-309. SCOPE OF FAMILY INVESTMENT PROGRAM.

(A) IN GENERAL.

EXCEPT FOR AN APPLICANT OR RECIPIENT WHO IS A SINGLE CHILD, THE FIP SHALL INCLUDE:

(1) AN ASSESSMENT OF EACH APPLICANT OR RECIPIENT THAT CONSIDERS:

(I) THE REASONS FOR APPLYING FOR OR CONTINUING TO RELY ON ASSISTANCE;

(II) AN EVALUATION OF APPROPRIATE WORK ACTIVITIES BASED ON EDUCATIONAL LEVEL, JOB SKILLS AND READINESS, AND INTERESTS; AND

(III) PERSONAL AND FAMILY RESOURCES AVAILABLE TO FACILITATE INDEPENDENCE; AND

(2) WELFARE AVOIDANCE GRANTS THAT:

(I) MEET IMMEDIATE NEEDS SO THAT AN APPLICANT OR RECIPIENT CAN AVOID TEMPORARY CASH ASSISTANCE;

(II) MAY BE GRANTED AS THE DEPARTMENT CONSIDERS APPROPRIATE;

(III) MAY NOT COVER THE SAME TYPE OF IMMEDIATE NEED MET BY A PREVIOUS WELFARE AVOIDANCE GRANT UNLESS THE DEPARTMENT DETERMINES THAT THE CURRENT IMMEDIATE NEED IS A NEW AND VERIFIED EMERGENCY;

(IV) DO NOT EXCEED AN AMOUNT OF 3 MONTHS OF TEMPORARY CASH ASSISTANCE, UNLESS THE DEPARTMENT DETERMINES THERE IS A COMPELLING NEED FOR AN AMOUNT NOT EXCEEDING 12 MONTHS; AND

(V) MAY NOT DUPLICATE PERIODS OF TEMPORARY CASH ASSISTANCE.

(B) RECIPIENTS.

EXCEPT FOR A RECIPIENT WHO IS A SINGLE CHILD, THE FIP FOR A RECIPIENT SHALL INCLUDE:

(1) AN AGREEMENT BETWEEN THE DEPARTMENT AND THE RECIPIENT THAT:

(I) REQUIRES THE RECIPIENT TO COOPERATE WITH THE CHILD SUPPORT ENFORCEMENT AGENCY TO OBTAIN SUPPORT FROM A NONCUSTODIAL PARENT;

(II) REQUIRES THE RECIPIENT TO COMPLY WITH REASONABLE REQUESTS FOR COOPERATION BY CASE MANAGEMENT WORKERS IN SEEKING AND USING PROGRAMS AND COMMUNITY AND FAMILY RESOURCES THAT MAY BE AVAILABLE TO THE RECIPIENT;

(III) SPECIFIES THE WORK ACTIVITIES IN WHICH THE RECIPIENT WILL PARTICIPATE; AND

(IV) SPECIFIES THE SUPPORTIVE SERVICES THAT THE LOCAL DEPARTMENT WILL ASSIST IN PROVIDING AND THAT ARE NECESSARY FOR THE RECIPIENT TO MEET THE RECIPIENT'S OBLIGATIONS UNDER THE FIP;

(2) SUPPORTIVE SERVICES ACTIVITIES, INCLUDING CHILD CARE, TO THE EXTENT RESOURCES ALLOW;

(3) REFERRAL, AS APPROPRIATE, TO FAMILY PLANNING COUNSELING AND SERVICES THAT:

(I) ARE NOT OFFERED OR CONDUCTED IN A MANNER THAT:

1. IS COERCIVE;
2. VIOLATES THE RECIPIENT'S CONFIDENTIALITY; OR
3. VIOLATES THE RECIPIENT'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES; AND

(II) GIVES PREFERENCE TO ELIGIBLE TEEN PARENTS; AND

(4) TEMPORARY CASH ASSISTANCE, AS A LAST RESORT.

(C) APPLICANTS.

EXCEPT FOR AN APPLICANT WHO IS A SINGLE CHILD, THE FIP FOR AN APPLICANT SHALL INCLUDE A CHILD CARE VOUCHER:

(1) TO THE EXTENT RESOURCES ALLOW, IF THE APPLICANT IS REQUIRED TO PARTICIPATE IN A WORK ACTIVITY AS A CONDITION OF ELIGIBILITY; OR

(2) IF PROVIDING CHILD CARE ELIMINATES THE APPLICANT'S NEED FOR CASH ASSISTANCE UNDER THE FIP.

(D) SINGLE CHILDREN.

FOR AN APPLICANT OR RECIPIENT WHO IS A SINGLE CHILD, THE FIP SHALL INCLUDE:

(1) REFERRAL TO APPROPRIATE SERVICES; AND

(2) TEMPORARY CASH ASSISTANCE FOR THE RECIPIENT, AS A LAST RESORT.

(E) NONCUSTODIAL PARENTS IN NEED OF EMPLOYMENT SERVICES.

TO THE EXTENT RESOURCES ALLOW, THE FIP SHALL SERVE NONCUSTODIAL PARENTS WHO NEED EMPLOYMENT SERVICES TO PAY CHILD SUPPORT OBLIGATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 49(a), (b), and (c).

In the introductory language of subsection (a) of this section, the former reference to welfare avoidance grants "[f]or an applicant or recipient" is deleted as redundant.

In subsection (a)(2)(i) of this section, the defined term "temporary cash assistance" is substituted for the former reference to "welfare assistance" for consistency throughout this subtitle.

In subsection (a)(2)(iv) of this section, the reference to welfare avoidance grants that "do not exceed an amount of 3 months of temporary cash assistance" is substituted for the former reference to grants that "[m]ay be in an amount that exceeds 3 months" for clarity.

In subsection (b)(1)(i) of this section, the reference to a “noncustodial” parent is substituted for the former obsolete reference to an “absent” parent.

In subsection (c)(1) of this section, the former reference to a “job search” activity is deleted as included in the reference to a “work activity”. *See* § 5–301 of this subtitle.

Defined terms: “Department” § 5–101
 “FIP” § 5–301
 “Recipient” § 5–301
 “Work activity” § 5–301

5–310. AMOUNT OF ASSISTANCE; RULES OF ELIGIBILITY.

(A) AMOUNT OF ASSISTANCE.

(1) FOR APPLICANTS TO THE FIP, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING 20% OF THAT EARNED INCOME.

(2) FOR ELIGIBLE RECIPIENTS WHO OBTAIN UNSUBSIDIZED EMPLOYMENT, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING 40% OF THAT EARNED INCOME.

(B) WAGE EARNERS WORKING OVER 100 HOURS PER MONTH.

A RECIPIENT WHO HAS ESTABLISHED ELIGIBILITY MAY NOT LOSE ELIGIBILITY SOLELY BECAUSE ONE OR MORE WAGE EARNERS IN THE FAMILY UNIT WORKS MORE THAN 100 HOURS PER MONTH.

(C) SPECIFIED PERIOD OF WORK FOR PRINCIPAL WAGE EARNER.

TWO-PARENT FAMILIES SHALL BE EXEMPT FROM ANY REQUIREMENT THAT THE PRINCIPAL WAGE EARNER MUST HAVE WORKED FOR A SPECIFIED TIME BEFORE APPLYING TO THE FIP.

(D) HOUSEHOLD INCOME OF PARENT AND STEPPARENT EXCEEDING ELIGIBILITY STANDARDS.

(1) A CHILD WHO IS LIVING WITH THE CHILD'S PARENT AND A STEPPARENT IN A HOUSEHOLD IN WHICH THE HOUSEHOLD INCOME EXCEEDS THE STATE ELIGIBILITY STANDARD FOR ASSISTANCE MAY RECEIVE ASSISTANCE IF:

(I) THE REQUIREMENTS OF § 5–308 OF THIS SUBTITLE ARE MET;
 AND

(II) THE PARENT AND THE CHILD WOULD BE ELIGIBLE FOR ASSISTANCE, BASED ON THE INCOME OF THE PARENT AND THAT PARENT'S CHILDREN.

(2) THE AMOUNT OF ASSISTANCE TO BE PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE COMPUTED WITH REGARD TO THE INCOME OF THE STEPPARENT IF THE TOTAL INCOME OF THE STEPPARENT EQUALS OR EXCEEDS 50% OF THE OFFICIAL POVERTY LEVEL, ADJUSTED FOR FAMILY SIZE, ESTABLISHED UNDER THE FEDERAL COMMUNITY SERVICES BLOCK GRANT ACT.

(E) DEPENDENT CHILD OVER 17 YEARS OF AGE WHO IS FULL-TIME STUDENT.

A DEPENDENT CHILD OVER THE AGE OF 17 YEARS IS ELIGIBLE FOR INCLUSION IN THE FIP GRANT IF:

(1) THE CHILD IS A FULL-TIME STUDENT IN SECONDARY SCHOOL OR THE EQUIVALENT; AND

(2) THE EDUCATION PROGRAM IS EXPECTED TO BE COMPLETED IN THE CALENDAR YEAR THAT THE CHILD ATTAINS THE AGE OF 19 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 49(d), (e), (f), (g), and (h).

In subsection (a)(1) of this section, the defined term "FIP" is substituted for the former reference to "Family Investment Program" for consistency throughout this subtitle.

In subsection (a)(2) of this section, the former reference to a "Family Investment Program" recipient is deleted as surplusage in light of the definition of "recipient" in § 5-301.

In subsections (b), (c), and (d)(1), and the introductory language of subsection (e) of this section, the former requirements that the Secretary "revise the schedule of FIP assistance" and "revise the rules of eligibility" are deleted as obsolete.

In the introductory language of subsection (d)(1) and in subsection (d)(1)(ii) of this section, the former references to a "natural" parent are deleted as archaic and misleading. The Human Services Article Review Committee notes, for consideration by the General Assembly, that distinguishing between children living with "natural" and adoptive parents may violate the Equal Protection clause of the 14th Amendment of the U.S. Constitution.

Defined terms: "FIP" § 5-301

"Recipient" § 5-301

"Secretary" § 5-101

5-311. PERIODIC RECERTIFICATION; CANCELLATION, SUSPENSION, OR REVOCATION.

(A) PERIODIC RECERTIFICATION.

ALL ASSISTANCE GRANTED UNDER THIS SUBTITLE IS SUBJECT TO PERIODIC RECERTIFICATION.

(B) CANCELLATION, SUSPENSION, OR REVOCATION OF ASSISTANCE.

AT ANY TIME, THE DEPARTMENT MAY CANCEL, SUSPEND, OR REVOKE ASSISTANCE IF:

- (1) THE RECIPIENT'S CIRCUMSTANCES HAVE ALTERED SUFFICIENTLY TO WARRANT CANCELLATION, SUSPENSION, OR REVOCATION; OR
- (2) THE RECIPIENT HAS FAILED TO COMPLY WITH FIP REQUIREMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 52(a) and (b).

In the introductory language of subsection (b) of this section, the former phrase "during a certification period" is deleted as surplusage.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Recipient" § 5-301

5-312. TEMPORARY CASH ASSISTANCE -- IN GENERAL.

(A) INTENT OF SECTION.

THIS SECTION IS NOT INTENDED TO CREATE AN INCENTIVE FOR INDIVIDUALS TO SEEK TEMPORARY CASH ASSISTANCE BENEFITS INSTEAD OF EMPLOYMENT.

(B) REQUIREMENTS FOR ASSISTANCE -- IN GENERAL.

A LOCAL DEPARTMENT SHALL PROVIDE TEMPORARY CASH ASSISTANCE TO AN APPLICANT OR RECIPIENT ONLY IF:

(1) THE APPLICANT OR RECIPIENT MEETS THE REQUIREMENTS FOR PARTICIPATION IN THE FIP SET FORTH IN § 5-308 OF THIS SUBTITLE;

(2) THE APPLICANT OR RECIPIENT ASSIGNS TO THE STATE ALL RIGHT, TITLE, AND INTEREST IN SUPPORT FROM ANY OTHER PERSON THAT THE APPLICANT OR RECIPIENT HAS ON BEHALF OF ANY INTENDED OR POTENTIAL RECIPIENT FOR WHOM THE APPLICANT OR RECIPIENT IS APPLYING FOR OR RECEIVING ASSISTANCE, INCLUDING ANY RIGHT ACCRUED WHEN THE ASSIGNMENT IS EXECUTED; AND

(3) IN THE CASE OF AN APPLICANT OR RECIPIENT WHO IS A MINOR PARENT, THE APPLICANT OR RECIPIENT LIVES:

(I) WITH A PARENT, LEGAL GUARDIAN, CUSTODIAN, OR OTHER ADULT RELATIVE WHO WILL BE THE PAYEE OF THE MINOR PARENT;

(II) IN AN ADULT-SUPERVISED GROUP LIVING ARRANGEMENT THAT PROVIDES A PROTECTIVE PAYEE AND:

1. THERE IS NO AVAILABLE PARENT, LEGAL GUARDIAN, CUSTODIAN, OR OTHER ADULT RELATIVE WITH WHOM THE MINOR PARENT CAN LIVE;

2. THE MINOR PARENT OR CHILD WOULD BE SUBJECT TO PHYSICAL OR EMOTIONAL HARM, SEXUAL ABUSE, OR NEGLECT IN THE HOME OF ANY AVAILABLE ADULT RELATIVE; OR

3. A SOCIAL SERVICE WORKER FINDS THAT LIVING WITH ANY AVAILABLE ADULT RELATIVE WOULD NOT BE IN THE BEST INTEREST OF THE MINOR PARENT OR CHILD; OR

(III) INDEPENDENTLY, IF A SOCIAL SERVICE WORKER CONFIRMS THAT THE PHYSICAL SAFETY OR EMOTIONAL HEALTH OF THE MINOR PARENT OR CHILD WOULD OTHERWISE BE IN JEOPARDY.

(C) ENTITLEMENT TO BENEFITS.

A RECIPIENT WHO MEETS THE REQUIREMENTS OF THE FIP IS ENTITLED TO TEMPORARY CASH ASSISTANCE BENEFITS.

(D) SPONSORED LEGAL IMMIGRANTS.

IN DETERMINING THE ELIGIBILITY FOR AND THE AMOUNT OF TEMPORARY CASH ASSISTANCE TO BE PROVIDED TO AN APPLICANT OR RECIPIENT WHO IS A LEGAL IMMIGRANT, THE INCOME AND RESOURCES OF THE APPLICANT OR RECIPIENT SHALL INCLUDE, FOR THE PERIOD OF TIME ESTABLISHED BY FEDERAL LAW, THE INCOME AND RESOURCES OF ANY SPONSOR WHO EXECUTED AN AFFIDAVIT OF SUPPORT IN ACCORDANCE WITH 8 U.S.C. § 1183A ON BEHALF OF THE LEGAL IMMIGRANT.

(E) NONCOMPLIANCE.

(1) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH A SCHEDULE OF REDUCTIONS AND TERMINATIONS OF TEMPORARY CASH ASSISTANCE FOR NONCOMPLIANCE WITH FIP REQUIREMENTS.

(2) (I) IF A RECIPIENT IS FOUND TO BE IN NONCOMPLIANCE WITH FIP REQUIREMENTS, A CASEWORKER SHALL INVESTIGATE THE REASONS FOR NONCOMPLIANCE.

(II) THE INVESTIGATION, TO THE EXTENT RESOURCES ALLOW, SHALL INCLUDE PERSONAL CONTACT WITH THE FAMILY OF THE RECIPIENT.

(3) THE SECRETARY MAY NOT REDUCE OR TERMINATE TEMPORARY CASH ASSISTANCE TO A FAMILY UNTIL 30 DAYS AFTER THE DAY ON WHICH THE FIRST WRITTEN NOTICE OF NONCOMPLIANCE WAS SENT TO THE RECIPIENT.

(4) FOR NONCOMPLIANCE WITH A FIP REQUIREMENT OTHER THAN A WORK ACTIVITY, TEMPORARY CASH ASSISTANCE SHALL RESUME ON COMPLIANCE WITH THE FIP REQUIREMENT.

(5) FOR NONCOMPLIANCE WITH A WORK ACTIVITY, TEMPORARY CASH ASSISTANCE SHALL RESUME IN THE FOLLOWING MANNER:

(I) FOR THE FIRST INSTANCE OF NONCOMPLIANCE, TEMPORARY CASH ASSISTANCE SHALL RESUME IMMEDIATELY ON COMPLIANCE;

(II) FOR THE SECOND INSTANCE OF NONCOMPLIANCE, TEMPORARY CASH ASSISTANCE SHALL RESUME AFTER 10 DAYS OF COMPLIANCE WITH THE WORK ACTIVITY; AND

(III) FOR EACH SUBSEQUENT INSTANCE OF NONCOMPLIANCE, TEMPORARY CASH ASSISTANCE SHALL RESUME AFTER 30 DAYS OF COMPLIANCE WITH A WORK ACTIVITY.

(6) IF TEMPORARY CASH ASSISTANCE IS REDUCED OR TERMINATED UNDER THIS SUBSECTION, A RECIPIENT SHALL RETAIN ELIGIBILITY FOR MEDICAL ASSISTANCE AND FOOD STAMPS, AS LONG AS THE RECIPIENT MEETS THE MEDICAL ASSISTANCE AND FOOD STAMP PROGRAM REQUIREMENTS.

(F) TRANSITIONAL ASSISTANCE.

(1) AFTER TERMINATION OF TEMPORARY CASH ASSISTANCE UNDER THIS SECTION, A RECIPIENT MAY RECEIVE TRANSITIONAL ASSISTANCE.

(2) IF A CASEWORKER DETERMINES THAT TRANSITIONAL ASSISTANCE IS APPROPRIATE, THE FIP BENEFIT THAT WOULD HAVE BEEN PAID TO THE RECIPIENT SHALL BE PAID INSTEAD TO A THIRD PARTY PAYEE ON BEHALF OF THE RECIPIENT FOR A PERIOD OF UP TO 3 MONTHS.

(3) THE CASEWORKER OF A RECIPIENT, IN CONJUNCTION WITH THE RECIPIENT AND SUBJECT TO THE APPROVAL OF THE SECRETARY, SHALL SELECT A THIRD PARTY PAYEE DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(4) THE THIRD PARTY PAYEE SHALL PROVIDE TRANSITIONAL ASSISTANCE TO THE RECIPIENT IN ONE OR MORE OF THE FOLLOWING FORMS:

(I) COUNSELING;

(II) HOUSING;

(III) CHILD CARE;

(IV) HOUSEHOLD SUPPLIES AND EQUIPMENT;

(V) DIRECT ASSISTANCE OTHER THAN A CASH PAYMENT; AND

(VI) ANY OTHER NONCASH ASSISTANCE THAT MAY BE NECESSARY TO ASSIST THE RECIPIENT TO MAKE THE TRANSITION FROM WELFARE.

(5) A LOCAL DEPARTMENT MAY PAY AN ADMINISTRATIVE FEE TO A THIRD PARTY PAYEE TO COVER THE ADMINISTRATIVE COSTS OF THE THIRD PARTY PAYEE FOR PROVIDING THE SERVICES DESCRIBED IN PARAGRAPH (4) OF THIS SUBSECTION.

(6) THE FUNDS PROVIDED THROUGH TRANSITIONAL ASSISTANCE MAY NOT BE USED TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION.

(7) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING THE SELECTION CRITERIA FOR THIRD PARTY PAYEES UNDER THIS SUBSECTION.

(8) A RECIPIENT WHO HAS RECEIVED TRANSITIONAL ASSISTANCE MAY REAPPLY FOR THE FIP BENEFIT AND THE BENEFIT SHALL BE FURNISHED WITH REASONABLE PROMPTNESS TO ALL ELIGIBLE INDIVIDUALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 50(a), (b), (c), (f), and (g).

In subsection (a) of the section, the scope of the statement of intent is narrower than the former law because of the reorganization of provisions formerly contained in Art. 88A, § 50. No substantive change is intended.

In subsection (b)(1) of this section, the word "applicant" is added to clarify that both temporary cash assistance applicants and recipients must meet FIP requirements.

In subsection (c) of this section, the reference to "temporary cash assistance benefits" is substituted for the former reference to "cash assistance benefits" for clarity and consistency throughout this subtitle.

In subsection (d) of this section, the phrase "[i]n determining the eligibility for and the amount of temporary cash assistance to be provided to an applicant or recipient who is a legal immigrant," is added for clarity.

Also in subsection (d) of this section, the phrase "for the period of time established by federal law" is substituted for the former phrase "for a period of 3 years from the date of the immigrant's entry into the United States, unless a different period of time is set by the federal government" for accuracy and consistency with federal requirements. *See* 8 U.S.C. § 1631(b).

Also in subsection (d) of this section, the reference to "8 U.S.C. § 1183a" is substituted for the former reference to "§ 213A of the Immigration and Naturalization Act" for accuracy.

In subsection (e)(2)(i) of this section, the reference to a "recipient" is substituted for the former reference to an "individual" for clarity and consistency.

In subsection (e)(2)(ii) of this section, the reference to the "family of the recipient" is substituted for the former reference to the "family unit" for clarity and consistency with subsection (e)(3) of this section.

Also in subsection (e)(2)(ii) of this section, the former phrase "but not be limited to" is deleted in light of the word "include". Art. 1, § 30, provides that "includes" means "by way of illustration and not by way of limitation".

In subsection (e)(3) of this section, the requirement that written notice be sent "to the recipient" is added for clarity.

In subsection (f)(2) of this section, the reference to a determination that transitional assistance "is appropriate" is substituted for the former

reference to a determination that “the local department shall provide” transitional assistance for clarity.

Defined terms: “FIP” § 5–301

“Local department” § 5–101

“Person” § 1–101

“Recipient” § 5–301

“Secretary” § 5–101

“Temporary cash assistance” § 5–301

“Third party payee” § 5–301

“Transitional assistance” § 5–301

“Work activity” § 5–301

5–313. TEMPORARY CASH ASSISTANCE — LIMITATIONS.

(A) BIRTH OF A CHILD; CHILD–SPECIFIC BENEFIT.

(1) THIS SUBSECTION DOES NOT APPLY TO A BIRTH RESULTING FROM RAPE OR INCEST.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, TEMPORARY CASH ASSISTANCE MAY NOT INCLUDE THE INCREMENT IN CASH BENEFITS UNDER THE FIP FOR WHICH A RECIPIENT WOULD OTHERWISE BE ELIGIBLE AS A RESULT OF THE BIRTH OF A CHILD 10 OR MORE MONTHS AFTER THE RECIPIENT’S INITIAL APPLICATION FOR TEMPORARY CASH ASSISTANCE BENEFITS.

(3) CASH PAYMENTS FOR A CHILD MAY NOT BE MADE TO A FAMILY OTHER THAN THE CHILD’S FAMILY UNLESS THE SOCIAL SERVICES ADMINISTRATION HAS PLACED THE CHILD WITH THE OTHER FAMILY.

(4) IF A RECIPIENT IS INELIGIBLE FOR AN INCREMENT IN CASH BENEFITS UNDER THIS SUBSECTION, THE DEPARTMENT SHALL PROVIDE A CHILD–SPECIFIC BENEFIT, NOT TO EXCEED THE VALUE OF THE INCREMENT ELIMINATED BY THIS SUBSECTION, FOR THE PURCHASE OF GOODS SPECIFIED BY THE DEPARTMENT AS SUITABLE FOR THE CARE OF A MINOR.

(5) A LOCAL DEPARTMENT MAY PAY AN ADMINISTRATIVE FEE TO A THIRD PARTY PAYEE TO COVER THE ADMINISTRATIVE COSTS OF THE THIRD PARTY PAYEE FOR MANAGING THE CHILD–SPECIFIC BENEFIT.

(6) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING THE SELECTION CRITERIA FOR THIRD PARTY PAYEES UNDER THIS SUBSECTION.

(B) TIME LIMITATIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND IN REGULATIONS THAT THE SECRETARY ADOPTS, A LOCAL DEPARTMENT MAY NOT PAY TEMPORARY CASH ASSISTANCE TO:

(I) A FAMILY THAT INCLUDES AN ADULT WHO HAS RECEIVED MORE THAN 60 CUMULATIVE MONTHS OF TEMPORARY CASH ASSISTANCE FUNDED WHOLLY OR PARTLY BY FEDERAL FUNDS; OR

(II) A FAMILY THAT INCLUDES AN ADULT WHO:

1. HAS RECEIVED MORE THAN 24 CUMULATIVE MONTHS OF TEMPORARY CASH ASSISTANCE FUNDED WHOLLY OR PARTLY BY FEDERAL FUNDS; AND

2. WHO IS NOT PARTICIPATING IN A WORK ACTIVITY.

(2) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH:

(I) STANDARDS AND PROCEDURES UNDER WHICH A LOCAL DEPARTMENT MAY EXEMPT A FAMILY FROM THE LIMITATION UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION BECAUSE OF HARDSHIP; AND

(II) A SEPARATE STATE PROGRAM THAT:

1. IS FUNDED ENTIRELY FROM STATE GENERAL FUNDS THAT MAY BE COUNTED TOWARD ANY FEDERAL MAINTENANCE OF EFFORT REQUIREMENT;

2. PAYS TEMPORARY CASH ASSISTANCE TO A FAMILY THAT IS EXEMPTED UNDER ITEM (I) OF THIS PARAGRAPH BUT CANNOT RECEIVE FEDERAL FUNDS BECAUSE OF FEDERAL LIMITATIONS; AND

3. IS SUBJECT TO ALL FIP REQUIREMENTS UNDER THIS SUBTITLE.

(3) THE PROVISIONS OF THIS SUBSECTION ARE SUBJECT TO FEDERAL LAW AND REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 51 and 50(e).

In subsection (b)(2)(ii) of this section, the former phrase "subject to subsection (c) of this section" is deleted as redundant.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Local department" § 5-101

"Recipient" § 5-301

"Secretary" § 5-101

"Temporary cash assistance" § 5-301

"Third party payee" § 5-301

"Work activity" § 5-301

5-314. TEMPORARY CASH ASSISTANCE -- ADULT OR MINOR PARENT SUBSTANCE ABUSE TREATMENT.

(A) "ADDICTIONS SPECIALIST" DEFINED.

IN THIS SECTION, "ADDICTIONS SPECIALIST" MEANS AN ADDICTIONS SPECIALIST WHO IS LOCATED ON-SITE AT A LOCAL DEPARTMENT.

(B) SCREENING BY ADDICTIONS SPECIALIST.

(1) AN ADDICTIONS SPECIALIST SHALL ASSESS THE NEED OF ANY ADULT OR MINOR PARENT APPLICANT OR RECIPIENT FOR SUBSTANCE ABUSE TREATMENT:

(I) AT THE INITIAL APPLICATION FOR TEMPORARY CASH ASSISTANCE; OR

(II) WHEN CONSIDERED APPROPRIATE BY THE FIP CASE MANAGER OF THE LOCAL DEPARTMENT.

(2) THE ADDICTIONS SPECIALIST SHALL SCREEN THE APPLICANT OR RECIPIENT TO EXPOSE POTENTIAL BARRIERS THAT THE APPLICANT OR RECIPIENT MAY HAVE IN OBTAINING EMPLOYMENT SUCH AS A SUBSTANCE ABUSE PROBLEM.

(3) THE ADDICTIONS SPECIALIST SHALL INFORM EACH ADULT OR MINOR PARENT APPLICANT OR RECIPIENT OF THE REQUIREMENTS OF FIP REGARDING SUBSTANCE ABUSE TREATMENT.

(4) IF THE APPLICANT OR RECIPIENT DOES NOT COMPLETE THE SCREENING REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE ADDICTIONS SPECIALIST SHALL NOTIFY THE FIP CASE MANAGER.

(C) ASSESSMENT; TREATMENT.

(1) IF THE SCREENING PERFORMED BY THE ADDICTIONS SPECIALIST REVEALS THAT AN APPLICANT OR RECIPIENT HAS A SUBSTANCE ABUSE PROBLEM, THE ADDICTIONS SPECIALIST SHALL:

(I) CONDUCT, OR REFER FOR, AN ASSESSMENT OF THE APPLICANT'S OR RECIPIENT'S SUBSTANCE ABUSE PROBLEM AND, IF APPROPRIATE, DETERMINE PLACEMENT FOR TREATMENT AND RELATED SUPPORT SERVICES;

(II) REFER THE APPLICANT OR RECIPIENT FOR APPROPRIATE SUBSTANCE ABUSE TREATMENT AND RELATED SUPPORT SERVICES;

(III) OBTAIN THE SIGNATURE OF THE APPLICANT OR RECIPIENT ON A FORM CONSENTING TO THE RELEASE OF CONFIDENTIAL SUBSTANCE ABUSE TREATMENT INFORMATION;

(IV) FORWARD THE CONSENT FORM TO THE APPROPRIATE SUBSTANCE ABUSE TREATMENT PROVIDER; AND

(V) OBTAIN ANY NECESSARY TREATMENT INFORMATION FROM THE SUBSTANCE ABUSE TREATMENT PROVIDER.

(2) (I) THE SUBSTANCE ABUSE TREATMENT PROVIDER SHALL NOTIFY THE ADDICTIONS SPECIALIST OF THE ONGOING TREATMENT STATUS OF THE APPLICANT OR RECIPIENT.

(II) THE ADDICTIONS SPECIALIST SHALL NOTIFY THE FIP CASE MANAGER IF AN APPLICANT OR RECIPIENT:

1. FAILS TO COMPLETE THE ASSESSMENT REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION;
2. FAILS TO SIGN THE CONSENT FORM REQUIRED UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION;
3. IS REFERRED FOR APPROPRIATE SUBSTANCE ABUSE TREATMENT;
4. IS AWAITING THE AVAILABILITY OF APPROPRIATE TREATMENT;
5. FAILS TO ENROLL OR MAINTAIN ENROLLMENT WITH AN AVAILABLE SUBSTANCE TREATMENT PROVIDER OR TO COMPLETE THE TREATMENT PROTOCOL;
6. IS ENROLLED IN A TREATMENT PROGRAM; OR
7. SUCCESSFULLY COMPLETES TREATMENT.

(III) THE ADDICTIONS SPECIALIST SHALL ALSO NOTIFY THE FIP CASE MANAGER REGARDING THE ONGOING TREATMENT STATUS OF THE APPLICANT OR RECIPIENT.

(D) COMPLIANCE.

AN ADULT OR MINOR PARENT APPLICANT OR RECIPIENT WHO COMPLIES WITH THE SUBSTANCE ABUSE TREATMENT REQUIREMENTS OF THE FIP:

(1) SHALL RECEIVE A FULL TEMPORARY CASH ASSISTANCE BENEFIT AS LONG AS THE APPLICANT OR RECIPIENT MEETS THE OTHER TEMPORARY CASH ASSISTANCE ELIGIBILITY REQUIREMENTS; AND

(2) MAY BE EXEMPT FROM THE WORK ACTIVITY REQUIREMENTS FOR A PERIOD OF TIME DETERMINED BY THE FIP CASE MANAGER IN CONSULTATION WITH THE ADDICTIONS SPECIALIST.

(E) NONCOMPLIANCE -- IN GENERAL.

AN ADULT OR MINOR PARENT APPLICANT OR RECIPIENT IS NOT IN COMPLIANCE WITH FIP REQUIREMENTS IF THE FIP CASE MANAGER RECEIVES NOTICE FROM THE ADDICTIONS SPECIALIST THAT THE APPLICANT OR RECIPIENT:

(1) FAILS TO COMPLETE THE SCREENING OR ASSESSMENT REQUIRED UNDER SUBSECTIONS (B)(2) AND (C)(1)(I) OF THIS SECTION;

(2) FAILS TO SIGN THE CONSENT FORM REQUIRED UNDER SUBSECTION (C)(1)(III) OF THIS SECTION; OR

(3) IS REFERRED FOR APPROPRIATE AND AVAILABLE SUBSTANCE ABUSE TREATMENT BY THE ADDICTIONS SPECIALIST BUT FAILS TO ENROLL OR TO MAINTAIN ACTIVE ENROLLMENT IN THE TREATMENT PROGRAM OR COMPLETE THE TREATMENT PROTOCOL.

(F) NONCOMPLIANCE -- NOTICE TO APPLICANTS.

AFTER THE FIP CASE MANAGER RECEIVES A NOTICE UNDER SUBSECTION (E) OF THIS SECTION, THE LOCAL DEPARTMENT SHALL:

(1) SEND A DENIAL NOTICE TO THE ADULT OR MINOR PARENT APPLICANT THAT:

(I) STATES:

1. THAT THE APPLICANT HAS NOT MET FIP REQUIREMENTS;
2. THE SPECIFIC REASON WHY THE APPLICANT IS NOT ELIGIBLE FOR FIP; AND

3. THAT IF THE APPLICANT FAILS TO FULFILL THE REQUIREMENTS ON OR BEFORE THE 30TH WORK DAY AFTER THE APPLICATION FOR TEMPORARY CASH ASSISTANCE WAS FILED, THE APPLICATION IS DENIED; AND

(II) NOTIFIES THE APPLICANT OF THE APPLICANT'S RIGHT TO APPEAL AND THE PROCEDURES FOR FILING AN APPEAL; AND

(2) SEPARATELY DETERMINE ELIGIBILITY FOR MEDICAL ASSISTANCE AND FOOD STAMPS.

(G) NONCOMPLIANCE -- NOTICE TO RECIPIENTS.

AFTER THE FIP CASE MANAGER RECEIVES A NOTICE UNDER SUBSECTION (E) OF THIS SECTION, THE LOCAL DEPARTMENT SHALL SEND A NOTICE TO THE ADULT OR MINOR PARENT RECIPIENT THAT:

(1) IDENTIFIES THE RECIPIENT WHO IS NOT IN COMPLIANCE WITH FIP REQUIREMENTS;

(2) STATES THE SPECIFIC REASON WHY THAT RECIPIENT IS NOT IN COMPLIANCE WITH FIP REQUIREMENTS; AND

(3) STATES THAT 30 DAYS AFTER THE DATE OF THE NOTICE:

(I) THE TEMPORARY CASH ASSISTANCE BENEFITS WILL BE REDUCED BY THAT INCREMENT IN CASH BENEFITS ATTRIBUTABLE TO THE NONCOMPLIANT RECIPIENT; AND

(II) THE REMAINDER OF THE CASH BENEFITS FOR THE CHILD OR CHILDREN IN THE FIP CASE WILL BE PAID TO A THIRD PARTY PAYEE OR A COMPLIANT ADULT RECIPIENT; AND

(4) NOTIFIES THE RECIPIENT OF THE RECIPIENT'S RIGHT TO APPEAL AND THE PROCEDURES FOR FILING AN APPEAL.

(H) NONCOMPLIANCE -- REDUCTION OF BENEFITS.

(1) THE LOCAL DEPARTMENT SHALL REDUCE THE TEMPORARY CASH ASSISTANCE BENEFITS OF AN ADULT OR MINOR PARENT RECIPIENT AND PAY THE

REMAINDER OF THE CASH BENEFITS TO A THIRD PARTY PAYEE OR A COMPLIANT ADULT RECIPIENT AS DESCRIBED IN SUBSECTION (G) OF THIS SECTION, IF:

(I) THE RECIPIENT FAILS TO COMPLETE A SUBSTANCE ABUSE SCREENING OR ASSESSMENT BY AN ADDICTIONS SPECIALIST, AS REQUIRED UNDER SUBSECTIONS (B)(2) AND (C)(1)(I) OF THIS SECTION; OR

(II) THE REQUIRED SCREENING AND ASSESSMENT OR THE RESULTS OF ANY FOLLOW-UP DIAGNOSTIC TESTING OR TREATMENT REVEAL THAT THE RECIPIENT IS A SUBSTANCE ABUSER AND THE RECIPIENT REFUSES TO ENROLL OR MAINTAIN ENROLLMENT IN AVAILABLE AND APPROPRIATE SUBSTANCE ABUSE TREATMENT.

(2) THE LOCAL DEPARTMENT SHALL CONTINUE TO MAKE TEMPORARY CASH ASSISTANCE BENEFITS PAYMENTS TO A THIRD PARTY PAYEE OR A COMPLIANT ADULT RECIPIENT UNTIL THE LOCAL DEPARTMENT RECEIVES NOTICE FROM THE ADDICTIONS SPECIALIST THAT THE RECIPIENT IS ACTIVELY ENROLLED, AS DEFINED BY THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, IN THE APPROPRIATE SUBSTANCE ABUSE TREATMENT INDICATED BY THE ADDICTIONS SPECIALIST.

(I) REINSTATEMENT OF BENEFITS.

THE LOCAL DEPARTMENT MAY NOT DENY AN ADULT OR MINOR PARENT APPLICANT'S TEMPORARY CASH ASSISTANCE BENEFIT OR REDUCE AN ADULT OR MINOR PARENT RECIPIENT'S TEMPORARY CASH ASSISTANCE BENEFIT AS DESCRIBED UNDER SUBSECTIONS (F) AND (G) OF THIS SECTION, IF THE APPLICANT OR RECIPIENT:

(1) RECEIVES THE SCREENING AND ASSESSMENT REQUIRED UNDER SUBSECTIONS (B)(2) AND (C)(1)(I) OF THIS SECTION, AND THE SCREENING AND ASSESSMENT OR THE RESULTS OF ANY FOLLOW-UP DIAGNOSTIC TESTING OR TREATMENT REVEAL THAT THE APPLICANT OR RECIPIENT IS A SUBSTANCE ABUSER; AND

(2) AGREES TO PARTICIPATE IN APPROPRIATE SUBSTANCE ABUSE TREATMENT, AS DETERMINED BY THE ADDICTIONS SPECIALIST, BUT THE APPROPRIATE SUBSTANCE ABUSE TREATMENT IS NOT AVAILABLE.

(J) MEDICAL ASSISTANCE AND FOOD STAMP ELIGIBILITY.

THE DENIAL OR REDUCTION OF TEMPORARY CASH ASSISTANCE UNDER THIS SECTION DOES NOT AFFECT AN ADULT OR MINOR PARENT APPLICANT OR RECIPIENT'S ELIGIBILITY FOR MEDICAL ASSISTANCE AND FOOD STAMPS, AS LONG AS THE APPLICANT OR RECIPIENT MEETS THE MEDICAL ASSISTANCE AND FOOD STAMP PROGRAM REQUIREMENTS.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the former phrase "addictions specialist on-site in the local department".

Subsections (b) through (j) of this section are new language derived without substantive change from former Art. 88A, § 50A.

Throughout this section, former references to an “adult or minor parent” applicant or recipient are deleted as redundant.

In subsection (b)(1)(i) of this section, the former reference to the “first redetermination after July 1, 1997” is deleted as obsolete.

In subsection (b)(1)(ii) of this section, the reference to the FIP “case manager” is substituted for the former reference to the FIP “staff” for clarity and consistency throughout this section.

In subsection (b)(2) of this section, the former reference to “assist[ing] in determining whether an adult or minor parent applicant or recipient has a need for substance abuse treatment” is deleted for brevity.

In subsection (c)(1)(iii) of this section, the reference to “substance abuse” treatment is substituted for the former reference to “alcohol and drug” treatment for consistency throughout this section.

In subsection (c)(2) of this section, the former requirement that an addictions specialist forward consent for the release of confidential treatment information to a substance abuse treatment provider is deleted as redundant of subsection (c)(1) of this section.

In subsection (d)(2) of this section, the reference to “work activity requirements” is substituted for the former reference to “work requirements” for clarity and consistency throughout this subtitle.

In the introductory language of subsections (f) and (g) of this section, the references to “the FIP case manager” receiving notice are added for clarity.

In subsection (g)(1) of this section, the reference to “identify[ing] the recipient who” is not in compliance is added for clarity.

In subsection (g)(3)(i) of this section, the reference to that increment in cash benefits “attributable to the noncompliant recipient” is substituted for the former reference to that increment in cash benefits “that included the adult recipient” for clarity.

In subsections (g)(3)(ii) and (h)(1) and (2) of this section, the references to “a compliant adult recipient” are added to conform to current practice.

In subsections (f)(1)(ii) and (g)(4) of this section, the references to notifying applicants and recipients of the “right to appeal and the procedures for filing an appeal” are added to conform to current practice.

In subsection (h)(2) of this section, the reference to “temporary cash assistance benefits payments” is substituted for the former reference to “payments” for clarity.

Defined terms: “Addictions specialist” § 5–314

“FIP” § 5–301

“Local department” § 5–101

“Recipient” § 5–301

“Temporary cash assistance” § 5–301

“Third party payee” § 5–301

“Work activity” § 5–301

5–315. SSI BENEFITS; REASONABLE SUBSISTENCE; MEDICAID ELIGIBILITY.

(A) INTENT.

SUBSECTIONS (B) AND (C) OF THIS SECTION ARE NOT INTENDED TO CREATE AN INCENTIVE FOR INDIVIDUALS TO SEEK TEMPORARY CASH ASSISTANCE BENEFITS INSTEAD OF EMPLOYMENT.

(B) SSI BENEFITS EXCLUDED.

IN DETERMINING A FAMILY’S ELIGIBILITY FOR THE FIP, THE LOCAL DEPARTMENT SHALL EXCLUDE SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS PROVIDED TO AN ADULT OR CHILD FAMILY MEMBER.

(C) DETERMINATION WITH REGARD TO REASONABLE SUBSISTENCE.

EXCEPT AS LIMITED BY FEDERAL REQUIREMENTS, THE LEVEL OF TEMPORARY CASH ASSISTANCE, AS DETERMINED BY A LOCAL DEPARTMENT, SHALL:

(1) BE DETERMINED WITH DUE REGARD TO THE AVAILABLE RESOURCES, NECESSARY EXPENDITURES, AND SPECIFIC CONDITIONS OF A FAMILY; AND

(2) BE SUFFICIENT, WHEN ADDED TO ALL OTHER INCOME AND SUPPORT AVAILABLE TO THE CHILD, TO PROVIDE A CHILD WITH A REASONABLE SUBSISTENCE COMPATIBLE WITH DECENCY AND HEALTH.

(D) MEDICAID ELIGIBILITY AFTER EMPLOYMENT.

A RECIPIENT WHO OBTAINS EMPLOYMENT REMAINS ELIGIBLE FOR MEDICAL ASSISTANCE FOR UP TO 12 MONTHS AFTER THE DATE OF EMPLOYMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 50(a), (d), and (h) and 52(h)(3).

In subsection (b) of this section, the requirement that the “local department shall exclude Supplemental Security Income (SSI) benefits” is substituted for the former prohibition against the “Secretary ... includ[ing] in regulations adopted under this subtitle a provision that would count as unearned income ... Supplemental Security Income (SSI) benefits” for brevity and clarity.

Also in subsection (b) of this section, the reference to an “adult or child family member” is substituted for the former reference to an “adult or child who resides in the family” for brevity.

In the introductory language of subsection (c) of this section, the reference to the determination by “a local department” is added for clarity.

In subsection (c)(1) of this section, the phrase “specific conditions of a family” is substituted for the former phrase “conditions existing in each case” for clarity.

Defined terms: “FIP” § 5-301

“Local department” § 5-101

“Recipient” § 5-301

“Secretary” § 5-101

5-316. FUNDING; BUDGET SAVINGS.

(A) FUNDING LEVEL.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE GOVERNOR SHALL PROVIDE SUFFICIENT FUNDS IN THE BUDGET TO:

(I) ENSURE THAT THE VALUE OF TEMPORARY CASH ASSISTANCE, COMBINED WITH FEDERAL FOOD STAMPS, IS EQUAL TO AT LEAST 61% OF THE STATE MINIMUM LIVING LEVEL; AND

(II) MAINTAIN THE FIP AT THE LEVEL OF THE FISCAL YEAR 1997 APPROPRIATION.

(2) THE FUNDS PROVIDED UNDER THIS SUBSECTION MAY BE LESS THAN THE AMOUNT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE GOVERNOR REPORTS TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE REASONS FOR THE REDUCED FUNDING FOR TEMPORARY CASH ASSISTANCE AND FOOD STAMPS.

(3) THIS SUBSECTION DOES NOT LIMIT THE FLEXIBILITY OF LOCAL DEPARTMENTS REGARDING THE PROVISION OF SERVICES.

(B) ADJUSTMENTS IN EVENT OF INSUFFICIENT FUNDING.

IF THE SECRETARY DETERMINES DURING THE FISCAL YEAR THAT THE FUNDS AVAILABLE FOR THE FIP ARE INSUFFICIENT TO MAKE PAYMENTS IN ACCORDANCE WITH THE AMOUNT OF ASSISTANCE OTHERWISE ESTABLISHED BY LAW, THE SECRETARY SHALL:

(1) PROVIDE FOR A UNIFORM METHOD OF ADJUSTING INDIVIDUAL PAYMENTS;

(2) NOTIFY THE JOINT COMMITTEE ON WELFARE REFORM; AND

(3) SUBMIT EMERGENCY REGULATIONS, IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, TO IMPLEMENT THE ADJUSTMENT.

(C) BUDGET SAVINGS.

EFFECTIVE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL MAKE AVAILABLE FOR REALLOCATION WITHIN ITS BUDGET ANY SAVINGS THE DEPARTMENT ANTICIPATES FROM FUNDS APPROPRIATED FOR THE FIP DURING THE CURRENT FISCAL YEAR AS A RESULT OF:

(1) CASELOAD REDUCTIONS; OR

(2) OTHER REDUCTIONS IN THE TOTAL AMOUNT OF TEMPORARY CASH ASSISTANCE PAID TO RECIPIENTS COMPARED TO THE TOTAL AMOUNT OF TEMPORARY CASH ASSISTANCE APPROPRIATED.

(D) USE OF SAVINGS.

EXCEPT AS PROVIDED IN SUBSECTION (E)(1) OF THIS SECTION, SAVINGS MADE AVAILABLE FOR REALLOCATION MAY BE USED FOR:

(1) CHILD CARE;

(2) WORK ACTIVITIES;

(3) WELFARE AVOIDANCE GRANTS;

(4) DRUG TREATMENT FOR TARGETED RECIPIENTS;

(5) TRANSPORTATION;

(6) EMERGENCY FUNDS FOR APPLICANTS AND RECIPIENTS;

(7) ADMINISTRATION TO THE EXTENT THAT ADDITIONAL ADMINISTRATIVE COSTS ARE REQUIRED TO EFFECTIVELY IMPLEMENT THE FIP; OR

(8) ANY OTHER DIRECT SERVICE TO APPLICANTS OR RECIPIENTS THAT THE SECRETARY AND THE LOCAL DEPARTMENT CONSIDER APPROPRIATE TO FURTHER THE PURPOSES OF THIS SUBTITLE.

(E) REALLOCATION OF SAVINGS.

(1) SAVINGS SHALL BE MADE AVAILABLE FOR REALLOCATION AS FOLLOWS:

(I) 10% OF THE SAVINGS TO THE OPERATING COSTS FOR ONE OR MORE OF THE FOLLOWING:

1. DEMONSTRATION PROJECTS ESTABLISHED UNDER § 5-317 OF THIS SUBTITLE;

2. SECOND CHANCE HOMES NOT SUBJECT TO THE RESTRICTIONS OF § 12 OF CHAPTER 351 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1996; OR

3. DEMONSTRATION PROJECTS TO EMPIRICALLY EVALUATE STRATEGIES TO REDUCE THE INCIDENCE OF NONMARITAL BIRTHS IN THE STATE;

(II) 45% OF THE SAVINGS TO LOCAL DEPARTMENTS, IN ACCORDANCE WITH THE SAVINGS ACHIEVED BY EACH LOCAL DEPARTMENT, FOR THE PURPOSES AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION; AND

(III) 45% OF THE SAVINGS FOR THE PURPOSES AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION.

(2) NOTWITHSTANDING § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, ANY SAVINGS ALLOCATED UNDER THIS SUBSECTION THAT REMAIN UNEXPENDED AT THE END OF A FISCAL YEAR MAY BE CARRIED OVER INTO THE NEXT FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 52(c) through (g).

In the introductory language of subsection (a)(1) of this section, the reference to the Governor providing funds "in the budget" is added for clarity.

Also in the introductory language of subsection (a)(1) of this section, the former phrase "under this subtitle" is deleted as surplusage.

In subsection (a)(2) of this section, the reference to the amount "required" is substituted for the former reference to the amount "described" for clarity.

In the introductory language of subsection (c) of this section, the reference to "[e]ffective" July 1 of each year is substituted for the former reference to "[a]s of" July 1 of each year for clarity.

In subsection (e)(1)(i) of this section, the former phrase "a combination of" is deleted as surplusage.

In subsection (e)(1)(i)3 of this section, the former reference to "a strategy or set of" strategies is deleted as included in the reference to "strategies".

In subsection (e)(2) of this section, the reference to savings that remain unexpended "at the end of a fiscal year" is substituted for the former reference to savings that remain unexpended "after the current fiscal year" for clarity and accuracy.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Local department" § 5-101

"Recipient" § 5-301

"Secretary" § 5-101

"Temporary cash assistance" § 5-301

"Work activity" § 5-301

5-317. DEMONSTRATION PROJECTS.

(A) ESTABLISHED.

(1) THE SECRETARY SHALL ESTABLISH DEMONSTRATION PROJECTS THROUGH GRANTS TO:

- (I) NONPROFIT ORGANIZATIONS;
- (II) LOCAL EDUCATION AGENCIES;
- (III) LOCAL MANAGEMENT BOARDS;
- (IV) LOCAL HEALTH DEPARTMENTS;
- (V) RELIGIOUS ORGANIZATIONS; AND
- (VI) INSTITUTIONS OF HIGHER EDUCATION.

(2) THE ENTITIES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL JOINTLY DEVELOP PROPOSALS FOR DEMONSTRATION PROJECTS UNDER THIS SECTION WITH LOCAL DEPARTMENTS.

(3) AT LEAST ONE OF THE DEMONSTRATION PROJECTS UNDER THIS SECTION SHALL BE LOCATED IN A COUNTY OTHER THAN THE TWO COUNTIES WITH THE LARGEST NUMBERS OF FIP RECIPIENTS.

(B) FUNDING.

(1) THE SECRETARY SHALL AWARD GRANTS FOR DEMONSTRATION PROJECTS UNDER THIS SECTION THROUGH A COMPETITIVE BID PROCESS THAT INCLUDES:

(I) THE ISSUANCE OF A REQUEST FOR PROPOSALS; AND

(II) THE ESTABLISHMENT OF AN EVALUATION PANEL TO REVIEW COMPETING PROPOSALS AND TO MAKE A RECOMMENDATION TO THE SECRETARY CONCERNING WHICH PROPOSALS HAVE THE GREATEST PROGRAMMATIC AND FINANCIAL MERIT.

(2) (I) NOT MORE THAN 50% OF THE FUNDS ALLOCATED FOR DEMONSTRATION PROJECTS UNDER THIS SECTION MAY BE ALLOCATED TO A SINGLE DEMONSTRATION PROJECT.

(II) THE FUNDS ALLOCATED FOR DEMONSTRATION PROJECTS UNDER THIS SECTION ARE INCENTIVE FUNDS OVER AND ABOVE ANY TRANSFER OF FIP BENEFITS TO A THIRD PARTY PAYEE.

(3) FUNDS ALLOCABLE TO DEMONSTRATION PROJECTS UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL, IF FEASIBLE, BE USED FOR DEMONSTRATION PROJECTS IN THE COUNTIES THAT GENERATED THE SAVINGS REALLOCATED TO DEMONSTRATION PROJECTS UNDER § 5-316(E) OF THIS SUBTITLE.

(4) WHEN AWARDING GRANTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL GIVE PRIORITY IN FUNDING FOR AT LEAST 20% OF THE FUNDS ALLOCATED TO DEMONSTRATION PROJECTS UNDER THIS SECTION TO REGIONAL PROPOSALS FROM TWO OR MORE COUNTIES IN THE STATE.

(5) FUNDS ALLOCATED TO DEMONSTRATION PROJECTS UNDER THIS SECTION MAY NOT BE USED IN THE FURTHERANCE OF SECTARIAN RELIGIOUS INSTRUCTION OR WORSHIP.

(C) REQUEST FOR PROPOSALS.

IN THE REQUEST FOR PROPOSALS ISSUED UNDER SUBSECTION (B)(1)(I) OF THIS SECTION, THE SECRETARY SHALL INCLUDE REQUIREMENTS THAT:

(1) APPLICANTS SPECIFY WHAT GOODS OR SERVICES, OR BOTH, THEY WILL PROVIDE TO PARTICIPANTS; AND

(2) EACH DEMONSTRATION PROJECT:

(I) COMPLEMENT THE LOCAL DEPARTMENT FIP PLAN; AND

(II) ADDRESS SPECIFIC, UNMET LOCAL NEEDS AND BARRIERS THAT PREVENT FAMILIES FROM MEETING THE REQUIREMENTS OF THIS SUBTITLE.

(D) FACILITATION OF PROJECTS.

IN ADDITION TO THE DEMONSTRATION PROJECTS FUNDED UNDER SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL ENCOURAGE AND FACILITATE DEMONSTRATION PROJECTS THAT ARE SUPPORTED THROUGH:

(1) THE VOLUNTARY TRANSFER OF TEMPORARY CASH ASSISTANCE AND FOOD STAMP BENEFITS TO THE DEMONSTRATION PROJECT;

(2) THE TRANSFER OF ADMINISTRATIVE COSTS FROM THE LOCAL DEPARTMENT; AND

(3) ANY NONSTATE FUNDS AVAILABLE TO THE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 53.

In subsection (b)(3) of this section, the reference to savings "reallocated to demonstration projects under § 5-316(e) of this subtitle" is added for clarity.

Also in subsection (b)(3) of this section, the reference to "counties" is substituted for the former reference to "subdivisions" for clarity and consistency.

In the introductory language of subsection (c) of this section, the reference to the request for proposals "issued under subsection (b)(1)(i) of this section" is added for clarity.

In subsection (d) of this section, the reference to projects funded "under subsection (b) of this section" is substituted for the former reference to projects funded "through savings identified in subsection (a) of this section" for clarity.

Defined terms: "County" § 1-101

"FIP" § 5-301

"Local department" § 5-101

"Nonprofit organization" § 5-301

"Secretary" § 5-101

"Temporary cash assistance" § 5-301

"Third party payee" § 5-301

5-318. JOB SKILLS ENHANCEMENT PROGRAM.

(A) ESTABLISHED.

(1) IN COOPERATION WITH THE LOCAL DIRECTORS, THE SECRETARY SHALL ESTABLISH A JOB SKILLS ENHANCEMENT PROGRAM TO PROVIDE NEWLY EMPLOYED CURRENT AND FORMER RECIPIENTS WITH TRAINING TO:

(I) ENHANCE EXISTING JOB-RELATED SKILLS;

(II) GAIN ADDITIONAL OR ALTERNATIVE JOB SKILLS; OR

(III) LEARN INTERPERSONAL, COMMUNICATION, AND OTHER RELATED SKILLS.

(2) THE JOB SKILLS ENHANCEMENT PROGRAM SHALL BE ESTABLISHED IN AT LEAST THREE COUNTIES, ONE OF WHICH SHALL BE LOCATED IN WESTERN MARYLAND, SOUTHERN MARYLAND, OR THE EASTERN SHORE.

(B) TARGETED SKILL LEVEL.

THE JOB SKILLS ENHANCEMENT PROGRAM SHALL TARGET UNSKILLED AND SEMISKILLED FORMER AND CURRENT RECIPIENTS WHO ARE NEWLY EMPLOYED IN ENTRY-LEVEL POSITIONS THAT HAVE LIMITED POTENTIAL FOR ADVANCEMENT BEYOND ENTRY-LEVEL.

(C) VOLUNTARY PARTICIPATION.

(1) PARTICIPATION IN THE JOB SKILLS ENHANCEMENT PROGRAM SHALL BE VOLUNTARY.

(2) INDIVIDUALS PARTICIPATING IN THE JOB SKILLS ENHANCEMENT PROGRAM SHALL SIGN A TRAINING AGREEMENT WITH THE LOCAL DEPARTMENT.

(D) REQUIREMENTS.

TO BE ELIGIBLE TO PARTICIPATE IN THE JOB SKILLS ENHANCEMENT PROGRAM, AN INDIVIDUAL SHALL:

(1) HAVE BEEN A RECIPIENT DURING THE 36 MONTHS BEFORE BEGINNING PARTICIPATION IN THE JOB SKILLS ENHANCEMENT PROGRAM;

(2) HAVE BEEN EMPLOYED IN ENTRY-LEVEL EMPLOYMENT FOR AT LEAST 6 MONTHS BEFORE BEGINNING PARTICIPATION IN THE JOB SKILLS ENHANCEMENT PROGRAM;

(3) PROVIDE EMPLOYER VALIDATION OR OTHER DOCUMENTATION OF EMPLOYMENT STATUS;

(4) HAVE LIMITED JOB SKILLS; AND

(5) HAVE LIMITED OPPORTUNITY FOR ADVANCEMENT IN THE INDIVIDUAL'S CURRENT EMPLOYMENT.

(E) TRAINING SERVICES.

THE LOCAL DEPARTMENT SHALL CONTRACT FOR TRAINING SERVICES TO BE PROVIDED UNDER THE JOB SKILLS ENHANCEMENT PROGRAM, AS PROVIDED IN § 5-306 OF THIS SUBTITLE.

(F) BUSINESS PARTICIPATION.

(1) THE LOCAL DEPARTMENT MAY WORK WITH BUSINESSES TO TRAIN AND PLACE FORMER RECIPIENTS IN POSITIONS THAT MEET THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

(2) PARTICIPATING BUSINESSES SHALL:

(I) PROVIDE EMPLOYMENT WITH BENEFITS PAID TO EMPLOYEES;

(II) PROVIDE EMPLOYMENT THAT HAS A DEFINED CAREER PATH;

(III) DEMONSTRATE THE ACTIVE INVOLVEMENT AND FINANCIAL COMMITMENT OF THE BUSINESS; AND

(IV) PROVIDE A MATCH WITH CASH OR IN-KIND CONTRIBUTIONS ON AT LEAST A ONE-TO-ONE BASIS.

(G) ADMINISTRATION OF PROGRAM; DUTIES OF LOCAL DEPARTMENTS.

(1) AT THE DISCRETION OF THE SECRETARY AND IN CONSULTATION WITH THE LOCAL DIRECTOR, THE JOB SKILLS ENHANCEMENT PROGRAM SHALL BE ADMINISTERED BY THE LOCAL DEPARTMENT OR THROUGH THE STATE WORKFORCE INVESTMENT AREA SYSTEM UNDER THE WORKFORCE INVESTMENT ACT.

(2) THE ADMINISTRATOR OF THE PROGRAM UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) MANAGE EACH PARTICIPANT'S TRAINING PLAN;

(II) MAINTAIN A DATABASE OF APPROPRIATE TRAINING VENDORS;

AND

(III) COMPILE NECESSARY FISCAL REPORTS ON THE JOB SKILLS ENHANCEMENT PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 53A.

In subsection (a) of this section, the former references to a "pilot" program are deleted for consistency within this section and with current practice.

In subsections (a)(1), (b), (d)(1), and (f)(1) of this section, the former references to “FIP” recipients are deleted as redundant. *See* the definition of recipient in § 5–301 of this subtitle.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the phrase “as provided in § 5–306 of this subtitle” in subsection (e) of this section is unclear. The General Assembly may wish to clarify the meaning of the phrase.

In subsection (g)(1) of this section, the reference to the “workforce investment” area system is substituted for the former obsolete reference to the “service delivery” area system.

Also in the introductory language of subsection (g)(1) of this section, the former phrase “[a]s part of their administrative responsibilities” is deleted as surplusage.

In the introductory language of subsection (g)(2) of this section, the reference to the “administrator of the program” is substituted for the former reference to “a local department or persons at a service delivery area” for brevity and clarity.

Defined terms: “County” § 1–101

“FIP” § 5–301

“Local department” § 5–101

“Local director” § 5–101

“Recipient” § 5–301

“Secretary” § 5–101

5–319. FIP DEMONSTRATION SITES.

(A) “DEMONSTRATION SITE” DEFINED.

IN THIS SECTION, “DEMONSTRATION SITE” MEANS A SITE THAT THE SECRETARY SELECTS IN CONSULTATION WITH THE LOCAL DIRECTOR.

(B) DEMONSTRATION SITES AUTHORIZED.

THE SECRETARY MAY ESTABLISH A FIP DEMONSTRATION SITE IN NOT MORE THAN SIX JURISDICTIONS.

(C) APPOINTMENT OF DIRECTORS.

NOTWITHSTANDING ANY OTHER LAW, THE LOCAL DIRECTOR SHALL APPOINT A DIRECTOR OF THE FIP ESTABLISHED IN A DEMONSTRATION SITE WHO SHALL REPORT DIRECTLY TO THE LOCAL DIRECTOR.

(D) APPROVAL OF DEMONSTRATION SITE PLANS.

NOTWITHSTANDING ANY OTHER LAW, THE SECRETARY HAS SOLE AUTHORITY TO APPROVE DEMONSTRATION SITE PLANS THAT WILL GOVERN FIP FUNCTIONS IN A DEMONSTRATION SITE, INCLUDING THE AUTHORITY TO APPROVE DEMONSTRATION SITE PLANS THAT WILL:

- (1) ASSIST FAMILIES THAT HAVE AN EMPLOYABLE PARENT TOWARD A LASTING EXIT FROM TEMPORARY CASH ASSISTANCE;
- (2) ENSURE THAT INDIVIDUALS AND FAMILIES RECEIVE APPROPRIATE BENEFITS;
- (3) REDUCE ERRORS IN THE ADMINISTRATION OF FIP;
- (4) PLACE TEMPORARY CASH ASSISTANCE RECIPIENTS IN EMPLOYMENT IN WHICH THEIR EARNINGS WILL LIKELY INCREASE; AND
- (5) IMPROVE THE TYPES OF EMPLOYMENT AND EMPLOYMENT RETENTION RATES OF EXISTING AND FORMER RECIPIENTS.

(E) DUTIES OF LOCAL DIRECTORS.

THE LOCAL DIRECTOR SHALL:

- (1) DEVELOP A DEMONSTRATION SITE PLAN FOR SUBMITTAL TO THE SECRETARY FOR APPROVAL THAT WILL DETAIL ITS:
 - (I) PROGRAMMATIC STRUCTURE, INCLUDING ANY PROGRAMMATIC CHANGES;
 - (II) ORGANIZATIONAL STRUCTURE, INCLUDING ANY ORGANIZATIONAL CHANGES;
 - (III) PAY INCENTIVE STRUCTURE AND CRITERIA FOR THE AWARD OF PAY INCENTIVES;
 - (IV) MEASURABLE PERFORMANCE CRITERIA AND HOW THESE RELATE TO THE INCENTIVE STRUCTURE; AND
 - (V) TARGET PERFORMANCE CRITERIA;
- (2) IMPLEMENT THE PLAN AS APPROVED; AND
- (3) REPORT TO THE DEPARTMENT ON THE PROGRESS ACHIEVED IN THE DEMONSTRATION SITE.

(F) PERFORMANCE EVALUATION.

THE PROPER OPERATION OF THE DEMONSTRATION SITE AND THE ACHIEVEMENT OF THE TARGET PERFORMANCE CRITERIA SHALL BE AN ELEMENT OF THE LOCAL DIRECTOR'S PERFORMANCE EVALUATION.

(G) PERFORMANCE INCENTIVE PROGRAM.

THE SECRETARY SHALL ESTABLISH A PERFORMANCE INCENTIVE PROGRAM TO PROVIDE PAY INCENTIVES FOR EMPLOYEES IN A DEMONSTRATION SITE.

(H) SECRETARY'S POWERS.

THE SECRETARY'S POWERS UNDER THIS SECTION SHALL BE CONSTRUED LIBERALLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 55.

In subsections (a), (c), (e), and (f) of this section, the defined term "local director" is substituted for the former references to the "director of the local department of social services", "director of the local unit", and "local unit director" for brevity and consistency.

In subsection (d)(1) and (5) of this section, the former references to "welfare" are deleted as surplusage.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Local director" § 5-101

"Secretary" § 5-101

"Temporary cash assistance" § 5-301

5-320. MENTORING PROGRAM.

(A) ESTABLISHED.

IN COOPERATION WITH LOCAL DIRECTORS, THE SECRETARY SHALL ESTABLISH A MENTORING PROGRAM FOR FORMER RECIPIENTS.

(B) USE OF MENTORS.

(1) THE MENTORING PROGRAM MAY INCLUDE FIP CASEWORKERS IN LOCAL DEPARTMENTS WHO VOLUNTEER TO BE MENTORS.

(2) THE DEPARTMENT MAY CONTRACT WITH OTHER ENTITIES UNDER § 5-306 OF THIS SUBTITLE TO ACQUIRE MENTORS FOR FORMER RECIPIENTS.

(C) TYPES OF ASSISTANCE PROVIDED.

MENTORING MAY INCLUDE:

(1) PROVIDING ASSISTANCE TO RESOLVE WORKPLACE PROBLEMS;

(2) PROVIDING WORKPLACE ADJUSTMENT ASSISTANCE;

(3) JOB COACHING;

(4) PROVIDING ASSISTANCE TO DEVELOP LIFE SKILLS;

(5) COUNSELING AND TUTORING; AND

(6) ANY OTHER ACTIVITIES THAT WILL HELP FORMER RECIPIENTS THROUGH THE FIRST MONTHS THAT THEY NO LONGER RECEIVE TEMPORARY CASH ASSISTANCE.

(D) ELIGIBILITY.

TO BE ELIGIBLE TO PARTICIPATE IN THE MENTORING PROGRAM, AN INDIVIDUAL SHALL:

(1) HAVE BEEN A RECIPIENT IN THE PREVIOUS 6 MONTHS;

(2) HAVE BEEN EMPLOYED; AND

(3) HAVE A DEMONSTRATED NEED AND DESIRE FOR ASSISTANCE IN ACQUIRING AND MAINTAINING THE SKILLS NECESSARY FOR A LASTING EXIT FROM TEMPORARY CASH ASSISTANCE.

(E) PARTICIPATION.

PROGRAM PARTICIPATION MAY NOT EXCEED 6 MONTHS.

(F) INCENTIVES.

THE SECRETARY MAY ARRANGE TO PROVIDE PAY OR OTHER TYPES OF INCENTIVES TO EMPLOYEES WHO VOLUNTEER TO MENTOR FORMER RECIPIENTS.

(G) SECRETARY'S POWERS.

THE SECRETARY'S POWERS UNDER THIS SECTION SHALL BE CONSTRUED LIBERALLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 56.

Throughout this section, the former references to a "FIP" recipient are deleted as redundant. *See* the definition of "recipient" in § 5-301 of this subtitle.

In subsection (c)(4) of this section, the reference to "providing assistance to develop" life skills is added for clarity.

Defined terms: "Department" § 5-101

"FIP" § 5-301

"Local department" § 5-101

"Local director" § 5-101

"Recipient" § 5-301

"Secretary" § 5-101

"Temporary cash assistance" § 5-301

5-321. FUTURE AMENDMENT OR REPEAL OF SUBTITLE.

(A) IN GENERAL.

ANY ASSISTANCE GRANTED UNDER THIS SUBTITLE IS SUBJECT TO FUTURE AMENDMENT OR REPEAL OF THIS SUBTITLE.

(B) NO RIGHT TO COMPENSATION.

A RECIPIENT IS NOT ENTITLED TO COMPENSATION IF THE RECIPIENT'S ASSISTANCE IS AFFECTED BY AMENDMENT OR REPEAL OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 52(h)(1) and (2).

Defined term: "Recipient" § 5-301

SUBTITLE 4. STATE PUBLIC ASSISTANCE PROGRAMS.

PART I. PUBLIC ASSISTANCE TO ADULTS.

5-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory phrase of the first paragraph of former Art. 88A, § 64.

In this subsection and throughout this part, the reference to this "part" is substituted for the former reference to this "subtitle" to reflect the reorganization of provisions formerly contained in Article 88A.

(B) APPLICANT.

"APPLICANT" MEANS AN INDIVIDUAL WHO APPLIES FOR ASSISTANCE UNDER THIS PART.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the fourth paragraph of former Art. 88A, § 64.

The reference to an "individual" who applies for assistance is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", may apply for assistance.

Defined term: "Assistance" § 5-401

(C) ASSISTANCE.

"ASSISTANCE" MEANS:

- (1) CASH PAYMENTS TO A RECIPIENT; AND
- (2) PAYMENTS NECESSARY FOR SUPPLEMENTARY SERVICES FOR A RECIPIENT, INCLUDING:
 - (I) THE RECIPIENT'S FUNERAL EXPENSES AS PROVIDED IN § 5-415 OF THIS SUBTITLE; AND
 - (II) PLACEMENT OF THE RECIPIENT IN A SUITABLE HOME OR INSTITUTION IF:
 1. THE RECIPIENT LACKS A LEGAL GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RECIPIENT'S SUPPORT; AND
 2. THE RECIPIENT CONSENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the sixth and seventh paragraphs of former Art. 88A, § 64.

In items (1) and (2) of this subsection, the reference to a "recipient" is substituted for the former references to "needy individuals under the ... public assistance to adults [program]" and "these individuals" for brevity.

In item (1) of this subsection, the reference to "cash payments" is substituted for the former reference to "money payments" for clarity and consistency within this subtitle.

Also in item (1) of this subsection, the former reference to the "general public assistance [program]" is deleted as obsolete. The General Public Assistance Program was repealed by Ch. 351, Acts of 1996.

Defined term: "Recipient" § 5-401

(D) PROGRAM.

"PROGRAM" MEANS THE PUBLIC ASSISTANCE TO ADULTS PROGRAM.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Public Assistance to Adults Program".

(E) RECIPIENT.

"RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES, OR HAS RECEIVED, ASSISTANCE UNDER THIS PART.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the fifth paragraph of former Art. 88A, § 64.

The reference to an "individual" who receives assistance is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", may receive assistance.

The former phrase "at any time" is deleted as surplusage.

Defined terms: "Assistance" § 5-401

"Recipient" § 5-401

REVISOR'S NOTE TO SECTION:

The second and third paragraphs and the second clause of the first paragraph of former Art. 88A, § 64, which defined "[l]ocal units", "[c]ounty", and "State Department", respectively, are deleted as unnecessary in light of the definitions of "Administration" and "local department" in § 5-101 of this title and the definition of "county" in § 1-101 of this article.

5-402. PUBLIC ASSISTANCE TO ADULTS PROGRAM.

(A) PROGRAM ESTABLISHED.

THERE IS A STATE FUNDED PUBLIC ASSISTANCE TO ADULTS PROGRAM IN THE ADMINISTRATION.

(B) SCOPE AND ADMINISTRATION OF PROGRAM.

THE PROGRAM SHALL BE:

(1) IN EFFECT IN EACH COUNTY; AND

(2) ADMINISTERED BY THE LOCAL DEPARTMENTS IN ACCORDANCE WITH REGULATIONS THAT THE ADMINISTRATION ADOPTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 65(b) and the last clause of (a), and, as it related to the establishment of the Program, the first clause of (a).

Subsection (a) of this section is restated in standard language for clarity and consistency with similar provisions elsewhere in this article.

In subsection (b)(1) of this section, the reference to "each county" is substituted for the former reference to "all political subdivisions of this State" for clarity and consistency with terminology used throughout this article.

In subsection (b)(2) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

Defined terms: "Administration" § 5-101

"Assistance" § 5-401

"County" § 1-101

"Program" § 5-401

5-403. ELIGIBILITY FOR ASSISTANCE.

(A) IN GENERAL.

A RESIDENT OF THE STATE IS ELIGIBLE FOR ASSISTANCE UNDER THIS PART IF THE RESIDENT:

(1) LACKS SUFFICIENT INCOME OR BENEFITS TO MAINTAIN A REASONABLE SUBSISTENCE COMPATIBLE WITH DECENCY AND HEALTH; AND

(2) (I) IS ELIGIBLE FOR OR RECEIVES CASH BENEFITS UNDER TITLE XVI OF THE FEDERAL SOCIAL SECURITY ACT; OR

(II) IS AGED, BLIND, OR DISABLED AS DEFINED UNDER TITLE XVI OF THE FEDERAL SOCIAL SECURITY ACT AND, BUT FOR INCOME, WOULD RECEIVE CASH BENEFITS UNDER THAT TITLE.

(B) RESTRICTIONS ON ASSIGNMENT OR TRANSFER OF PROPERTY.

AN APPLICANT MAY NOT ASSIGN OR TRANSFER PROPERTY TO ESTABLISH ELIGIBILITY FOR ASSISTANCE UNDER THIS PART DURING THE 3 YEARS BEFORE:

- (1) FILING AN APPLICATION FOR ASSISTANCE; OR
- (2) RECEIVING ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 65(e) and, as it related to eligibility requirements, (a).

In the introductory language of subsection (a) of this section, the reference to a resident being "eligible for assistance under this part" is added for clarity.

In the introductory language of subsection (b) of this section, the phrase "to establish eligibility" is substituted for the former phrase "for the purpose of rendering himself eligible" for brevity.

Also in the introductory language of subsection (b) of this section, the phrase "during the 3 years before" is substituted for the former phrase "at any time within 3 years immediately prior to" for brevity and clarity.

In subsection (b)(2) of this section, the former phrase "pursuant to the provisions of this article" is deleted as surplusage.

Defined terms: "Applicant" § 5-401
"Assistance" § 5-401

5-404. APPLICATION FOR ASSISTANCE.

(A) APPLICATION FOR ASSISTANCE.

AN APPLICATION FOR ASSISTANCE UNDER THIS PART SHALL BE MADE:

(1) TO THE LOCAL DEPARTMENT OF THE COUNTY WHERE THE APPLICANT RESIDES; AND

(2) IN THE FORM AND MANNER THAT THE ADMINISTRATION REQUIRES.

(B) RECORD OF APPLICATION.

WHENEVER A LOCAL DEPARTMENT RECEIVES AN APPLICATION FOR ASSISTANCE UNDER THIS PART, THE LOCAL DEPARTMENT SHALL MAKE A RECORD OF:

- (1) THE CIRCUMSTANCES OF THE APPLICANT;
- (2) THE FACTS SUPPORTING THE APPLICATION; AND
- (3) ANY OTHER INFORMATION THAT THE ADMINISTRATION REQUIRES BY REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 69 and 70.

In subsection (a)(1) and the introductory language of subsection (b) of this section, and throughout this subtitle, the references to the "local department" are substituted for the former references to the "local unit" in light of the definition of "local department" in § 5-101 of this title and for consistency within this subtitle.

In the introductory language of subsection (b) of this section, the former word "promptly" is deleted as surplusage.

Defined terms: "Administration" § 5-101

"Applicant" § 5-401

"Assistance" § 5-401

"County" § 1-101

"Local department" § 5-101

5-405. AMOUNT OF ASSISTANCE.

(A) DETERMINATION OF AMOUNT.

(1) THE LOCAL DEPARTMENT SHALL DETERMINE AN AMOUNT OF ASSISTANCE THAT IS SUFFICIENT, WHEN ADDED TO ALL OTHER INCOME AND SUPPORT AVAILABLE TO A RECIPIENT, TO PROVIDE THE RECIPIENT WITH A REASONABLE SUBSISTENCE COMPATIBLE WITH DECENCY AND HEALTH.

(2) IN DETERMINING THE AMOUNT OF ASSISTANCE, THE LOCAL DEPARTMENT SHALL CONSIDER THE RECIPIENT'S AVAILABLE RESOURCES AND NECESSARY EXPENDITURES AND THE CONDITIONS EXISTING FOR THE RECIPIENT.

(B) SUPPORT FROM CHILDREN.

IN DETERMINING THE AMOUNT OF ASSISTANCE, THE LOCAL DEPARTMENT SHALL CONSIDER SUPPORT FROM CHILDREN AS A POTENTIAL RESOURCE AND EVALUATE THE AMOUNT OF THE SUPPORT AND ITS AVAILABILITY TO THE RECIPIENT, IN ACCORDANCE WITH REGULATIONS THAT THE ADMINISTRATION ADOPTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 65(d) and the second paragraph of § 66.

In subsections (a)(2) and (b) of this section, the references to the local department "determining the amount of assistance" are added for clarity.

In subsection (b) of this section, the former reference to a "rule" is deleted in light of the reference to "regulations". See General Revisor's Note to article.

Defined terms: "Administration" § 5-101

"Assistance" § 5-401

"Local department" § 5-101

"Recipient" § 5-401

5-406. GRANTING OF ASSISTANCE.

(A) IN GENERAL.

THE LOCAL DEPARTMENT SHALL:

(1) DETERMINE:

(I) WHETHER AN APPLICANT IS ELIGIBLE FOR ASSISTANCE UNDER THIS PART; AND

(II) IN ACCORDANCE WITH REGULATIONS THAT THE ADMINISTRATION ADOPTS, THE AMOUNT OF THE ASSISTANCE AND THE DATE ON WHICH THE ASSISTANCE WILL BEGIN; AND

(2) NOTIFY THE APPLICANT OF ITS DECISION.

(B) FREQUENCY OF PAYMENTS.

ASSISTANCE SHALL BE PAID TO THE APPLICANT MONTHLY OR AS THE ADMINISTRATION OTHERWISE DETERMINES.

(C) INSUFFICIENT FUNDS.

IF THE FUNDS AVAILABLE ARE INSUFFICIENT TO MAKE PAYMENTS IN ACCORDANCE WITH THE AMOUNT OF ASSISTANCE ESTABLISHED TO BE NEEDED, THE ADMINISTRATION SHALL ADOPT REGULATIONS TO PROVIDE FOR A UNIFORM METHOD OF ADJUSTING INDIVIDUAL PAYMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 71.

In subsection (b) of this section, the former reference to paying assistance "upon order of the local unit from funds allocated to it for this purpose" is deleted as obsolete. All payments are now made centrally.

Defined terms: "Administration" § 5-101

"Applicant" § 5-401

"Assistance" § 5-401

"Local department" § 5-101

5-407. RESTRICTIONS ON ASSISTANCE.

(A) ASSISTANCE NOT TRANSFERABLE OR ASSIGNABLE.

(1) ASSISTANCE GRANTED UNDER THIS PART MAY NOT BE TRANSFERRED OR ASSIGNED.

(2) ASSISTANCE PAID OR PAYABLE UNDER THIS PART IS NOT SUBJECT TO:

(I) EXECUTION;

(II) LEVY;

- (III) ATTACHMENT;
- (IV) GARNISHMENT;
- (V) OTHER LEGAL PROCESS; OR
- (VI) THE OPERATION OF ANY BANKRUPTCY OR INSOLVENCY LAW.

(B) RECONSIDERATION OF ASSISTANCE.

(1) THE LOCAL DEPARTMENT SHALL RECONSIDER ALL ASSISTANCE GRANTED UNDER THIS PART AS FREQUENTLY AS THE REGULATIONS OF THE ADMINISTRATION REQUIRE.

(2) THE AMOUNT OF ASSISTANCE MAY BE CHANGED OR ASSISTANCE MAY BE CANCELED IF, AFTER ANY FURTHER INVESTIGATION THE LOCAL DEPARTMENT CONSIDERS NECESSARY OR THE ADMINISTRATION REQUIRES, THE LOCAL DEPARTMENT OR THE ADMINISTRATION FINDS THAT THE RECIPIENT'S CIRCUMSTANCES HAVE ALTERED SUFFICIENTLY TO WARRANT THE CHANGE OR CANCELLATION.

(C) RECOVERY FROM RECIPIENT.

(1) A RECIPIENT SHALL NOTIFY THE LOCAL DEPARTMENT IMMEDIATELY IF, WHILE RECEIVING ASSISTANCE, THE RECIPIENT RECEIVES PROPERTY OR INCOME IN EXCESS OF THE AMOUNT STATED IN THE APPLICATION FOR ASSISTANCE.

(2) AFTER AN INVESTIGATION, DEPENDING ON THE CIRCUMSTANCES, THE LOCAL DEPARTMENT MAY:

- (I) CANCEL THE ASSISTANCE; OR
- (II) CHANGE THE AMOUNT OF ASSISTANCE.

(3) ASSISTANCE PAID BEFORE THE RECIPIENT RECEIVED THE PROPERTY OR INCOME THAT EXCEEDS THE RECIPIENT'S NEED MAY BE RECOVERED BY THE LOCAL DEPARTMENT AS A DEBT DUE.

(4) THE NET AMOUNT RECOVERED SHALL BE DIVIDED BETWEEN THE STATE AND COUNTY IN PROPORTION TO THE AMOUNT OF ASSISTANCE PAID BY EACH.

(D) RECOVERY FROM ESTATE.

(1) WHEN A RECIPIENT DIES:

(I) THE TOTAL AMOUNT OF ASSISTANCE PAID UNDER THIS PART SHALL BE ALLOWED AS A CLAIM AGAINST THE ESTATE; AND

(II) THE NET AMOUNT RECOVERED SHALL BE DIVIDED BETWEEN THE STATE AND COUNTY IN PROPORTION TO THE AMOUNT OF ASSISTANCE PAID BY EACH.

(2) THE CLAIM MAY NOT BE ENFORCED AGAINST REAL ESTATE OCCUPIED BY THE RECIPIENT'S SURVIVING SPOUSE OR DEPENDENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 73 and 75, the first three sentences of § 76, and the first two sentences of § 77.

In subsection (a)(1) of this section, the former phrase "at law or in equity" is deleted as surplusage.

In subsection (a)(2) of this section, the reference to "assistance" is substituted for the former reference to "money" for consistency within this subtitle.

In subsection (b)(1) and (2) of this section, the references to the "Administration" are substituted for the former references to the "State Department" for accuracy. *See* General Revisor's Note to title.

In subsection (b)(2) of this section, the reference to assistance being "canceled" is substituted for the former reference to assistance being "entirely withdrawn" for brevity.

In subsection (c)(1) of this section, the phrase "while receiving assistance" is substituted for the former phrase "at any time during the continuance of assistance" for brevity.

Also in subsection (c)(1) of this section, the word "receives" is substituted for the former phrase "becomes possessed of" for brevity. Similarly, the former word "possession" is deleted as surplusage.

In subsection (c)(3) of this section, the defined term "local department" is substituted for the former phrase "county department" for consistency throughout this subtitle.

In subsection (c)(4) of this section, the former phrase "from all such claims" is deleted as surplusage.

Also in subsection (c)(4) of this section, the defined term "county" is substituted for the former reference to the "local subdivision" for consistency throughout this subtitle.

Defined terms: "Administration" § 5-101

"Assistance" § 5-401

"County" § 1-101

"Local department" § 5-101

"Recipient" § 5-401

5-408. APPEALS; REVIEW AND OVERSIGHT OF LOCAL DEPARTMENTS BY ADMINISTRATION.

(A) RIGHT TO APPEAL.

AN APPLICANT OR RECIPIENT MAY APPEAL TO THE ADMINISTRATION IF THE LOCAL DEPARTMENT:

- (1) DOES NOT ACT ON AN APPLICATION WITHIN A REASONABLE TIME;
- (2) DENIES AN APPLICATION WHOLLY OR PARTLY; OR
- (3) MODIFIES OR CANCELS A GRANT OF ASSISTANCE.

(B) APPEAL PROCESS.

(1) THE APPEAL SHALL BE FILED IN THE MANNER AND FORM THAT THE ADMINISTRATION REQUIRES.

(2) THE ADMINISTRATION SHALL GIVE THE APPLICANT OR RECIPIENT REASONABLE NOTICE AND AN OPPORTUNITY FOR A HEARING ON THE APPEAL.

(C) REVIEW AND OVERSIGHT OF LOCAL DEPARTMENTS BY ADMINISTRATION.

(1) ON ITS OWN MOTION, THE ADMINISTRATION MAY:

- (I) REVIEW ANY DECISION OF A LOCAL DEPARTMENT; AND
- (II) CONSIDER AN APPLICATION ON WHICH THE LOCAL DEPARTMENT HAS NOT MADE A DECISION WITHIN A REASONABLE TIME.

(2) THE ADMINISTRATION:

- (I) MAY MAKE ANY ADDITIONAL INVESTIGATION IT CONSIDERS NECESSARY; AND
- (II) SHALL MAKE ANY DECISION ON THE GRANTING OF ASSISTANCE AND THE AMOUNT OF ASSISTANCE IT CONSIDERS JUSTIFIED IN ACCORDANCE WITH THIS PART.

(3) ON REQUEST, THE ADMINISTRATION SHALL GIVE AN APPLICANT OR RECIPIENT AFFECTED BY A DECISION MADE UNDER PARAGRAPH (2) OF THIS SUBSECTION REASONABLE NOTICE AND AN OPPORTUNITY FOR A HEARING.

(D) EFFECT OF DECISIONS BY ADMINISTRATION.

(1) A DECISION OF THE ADMINISTRATION UNDER THIS SECTION IS FINAL AND BINDING ON THE LOCAL DEPARTMENT.

(2) THE LOCAL DEPARTMENT SHALL COMPLY WITH A DECISION OF THE ADMINISTRATION UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 74.

In subsection (a)(1) of this section, the former reference to acting on an application within a reasonable time "after the filing of the application" is deleted as implicit.

In subsection (a)(3) of this section, the reference to a "grant" of assistance

is substituted for the former reference to an “award” of assistance for consistency within this subtitle.

In subsections (b)(2) and (c)(3) of this section, the former archaic references to a “fair” hearing are deleted.

In subsection (b)(2) of this section, the former phrase “upon receipt of such an appeal” is deleted as surplusage.

In subsection (d)(1) of this section, the former reference to the “county involved” is deleted as obsolete.

Defined terms: “Administration” § 5–101

“Applicant” § 5–401

“Assistance” § 5–401

“Local department” § 5–101

“Recipient” § 5–401

5–409. DUTIES OF ADMINISTRATION.

THE ADMINISTRATION SHALL:

(1) SUPERVISE THE ADMINISTRATION OF THE PROGRAM UNDER THIS PART BY THE LOCAL DEPARTMENTS;

(2) ADOPT REGULATIONS NECESSARY OR DESIRABLE TO CARRY OUT THIS PART, INCLUDING REGULATIONS TO:

(I) ESTABLISH ELIGIBILITY REQUIREMENTS AND ANY OTHER REQUIREMENTS NOT SET FORTH IN THIS PART; AND

(II) ESTABLISH STANDARDS FOR THE AMOUNT OF ASSISTANCE A RECIPIENT MAY RECEIVE UNDER THIS PART;

(3) PRESCRIBE THE FORM OF AND SUPPLY TO THE LOCAL DEPARTMENTS ANY FORMS THE ADMINISTRATION CONSIDERS NECESSARY AND DESIRABLE; AND

(4) TAKE ANY OTHER ACTION NECESSARY OR DESIRABLE TO CARRY OUT THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 67, 65(c), and the first paragraph of § 66.

In the introductory language of this section, the reference to the “Administration” is substituted for the former reference to the “State Department” for accuracy. *See* General Revisor’s Note to title.

In item (1) of this section, the reference to the “administration of the Program under this part” is substituted for the former reference to the “administration of assistance to the needy under this subtitle” for clarity and consistency within this subtitle.

Throughout item (2) of this section, the former reference to “rules” is

deleted in light of the reference to “regulations”. *See* General Revisor’s Note to article.

In item (3) of this section, the former reference to “print[ing]” forms is deleted as included in the requirement to supply forms to the local departments.

Also in item (3) of this section, the word “desirable” is substituted for the former word “advisable” for consistency with item (4) and the introductory language of item (2) of this section.

The reference in former Art. 88A, § 67(4) to “exercis[ing] all of the powers and perform[ing] the duties defined by this subtitle” is deleted as redundant.

Defined terms: “Administration” § 5–101
 “Local department” § 5–101
 “Program” § 5–401

5–410. DUTIES OF LOCAL DEPARTMENTS.

EACH LOCAL DEPARTMENT SHALL:

(1) ADMINISTER THIS PART IN ITS COUNTY IN ACCORDANCE WITH THE REGULATIONS THE ADMINISTRATION ADOPTS; AND

(2) REPORT TO THE ADMINISTRATION AS THE ADMINISTRATION DIRECTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 68(1) and (2).

As to the deletion of the former reference to “rules” in item (1) of this section, *see* General Revisor’s Note to article.

In item (2) of this section, the former phrases “at such times and in such manner and form” and “from time to time” are deleted as surplusage.

Former Art. 88A, § 68(3), which required a local unit to submit an annual budget to the local governing authority, is deleted as obsolete in light of Ch. 103, Acts of 1978, which repealed requirements for local government contributions to the costs of public assistance programs.

Former Art. 88A, § 68(4), which required the local units to “[e]xercise the powers and perform the duties defined by this subtitle” is deleted as redundant.

Defined terms: “Administration” § 5–101
 “County” § 1–101
 “Local department” § 5–101

5–411. PROHIBITED ACT.

(A) IN GENERAL.

EXCEPT IN CONNECTION WITH A CRIMINAL PROCEEDING BROUGHT UNDER THIS PART, A PERSON MAY NOT CHARGE OR RECEIVE A FEE FROM AN APPLICANT, RECIPIENT, OR ANY OTHER PERSON:

(1) WITH RESPECT TO AN APPLICATION UNDER THIS PART; OR

(2) TO REPRESENT AN APPLICANT OR RECIPIENT IN ANY PROCEEDING UNDER THIS PART.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 80.

In subsection (b) of this section, the reference to a person being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Defined terms: "Applicant" § 5-401

"Person" § 1-101

"Recipient" § 5-401

5-412. AMENDMENT OR REPEAL OF PART.

(A) IN GENERAL.

ANY ASSISTANCE GRANTED UNDER THIS PART IS SUBJECT TO FUTURE REPEAL OR AMENDMENT OF THIS PART.

(B) NO RIGHT TO COMPENSATION.

A RECIPIENT IS NOT ENTITLED TO COMPENSATION IF THE RECIPIENT'S ASSISTANCE IS AFFECTED BY REPEAL OR AMENDMENT OF THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 82.

In subsection (a) of this section, the term "future" is substituted for the former phrase "that may hereafter be passed" for brevity and consistency with § 5-322(a) of this title.

Also in subsection (a) of this section, the former reference to "assistance ... to be held" is deleted as included in the word "granted".

In subsection (b) of this section, the reference to a recipient being "not entitled to" compensation is substituted for the former reference to a recipient not having "any claim for" compensation for clarity and

consistency with § 5-322(b) of this title.

Also in subsection (b) of this section, the former phrases “or otherwise” and “in any way” are deleted as surplusage.

Defined terms: “Assistance” § 5-401

“Recipient” § 5-401

5-413. RESERVED.

5-414. RESERVED.

PART II. BURIAL ASSISTANCE.

5-415. BURIAL ASSISTANCE PROGRAM.

(A) IN GENERAL.

(1) A LOCAL DEPARTMENT MAY PAY THE REASONABLE FUNERAL EXPENSES OF A DECEDENT WHO WAS A:

(I) RECIPIENT OF PUBLIC ASSISTANCE, INCLUDING TEMPORARY CASH ASSISTANCE OR PUBLIC ASSISTANCE TO ADULTS; OR

(II) STATE RESIDENT RECEIVING SUPPLEMENTAL SECURITY INCOME UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.

(2) THE FUNERAL EXPENSES PAID BY THE LOCAL DEPARTMENT MAY NOT EXCEED \$900.

(B) ELIGIBILITY.

A LOCAL DEPARTMENT MAY NOT PAY FUNERAL EXPENSES UNDER THIS SECTION UNLESS:

(1) EACH PERSON LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE DECEDENT IS UNABLE TO PAY THE EXPENSES; AND

(2) OTHER RESOURCES, INCLUDING AVAILABLE DEATH BENEFITS OF THE ESTATE, ARE INSUFFICIENT TO PAY THE EXPENSES.

(C) STATE FUNDS.

PAYMENTS PROVIDED IN ACCORDANCE WITH THIS SECTION SHALL BE CHARGED TO STATE FUNDS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 62A.

In subsection (a)(1)(i) of this section, the reference to a “recipient of public assistance” is added to reflect the current scope of the program.

Also in subsection (a)(1)(i) of this section, the reference to “temporary cash assistance” is substituted for the former obsolete reference to “aid to families with dependent children” for accuracy.

Also in subsection (a)(1)(i) of this section, the former reference to “general public assistance” is deleted as obsolete.

In subsection (a)(1)(ii) of this section, the former reference to “January 1, 1974” is deleted as obsolete.

In subsection (a)(2) of this section, the former references to the maximum amounts payable for the fiscal years commencing “July 1, 1991”, “July 1, 1992”, and “July 1, 1993”, are deleted as obsolete.

Defined terms: “Local department” § 5–101
 “Person” § 1–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 88A, § 63, which provided a short title for the former “State Public Assistance Programs Act”, is deleted as unnecessary.

Former Art. 88A, § 65C, which established the General Public Assistance for Pregnant Women Program, is deleted as obsolete. Pregnant women currently receive assistance under the Family Investment Program. *See* Subtitle 3 of this title.

The fourth sentence of former Art. 88A, § 76 and the third sentence of former Art. 88A, § 77, which provided that rights of recovery against a recipient and a recipient's estate formerly granted under provisions relating to the programs of Old Age Assistance and Public Assistance to the Needy Blind “shall remain in full force and effect”, are deleted as obsolete. The Old Age Assistance Program was repealed by Ch. 355, Acts of 1975 and the Public Assistance to the Needy Blind Program was repealed by Ch. 312, Acts of 1968; Ch. 347, Acts of 1969; and Ch. 355, Acts of 1975.

Former Art. 88A, § 78, which provided that an “applicant who has moved into the county in which he applies within one year prior to application, shall be deemed ... a resident of the county in which he last had one year's continuous residence”, is deleted as obsolete in light of Ch. 103, Acts of 1978, which repealed requirements for local government contributions to the costs of public assistance programs. The Department of Human Resources advises that when a public assistance recipient moves, the assistance file is transferred promptly to the new jurisdiction.

Former Art. 88A, § 83, which provided for the severability of provisions in Part I of this subtitle, is deleted as unnecessary in light of the general severability provision in Art. 1, § 23.

SUBTITLE 5. FOOD STAMPS.

5–501. FOOD STAMP PROGRAM.

(A) ESTABLISHED.

THE DEPARTMENT MAY IMPLEMENT A FOOD STAMP PROGRAM IN ACCORDANCE WITH THE FEDERAL FOOD STAMP ACT.

(B) ADMINISTRATIVE COSTS.

THE STATE SHALL BEAR THE NONFEDERAL PORTION OF THE ADMINISTRATIVE COSTS OF THE FOOD STAMP PROGRAM FOR EACH COUNTY.

(C) DUTIES OF LOCAL DEPARTMENTS.

EACH LOCAL DEPARTMENT SHALL ADMINISTER THE FOOD STAMP PROGRAM:

- (1) UNDER THE SUPERVISION AND CONTROL OF THE DEPARTMENT; AND
- (2) IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT AND FEDERAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 88(a).

In subsection (a) of this section, the former requirement that "the City of Baltimore and all counties ... participate" in the food stamp program is deleted as obsolete. Ch. 264, Acts of 1979 repealed local funding requirements for the food stamp program.

In subsection (b) of this section, the reference to "each county" is substituted for the former reference to "the respective jurisdictions" for consistency throughout this article.

In the introductory language of subsection (c) of this section, the reference to "each local department" is substituted for the former reference to "the City of Baltimore and all counties of the State" to conform to current practice.

In subsection (c)(2) of this section, the reference to "federal law" is substituted for the former reference to "federal statutes, rules and regulations" for brevity.

Also in subsection (c)(2) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". See General Revisor's Note to article.

Also in subsection (c)(2) of this section, the former reference to "applicable" federal law is deleted as surplusage.

Defined terms: "County" § 1-101
 "Department" § 5-101
 "Local department" § 5-101

REVISOR'S NOTE TO SECTION:

Former Art. 88A, § 88(b) and (c), which required local jurisdictions to enter into written agreements with the Department for the implementation and administration of the food stamp program, authorized the Department to administer the program in a local jurisdiction that failed or refused to participate, and authorized the Department to file an action to compel a local jurisdiction to fulfill its federal requirements, are deleted as unnecessary in light of subsection (c) of this section, which requires the

local departments to administer the program under the supervision and control of the Department.

5-502. CONFLICT WITH FEDERAL LAW.

EXCEPT AS PROVIDED IN § 5-503 OF THIS SUBTITLE, IF ANY PROVISION OF THIS SUBTITLE CONFLICTS WITH ANY FEDERAL LAW, THE FEDERAL LAW SHALL PREVAIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 88(d)(1).

The references to "federal law" are substituted for the former references to "federal statute, rule or regulation" for brevity.

The former reference to "applicable" federal law is deleted as surplusage.

5-503. LEGAL IMMIGRANTS.

SUBJECT TO THE STATE BUDGET, THE DEPARTMENT SHALL PROVIDE FOOD STAMP BENEFITS TO A LEGAL IMMIGRANT WHO:

- (1) IS A MINOR;
- (2) IS INELIGIBLE FOR FEDERALLY FUNDED FOOD STAMP BENEFITS BECAUSE OF IMMIGRATION STATUS;
- (3) MEETS ALL OTHER FOOD STAMP PROGRAM ELIGIBILITY REQUIREMENTS; AND
- (4) MEETS ANY OTHER REQUIREMENTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 88(d)(2).

In the introductory language of this section, the former reference to the "limitations" of the State budget is deleted as surplusage.

Also in the introductory language of this section, the former requirement that the Department "have provided" food stamp benefits to a legal immigrant is deleted as included in the requirement that the Department "provide" benefits.

Also in the introductory language of this section, the former phrase "as described in subsections (a) and (b) of this section" is deleted as surplusage.

In item (1) of this section, the word "minor" is substituted for the former phrase "children under the age of 18 years" for brevity. *See* Art. 1, § 24.

Former Art. 88A, § 88(d)(3), which required that the "Department ... certify all active cases with legal immigrants through August 31, 1997", is deleted as obsolete.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that effective October 1, 2003, all legal immigrant

children who meet other program eligibility requirements are eligible for federal food stamp benefits under the federal Food Stamp Reauthorization Act of 2002. Previously, eligibility under federal law was limited to legal immigrant children who were lawfully residing in the country on August 22, 1996.

Defined term: "Department" § 5-101

5-504. PROHIBITED ACTS.

(A) SALE OR PURCHASE OF FOOD STAMP PROGRAM BENEFITS.

A PERSON MAY NOT SELL OR PURCHASE FOOD STAMP PROGRAM BENEFITS UNLESS OTHERWISE AUTHORIZED BY LAW.

(B) MERCHANDISE PURCHASED WITH FOOD STAMP PROGRAM BENEFITS.

A PERSON MAY NOT KNOWINGLY BUY OR SELL MERCHANDISE THAT HAS BEEN PURCHASED WITH FOOD STAMP PROGRAM BENEFITS.

(C) PENALTY -- VALUE AT LEAST \$1,000.

IF THE VALUE OF THE MONEY OR GOODS INVOLVED IS \$1,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION:

(1) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH; AND

(2) SHALL MAKE FULL RESTITUTION OF THE MONEY OR GOODS UNLAWFULLY RECEIVED OR PERFORM COMMUNITY SERVICE, AS DETERMINED BY THE COURT.

(D) PENALTY -- VALUE LESS THAN \$1,000.

IF THE VALUE OF THE MONEY OR GOODS INVOLVED IS LESS THAN \$1,000, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION:

(1) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND

(2) SHALL MAKE FULL RESTITUTION OF THE MONEY OR GOODS UNLAWFULLY RECEIVED OR PERFORM COMMUNITY SERVICE, AS DETERMINED BY THE COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 89.

In subsections (a) and (b) of this section, the former references to "federal" food stamp program benefits are deleted as surplusage.

In the introductory language of subsection (d) of this section, the reference to money or goods "involved" is added for consistency with subsection (c) of this section.

Defined term: "Person" § 1-101

SUBTITLE 6. MISCELLANEOUS PROVISIONS.

5-601. ASSISTANCE TO RESIDENT CONVICTED OF CONTROLLED DANGEROUS SUBSTANCE FELONY.

(A) "RESIDENT" DEFINED.

IN THIS SECTION, "RESIDENT" MEANS AN INDIVIDUAL WHO RESIDES IN THIS STATE ON THE DATE THE INDIVIDUAL APPLIES FOR PUBLIC ASSISTANCE.

(B) FEDERAL LAW NOT APPLICABLE.

SUBJECT TO § 5-314 OF THIS TITLE AND AS AUTHORIZED UNDER 21 U.S.C. § 862A(D)(1), THE STATE REMOVES ITSELF FROM THE APPLICATION OF § 115 OF THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996 TO ALLOW THE DEPARTMENT TO PROVIDE TEMPORARY CASH ASSISTANCE AND FOOD STAMPS TO A RESIDENT WHO HAS BEEN CONVICTED OF A FELONY INVOLVING THE POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE.

(C) EFFECT OF CONTROLLED DANGEROUS SUBSTANCE CONVICTION.

(1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, IF A RESIDENT APPLYING FOR TEMPORARY CASH ASSISTANCE OR FOOD STAMPS HAS BEEN CONVICTED OF A FELONY INVOLVING THE POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE AFTER AUGUST 22, 1996, THE RESIDENT IS SUBJECT TO TESTING FOR SUBSTANCE ABUSE, AS PROVIDED BY THE DEPARTMENT, AND TO TREATMENT AS REQUIRED UNDER § 5-314 OF THIS TITLE FOR 2 YEARS, BEGINNING ON THE DATE OF APPLICATION, TO THE EXTENT AUTHORIZED UNDER FEDERAL LAW.

(2) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, IF A RESIDENT RECEIVING TEMPORARY CASH ASSISTANCE OR FOOD STAMPS IS FOUND TO BE IN VIOLATION OF §§ 5-602 THROUGH 5-609, § 5-612, OR § 5-613 OF THE CRIMINAL LAW ARTICLE, OR 21 U.S.C. § 841, THE RESIDENT IS:

(I) INELIGIBLE FOR TEMPORARY CASH ASSISTANCE OR FOOD STAMPS FOR 1 YEAR AFTER THE DATE OF THE CONVICTION; AND

(II) SUBJECT TO TESTING FOR SUBSTANCE ABUSE, AS PROVIDED BY THE DEPARTMENT, AND TO TREATMENT AS REQUIRED UNDER § 5-314 OF THIS TITLE, FOR 2 YEARS BEGINNING ON THE LATER OF:

1. THE DATE THE INDIVIDUAL IS RELEASED FROM INCARCERATION;

2. THE DATE THE INDIVIDUAL COMPLETES ANY TERM OF PROBATION; OR

3. THE DATE THE INDIVIDUAL COMPLETES ANY TERM OF PAROLE OR MANDATORY SUPERVISION.

(3) AN APPLICANT OR RECIPIENT WHO FAILS TO COMPLY WITH THE TESTING REQUIRED UNDER THIS SUBSECTION OR THE TREATMENT REQUIRED UNDER § 5-314 OF THIS TITLE OR WHO TESTS POSITIVE FOR THE ABUSE OF CONTROLLED DANGEROUS SUBSTANCES IS SUBJECT TO THE SANCTIONS PROVIDED UNDER § 5-314 OF THIS TITLE.

(4) IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE SECRETARY SHALL ADOPT REGULATIONS TO ESTABLISH THE TESTING METHODS AND PROCEDURES, CONSISTENT WITH § 5-314 OF THIS TITLE, TO BE REQUIRED BY THE DEPARTMENT UNDER THIS SUBSECTION, INCLUDING THE INTERVALS OF TESTING AND METHODS REQUIRED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 65A.

In subsection (a) of this section, the references to an "individual" are substituted for the former references to a "person" because only a human being, and not the other entities included in the defined term "person", can apply for public assistance.

In subsections (b) and (c)(2) of this section, the references to "temporary" cash assistance are added for consistency with Subtitle 3 of this title.

In subsection (b) of this section, the former reference to "Public Law 104-193" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to being "previously" convicted is deleted as surplusage.

In subsection (c)(1) of this section, the reference to "temporary cash assistance or food stamps" is substituted for the former reference to "public assistance" for consistency with subsections (b) and (c)(2) of this section.

In subsection (c)(2) of this section, the former reference to "July 1, 2000" is deleted as obsolete.

In subsection (c)(3) of this section, the former phrase "subject to this subsection" is deleted as surplusage.

Defined terms: "Department" § 5-101
"Secretary" § 1-101

5-602. FLAT GRANT PAYMENTS.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ADMINISTRATION, A LOCAL DEPARTMENT, OR ANY OTHER UNIT MAY NOT DECREASE THE MONETARY AMOUNT OF ASSISTANCE RECEIVED BY ANY RECIPIENT OF PUBLIC ASSISTANCE BEFORE THE IMPLEMENTATION OF A SYSTEM OF FLAT GRANT PAYMENTS, SOLELY AS A RESULT OF THE IMPLEMENTATION OF THE SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 17B.

The reference to “any other provision of law” is substituted for the former reference to “any other provision in this Code or regulation adopted thereunder, or any prospective provision or regulation” for brevity.

The reference to “the Administration, a local department, or any other unit” is substituted for the former reference to a “State, city or county administration or department of social services or other agency” for brevity and accuracy.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to delete this section as obsolete. This section was enacted in 1975 because the Department was switching its standards for awarding AFDC payments. The Department switched from a budgetary method (which allowed each recipient to receive a certain amount based on family size, rent costs, and any other special needs of the family) to a Consolidated Standard of Need (under which all families of the same size receive the same assistance). This section was enacted to protect the recipients and make sure they were not financially harmed. The law created a “held harmless” group that has long since disappeared with subsequent increases in what is now the temporary cash assistance payment standard.

Defined terms: “Administration” § 5–101
 “Local department” § 5–101

5–603. PAYMENTS TO PUBLIC HOUSING AUTHORITIES.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DELINQUENT TENANT” MEANS A TENANT OF PUBLIC HOUSING WHO IS 30 OR MORE DAYS DELINQUENT IN PAYING THE TENANT’S FULL MONTHLY RENT TO A PUBLIC HOUSING AUTHORITY.

(3) “PUBLIC HOUSING” MEANS A DWELLING UNIT OWNED, LEASED, OR MANAGED BY A PUBLIC HOUSING AUTHORITY.

(4) “PUBLIC HOUSING AUTHORITY” MEANS A PUBLIC CORPORATION CREATED UNDER DIVISION II OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE OR THE PUBLIC CORPORATION’S DESIGNEE.

(B) DEDUCTION OF RENT FROM ASSISTANCE PAYMENTS.

IF A RECIPIENT OF TEMPORARY CASH ASSISTANCE IS A DELINQUENT TENANT, THE ADMINISTRATION, AT THE REQUEST OF THE PUBLIC HOUSING AUTHORITY, SHALL:

(1) DEDUCT THE AMOUNT OF THE TENANT’S RENT FROM THE TENANT’S MONTHLY ASSISTANCE PAYMENTS EACH MONTH;

(2) PAY THE AMOUNT DEDUCTED FROM THE TENANT'S MONTHLY ASSISTANCE PAYMENTS TO THE PUBLIC HOUSING AUTHORITY OR THE PUBLIC HOUSING AUTHORITY'S AUTHORIZED AGENT; AND

(3) FORWARD THE REMAINING AMOUNT OF THE MONTHLY ASSISTANCE PAYMENTS TO THE TENANT.

(C) NOTICE OF COURT ACTIONS.

(1) IF A COURT ESTABLISHES AN ESCROW ACCOUNT UNDER § 8-211 OF THE REAL PROPERTY ARTICLE OR A PARALLEL PROVISION OF PUBLIC LOCAL LAW FOR A TENANCY COVERED UNDER SUBSECTION (B) OF THIS SECTION, THE PUBLIC HOUSING AUTHORITY SHALL NOTIFY THE ADMINISTRATION OF THE COURT ACTION.

(2) ON NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION OR ON CERTIFICATION BY AN ATTORNEY OF RECORD REPRESENTING THE DELINQUENT TENANT IN THE COURT ACTION THAT AN ORDER HAS BEEN ISSUED TO ESTABLISH AN ESCROW ACCOUNT, THE ADMINISTRATION SHALL PAY RENT TO THE COURT AS LONG AS THE ORDER IS IN EFFECT.

(3) ANY NOTICE UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL INCLUDE A LIST OF ALL ADDRESSES COVERED BY THE COURT ACTION.

(4) THE PUBLIC HOUSING AUTHORITY SHALL NOTIFY THE ADMINISTRATION WHEN THE COURT ACTION HAS BEEN RESOLVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 17C.

In the introductory language of subsection (b) of this section, the reference to "temporary cash assistance" is substituted for the former reference to "Family Investment Program (FIP) assistance payments" for consistency with Subtitle 3 of this title.

Also in the introductory language of subsection (b) of this section, the former reference to the "local" public housing authority is deleted as surplusage.

Defined term: "Administration" § 5-101

5-604. VERIFICATION OF ELIGIBILITY FOR PUBLIC ASSISTANCE FROM FINANCIAL INSTITUTIONS.

(A) AUTHORIZATION TO REQUEST FINANCIAL RECORDS.

THE DEPARTMENT MAY REQUEST AND OBTAIN FROM A FIDUCIARY INSTITUTION DOING BUSINESS IN THE STATE ANY FINANCIAL RECORDS THAT THE DEPARTMENT DETERMINES ARE NECESSARY TO VERIFY OR CONFIRM AN INDIVIDUAL'S ELIGIBILITY OR INELIGIBILITY FOR PUBLIC ASSISTANCE.

(B) REGULATIONS.

(1) (I) THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING PROCEDURES FOR REQUESTING, OBTAINING, AND EXAMINING FINANCIAL RECORDS THAT THE DEPARTMENT DETERMINES ARE NECESSARY TO VERIFY OR CONFIRM AN INDIVIDUAL'S ELIGIBILITY OR INELIGIBILITY FOR PUBLIC ASSISTANCE.

(II) THE REGULATIONS SHALL INCLUDE REIMBURSEMENT SCHEDULES NECESSARY TO COMPENSATE FIDUCIARY INSTITUTIONS FOR COMPLYING WITH THIS SECTION.

(2) THE SECRETARY SHALL NOTIFY A FIDUCIARY INSTITUTION OF THE OFFICERS OR EMPLOYEES OF THE DEPARTMENT WHO ARE AUTHORIZED TO REQUEST AND RECEIVE FINANCIAL RECORDS FROM THE FIDUCIARY INSTITUTION.

(3) AN INDIVIDUAL AUTHORIZED TO RECEIVE INFORMATION UNDER THIS SECTION MAY NOT DISCLOSE ANY PERSONALLY IDENTIFIABLE INFORMATION OBTAINED OR MAINTAINED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 62(b) and (c).

In subsection (b)(1)(i) of this section, the former reference to "[o]n or before July 1, 1985" is deleted as obsolete.

In subsection (b)(1)(i) and (ii) of this section, the former references to "rules" are deleted in light of the references to "regulations". *See* General Revisor's Note to article.

In subsection (b)(3) of this section, the reference to an "individual" is substituted for the former reference to an "officer, employee, or representative of any agency" for brevity.

Defined terms: "Department" § 5-101
"Secretary" § 5-101

5-605. ACKNOWLEDGMENT OF STATEMENT OF CONDUCT THAT CONSTITUTES FRAUD.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "PUBLIC ASSISTANCE" MEANS ANY ASSISTANCE DESCRIBED IN § 8-503 OF THE CRIMINAL LAW ARTICLE.

(3) "FRAUD" HAS THE MEANING STATED IN § 8-501 OF THE CRIMINAL LAW ARTICLE.

(B) IN GENERAL.

EACH APPLICANT FOR OR RECIPIENT OF PUBLIC ASSISTANCE SHALL:

(1) READ OR HAVE READ TO THE INDIVIDUAL A STATEMENT OF THE CONDUCT THAT CONSTITUTES FRAUD; AND

(2) SIGN THE STATEMENT TO ACKNOWLEDGE THAT THE INDIVIDUAL UNDERSTANDS THAT THE PENALTIES FOR FRAUD UNDER § 8-503 OF THE CRIMINAL LAW ARTICLE ARE:

(I) IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND

(II) RESTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 16.

In subsection (a)(2) and the introductory language of subsection (b) of this section, the references to "public assistance" are substituted for the former references to "assistance at public expense" for brevity and consistency with terminology used throughout this article.

In subsection (b)(1) and (2) of this section, the references to the "individual" are substituted for the former references to the "applicant" for clarity.

In subsection (b)(2)(i) of this section, the former reference to "possible" imprisonment is deleted as implicit.

5-606. DUPLICATE PHOTO IDENTIFICATION REQUIRED.

THE LOCAL DEPARTMENT SHALL PLACE A DUPLICATE PHOTO IDENTIFICATION PRINT IN THE CASE FILE OF A PUBLIC ASSISTANCE RECIPIENT WHENEVER A PHOTO IDENTIFICATION CARD IS ISSUED TO THE RECIPIENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 62(a).

The defined term "local department" is substituted for the former reference to the "Department of Social Services" for brevity and consistency with terminology used throughout this article.

The former phrase "[b]eginning July 1, 1979" is deleted as obsolete.

The former reference to the "social service" case file is deleted as surplusage.

Defined term: "Local department" § 5-101

5-607. RECOUPMENT OF OVERPAYMENTS.

(A) IN GENERAL.

THE ADMINISTRATION SHALL MAKE EVERY EFFORT TO RECOUP OVERPAYMENTS MADE TO RECIPIENTS THAT THE STATE IS AUTHORIZED TO RECOUP UNDER FEDERAL LAW.

(B) PROCEDURE.

THE ADMINISTRATION SHALL ESTABLISH AN ADMINISTRATIVE PROCEDURE, IN

ACCORDANCE WITH FEDERAL LAW, TO BE FOLLOWED WHEN THE ADMINISTRATION HAS REASON TO BELIEVE THAT AN OVERPAYMENT HAS BEEN MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 16A.

In subsections (a) and (b) of this section, the former references to "applicable" federal law are deleted as surplusage.

Also in subsections (a) and (b) of this section, the former references to federal "rules, regulations, or guidelines" are deleted as included in the references to federal "law".

In subsection (b) of this section, the former reference to "October 1, 1977" is deleted as obsolete.

Defined term: "Administration" § 5-101

5-608. FEDERAL FUNDS.

THE ADMINISTRATION MAY:

- (1) ACCEPT ANY FEDERAL FUNDS OR COMMODITIES;
- (2) MANAGE AND DISPOSE OF ANY FEDERAL FUNDS OR COMMODITIES AS REQUIRED BY FEDERAL LAW; AND
- (3) APPLY THE FEDERAL SOCIAL SECURITY ACT OR ANY OTHER FEDERAL LAW RELATING TO PUBLIC ASSISTANCE TO THE BENEFIT OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 15, as it related to public assistance.

In items (1) and (2) of this section, the reference to federal funds "or" commodities is substituted for the former reference to federal funds "and" commodities to clarify that the Administration may accept federal funds, or commodities, or both.

In item (2) of this section, the former phrase "in whatever manner" is deleted as surplusage.

In item (3) of this section, the reference to the authority to "apply" the federal Social Security Act "to the benefit of the State" is substituted for the former reference to "tak[ing] advantage" of the federal Social Security Act for clarity.

Also in item (3) of this section, the reference to the federal Social Security Act "or" any other federal law is substituted for the former reference to the federal Social Security Act "and" any other federal act to clarify that the Administration may apply the federal Social Security Act, another federal law, or both.

Also in item (3) of this section, the former reference to the Social Security Act "and any amendments and supplements thereto" is deleted in light of

Art. 1, § 21, which provides that whenever a provision of law refers to any other law, the reference applies to any subsequent amendment to that other law unless the referring provision expressly provides otherwise.

Defined term: “Administration” § 5–101

GENERAL REVISOR’S NOTE TO TITLE:

Throughout this title, the defined term “Administration” is substituted for the former obsolete references to the “Social Services Administration” and the “State Department”. The Family Investment Administration coordinates and directs all public assistance programs. *See* § 5–205 of this title.

Former Art. 78A, § 55, which authorized the Board of Public Works to authorize an experimental check cashing program for Social Services Administration checks, is deleted as obsolete. The Department of Human Resources indicates that the program was never implemented. Currently cash benefits are distributed with a plastic debit card through the Electronic Benefits Transfer System.

Former Art. 88A, § 17, which prohibited public assistance to any able-bodied person who is able to work, is deleted as obsolete in light of the work activity requirements under the Family Investment Program. *See* § 5–308 of this title.

Former Art. 88A, §§ 17A, 17A–1, 17A–2, and 17A–3, which related to the General Public Assistance to Employables Program, are deleted as obsolete. The General Public Assistance to Employables Program was repealed by Ch. 351, Acts of 1996.

TITLE 6. COMMUNITY SERVICES.

SUBTITLE 1. DEFINITIONS.

6–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) ADMINISTRATION.

“ADMINISTRATION” MEANS THE COMMUNITY SERVICES ADMINISTRATION.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Community Services Administration”.

(C) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection formerly was Art. 88A, §§ 130A(c), 130F(c), and 145(a)(2).

No changes are made.

The definition of the term "Department" in former Art. 88A, § 130A(c) was applicable only to former Art. 88A, §§ 130A through 130K, which are revised in Subtitle 4, Part I of this title. The definition of "Department" in former Art. 88A, § 130F(c) was applicable only to former Art. 88A, §§ 130F through 130K, which are revised in Subtitle 4, Part II of this title. The definition of "Department" in former Art. 88A, § 145(a)(2) was applicable only to former Art. 88A, § 145, which is revised in Subtitle 7 of this title. However, the term "Department" was also used in former provisions of Article 88A that are revised elsewhere in this title. In this revision, the definitions of "Department" in former Art. 88A, §§ 130A(c), 130F(c), and 145(a)(2) are made applicable to this title. No substantive change is intended.

(D) EXECUTIVE DIRECTOR.

"EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF COMMUNITY SERVICES.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Executive Director of Community Services".

(E) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection formerly was Art. 88A, § 145(a)(4).

The only changes are in style.

The definition of the term "Secretary" in former Art. 88A, § 145(a)(4) was applicable only to former Art. 88A, § 145, which is revised in Subtitle 7 of this title. However, the term "Secretary" was also used in former provisions of Article 88A that are revised elsewhere in this title. In this revision, the definition of "Secretary" in former Art. 88A, § 145(a)(4) is made applicable to this title. No substantive change is intended.

SUBTITLE 2. COMMUNITY SERVICES ADMINISTRATION.

6-201. ESTABLISHED.

THERE IS A COMMUNITY SERVICES ADMINISTRATION IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 41, § 6-202(a).

It is set forth as a separate section for emphasis and restated in standard language for clarity and consistency.

Defined term: "Department" § 6-101

6-202. PURPOSES.

THE PURPOSES OF THE ADMINISTRATION ARE TO:

- (1) ESTABLISH AND PARTICIPATE IN:
 - (I) YOUTH AND WORK-TRAINING PROGRAMS;
 - (II) URBAN AND RURAL COMMUNITY ACTION PROGRAMS;
 - (III) SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AND URBAN AREAS;
 - (IV) EMPLOYMENT AND INVESTMENT INCENTIVE PROGRAMS; AND
 - (V) WORK-EXPERIENCE PROGRAMS;
- (2) COMBAT UNEMPLOYMENT; AND
- (3) ASSIST IN THE EDUCATION, TRAINING, AND ECONOMIC ADVANCEMENT OF THE RESIDENTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-201(a).

In the introductory language of this section, the reference to the "purposes of the Administration" is substituted for the former reference to the Administration being "hereby created for the general purpose" for clarity and brevity.

In the introductory language of item (1) of this section, the former reference to "various areas and types of" programs is deleted as surplusage.

In item (3) of this section, the reference to "advancement" is substituted for the former reference to "betterment" for consistency with § 6-203(c) of this subtitle.

Also in item (3) of this section, the reference to "residents" is substituted for the former reference to "citizens" because the meaning of the term "citizen" is unclear.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that some of the programs originally assigned to the Community Services Administration are now handled by other State agencies. The General Assembly may wish to review the purposes of the Administration that are listed in this section.

Defined term: "Administration" § 6-101

6-203. EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR.

- (A) EXECUTIVE DIRECTOR.

(1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THE EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE AND EXECUTIVE OFFICER OF THE ADMINISTRATION.

(B) DEPUTY DIRECTOR.

(1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT A DEPUTY DIRECTOR OF THE ADMINISTRATION.

(2) THE DEPUTY DIRECTOR IS THE PRINCIPAL ASSISTANT TO THE EXECUTIVE DIRECTOR.

(C) QUALIFICATIONS.

THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR SHALL HAVE EXPERIENCE AND INTEREST IN THE ADVANCEMENT AND DEVELOPMENT OF ECONOMIC OPPORTUNITY.

(D) STATE PERSONNEL MANAGEMENT SYSTEM.

THE EXECUTIVE DIRECTOR AND THE DEPUTY DIRECTOR ARE IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-203(c)(2)(ii) and the second, third, and fourth sentences of § 6-202(a).

In subsection (c) of this section, the requirement that the Executive Director and deputy director "have" experience and interest in the advancement and development of economic opportunity is substituted for the former requirement that they "be selected because of their known" experience and interest for conformity with standard language.

Defined terms: "Administration" § 6-101

"Executive Director" § 6-101

"Secretary" § 6-101

6-204. STAFF.

(A) IN GENERAL.

THE ADMINISTRATION MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

(B) STATE PERSONNEL MANAGEMENT SYSTEM.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EMPLOYEES OF THE ADMINISTRATION ARE SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-203(c)(1) and (2)(i).

In subsection (a) of this section, the reference to a "staff" is substituted for the former reference to "professional, technical, clerical, stenographic, and other personnel to carry out its duties and functions" for brevity and consistency with similar provisions in this article and other revised articles of the Code.

Also in subsection (a) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "within the limits of budgetary appropriations from time to time" for brevity and consistency with similar provisions in this article and other revised articles of the Code.

In subsection (b) of this section, the former reference to "Title 6, Subtitle 4" of the State Personnel and Pensions Article is deleted for accuracy. Title 6, Subtitle 4 only relates to employment categories of the State Personnel Management System.

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 6-203(c)(3), which provided for transfer of employees to the State Personnel Management System, is deleted as obsolete. This was enacted as a transitional provision for employees of the former Maryland Office of Economic Opportunity, one of the predecessors of the Community Services Administration. All employees of the Community Services Administration are now in the State Personnel Management System.

Defined term: "Administration" § 6-101

6-205. AUTHORITY OF SECRETARY.

THE ADMINISTRATION, THE EXECUTIVE DIRECTOR, AND THE DEPUTY DIRECTOR EXERCISE THEIR AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY STATE LAW SUBJECT TO THE AUTHORITY OF THE SECRETARY UNDER ANY STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-202(b).

The phrase "under any State law" is substituted for the former phrases "by the provisions of this subtitle or by any other laws of the State" and "as set forth in this article or elsewhere in the Laws of Maryland" for brevity.

Defined terms: "Administration" § 6-101

"Executive Director" § 6-101

"Secretary" § 6-101

6-206. POWERS AND DUTIES OF ADMINISTRATION.

(A) LIAISON DUTIES.

(1) THE ADMINISTRATION SHALL MAINTAIN LIAISON WITH:

(I) THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;

(II) LOCAL COMMISSIONS ON ECONOMIC OPPORTUNITY;

(III) CITIZENS' GROUPS; AND

(IV) ANY OTHER STATE, FEDERAL, AND LOCAL UNITS.

(2) THE ADMINISTRATION SHALL CONSULT WITH AND ADVISE THE LOCAL ENTITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION REGARDING THEIR ECONOMIC OPPORTUNITY PROGRAMS.

(B) COLLECTION AND DISSEMINATION OF INFORMATION.

THE ADMINISTRATION SHALL:

(1) COLLECT AND ASSEMBLE INFORMATION RELATING TO ECONOMIC OPPORTUNITY FROM OTHER UNITS OF THE STATE AND FEDERAL GOVERNMENTS; AND

(2) DISSEMINATE INFORMATION TO FURTHER ECONOMIC OPPORTUNITY PROGRAMS IN THE STATE BY PUBLICATION, ADVERTISEMENT, CONFERENCES, WORKSHOPS, PROGRAMS, LECTURES, OR OTHER MEANS.

(C) CONTRACTUAL AUTHORITY.

(1) CONSISTENT WITH THIS SUBTITLE AND OTHER APPLICABLE LAWS, THE ADMINISTRATION MAY ENTER INTO CONTRACTS OR ASSUME ANY OTHER FUNCTION NECESSARY TO CARRY OUT THIS SUBTITLE.

(2) THE ADMINISTRATION MAY ENTER INTO A CONTRACT WITH ANY OTHER UNIT OR INSTITUTION OF THIS STATE, ANY OTHER STATE, OR THE FEDERAL GOVERNMENT FOR ANY STUDY OR RESEARCH ACTIVITY THAT IS NECESSARY AND PROPER.

(D) ACCEPTANCE OF FEDERAL AND PRIVATE ASSISTANCE.

IF THE FEDERAL GOVERNMENT OR A PERSON OFFERS OR GRANTS ANY SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR FUNDS TO THE STATE OR TO A COUNTY OR MUNICIPAL CORPORATION IN THE STATE FOR THE PURPOSES OF ECONOMIC OPPORTUNITY, THE ADMINISTRATION MAY ACCEPT THE ASSISTANCE ON BEHALF OF THE STATE AND AUTHORIZE ANY OFFICER OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION TO RECEIVE AND USE THE ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 6-204 and 6-203(a), (b), and (d).

In subsection (a)(1)(i) of this section, the reference to the "United States Department of Health and Human Services" is substituted for the former obsolete reference to the "Federal Community Services Administration".

In subsection (a)(1)(ii) and (iv) of this section, the references to “local” commissions and “local” units are substituted for the former references to “county and city” commissions and “agencies of ... county and municipal governments” for brevity.

In subsection (a)(1)(iv) of this section, the reference to “units” is substituted for the former reference to “agencies” for consistency throughout this article. *See* General Revisor’s Note to article.

In subsection (a)(2) of this section, the reference to the “local entities described in paragraph (1) of this subsection” is substituted for the former reference to “these local groups” for clarity and consistency.

In subsection (b)(1) of this section, the phrase “information relating to” economic opportunity is substituted for the former phrase “pertinent information” for clarity.

Also in subsection (b)(1) of this section, the reference to “units” is substituted for the former reference to “departments and agencies” for consistency with terminology used throughout this article. *See* General Revisor’s Note to article.

Also in subsection (b)(1) of this section, the former reference to “data” is deleted as included in the reference to “information”.

In subsection (b)(2) of this section, the reference to information “to further” economic opportunity programs is substituted for the former reference to information “in the interest of” economic opportunity programs for clarity.

In subsection (c)(1) and (2) of this section, the former references to “mak[ing]” contracts are deleted as included in the references to “enter[ing] into” contracts.

In subsection (c)(1) of this section, the phrase “[c]onsistent with this subtitle and other applicable laws” is substituted for the former phrase “not inconsistent with this or other acts” for clarity.

Also in subsection (c)(1) of this section, the former reference to acting “[i]n the performance of its duties” is deleted as implicit in the authority of the Administration.

In subsection (c)(2) of this section, the reference to a “unit” is substituted for the former reference to “boards, commission, [and] agencies” for consistency throughout this article. *See* General Revisor’s Note to article.

Also in subsection (c)(2) of this section, the former reference to entering into a contract “upon such terms as may be eventually agreed upon” is deleted as an implicit element of the formation of a contract.

Also in subsection (c)(2) of this section, the former reference to “pay[ing] the cost thereof out of funds which may be appropriated to the

Administration” is deleted as implicit in the authority of the Administration.

In subsection (d) of this section, the references to a “county or municipal corporation” are substituted for the former references to “political subdivisions” for clarity and consistency with terminology used throughout this article.

Also in subsection (d) of this section, the reference to the Administration accepting assistance “on behalf of the State” is substituted for the former reference to “the State, acting through the State of Maryland Community Services Administration” for brevity.

Also in subsection (d) of this section, the former word “when” is deleted as implicit in the word “[i]f”.

Also in subsection (d) of this section, the former reference to “any agency thereof” is deleted as included in the reference to “the federal government”.

Also in subsection (d) of this section, the former reference to a “firm or corporation” is deleted as included in the reference to a “person”.

Also in subsection (d) of this section, the former phrase “by way of gift” is deleted as included in the phrase “offers or grants”.

Also in subsection (d) of this section, the former phrase “or the advancement thereof” is deleted as included in the phrase “for the purposes of economic opportunity”.

Also in subsection (d) of this section, the former phrase “under any federal or State program or legislation” is deleted as surplusage.

Defined terms: “Administration” § 6-101

“County” § 1-101

“Person” § 1-101

“State” § 1-101

GENERAL REVISOR’S NOTE TO SUBTITLE:

Former Art. 41, § 6-201(b), which provided that all references to the “Office of Community Services or to the Maryland Office of Economic Opportunity shall be deemed to mean the Community Services Administration” is deleted as obsolete. A search of the Code revealed no references to the “Office of Community Services” or the “Maryland Office of Economic Opportunity”.

SUBTITLE 3. ENERGY ASSISTANCE PROGRAM.

6-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was the introductory language of Art. 41, § 6-402.

No changes are made.

(B) ENERGY EMERGENCY.

"ENERGY EMERGENCY" MEANS A LACK OF FUEL OR THE IMMINENT DISCONTINUATION OF ENERGY SERVICES SUPPLIED BY A FUEL VENDOR OR UTILITY VENDOR THAT WILL ENDANGER HEALTH, SAFETY, OR WELFARE.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-402(1).

The only changes are in style.

Defined terms: "Fuel vendor" § 6-301

"Utility vendor" § 6-301

(C) FUEL VENDOR.

"FUEL VENDOR" MEANS A PERSON THAT DISTRIBUTES, TRANSPORTS, PRODUCES, OR OFFERS FOR SALE COAL PRODUCTS, FUEL OIL, KEROSENE, BOTTLED GAS, PROPANE, OR WOOD FOR FUEL USE OR CONSUMPTION IN THE STATE.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-402(2).

The only changes are in style.

Defined term: "Person" § 1-101

(D) OFFICE.

"OFFICE" MEANS THE OFFICE OF HOME ENERGY PROGRAMS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6-402(3).

The former reference to the Office being "in the Community Services Administration" is deleted as unnecessary in light of § 6-302 of this subtitle to the same effect.

(E) PROGRAM.

"PROGRAM" MEANS THE ENERGY ASSISTANCE PROGRAM.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Energy Assistance Program".

(F) UTILITY VENDOR.

"UTILITY VENDOR" MEANS A PERSON THAT DISTRIBUTES, TRANSPORTS, OR PRODUCES NATURAL GAS OR ELECTRICITY FOR USE OR CONSUMPTION IN THE STATE.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-402(4).

The only changes are in style.

Defined term: "Person" § 1-101

6-302. ESTABLISHED.

THERE IS AN OFFICE OF HOME ENERGY PROGRAMS IN THE ADMINISTRATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-404(a), and, as it related to the creation of the Program, § 6-403. It is set forth as a separate section for emphasis.

Defined term: "Administration" § 6-101

6-303. PURPOSE.

THE PURPOSE OF THE OFFICE IS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-403, as it related to the purpose of the Office.

The reference to "carry[ing] out" this subtitle is substituted for the former reference to "developing, implementing, and administering" this subtitle for brevity.

The former reference to the "general" purpose of the Office is deleted as surplusage.

Defined term: "Office" § 6-301

6-304. STAFF.

(A) IN GENERAL.

THE OFFICE MAY EMPLOY A STAFF.

(B) STATE PERSONNEL MANAGEMENT SYSTEM.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EMPLOYEES OF THE OFFICE ARE SUBJECT TO THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-405(c).

In subsection (a) of this section, the reference to a "staff" is substituted for the former reference to "professional, technical, clerical, stenographic, and other personnel to carry out its duties and functions" for brevity and consistency with similar provisions throughout this article.

In subsection (b) of this section, the reference to employees of the "Office" is substituted for the former reference to employees of the "Energy Assistance Program" for accuracy and consistency with subsection (a) of this section.

Defined term: "Office" § 6-301

6-305. AUTHORITY OF SECRETARY.

THE OFFICE EXERCISES ITS AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY STATE LAW SUBJECT TO THE AUTHORITY OF THE SECRETARY UNDER ANY STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-404(b).

The reference to "its" authority, duties, and functions is substituted for the former reference to "all" authority, duties, and functions "vested, or to be vested in the Office" for brevity.

The phrase "under any State law" is substituted for the former phrases "by the provisions of this subtitle or by any other laws of the State" and "as set forth in this article or elsewhere in the laws of Maryland" for brevity.

Defined terms: "Office" § 6-301
"Secretary" § 6-101

6-306. POWERS AND DUTIES.

(A) LIAISON DUTIES.

(1) THE OFFICE SHALL MAINTAIN LIAISON WITH:

(I) THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;

(II) LOCAL GOVERNMENT UNITS CONCERNED WITH ENERGY PROGRAMS;

(III) CITIZENS' GROUPS;

(IV) UTILITY VENDORS AND MAJOR FUEL VENDORS IN THE STATE;

(V) ANY OTHER STATE, FEDERAL, AND LOCAL UNITS.

(2) THE OFFICE SHALL:

(I) CONSULT WITH AND ADVISE THE LOCAL ENTITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION REGARDING THEIR ENERGY ASSISTANCE PROGRAMS;

(II) WORK AT ALL LEVELS OF GOVERNMENT TO CARRY OUT THIS SUBTITLE; AND

(III) CONSULT WITH ALL UTILITY VENDORS AND MAJOR FUEL VENDORS IN THE STATE WHEN DEVELOPING AND IMPLEMENTING THE PROGRAM.

(B) COLLECTION AND DISSEMINATION OF INFORMATION.

THE OFFICE SHALL:

(1) COLLECT AND ASSEMBLE INFORMATION RELATING TO ENERGY ASSISTANCE AVAILABLE FROM OTHER UNITS OF THE STATE AND FEDERAL GOVERNMENTS;

(2) DISSEMINATE INFORMATION TO FURTHER ENERGY ASSISTANCE;

(3) IDENTIFY ALL UTILITY VENDORS AND MAJOR FUEL VENDORS IN THE STATE AND ATTEMPT TO OBTAIN THEIR VOLUNTARY COOPERATION WITH THE PROGRAM;

(4) ESTABLISH AND MAINTAIN A STATE INFORMATION SERVICE THAT UTILIZES A TOLL-FREE TELEPHONE NUMBER TO PROVIDE THE PUBLIC WITH INFORMATION ABOUT THE PROGRAM AND THE LOCATION OF THE NEAREST LOCAL ENERGY ASSISTANCE OFFICE; AND

(5) ESTABLISH A MECHANISM FOR MONITORING THE EFFECTIVENESS OF THE PROGRAM TO DETERMINE WHETHER ELIGIBLE HOUSEHOLDS ARE AWARE OF AND HAVE ACCESS TO A LOCAL ENERGY ASSISTANCE OFFICE.

(C) CONTRACTUAL AUTHORITY.

(1) CONSISTENT WITH THIS SUBTITLE AND OTHER APPLICABLE LAWS, THE OFFICE MAY ENTER INTO CONTRACTS OR ASSUME ANY OTHER FUNCTION NECESSARY TO CARRY OUT THIS SUBTITLE.

(2) THE OFFICE MAY ENTER INTO CONTRACTS FOR ANY STUDY OR RESEARCH ACTIVITY THAT IS NECESSARY AND PROPER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-405(a), (b), and (d).

In subsection (a)(1)(ii) and (v) of this section, the references to "local government" units and "local" units are substituted for the former references to "Maryland county and city" offices and "agencies of ... county and municipal governments" for brevity.

Also in subsection (a)(1)(ii) and (v) of this section, the reference to "units" is substituted for the former references to "offices" and "agencies", respectively, for consistency with terminology used throughout this article. *See General Revisor's Note to article.*

In subsection (a)(2)(i) of this section, the reference to the "local entities described in paragraph (1) of this subsection" is substituted for the former reference to "these local groups" for clarity.

In subsection (a)(2)(iii) of this section, the reference to "consulting with" vendors is substituted for the former reference to "seeking their advice" for brevity.

In the introductory language of subsection (b) of this section, the reference to "adopt[ing] the following information collection and dissemination

procedures” is deleted as surplusage.

In subsection (b)(1) of this section, the reference to “information relating to energy assistance” is substituted for the former reference to “pertinent information” for clarity.

Also in subsection (b)(1) of this section, the reference to “units” is substituted for the former reference to “departments and agencies” for consistency with terminology used throughout this article. *See* General Revisor’s Note to article.

Also in subsection (b)(1) of this section, the former reference to “data” is deleted as included in the reference to “information”.

In subsection (b)(2) of this section, the reference to information “to further” energy assistance is substituted for the former reference to information “in the interest of” energy assistance for clarity.

In subsection (c)(1) and (2) of this section, the former references to “mak[ing]” contracts are deleted as included in the references to “entering into” contracts.

In subsection (c)(1) of this section, the phrase “[c]onsistent with this subtitle and other applicable laws” is substituted for the former phrase “not inconsistent with this or other acts” for clarity.

Also in subsection (c)(1) of this section, the former reference to acting “[i]n the performance of its duties” is deleted as implicit in the authority of the Office.

In subsection (c)(2) of this section, the former phrase “and is authorized to pay the cost thereof out of funds which may be appropriated to the Office” is deleted as implicit in the authority of the Office.

Defined terms: “Fuel vendor” § 6–301

“Office” § 6–301

“Program” § 6–301

“Utility vendor” § 6–301

6–307. PROGRAMS.

(A) CRISIS INTERVENTION PROGRAM.

(1) THE OFFICE SHALL:

(I) CARRY OUT AN ENERGY EMERGENCY CRISIS INTERVENTION PROGRAM TO PREVENT LOW-INCOME HOUSEHOLDS, INCLUDING THE NEAR POOR, THE ELDERLY, HOUSEHOLDS WITH CHILDREN, AND THOSE ON FIXED INCOMES FROM EXPERIENCING DANGER TO HEALTH OR SURVIVAL AS A RESULT OF AN ENERGY EMERGENCY;

(II) ESTABLISH INTAKE PROCEDURES FOR THOSE EXPERIENCING AN ENERGY EMERGENCY;

(III) ESTABLISH GUIDELINES FOR THE INCOME AND PROGRAM ELIGIBILITY OF APPLICANTS; AND

(IV) IDENTIFY LOCAL PUBLIC OR PRIVATE AGENCIES TO ADMINISTER THE CRISIS INTERVENTION PROGRAM.

(2) (I) THE OFFICE SHALL MAKE PAYMENTS TO FUEL VENDORS AND UTILITY VENDORS THAT HAVE PROVIDED SERVICE TO PERSONS QUALIFYING FOR THE CRISIS INTERVENTION PROGRAM.

(II) THE AMOUNT OF ASSISTANCE SHALL BE BASED ON NEED.

(B) FUEL AND UTILITY ASSISTANCE PROGRAMS.

(1) THE OFFICE SHALL CARRY OUT ONE OR MORE FUEL AND UTILITY ASSISTANCE PROGRAMS TO MAKE PAYMENTS ON BEHALF OF QUALIFIED HOUSEHOLDS TO DEFRAY FUEL AND UTILITY COSTS.

(2) THE OFFICE SHALL DETERMINE PROGRAM AND INCOME ELIGIBILITY GUIDELINES.

(3) THE AMOUNT OF ASSISTANCE SHALL BE BASED ON NEED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-406.

In subsections (a)(1)(i) and (b)(1) of this section, the references to "carry[ing] out" programs are substituted for the former references to "develop[ing] and implement[ing]" programs for brevity.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that "energy emergency" is defined to mean a "lack of fuel or the imminent discontinuation of energy services ... that will endanger health, safety or welfare"; however, subsection (a)(1)(i) of this section refers to a crisis intervention program to prevent "danger to health or survival" as a result of an energy emergency. The General Assembly may wish to amend subsection (a)(1)(i) of this section to be consistent with the definition of "energy emergency".

Defined terms: "Energy emergency" § 6-301

"Fuel vendor" § 6-301

"Office" § 6-301

"Person" § 1-101

"Utility vendor" § 6-301

6-308. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE "ENERGY ASSISTANCE PROGRAM ACT".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-401.

The former phrase "shall be known" is deleted as surplusage.

SUBTITLE 4. TRANSITIONAL SERVICES.

PART I. STATEWIDE NUTRITION-ASSISTANCE EQUIPMENT PROGRAM.

6-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130A(a).

In this subsection and throughout this part, the reference to this "part" is substituted for the former reference to this "subtitle" to reflect the reorganization of provisions formerly contained in Article 88A.

(B) APPLICANT.

"APPLICANT" MEANS AN ENTITY THAT APPLIES FOR A GRANT UNDER THIS PART.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130A(b).

(C) DISTRIBUTION ORGANIZATION.

"DISTRIBUTION ORGANIZATION" MEANS A NONPROFIT ENTITY THAT DISTRIBUTES FOOD OR EQUIPMENT TO EMERGENCY FOOD ORGANIZATIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130A(d).

As to the substitution of the reference to "emergency food organizations" for the former reference to "feeding sites", see the Revisor's Note to subsection (d) of this section.

(D) EMERGENCY FOOD ORGANIZATION.

(1) "EMERGENCY FOOD ORGANIZATION" MEANS A NONPROFIT ENTITY THAT PROVIDES EMERGENCY FOOD SERVICES.

(2) "EMERGENCY FOOD ORGANIZATION" INCLUDES AN ORGANIZATION THAT OPERATES:

(I) A SOUP KITCHEN; OR

(II) A FOOD PANTRY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130A(e).

In this subsection and throughout this subtitle, the reference to an "emergency food organization" is substituted for the former reference to a "feeding site" to reflect more clearly the nature of the organization.

(E) PROGRAM.

"PROGRAM" MEANS THE STATEWIDE NUTRITION-ASSISTANCE EQUIPMENT PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130A(f).

As to the substitution of the reference to the "Statewide Nutrition-Assistance Equipment Program" for the former reference to the "Statewide Nutrition Assistance Program", *see* the Revisor's Note to § 6-402 of this subtitle.

REVISOR'S NOTE TO SECTION:

Former Art. 88A, § 130A(c), which defined "Department", is revised in § 6-101 of this title.

6-402. ESTABLISHED.

THERE IS A STATEWIDE NUTRITION-ASSISTANCE EQUIPMENT PROGRAM ADMINISTERED BY THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130B(a).

The reference to the "Statewide Nutrition-Assistance Equipment Program" is substituted for the former reference to the "Statewide Nutrition Assistance Program" to reflect more accurately the purpose of the Program.

Defined term: "Department" § 6-101

6-403. PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE FUNDING TO DISTRIBUTION ORGANIZATIONS TO ENABLE THE DISTRIBUTION ORGANIZATIONS AND EMERGENCY FOOD ORGANIZATIONS TO OBTAIN NECESSARY EQUIPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130B(b).

Defined terms: "Distribution organization" § 6-401

"Emergency food organization" § 6-401

"Program" § 6-401

6-404. RESPONSIBILITIES OF DEPARTMENT.

IN ADDITION TO ANY OTHER RESPONSIBILITIES FOR ADMINISTERING THE PROGRAM, THE RESPONSIBILITIES OF THE DEPARTMENT INCLUDE:

(1) DESIGNING AND IMPLEMENTING AN ONGOING OUTREACH AND PUBLICITY CAMPAIGN TO ACHIEVE THE WIDEST POSSIBLE DISSEMINATION OF INFORMATION ABOUT THE PROGRAM TO:

- (I) POTENTIAL APPLICANTS; AND
- (II) NUTRITION ADVOCACY GROUPS IN THE STATE;
- (2) RECEIVING AND REVIEWING APPLICATIONS FOR FUNDING; AND
- (3) ALLOCATING FUNDS FOR APPROVED APPLICATIONS IN ACCORDANCE WITH THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130D.

In item (1) of this section, the reference to a publicity "campaign" is substituted for the former reference to a publicity "program" to avoid confusion with the defined term "Program".

Also in item (1) of this section, the former phrase "at the earliest practicable date" is deleted as obsolete.

In item (3) of this section, the former reference to "the purposes of" this part is deleted as surplusage.

Defined terms: "Applicant" § 6-401

"Department" § 6-101

"Program" § 6-401

6-405. GRANTS.

(A) FACTORS FOR REVIEW AND AWARD.

WHEN REVIEWING AND AWARDING GRANTS UNDER THIS PART, THE DEPARTMENT SHALL CONSIDER:

(1) THE EQUITABLE DISTRIBUTION OF FUNDS ACROSS ALL GEOGRAPHICAL REGIONS OF THE STATE;

(2) THE ADEQUACY OF EXISTING DISTRIBUTION ORGANIZATIONS IN THE REGION SERVED OR INTENDED TO BE SERVED BY THE APPLICANT;

(3) THE ESTIMATED POPULATION TO BE SERVED BY THE APPLICANT;

(4) THE APPLICANT'S LEVEL OF EXPERIENCE IN OPERATING A DISTRIBUTION ORGANIZATION; AND

(5) THE AMOUNT OF FUNDING AND OTHER RESOURCES AVAILABLE TO THE APPLICANT.

(B) MATCHING RESOURCES.

(1) THE DEPARTMENT MAY NOT RELEASE FUNDS TO A GRANTEE UNDER THIS PART UNTIL THE GRANTEE ESTABLISHES THAT THE GRANTEE HAS OBTAINED MATCHING RESOURCES OR A COMMITMENT FOR MATCHING RESOURCES THAT EQUALS AT LEAST 50% OF THE GRANT AMOUNT.

(2) THE MATCHING RESOURCES MAY BE IN THE FORM OF CASH OR AN IN-KIND EQUIVALENT ACCEPTABLE TO THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130C.

In subsection (b)(1) of this section, the phrase "[t]he Department may not release funds" is substituted for the former phrase "[t]he funds ... may not be released" for clarity and consistency.

Also in subsection (b)(1) of the section, the former reference to funds "for the Program" is deleted as surplusage.

Defined terms: "Applicant" § 6-401

"Department" § 6-101

"Distribution organization" § 6-401

6-406. ANNUAL REPORT.

THE DEPARTMENT SHALL REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE PROGRAM, INCLUDING:

(1) FINANCIAL REPORTS;

(2) DISTRIBUTION OF FUNDS;

(3) COMMUNITY PARTICIPATION; AND

(4) THE OVERALL EFFECTIVENESS OF THE PROGRAM IN FULFILLING ITS STATED PURPOSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130E.

Defined terms: "Department" § 6-101

"Program" § 6-401

6-407. RESERVED.

6-408. RESERVED.

PART II. MARYLAND EMERGENCY FOOD PROGRAM.

6-409. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130F(a).

In this subsection and throughout this part, the reference to this "part" is substituted for the former reference to this "subtitle" to reflect the

reorganization of provisions formerly contained in Article 88A.

(B) ADMINISTERING AGENCY.

“ADMINISTERING AGENCY” MEANS AN ENTITY THAT THE DEPARTMENT APPROVES IN ACCORDANCE WITH § 6-414 OF THIS SUBTITLE TO ADMINISTER THE PROGRAM AT THE COUNTY LEVEL.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130F(b).

The reference to an “entity” is substituted for the former reference to an “agency” for consistency within this subtitle.

Defined terms: “County” § 1-101

“Department” § 6-101

“Program” § 6-409

(C) EMERGENCY FOOD PROVIDER.

(1) “EMERGENCY FOOD PROVIDER” MEANS A NONPROFIT ORGANIZATION OR AN ORGANIZATION OPERATED BY A LOCAL GOVERNMENT THAT PROVIDES FOOD AT NO CHARGE TO NEEDY INDIVIDUALS.

(2) “EMERGENCY FOOD PROVIDER” INCLUDES:

(I) A SOUP KITCHEN; AND

(II) A FOOD PANTRY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 130F(d).

(D) PROGRAM.

“PROGRAM” MEANS THE MARYLAND EMERGENCY FOOD PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 130F(e).

No changes are made.

REVISOR’S NOTE TO SECTION:

Former Art. 88A, § 130F(c), which defined “Department”, is revised in § 6-101 of this title.

6-410. ESTABLISHED.

SUBJECT TO THE STATE BUDGET, THERE IS A MARYLAND EMERGENCY FOOD PROGRAM IN THE DEPARTMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130G(a)(1).

The former reference to the "limitations in" the State budget is deleted as surplusage.

Defined term: "Department" § 6-101

6-411. PURPOSES; INTENT.

(A) PURPOSES.

THE PURPOSES OF THE PROGRAM ARE TO:

(1) PROVIDE FUNDING TO ASSIST EMERGENCY FOOD PROVIDERS IN PURCHASING FOOD FOR NEEDY INDIVIDUALS;

(2) ENCOURAGE NEEDY INDIVIDUALS TO BECOME SELF-SUFFICIENT;
AND

(3) DISTRIBUTE INFORMATION ON THE STATE'S EARNED INCOME TAX CREDIT ESTABLISHED UNDER § 10-704 OF THE TAX - GENERAL ARTICLE.

(B) INTENT.

WHEN FEASIBLE AND COST EFFECTIVE, FOOD PURCHASED UNDER THE PROGRAM SHALL BE PRODUCED, GROWN, AND HARVESTED IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 130G(b) and 130K.

In subsection (a)(3) of this section, the reference to the tax credit "established under § 10-704 of the Tax - General Article" is added for clarity.

Defined terms: "Emergency food provider" § 6-409
"Program" § 6-409

6-412. DUTIES.

(A) DUTIES OF ADMINISTRATION.

THE ADMINISTRATION SHALL MANAGE THE PROGRAM.

(B) DUTIES OF ADMINISTERING AGENCY.

EACH ADMINISTERING AGENCY SHALL:

(1) PROVIDE EMERGENCY FOOD PROVIDERS WITH INFORMATION ABOUT THE PROGRAM, INCLUDING PROGRAM GUIDELINES AND FUND AVAILABILITY;

(2) ACCEPT AND PROCESS REQUESTS FOR FUNDING ASSISTANCE FROM EMERGENCY FOOD PROVIDERS; AND

(3) ALLOCATE FUNDING TO EMERGENCY FOOD PROVIDERS BASED ON THE PROCEDURES APPROVED IN THE ADMINISTERING AGENCY'S GRANT APPLICATION UNDER § 6-413 OF THIS SUBTITLE.

(C) DUTIES OF EMERGENCY FOOD PROVIDERS.

AN EMERGENCY FOOD PROVIDER THAT RECEIVES A PROGRAM GRANT SHALL:

- (1) USE THE GRANT TO PURCHASE FOOD FOR DISTRIBUTION TO NEEDY INDIVIDUALS;
- (2) AS A CONDITION OF DISTRIBUTING FOOD, PROVIDE TO NEEDY INDIVIDUALS INFORMATION, DEVELOPED IN COLLABORATION WITH THE DEPARTMENT, THAT ENCOURAGES SELF-SUFFICIENCY CONSISTENT WITH THE GOALS OF THE FAMILY INVESTMENT PROGRAM ESTABLISHED UNDER TITLE 5, SUBTITLE 3 OF THIS ARTICLE;
- (3) DISTRIBUTE INFORMATION ON THE STATE'S EARNED INCOME TAX CREDIT ESTABLISHED UNDER § 10-704 OF THE TAX – GENERAL ARTICLE; AND
- (4) SUBMIT A REPORT TO THE DEPARTMENT AND THE ADMINISTERING AGENCY DETAILING HOW THE GRANT WAS USED AND HOW MANY UNITS OF SERVICE WERE PROVIDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 130J and 130G(a)(2).

In subsection (a) of this section, the former reference to the Administration being “in the Department” is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to “assum[ing] responsibility” for providing information is deleted as surplusage.

In subsection (b)(3) of this section, the reference to the “administering agency’s grant” application is added for clarity.

In subsection (c)(2) of this section, the reference to the Family Investment Program “established under Title 5, Subtitle 3 of this article” is added for clarity.

In subsection (c)(3) of this section, the reference to the tax credit “established under § 10-704 of the Tax – General Article” is added for clarity.

In subsection (c)(4) of this section, the phrase “how many units of service were provided” is substituted for the former reference to “the units of service provided” for clarity.

Defined terms: “Administering agency” § 6-409

“Administration” § 6-101

“Department” § 6-101

“Emergency food provider” § 6-409

“Program” § 6-409

6-413. FUNDING; GRANT APPLICATIONS.

- (A) USE OF FUNDS.

(1) NO MORE THAN 5% OF THE PROGRAM'S BUDGET MAY BE USED TO COVER ADMINISTRATIVE COSTS OF THE PROGRAM.

(2) ALL REMAINING FUNDING SHALL BE ALLOCATED FOR FOOD PURCHASE ONLY.

(3) PROGRAM FUNDS MAY NOT BE USED FOR EQUIPMENT OR OTHER CAPITAL EXPENDITURES.

(B) ALLOCATION OF FUNDS.

THE DEPARTMENT SHALL:

(1) ADOPT A FORMULA AND QUALIFICATIONS FOR ALLOCATING PROGRAM FUNDS TO THE COUNTIES BASED ON COUNTY-WIDE STATISTICS FOR:

- (I) THE NUMBER OF FAMILIES LIVING IN POVERTY;
- (II) THE UNEMPLOYMENT RATE; AND
- (III) THE NUMBER OF FAMILIES RECEIVING FOOD STAMPS;

(2) SUBMIT ANNUALLY TO THE STATE ADVISORY COUNCIL ON HUNGER A REPORT DETAILING:

(I) THE TOTAL APPROPRIATIONS FOR THE PROGRAM FOR THE CURRENT AND PRIOR FISCAL YEARS, INCLUDING THE AMOUNT ALLOCATED FOR ADMINISTRATIVE COSTS, THE AMOUNT ALLOCATED TO EACH ADMINISTERING AGENCY, AND THE AMOUNT ALLOCATED TO EMERGENCY FOOD PROVIDERS IN EACH COUNTY; AND

(II) HOW MANY UNITS OF SERVICE WERE PROVIDED IN EACH COUNTY; AND

(3) NOTIFY EACH COUNTY THROUGH THE ADMINISTERING AGENCY OF THE AVAILABILITY OF PROGRAM FUNDS UNDER ITEM (1) OF THIS SUBSECTION.

(C) APPLICATION FOR GRANTS.

(1) EACH ADMINISTERING AGENCY SHALL APPLY TO THE ADMINISTRATION FOR A PROGRAM GRANT.

(2) THE APPLICATION SHALL INCLUDE THE PROCEDURES THAT THE ADMINISTERING AGENCY WILL USE TO:

(I) NOTIFY EMERGENCY FOOD PROVIDERS OF THE AVAILABILITY OF PROGRAM GRANTS;

(II) APPROVE EMERGENCY FOOD PROVIDERS AS RECIPIENTS OF PROGRAM GRANTS; AND

(III) ALLOCATE PROGRAM GRANTS AMONG APPROVED EMERGENCY FOOD PROVIDERS.

(D) APPROVAL OF APPLICATION.

BEFORE AN ADMINISTERING AGENCY MAY RECEIVE A PROGRAM GRANT, THE ADMINISTRATION MUST APPROVE THE APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 130–I and 130G(c).

In the introductory language of subsection (b)(2) of this section, the reference to the “State Advisory Council on Hunger” is substituted for the former reference to the “Governor’s Advisory Council on Nutrition” for accuracy.

In subsection (b)(2)(ii) of this section, the phrase “how many units of service were provided” is substituted for the former reference to the “units of service provided” for clarity.

In subsection (b)(3) of this section, the reference to each “county” is substituted for the former reference to each “local jurisdiction” for consistency with terminology used throughout this article.

Defined terms: “Administering agency” § 6–409

“Administration” § 6–101

“County” § 1–101

“Department” § 6–101

“Emergency food provider” § 6–409

“Program” § 6–409

6–414. REGULATIONS.

(A) SELECTION AND APPROVAL OF ADMINISTERING AGENCY.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO GOVERN THE SELECTION AND APPROVAL OF AN ADMINISTERING AGENCY FOR EACH COUNTY.

(B) REQUIRED CONTENTS.

THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE:

(1) CRITERIA TO ENSURE THAT THE SELECTED ADMINISTERING AGENCY HAS ADEQUATE INTERNAL CONTROLS OVER CASH RECEIPTS, MATERIALS, SUPPLIES, AND INVENTORIES; AND

(2) A DEFINITION OF “UNITS OF SERVICE” THAT SHALL BE USED TO TRACK PROGRAM UTILIZATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 130H.

In subsection (a) of this section, the former reference to selecting an administering agency “to administer the Program” is deleted as included in the definition of “administering agency”.

In subsection (b)(1) of this section, the former reference to “standards” is deleted as included in the reference to “criteria”.

Defined terms: "Administering agency" § 6-409

"County" § 1-101

"Department" § 6-101

"Program" § 6-409

6-415. RESERVED.

6-416. RESERVED.

PART III. SHELTER, NUTRITION, AND SERVICE PROGRAM FOR HOMELESS
INDIVIDUALS AND FAMILIES.

6-417. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 132(a).

In this subsection and throughout this part, the reference to this "part" is substituted for the former reference to this "subtitle" to reflect the reorganization of provisions formerly contained in Article 88A.

(B) ADVISORY BOARD.

"ADVISORY BOARD" MEANS THE GOVERNOR'S ADVISORY BOARD ON HOMELESSNESS.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Governor's Advisory Board on Homelessness".

(C) HOMELESS INDIVIDUAL.

"HOMELESS INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

(1) IS IN NEED OF HOUSING OR EMERGENCY SHELTER AND PROPER NUTRITION;

(2) CANNOT BE PLACED IMMEDIATELY IN ANOTHER AVAILABLE HOUSING, NUTRITION, AND SERVICE PROGRAM; AND

(3) IS A RESIDENT OF THE STATE WHEN THE INDIVIDUAL MAKES AN APPLICATION FOR HOUSING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 132(b)(1).

(D) HOUSING CRISIS.

"HOUSING CRISIS" MEANS A SITUATION INVOLVING A FAMILY OR INDIVIDUAL WHO IS:

- (1) THREATENED WITH THE IMMEDIATE LOSS OF HOUSING OR OTHER SHELTER;
- (2) WITHOUT RESOURCES TO AVOID AN IMPENDING EVICTION; OR
- (3) OTHERWISE AT RISK OF BECOMING HOMELESS.

REVISOR'S NOTE: This subsection formerly was Art. 88A, § 132(b)(2).

The only changes are in style.

(E) PROGRAM.

"PROGRAM" MEANS THE SHELTER, NUTRITION, AND SERVICE PROGRAM FOR HOMELESS INDIVIDUALS AND FAMILIES.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Shelter, Nutrition, and Service Program for Homeless Individuals and Families".

6-418. LEGISLATIVE FINDINGS AND DECLARATIONS.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

- (1) AN INCREASING NUMBER OF INDIVIDUALS AND FAMILIES IN THE STATE ARE HOMELESS AND LACK PROPER NUTRITION AND ADEQUATE SERVICES;
- (2) CURRENT STATE-OPERATED PROGRAMS DO NOT ADEQUATELY ADDRESS THESE PROBLEMS; AND
- (3) AS A RESULT, THERE IS A LACK OF QUALITY EMERGENCY PUBLIC AND PRIVATE HOUSING, NUTRITION, AND SERVICE PROGRAMS AVAILABLE FOR THESE INDIVIDUALS AND FAMILIES.

REVISOR'S NOTE: This section formerly was Art. 88A, § 131.

The only changes are in style.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that this section was originally enacted in 1983. The General Assembly may wish to consider whether this section continues to accurately reflect current conditions.

6-419. ESTABLISHMENT AUTHORIZED.

THE GOVERNOR MAY ESTABLISH A SHELTER, NUTRITION, AND SERVICE PROGRAM FOR HOMELESS INDIVIDUALS AND FAMILIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 133(a).

The General Assembly may wish to consider whether to mandate the program or continue to leave establishment of the program within the discretion of the Governor.

Defined term: "Homeless individual" § 6-417

6-420. PURPOSES.

THE PURPOSES OF THE PROGRAM ARE TO PROVIDE FACILITIES OR PROGRAMS THAT OFFER AND PROVIDE:

(1) CRISIS AND TRANSITION SHELTER, PROPER NUTRITION, AND ADEQUATE SERVICES TO HOMELESS INDIVIDUALS AND FAMILIES, WHICH MAY INCLUDE LINKAGE TO MULTIPLE SERVICE COMPONENTS, CENTRALIZED DECISION MAKING REGARDING PLACEMENT, CASE MANAGEMENT, TRANSPORTATION, AND FOLLOW-UP SERVICES; AND

(2) SERVICES TO PREVENT INDIVIDUALS AND FAMILIES IN A HOUSING CRISIS FROM BECOMING HOMELESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 132(b)(3) and 133(b).

Defined terms: "Homeless individual" § 6-417

"Housing crisis" § 6-417

"Program" § 6-417

6-421. ADVISORY BOARD ESTABLISHED.

THERE IS AN ADVISORY BOARD ON HOMELESSNESS.

REVISOR'S NOTE: This section is standard language added to reflect the existence of the Advisory Board.

The Advisory Board was authorized by statute in 1984 and was originally known as the "Governor's Advisory Board of the Shelter, Nutrition, and Service Program for Homeless Individuals and Families". In 1988, it became known as the "Governor's Advisory Board on Homelessness".

6-422. ADVISORY BOARD -- MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

THE ADVISORY BOARD CONSISTS OF TWO MEMBERS FROM EACH CONGRESSIONAL DISTRICT IN THE STATE APPOINTED BY THE GOVERNOR.

(B) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 2 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY BOARD ON OCTOBER 1, 2007.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

(C) REMOVAL.

THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 134.

In subsection (a) of this section, the former reference to "16 members" is deleted as included in the reference to "two members from each congressional district in the State".

In subsection (b)(2) of this section, the reference to terms being staggered as required by the terms provided for Advisory Board members on "October 1, 2007" is substituted for the former reference to terms being staggered as required by the terms provided on "July 1, 1984". This substitution is not intended to alter the term of any members of the Advisory Board. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 8 in 2008; (2) 7 in 2009; and (3) 1 in 2011.

Defined term: "Advisory Board" § 6-417

6-423. ADVISORY BOARD -- CHAIR; STAFF.

(A) CHAIR.

(1) FROM AMONG ITS MEMBERS, THE ADVISORY BOARD ANNUALLY SHALL ELECT A CHAIR.

(2) THE MANNER OF THE ELECTION OF A CHAIR SHALL BE AS THE ADVISORY BOARD DETERMINES.

(B) STAFF; OTHER EXPENDITURES.

THE ADVISORY BOARD MAY EMPLOY A STAFF AND MAKE OTHER EXPENDITURES IN ACCORDANCE WITH THE STATE BUDGET.

REVISOR'S NOTE: This section formerly was Art. 88A, § 135(a), (b), and (f).

The only changes are in style.

Defined term: "Advisory Board" § 6-417

6-424. ADVISORY BOARD -- QUORUM; MEETINGS; COMPENSATION.

(A) QUORUM.

A MAJORITY OF THE MEMBERS THEN SERVING ON THE ADVISORY BOARD IS A QUORUM.

(B) MEETINGS.

THE ADVISORY BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(C) COMPENSATION.

A MEMBER OF THE ADVISORY BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 135(c), (d), and (e).

In subsection (a) of this section, the former reference to a quorum "to do business" is deleted as surplusage.

Subsection (c) of this section is revised in standard language for consistency with similar provisions of the revised articles of the Code.

Defined term: "Advisory Board" § 6-417

6-425. DUTIES OF ADVISORY BOARD.

THE ADVISORY BOARD SHALL:

(1) ADVISE THE DEPARTMENT ON THE ADOPTION OF REGULATIONS TO DESIGN AND ADMINISTER THE PROGRAM;

(2) COORDINATE AND MONITOR THE OPERATION OF THE PROGRAM;

(3) PROPOSE ANNUALLY TO THE DEPARTMENT A BUDGET AND A FUNDING REQUEST FOR THE PROGRAM;

(4) ADVISE THE DEPARTMENT ON:

(I) A PLAN TO SERVE HOMELESS INDIVIDUALS;

(II) THE DISTRIBUTION OF FUNDS;

(III) THE EFFECTIVENESS OF PROGRAMS; AND

(IV) THE NEEDS OF THE HOMELESS;

(5) MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE ALLOCATION OF ANY AVAILABLE FEDERAL FUNDS, STATE FUNDS, FOUNDATION GRANTS, AND PRIVATE DONATIONS TO ESTABLISH, ADMINISTER, AND OPERATE SHELTER, NUTRITION, AND SERVICE PROGRAMS FOR HOMELESS INDIVIDUALS AND FAMILIES;

(6) MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE ALLOCATION OF FUNDS TO THE AREAS OF THE STATE CONSIDERING UNMET NEEDS, THE NUMBER OF HOMELESS INDIVIDUALS AND FAMILIES IN THOSE AREAS, PROXIMITY TO SIMILAR SERVICES, AVAILABILITY OF ALTERNATE SOURCES OF FUNDS, AND OTHER RELEVANT FACTORS; AND

(7) REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE PROGRAM, INCLUDING:

- (I) FINANCIAL REPORTS;
- (II) ADVISORY BOARD ACTIONS;
- (III) DISTRIBUTION OF FUNDS; AND
- (IV) SERVICE SUCCESSES AND FAILURES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 136 and 133(c).

In item (1) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

In item (5) of this section, the former reference to any "appropriate" funds is deleted as unnecessary.

Also in item (5) of this section, the former reference to donations that "become available to the program" is deleted as redundant.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that although statutorily required, the Advisory Board does not submit the report required under item (7) of this section annually. This report was submitted annually during the first 4 years of the existence of the Advisory Board, and has not been submitted since; however, a report is submitted annually by the Department, and that report is prepared jointly with the Advisory Board and includes most of the information required under item (7) of this section.

Defined terms: "Advisory Board" § 6-417

"Department" § 6-101

"Homeless individual" § 6-417

"Program" § 6-417

6-426. DUTIES OF DEPARTMENT.

(A) IN GENERAL.

THE DEPARTMENT SHALL:

(1) CONTRACT WITH NONPROFIT ORGANIZATIONS TO OPERATE THE PROGRAM;

(2) SEEK THE RECOMMENDATIONS OF THE ADVISORY BOARD ABOUT POLICY DETERMINATIONS, THE ALLOCATION OF FUNDS, AND THE DEVELOPMENT OF A PLAN TO SERVE HOMELESS INDIVIDUALS AND FAMILIES;

(3) ALLOCATE ANY AVAILABLE FEDERAL FUNDS AND STATE FUNDS TO ESTABLISH, ADMINISTER, AND OPERATE SHELTER, NUTRITION, AND SERVICE PROGRAMS FOR HOMELESS INDIVIDUALS AND FAMILIES;

(4) ALLOCATE FUNDS TO THE AREAS OF THE STATE, CONSIDERING UNMET NEEDS AND THE NUMBER OF HOMELESS INDIVIDUALS AND FAMILIES IN THOSE AREAS;

(5) ESTABLISH A HOUSING COUNSELOR AND AFTERCARE PROGRAM TO ASSIST FAMILIES AND INDIVIDUALS IN OBTAINING AND MAINTAINING PERMANENT HOUSING;

(6) ESTABLISH AND IMPLEMENT A HOMELESSNESS PREVENTION PROGRAM TO PROVIDE SERVICES TO FAMILIES AND INDIVIDUALS IN A HOUSING CRISIS, WHICH MAY INCLUDE:

(I) CASE MANAGEMENT SERVICES;

(II) COUNSELING TO DETECT HOUSEHOLDS AT RISK OF BECOMING HOMELESS;

(III) TRAINING ON BUDGETING AND OTHER LIFE SKILLS;

(IV) EDUCATION ABOUT TENANTS' RIGHTS AND RESPONSIBILITIES;
AND

(V) CASH ASSISTANCE;

(7) ESTABLISH UNIFORM REPORTING CRITERIA FOR PROVIDERS OF SERVICES TO HOMELESS INDIVIDUALS AND FAMILIES UNDER THIS PART;

(8) COLLECT REGIONAL DATA ON THE NUMBER OF HOMELESS INDIVIDUALS AND FAMILIES THAT RECEIVE SERVICES UNDER THIS PART; AND

(9) MAKE RECOMMENDATIONS ON THE RESOURCES NECESSARY TO PROVIDE ADEQUATE PROGRAMS.

(B) REPORTS.

(1) THE DEPARTMENT SHALL REPORT ANNUALLY TO THE GOVERNOR ON THE EXTENT OF HOMELESSNESS DURING THE PRECEDING YEAR.

(2) THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE EFFECTIVENESS OF THE HOMELESSNESS PREVENTION PROGRAM IN PREVENTING FAMILIES AND INDIVIDUALS FROM BECOMING HOMELESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 133(d)(2) and 137(a)(2), (3), (4), and (5) and (b).

In the introductory language of subsection (a) of this section, the former phrases "[i]n addition to any other regulations" and "[i]n addition to the duties and responsibilities of the Department described under subsection (a) of this section" are deleted as surplusage.

In subsection (a)(1) of this section, the former reference to "public and private" nonprofit organizations is deleted as surplusage.

In subsection (a)(3) of this section, the former reference to “any appropriate” federal funds is deleted as surplusage.

Defined terms: “Advisory Board” § 6-417

“Department” § 6-101

“Homeless individual” § 6-417

“Housing crisis” § 6-417

“Program” § 6-417

6-427. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS, WITH THE ADVICE AND RECOMMENDATIONS OF THE ADVISORY BOARD, TO GOVERN THE IMPLEMENTATION AND EVALUATION OF THE PROGRAM UNDER THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 133(d)(1) and 137(a)(1).

The requirement that the Department adopt regulations “with the advice and recommendations of the Advisory Board” is substituted for the former requirement that the Department “seek the advice and recommendations of the board in developing these rules and regulations” for brevity.

The former phrase “as required under § 133(d) of this article” is deleted as surplusage.

The former reference to “services” is deleted as included in the reference to the “Program”.

Defined terms: “Advisory Board” § 6-417

“Department” § 6-101

“Program” § 6-417

6-428. RESERVED.

6-429. RESERVED.

PART IV. HOMELESS WOMEN -- CRISIS SHELTER HOME PROGRAM.

6-430. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) CLIENT.

“CLIENT” MEANS A WOMAN WHO IS IN NEED OF HOUSING AND IS NOT ELIGIBLE FOR OTHER AVAILABLE HOUSING SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 125.

(C) PROGRAM.

"PROGRAM" MEANS THE HOMELESS WOMEN – CRISIS SHELTER HOME PROGRAM.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Homeless Women – Crisis Shelter Home Program".

6-431. LEGISLATIVE FINDINGS AND DECLARATIONS.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

- (1) AN INCREASING NUMBER OF WOMEN IN THE STATE ARE HOMELESS;
- (2) HOMELESS WOMEN HAVE BEEN IGNORED BY STATE UNITS;
- (3) CURRENT STATE-OPERATED PROGRAMS DO NOT ADEQUATELY ADDRESS THE PROBLEM; AND
- (4) AS A RESULT, THERE IS A LACK OF QUALITY EMERGENCY PUBLIC OR PRIVATE HOUSING AVAILABLE FOR HOMELESS WOMEN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 124.

In items (2) and (4) of this section, the references to "homeless" women are substituted for the former references to "these" women for clarity.

In item (2) of this section, the reference to State "units" is substituted for the former reference to State "agencies" for consistency with terminology used throughout this article. *See* General Revisor's Note to article.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that this section was originally enacted in 1980. The General Assembly may wish to consider whether this section continues to accurately reflect current conditions.

6-432. ESTABLISHED; PURPOSE; LOCATION OF SHELTER HOMES.

(A) ESTABLISHED.

THERE IS A HOMELESS WOMEN – CRISIS SHELTER HOME PROGRAM IN THE DEPARTMENT.

(B) PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE CRISIS SHELTER HOMES, MEALS, AND COUNSELING TO CLIENTS.

(C) LOCATION OF SHELTER HOMES.

AT LEAST ONE CRISIS SHELTER HOME SHALL BE LOCATED IN A MAJOR POPULATION CENTER OF THE STATE TO FACILITATE THE USE OF THE SHELTER BY CLIENTS LIVING IN THE REGION SURROUNDING THE SHELTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 126(a) and (b).

Subsection (a) of this section is restated in standard language for clarity and consistency with similar provisions elsewhere in this article.

In subsection (b) of this section, the reference to the "Program" is substituted for the former reference to the "crisis shelter homes" for clarity and consistency with similar provisions elsewhere in this article.

Defined terms: "Client" § 6-430

"Department" § 6-101

"Program" § 6-430

6-433. LIMITATIONS ON SHELTER HOME USE.

THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAY NOT USE A SHELTER HOME AS PART OF ITS DISCHARGE SERVICE PLAN.

REVISOR'S NOTE: This section formerly was Art. 88A, § 126(g).

The only changes are in style.

6-434. POWERS AND DUTIES OF DEPARTMENT; DUTIES OF SHELTER HOMES.

(A) DUTIES OF SHELTER HOMES.

A SHELTER HOME:

(1) SHALL PROVIDE CLIENTS WITH A TEMPORARY RESIDENCE OF NOT MORE THAN 12 CONTINUOUS WEEKS AND NECESSARY COUNSELING TO LINK CLIENTS TO APPROPRIATE COMMUNITY SERVICES TO STABILIZE THE CLIENTS' LIVING CONDITIONS;

(2) SHALL ACCEPT, FROM THE POLICE AND OTHER REFERRAL SOURCES IN THE COMMUNITY, CLIENTS FOR TEMPORARY SHELTER;

(3) SHALL CONFORM TO APPLICABLE STATE AND LOCAL FIRE CODES, HEALTH CODES, AND ZONING ORDINANCES; AND

(4) IS SUBJECT TO THE REGULATIONS ADOPTED BY THE DEPARTMENT.

(B) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) ESTABLISH STANDARDS OF CARE AND ADMISSION POLICIES FOR SHELTER HOMES;

(2) MONITOR THE OPERATION OF THE SHELTER HOMES; AND

(3) ANNUALLY EVALUATE THE EFFECTIVENESS OF THE SHELTER HOMES.

(C) AUTHORITY TO CONTRACT.

THE DEPARTMENT MAY CONTRACT WITH PRIVATE NONPROFIT ORGANIZATIONS TO OPERATE THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 126(d) and (e).

In subsection (a)(1) of this section, the former reference to shelter homes being "designed and staffed" is deleted as surplusage.

In subsection (a)(4) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". See General Revisor's Note to article.

In subsection (b)(1) of this section, the reference to standards of care and admission policies "for shelter homes" is added for clarity.

Defined terms: "Client" § 6-430

"Department" § 6-101

"Program" § 6-430

6-435. DUTIES OF CLIENTS.

CLIENTS SHALL HAVE COOPERATIVE RESPONSIBILITY FOR HOUSEKEEPING DUTIES IN A SHELTER HOME.

REVISOR'S NOTE: This section was formerly Art. 88A, § 126(c).

The only changes are in style.

Defined term: "Client" § 6-430

6-436. PRIORITY ACCESS TO INSTITUTIONS SUPERVISED BY DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL:

(1) GIVE A CLIENT EVALUATED BY A SHELTER HOME PRIORITY ACCESS, AS APPROPRIATE, TO AN INSTITUTION THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SUPERVISES; AND

(2) SUPPLY APPROPRIATE MENTAL HEALTH SERVICES TO THE CLIENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 126(f).

In item (1) of this section, the defined term "client" is substituted for the former reference to "women" for clarity and consistency with terminology used throughout this part.

Defined term: "Client" § 6-430

6-437. NONRESIDENTS.

HOUSING MAY NOT BE PROVIDED UNDER THIS PART TO AN APPLICANT FOR HOUSING WHO IS NOT A RESIDENT OF THE STATE AT THE TIME THE APPLICATION IS MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 126(h).

6-438. FUNDING.

(A) FUNDING PROVIDED IN ANNUAL BUDGET.

FUNDS TO OPERATE THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET.

(B) FEES FOR SERVICES.

THE SECRETARY SHALL ADOPT REGULATIONS THAT SET FEES FOR SERVICES PROVIDED BY THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 127.

In subsections (a) and (b) of this section, references to the "Program" are substituted for the former references to the "shelter homes" for clarity and consistency within this part.

In subsection (a) of this section, the former reference to funds "for the establishment" of the Program is deleted as included in the reference to funds "to operate" the Program.

In subsection (b) of this section, the former reference to a "rule" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

Defined terms: "Program" § 6-430
"Secretary" § 6-101

SUBTITLE 5. ADULT SERVICES.

PART I. COMMUNITY HOME CARE SERVICES.

6-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) COMMUNITY SERVICES.

(1) "COMMUNITY SERVICES" MEANS HOUSEHOLD AND PERSONAL SERVICES PROVIDED FOR AN ELDERLY INDIVIDUAL UNDER THE DIRECTION AND SUPERVISION OF AN APPROPRIATE SOCIAL SERVICES OR HEALTH AGENCY.

(2) "COMMUNITY SERVICES" INCLUDES ASSISTANCE WITH:

(I) MEAL PREPARATION AND PLANNING;

(II) HOME-DELIVERED MEAL SERVICES;

(III) DRESSING;

(IV) SHOPPING;

(V) VISITS TO HEALTH, RECREATIONAL, AND SHOPPING FACILITIES;

(VI) TRANSPORTATION AND PERSONAL ESCORT SERVICES;

(VII) LIGHT HOUSEKEEPING; AND

(VIII) PERSONAL MEDICAL AND NURSING CARE RELATED TO THE PROVISION OF COMMUNITY SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 85(a).

In paragraph (1) of this subsection, the former phrase "[f]or the purposes of this subheading" is deleted as surplusage.

In the introductory language of paragraph (2) of this subsection, the former phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the word "includes" is used "by way of illustration and not by way of limitation".

In paragraph (2)(viii) of this subsection and throughout this part, the defined term "community services" is substituted for the former reference to "community home care services" for consistency throughout this part.

Defined term: "Elderly individual" § 6-501

(C) ELDERLY INDIVIDUAL.

"ELDERLY INDIVIDUAL" MEANS AN INDIVIDUAL AT LEAST 65 YEARS OLD AND THE INDIVIDUAL'S SPOUSE, REGARDLESS OF THE SPOUSE'S AGE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 85(b).

The former phrase "[f]or the purposes of this subheading" is deleted as surplusage.

In this subsection and throughout this part, the reference to an "individual" is substituted for the former reference to "persons" because only a human being, and not the other entities included in the defined

term “person”, may qualify for services under this part.

6-502. STATE POLICY; LEGISLATIVE INTENT.

(A) STATE POLICY.

IT IS THE POLICY OF THE STATE THAT ELDERLY INDIVIDUALS IN THE STATE SHOULD HAVE ACCESS TO A COMPREHENSIVE RANGE OF COMMUNITY SERVICES TO ENABLE THEM TO REMAIN IN THEIR OWN HOMES OR OTHER INDEPENDENT LIVING ARRANGEMENTS CONSISTENT WITH THEIR DESIRES, ABILITIES, AND SAFETY.

(B) LEGISLATIVE INTENT.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COMMUNITY SERVICES PROVIDED UNDER THIS SUBTITLE SHALL BE AVAILABLE TO ALL ELDERLY INDIVIDUALS, BUT THAT THOSE ELDERLY INDIVIDUALS WHO ARE FINANCIALLY ABLE TO DO SO SHALL PAY ALL OR A PORTION OF THE COSTS OF THE COMMUNITY SERVICES.

REVISOR’S NOTE: This section is new language derived without substantive change from the first and third sentences of former Art. 88A, § 84.

Defined terms: “Community services” § 6-501
 “Elderly individual” § 6-501

6-503. DEPARTMENT TO ADMINISTER SYSTEM OF SERVICES.

WITH THE ADVICE, COOPERATION, AND ASSISTANCE OF THE DEPARTMENT OF AGING AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT SHALL ADMINISTER A SYSTEM OF COMMUNITY SERVICES TO SERVE AS AN EFFECTIVE ALTERNATIVE TO INAPPROPRIATE INSTITUTIONAL CARE FOR ELDERLY INDIVIDUALS.

REVISOR’S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 88A, § 84 and the first sentence of § 86.

In this section and throughout this subtitle, the defined term “Department” is substituted for the former reference to the “Department of Employment and Social Services”.

The former phrase “[t]o implement this policy” is deleted as surplusage.

The former phrase “including the training of persons to perform community services for elderly persons” is deleted in light of § 6-504(4) of this subtitle to the same effect.

The Department of Human Resources advises that there is no single program that fits the description in this part. Therefore, the reference to a “system of community services” derived from former Art. 88A, § 84 is used in this section and throughout this part for accuracy.

Defined terms: "Community services" § 6-501

"Department" § 6-101

"Elderly individual" § 6-501

6-504. DUTIES OF DEPARTMENT.

TO CARRY OUT THE SYSTEM OF COMMUNITY SERVICES REQUIRED UNDER THIS PART, THE DEPARTMENT OR ITS DESIGNEE SHALL:

(1) ADOPT REGULATIONS, INCLUDING STANDARDS AND MEANS FOR REIMBURSEMENT FROM ELDERLY INDIVIDUALS FINANCIALLY ABLE TO PAY FOR ALL OR PART OF THE SERVICES PROVIDED;

(2) MONITOR CONTINUOUSLY THE EFFECTIVENESS OF THE SYSTEM AND PERFORM EVALUATIVE RESEARCH THROUGH THE DEPARTMENT OF AGING;

(3) CONTRACT, WHERE FEASIBLE AND DESIRABLE, WITH GOVERNMENTAL UNITS, PRIVATE NONPROFIT ORGANIZATIONS, AND VOLUNTEER GROUPS TO PROVIDE COMMUNITY SERVICES AND GROUP NUTRITIONAL DINING SERVICES;

(4) PROVIDE FUNDS TO TRAIN INDIVIDUALS TO PERFORM COMMUNITY SERVICES AND FOR ADMINISTRATIVE COSTS OF THE SYSTEM; AND

(5) USE, TO THE EXTENT AVAILABLE, GRANTS FROM FEDERAL, STATE, AND OTHER PUBLIC OR PRIVATE SOURCES TO FUND THE SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of Art. 88A, § 86.

In the introductory language of this section, the reference to the "system of community services" is substituted for the former reference to "this program" for consistency throughout this subtitle. Similarly, in items (2), (4), and (5) of this section, references to the "system" are substituted for the former references to the "program".

In item (1) of this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

Also in item (1) of this section, the former phrases "for implementation of the program" and "under the program" are deleted as surplusage.

In item (3) of this section, the reference to "governmental units" is substituted for the former reference to "public agencies" for consistency with terminology used throughout this article. *See* General Revisor's Note to article.

Defined terms: "Community services" § 6-501

"Department" § 6-101

"Elderly individual" § 6-501

6-505. EMPLOYMENT OF ELDERLY INDIVIDUALS TO PERFORM COMMUNITY SERVICES.

(A) TRAINING AND USE.

TO THE EXTENT POSSIBLE, THE DEPARTMENT SHALL TRAIN AND UTILIZE ELDERLY INDIVIDUALS TO PERFORM COMMUNITY SERVICES.

(B) COMPENSATION.

ELDERLY INDIVIDUALS COMPENSATED FOR PERFORMING COMMUNITY SERVICES ARE NOT SUBJECT TO THE STATE PERSONNEL MANAGEMENT SYSTEM OR ANY MERIT SYSTEM OF A POLITICAL SUBDIVISION.

(C) AUTHORITY OF DEPARTMENT.

THE DEPARTMENT HAS SOLE AUTHORITY FOR DETERMINING ALL CONDITIONS OF EMPLOYMENT AND RATES OF COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 87.

In subsection (a) of this section, the former phrase "in the administration of a program of community home care services for the elderly" is deleted as surplusage.

In subsection (b) of this section, the former phrase "under this program" is deleted as surplusage.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section, the reference to a "merit" system may be obsolete. The General Assembly may wish to consider substituting a reference to a "personnel" system.

Defined terms: "Community services" § 6-501
 "Department" § 6-101
 "Elderly individual" § 6-501

6-506. RESERVED.

6-507. RESERVED.

PART II. CERTIFIED ADULT RESIDENTIAL ENVIRONMENTAL PROGRAM.

6-508. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 138(a).

The reference to this "part" is substituted for the former reference to this

“subtitle” to reflect the reorganization of provisions formerly contained in Article 88A.

(B) CARE PROGRAM.

“CARE PROGRAM” MEANS THE CERTIFIED ADULT RESIDENTIAL ENVIRONMENT PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 138(b).

The only changes are in style.

(C) INDIVIDUAL WITH A DISABILITY.

(1) “INDIVIDUAL WITH A DISABILITY” MEANS AN ADULT WHO REQUIRES A SUPPORTIVE HOUSING ARRANGEMENT TO RESIDE IN THE COMMUNITY BECAUSE OF A PHYSICAL, MEDICAL, OR MENTAL DISABILITY.

(2) “INDIVIDUAL WITH A DISABILITY” DOES NOT INCLUDE AN ADULT WHOSE DISABILITY IS SO SEVERE OR COMPLEX AS TO REQUIRE SPECIALIZED PROFESSIONAL INTERVENTION AS PART OF THE SUPPORTIVE HOUSING ARRANGEMENT.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 138(c).

In this subsection and throughout this part, the reference to “an individual with a disability” is substituted for the former obsolete reference to a “disabled individual” for consistency with terminology used in Title 7 of this article.

The only other changes are in style.

(D) SUPPORTIVE HOUSING ARRANGEMENT.

“SUPPORTIVE HOUSING ARRANGEMENT” MEANS A HOUSING ARRANGEMENT THAT PROVIDES AN INDIVIDUAL WITH ROOM, BOARD, AND ASSISTANCE WITH THE ACTIVITIES OF DAILY LIVING.

REVISOR’S NOTE: This subsection formerly was Art. 88A, § 138(d).

No changes are made.

6-509. LEGISLATIVE FINDINGS; STATE POLICY.

(A) LEGISLATIVE FINDINGS.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) AN INCREASING NUMBER OF ADULTS IN THE STATE ARE UNABLE, BECAUSE OF DISABILITY, TO RESIDE IN THE COMMUNITY WITHOUT A SUPPORTIVE HOUSING ARRANGEMENT;

(2) MANY OF THESE ADULTS ARE THEREFORE HOMELESS, UNNECESSARILY INSTITUTIONALIZED, OR RESIDING IN SUBSTANDARD HOUSING; AND

(3) CURRENT STATE-OPERATED PROGRAMS DO NOT ADEQUATELY ADDRESS THIS PROBLEM.

(B) STATE POLICY.

IT IS THE POLICY OF THE STATE TO ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING FOR ADULTS WHO ARE UNABLE TO AVAIL THEMSELVES OF EXISTING HOUSING BECAUSE OF DISABILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 139.

The General Assembly may wish to consider whether subsection (a) of this section accurately reflects current conditions.

6-510. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS A CARE PROGRAM IN THE DEPARTMENT.

(B) PURPOSE.

THE PURPOSE OF THE CARE PROGRAM IS TO PROVIDE HOUSING AND RELATED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 140(a).

Subsection (a) of this section is revised in standard language for clarity and consistency with similar provisions elsewhere in this article.

In subsection (b) of this section, the reference to "[t]he purpose of" the CARE Program is added for clarity and consistency with similar provisions elsewhere in this article.

Defined terms: "CARE Program" § 6-508

"Department" § 6-101

"Individual with a disability" § 6-508

6-511. SCOPE OF PROGRAM.

IN ACCORDANCE WITH THE STATE BUDGET, THE CARE PROGRAM SHALL PROVIDE FOR:

(1) THE DEVELOPMENT OF CARE HOUSING;

(2) CASE MANAGEMENT TO INDIVIDUALS WITH DISABILITIES RESIDING IN CARE HOUSING; AND

(3) SUPPORTIVE SERVICES FOR INDIVIDUALS WITH DISABILITIES RESIDING IN CARE HOUSING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 140(b).

Defined terms: "CARE Program" § 6-508
 "Individual with a disability" § 6-508

6-512. ADMINISTRATION OF PROGRAM.

(A) ANCILLARY SERVICES.

THE DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE DEPARTMENT OF AGING SHALL PROVIDE APPROPRIATE ANCILLARY SERVICES TO INDIVIDUALS WITH DISABILITIES IN THE CARE PROGRAM SUBJECT TO PROGRAMMATIC ELIGIBILITY AND PRIORITY CRITERIA AND BUDGETARY RESOURCES.

(B) COORDINATION.

THE SECRETARY OF HUMAN RESOURCES, THE SECRETARY OF HEALTH AND MENTAL HYGIENE, THE SECRETARY OF AGING, AND THE STATE SUPERINTENDENT OF SCHOOLS SHALL:

(1) COORDINATE DEPARTMENTAL PROGRAMS TO ENSURE THAT THE SERVICES NEEDED BY INDIVIDUALS WITH DISABILITIES RESIDING IN CARE HOUSING ARE PROVIDED IN AN INTEGRATED AND COST-EFFECTIVE MANNER; AND

(2) PREPARE AND ENTER INTO A WRITTEN MEMORANDUM OF AGREEMENT THAT SPECIFIES THE SERVICES TO BE PROVIDED BY EACH DEPARTMENTAL PROGRAM AND THE INTEGRATION AND TIMING OF THE DELIVERY OF THE SERVICES.

(C) REGULATIONS.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE CARE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, §§ 143 and 140(c) and (d).

In subsection (b)(1) of this section, the defined term "individuals with disabilities" is substituted for the former reference to "disabled adults" for consistency throughout this part.

In subsection (b)(2) of this section, the reference to "enter[ing] into" a written memorandum of agreement is added for clarity.

Defined terms: "CARE Program" § 6-508
 "Department" § 6-101
 "Individual with a disability" § 6-508

6-513. ELIGIBILITY.

(A) FOR OTHER SERVICES.

ELIGIBILITY FOR SERVICES UNDER THE CARE PROGRAM DOES NOT PRECLUDE ELIGIBILITY FOR OTHER SERVICES.

(B) NONRESIDENTS.

THE CARE PROGRAM MAY NOT SERVE AN INDIVIDUAL WITH A DISABILITY WHO IS NOT A RESIDENT OF THE STATE WHEN THE APPLICATION FOR SERVICE IS MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 141.

In subsection (a) of this section, the reference to not "preclud[ing] eligibility" for other services is substituted for the former reference to "remain[ing] eligible" for clarity.

Defined terms: "CARE Program" § 6-508
"Individual with a disability" § 6-508

SUBTITLE 6. COMMISSION ON RESPONSIBLE FATHERHOOD.

6-601. "COMMISSION" DEFINED.

IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON RESPONSIBLE FATHERHOOD.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-401.

No changes are made.

6-602. ESTABLISHED.

(A) IN GENERAL.

THERE IS A COMMISSION ON RESPONSIBLE FATHERHOOD.

(B) STATUS.

THE COMMISSION:

(1) IS INDEPENDENT; BUT

(2) IS LOCATED IN THE CHILD SUPPORT ENFORCEMENT ADMINISTRATION OF THE DEPARTMENT FOR BUDGETARY AND ADMINISTRATIVE PURPOSES ONLY.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-402.

The only changes are in style.

In subsection (b)(2) of this section, the General Assembly may wish to consider substituting a reference to the "Community Services Administration" for the reference to the "Child Support Enforcement Administration" to reflect the current placement of the Commission.

Defined terms: "Commission" § 6-601
"Department" § 6-101

6-603. PURPOSES.

THE PURPOSES OF THE COMMISSION ARE TO:

- (1) RAISE AWARENESS OF THE PROBLEMS CREATED WHEN A CHILD IS RAISED WITHOUT THE PRESENCE OF A RESPONSIBLE FATHER;
- (2) IDENTIFY OBSTACLES THAT IMPEDE OR PREVENT THE INVOLVEMENT OF RESPONSIBLE FATHERS IN THE LIVES OF THEIR CHILDREN; AND
- (3) IDENTIFY STRATEGIES THAT ENCOURAGE RESPONSIBLE FATHERHOOD.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-406.

The only changes are in style.

Defined term: "Commission" § 6-601

6-604. MEMBERSHIP.

(A) COMPOSITION.

THE COMMISSION CONSISTS OF THE FOLLOWING 18 MEMBERS APPOINTED BY THE GOVERNOR:

- (1) THE SECRETARY OF BUDGET AND MANAGEMENT;
- (2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;
- (3) THE SECRETARY OF HUMAN RESOURCES;
- (4) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;
- (5) THE STATE SUPERINTENDENT OF SCHOOLS;
- (6) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN;
- (7) ONE JUDGE ASSIGNED TO THE FAMILY DIVISION OF A CIRCUIT COURT NOMINATED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;
- (8) ONE MEMBER OF THE SENATE OF MARYLAND NOMINATED BY THE PRESIDENT OF THE SENATE;
- (9) ONE MEMBER OF THE HOUSE OF DELEGATES NOMINATED BY THE SPEAKER OF THE HOUSE;
- (10) THREE INDIVIDUALS WITH EXTENSIVE PROGRAMMATIC OR ACADEMIC EXPERIENCE WITH NONCUSTODIAL FATHERS AND THEIR CHILDREN;
- (11) THREE INDIVIDUALS WITH AN INTEREST OR EXPERTISE IN MATTERS PERTAINING TO NONCUSTODIAL FATHERS AND THEIR CHILDREN, INCLUDING REPRESENTATIVES OF COMMUNITY, PARENT, OR RELIGIOUS GROUPS OR ORGANIZATIONS;

(12) TWO REPRESENTATIVES OF LOCAL GOVERNMENT IN AREAS WITH A SIGNIFICANT NUMBER OF NONCUSTODIAL FATHERS; AND

(13) ONE NONCUSTODIAL FATHER.

(B) TENURE.

(1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(10), (11), OR (12) OF THIS SECTION IS 3 YEARS.

(2) THE TERM OF THE MEMBER APPOINTED UNDER SUBSECTION (A)(13) OF THIS SECTION IS 2 YEARS.

(3) THE TERMS OF MEMBERS APPOINTED UNDER SUBSECTION (A)(10), (11), (12), AND (13) OF THIS SECTION SHALL BE STAGGERED AS REQUIRED BY THE TERMS IN EFFECT FOR THOSE MEMBERS ON OCTOBER 1, 2007.

(4) A MEMBER WHO IS APPOINTED TO A POSITION WITH A FIXED TERM AFTER THE TERM HAS BEGUN SHALL SERVE ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) DESIGNEES.

A MEMBER APPOINTED UNDER SUBSECTION (A)(1) THROUGH (6) OF THIS SECTION MAY DESIGNATE IN WRITING AN ALTERNATE TO REPRESENT THE MEMBER AND EXERCISE THE MEMBER'S POWER TO VOTE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18–403(a) and (b) and 18–404(b).

In subsection (a)(6) of this section, the reference to the “Executive Director of the Governor’s Office for Children” is substituted for the former obsolete reference to the “Special Secretary of the Office for Children, Youth, and Families”.

In subsection (a)(10) and (11) of this section, the reference to “individuals” is substituted for the former reference to “persons” because only individuals, and not the other kinds of entities included in the defined term “person”, can be members of the Commission. *See* § 1–101 of this article.

In subsection (b)(3) of this section, the reference to the terms on “October 1, 2007” is new language added for clarity. This addition is not intended to alter the term of any member of the Commission. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007 end as follows: (1) 4 on September 30, 2008; (2) 3 on September 30, 2009; and (3) 2 on September 30, 2010.

In subsection (b)(4) of this section, the reference to the “qualifi[cation]” of a successor is added for conformity with standard language.

Also in subsection (b)(4) of this section, the reference to members with a “fixed term” is substituted for the former reference to members “appointed pursuant to subsection (a)(10), (11), (12), or (13) of this section” for brevity.

Former Art. 41, § 18–403(c), which provided that “[t]he Governor shall appoint a successor in the event of a vacancy”, is deleted as redundant of the introductory language of subsection (a) of this section.

6–605. CHAIR.

FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL DESIGNATE A CHAIR FOR A 2-YEAR TERM.

REVISOR’S NOTE: This section formerly was Art. 41, § 18–403(e).

The only changes are in style.

Defined term: “Commission” § 6–601

6–606. QUORUM; MEETINGS; COMPENSATION.

(A) QUORUM.

A MAJORITY OF THE MEMBERS THEN SERVING ON THE COMMISSION IS A QUORUM.

(B) MEETINGS.

THE COMMISSION SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(C) COMPENSATION.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18–403(d) and 18–404(a) and, as it related to meetings, (c).

Subsection (c)(2) of this section is revised in standard language used to provide for reimbursement for expenses.

Defined term: “Commission” § 6–601

6-607. PROCEDURES.

THE COMMISSION SHALL DETERMINE ANY NECESSARY OPERATING PROCEDURES, INCLUDING ESTABLISHING SUBCOMMITTEES OR WORK GROUPS UTILIZING THE EXPERTISE OF PERSONS WHO ARE NOT MEMBERS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-404(c), except as it related to meetings.

The reference to "persons who are not members of the Commission" is substituted for the former reference to "noncommission members" for clarity.

Defined term: "Commission" § 6-601

6-608. STAFF.

(A) DIRECTOR; STAFF.

(1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE COMMISSION SHALL HIRE A STAFF DIRECTOR AS PROVIDED IN THE STATE BUDGET.

(2) SUBJECT TO THE ADVICE AND CONSENT OF THE CHAIR OF THE COMMISSION, THE STAFF DIRECTOR SHALL HIRE ADDITIONAL STAFF AS PROVIDED IN THE STATE BUDGET TO PERFORM THE DUTIES THAT THE COMMISSION CONSIDERS APPROPRIATE.

(B) STATUS.

THE STAFF IS RESPONSIBLE TO THE SECRETARY SOLELY FOR ROUTINE ADMINISTRATIVE PURPOSES.

(C) ADDITIONAL STAFF.

MEMBERS OF THE COMMISSION MAY DESIGNATE STAFF FROM THEIR RESPECTIVE UNITS TO ASSIST THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-405.

In subsection (c) of this section, the reference to "units" is substituted for the former reference to "agencies" for consistency. *See* General Revisor's Note to article.

Also in subsection (c) of this section, the former reference to "constituent" units is deleted as surplusage.

Defined terms: "Commission" § 6-601
"Secretary" § 6-101

6-609. DUTIES.

(A) IN GENERAL.

THE COMMISSION SHALL:

(1) CONDUCT A THOROUGH EXAMINATION OF THE EXTENT AND IMPLICATIONS OF THE ABSENCE OF RESPONSIBLE FATHERS FROM FAMILIES;

(2) STRONGLY ADVOCATE TO ENSURE THE DEVELOPMENT OF A COORDINATED AND COMPREHENSIVE APPROACH TO THE SOCIAL, EDUCATIONAL, ECONOMIC, HEALTH, AND LEGAL PROBLEMS OF RESPONSIBLE FATHERHOOD;

(3) PROMOTE INTERDEPARTMENTAL AND PUBLIC AND PRIVATE POLICY AND PROGRAM COLLABORATION AND COORDINATION;

(4) COLLECT DATA AND PERFORM ANALYSES ON EFFORTS TO INCREASE RESPONSIBLE FATHERHOOD;

(5) PROMOTE THE DEVELOPMENT OF STATEWIDE POLICIES TO ADDRESS THE ISSUES PREVENTING FATHERS FROM PARTICIPATING IN RAISING THEIR CHILDREN;

(6) MONITOR STATEWIDE PROGRESS TOWARDS REDUCING THE NUMBER OF NONCUSTODIAL FATHERS;

(7) PROMOTE AND ENCOURAGE WIDE COMMUNITY INPUT, COMMUNICATION, AND EDUCATION REGARDING RESPONSIBLE FATHERHOOD; AND

(8) ADVISE LOCAL PUBLIC AND PRIVATE AGENCIES SEEKING TO MOBILIZE LOCAL EFFORTS TO PROMOTE RESPONSIBLE FATHERHOOD.

(B) METHODS OF CONDUCTING EXAMINATION.

TO CARRY OUT ITS DUTIES UNDER SUBSECTION (A)(1) OF THIS SECTION, THE COMMISSION SHALL:

(1) HOLD HEARINGS AT WHICH PERSONS, ORGANIZATIONS, AND AGENCIES WITH AN INTEREST IN RESPONSIBLE FATHERHOOD MAY PRESENT THEIR VIEWS;

(2) CONDUCT MEETINGS, DISCUSSIONS, AND EXAMINATIONS AS NECESSARY TO GATHER INFORMATION ON THE LAWS AND SERVICES RELATING TO RESPONSIBLE FATHERHOOD IN THIS AND OTHER STATES;

(3) IDENTIFY AND EXAMINE THE LIMITATIONS AND PROBLEMS ASSOCIATED WITH EXISTING LAWS, PROGRAMS, AND SERVICES RELATING TO RESPONSIBLE FATHERHOOD; AND

(4) EXAMINE THE FINANCING AND DELIVERY OF SERVICES RELATING TO RESPONSIBLE FATHERHOOD.

(C) PLANS.

(1) IN COOPERATION WITH APPROPRIATE STATE AND LOCAL UNITS AND IN ACCORDANCE WITH STATE AND FEDERAL LAW, THE COMMISSION SHALL FOSTER PLANS TO ENHANCE THE COORDINATION OF FEDERAL- AND STATE-FUNDED PROGRAMS AND SERVICES REGARDING RESPONSIBLE FATHERHOOD.

(2) THE COMMISSION SHALL DEVELOP A COORDINATED COMPREHENSIVE STATEWIDE PLAN, INCLUDING ESTIMATES OF NECESSARY PUBLIC AND PRIVATE FUNDING, FOR:

(I) INCREASING THE PARTICIPATION OF FATHERS IN RAISING THEIR CHILDREN; AND

(II) IMPROVING SERVICES TO NONCUSTODIAL FATHERS.

(3) IN ACCORDANCE WITH THE STATEWIDE PLAN, THE COMMISSION SHALL RECOMMEND TO THE GOVERNOR DISTRIBUTION OF COMMUNITY INCENTIVE GRANTS CONCERNING RESPONSIBLE FATHERHOOD FROM FUNDS PROVIDED IN THE STATE BUDGET FOR THIS PURPOSE OR FROM GRANTS OR PRIVATE DONATIONS, GIVING PRIORITY TO INNOVATIVE PROJECTS THAT:

(I) PROMOTE THE ESTABLISHMENT OF A COORDINATED NETWORK OF SERVICES FOR NONCUSTODIAL FATHERS; AND

(II) DEMONSTRATE A HIGH LEVEL OF COMMITMENT TO THE PROJECT BY MAKING AVAILABLE NONSTATE FUNDS, PERSONNEL, AND FACILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-407.

In subsection (a)(4) of this section, the former reference to "ongoing and new" efforts is deleted as surplusage.

In subsection (c)(1) of this section, the reference to "units" is substituted for the former reference to "agencies" for consistency. *See* General Revisor's Note to article.

In subsection (c)(2) of this section, the former reference to "State ... and local" funding is deleted as included in the reference to "public" funding.

Defined term: "Commission" § 6-601

6-610. RESTRICTIONS.

THE COMMISSION MAY NOT OPERATE ANY PROGRAMS OR PROVIDE ANY DIRECT SERVICES.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-408.

No changes are made.

Defined term: "Commission" § 6-601

SUBTITLE 7. CITIZENSHIP PROMOTION PROGRAM.

6-701. "PROGRAM" DEFINED.

IN THIS SUBTITLE, "PROGRAM" MEANS THE CITIZENSHIP PROMOTION PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(a)(1) and (3).

The former introductory clause, "the following words have the meanings indicated", is deleted as unnecessary because only one word is defined in this section.

REVISOR'S NOTE TO SECTION:

Former Art. 88A, § 145(a)(2) and (4), which defined "Department" and "Secretary", respectively, are revised in § 6-101 of this title.

6-702. ESTABLISHED.

THERE IS A CITIZENSHIP PROMOTION PROGRAM IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(b), as it established the Program.

It is revised in standard language for clarity and consistency with similar provisions elsewhere in this article.

Defined term: "Department" § 6-101

6-703. PURPOSES.

THE PURPOSES OF THE PROGRAM ARE:

(1) TO ENCOURAGE AND ASSIST ELIGIBLE FOREIGN-BORN RESIDENTS TO BECOME NATURALIZED CITIZENS OF THE UNITED STATES AND ACTIVE PARTICIPANTS IN THE CIVIC LIFE OF MARYLAND;

(2) TO INCREASE THE NUMBER AND PROPORTION OF ELIGIBLE FOREIGN-BORN RESIDENTS WHO BECOME CITIZENS OF THE UNITED STATES; AND

(3) TO ENCOURAGE FOREIGN-BORN RESIDENTS WHO BECOME CITIZENS TO BE INVOLVED IN OUR DEMOCRATIC INSTITUTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(d).

In item (1) of this section, the reference to eligible "foreign-born" residents becoming naturalized citizens is added for consistency within the section.

Defined term: "Program" § 6-701

6-704. DUTIES.

IN ACCORDANCE WITH THE STATE BUDGET, THE PROGRAM SHALL:

(1) ENCOURAGE ELIGIBLE RESIDENTS TO LEARN ENGLISH;

(2) ENCOURAGE ELIGIBLE RESIDENTS TO BECOME NATURALIZED CITIZENS OF THE UNITED STATES;

(3) INFORM ELIGIBLE RESIDENTS ABOUT THE RIGHTS AND RESPONSIBILITIES OF CITIZENS, THE PROCESS OF NATURALIZATION, AND THE AVAILABILITY OF CITIZENSHIP SERVICES;

(4) MAKE AVAILABLE OR INCREASE THE AVAILABILITY OF INSTRUCTION IN:

(I) ENGLISH AS A SECOND LANGUAGE;

(II) UNITED STATES HISTORY; AND

(III) CITIZENSHIP PREPARATION;

(5) MAKE AVAILABLE OR INCREASE THE AVAILABILITY OF ASSISTANCE IN COMPLETING APPLICATIONS FOR NATURALIZATION;

(6) ESTABLISH AN EFFECTIVE CONNECTION TO NONPARTISAN VOTER REGISTRATION EFFORTS;

(7) ENCOURAGE THE INVOLVEMENT OF NEW CITIZENS IN DEMOCRATIC INSTITUTIONS; AND

(8) WORK WITH FEDERAL, STATE, AND LOCAL UNITS OF GOVERNMENT AND ORGANIZATIONS TO RESPOND TO THE NEED FOR CITIZENSHIP SERVICES IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(f).

In item (8) of this section, the term “units of government” is substituted for the former reference to “agencies” to conform to the terminology used throughout this article. *See* General Revisor’s Note to article.

Defined term: “Program” § 6–701

6–705. FUNDING.

FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET, NOT EXCEEDING \$100,000 EACH YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(e).

The reference to funding for the Program being “as provided in” the State budget is substituted for the former reference to the authority of the Secretary to “secure funding ... from” the State budget as standard language in funding provisions throughout the revised articles.

The reference to a maximum amount of \$100,000 “each year” is substituted for the former reference to a maximum amount of \$100,000 “of the annual State budget” for brevity.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the funding limitation may unconstitutionally

infringe on executive and legislative budget powers.

Defined term: "Program" § 6-701

6-706. REGULATIONS AND POLICIES.

THE DEPARTMENT SHALL ADOPT REGULATIONS AND POLICIES TO CARRY OUT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(b), as it related to the requirement for the Department to adopt regulations and policies.

Defined terms: "Department" § 6-101
"Program" § 6-701

6-707. COOPERATION OF STATE UNITS.

ALL EXECUTIVE UNITS OF THE STATE SHALL COOPERATE WITH THE DEPARTMENT TO IMPLEMENT THE REGULATIONS AND POLICIES OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(c).

In this section, the reference to "units" is substituted for the former reference to "departments and agencies" to conform to the terminology used throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 6-101
"Program" § 6-701

6-708. ANNUAL REPORT.

EACH YEAR THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY REGARDING THE STATUS AND EFFECTIVENESS OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 145(g).

The former phrase "established under this subtitle" is deleted as surplusage.

Defined terms: "Department" § 6-101
"Program" § 6-701

TITLE 7. INDIVIDUALS WITH DISABILITIES.

SUBTITLE 1. DEPARTMENT OF DISABILITIES.

PART I. DEFINITIONS.

7-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 9-1101(a).

No changes are made.

(B) BOARD.

"BOARD" MEANS THE INTERAGENCY DISABILITIES BOARD.

REVISOR'S NOTE: This subsection formerly was SG § 9-1101(b).

No changes are made.

(C) COMMISSION.

"COMMISSION" MEANS THE MARYLAND COMMISSION ON DISABILITIES.

REVISOR'S NOTE: This subsection formerly was SG § 9-1101(c).

No changes are made.

(D) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF DISABILITIES.

REVISOR'S NOTE: This subsection formerly was SG § 9-1101(d).

No changes are made.

(E) DISABILITY.

"DISABILITY" HAS THE MEANING STATED IN THE FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. § 12102.

REVISOR'S NOTE: This subsection formerly was SG § 9-1101(e).

No changes are made.

(F) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF DISABILITIES.

REVISOR'S NOTE: This subsection formerly was SG § 9-1101(f).

No changes are made.

(G) UNIT OF STATE GOVERNMENT.

"UNIT OF STATE GOVERNMENT" MEANS A DEPARTMENT, AGENCY, OFFICE, COMMISSION, COUNCIL, OR OTHER UNIT IN THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 9-1101(g).

7-102. RESERVED.

7-103. RESERVED.

PART II. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

7-104. DEPARTMENT ESTABLISHED.

THERE IS A DEPARTMENT OF DISABILITIES, ESTABLISHED AS A PRINCIPAL DEPARTMENT OF STATE GOVERNMENT.

REVISOR'S NOTE: This section formerly was SG § 9-1102(a).

No changes are made.

7-105. SECRETARY.

(A) POSITION AND APPOINTMENT.

(1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT THE SECRETARY OF DISABILITIES.

(2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

(B) QUALIFICATIONS.

THE SECRETARY SHALL:

(1) HAVE EXTENSIVE EXPERIENCE AND KNOWLEDGE OF DISABILITY LAWS, LEGISLATION, AND REGULATIONS, AND PROGRAMS FOR INDIVIDUALS WITH DISABILITIES;

(2) AT A MINIMUM, HOLD A BACHELOR'S DEGREE; AND

(3) BE AN INDIVIDUAL WITH A DISABILITY OR APPOINT A DEPUTY SECRETARY WHO IS AN INDIVIDUAL WITH A DISABILITY.

(C) OATH.

BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(D) RESPONSIBILITY TO GOVERNOR.

(1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

(2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES ON THOSE MATTERS.

(E) COMPENSATION.

THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: Subsections (a), (b), (d), and (e) of this section are new language derived without substantive change from former SG § 9-1102(b) and (c)(1) and (4).

Subsection (c) of this section is standard language added to state the requirement that an individual appointed to any office of profit or trust take the oath specified in Md. Constitution, Art. I, § 9. This addition is supported by 64 Op. Att'y Gen. 246 (1979).

In subsection (e) of this section, the reference to the Secretary's "compensation" is substituted for the former reference to the Secretary's "salary" for accuracy and consistency with terminology used throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 7-101

"Disability" § 7-101

"Secretary" § 7-101

7-106. ADMINISTRATION OF DEPARTMENT.

(A) OPERATION OF DEPARTMENT.

THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT OPERATION OF THE DEPARTMENT.

(B) AREAS OF RESPONSIBILITY.

THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF RESPONSIBILITY IN THE DEPARTMENT AS NECESSARY TO FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1102(c)(2) and (3).

In subsection (b) of this section, the former phrase "[s]ubject to the provisions of this subtitle" is deleted as surplusage.

Defined terms: "Department" § 7-101

"Secretary" § 7-101

7-107. DEPUTY SECRETARY.

(A) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT A DEPUTY SECRETARY.

(B) QUALIFICATIONS.

THE DEPUTY SECRETARY SHALL BE AN INDIVIDUAL WITH A DISABILITY, IF THE SECRETARY IS NOT AN INDIVIDUAL WITH A DISABILITY.

(C) TERM AND COMPENSATION.

THE DEPUTY SECRETARY:

- (1) SERVES AT THE PLEASURE OF THE SECRETARY; AND
- (2) IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(D) DUTIES.

THE DEPUTY SECRETARY HAS THE DUTIES PROVIDED BY LAW OR DELEGATED BY THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1103(a).

In subsection (c)(2) of this section, the reference to the deputy secretary's "compensation" is substituted for the former reference to the deputy secretary's "salary" for accuracy and consistency with terminology used throughout this article. *See* General Revisor's Note to article.

Defined terms: "Disability" § 7-101
"Secretary" § 7-101

7-108. STAFF.

(A) IN GENERAL.

IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A STAFF.

(B) APPOINTMENT; REMOVAL.

UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL APPOINT AND REMOVE ALL STAFF IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) REVIEW OF PERSONNEL ACTIONS.

THE SECRETARY MAY REVIEW ANY PERSONNEL ACTION TAKEN BY ANY UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1103(b).

In subsection (b) of this section, the former reference to all "other" staff is

deleted as surplusage. This deletion is called to the attention of the General Assembly.

Defined terms: "Department" § 7-101
"Secretary" § 7-101

7-109. LEGAL COUNSEL.

(A) ATTORNEY GENERAL AS LEGAL ADVISER.

THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

(B) ASSIGNMENT OF ASSISTANTS.

THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW TO BE ASSIGNED TO THE DEPARTMENT.

(C) COUNSEL TO DEPARTMENT.

(1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO THE DEPARTMENT AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT CONSULTING WITH THE SECRETARY.

(2) THE COUNSEL TO THE DEPARTMENT SHALL HAVE ONLY THE FOLLOWING DUTIES:

(I) TO GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY AND ANY OTHER OFFICIAL OF THE DEPARTMENT;

(II) TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT; AND

(III) TO PERFORM FOR THE DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

(3) THE COUNSEL SHALL PERFORM THE DUTIES UNDER PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND SUPERVISION OF THE ATTORNEY GENERAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1105.

Defined terms: "Department" § 7-101
"Secretary" § 7-101

7-110. REGULATIONS.

(A) DEPARTMENTAL REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS FOR THE DEPARTMENT AND ITS UNITS.

(B) IMPLEMENTATION OF LAWS WITHIN SECRETARY'S JURISDICTION.

THE SECRETARY MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF LAW THAT ARE WITHIN THE JURISDICTION OF THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1104(b).

In subsection (b) of this section, the former reference to “rules” is deleted in light of the reference to “regulations”. *See* General Revisor's Note to article.

Defined terms: “Department” § 7–101
 “Secretary” § 7–101

7–111. RESERVED.

7–112. RESERVED.

PART III. POWERS AND DUTIES.

7–113. POWERS AND DUTIES OF SECRETARY.

(A) BUDGET.

THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE DEPARTMENT.

(B) PAYMENT OF MONEY COLLECTED TO GENERAL FUND.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL PAY ALL MONEY COLLECTED BY THE DEPARTMENT UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.

(C) REVIEW OF REGULATIONS OF OTHER UNITS OF STATE GOVERNMENT.

(1) (I) BEFORE PUBLICATION IN THE MARYLAND REGISTER, THE SECRETARY SHALL REVIEW NEW OR PROPOSED CHANGES TO REGULATIONS SUBMITTED BY A UNIT OF STATE GOVERNMENT THAT RELATE TO THE PROVISION OF RESOURCES AND SERVICES TO INDIVIDUALS WITH DISABILITIES.

(II) THE REGULATIONS SHALL INCLUDE AN ASSESSMENT THAT DESCRIBES THE IMPACT OF THE PROPOSED REGULATIONS ON INDIVIDUALS WITH DISABILITIES.

(2) BEFORE IMPLEMENTATION, THE SECRETARY SHALL REVIEW NEW OR PROPOSED CHANGES TO POLICIES, PROGRAMS, OR SERVICES SUBMITTED BY A UNIT OF STATE GOVERNMENT THAT RELATE TO THE PROVISION OF RESOURCES AND SERVICES TO INDIVIDUALS WITH DISABILITIES.

(D) REVIEW, COORDINATION, AND CONCURRENCE OF APPLICATIONS FOR AID SPECIFIC TO SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(1) THE SECRETARY SHALL REVIEW, COORDINATE, AND CONCUR WITH ANY APPLICATION FOR FEDERAL AID, WAIVERS, OR GRANTS THAT IS:

(I) SPECIFIC TO SERVICES FOR INDIVIDUALS WITH DISABILITIES;

AND

(II) SUBMITTED BY OR THROUGH ANY UNIT OF STATE GOVERNMENT.

(2) EXCEPT AS OTHERWISE PROHIBITED BY LAW, THE SECRETARY MAY APPLY FOR, RECEIVE, AND USE GRANTS-IN-AID, FUNDS, OR SERVICES FROM THE FEDERAL GOVERNMENT OR ANY OF ITS UNITS, OR ANY PUBLIC OR PRIVATE SOURCE MADE AVAILABLE TO THE DEPARTMENT FOR USE IN CARRYING OUT THE POWERS AND DUTIES OF THE SECRETARY OR THE DEPARTMENT.

(E) REVIEW, APPROVAL, OR AMENDMENT OF STATE DISABILITIES PLAN; ADOPTION OF REGULATIONS.

(1) THE SECRETARY SHALL REVIEW THE STATE DISABILITIES PLAN DEVELOPED BY THE BOARD IN ACCORDANCE WITH § 7-132 OF THIS SUBTITLE.

(2) THE SECRETARY MAY APPROVE THE STATE DISABILITIES PLAN OR AMEND THE PLAN IF THE SECRETARY DETERMINES THAT THE PLAN DEVELOPED BY THE BOARD IS NOT IN ACCORDANCE WITH § 7-132 OF THIS SUBTITLE.

(3) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE STATE DISABILITIES PLAN AS APPROVED OR AS AMENDED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(F) ANNUAL ANALYSIS OF STATE'S PROGRESS IN IMPLEMENTING STATE DISABILITIES PLAN.

THE SECRETARY SHALL SUBMIT AN ANNUAL ANALYSIS OF THE STATE'S PROGRESS IN IMPLEMENTING THE STATE DISABILITIES PLAN AND RELATED PERFORMANCE OBJECTIVES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF EACH YEAR.

(G) CITIZENS' ADVISORY BODIES.

THE SECRETARY MAY CREATE CITIZENS' ADVISORY BODIES THAT THE SECRETARY CONSIDERS NECESSARY FOR THE EFFECTIVE OPERATION OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG §§ 9-1117 and 9-1104(a) and (c) through (f).

In subsection (b) of this section, the reference to "this subtitle" is substituted for the former reference to "this title" for accuracy.

In the introductory language of subsection (c)(1)(i) and (2) of this section, the phrases "[b]efore publication in the Maryland Register" and "[b]efore implementation" are substituted for the former phrase "prior to public notification" for clarity.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the meaning of former SG § 9-1104(c) and (d) is unclear. It is unclear whether it is mandatory or discretionary for units of State government to submit "new or proposed changes to regulations,

policies, programs, and services” to the Secretary under former SG § 9–1104(c). It is also unclear whether all regulations or only those submitted to the Secretary are required to include “an assessment that describes the impact of the proposed regulations on individuals with disabilities” and who is required to prepare the assessment. Similarly, it is unclear whether it is mandatory or discretionary for units of the State government to submit “applications for federal aid, waivers, or grants” to the Secretary under former SG § 9–1104(d). The General Assembly may wish to clarify the intent of these provisions.

Defined terms: “Board” § 7–101

“Department” § 7–101

“Disability” § 7–101

“Secretary” § 7–101

“Unit of State government” § 7–101

7–114. DUTIES OF DEPARTMENT.

(A) RESPONSIBILITY FOR STATEWIDE DISABILITY POLICIES AND STANDARDS.

(1) THE DEPARTMENT IS THE PRINCIPAL UNIT OF STATE GOVERNMENT RESPONSIBLE FOR DEVELOPING, MAINTAINING, REVISING, AND ENFORCING STATEWIDE DISABILITY POLICIES AND STANDARDS THROUGHOUT THE UNITS OF STATE GOVERNMENT.

(2) IN THIS CAPACITY, THE DEPARTMENT SHALL:

(I) SERVE AS THE PRINCIPAL ADVISOR TO THE GOVERNOR ON THE MEANS AND METHODS AVAILABLE TO:

1. IMPLEMENT AND FUND SUPPORT TO INDIVIDUALS WITH DISABILITIES IN ACCORDANCE WITH THE STATE DISABILITIES PLAN;

2. MODIFY OR CONSOLIDATE SUPPORT TO INDIVIDUALS WITH DISABILITIES; AND

3. COLLABORATE WITH FEDERAL, REGIONAL, AND LOCAL UNITS OF GOVERNMENT TO ENHANCE THE EFFECTIVENESS OF THE PROVISION AND FUNDING OF SUPPORT TO INDIVIDUALS WITH DISABILITIES;

(II) ANNUALLY RECOMMEND PROJECTS TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR INCLUSION IN THE CAPITAL BUDGET TO PROMOTE ACCESS TO STATE-OWNED FACILITIES FOR INDIVIDUALS WITH DISABILITIES;

(III) ASSIST UNITS OF STATE GOVERNMENT TO IDENTIFY FEDERAL, STATE, LOCAL, AND PRIVATE FUNDS AVAILABLE TO THE STATE FOR PROGRAMS AND SERVICES FOR INDIVIDUALS WITH DISABILITIES; AND

(IV) PROVIDE TECHNICAL ASSISTANCE TO LOCAL JURISDICTIONS IN PLANNING AND IMPLEMENTING COLLABORATIVE STRATEGIES CONSISTENT WITH THE STATE DISABILITIES PLAN.

(B) ADMINISTRATION OF PROGRAMS AND UNITS.

THE DEPARTMENT SHALL OVERSEE AND ADMINISTER THE FOLLOWING PROGRAMS AND UNITS:

- (1) CONSTITUENT SERVICES AND OMBUDSMEN PROGRAMS;
- (2) THE ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM UNDER SUBTITLE 6 OF THIS TITLE; AND
- (3) THE OFFICE OF PERSONAL ASSISTANCE SERVICES, INCLUDING THE ATTENDANT CARE PROGRAM UNDER SUBTITLE 4 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG §§ 9-1106 and 9-1118.

In subsection (a)(1) of this section, the defined term "unit of State government" is substituted for the former reference to a "staff agency" for consistency.

In subsection (a)(2) of this section, the former requirement that the Department "adopt regulations to implement the State Disabilities Plan" is deleted as duplicative of § 7-113(e) of this subtitle, which requires the Secretary to adopt regulations to implement the State Disabilities Plan, and inconsistent with § 7-110(a) of this subtitle, which requires the Secretary to adopt regulations for the Department. This deletion is called to the attention of the General Assembly.

In subsection (a)(2)(ii) of this section, the former reference to "capital budget" projects is deleted as redundant.

In the introductory language of subsection (b) of this section, the reference to "units" is added for accuracy.

Defined terms: "Department" § 7-101
 "Disability" § 7-101
 "Unit of State government" § 7-101

7-115. DUTIES OF OTHER UNITS OF STATE GOVERNMENT.

UNLESS THE DISCLOSURE OF INFORMATION IS OTHERWISE PROHIBITED BY LAW, EACH UNIT OF STATE GOVERNMENT SHALL PROVIDE TO THE SECRETARY:

- (1) AT THE REQUEST OF THE SECRETARY, INFORMATION REGARDING CURRENT PROGRAMS AND SERVICES FOR INDIVIDUALS WITH DISABILITIES; AND
- (2) INFORMATION REGARDING NEW OR PROPOSED PROGRAMS AND SERVICES FOR INDIVIDUALS WITH DISABILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1107.

Defined terms: "Disability" § 7-101
 "Secretary" § 7-101
 "Unit of State government" § 7-101

7-116. UNIT PLANS.

(A) DEVELOPMENT; IMPLEMENTATION; REQUEST FOR AMENDMENTS.

(1) ON OR BEFORE JULY 1 OF EACH YEAR, EACH UNIT OF STATE GOVERNMENT SHALL DEVELOP A UNIT PLAN TO IMPLEMENT THE STATE DISABILITIES PLAN AS APPROVED OR AMENDED BY THE SECRETARY UNDER § 7-113(E) OF THIS SUBTITLE.

(2) THE UNIT PLAN SHALL CONTAIN AN IMPLEMENTATION SCHEDULE AND MEASURABLE STRATEGIC PERFORMANCE OBJECTIVES.

(3) THE SECRETARY MAY REQUEST AMENDMENTS TO A UNIT PLAN IF THE SECRETARY DETERMINES THAT THE UNIT PLAN DOES NOT COMPLY WITH THE STATE DISABILITIES PLAN.

(B) UNIT PLAN EVALUATION.

ON OR BEFORE JULY 1 OF EACH YEAR, EACH UNIT OF STATE GOVERNMENT SHALL PROVIDE THE DEPARTMENT WITH AN EVALUATION OF THE UNIT'S PERFORMANCE IN ACCORDANCE WITH THE UNIT'S PLAN DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION.

(C) UNIT PLAN EVALUATION -- REQUIRED INFORMATION.

THE EVALUATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) ASSESS THE UNIT'S PERFORMANCE AGAINST THE STRATEGIC PERFORMANCE OBJECTIVES ESTABLISHED UNDER SUBSECTION (A)(2) OF THIS SECTION; AND

(2) IDENTIFY AND MEASURE:

(I) CONSUMER SATISFACTION;

(II) GAPS IN SERVICES;

(III) NUMBERS OF INDIVIDUALS WAITING FOR SERVICES; AND

(IV) PROGRESS MADE ON ACHIEVING PERFORMANCE OBJECTIVES.

(D) PROVISION OF TECHNICAL ASSISTANCE.

THE SECRETARY MAY PROVIDE TECHNICAL ASSISTANCE TO ANY UNIT OF STATE GOVERNMENT TO MEET THE REQUIREMENTS OF THIS SECTION.

(E) WAIVER.

THE SECRETARY MAY WAIVE THE REQUIREMENTS OF THIS SECTION FOR ANY UNIT OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1108.

Defined terms: "Department" § 7-101
"Secretary" § 7-101
"Unit of State government" § 7-101

7-117. RESERVED.

7-118. RESERVED.

PART IV. MARYLAND COMMISSION ON DISABILITIES.

7-119. ESTABLISHED.

THERE IS A MARYLAND COMMISSION ON DISABILITIES.

REVISOR'S NOTE: This section formerly was SG § 9-1109.

No changes are made.

7-120. MEMBERSHIP.

(A) COMPOSITION.

THE COMMISSION CONSISTS OF:

- (1) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:
 - (I) ONE INDIVIDUAL WITH A PHYSICAL DISABILITY;
 - (II) ONE INDIVIDUAL WHO HAS EXPERIENCED MENTAL ILLNESS;
 - (III) ONE INDIVIDUAL WITH AN INTELLECTUAL DISABILITY;
 - (IV) ONE INDIVIDUAL WHO IS BLIND;
 - (V) ONE INDIVIDUAL WHO IS DEAF OR HARD OF HEARING;
 - (VI) ONE PARENT OR FOSTER PARENT OF A CHILD WITH A DISABILITY;
 - (VII) FOUR MEMBERS OF THE GENERAL PUBLIC WHO HAVE DISABILITIES;
 - (VIII) THREE REPRESENTATIVES FROM STATEWIDE DISABILITY ADVOCACY ORGANIZATIONS;
 - (IX) ONE REPRESENTATIVE FROM THE HOME HEALTH CARE INDUSTRY;
 - (X) ONE REPRESENTATIVE FROM A STATEWIDE ORGANIZATION OF PROVIDERS OF SERVICES AND SUPPORT FOR INDIVIDUALS WITH DISABILITIES;
 - (XI) ONE REPRESENTATIVE FROM THE ALLIANCE OF LOCAL COMMISSIONS ON DISABILITY; AND

(XII) TWO REPRESENTATIVES FROM THE BOARD, ONE OF WHOM SHALL BE SELECTED BY THE SECRETARY AND ONE OF WHOM SHALL BE THE SECRETARY OF BUDGET AND MANAGEMENT OR THE DESIGNEE OF THE SECRETARY OF BUDGET AND MANAGEMENT;

(2) ONE REPRESENTATIVE FROM THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(3) ONE REPRESENTATIVE FROM THE MARYLAND HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE.

(B) APPOINTMENT.

IN MAKING THE APPOINTMENTS REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION, THE GOVERNOR SHALL APPOINT MEMBERS FROM AMONG:

(1) THE GEOGRAPHIC REGIONS OF THE STATE; AND

(2) DIVERSE BACKGROUNDS.

(C) QUALIFICATIONS.

A MAJORITY OF THE MEMBERS SHALL BE INDIVIDUALS WITH DISABILITIES.

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS OF THE COMMISSION ON OCTOBER 1, 2007.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE 3-YEAR TERMS.

(E) FAILURE TO ATTEND MEETINGS.

A MEMBER WHO FAILS TO ATTEND AT LEAST 50% OF THE REGULARLY SCHEDULED MEETINGS OF THE COMMISSION DURING ANY 12-MONTH PERIOD SHALL BE CONSIDERED TO HAVE RESIGNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1110(a) through (h).

In subsection (a)(1)(xii) of this section, the requirement that one of the Commission members "shall be the Secretary of Budget and Management or the designee of the Secretary of Budget and Management" is substituted for the former requirement that one of the members "represents the

Department of Budget and Management” for clarity.

In subsection (b) of this section, the reference to “subsection (a)(1)” is added for clarity.

In subsection (d)(2) of this section, the reference to terms being staggered as required by the terms provided for members of the Commission on “October 1, 2007” is substituted for the former obsolete reference to terms being staggered as required by the terms provided on “July 1, 2004”. This substitution is not intended to alter the term of any member of the Commission. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 7 in 2008; (2) 6 in 2009; and (3) 7 in 2010.

Defined terms: “Board” § 7–101

“Commission” § 7–101

“Disability” § 7–101

“Secretary” § 7–101

7–121. CHAIR.

FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL DESIGNATE A CHAIR FOR A 2–YEAR TERM.

REVISOR’S NOTE: This section formerly was SG § 9–1110(i).

The reference to a “chair” is substituted for the former reference to a “chairman” because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

No other changes are made.

Defined term: “Commission” § 7–101

7–122. COMPENSATION; STAFF.

(A) COMPENSATION.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IF THE SECRETARY APPROVES, IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(B) STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF TO THE COMMISSION AS NECESSARY.

REVISOR’S NOTE: This section formerly was SG § 9–1111.

No changes are made.

Defined terms: "Commission" § 7-101

"Department" § 7-101

"Secretary" § 7-101

7-123. DUTIES.

MEMBERS OF THE COMMISSION SHALL:

(1) ADVISE THE DEPARTMENT IN CARRYING OUT ITS DUTIES;

(2) MEET AT LEAST TWICE A YEAR IN MEETINGS OPEN TO THE PUBLIC;

AND

(3) SERVE ON SUBCOMMITTEES ESTABLISHED BY THE SECRETARY TO CARRY OUT THE MISSION OF THE DEPARTMENT.

REVISOR'S NOTE: This section formerly was SG § 9-1112(a).

No changes are made.

Defined terms: "Commission" § 7-101

"Department" § 7-101

"Secretary" § 7-101

7-124. MEETINGS OF SUBCOMMITTEES.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SUBCOMMITTEE OF THE COMMISSION CREATED IN ACCORDANCE WITH § 7-123 OF THIS SUBTITLE SHALL BE CONSIDERED A PUBLIC BODY UNDER § 10-502(H) OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1112(b).

Defined term: "Commission" § 7-101

7-125. RESERVED.

7-126. RESERVED.

PART V. INTERAGENCY DISABILITIES BOARD; STATE DISABILITIES PLAN.

7-127. INTERAGENCY DISABILITIES BOARD -- IN GENERAL.

(A) ESTABLISHED.

THERE IS AN INTERAGENCY DISABILITIES BOARD CONVENED BY THE GOVERNOR.

(B) PURPOSE.

THE PURPOSE OF THE BOARD IS TO DEVELOP THE STATE DISABILITIES PLAN.

REVISOR'S NOTE: This section formerly was SG § 9-1113.

No changes are made.

Defined term: "Board" § 7-101

7-128. INTERAGENCY DISABILITIES BOARD -- MEMBERSHIP.

THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

- (1) THE SECRETARY OF DISABILITIES;
- (2) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;
- (3) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;
- (4) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;
- (5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;
- (6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;
- (7) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;
- (8) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;
- (9) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;
- (10) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;
- (11) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;
- (12) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;
- (13) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF THE DEAF AND HARD OF HEARING, OR THE DIRECTOR'S DESIGNEE; AND
- (14) REPRESENTATIVES FROM ANY OTHER UNIT OF STATE GOVERNMENT THAT THE GOVERNOR DESIGNATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1114(a).

In item (12) of this section, the reference to the "Executive Director of the Governor's Office for Children" is substituted for the former obsolete reference to the "Special Secretary for Children, Youth, and Families".

The second clause of former SG § 9-1114(a)(1), which required that the Secretary of Disabilities serve as chairman of the Board, is revised in § 7-129(a) of this subtitle.

Defined terms: "Board" § 7-101
 "Unit of State government" § 7-101

7-129. INTERAGENCY DISABILITIES BOARD -- CHAIR.

(A) SECRETARY.

THE SECRETARY IS THE CHAIR OF THE BOARD.

(B) WORK OF BOARD.

THE CHAIR SHALL DIRECT THE WORK OF THE BOARD.

(C) SUBCOMMITTEES OF BOARD.

THE CHAIR MAY ESTABLISH SUBCOMMITTEES OF THE BOARD TO CARRY OUT THE DUTIES ESTABLISHED UNDER THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG §§ 9-1114(a)(1) and 9-1115(a) and (c).

Throughout this section, the references to a "chair" are substituted for the former references to a "chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

In subsection (c) of this section, the reference to this "part" is substituted for the former reference to this "section" to reflect the reorganization of provisions formerly contained in SG § 9-1115.

Defined terms: "Board" § 7-101
 "Secretary" § 7-101

7-130. INTERAGENCY DISABILITIES BOARD -- STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF TO THE BOARD AS NECESSARY.

REVISOR'S NOTE: This section formerly was SG § 9-1114(b).

No changes are made.

Defined terms: "Board" § 7-101
 "Department" § 7-101

7-131. INTERAGENCY DISABILITIES BOARD -- DUTIES.

THE BOARD SHALL:

(1) PROVIDE ONGOING EXAMINATION OF THE STRUCTURE AND ORGANIZATION OF THE STATE'S SYSTEM OF SERVICES AND SUPPORT TO INDIVIDUALS WITH DISABILITIES TO ENSURE EQUAL ACCESS TO SUPPORT SERVICES AND RESOURCES BY INDIVIDUALS WITH DISABILITIES;

(2) FACILITATE THE DEVELOPMENT OF PERFORMANCE OBJECTIVES THAT WILL RESULT IN A COMPREHENSIVE, EFFECTIVE, EFFICIENT, AND INTEGRATED SERVICE DELIVERY SYSTEM FOR INDIVIDUALS WITH DISABILITIES;

(3) DEVELOP AN INTERAGENCY FUNDING APPROACH TO MAXIMIZE EFFICIENCIES AND STREAMLINE ACCESS TO SERVICES AND SUPPORT FOR INDIVIDUALS WITH DISABILITIES;

(4) FORMULATE POLICIES ON LEGISLATIVE ISSUES AND, UNDER THE DIRECTION OF THE GOVERNOR, COMMUNICATE THE POLICIES TO THE GENERAL ASSEMBLY; AND

(5) DEVELOP THE STATE DISABILITIES PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1115(b).

Defined terms: "Board" § 7-101

"Disability" § 7-101

7-132. STATE DISABILITIES PLAN.

(A) COORDINATION OF SUPPORT SERVICES.

THE STATE DISABILITIES PLAN SHALL PROVIDE FOR THE COORDINATION OF SUPPORT SERVICES THAT:

(1) ENSURE COMPLIANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND OTHER RELEVANT FEDERAL AND STATE PROVISIONS INTENDED TO PROTECT THE CIVIL RIGHTS OF INDIVIDUALS WITH DISABILITIES;

(2) ARE NECESSARY FOR INDIVIDUALS WITH DISABILITIES TO ACHIEVE MAXIMUM PARTICIPATION IN THE MAINSTREAM OF THE COMMUNITY IN THE MOST INTEGRATED SETTING POSSIBLE; AND

(3) ADDRESS, ON A STATEWIDE BASIS, THE IMPROVEMENT OF:

(I) THE CAPACITY OF COMMUNITIES TO SUPPORT INDIVIDUALS WITH DISABILITIES WITH PERSONAL ATTENDANT CARE AND OTHER LONG-TERM CARE OPTIONS THAT ARE SELF-DIRECTED;

(II) THE AVAILABILITY OF ACCESSIBLE, INTEGRATED, AND AFFORDABLE HOUSING OPTIONS;

(III) RELIABLE TRANSPORTATION OPTIONS;

(IV) EMPLOYMENT AND TRAINING OPTIONS, INCLUDING SELF-EMPLOYMENT AND NONCONGREGANT COMPETITIVE OPPORTUNITIES AVAILABLE IN AN INTEGRATED ENVIRONMENT IN WHICH THERE ARE INDIVIDUALS WITH AND WITHOUT DISABILITIES;

(V) SOMATIC AND MENTAL HEALTH OPTIONS;

(VI) ACCESSIBLE AND UNIVERSALLY DESIGNED TECHNOLOGY;

(VII) SUPPORT SERVICES FOR CHILDREN, YOUTH, AND THEIR FAMILIES TO ENABLE THEM TO ACHIEVE SUCCESSFUL LEARNING; AND

(VIII) FAMILY SUPPORT SERVICES, INCLUDING RESPITE CARE.

(B) ASSESSMENT OF SUPPORT SERVICES FOR INDIVIDUALS WITH DISABILITIES.

THE STATE DISABILITIES PLAN SHALL ASSESS THE PROVISION OF AND RESOURCES FOR SUPPORT SERVICES FOR INDIVIDUALS WITH DISABILITIES.

REVISOR'S NOTE: This section formerly was SG § 9-1116.

No changes are made.

7-133. RESERVED.

7-134. RESERVED.

PART VI. PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE.

7-135. "ADVISORY COMMITTEE" DEFINED.

IN THIS PART, "ADVISORY COMMITTEE" MEANS THE PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to the "Personal Assistance Services Advisory Committee".

7-136. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS A PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE IN THE OFFICE OF PERSONAL ASSISTANCE SERVICES IN THE DEPARTMENT.

(B) PURPOSE.

THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE GUIDANCE TO THE DEPARTMENT ON PERSONAL CARE, ATTENDANT CARE, AND HOME CARE SERVICES, INCLUDING:

(1) THE DEVELOPMENT OF STANDARDS FOR THE TRAINING OF PERSONAL CARE WORKERS;

(2) THE FEASIBILITY OF ESTABLISHING A REFERRAL SYSTEM OF INDIVIDUAL PROVIDERS;

(3) THE FEASIBILITY OF ESTABLISHING A REGISTRY FOR PERSONAL CARE WORKERS; AND

(4) THE COMPENSATION LEVELS PROVIDED TO PERSONAL CARE WORKERS FOR PERSONAL ASSISTANCE SERVICES.

REVISOR'S NOTE: This section formerly was SG § 9-1119(a) and (b).

The only changes are in style.

Defined terms: "Advisory Committee" § 7-135
"Department" § 7-101

7-137. MEMBERSHIP.

(A) COMPOSITION.

THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(1) 11 INDIVIDUALS WITH DISABILITIES WHO ARE CURRENT OR FORMER CONSUMERS OF PERSONAL HOME OR ATTENDANT CARE SERVICES; AND

(2) ONE REPRESENTATIVE EACH FROM:

(I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(II) THE MARYLAND DEPARTMENT OF AGING;

(III) THE STATE DEPARTMENT OF EDUCATION, DIVISION OF REHABILITATIVE SERVICES;

(IV) THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES OR ITS DESIGNEE;

(V) A LOCAL OFFICE ON AGING;

(VI) THE MARYLAND STATE INDEPENDENT LIVING COUNCIL;

(VII) AN ADVOCACY ORGANIZATION REPRESENTING SENIOR CITIZENS;

(VIII) AN ADVOCACY ORGANIZATION REPRESENTING INDIVIDUALS WITH DISABILITIES;

(IX) A PROVIDER OF HOME CARE OR PERSONAL ATTENDANT CARE SERVICES; AND

(X) A HOME HEALTH WORKER.

(B) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1, 2007.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1119(c) and (e).

In subsection (b)(2) of this section, the reference to terms being staggered as required by the terms provided for members of the Advisory Committee on "October 1, 2007" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 2005". This substitution is not intended to alter the term of any member of the Advisory Committee. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 3 consumer members and 2 of the organizational or agency members in 2008; and (2) 3 consumer members and 3 of the organizational or agency members in 2009.

Defined terms: "Advisory Committee" § 7-135
"Disability" § 7-101

7-138. CHAIR.

FROM AMONG THE MEMBERS OF THE ADVISORY COMMITTEE, THE SECRETARY SHALL SELECT A CHAIR.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1119(d).

Defined terms: "Advisory Committee" § 7-135
"Secretary" § 7-101

7-139. STAFF; MEETINGS.

(A) STAFF.

THE OFFICE OF PERSONAL ASSISTANCE SERVICES SHALL PROVIDE STAFF TO THE ADVISORY COMMITTEE.

(B) MEETINGS.

THE ADVISORY COMMITTEE SHALL MEET AT LEAST FOUR TIMES A YEAR, IN MEETINGS OPEN TO THE PUBLIC.

REVISOR'S NOTE: This section formerly was SG § 9-1119(f) and (g).

No changes are made.

Defined term: "Advisory Committee" § 7-135

7-140. ANNUAL REPORT.

THE ADVISORY COMMITTEE SHALL REPORT ITS RECOMMENDATIONS ON PERSONAL CARE ASSISTANCE SERVICES TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF EACH YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1119(h).

Defined term: "Advisory Committee" § 7-135

SUBTITLE 2. RESPITE CARE FOR INDIVIDUALS WITH DEVELOPMENTAL OR FUNCTIONAL DISABILITIES.

7-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Department of Human Resources".

(C) RESPITE CARE.

"RESPITE CARE" MEANS SHORT-TERM CARE:

(1) OF AN INDIVIDUAL WITH A DEVELOPMENTAL OR FUNCTIONAL DISABILITY DESCRIBED UNDER § 7-202 OF THIS SUBTITLE; AND

(2) THAT IS PROVIDED EITHER WITHIN OR OUTSIDE THE INDIVIDUAL'S HOME TO GIVE TEMPORARY RELIEF TO THE INDIVIDUAL OR THE INDIVIDUAL'S FAMILY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, § 128(a), as it related to individuals with developmental or functional disabilities.

The reference to a disability "described under § 7-202 of this subtitle" is added for clarity.

7-202. INDIVIDUALS WITH FUNCTIONAL OR DEVELOPMENTAL DISABILITIES.

(A) FUNCTIONAL DISABILITY.

AN INDIVIDUAL HAS A FUNCTIONAL DISABILITY IF THE INDIVIDUAL HAS A SEVERE, CHRONIC DISABILITY THAT:

(1) IS ATTRIBUTABLE TO A MENTAL OR PHYSICAL IMPAIRMENT OR A COMBINATION OF MENTAL AND PHYSICAL IMPAIRMENTS, INCLUDING A HEAD INJURY;

(2) IS LIKELY TO CONTINUE INDEFINITELY;

(3) RESULTS IN SUBSTANTIAL FUNCTIONAL LIMITATIONS IN AT LEAST THREE OF THE FOLLOWING AREAS OF MAJOR LIFE ACTIVITY:

- (I) SELF-CARE;
- (II) RECEPTIVE AND EXPRESSIVE LANGUAGE;
- (III) LEARNING;
- (IV) MOBILITY;
- (V) SELF-DIRECTION;
- (VI) CAPACITY FOR INDEPENDENT LIVING; AND
- (VII) ECONOMIC SELF-SUFFICIENCY; AND

(4) REFLECTS THE INDIVIDUAL'S NEED FOR A COMBINATION AND SEQUENCE OF SPECIAL INTERDISCIPLINARY OR GENERIC CARE, TREATMENT, OR OTHER SERVICES THAT ARE:

- (I) LIFELONG OR OF EXTENDED DURATION; AND
- (II) INDIVIDUALLY PLANNED AND COORDINATED.

(B) DEVELOPMENTAL DISABILITY.

AN INDIVIDUAL HAS A DEVELOPMENTAL DISABILITY IF THE INDIVIDUAL HAS A FUNCTIONAL DISABILITY THAT IS MANIFESTED BEFORE THE INDIVIDUAL ATTAINS THE AGE OF 22 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 128(c), (d), and, as it related to an individual with a head injury, (a). It is revised as a substantive provision, rather than as a definition provision, to avoid defining terms that are used only once in this subtitle.

Throughout this section, the references to an "individual" are substituted for the former references to a "person" for consistency throughout this subtitle and because only a human being, and not the other entities included in the defined term "person", may qualify for respite care under this part. *See* § 1-101 of this article.

In the introductory language of subsection (a) of this section, the former reference to "an individual with a head injury who, notwithstanding age, meets the definition of developmentally disabled" is deleted as unnecessary in light of the inclusion of a head injury in the description of a functional disability.

In subsection (a)(1) of this section, the phrase "including a head injury" is added for brevity and clarity.

Subsection (b) of this section is revised to combine the repetitive language of former Art. 88A, § 128(c) and (d) for brevity and clarity.

7-203. RESPITE CARE PROGRAM.

(A) ESTABLISHED; PURPOSE.

(1) THERE IS A RESPITE CARE PROGRAM IN THE DEPARTMENT.

(2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE RESPITE CARE SERVICES IN THE STATE.

(B) PROVISION OF SERVICES.

THE DEPARTMENT SHALL PROVIDE RESPITE CARE SERVICES THROUGH:

(1) LOCAL DEPARTMENTS OF SOCIAL SERVICES; OR

(2) CONTRACTS WITH PRIVATE NONPROFIT COMMUNITY-BASED PROVIDERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 129(a) and (b).

Subsection (a) of this section is revised in standard language for clarity and consistency with similar provisions throughout this article.

In the introductory language of subsection (b) of this section, the requirement that "[t]he Department ... provide" respite care services is added for clarity.

Defined terms: "Department" § 7-201
"Respite care" § 7-201

7-204. LIMITATIONS ON RESPITE CARE.

SUBJECT TO THE STATE BUDGET, WITHIN A FISCAL YEAR AN INDIVIDUAL MAY RECEIVE:

(1) ON AN HOURLY BASIS, UP TO 24 HOURS OF RESPITE CARE PROVIDED IN PERIODS OF LESS THAN 10 HOURS IN ANY 24-HOUR PERIOD; AND

(2) ON A DAILY BASIS, UP TO 14 DAYS OF RESPITE CARE PROVIDED IN PERIODS OF 10 OR MORE HOURS IN ANY 24-HOUR PERIOD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 128(b).

In the introductory language of this section, the former reference to "the appropriation provided for this program" is deleted as surplusage.

In items (1) and (2) of this section, the phrases "on an hourly basis" and "on a daily basis", respectively, are added for clarity.

In item (2) of this section, the former reference to "a 'day' being defined for purposes of this section" is deleted as surplusage.

Defined term: "Respite care" § 7-201

7-205. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING RESPITE CARE SERVICES, INCLUDING:

- (1) MANDATORY STANDARDS; AND
- (2) SLIDING FEE SCHEDULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 129(c).

In the introductory language of this section, the reference to "adopt[ing]" regulations is substituted for the former reference to "promulgat[ing]" regulations for consistency throughout this article. *See* General Revisor's Note to article.

Also in the introductory language of this section, the former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

Also in the introductory language of this section, the former phrase ", but not limited to," is deleted in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In item (2) of this section, the former reference to the "creation and maintenance" of sliding fee schedules is deleted as surplusage.

Defined terms: "Department" § 7-201
"Respite care" § 7-201

SUBTITLE 3. MARYLAND CAREGIVERS SUPPORT COORDINATING COUNCIL.

7-301. DEFINITIONS.

- (A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

- (B) COUNCIL.

"COUNCIL" MEANS THE MARYLAND CAREGIVERS SUPPORT COORDINATING COUNCIL.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Maryland Caregivers Support Coordinating Council".

- (C) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Department of Human Resources”.

7-302. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS A MARYLAND CAREGIVERS SUPPORT COORDINATING COUNCIL IN THE DEPARTMENT.

(B) PURPOSE.

THE PURPOSE OF THE COUNCIL IS TO COORDINATE STATEWIDE PLANNING, DEVELOPMENT, AND IMPLEMENTATION OF FAMILY CAREGIVER SUPPORT SERVICES.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 88A, § 129A(a).

Defined terms: “Council” § 7-301
“Department” § 7-301

7-303. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) TWO REPRESENTATIVES FROM THE DEPARTMENT OF HUMAN RESOURCES;

(II) THREE REPRESENTATIVES FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(III) ONE REPRESENTATIVE FROM THE DEPARTMENT OF AGING;

(IV) ONE REPRESENTATIVE FROM AN AREA AGENCY ON AGING;

(V) ONE REPRESENTATIVE FROM THE DEPARTMENT OF DISABILITIES;

(VI) ONE REPRESENTATIVE FROM THE MARYLAND RESPITE CARE COALITION;

(VII) TWO CONSUMERS OF RESPITE CARE SERVICES;

(VIII) THREE FAMILY CAREGIVERS; AND

(IX) THREE REPRESENTATIVES OF ORGANIZATIONS THAT PROVIDE OR HAVE INTEREST OR EXPERTISE IN RESPITE CARE SERVICES.

(2) IN APPOINTING MEMBERS TO THE COUNCIL, TO THE EXTENT POSSIBLE, THE GOVERNOR SHALL CONSIDER GROUPS REPRESENTING INDIVIDUALS WITH:

- (I) ALZHEIMER'S DISEASE AND RELATED DISORDERS;
- (II) DEVELOPMENTAL DISABILITIES;
- (III) PHYSICAL DISABILITIES;
- (IV) CHRONIC ILLNESSES;
- (V) MENTAL OR EMOTIONAL CONDITIONS THAT REQUIRE SUPERVISION; AND
- (VI) VULNERABILITY TO ABUSE OR NEGLECT.

(B) TERMS OF MEMBERS.

THE TERM OF A MEMBER OF THE COUNCIL IS 3 YEARS.

(C) CHAIR.

THE GOVERNOR SHALL APPOINT A CHAIR OF THE COUNCIL FROM AMONG THE MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 129A(b)(1) through (4).

In subsection (a)(1)(vii) and (ix) of this section, the references to respite "care" services are added for consistency.

In subsection (b) of this section, the former phrase "and may be reappointed" is deleted as implicit.

In subsection (c) of this section, the reference to a "chair" is substituted for the former reference to a "chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined terms: "Council" § 7-301
 "Department" § 7-301

7-304. STAFF; COMPENSATION.

(A) STAFF.

(1) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COUNCIL.

(2) AN INDIVIDUAL FROM THE DEPARTMENT SHALL SERVE AS EXECUTIVE DIRECTOR OF THE COUNCIL.

(B) COMPENSATION.

A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL;
 BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 129A(b)(5) and (6).

Defined terms: "Council" § 7-301
 "Department" § 7-301

7-305. DUTIES.

(A) IN GENERAL.

THE COUNCIL SHALL:

(1) SOLICIT AND GATHER CONCERNS OF CAREGIVERS BY:

- (I) CONDUCTING SURVEYS;
- (II) HOLDING PUBLIC HEARINGS;
- (III) ESTABLISHING A TELEPHONE HOTLINE FOR PUBLIC ACCESS;

AND

(IV) OTHER APPROPRIATE MEANS;

(2) DEVELOP AND DISTRIBUTE TO INTERESTED PARTIES A HANDBOOK OF CURRENT RESPITE CARE AND OTHER FAMILY CAREGIVER SERVICES AVAILABLE IN THE STATE;

(3) REVIEW SUCCESSFUL RESPITE CARE PROGRAMS IN OTHER STATES;

(4) DEVELOP A MODEL FAMILY CAREGIVER SUPPORT PROGRAM THAT INCORPORATES BEST PRACTICES FROM EXISTING PROGRAMS IN THIS AND OTHER STATES;

(5) COORDINATE ACTIVITIES OF EXISTING AND PROPOSED FAMILY CAREGIVER SUPPORT SERVICES AMONG STATE AND LOCAL UNITS;

(6) RESEARCH AVAILABLE FUNDING SOURCES AND EXPLORE POSSIBILITIES FOR ADDITIONAL FUNDS; AND

(7) IDENTIFY UNMET NEEDS AND PRIORITIES FOR ADDITIONAL FUNDS.

(B) ANNUAL REPORT.

THE COUNCIL SHALL REPORT ANNUALLY ON ITS ACTIVITIES TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88A, § 129A(c) and (d).

In subsection (a)(5) of this section, the reference to "units" is substituted for the former reference to "public agencies" for consistency throughout this article.

Defined terms: "Council" § 7-301
 "State" § 1-101

SUBTITLE 4. ATTENDANT CARE PROGRAM.

7-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(a).

No changes are made.

(B) ATTENDANT CARE SERVICES.

"ATTENDANT CARE SERVICES" MEANS ANY OF THE FOLLOWING SERVICES FOR AN ELIGIBLE INDIVIDUAL, WHICH ARE CERTIFIED AS NECESSARY BY AN ATTENDING PHYSICIAN OR BY A REGISTERED NURSE:

- (1) DRESSING;
- (2) PREPARING FOOD AND ASSISTING WITH EATING;
- (3) BATHING AND PERSONAL HYGIENE;
- (4) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING BOWEL AND URINARY CARE;
- (5) MOVING INTO, OUT OF, OR TURNING IN BED;
- (6) LAUNDERING AND OTHER CLOTHING CARE; AND
- (7) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF DAILY CARE, INCLUDING SHOPPING AND TRANSPORTATION, THAT THE DEPARTMENT AND THE ELIGIBLE INDIVIDUAL REQUEST.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-601(e).

In item (2) of this subsection, the former reference to "the disabled individual" is deleted as included in the introductory language of this subsection.

In the introductory language and item (7) of this subsection, the defined term "eligible individual" is substituted for the former reference to a "disabled individual" for consistency throughout this subtitle.

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF DISABILITIES.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(c).

No changes are made.

(D) ELIGIBLE INDIVIDUAL.

“ELIGIBLE INDIVIDUAL” MEANS AN INDIVIDUAL WHO:

(1) IS AT LEAST 18 YEARS OLD AND UNDER THE AGE OF 65 YEARS; AND

(2) HAS A SEVERE CHRONIC OR PERMANENT PHYSICAL DISABILITY THAT PRECLUDES OR SIGNIFICANTLY IMPAIRS THE INDIVIDUAL'S INDEPENDENT PERFORMANCE OF ESSENTIAL ACTIVITIES OF DAILY LIVING, SELF-CARE, OR MOBILITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-601(f).

In the introductory language of this subsection, the former reference to an eligible “disabled” individual is deleted for brevity and consistency with current terminology.

(E) FINANCIAL ASSISTANCE.

“FINANCIAL ASSISTANCE” MEANS A PAYMENT THE DEPARTMENT MAKES TO AN ELIGIBLE INDIVIDUAL FOR ATTENDANT CARE SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-601(g).

The former phrase “to aid in securing” is deleted for brevity and consistency with § 7-402(a)(2) of this subtitle.

(F) PROGRAM.

“PROGRAM” MEANS THE ATTENDANT CARE PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(h).

No changes are made.

(G) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF DISABILITIES.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(d).

No changes are made.

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 18-601(b), which defined “Director” to mean the Director of the Attendant Care Program, is deleted as unnecessary because the term is only used once in § 7-403 of this subtitle.

7-402. ESTABLISHED; PURPOSE; SLIDING PAYMENT SCALE.

(A) ESTABLISHED; PURPOSE.

(1) THERE IS AN ATTENDANT CARE PROGRAM IN THE DEPARTMENT.

(2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE TO ELIGIBLE INDIVIDUALS FOR ATTENDANT CARE SERVICES.

(B) SLIDING PAYMENT SCALE.

THE DEPARTMENT SHALL PROVIDE FINANCIAL ASSISTANCE IN ACCORDANCE WITH A SLIDING PAYMENT SCALE THAT THE DEPARTMENT ESTABLISHES BY REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-602(a)(1) and (4).

Subsection (a) of this section is revised in standard language for clarity and consistency with similar provisions throughout this article.

In subsection (b) of this section, the requirement that "[t]he Department" provide financial assistance is added for clarity.

Also in subsection (b) of this section, the reference to establishing a sliding payment scale "by regulation" is added for clarity. *See* SG § 10-101.

Defined terms: "Attendant care services" § 7-401

"Department" § 7-401

"Eligible individual" § 7-401

"Financial assistance" § 7-401

"Program" § 7-401

7-403. DIRECTOR; SUPPORT SERVICES.

(A) DIRECTOR.

THE SECRETARY SHALL DESIGNATE AN INDIVIDUAL FROM THE DEPARTMENT TO SERVE AS DIRECTOR OF THE PROGRAM.

(B) SUPPORT SERVICES.

THE SECRETARY SHALL PROVIDE APPROPRIATE SUPPORT SERVICES TO THE PROGRAM AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-602(a)(3).

In subsection (b) of this section, the phrase "as provided in the State budget" is substituted for the former phrase "from existing budgets" for consistency with standard language.

Defined terms: "Department" § 7-401

"Program" § 7-401

"Secretary" § 7-401

7-404. PARTICIPATION IN PROGRAM.

(A) RECIPIENTS OF FINANCIAL ASSISTANCE.

(1) THE DEPARTMENT SHALL ENSURE THAT AT ANY GIVEN TIME AT LEAST 50% OF THE ELIGIBLE INDIVIDUALS RECEIVING FINANCIAL ASSISTANCE UNDER THE PROGRAM ARE:

(I) GAINFULLY EMPLOYED;

(II) ACTIVELY SEEKING EMPLOYMENT; OR

(III) ATTENDING AN INSTITUTION OF POSTSECONDARY OR HIGHER EDUCATION, AS DEFINED IN § 10-101 OF THE EDUCATION ARTICLE.

(2) THE REMAINDER OF THE ELIGIBLE INDIVIDUALS RECEIVING FINANCIAL ASSISTANCE UNDER THE PROGRAM SHALL BE INDIVIDUALS WHO:

(I) RESIDE IN A NURSING HOME OR SIMILAR INSTITUTION LICENSED TO PROVIDE CHRONIC OR INTERMEDIATE CARE AND WHO WILL BE DEINSTITUTIONALIZED AS A RESULT OF THE PROGRAM; OR

(II) ARE ON AN APPROVED WAITING LIST FOR A NURSING HOME OR SIMILAR INSTITUTION LICENSED TO PROVIDE CHRONIC OR INTERMEDIATE CARE.

(B) DUPLICATION PROHIBITED.

FINANCIAL ASSISTANCE PROVIDED UNDER THE PROGRAM MAY NOT DUPLICATE ANY OTHER STATE OR FEDERAL ASSISTANCE FOR ATTENDANT CARE SERVICES THAT AN ELIGIBLE INDIVIDUAL RECEIVES.

(C) LIMITATION ON PARTICIPATION.

THE DEPARTMENT SHALL LIMIT PARTICIPATION IN THE PROGRAM TO THE NUMBER OF ELIGIBLE INDIVIDUALS WHO CAN BE SERVED WITH THE FUNDS APPROPRIATED FOR THE PROGRAM IN THE STATE BUDGET.

(D) REVIEW OF ELIGIBILITY.

EACH YEAR, THE DEPARTMENT SHALL REVIEW THE ELIGIBILITY OF EACH INDIVIDUAL RECEIVING FINANCIAL ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-602(b), (c), (d), and (a)(5).

In the introductory language of subsection (a)(2) of this section, the former reference to individuals "currently" residing in an institution or on an approved waiting list is deleted as surplusage.

In subsection (a)(2)(ii) of this section, the reference to "a nursing home or similar institution licensed to provide chronic or intermediate care" is substituted for the former reference to "an institution" for clarity and consistency with subsection (a)(2)(i) of this section.

In subsection (c) of this section, the reference to funds "appropriated" is substituted for the former reference to funds "provided" for clarity.

Also in subsection (c) of this section, the former reference to "using the

total amount of” funds is deleted as surplusage.

Defined terms: “Attendant care services” § 7-401

“Department” § 7-401

“Eligible individual” § 7-401

“Financial assistance” § 7-401

“Program” § 7-401

7-405. FUNDING; ADMINISTRATION.

(A) FUNDING.

THE PROGRAM SHALL BE FUNDED AS PROVIDED IN THE STATE BUDGET.

(B) ADMINISTRATION.

THE DEPARTMENT MAY:

(1) ADMINISTER THE PROGRAM DIRECTLY; OR

(2) ENTER INTO A CONTRACT WITH A PRIVATE ORGANIZATION TO ADMINISTER AND OPERATE THE PROGRAM.

REVISOR’S NOTE: This section formerly was Art. 41, § 18-603.

The only changes are in style.

Defined terms: “Department” § 7-401

“Program” § 7-401

7-406. ADMINISTRATION OF SUBTITLE; REGULATIONS.

(A) ADMINISTRATION OF SUBTITLE.

THE DEPARTMENT SHALL ADMINISTER THIS SUBTITLE.

(B) REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE OPERATION OF THE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18-604 and 18-602(a)(2).

In subsection (a) of this section, the former authority for the Department to “adopt rules and regulations necessary to implement [this subtitle]” is deleted as unnecessary in light of subsection (b) of this section, which requires the Department to “adopt regulations for the operation of the Program”.

In subsection (b) of this section, the former reference to “rules” is deleted in light of the reference to “regulations”. *See* General Revisor’s Note to article.

Defined terms: “Department” § 7-401

“Program” § 7-401

SUBTITLE 5. COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

7-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-7A-01(a).

No changes are made.

(B) AGENCY-PROVIDER MODEL.

"AGENCY-PROVIDER MODEL" MEANS A METHOD OF PROVIDING COMMUNITY ATTENDANT SERVICES AND SUPPORTS FOR A CONSUMER BY A PERSONAL ASSISTANT WHO IS:

- (1) EMPLOYED BY A PROVIDER AGENCY; AND
- (2) SUPERVISED AND EVALUATED BY THE CONSUMER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6-7A-01(b).

In the introductory language of this subsection, the former reference to a "service option" is deleted as surplusage.

Also in the introductory language of this subsection, the defined term "consumer" is substituted for the former reference to an "eligible individual" for consistency throughout this subtitle.

The former phrase "and the agency is the personal assistant's employer of record" is deleted as unnecessary in light of the reference to the personal assistant being "employed by a provider agency".

Defined terms: "Community attendant services and supports" § 7-501

"Consumer" § 7-501

"Personal assistant" § 7-501

(C) ATTENDANT SERVICES AND SUPPORTS.

"ATTENDANT SERVICES AND SUPPORTS" MEANS ANY OF THE FOLLOWING SERVICES FOR A CONSUMER, WHICH ARE CERTIFIED AS NECESSARY BY A HEALTH CARE PROFESSIONAL:

- (1) DRESSING;
- (2) PREPARING FOOD AND ASSISTING WITH EATING;
- (3) BATHING AND PERSONAL HYGIENE;
- (4) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING BOWEL AND URINARY CARE;
- (5) MOVING INTO, OUT OF, OR TURNING IN BED;

(6) LAUNDERING AND OTHER CLOTHING CARE; AND

(7) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF DAILY CARE, INCLUDING SHOPPING AND TRANSPORTATION, THAT THE CONSUMER AND THE DEPARTMENT REQUEST.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6-7A-01(c)(1).

Throughout this subsection, the defined term "consumer" is substituted for the former references to a "disabled individual" for consistency throughout this subtitle.

Defined terms: "Consumer" § 7-501

"Department" § 7-501

(D) COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

"COMMUNITY ATTENDANT SERVICES AND SUPPORTS" MEANS ATTENDANT SERVICES AND SUPPORTS PROVIDED TO A CONSUMER:

(1) UNDER A PLAN OF SERVICES THAT IS:

(I) BASED ON AN ASSESSMENT OF THE CONSUMER'S FUNCTIONAL NEED; AND

(II) APPROVED BY THE CONSUMER OR THE CONSUMER'S REPRESENTATIVE; AND

(2) UNDER AN AGENCY-PROVIDER MODEL OR CONSUMER-DIRECTED MODEL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6-7A-01(d).

Throughout this subsection, the defined term "consumer" is substituted for the former references to an "individual" for consistency throughout this subtitle.

In item (1)(ii) of this subsection, the words "approved by" are substituted for the former words "agreed to" for consistency with § 7-504(a) of this subtitle.

In item (2) of this subsection, the former phrase "or other model as defined in this section" is deleted as surplusage. In practice, there are only two models of providing community attendant services and supports: an agency-provider model and a consumer-directed model.

Defined terms: "Agency-provider model" § 7-501

"Attendant services and supports" § 7-501

"Consumer" § 7-501

(E) CONSUMER.

“CONSUMER” MEANS AN ELIGIBLE INDIVIDUAL WHO RECEIVES COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6–7A–01(e).

The defined term “community attendant services and supports” is substituted for the former reference to “community–based attendant services and supports” for consistency throughout this subtitle.

The former reference to “attendant services and supports” is deleted as included in the definition of “community attendant services and supports”.

Defined terms: “Community attendant services and supports” § 7–501
“Eligible individual” § 7–501

(F) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–7A–01(f).

No changes are made.

(G) ELIGIBLE INDIVIDUAL.

“ELIGIBLE INDIVIDUAL” MEANS AN INDIVIDUAL WHO IS ELIGIBLE FOR THE PROGRAM UNDER § 7–503 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added for brevity.

(H) FUNCTIONAL NEED.

“FUNCTIONAL NEED” MEANS THE NEED FOR ATTENDANT SERVICES AND SUPPORTS BASED ON THE ABILITIES AND LIMITATIONS OF THE CONSUMER, REGARDLESS OF MEDICAL DIAGNOSIS OR CATEGORY OF DISABILITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6–7A–01(h).

The defined term “attendant services and supports” is substituted for the former reference to “personal assistance” for consistency throughout this subtitle.

Defined term: “Attendant services and supports” § 7–501
“Consumer” § 7–501

(I) PERSONAL ASSISTANT.

“PERSONAL ASSISTANT” MEANS AN INDIVIDUAL WHO DIRECTLY PROVIDES ATTENDANT SERVICES AND SUPPORTS.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–7A–01(l).

The only changes are in style.

Defined term: "Attendant services and supports" § 7-501

(J) PROGRAM.

"PROGRAM" MEANS THE COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-7A-01(m).

The only changes are in style.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the Program is currently known as "Living at Home: Maryland Community Choices".

Defined term: "Community attendant services and supports" § 7-501

(K) REPRESENTATIVE.

"REPRESENTATIVE" MEANS A PARENT, FAMILY MEMBER, GUARDIAN, ADVOCATE, OR AUTHORIZED REPRESENTATIVE OF AN INDIVIDUAL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 6-7A-01(n).

The former reference to an "eligible" individual is deleted for accuracy.

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 6-7A-01(j), which defined "nursing home transition grant", is deleted as unnecessary because the term is not used in this subtitle.

7-502. COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

(A) ESTABLISHED.

SUBJECT TO THE STATE BUDGET AND IN COLLABORATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES SHALL ADMINISTER A COMPREHENSIVE PROGRAM OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

(B) PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE ATTENDANT SERVICES AND SUPPORTS TO INDIVIDUALS WITH DISABILITIES WHO WILL BE DISCHARGED OR DIVERTED FROM NURSING FACILITIES WITH COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROVIDED THROUGH A MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER.

(C) INPUT REQUIRED.

THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE INDIVIDUALS, THE INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS ABOUT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-7A-02(a) and (c).

In subsection (a) of this section, the former reference to "home and" community attendant services and supports is deleted for consistency.

Defined terms: "Attendant services and supports" § 7-501

"Community attendant services and supports" § 7-501

"Department" § 7-501

"Eligible individual" § 7-501

"Program" § 7-501

"Representative" § 7-501

7-503. ELIGIBILITY.

AN INDIVIDUAL IS ELIGIBLE FOR THE PROGRAM IF THE INDIVIDUAL:

- (1) HAS A COGNITIVE, SENSORY, OR PHYSICAL DISABILITY;
- (2) IS AT LEAST 21 YEARS OLD AND UNDER THE AGE OF 60 YEARS;
- (3) REQUIRES THE LEVEL OF CARE PROVIDED IN A NURSING FACILITY;
- (4) WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY;
- (5) QUALIFIES FOR THE MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER FOR ADULTS WITH PHYSICAL DISABILITIES;
- (6) HAS A FUNCTIONAL NEED; AND
- (7) HAS AN INCOME THAT DOES NOT EXCEED 300% OF SUPPLEMENTAL SECURITY INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 6-7A-01(g), 6-7A-02(d), and 6-7A-03(h) and (i).

In item (2) of this section, the former requirement that the "Department shall limit participation in the program" is revised as an eligibility requirement for the Program for clarity.

In item (5) of this section, the reference to the Medicaid "home and community-based services" waiver is added for accuracy.

In item (6) of this section, the former phrase "based on abilities and limitations of the consumer" is deleted as included in the definition of "functional need".

In item (7) of this section, the former requirement that the Department "in coordination with the Department of Health and Mental Hygiene, shall amend the existing waiver ... to include individuals with incomes at or below 300% of supplemental security income" is revised as an eligibility requirement for the Program because the waiver amendment has been

submitted and approved by the federal Centers for Medicare and Medicaid Services.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the waiver renewal effective July 1, 2004, allows individuals 18 years old and older to receive services under the Program.

Defined terms: "Functional need" § 7-501
"Program" § 7-501

7-504. INDIVIDUALIZED SUPPORT PLAN.

(A) PLAN REQUIRED.

EACH CONSUMER'S SERVICES SHALL BE BASED ON AN INDIVIDUALIZED SUPPORT PLAN THAT IS:

(1) JOINTLY DEVELOPED BY THE CONSUMER OR THE CONSUMER'S REPRESENTATIVE AND THE DEPARTMENT OR ITS DESIGNEE;

(2) APPROVED BY THE CONSUMER OR THE CONSUMER'S REPRESENTATIVE; AND

(3) GIVEN TO THE CONSUMER AND THE CONSUMER'S REPRESENTATIVE IN WRITING OR OTHER APPROPRIATE AND UNDERSTANDABLE FORMAT.

(B) PLAN SPECIFICATIONS.

THE INDIVIDUALIZED SUPPORT PLAN SHALL SPECIFY:

(1) THE SCOPE OF ATTENDANT SERVICES AND SUPPORTS AND THE HOURS THAT THE SERVICES ARE TO BE PROVIDED;

(2) ALTERNATE SOURCES FOR ATTENDANT SERVICES AND SUPPORTS, INCLUDING THE MEANS OF ENSURING SUBSTITUTE AND EMERGENCY ATTENDANT SERVICES AND SUPPORTS;

(3) A MECHANISM TO COORDINATE ATTENDANT SERVICES AND SUPPORTS WITH HEALTH CARE SERVICES THAT THE CONSUMER RECEIVES;

(4) AN INITIAL ASSESSMENT OF THE CONSUMER'S NEEDS AND THE FREQUENCY OF REASSESSMENT;

(5) THE METHOD OF SERVICE DELIVERY;

(6) THE DEGREE AND FREQUENCY OF SUPERVISION OF THE PERSONAL ASSISTANT NECESSARY FOR EFFECTIVE DELIVERY OF ATTENDANT SERVICES AND SUPPORTS;

(7) THE MEANS TO ADJUST SERVICES AND HOURS WHEN CHANGES ARE NEEDED; AND

(8) COMPLAINT AND APPEAL PROCEDURES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 6-7A-04 and 6-7A-03(e)(1).

In the introductory language of subsection (a) of this section, the former reference to a "program of" services is deleted as surplusage.

Also in the introductory language of subsection (a) of this section, the former reference to a "mutually agreed upon individual services plan" is deleted as included in the reference to an "individualized support plan that is ... jointly developed ... [and] approved by the consumer ...".

Also in the introductory language of subsection (a) of this section, the former reference to an "initial" individualized support plan is deleted as surplusage.

In subsection (b)(1) of this section, the defined term "attendant services and supports" is substituted for the former reference to "personal assistance services" for consistency throughout this subtitle.

Defined terms: "Attendant services and supports" § 7-501

"Consumer" § 7-501

"Department" § 7-501

"Personal assistant" § 7-501

"Representative" § 7-501

7-505. MANAGEMENT AND ADMINISTRATION OF ATTENDANT SERVICES AND SUPPORTS.

(A) CONSUMER CHOICE.

(1) TO THE EXTENT POSSIBLE, A CONSUMER MAY SELECT, MANAGE, AND CONTROL THE CONSUMER'S COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

(2) A CONSUMER MAY CHOOSE BETWEEN A CONSUMER-DIRECTED INDIVIDUAL PROVIDER MODEL OR AN AGENCY-PROVIDER MODEL.

(3) UNDER A CONSUMER-DIRECTED MODEL, A CONSUMER MAY USE A FISCAL AGENT TO OBTAIN SERVICES.

(B) DELIVERY OF ATTENDANT SERVICES AND SUPPORTS.

(1) ATTENDANT SERVICES AND SUPPORTS SHALL BE DESIGNED TO ASSIST A CONSUMER IN ACCOMPLISHING ACTIVITIES OF DAILY LIVING AND HEALTH-RELATED FUNCTIONS THROUGH:

(I) HANDS-ON ASSISTANCE;

(II) SUPERVISION; OR

(III) CUEING, PROMPTING, OR REMINDING THE CONSUMER ABOUT AN ACTIVITY.

(2) ATTENDANT SERVICES AND SUPPORTS SHALL BE PROVIDED IN A CONSUMER'S HOME OR OTHER INDEPENDENT OR SUPPORTED LIVING ENVIRONMENT, INCLUDING SCHOOL, WORK, RECREATIONAL, AND RELIGIOUS SETTINGS.

(3) ATTENDANT SERVICES AND SUPPORTS MAY NOT BE PROVIDED IN:

(I) A NURSING FACILITY;

(II) AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED; OR

(III) A FACILITY THAT PROVIDES FOOD, SHELTER, AND TREATMENT SERVICES TO FOUR OR MORE INDIVIDUALS UNRELATED TO THE PROPRIETOR.

(C) AVAILABILITY OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

COMMUNITY ATTENDANT SERVICES AND SUPPORTS SHALL BE AVAILABLE 24 HOURS A DAY, 7 DAYS A WEEK, AND PROVIDE BACKUP AND EMERGENCY COMMUNITY ATTENDANT SERVICES AND SUPPORTS WHEN NECESSARY.

(D) PERSONAL ASSISTANTS.

(1) A CONSUMER MAY SELECT OR HIRE ANYONE, INCLUDING A FAMILY MEMBER, AS A PERSONAL ASSISTANT.

(2) BASED ON CONSUMER RECOMMENDATIONS, THE DEPARTMENT MAY WAIVE CERTAIN QUALIFICATIONS REQUIRED BY REGULATION FOR A PERSONAL ASSISTANT, IF THE PERSONAL ASSISTANT IS A FAMILY MEMBER OR IS KNOWN AND CHOSEN BY THE CONSUMER.

(3) A FAMILY MEMBER, EXCEPT THE CONSUMER'S SPOUSE, MAY RECEIVE MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

(4) THE DEPARTMENT SHALL OFFER A CONSUMER TRAINING ON:

(I) HOW TO SELECT, MANAGE, AND DISMISS AN ATTENDANT OR PERSONAL ASSISTANT; AND

(II) THE FINANCIAL MANAGEMENT OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 6-7A-01(i), (k), and (c)(2) and 6-7A-03(a), (b), (d), (f), and (e)(2).

In subsection (a)(1) of this section, the defined term "consumer" is substituted for the former reference to an "eligible individual who is a participant in the program" for brevity and consistency throughout this subtitle.

Also in subsection (a)(1) of this section, the word "consumer's" is substituted for the former word "individual's" for clarity.

In subsection (a)(2) and (3) of this section, the former references to “different service delivery options”, “other service options”, and “methods other than an agency–provider model” are deleted as surplusage. As to the models of delivering community attendant services and supports, see the Revisor’s Note to § 7–501(d) of this subtitle.

In subsection (a)(2) of this section, the word “may” is substituted for the former phrase “shall have an opportunity to” for brevity.

Also in subsection (a)(2) of this section, the defined term “agency–provider model” is substituted for the former reference to “agency models” for consistency throughout this subtitle.

Also in subsection (a)(2) of this section, the former reference to a “consumer–directed” agency–provider model is deleted as included in the definition of “agency–provider model”.

In subsection (b)(2) of this section, the former phrase “but not limited to” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “including” is used “by way of illustration and not by way of limitation”.

In subsection (b)(3)(iii) of this section, the reference to a “facility” is substituted for the former reference to an “establishment that, in single or multiple facilities,” for brevity and clarity.

Also in subsection (b)(3)(iii) of this subsection, the reference to “individuals” is substituted for the former reference to “persons” because only a human being, and not the other entities included in the defined term “person”, could receive the services described.

Also in subsection (b)(3)(iii) of this section, the former reference to “some” treatment services is deleted as surplusage.

In subsections (c) and (d)(4)(ii) of this section, the references to “community attendant services and supports” are substituted for the former references to “personal assistance services” for consistency throughout this subtitle.

In subsection (d)(1) of this section, the word “anyone” is substituted for the former phrase “whomever the consumer chooses” for brevity.

In subsection (d)(3) of this section, the phrase “may receive” is substituted for the former phrase “may not be barred from receiving” for brevity.

Also in subsection (d)(3) of this section, the phrase “except the consumer’s spouse” is substituted for the former phrase “[e]xcept as provided in sub–subparagraph 4 of this subparagraph” and former Art. 41, § 6–7A–03(e)(2)(ii)4, which provided that “[t]he consumer’s spouse shall be barred from receiving medical assistance payments” for brevity.

Defined terms: “Agency–provider model” § 7–501
“Attendant services and supports” § 7–501

“Community attendant services and supports” § 7-501

“Consumer” § 7-501

“Personal assistant” § 7-501

7-506. MEDICAL ASSISTANCE ELIGIBILITY.

A CONSUMER IS ELIGIBLE FOR MEDICAL ASSISTANCE IF THE CONSUMER:

(1) WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE IN A MEDICAL INSTITUTION OR NURSING HOME; AND

(2) NEEDS COMMUNITY ATTENDANT SERVICES AND SUPPORTS TO REMAIN IN OR TRANSITION TO THE COMMUNITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-7A-03(c).

In the introductory language of this section, the former phrase “receiving services and supports under this program” is deleted as included in the definition of “consumer”.

In item (2) of this section, the former reference to “home and” community attendant services and supports is deleted for consistency throughout this subtitle.

Defined terms: “Community attendant services and supports” § 7-501
“Consumer” § 7-501

7-507. QUALITY ASSURANCE SYSTEM.

(A) IN GENERAL.

THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT A QUALITY ASSURANCE SYSTEM FOR THE PROGRAM, CONSISTENT WITH FEDERAL REQUIREMENTS REGARDING QUALITY OF WAIVER SERVICES.

(B) CONSUMER INPUT REQUIRED.

THE QUALITY ASSURANCE SYSTEM SHALL INCLUDE MEANINGFUL CONSUMER INPUT, INCLUDING CONSUMER SURVEYS, THAT MEASURE THE EXTENT TO WHICH CONSUMERS RECEIVE SERVICES DESCRIBED IN THEIR INDIVIDUALIZED SUPPORT PLANS AND CONSUMER SATISFACTION WITH THE SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-7A-05.

In subsection (b) of this section, the references to “consumers” and “consumer” are substituted for the former references to “participants” and “participant”, respectively, for consistency throughout this subtitle.

Also in subsection (b) of this section, the reference to “individualized support plans” is substituted for the former reference to “the individual plan” for consistency with § 7-504 of this subtitle.

Defined terms: "Consumer" § 7-501

"Program" § 7-501

7-508. REGULATIONS.

WITH SIGNIFICANT CONSUMER PARTICIPATION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-7A-02(b).

The former reference to "involvement" is deleted as included in the reference to "participation".

Defined term: "Consumer" § 7-501

7-509. CONSUMER RIGHTS.

(A) RIGHT TO BE INFORMED; RIGHT TO PRIVACY.

A COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROVIDER SHALL INFORM THE CONSUMER OF THE CONSUMER'S RIGHTS WITH RESPECT TO:

(1) SELECTING, MANAGING, AND CHANGING THE CONSUMER'S COMMUNITY ATTENDANT SERVICES AND SUPPORTS; AND

(2) PRIVACY AND CONFIDENTIALITY.

(B) RIGHT OF APPEAL.

A CONSUMER WHO IS DISSATISFIED WITH THE PROGRAM MAY APPEAL TO THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 6-7A-03(g) and (j).

In the introductory language of subsection (a) of this section, the requirement that a provider "inform the consumer" of the consumer's rights is substituted for the former requirement that a provider "assure that a consumer is informed" for brevity.

In subsection (a)(1) of this section, the defined term "community attendant services and supports" is substituted for the former reference to "personal assistance services" for consistency throughout this subtitle.

Defined terms: "Community attendant services and supports" § 7-501

"Consumer" § 7-501

"Department" § 7-501

"Program" § 7-501

7-510. PERIODIC REPORTS.

SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1, APRIL 1,

JULY 1, AND OCTOBER 1 OF EACH YEAR ABOUT THE STATUS AND DEVELOPMENT OF THE PROGRAM, INCLUDING THE NUMBER OF INDIVIDUALS BUDGETED FOR THE MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 41, § 6-7A-06.

The phrase "on or before January 1, April 1, July 1, and October 1 of each year" is substituted for the former phrase "every 3 months" to maintain the established schedule for submitting the required reports.

The second sentence of former Art. 41, § 6-7A-06, which required that "[t]he first report shall be submitted on October 1, 2001", is deleted as obsolete.

Defined terms: "Department" § 7-501
 "Program" § 7-501

SUBTITLE 6. ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM.

7-601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 14-901(a).

No changes are made.

(B) ASSISTIVE TECHNOLOGY.

(1) "ASSISTIVE TECHNOLOGY" MEANS ANY ITEM, EQUIPMENT, OR DEVICE THAT IS DESIGNED TO ENABLE AN INDIVIDUAL WITH A DISABILITY TO BECOME MORE INDEPENDENT OR A MORE PRODUCTIVE MEMBER OF THE COMMUNITY WITH AN IMPROVED QUALITY OF LIFE.

(2) "ASSISTIVE TECHNOLOGY" INCLUDES WHEELCHAIRS, MOTORIZED SCOOTERS, BRAILLE EQUIPMENT, VOICE SIMULATION SYSTEMS, SCANNERS, ASSISTIVE LISTENING DEVICES, TELECOMMUNICATIONS DEVICES FOR THE DEAF, AUGMENTATIVE COMMUNICATION SYSTEMS, ENVIRONMENTAL CONTROL SYSTEMS, COMPUTERS AND ADAPTIVE PERIPHERALS, BUILDING MODIFICATIONS FOR ACCESSIBILITY, MOTOR VEHICLES, AND VEHICLE MODIFICATIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14-901(b).

In paragraph (1) of this subsection, the reference to becoming "a more productive member of the community" is added in the definition of assistive technology, consistent with the use of the term throughout this subtitle, to avoid repetition of that phrase. *See, e.g.*, former Art. 41, §§ 14-903 and 14-906(b).

Also in paragraph (1) of this subsection, the reference to being “designed to” enable an individual with a disability is added for clarity.

Also in paragraph (1) of this subsection, the reference to “becom[ing] more independent” is substituted for the former reference to “improv[ing] individual independence” for clarity.

(C) BOARD.

“BOARD” MEANS THE BOARD OF DIRECTORS OF THE PROGRAM.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–901(c).

The reference to the Assistive Technology Guaranteed Loan “Program” is substituted for the former reference to the Assistive Technology Guaranteed Loan “Fund” for consistency with § 7–604 of this subtitle.

Defined term: “Program” § 7–601

(D) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF DISABILITIES.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Department of Disabilities”.

(E) FUND.

“FUND” MEANS THE ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(e).

No changes are made.

(F) PROGRAM.

“PROGRAM” MEANS THE ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(f).

No changes are made.

(G) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF DISABILITIES.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(d).

No changes are made.

7–602. PROGRAM ESTABLISHED.

THERE IS AN ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-902.

It is revised in standard language for clarity and consistency.

Defined term: "Department" § 7-601

7-603. PURPOSE OF PROGRAM.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE ASSISTANCE FOR THE PURCHASE OF ASSISTIVE TECHNOLOGY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-903.

The former phrase "equipment designed to enable individuals with disabilities to become more independent or more productive members of the community with an improved quality of life" is deleted as unnecessary because it is included in the definition of "assistive technology".

Defined terms: "Assistive technology" § 7-601
"Program" § 7-601

7-604. BOARD OF DIRECTORS -- ESTABLISHED.

THERE IS A BOARD OF DIRECTORS OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-904(a).

Defined term: "Program" § 7-601

7-605. BOARD OF DIRECTORS -- MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD CONSISTS OF:

(1) THE SECRETARY OF BUDGET AND MANAGEMENT OR THE SECRETARY'S DESIGNEE;

(2) A REPRESENTATIVE FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, DEVELOPMENTAL DISABILITIES ADMINISTRATION, APPOINTED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

(3) A REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION DIVISION OF REHABILITATION SERVICES, APPOINTED BY THE STATE SUPERINTENDENT OF SCHOOLS; AND

(4) EIGHT MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(B) QUALIFICATIONS OF MEMBERS APPOINTED BY GOVERNOR.

OF THE EIGHT MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR:

(1) FOUR SHALL HAVE SIGNIFICANT EXPERIENCE IN FINANCE, ACCOUNTING, INVESTMENT MANAGEMENT, OR CONSUMER LENDING; AND

(2) FOUR SHALL HAVE DISABILITIES OR ASSIST INDIVIDUALS WITH DISABILITIES, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE MARYLAND COMMISSION ON DISABILITIES.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER APPOINTED BY THE GOVERNOR MAY NOT SERVE MORE THAN TWO TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-904(b) through (f).

In subsection (a)(4) of this section, the standard reference to individuals appointed "with the advice and consent" of the Senate is substituted for the former reference to individuals "confirmed" by the Senate.

Defined terms: "Board" § 7-601
"Program" § 7-601

7-606. BOARD OF DIRECTORS -- CHAIR.

FROM AMONG ITS MEMBERS, THE BOARD ANNUALLY SHALL ELECT A CHAIR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-905(a).

The reference to a "chair" is substituted for the former reference to a "chairman" in light of the requirement of SG § 2-1238 that gender neutral words be used to the extent practicable.

Defined term: "Board" § 7-601

7-607. BOARD OF DIRECTORS -- QUORUM; MEETINGS; COMPENSATION; STAFF.

(A) QUORUM.

SIX MEMBERS OF THE BOARD ARE A QUORUM.

(B) MEETINGS.

THE BOARD SHALL MEET AT LEAST QUARTERLY OR MORE OFTEN AS NECESSARY TO CARRY OUT ITS DUTIES EFFICIENTLY.

(C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

(D) FINANCIAL BENEFIT PROHIBITED.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A MEMBER MAY NOT FINANCIALLY BENEFIT DIRECTLY OR INDIRECTLY FROM THE ACTIVITIES OF THE FUND.

(E) STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF TO THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14-904(g) and 14-905(b), (d), (e), and (f).

In subsection (b) of this section, the reference to meeting "more often as" necessary is substituted for the former reference to meeting "whenever it is" necessary for clarity in light of the requirement that the Board meet "at least quarterly". This substitution is called to the attention of the General Assembly.

In subsection (c) of this section, the phrase "as a member of the Board" is added for clarity.

Defined terms: "Board" § 7-601

"Department" § 7-601

7-608. BOARD AUTHORIZED TO GUARANTEE LOANS AND PROVIDE INTEREST SUBSIDIES.

SUBJECT TO §§ 7-609(A) AND 7-610 OF THIS SUBTITLE, THE BOARD MAY PROVIDE A GUARANTEE OF A LOAN OR A SUBSIDY OF LOAN INTEREST FOR A LOAN TO AN INDIVIDUAL FOR THE PURCHASE OF ASSISTIVE TECHNOLOGY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-909.

The reference to a loan "for the purchase of assistive technology" is substituted for the former reference to a loan "made to a qualifying borrower" for clarity and consistency throughout this subtitle.

The former phrase "on application" is deleted as unnecessary in light of the reference to "§§ 7-609(a) and 7-610 of this subtitle".

Defined term: "Board" § 7-601

7-609. APPLICATIONS; BOARD REVIEW OF APPLICATIONS.

(A) APPLICATIONS.

TO APPLY FOR A GUARANTEE OF A LOAN OR A SUBSIDY OF LOAN INTEREST, AN APPLICANT SHALL SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES.

(B) BOARD REVIEW OF APPLICATIONS.

THE BOARD SHALL REVIEW THE APPLICATIONS FOR GUARANTEES OF LOANS AND SUBSIDIES OF LOAN INTEREST AND APPROVE OR DENY THEM BASED ON INFORMATION PROVIDED TO OR OBTAINED BY THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14-905(c) and 14-911(a).

In subsection (a) of this section, the reference to "a guarantee of a loan or a subsidy of loan interest" is substituted for the former reference to "financial assistance" for consistency throughout this subtitle.

Defined terms: "Board" § 7-601
"Secretary" § 7-601

7-610. REQUIREMENTS.

THE BOARD MAY ENTER INTO AN AGREEMENT WITH AN APPLICANT TO GUARANTEE A LOAN OR PROVIDE A SUBSIDY FOR LOAN INTEREST TO THE APPLICANT ONLY IF THE APPLICANT DEMONSTRATES:

- (1) THAT THE LOAN TO BE GUARANTEED OR THE SUBSIDY OF LOAN INTEREST WILL BE USED TO ACQUIRE ASSISTIVE TECHNOLOGY;
- (2) THE ABILITY TO REPAY THE LOAN;
- (3) CREDITWORTHINESS; AND
- (4) THE INABILITY TO QUALIFY FOR A LOAN FROM A LENDING INSTITUTION WITHOUT A LOAN GUARANTEE OR A SUBSIDY OF LOAN INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14-910, 14-901(g), and 14-911(b).

In item (1) of this section, the former phrase "or other equipment designed to help one or more individuals with disabilities to improve their independence or become more productive members of the community" is deleted as unnecessary because it is included in the definition of "assistive technology".

Former Art. 41, § 14-901(g), which defined the term "qualifying borrower", is revised in item (1) of this section as a requirement to qualify for a loan guarantee or interest subsidy, rather than as a definition, for clarity. Correspondingly, references to a "qualifying" borrower are deleted throughout this subtitle as surplusage.

Former Art. 41, § 14-910(1), which required an applicant to “[meet] the qualifications required in § 14-911 of this subtitle”, is deleted in light of the revision of the required qualifications in this section.

Defined terms: “Assistive technology” § 7-601
 “Board” § 7-601

7-611. AMOUNT AND TERMS OF LOAN GUARANTEES AND INTEREST SUBSIDIES.

(A) DETERMINATION OF AMOUNT AND TERMS.

EXCEPT AS PROVIDED IN THIS SUBTITLE, THE BOARD AND LENDER JOINTLY SHALL DETERMINE THE AMOUNT AND TERMS OF THE GUARANTEE OF THE LOAN OR THE SUBSIDY OF LOAN INTEREST.

(B) MAXIMUM LOAN GUARANTEE.

THE TOTAL AGGREGATE AMOUNT OF A LOAN GUARANTEE MAY BE UP TO 100% OF THE LOAN.

(C) AGGREGATE LOAN GUARANTEES NOT TO EXCEED BALANCE IN FUND.

THE TOTAL AGGREGATE AMOUNT OF GUARANTEES PROVIDED FROM THE FUND MAY NOT AT ANY TIME EXCEED THE BALANCE AVAILABLE IN THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-912.

Defined terms: “Board” § 7-601
 “Fund” § 7-601

7-612. VIOLATIONS OF LOAN PROVISIONS.

IF A BORROWER VIOLATES ANY PROVISION OF A LOAN GUARANTEE OR SUBSIDY AGREEMENT OR CEASES TO MEET THE REQUIREMENTS OF THIS SUBTITLE, ON REASONABLE NOTICE TO THE BORROWER, THE BOARD MAY:

(1) WITHHOLD FROM THE BORROWER FURTHER LOAN GUARANTEES OR SUBSIDIES UNTIL THE BORROWER COMPLIES WITH THE AGREEMENT OR REQUIREMENTS; AND

(2) EXERCISE ANY OTHER REMEDY THAT THE LOAN GUARANTEE OR SUBSIDY AGREEMENT PROVIDES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-913.

Defined term: “Board” § 7-601

7-613. ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND.

(A) ESTABLISHED.

THERE IS AN ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND IN THE DEPARTMENT.

(B) PURPOSE.

THE PURPOSE OF THE FUND IS TO PROVIDE GUARANTEES OF LOANS AND SUBSIDIES OF LOAN INTEREST FOR THE PURCHASE OF ASSISTIVE TECHNOLOGY.

(C) ADMINISTRATION.

(1) THE BOARD SHALL ADMINISTER THE FUND.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(D) STATUS.

THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) INVESTMENT EARNINGS.

ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(F) REVERSION TO GENERAL FUND ON RESOLUTION OF BOARD.

IF, AT ANY TIME, THE BALANCE OF THE FUND EXCEEDS THE AMOUNT THAT THE BOARD CONSIDERS NECESSARY TO MEET ITS OBLIGATIONS, ON RESOLUTION OF THE BOARD, THE EXCESS SHALL REVERT TO THE GENERAL FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-906.

In subsection (b) of this section, the former phrase "equipment designed to enable individuals with disabilities to become more independent or more productive members of the community with an improved quality of life" is deleted as unnecessary because it is included in the definition of "assistive technology".

In subsection (c) of this section, the former requirement that the Board "manage" the Fund is deleted as included in the requirement that the Board "administer" the Fund.

Defined terms: "Assistive technology" § 7-601

"Board" § 7-601

"Department" § 7-601

"Fund" § 7-601

7-614. ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND — COMPOSITION; USE OF FUND.

(A) COMPOSITION.

THE FUND CONSISTS OF:

(1) PREMIUMS AND FEES CHARGED FOR THE GUARANTEES OF LOANS OR THE SUBSIDIES OF LOAN INTEREST;

- (2) INCOME FROM INVESTMENT EARNINGS;
 - (3) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF COLLATERAL RELATING TO THE GUARANTEES OF LOANS OR SUBSIDIES OF LOAN INTEREST;
 - (4) MONEY APPROPRIATED BY THE STATE TO THE FUND; AND
 - (5) ANY OTHER MONEY MADE AVAILABLE TO THE FUND.
- (B) USE OF FUND.

THE FUND SHALL BE USED TO PAY:

- (1) GUARANTY PAYMENTS REQUIRED BY LOAN DEFAULTS;
- (2) SUBSIDIES OF LOAN INTEREST;
- (3) EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, TECHNICAL ASSISTANCE, AND OTHER SERVICES; AND
- (4) ANY OTHER EXPENSES AND DISBURSEMENTS THAT THE BOARD AUTHORIZES FOR ADMINISTERING THE FUND AND FINANCING THE GUARANTEES OF LOANS AND THE SUBSIDIES OF LOAN INTEREST FOR THE PURCHASE OF ASSISTIVE TECHNOLOGY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-907.

Subsection (b) of this section is revised to state directly the primary uses of the Assistive Technology Guarantee Loan Fund, rather than "including by way of example".

In the introductory language of subsection (b) of this section, the former reference to assistive technology "for individuals with disabilities" is deleted as unnecessary in light of the definition of "assistive technology".

In subsection (b)(2) of this section, the reference to "subsidies of loan interest" is added to state expressly one of the primary uses of the Fund that was only implied under the former law.

Defined terms: "Board" § 7-601
"Fund" § 7-601

7-615. ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND -- ANNUAL REPORT BY TREASURER.

EACH YEAR, THE TREASURER SHALL REPORT TO THE BOARD AND THE SECRETARY ON:

- (1) THE STATUS OF THE MONEY INVESTED UNDER THIS SUBTITLE;
- (2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF THE REPORT; AND

(3) THE INTEREST RECEIVED FROM INVESTMENTS DURING THE PERIOD THAT THE REPORT COVERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-908.

Defined terms: "Board" § 7-601

"Fund" § 7-601

"Secretary" § 7-601

7-616. ANNUAL REPORT BY BOARD.

ON OR BEFORE JANUARY 1 OF EACH YEAR, THE BOARD, THROUGH THE SECRETARY, SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE NUMBER, AMOUNT, AND USE OF LOANS AND SUBSIDIES FOR WHICH THE PROGRAM HAS PROVIDED GUARANTEES OF LOANS AND SUBSIDIES OF LOAN INTEREST UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-914.

Defined terms: "Board" § 7-601

"Program" § 7-601

"Secretary" § 7-601

SUBTITLE 7. BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, AND MOBILITY IMPAIRED INDIVIDUALS.

7-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) BLIND.

"BLIND" MEANS:

(1) A VISUAL ACUITY NOT EXCEEDING 20/200 IN THE BETTER EYE WITH CORRECTIVE LENSES; OR

(2) A VISUAL FIELD OF WHICH THE WIDEST DIAMETER SUBTENDS AN ANGLE OF NOT MORE THAN 20 DEGREES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 30, § 32.

In the introductory language of this subsection, the former phrase "[f]or the purposes of this article" is deleted as surplusage.

In item (2) of this subsection, the former phrase “visual acuity greater than 20/200 but with a limitation in the fields of vision such that” is deleted as surplusage.

(C) DEAF.

“DEAF” MEANS A PERMANENT HEARING LOSS:

(1) THAT NECESSITATES THE USE OF AMPLIFICATION DEVICES TO HEAR ORAL COMMUNICATION; OR

(2) FOR WHICH AMPLIFICATION DEVICES ARE INEFFECTIVE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 30, § 31(b).

In item (1) of this subsection, the former reference to a permanent hearing loss that “is severe enough to” necessitate the use of amplification devices is deleted for brevity. Similarly, in item (2) of this subsection, the former reference to a permanent hearing loss “[t]hat is so severe” is deleted.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the permanency requirement in the definition of “deaf” is not included in the definitions of “blind” and “mobility impaired” in this section. The General Assembly may wish to consider deleting the reference to a “permanent” hearing loss in this subsection. The Human Services Article Review Committee further notes that the references to “amplification devices” may be too limited. The General Assembly may wish to consider substantively revising this subsection.

(D) HOUSING ACCOMMODATIONS.

“HOUSING ACCOMMODATIONS” MEANS REAL PROPERTY, OR A PORTION OF REAL PROPERTY, THAT IS:

(1) OFFERED FOR COMPENSATION; AND

(2) USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED, AS THE RESIDENCE OR LODGING OF AT LEAST ONE INDIVIDUAL.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the third clause of former Art. 30, § 33(i)(1) and the first four clauses of (2).

In item (1) of this subsection, the former references to real property offered for “rent” or “lease” are deleted as unnecessary in light of the reference to “compensation”.

In item (2) of this subsection, the reference to the “residence or lodging of at least one individual” is substituted for the former reference to the “home, residence, or sleeping place of one or more human beings” for brevity.

Also in item (2) of this subsection, the former references to real property “arranged” or “designed” to be used or occupied as a residence or lodging are deleted as unnecessary in light of the reference to real property “intended” to be used or occupied as a residence or lodging.

(E) MOBILITY IMPAIRED.

“MOBILITY IMPAIRED” MEANS AN INABILITY TO CARRY OBJECTS OR TO MOVE OR TRAVEL WITHOUT THE USE OF AN ASSISTIVE DEVICE OR SERVICE DOG.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 30, § 33(j)(1).

The reference to “mobility impaired” is substituted for the former reference to a “mobility impaired person” for brevity and consistency with other definitions in this section.

The former phrase “[i]n this section” is deleted as unnecessary in light of subsection (a) of this section.

(F) SERVICE DOG TRAINER.

“SERVICE DOG TRAINER” MEANS A PERSON WHO TRAINS SERVICE DOGS FOR:

- (1) BLIND OR VISUALLY IMPAIRED INDIVIDUALS;
- (2) DEAF OR HARD OF HEARING INDIVIDUALS; OR
- (3) MOBILITY IMPAIRED INDIVIDUALS.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 30, § 33(k)(1).

The former phrase “[i]n this subsection” is deleted as unnecessary in light of subsection (a) of this section.

As to the substitution of references to “individuals” for the former references to “persons”, the substitution of the reference to “visually impaired” individuals for the former reference to “visually handicapped” individuals, and the substitution of the reference to “hard of hearing” individuals for the former reference to “hearing impaired” individuals, *see* General Revisor’s Note to subtitle.

REVISOR’S NOTE TO SECTION:

Former Art. 30, § 31(a), which defined “deaf, dumb and blind”, is deleted as unnecessary because the term is not used.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the terms “visually impaired” and “hard of hearing” are used throughout this subtitle, but are not defined. The General Assembly may wish to consider adding definitions for these terms.

7-702. STATE POLICY.

(A) SOCIAL AND ECONOMIC PARTICIPATION.

IT IS THE POLICY OF THE STATE TO ENCOURAGE AND ENABLE BLIND, VISUALLY IMPAIRED, DEAF, AND HARD OF HEARING INDIVIDUALS TO PARTICIPATE FULLY IN THE SOCIAL AND ECONOMIC LIFE OF THE STATE AND TO BE EMPLOYED.

(B) EMPLOYMENT SUPPORTED BY PUBLIC FUNDS.

IT IS THE POLICY OF THE STATE THAT BLIND, VISUALLY IMPAIRED, DEAF, AND HARD OF HEARING INDIVIDUALS SHALL BE EMPLOYED BY THE STATE, POLITICAL SUBDIVISIONS OF THE STATE, PUBLIC SCHOOLS, AND OTHER EMPLOYERS SUPPORTED WHOLLY OR PARTLY BY PUBLIC FUNDS ON THE SAME TERMS AND CONDITIONS AS INDIVIDUALS WITHOUT THOSE DISABILITIES, UNLESS AN INDIVIDUAL'S DISABILITY PREVENTS DOING THE WORK REQUIRED.

(C) DEAF AND HARD OF HEARING RECOGNIZED AS CULTURAL MINORITY.

DEAF AND HARD OF HEARING INDIVIDUALS IN THE STATE ARE RECOGNIZED AS A CULTURAL MINORITY WITH SPECIALIZED COMMUNICATION NEEDS.

(D) AMERICAN SIGN LANGUAGE.

(1) IN THIS SUBSECTION, "AMERICAN SIGN LANGUAGE" MEANS A VISUAL-SPATIAL METHOD OF COMMUNICATION THAT IS A DISTINCT LANGUAGE INVOLVING THE HANDS, ARMS, FACIAL MARKERS, AND BODY MOVEMENTS TO COMMUNICATE WITH OTHERS, INCLUDING THE CONVEYANCE OF THOUGHTS, WORDS, EMOTIONS, AND GRAMMATICAL INFORMATION.

(2) AMERICAN SIGN LANGUAGE IS RECOGNIZED AS A LANGUAGE SYSTEM DESIGNED TO MEET THE SPECIALIZED COMMUNICATION NEEDS OF DEAF AND HARD OF HEARING INDIVIDUALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 30, §§ 34 and 33(a) and (b).

As to the substitution of the references to "hard of hearing" and "visually impaired" individuals for the former references to "hearing impaired" and "visually handicapped" individuals in subsections (a) and (b) of this section, *see* General Revisor's Note to subtitle.

In subsection (a) of this section, the reference to "be[ing] employed" is substituted for the former reference to "engag[ing] in remunerative employment" for brevity.

In subsection (b) of this section, the references to "disabilities" and a "disability" are substituted for the former obsolete references to "handicapped" and a "handicap".

Also in subsection (b) of this section, the reference to being employed "by the State [or] political subdivisions of the State" is substituted for the

former reference to being employed in the “service” of those government units for brevity and clarity.

Also in subsection (b) of this section, the reference to a disability that prevents an individual from “doing the work required” is substituted for the former reference to “the performances of the work involved” for brevity and consistency with § 7-703(h)(2) of this subtitle.

Also in subsection (b) of this section, the former phrase “unless it is shown that the particular” is deleted as surplusage.

In subsection (c) of this section, the reference to individuals who are “recognized as” a cultural minority is substituted for the former reference to individuals who are “identified as” a cultural minority for consistency with subsection (d)(2) of this section.

In subsection (d)(1) of this section, the former reference to American Sign Language as a “separate” language is deleted as unnecessary in light of the reference to it as a “distinct” language.

Defined terms: “Blind” § 7-701

“Deaf” § 7-701

7-703. BLIND INDUSTRIES AND SERVICES OF MARYLAND.

(A) “BOARD” DEFINED.

IN THIS SECTION, “BOARD” MEANS THE BOARD OF TRUSTEES OF BLIND INDUSTRIES AND SERVICES OF MARYLAND.

(B) BOARD OF TRUSTEES OF BLIND INDUSTRIES AND SERVICES OF MARYLAND ESTABLISHED.

THERE IS A BOARD OF TRUSTEES THAT IS A BODY CORPORATE UNDER THE NAME OF “BLIND INDUSTRIES AND SERVICES OF MARYLAND”.

(C) COMPOSITION; APPOINTMENT.

(1) THE BOARD CONSISTS OF 11 TRUSTEES APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE 11 TRUSTEES, AT LEAST 4 TRUSTEES SHALL BE BLIND.

(D) ORGANIZATION.

(1) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND A TREASURER.

(2) THE BOARD MAY ELECT ANOTHER MEMBER TO SERVE AS CHAIR IF IT IS INCONVENIENT OR IMPOSSIBLE FOR THE REGULARLY ELECTED CHAIR TO SERVE.

(E) TERMS.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2007.

(F) VACANCIES.

(1) THE GOVERNOR SHALL FILL A VACANCY ON THE BOARD BY APPOINTMENT WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) A MEMBER WHO IS APPOINTED AFTER A TERM BEGINS SHALL SERVE ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(G) COMPENSATION; EXPENSES.

A TRUSTEE IS ENTITLED TO:

(1) PER DIEM COMPENSATION FOR EACH BOARD OR COMMITTEE MEETING ATTENDED IN ACCORDANCE WITH THE STATE BUDGET; AND

(2) REIMBURSEMENT FOR EXPENSES INCURRED IN THE PERFORMANCE OF THE TRUSTEE'S DUTIES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(H) DUTIES.

THE BOARD SHALL:

(1) MAINTAIN IN BALTIMORE CITY A TRAINING AND EMPLOYMENT CENTER FOR BLIND INDIVIDUALS;

(2) OPERATE THE BLIND INDUSTRIES AND SERVICES OF MARYLAND FOR THE LABOR AND MANUFACTURES OF ALL BLIND ADULT RESIDENTS OF THE STATE WHO GIVE SATISFACTORY EVIDENCE OF CHARACTER AND ABILITY TO DO THE WORK REQUIRED;

(3) USE THE PROFITS ARISING FROM THE OPERATION OF THE BLIND INDUSTRIES AND SERVICES OF MARYLAND TO FURTHER ITS MISSION;

(4) ACQUIRE SUITABLE QUARTERS IN THE STATE;

(5) KEEP PROPER RECORDS OF ITS FUNDS AND ACCOUNTS; AND

(6) REPORT ANNUALLY TO THE GOVERNOR, AND SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, AND THE CHAIR OF THE JOINT AUDIT COMMITTEE ON THE CONDITION AND OPERATIONS OF THE BLIND INDUSTRIES AND SERVICES OF MARYLAND, INCLUDING A THOROUGH DISCUSSION OF ITS PROGRAMS AND THE PARTICIPATION OF THE BLIND COMMUNITY IN THESE PROGRAMS.

(I) POWERS.

THE BOARD MAY:

(1) APPLY THAT PORTION OF THE ENDOWMENT FUND AND ANNUAL INCOME THAT THE BOARD CONSIDERS EXPEDIENT TO ESTABLISH TRAINING AND EMPLOYMENT CENTERS IN ANY PART OF THE STATE AND TO OPEN A STORE FOR THE SALE OF ARTICLES MANUFACTURED BY BLIND INDIVIDUALS;

(2) EXTEND THE BENEFITS OF THE TRAINING AND EMPLOYMENT CENTERS AND THE STORE TO BLIND ADULTS OF THE STATE WHO DO NOT RESIDE IN INSTITUTIONS ON ANY TERMS AND UNDER ANY REGULATIONS THAT THE BOARD PRESCRIBES;

(3) GENERALLY SUPERVISE AND CONTROL THE TRAINING AND EMPLOYMENT CENTERS;

(4) ACQUIRE AND HOLD REAL, PERSONAL, AND MIXED PROPERTY;

(5) SUE AND BE SUED;

(6) MAKE, USE, AND ALTER A SEAL;

(7) APPOINT A CORPORATE SECRETARY AND OTHER NECESSARY EMPLOYEES AND SET THEIR COMPENSATION; AND

(8) ESTABLISH, MAINTAIN, DIRECT, AND SUPERVISE EACH MATTER CONCERNING THE BLIND INDUSTRIES AND SERVICES OF MARYLAND, INCLUDING THE PURCHASE OF ANY MACHINERY AND MATERIALS THAT THE BOARD CONSIDERS SUITABLE AND NECESSARY AND THE BARTER OR EXCHANGE OF ARTICLES OR MANUFACTURES ENTRUSTED TO THE BOARD FOR DISPOSAL.

(J) AUDIT.

THE BOARD SHALL BE AUDITED ANNUALLY.

REVISOR'S NOTE: Subsection (a) of this section is new language added for brevity and to avoid repetition of the full reference to the "Board of Trustees of Blind Industries and Services of Maryland".

Subsections (b) through (j) of this section are new language derived without substantive change from former Art. 30, §§ 3 through 6.

In subsection (b) of this section, the former reference to the Board being constituted under the "style" of "Blind Industries and Services of Maryland" is deleted as included in the reference to the Board being constituted under that "name".

In subsection (d)(1) of this section, the former requirement that the Board "shall organize immediately upon its appointment and qualification" is deleted as obsolete.

In subsection (e)(2) of this section, the reference to terms being staggered as required by the terms provided for the Board members on "October 1, 2007" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1988". This substitution is not intended to alter the term of any member of the Board.

See § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 4 in 2008; (2) 3 in 2009; and (3) 4 in 2010.

In subsection (f)(2) of this section, the requirement that a member who is “appointed after a term begins shall serve only for the rest of the term and until a successor is appointed and qualifies” is substituted for the former reference to a vacancy that “shall be filled for the unexpired term by an appointment by the Governor with the advice and consent of the Senate” for consistency with similar provisions elsewhere in the revised articles of the Code.

Subsection (g) of this section is revised in standard language for clarity and consistency with similar provisions throughout the revised articles of the Code.

In subsection (h)(2) of this section, the reference to “blind adult residents of the State” is substituted for the former reference to “blind citizens of Maryland over eighteen years of age” for clarity and brevity.

In subsections (h)(3) and (i)(8) of this section, the references to the “Blind Industries and Services of Maryland” are substituted for the former references to “blind industries” for consistency throughout this section.

In subsection (h)(3) of this section, the phrase “to further its mission” is substituted for the former phrase “in furthering its usefulness” for clarity.

In subsection (h)(4) of this section, the former reference to the acquisition of suitable quarters in the State “by lease, purchase, or otherwise” is deleted as surplusage.

In subsection (i)(4) of this section, the former reference to the Board’s authority to acquire and hold property “in any manner whatsoever” is deleted as surplusage.

In subsection (i)(6) of this section, the former reference to “chang[ing]” a seal is deleted as included in the reference to “alter[ing]” a seal.

Also in subsection (i)(6) of this section, the former reference to a “common” seal is deleted as surplusage.

Also in subsection (i)(6) of this section, the former phrase “at any time” is deleted as surplusage.

In subsection (i)(8) of this section, the former phrase “its maintenance and regulation” is deleted as surplusage.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the powers and duties of Blind Industries and Services of Maryland were originally established in 1908 and have not been amended since 1987. The General Assembly may wish to review and substantively update the archaic language in this section.

7-704. RIGHTS OF INDIVIDUALS WITH DISABILITIES.

(A) PUBLIC PLACES.

BLIND, VISUALLY IMPAIRED, DEAF, AND HARD OF HEARING INDIVIDUALS HAVE THE SAME RIGHT AS INDIVIDUALS WITHOUT THOSE DISABILITIES TO THE FULL AND FREE USE OF THE ROADS, SIDEWALKS, PUBLIC BUILDINGS, PUBLIC FACILITIES, AND OTHER PUBLIC PLACES.

(B) PUBLIC ACCOMMODATIONS AND CONVEYANCES.

(1) BLIND, VISUALLY IMPAIRED, DEAF, AND HARD OF HEARING INDIVIDUALS ARE ENTITLED TO FULL AND EQUAL RIGHTS AND PRIVILEGES WITH RESPECT TO COMMON CARRIERS AND OTHER PUBLIC CONVEYANCES OR MODES OF TRANSPORTATION, PLACES OF PUBLIC ACCOMMODATIONS, AND OTHER PLACES TO WHICH THE GENERAL PUBLIC IS INVITED, SUBJECT ONLY TO ANY CONDITIONS AND LIMITATIONS OF GENERAL APPLICATION ESTABLISHED BY LAW.

(2) THE FAILURE OF A BLIND OR VISUALLY IMPAIRED PEDESTRIAN TO CARRY A CANE PREDOMINANTLY WHITE OR METALLIC IN COLOR, WITH OR WITHOUT A RED TIP, OR A DEAF OR HARD OF HEARING PEDESTRIAN TO USE A SERVICE DOG WEARING AN ORANGE LICENSE TAG OR ORANGE COLLAR AND ON A LEASH, OR TO USE A SERVICE DOG IN A PLACE, ACCOMMODATION, OR CONVEYANCE LISTED IN PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONSTITUTE CONTRIBUTORY NEGLIGENCE PER SE.

(C) HOUSING ACCOMMODATIONS.

(1) THIS SUBSECTION DOES NOT APPLY TO ANY ACCOMMODATIONS OR SINGLE FAMILY RESIDENCE IN WHICH THE OCCUPANTS OFFER FOR COMPENSATION NOT MORE THAN ONE ROOM.

(2) A BLIND OR VISUALLY IMPAIRED INDIVIDUAL IS ENTITLED TO THE SAME ACCESS AS OTHER MEMBERS OF THE GENERAL PUBLIC TO HOUSING ACCOMMODATIONS IN THE STATE, SUBJECT TO ANY CONDITIONS AND LIMITATIONS OF GENERAL APPLICATION ESTABLISHED BY LAW.

(3) A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL WHO HAS, OBTAINS, OR MAY WISH TO OBTAIN A SERVICE DOG IS ENTITLED TO FULL AND EQUAL ACCESS TO HOUSING ACCOMMODATIONS.

(4) A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG MAY NOT BE REQUIRED TO PAY EXTRA COMPENSATION FOR THE SERVICE DOG, BUT THE INDIVIDUAL MAY BE LIABLE FOR DAMAGES TO THE PREMISES OR FACILITIES THAT THE SERVICE DOG CAUSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 30, § 33(c), (d)(1) and (3), and (i)(1), (4), and the fifth through eighth clauses of (2).

In subsection (a) of this section, the reference to "roads" is substituted for

the former reference to “streets [and] highways” for brevity.

Also in subsection (a) of this section, the reference to “individuals without those disabilities” is substituted for the former obsolete reference to “persons not so handicapped”.

Also in subsection (a) of this section, the former reference to “walkways” is deleted as included in the reference to “sidewalks”.

In subsections (b)(1) and (c)(1) of this section, the references to conditions and limitations “of general application” are substituted for the former references to conditions and limitations “applicable to all persons” and “applicable to all persons alike”, respectively, for brevity.

In subsection (b)(1) of this section, the reference to “rights” is substituted for the former reference to “accommodations, advantages, [and] facilities” for brevity and consistency with § 7-707 of this subtitle.

Also in subsection (b)(1) of this section, the former reference to “airplanes, motor vehicles, railroad trains, motor buses, streetcars, [and] boats” is deleted as included in the reference to “common carriers and other public conveyances or modes of transportation”.

Also in subsection (b)(1) of this section, the former reference to “hotels, lodging places, [and] places of ... amusement, or resort” is deleted as included in the reference to “places of public accommodations”.

In subsection (c)(1) of this section, the phrase “[t]his subsection does not apply” is substituted for the former phrase “but does not include ... included within paragraph (1) of this subsection” for brevity.

Also in subsection (c)(1) of this section, the word “offer” is substituted for the former words “rent, lease, or furnish” for brevity.

In subsection (c)(2) of this section, the reference to the “same” access is substituted for the former reference to “full and equal” access for brevity.

Also in subsection (c)(2) of this section, the former reference to conditions and limitations established by “State or federal regulations” is deleted for brevity in light of the comprehensive reference to “law”.

In subsection (c)(3) of this section, the former phrase “provided for in this section” is deleted as surplusage.

As to the substitution of references to “visually impaired” individuals for the former references to “the visually handicapped”, the substitution of references to “hard of hearing” individuals for the former references to “hearing impaired” individuals, and the substitution of references to “individuals” and an “individual” for the former references to “persons” and a “person” in this section, *see* General Revisor’s Note to subtitle.

The Human Services Article Review Committee notes, for consideration by

the General Assembly, that former Art. 30, § 33(i), which is revised in subsection (c) of this section, was originally enacted in 1971. The General Assembly may wish to consider whether these provisions are still necessary in light of the subsequent enactment of Ch. 571 of 1991, which incorporated the provisions of the federal Fair Housing Amendments Act of 1988. *See* Art. 49B, §§ 21–37.

Defined terms: “Blind” § 7–701

“Deaf” § 7–701

“Housing accommodations” § 7–701

7–705. SERVICE DOGS.

(A) IN GENERAL.

THE FOLLOWING INDIVIDUALS HAVE ALL THE SAME RIGHTS AND PRIVILEGES CONFERRED BY LAW ON OTHER INDIVIDUALS:

(1) A BLIND OR VISUALLY IMPAIRED PEDESTRIAN USING A SERVICE DOG AND NOT CARRYING A CANE PREDOMINANTLY WHITE OR METALLIC IN COLOR, WITH OR WITHOUT A RED TIP;

(2) A DEAF OR HARD OF HEARING PEDESTRIAN USING A SERVICE DOG NOT WEARING AN ORANGE LICENSE TAG OR ORANGE COLLAR AND ON A LEASH;

(3) A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING PEDESTRIAN USING A SERVICE DOG IN A PLACE, ACCOMMODATION, OR CONVEYANCE LISTED IN § 7–704(B) OF THIS SUBTITLE; AND

(4) A SERVICE DOG TRAINER WHO IS ACCOMPANIED BY A DOG THAT IS BEING TRAINED AS A SERVICE DOG AND WHO DISPLAYS THE IDENTIFICATION REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(B) MOBILITY IMPAIRED INDIVIDUAL ACCOMPANIED BY SERVICE DOG.

(1) A MOBILITY IMPAIRED INDIVIDUAL MAY BE ACCOMPANIED BY A SERVICE DOG SPECIALLY TRAINED FOR THAT PURPOSE IN ANY PLACE WHERE A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL HAS THE RIGHT TO BE ACCOMPANIED BY A SERVICE DOG.

(2) THIS SUBSECTION DOES NOT REQUIRE A PHYSICAL MODIFICATION OF ANY PLACE OR VEHICLE IN ORDER TO ADMIT A MOBILITY IMPAIRED INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG.

(C) DISPLAY OF IDENTIFICATION.

A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR MOBILITY IMPAIRED INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG, OR A SERVICE DOG TRAINER WHO IS ACCOMPANIED BY A DOG THAT IS BEING TRAINED AS A SERVICE DOG, SHALL DISPLAY IDENTIFICATION ISSUED BY A SERVICE DOG TRAINER ORGANIZATION THAT TRAINS AND CERTIFIES SERVICE DOGS FOR INDIVIDUALS WITH DISABILITIES.

(D) RIGHTS OF SERVICE DOG TRAINER; EXCEPTION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A SERVICE DOG TRAINER MAY BE ACCOMPANIED BY A DOG THAT IS BEING TRAINED AS A SERVICE DOG IN ANY PLACE WHERE A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR MOBILITY IMPAIRED INDIVIDUAL HAS THE RIGHT TO BE ACCOMPANIED BY A SERVICE DOG.

(2) A DOG BEING TRAINED AS A SERVICE DOG AND ACCOMPANIED BY A SERVICE DOG TRAINER MAY BE EXCLUDED FROM A PLACE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IF ADMITTING THE DOG WOULD CREATE A CLEAR DANGER OF A DISTURBANCE OR PHYSICAL HARM TO AN INDIVIDUAL IN THE PLACE.

(E) EXTRA COMPENSATION PROHIBITED; LIABILITY.

(1) A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR MOBILITY IMPAIRED INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG SPECIALLY TRAINED FOR THAT PURPOSE IN A PLACE, ACCOMMODATION, OR CONVEYANCE LISTED IN § 7-704(B) OF THIS SUBTITLE MAY NOT BE REQUIRED TO PAY EXTRA COMPENSATION FOR THE SERVICE DOG, BUT THE INDIVIDUAL MAY BE LIABLE FOR ANY DAMAGES TO THE PREMISES OR FACILITIES CAUSED BY THE SERVICE DOG.

(2) A SERVICE DOG TRAINER WHO IS ACCOMPANIED BY A DOG THAT IS BEING TRAINED AS A SERVICE DOG MAY NOT BE REQUIRED TO PAY EXTRA COMPENSATION FOR THE DOG, BUT THE SERVICE DOG TRAINER ORGANIZATION THAT CERTIFIES THE SERVICE DOG MAY BE LIABLE FOR ANY PERSONAL INJURIES OR DAMAGES TO THE PREMISES OR FACILITIES CAUSED BY THE SERVICE DOG.

(F) VIOLATIONS; PENALTIES.

(1) (I) A PERSON MAY NOT DENY OR INTERFERE WITH THE ADMITTANCE OF A SERVICE DOG THAT ACCOMPANIES A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR MOBILITY IMPAIRED INDIVIDUAL IN VIOLATION OF THIS SECTION.

(II) A PERSON WHO VIOLATES SUBPARAGRAPH (I) OF THIS PARAGRAPH IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 FOR EACH OFFENSE.

(2) (I) A PERSON MAY NOT DENY OR INTERFERE WITH THE ADMITTANCE OF A DOG BEING TRAINED AS A SERVICE DOG THAT ACCOMPANIES A SERVICE DOG TRAINER.

(II) SUBJECT TO SUBSECTION (D)(2) OF THIS SECTION, A PERSON WHO VIOLATES SUBPARAGRAPH (I) OF THIS PARAGRAPH IS SUBJECT TO A FINE NOT EXCEEDING \$25 FOR EACH OFFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 30, § 33(f), (l), (d)(2), (j)(2), (3), and (4), and (k)(2), (3), and (4).

In subsection (e)(1) of this section, the reference to an “accommodation, or conveyance” is added for consistency with § 7-704(b) of this subtitle.

Subsection (f) of this section is revised in standard language used to establish a prohibited act and penalty.

In subsection (f)(1)(i) of this section, the reference to a denial or interference with the admittance of a service dog “in violation of this section” is added for clarity.

As to the substitution of references to “visually impaired” individuals for the former references to “the visually handicapped”, the substitution of references to “hard of hearing” individuals for the former references to “hearing impaired” individuals, and the substitution of references to “individuals” and an “individual” for the former references to “persons” and a “person” in this section, *see* General Revisor’s Note to subtitle.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the references to a service “dog” in this section may be too limited. Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow individuals with disabilities to bring their service animals into all areas where customers are normally allowed. “Service animal” is defined as any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability. The General Assembly may wish to consider substituting references to service “animals” for references to service “dogs” in this section.

The General Assembly may also wish to clarify whether the intent of subsection (f)(2)(ii) of this section is to make it a misdemeanor to deny or interfere with the admittance of a dog being trained as a service dog.

Defined terms: “Blind” § 7-701

“Deaf” § 7-701

“Mobility impaired” § 7-701

“Person” § 1-101

“Service dog trainer” § 7-701

7-706. CONSTRUCTION.

(A) PEDESTRIAN’S RIGHT-OF-WAY.

THIS SUBTITLE DOES NOT AFFECT § 21-511 OF THE TRANSPORTATION ARTICLE AS TO THE RIGHT-OF-WAY OF A BLIND, DEAF, OR HARD OF HEARING PEDESTRIAN CROSSING A HIGHWAY.

(B) HOUSING ACCOMMODATIONS.

THIS SUBTITLE DOES NOT REQUIRE A PERSON WHO RENTS OR LEASES HOUSING ACCOMMODATIONS TO MODIFY THE PERSON’S PROPERTY OR PROVIDE A HIGHER DEGREE OF CARE FOR A BLIND OR VISUALLY IMPAIRED INDIVIDUAL THAN FOR AN INDIVIDUAL WITHOUT THOSE DISABILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 30, § 33(e) and (i)(3).

In subsection (a) of this section, the word “affect” is substituted for the former words “modifies or alters” for brevity.

In subsection (b) of this section, the reference to “an individual without those disabilities” is substituted for the former reference to “a person who is not blind or visually handicapped” for consistency with § 7-702 of this subtitle.

As to the substitution of the reference to a “hard of hearing” pedestrian for the former reference to a “hearing impaired” pedestrian and the substitution of the reference to a “visually impaired individual” for the former reference to a “visually handicapped person” in subsection (b) of this section, *see* General Revisor's Note to subtitle.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that TR § 21-511 requires the driver of a vehicle to yield the right-of-way to: “(1) A blind or partially blind pedestrian using a guide dog or carrying a cane predominantly white or metallic in color (with or without a red tip); (2) A deaf or hearing impaired pedestrian accompanied by a guide dog; or (3) A mobility impaired individual crossing a roadway while using any of the following mobility-assisted devices: (i) A manual or motorized wheelchair; (ii) A motorized scooter; (iii) Crutches; or (iv) A cane”.

The General Assembly may wish to consider adding references to a “visually impaired pedestrian” and a “mobility impaired pedestrian” in subsection (a) of this section for consistency within this subtitle and with TR § 21-511.

Defined terms: “Blind” § 7-701

“Deaf” § 7-701

“Housing accommodations” § 7-701

7-707. VIOLATIONS; INJUNCTION.

(A) VIOLATIONS.

(1) A PERSON MAY NOT DENY OR INTERFERE WITH ADMITTANCE TO OR ENJOYMENT OF A PUBLIC PLACE, ACCOMMODATION, OR CONVEYANCE DESCRIBED IN § 7-704 OF THIS SUBTITLE OR OTHERWISE INTERFERE WITH THE RIGHTS OF A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL UNDER THIS SUBTITLE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 FOR EACH OFFENSE.

(B) INJUNCTION.

IN ADDITION TO ANY OTHER REMEDY PROVIDED UNDER THE CODE FOR A VIOLATION OF THIS SUBTITLE, A PERSON MAY MAINTAIN A CIVIL ACTION FOR INJUNCTIVE RELIEF AGAINST ANOTHER PERSON WHO DENIES OR INTERFERES WITH ADMITTANCE TO OR ENJOYMENT OF A PUBLIC PLACE, ACCOMMODATION, OR CONVEYANCE DESCRIBED IN § 7-704 OF THIS SUBTITLE OR OTHERWISE INTERFERES WITH THE RIGHTS OF A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 30, § 33(g).

Subsection (a) of this section is revised in standard language used to establish a prohibited act and penalty.

In subsections (a)(1) and (b) of this section, the references to a "place, accommodation, or conveyance described in § 7-706 of this subtitle" are substituted for the former references to "public facilities enumerated in this section" for clarity.

In subsections (a)(1) and (b) of this section, the references to rights under "this subtitle" are substituted for the former references to rights under "this section" to reflect the reorganization of provisions formerly contained in Art. 30, § 33. Similarly, in subsection (b) of this section, the reference to a violation of this "subtitle" is substituted for the former reference to this "article" to reflect the reorganization of provisions formerly contained in Article 30. No substantive change is intended.

In subsection (a)(1) of this section, the former reference to any "persons, firm, or corporation or the agent of any person or persons, firm, or corporation," is deleted as unnecessary in light of the reference to a "person".

In subsection (b) of this section, the former reference to any "individual, firm, or corporation, or the agent of any individual, firm, or corporation," is deleted as unnecessary in light of the reference to a "person".

As to the substitution of references to "visually impaired" individuals for the former references to "the visually handicapped", the substitution of references to "hard of hearing" individuals for the former references to "hearing impaired" individuals, and the substitution of references to "individuals" and an "individual" for the former references to "persons" and a "person" in this section, see General Revisor's Note to subtitle.

Defined terms: "Blind" § 7-701

"Deaf" § 7-701

"Person" § 1-101

7-708. WHITE CANE SAFETY DAY.

THE GOVERNOR SHALL TAKE SUITABLE PUBLIC NOTICE OF EACH OCTOBER 15 AS WHITE CANE SAFETY DAY BY ISSUING A PROCLAMATION THAT:

- (1) COMMENTS ON THE SIGNIFICANCE OF THE WHITE CANE;
- (2) CALLS ON THE PUBLIC TO OBSERVE THE WHITE CANE LAW UNDER §§ 7-704 THROUGH 7-707 OF THIS SUBTITLE AND TO TAKE PRECAUTIONS NECESSARY FOR THE SAFETY OF BLIND AND VISUALLY IMPAIRED INDIVIDUALS;
- (3) REMINDS THE PUBLIC OF THE POLICIES WITH RESPECT TO BLIND AND VISUALLY IMPAIRED INDIVIDUALS AND URGES COOPERATION WITH THE POLICIES;
- (4) EMPHASIZES THE NEED FOR AWARENESS OF THE PRESENCE OF BLIND AND VISUALLY IMPAIRED INDIVIDUALS IN THE COMMUNITY AND THE NEED TO KEEP ROADS, SIDEWALKS, PUBLIC ACCOMMODATIONS, PUBLIC BUILDINGS, PUBLIC FACILITIES, OTHER PUBLIC PLACES, AND OTHER PLACES TO WHICH THE PUBLIC IS INVITED SAFE AND FUNCTIONAL FOR THOSE INDIVIDUALS; AND
- (5) OFFERS ASSISTANCE TO BLIND AND VISUALLY IMPAIRED INDIVIDUALS ON APPROPRIATE OCCASIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 30, § 33(h).

In items (2) and (4) of this section, the references to "blind and visually impaired individuals" are substituted for the former references to "the visually handicapped" and "visually handicapped persons", respectively, for consistency throughout this subtitle.

In item (2) of this section, the reference to the White Cane Law "under §§ 7-704 through 7-707 of this subtitle" is added for clarity.

In item (3) of this section, the reference to "blind and visually impaired individuals" is substituted for the former reference to "the blind" for consistency throughout this subtitle.

In item (4) of this section, the reference to "roads" is substituted for the former reference to "streets [and] highways" for brevity.

Also in item (4) of this section, the former reference to "walkways" is deleted as included in the reference to "sidewalks".

Also in item (4) of this section, the former reference to "[places of] amusement and resort" is deleted as included in the reference to "public accommodations".

As to the substitution of references to the "public" for the former references to the "citizens of the State" and the "citizens" in items (2) and (3) of this section, *see* General Revisor's Note to article.

Defined term: "Blind" § 7-701

GENERAL REVISOR'S NOTE TO SUBTITLE:

Throughout this subtitle, references to “individuals” with specified disabilities are substituted for the former references to “persons” because only a human being, and not the other entities included in the defined term “person” can have the disabilities described in this subtitle.

Also throughout this subtitle, references to “visually impaired” individuals are substituted for the former obsolete references to “visually handicapped” individuals.

Also throughout this subtitle, references to “hard of hearing” individuals are substituted for the former obsolete references to “hearing impaired” individuals.

Former Art. 30, § 8, which authorized a blind adult “desiring to operate a legitimate business of any kind” to apply to Blind Industries and Services of Maryland is deleted as obsolete. The Blind Industries and Services of Maryland indicated that it has not received any application to engage in any business within the past 15 years, and that it is not aware of any blind individual ever applying for the operation of a business under former Art. 30, § 8. This deletion is called to the attention of the General Assembly.

Former Art. 30, § 10A, which required proof of workers’ compensation insurance before “a license or permit may be issued under this article”, is deleted as obsolete.

When this section was enacted by Ch. 657, Acts of 1975, the Blind Industries and Services of Maryland had authority under former Art. 30, § 9 to issue licenses to blind individuals for the operation of vending stands and, presumably, would have been an “issuing authority” for the purposes of former Art. 30, § 10A. However, the authority to issue licenses for vending stands was repealed by Ch. 743, Acts of 1980.

After repeal of the authority to issue vending stand licenses, the only other section of the source law to which former Art. 30, § 10A might apply was former Art. 30, § 8, which allowed a blind person to apply to Blind Industries and Services of Maryland to operate a “legitimate business”, and which is also being deleted as obsolete. This deletion is called to the attention of the General Assembly.

TITLE 8. CHILDREN, YOUTH, AND FAMILIES.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

8-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49D, § 1-101(a).

(B) CHILD IN NEED OF OUT-OF-STATE PLACEMENT.

(1) “CHILD IN NEED OF OUT-OF-STATE PLACEMENT” MEANS A CHILD WHO IS RECOMMENDED BY A UNIT REPRESENTED ON THE LOCAL COORDINATING COUNCIL FOR OUT-OF-HOME PLACEMENT OUTSIDE OF THE STATE.

(2) "CHILD IN NEED OF OUT-OF-STATE PLACEMENT" DOES NOT INCLUDE A CHILD PLACED IN FOSTER CARE, AS DEFINED IN § 5-501 OF THE FAMILY LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(b).

No changes are made.

Defined term: "Local coordinating council" § 8-101

(C) CHILD IN NEED OF RESIDENTIAL PLACEMENT.

"CHILD IN NEED OF RESIDENTIAL PLACEMENT" MEANS A CHILD:

(1) WHO IS RECOMMENDED BY A MEMBER OF THE LOCAL COORDINATING COUNCIL FOR RESIDENTIAL PLACEMENT;

(2) ON WHOSE BEHALF THE MEMBER OF THE LOCAL COORDINATING COUNCIL SEEKS STATE FUNDING FOR THE PLACEMENT; AND

(3) WHO A UNIT REPRESENTED ON THE LOCAL COORDINATING COUNCIL HAS DETERMINED MEETS ELIGIBILITY CRITERIA FOR A STATE-FUNDED PLACEMENT.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(c).

The only changes are in style.

Defined terms: "Local coordinating council" § 8-101

"Residential placement" § 8-101

(D) CHILD WITH INTENSIVE NEEDS.

"CHILD WITH INTENSIVE NEEDS" MEANS A CHILD WHO HAS BEHAVIORAL, EDUCATIONAL, DEVELOPMENTAL, OR MENTAL HEALTH NEEDS THAT CANNOT BE MET THROUGH AVAILABLE PUBLIC AGENCY RESOURCES BECAUSE:

(1) THE CHILD'S NEEDS EXCEED THE RESOURCES OF A SINGLE PUBLIC AGENCY; AND

(2) THERE IS NO LEGALLY MANDATED FUNDING SOURCE TO MEET THE CHILD'S NEEDS.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(d).

The only changes are in style.

Defined term: "Public agency" § 8-101

(E) CORE SERVICE AGENCY.

"CORE SERVICE AGENCY" MEANS THE DESIGNATED COUNTY OR MULTICOUNTY AUTHORITY THAT IS RESPONSIBLE FOR PLANNING, MANAGING, AND MONITORING PUBLICLY FUNDED MENTAL HEALTH SERVICES AS PROVIDED UNDER TITLE 10, SUBTITLE 12 OF THE HEALTH - GENERAL ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(e).

No changes are made.

Defined term: "County" § 1-101

(F) COUNCIL.

"COUNCIL" MEANS THE STATE COORDINATING COUNCIL FOR CHILDREN.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(f).

No changes are made.

(G) EXECUTIVE DIRECTOR.

"EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-701(b).

No changes are made.

(H) LEAD AGENCY.

"LEAD AGENCY" MEANS THE LOCAL GOVERNMENT UNIT IDENTIFIED BY FEDERAL OR STATE LAW OR BY THE LOCAL COORDINATING COUNCIL AS RESPONSIBLE FOR THE OVERSIGHT AND IMPLEMENTATION OF A PLAN OF CARE FOR A CHILD IN NEED OF RESIDENTIAL PLACEMENT OR A CHILD WITH INTENSIVE NEEDS.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(h).

The only changes are in style.

Defined terms: "Child in need of residential placement" § 8-101

"Child with intensive needs" § 8-101

"Local coordinating council" § 8-101

(I) LOCAL COORDINATING COUNCIL.

"LOCAL COORDINATING COUNCIL" MEANS A LOCAL COUNCIL THAT COORDINATES SERVICES FOR CHILDREN IN NEED OF RESIDENTIAL PLACEMENT AND CHILDREN WITH INTENSIVE NEEDS.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(i).

No changes are made.

Defined terms: "Child in need of residential placement" § 8-101

"Child with intensive needs" § 8-101

(J) LOCAL MANAGEMENT BOARD.

“LOCAL MANAGEMENT BOARD” MEANS AN ENTITY ESTABLISHED OR DESIGNATED BY A COUNTY UNDER SUBTITLE 3 OF THIS TITLE TO ENSURE THE IMPLEMENTATION OF A LOCAL, INTERAGENCY SERVICE DELIVERY SYSTEM FOR CHILDREN, YOUTH, AND FAMILIES.

REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(j).

The only changes are in cross–references.

Defined term: “County” § 1–101

(K) OFFICE.

“OFFICE” MEANS THE GOVERNOR’S OFFICE FOR CHILDREN.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 18–701(d) and Art. 49D, §§ 6–101(a)(4) and 7–101(d).

No changes are made.

(L) PUBLIC AGENCY.

“PUBLIC AGENCY” MEANS A STATE OR LOCAL GOVERNMENT UNIT OR A QUASI–GOVERNMENTAL ENTITY.

REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(k).

No changes are made.

(M) RESIDENTIAL CHILD CARE PROGRAM.

(1) “RESIDENTIAL CHILD CARE PROGRAM” MEANS AN ENTITY THAT PROVIDES 24–HOUR PER DAY CARE FOR CHILDREN WITHIN A STRUCTURED SET OF SERVICES AND ACTIVITIES THAT ARE DESIGNED TO ACHIEVE SPECIFIC OBJECTIVES RELATIVE TO THE NEEDS OF THE CHILDREN SERVED AND THAT INCLUDE THE PROVISION OF FOOD, CLOTHING, SHELTER, EDUCATION, SOCIAL SERVICES, HEALTH, MENTAL HEALTH, RECREATION, OR ANY COMBINATION OF THESE SERVICES AND ACTIVITIES.

(2) “RESIDENTIAL CHILD CARE PROGRAM” INCLUDES A PROGRAM:

(I) LICENSED BY:

1. THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
2. THE DEPARTMENT OF HUMAN RESOURCES; OR
3. THE DEPARTMENT OF JUVENILE SERVICES; AND

(II) THAT IS SUBJECT TO THE LICENSING REGULATIONS OF THE MEMBERS OF THE CHILDREN’S CABINET GOVERNING THE OPERATIONS OF RESIDENTIAL CHILD CARE PROGRAMS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-701(e) and Art. 49D, §§ 6-101(a)(6) and 7-101(g)(1) and (2).

In paragraph (2)(ii) of this subsection, the reference to the regulations of "the members of the Children's Cabinet" derived from former Art. 49D, § 7-101(g)(2)(ii) is used for accuracy instead of the former obsolete reference to the "Office for Children, Youth, and Families" in former Art. 49D, § 6-101(a)(6) (which incorporated by reference HO § 20-101) and the former reference to the "Governor's Office for Children" in former Art. 41, § 18-701(e)(2)(ii), because the Governor's Office for Children does not have the authority to adopt regulations.

As to the membership of the Children's Cabinet, *see* Executive Order 01.01.2005.34.

(N) RESIDENTIAL PLACEMENT.

(1) "RESIDENTIAL PLACEMENT" MEANS A PLACEMENT IN:

(I) A HOSPITAL, UNDER CIRCUMSTANCES DESCRIBED IN CHILDREN'S CABINET REGULATIONS;

(II) A RESIDENTIAL TREATMENT CENTER;

(III) A RESIDENTIAL SCHOOL; OR

(IV) ANOTHER OUT-OF-HOME PLACEMENT AS SPECIFIED IN CHILDREN'S CABINET REGULATIONS.

(2) "RESIDENTIAL PLACEMENT" DOES NOT INCLUDE A PLACEMENT IN:

(I) A FACILITY ESTABLISHED UNDER § 9-226 OF THIS ARTICLE; OR

(II) FOSTER CARE, AS DEFINED IN § 5-501 OF THE FAMILY LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(l).

The only changes are in style and cross-references.

8-102. STATE POLICY.

IT IS THE POLICY OF THE STATE TO PROMOTE A STABLE, SAFE, AND HEALTHY ENVIRONMENT FOR CHILDREN AND FAMILIES, THEREBY INCREASING SELF-SUFFICIENCY AND FAMILY PRESERVATION, THROUGH A COMPREHENSIVE AND COORDINATED INTERAGENCY APPROACH THAT:

(1) PROVIDES A CONTINUUM OF CARE THAT IS FAMILY- AND CHILD-ORIENTED AND EMPHASIZES PREVENTION, EARLY INTERVENTION, AND COMMUNITY-BASED SERVICES; AND

(2) GIVES PRIORITY TO CHILDREN AND FAMILIES MOST AT RISK.

REVISOR'S NOTE: This section formerly was Art. 49D, § 1–102.

The only changes are in style.

SUBTITLE 2. ADVISORY COUNCIL TO CHILDREN'S CABINET.

8–201. ESTABLISHED.

THERE IS AN ADVISORY COUNCIL TO THE CHILDREN'S CABINET.

REVISOR'S NOTE: This section formerly was Art. 41, § 2–502(a).

No changes are made.

8–202. PURPOSE.

THE PURPOSE OF THE ADVISORY COUNCIL IS TO MAKE RECOMMENDATIONS TO THE CHILDREN'S CABINET ON:

(1) METHODS FOR MEETING THE POLICY AND PROGRAM GOALS OF THE STATE FOR INTEGRATED CHILDREN AND FAMILY PROGRAMS;

(2) COORDINATING STATE PROGRAMS WITH PROGRAMS OPERATED BY LOCAL GOVERNMENTS, LOCAL MANAGEMENT BOARDS, AND PRIVATE GROUPS;

(3) BUILDING CAPACITY TO SERVE YOUTHS IN THEIR COMMUNITIES AND AT HOME;

(4) REDUCING RELIANCE ON INSTITUTIONS AS THE PRIMARY MODE OF INTERVENTION FOR AT-RISK YOUTH OFFENDERS;

(5) PROMOTING POSITIVE OUTCOMES FOR YOUTHS;

(6) FUNDING PRACTICES THAT PREVENT JUVENILE CRIMES AND DELINQUENCY; AND

(7) REDUCING DISPROPORTIONATE MINORITY CONFINEMENT.

REVISOR'S NOTE: This section formerly was Art. 41, § 2–502(b).

The only changes are in style.

Defined term: "Local management board" § 8–101

REVISOR'S NOTE TO SUBTITLE:

Former Art. 41, § 2–501(c), which defined "Advisory Council", is deleted as unnecessary because the term is only used once in this subtitle.

SUBTITLE 3. LOCAL MANAGEMENT BOARDS.

8–301. LOCAL MANAGEMENT BOARDS.

(A) REQUIRED.

EACH COUNTY SHALL ESTABLISH AND MAINTAIN A LOCAL MANAGEMENT

BOARD TO ENSURE THE IMPLEMENTATION OF A LOCAL INTERAGENCY SERVICE DELIVERY SYSTEM FOR CHILDREN, YOUTH, AND FAMILIES.

(B) AUTHORIZED ENTITIES.

A COUNTY MAY DESIGNATE AS THE LOCAL MANAGEMENT BOARD:

(1) A QUASI-PUBLIC NONPROFIT CORPORATION THAT IS NOT AN INSTRUMENTALITY OF THE COUNTY GOVERNMENT; OR

(2) A PUBLIC AGENCY THAT IS AN INSTRUMENTALITY OF THE COUNTY GOVERNMENT.

REVISOR'S NOTE: This section formerly was Art. 49D, § 2-101.

The only changes are in style.

Defined terms: "County" § 1-101

"Local management board" § 8-101

"Public agency" § 8-101

8-302. MEMBERSHIP.

A LOCAL MANAGEMENT BOARD MAY BE COMPOSED OF:

(1) PUBLIC AND PRIVATE COMMUNITY REPRESENTATIVES WHO SHARE THE RESPONSIBILITY FOR IMPLEMENTING A COMMUNITY-BASED, INTERAGENCY, FAMILY-FOCUSED SERVICE DELIVERY SYSTEM FOR CHILDREN, YOUTH, AND FAMILIES; AND

(2) A SENIOR REPRESENTATIVE OR DEPARTMENT HEAD OF THE:

(I) LOCAL HEALTH DEPARTMENT;

(II) LOCAL OFFICE OF THE DEPARTMENT OF JUVENILE SERVICES;

(III) CORE SERVICE AGENCY;

(IV) LOCAL SCHOOL SYSTEM; AND

(V) LOCAL DEPARTMENT OF SOCIAL SERVICES.

REVISOR'S NOTE: This section formerly was Art. 49D, § 2-102.

The only changes are in style.

Defined terms: "Core service agency" § 8-101

"Local management board" § 8-101

8-303. DUTIES.

A LOCAL MANAGEMENT BOARD SHALL:

(1) STRENGTHEN THE DECISION-MAKING CAPACITY AT THE LOCAL LEVEL;

(2) DESIGN AND IMPLEMENT STRATEGIES THAT ACHIEVE CLEARLY DEFINED RESULTS FOR CHILDREN, YOUTH, AND FAMILIES AS ARTICULATED IN A LOCAL 5-YEAR STRATEGIC PLAN FOR CHILDREN, YOUTH, AND FAMILIES;

(3) MAINTAIN STANDARDS OF ACCOUNTABILITY FOR LOCALLY AGREED UPON RESULTS FOR CHILDREN, YOUTH, AND FAMILIES;

(4) INFLUENCE THE ALLOCATION OF RESOURCES ACROSS SYSTEMS AS NECESSARY TO ACCOMPLISH THE DESIRED RESULTS;

(5) BUILD LOCAL PARTNERSHIPS TO COORDINATE CHILDREN, YOUTH, AND FAMILY SERVICES WITHIN THE COUNTY TO ELIMINATE FRAGMENTATION AND DUPLICATION OF SERVICES; AND

(6) CREATE AN EFFECTIVE SYSTEM OF SERVICES, SUPPORTS, AND OPPORTUNITIES THAT IMPROVE OUTCOMES FOR ALL CHILDREN, YOUTH, AND FAMILIES.

REVISOR'S NOTE: This section formerly was Art. 49D, § 2-103.

The only changes are in style.

Defined terms: "County" § 1-101

"Local management board" § 8-101

8-304. REGULATIONS.

THE MEMBERS OF THE CHILDREN'S CABINET SHALL ADOPT REGULATIONS THAT:

(1) SPECIFY THE ROLES AND RESPONSIBILITIES OF LOCAL MANAGEMENT BOARDS;

(2) ESTABLISH MINIMUM STANDARDS FOR THE COMPOSITION OF LOCAL MANAGEMENT BOARDS;

(3) ESTABLISH FISCAL AND PROGRAM ACCOUNTABILITY IN THE IMPLEMENTATION OF COMMUNITY PARTNERSHIP AGREEMENTS AND THE USE OF OTHER STATE RESOURCES BY LOCAL MANAGEMENT BOARDS;

(4) ESTABLISH PROCEDURES TO ENSURE THE CONFIDENTIALITY OF INFORMATION SHARED BY LOCAL MANAGEMENT BOARD MEMBERS AND EMPLOYEES IN ACCORDANCE WITH STATE AND FEDERAL LAW; AND

(5) GENERALLY RELATE TO THE OPERATION OF LOCAL MANAGEMENT BOARDS.

REVISOR'S NOTE: This section formerly was Art. 49D, § 2-104.

The only changes are in style.

Defined term: "Local management board" § 8-101

8-305. ANNUAL REPORT.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE MARYLAND ASSOCIATION OF LOCAL MANAGEMENT BOARD DIRECTORS SHALL, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, SUBMIT TO THE SENATE FINANCE COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE JOINT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES, A REPORT SUMMARIZING, WITH RESPECT TO THE PROGRAMS IMPLEMENTED UNDER § 8-505(D) OF THIS TITLE:

- (1) EACH LOCAL MANAGEMENT BOARD'S ACTIVITIES;
- (2) THE AMOUNT OF MONEY SPENT ON THE PROGRAMS; AND
- (3) THE EFFECTIVENESS OF THE PROGRAMS.

REVISOR'S NOTE: This section formerly was Art. 49D, § 2-105.

The only changes are in style and cross-references.

Defined term: "Local management board" § 8-101

SUBTITLE 4. SERVICES TO CHILDREN WITH SPECIAL NEEDS.

8-401. STATE COORDINATING COUNCIL -- ESTABLISHED.

THERE IS A STATE COORDINATING COUNCIL FOR CHILDREN IN THE OFFICE.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-101(a).

The only changes are in style.

Defined term: "Office" § 8-101

8-402. STATE COORDINATING COUNCIL -- MEMBERSHIP.

THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

- (1) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR CHILDREN, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;
- (2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;
- (3) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;
- (4) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;
- (5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;
- (6) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;

(7) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE; AND

(8) A PARENT, PARENT ADVOCATE, OR BOTH, APPOINTED BY THE GOVERNOR.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-101(b).

The only changes are in style.

Defined term: "Council" § 8-101

8-403. STATE COORDINATING COUNCIL -- CHAIR; STAFF.

(A) CHAIR.

(1) THE OFFICE OF CHAIR OF THE COUNCIL SHALL ROTATE ANNUALLY AMONG THE MEMBERS OF THE COUNCIL.

(2) THE TERM OF THE CHAIR IS 1 YEAR.

(3) A MEMBER FROM A UNIT REPRESENTED ON THE COUNCIL MAY NOT SERVE AS CHAIR MORE THAN ONCE EVERY 5 YEARS.

(B) STAFF.

THE OFFICE SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-101(c) and (d).

The only changes are in style.

Defined terms: "Council" § 8-101

"Office" § 8-101

8-404. STATE COORDINATING COUNCIL -- DUTIES.

(A) IN GENERAL.

THE COUNCIL SHALL:

(1) ESTABLISH AND OVERSEE THE LOCAL COORDINATING COUNCIL IN EACH COUNTY;

(2) DEVELOP PROCEDURES FOR THE OPERATION OF LOCAL COORDINATING COUNCILS;

(3) REVIEW PERIODICALLY THE PROCEDURES OF LOCAL COORDINATING COUNCILS FOR MAKING DECISIONS ON RESIDENTIAL PLACEMENT FOR CHILDREN IN NEED OF RESIDENTIAL PLACEMENT;

(4) REVIEW RECOMMENDATIONS FOR STATE FUNDING OF THE INDIVIDUAL PLACEMENT OF A CHILD IN NEED OF OUT-OF-STATE PLACEMENT;

(5) MONITOR LOCAL COORDINATING COUNCILS TO ENSURE THAT THE LOCAL COORDINATING COUNCILS CONSIDER ALL ALTERNATIVES FOR THE PROVISION OF SERVICES TO CHILDREN AND THEIR FAMILIES IN THE COMMUNITY;

(6) ESTABLISH AND MAINTAIN A MULTIPLE UNIT INFORMATION SYSTEM TO ENSURE ACCOUNTABILITY AND PROVIDE STATE SERVICE PLANNING CAPABILITY;

(7) COORDINATE EVALUATIONS OF RESIDENTIAL FACILITIES FOR CHILDREN AS REQUIRED BY STATUTE;

(8) MAKE RECOMMENDATIONS TO THE APPROPRIATE SECRETARY ON THE DEVELOPMENT OF REGULATIONS TO CARRY OUT THIS SUBTITLE; AND

(9) PERFORM OTHER RELATED ACTIVITIES THAT THE CHILDREN'S CABINET IDENTIFIES.

(B) PLANNING AND COORDINATION OF SERVICES.

THE COUNCIL SHALL:

(1) PLAN AND COORDINATE WITH THE LOCAL COORDINATING COUNCILS:

(I) MULTIPLE UNIT SERVICES TO CHILDREN IN NEED OF RESIDENTIAL PLACEMENT; AND

(II) ENHANCED SERVICES TO CHILDREN WITH INTENSIVE NEEDS, SUBJECT TO THE AVAILABILITY OF FUNDING AND IN ACCORDANCE WITH A PLAN DEVELOPED BY THE CHILDREN'S CABINET; AND

(2) IN COOPERATION WITH THE LOCAL COORDINATING COUNCILS, MONITOR SERVICES PROVIDED TO CHILDREN PLACED IN RESIDENTIAL PLACEMENTS.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-101(e) and (f).

The only changes are in style.

Defined terms: "Child in need of out-of-state placement" § 8-101

"Child in need of residential placement" § 8-101

"Child with intensive needs" § 8-101

"Council" § 8-101

"County" § 1-101

"Local coordinating council" § 8-101

"Residential placement" § 8-101

8-405. LOCAL COORDINATING COUNCILS -- ESTABLISHED.

THERE IS A LOCAL COORDINATING COUNCIL IN EACH COUNTY.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(a).

No changes are made.

Defined terms: "County" § 1-101

"Local coordinating council" § 8-101

8-406. LOCAL COORDINATING COUNCILS -- MEMBERSHIP; TERMS; CHAIR.

(A) MEMBERSHIP.

EACH LOCAL COORDINATING COUNCIL SHALL INCLUDE:

(1) AT LEAST ONE REPRESENTATIVE FROM:

(I) THE DEPARTMENT OF JUVENILE SERVICES;

(II) THE DEVELOPMENTAL DISABILITIES ADMINISTRATION;

(III) THE ALCOHOL AND DRUG ABUSE ADMINISTRATION;

(IV) THE MENTAL HYGIENE ADMINISTRATION OR THE LOCAL CORE SERVICE AGENCY;

(V) THE LOCAL BOARD OF EDUCATION;

(VI) THE LOCAL HEALTH DEPARTMENT;

(VII) THE LOCAL DEPARTMENT OF SOCIAL SERVICES;

(VIII) THE LOCAL OFFICE OF THE DIVISION OF REHABILITATION SERVICES; AND

(IX) THE LOCAL MANAGEMENT BOARD; AND

(2) A PARENT, PARENT ADVOCATE, OR BOTH, APPOINTED BY THE CHAIR OF THE LOCAL COORDINATING COUNCIL IN CONSULTATION WITH THE CHILD ADVOCACY COMMUNITY.

(B) TERMS.

THE COUNCIL SHALL ESTABLISH THE TERMS OF THE MEMBERS OF THE LOCAL COORDINATING COUNCILS.

(C) CHAIR.

EACH LOCAL COORDINATING COUNCIL SHALL SELECT ITS CHAIR FROM AMONG ITS MEMBERS FOR A DESIGNATED TERM OF OFFICE.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(b), (c), and (d).

In subsection (a)(1)(iv) of this section, the former phrase "as designated under Title 10, Subtitle 12 of the Health - General Article" is deleted as included in the definition of "core service agency".

The only other changes are in style.

Defined terms: "Core service agency" § 8-101

"Council" § 8-101

"Local coordinating council" § 8-101

"Local management board" § 8-101

8-407. LOCAL COORDINATING COUNCILS -- RELATIONSHIP WITH LOCAL MANAGEMENT BOARD.

(A) IN GENERAL.

(1) A LOCAL COORDINATING COUNCIL SHALL BE PART OF THE LOCAL MANAGEMENT BOARD FOR ADMINISTRATIVE AND BUDGETARY PURPOSES.

(2) THE LOCAL COORDINATING COUNCIL SHALL BE INDEPENDENT OF THE LOCAL MANAGEMENT BOARD IN ITS DECISIONS REGARDING INDIVIDUAL PLANS OF CARE FOR CHILDREN AND POLICY RECOMMENDATIONS REGARDING SERVICES TO CHILDREN.

(B) STAFF.

SUBJECT TO THE AVAILABILITY OF FUNDING, THE LOCAL MANAGEMENT BOARD SHALL PROVIDE ADMINISTRATIVE STAFF AND SUPPORT TO THE LOCAL COORDINATING COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(e).

The only changes are in style.

Defined terms: "Local coordinating council" § 8-101

"Local management board" § 8-101

8-408. LOCAL COORDINATING COUNCILS -- DUTIES.

(A) IN GENERAL.

A LOCAL COORDINATING COUNCIL SHALL:

(1) ACCEPT PLACEMENT REFERRALS FROM THE UNITS REPRESENTED ON THE LOCAL COORDINATING COUNCIL;

(2) REVIEW RECOMMENDATIONS FOR THE RESIDENTIAL PLACEMENT OF CHILDREN REFERRED TO THE LOCAL COORDINATING COUNCIL IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;

(3) PROVIDE AN INTERAGENCY PLAN OF CARE FOR RESIDENTIAL PLACEMENT OR APPROPRIATE, ALTERNATIVE, COMMUNITY-BASED SERVICES FOR A CHILD;

(4) CONSISTENT WITH REGULATIONS ADOPTED BY THE CHILDREN'S CABINET, SUBMIT RECOMMENDED PLANS OF CARE TO THE COUNCIL; AND

(5) ASSIST THE UNIT PRIMARILY RESPONSIBLE FOR A CHILD'S CARE IN IMPLEMENTING AND MONITORING THE RESIDENTIAL PLACEMENT OF THE CHILD.

(B) REVIEW OF RECOMMENDED PLACEMENTS.

A LOCAL COORDINATING COUNCIL SHALL:

(1) REVIEW RESIDENTIAL PLACEMENTS RECOMMENDED IN ACCORDANCE WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT OR FEDERAL MEDICAID REQUIREMENTS, TO PROVIDE TECHNICAL ASSISTANCE TO THE LEAD AGENCY REGARDING THE AVAILABILITY OF COMMUNITY-BASED RESOURCES TO SERVE THE CHILD IN THE LEAST RESTRICTIVE ENVIRONMENT DETERMINED TO BE APPROPRIATE BY THE LEAD AGENCY;

(2) REVIEW AND APPROVE OTHER RECOMMENDED RESIDENTIAL PLACEMENTS; AND

(3) REVIEW RECOMMENDED OUT-OF-STATE PLACEMENTS AND REFER THE RECOMMENDATIONS TO THE COUNCIL.

(C) DEVELOPMENT AND IMPLEMENTATION OF PLANS OF CARE.

CONSISTENT WITH APPLICABLE FEDERAL AND STATE LAWS, THE COUNCIL AND THE LOCAL COORDINATING COUNCIL SHALL DEVELOP AND IMPLEMENT PLANS OF CARE FOR THE RESIDENTIAL PLACEMENT OF CHILDREN IN NEED OF RESIDENTIAL PLACEMENT AND CHILDREN IN NEED OF OUT-OF-STATE PLACEMENT.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(f), (g), and (h).

The only changes are in style.

Defined terms: "Child in need of out-of-state placement" § 8-101

"Child in need of residential placement" § 8-101

"Council" § 8-101

"Lead agency" § 8-101

"Local coordinating council" § 8-101

"Residential placement" § 8-101

8-409. ATTENDANCE AT MEETINGS.

(A) AUTHORIZED ATTENDEES.

A PARENT OR GUARDIAN OF A CHILD AND THE CHILD'S ATTORNEY MAY ATTEND ANY MEETING OF THE COUNCIL OR THE LOCAL COORDINATING COUNCIL AT WHICH THE CHILD'S RESIDENTIAL PLACEMENT IS DISCUSSED.

(B) NOTICE OF MEETING.

AT LEAST 10 DAYS BEFORE THE MEETING, THE COUNCIL OR LOCAL COORDINATING COUNCIL SHALL NOTIFY EACH PARENT OR GUARDIAN OF THE CHILD AND THE CHILD'S ATTORNEY OF THE DATE, TIME, AND LOCATION OF ANY MEETING THE COUNCIL OR THE LOCAL COORDINATING COUNCIL PLANS TO HOLD TO DISCUSS THE CHILD'S RESIDENTIAL PLACEMENT.

(C) NOTICE OF DECISION.

THE COUNCIL OR THE LOCAL COORDINATING COUNCIL SHALL NOTIFY EACH PARENT OR GUARDIAN OF THE CHILD AND THE CHILD'S ATTORNEY IN WRITING OF:

(1) ANY DECISION THE COUNCIL OR LOCAL COORDINATING COUNCIL MAKES CONCERNING THE CHILD'S RESIDENTIAL PLACEMENT; AND

(2) THE RIGHT OF THE PARENT, GUARDIAN, OR ATTORNEY TO APPEAL A DECISION MADE BY THE COUNCIL OR THE LOCAL COORDINATING COUNCIL CONCERNING THE CHILD'S RESIDENTIAL PLACEMENT.

REVISOR'S NOTE: This section formerly was Art. 49D, § 4-103.

The only changes are in style.

Defined terms: "Council" § 8-101

"Local coordinating council" § 8-101

"Residential placement" § 8-101

SUBTITLE 5. CHILDREN'S CABINET FUND.

8-501. "FUND" DEFINED.

IN THIS SUBTITLE, "FUND" MEANS THE CHILDREN'S CABINET FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 1-101(g).

8-502. ESTABLISHED.

THERE IS A CHILDREN'S CABINET FUND.

REVISOR'S NOTE: This section formerly was Art. 49D, § 5-101(a).

No changes are made.

8-503. COMPOSITION; UNSPENT MONEY.

(A) COMPOSITION.

THE FUND:

(1) CONSISTS OF MONEY APPROPRIATED, TRANSFERRED, CREDITED, OR PAID INTO THE FUND FROM ANY SOURCE; AND

(2) INCLUDES MONEY FOR OUT-OF-HOME CARE AND SERVICES TO PREVENT OUT-OF-HOME PLACEMENTS.

(B) UNSPENT MONEY.

AT THE END OF EACH FISCAL YEAR ANY UNSPENT MONEY IN THE FUND SHALL REVERT TO THE GENERAL FUND.

REVISOR'S NOTE: This section formerly was Art. 49D, § 5-101(b) and (c).

The only changes are in style.

Defined term: "Fund" § 8-501

8-504. EXPENDITURES FROM FUND.

EXPENDITURES FROM THE FUND SHALL BE MADE:

(1) IN ACCORDANCE WITH THE BUDGET AMENDMENT PROCEDURE IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) TO EACH COUNTY THROUGH THE COUNTY'S LOCAL MANAGEMENT BOARD TO SUPPORT A LOCALLY-DRIVEN INTERAGENCY EFFORT TO MAXIMIZE ALL AVAILABLE RESOURCES FOR CHILDREN AND FAMILY SERVICES; AND

(3) TO REFLECT THE PRIORITIES, POLICIES, AND PROCEDURES THAT THE CHILDREN'S CABINET ADOPTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 5-102.

In the introductory language of this section, the former phrase "[n]otwithstanding the provisions of § 5-103 of this title" is deleted for clarity.

Defined terms: "County" § 1-101

"Fund" § 8-501

"Local management board" § 8-101

8-505. DISBURSEMENTS TO LOCAL MANAGEMENT BOARDS.

(A) APPLICATION BY LOCAL MANAGEMENT BOARD.

A LOCAL MANAGEMENT BOARD SHALL APPLY FOR MONEY FROM THE FUND IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE CHILDREN'S CABINET.

(B) COMMUNITY PARTNERSHIP AGREEMENTS.

IN CONNECTION WITH AN APPLICATION FOR MONEY UNDER SUBSECTION (A) OF THIS SECTION, A LOCAL MANAGEMENT BOARD SHALL DEVELOP AND SUBMIT A COMMUNITY PARTNERSHIP AGREEMENT THAT:

(1) REFLECTS COORDINATION WITH:

(I) THE STATE'S 3-YEAR PLAN FOR CHILDREN, YOUTH, AND FAMILIES; AND

(II) ANY LOCAL GOVERNMENT PLAN FOR SERVICES FOR CHILDREN, YOUTH, AND FAMILIES, INCLUDING THE LOCAL SUBSTANCE ABUSE PLAN DEVELOPED IN ACCORDANCE WITH TITLE 8, SUBTITLE 10 OF THE HEALTH - GENERAL ARTICLE; AND

(2) ADDRESSES THE PRIORITIES AND STRATEGIES OF THE COUNTY FOR MEETING THE IDENTIFIED NEEDS OF CHILDREN AND FAMILIES AS ARTICULATED IN THE LOCAL MANAGEMENT BOARD'S 5-YEAR STRATEGIC PLAN REGARDING:

(I) YOUTH DEVELOPMENT;

(II) PREVENTION SERVICES;

(III) CRISIS AND EARLY INTERVENTION;

(IV) SERVICES FOR CHILDREN AT RISK OF OUT-OF-HOME PLACEMENT OR RETURNING FROM OUT-OF-HOME PLACEMENT; AND

(V) OUT-OF-HOME PLACEMENT AND TREATMENT.

(C) TERMS AND CONDITIONS OF DISBURSEMENTS.

THE CHILDREN'S CABINET MAY DISBURSE MONEY TO A LOCAL MANAGEMENT BOARD SUBJECT TO THE TERMS, CONDITIONS, PERFORMANCE MEASURES, OR OUTCOME EVALUATIONS THAT THE CHILDREN'S CABINET CONSIDERS NECESSARY.

(D) USE OF MONEY.

THE LOCAL MANAGEMENT BOARD SHALL USE THE MONEY TO IMPLEMENT:

(1) A LOCAL INTERAGENCY SERVICES DELIVERY SYSTEM FOR CHILDREN, YOUTH, AND FAMILIES IN ACCORDANCE WITH THE COMMUNITY PARTNERSHIP AGREEMENT; AND

(2) ANY TERMS, CONDITIONS, AND PERFORMANCE MEASURES THAT THE CHILDREN'S CABINET REQUIRES.

REVISOR'S NOTE: This section formerly was Art. 49D, § 5–103.

In subsection (b)(1)(ii) of this section, the former reference to any "other" local government plan is deleted as surplusage.

The only other changes are in style.

Defined terms: "County" § 1–101

"Fund" § 8–501

"Local management board" § 8–101

8–506. FISCAL AGENT.

THE STATE DEPARTMENT OF EDUCATION IS THE FISCAL AGENT FOR THE FUND.

REVISOR'S NOTE: This section formerly was Art. 49D, § 5–104.

The only changes are in style.

Defined term: "Fund" § 8–501

SUBTITLE 6. AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAMS.

8–601. "AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM" DEFINED.

IN THIS SUBTITLE, "AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM" MEANS SERVICES PROVIDED TO SCHOOL-AGED YOUTH AND THEIR FAMILIES TO PREVENT OR DIVERT YOUTH FROM ENTERING THE JUVENILE JUSTICE SYSTEM AND TO HELP MAKE THEM READY FOR ADULTHOOD BY AGE 21.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-501(a) and (b).

The former phrase "the following words have the meanings indicated" is deleted as unnecessary because only one word is defined in this section.

8-602. IN GENERAL.

AN AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM MAY BE:

- (1) (I) COMMUNITY-BASED;
- (II) SCHOOL-BASED;
- (III) NEIGHBORHOOD-BASED; OR
- (IV) FAITH-BASED; AND
- (2) NONRESIDENTIAL.

REVISOR'S NOTE: This section formerly was Art. 41, § 2-503(a).

The only changes are in style.

Defined term: "At-risk youth prevention and diversion program" § 8-601

8-603. ROLE OF LOCAL MANAGEMENT BOARDS.

(A) IN GENERAL.

AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAMS SHALL BE COORDINATED, MONITORED, AND SUPPORTED BY LOCAL MANAGEMENT BOARDS.

(B) DUTIES OF LOCAL MANAGEMENT BOARD.

A LOCAL MANAGEMENT BOARD SHALL:

- (1) DEVELOP A REQUEST FOR FUNDS BASED ON THE RECOMMENDATIONS OF THE LOCAL PLANNING GROUP CONVENED IN ACCORDANCE WITH § 8-605(B) OF THIS SUBTITLE;
- (2) AWARD FUNDS TO LOCAL AGENCIES OR ORGANIZATIONS TO PROVIDE DIRECT SERVICES;
- (3) MONITOR AND EVALUATE AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM PERFORMANCE;
- (4) PROVIDE TECHNICAL ASSISTANCE TO AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAMS AS NEEDED;
- (5) PROMOTE COST-EFFECTIVENESS STRATEGIES;
- (6) MEASURE AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM OUTCOMES; AND
- (7) PROVIDE FISCAL AND PROGRAM REPORTS TO THE OFFICE.

(C) ASSESSMENT OF NEEDS AND SERVICES.

AS PART OF THE PREVENTION ELEMENT OF THE 3-YEAR PLAN DEVELOPED BY THE CHILDREN'S CABINET ESTABLISHING PRIORITIES AND STRATEGIES FOR THE COORDINATED DELIVERY OF SERVICES FOR CHILDREN AND FAMILIES, THE LOCAL MANAGEMENT BOARD SHALL:

(1) ASSESS THE ADEQUACY, AVAILABILITY, AND ACCESSIBILITY OF CURRENT COMMUNITY-BASED SERVICES THAT:

(I) PREVENT AND DIVERT ENTRY AND REENTRY INTO THE JUVENILE SYSTEM;

(II) PROVIDE ALTERNATIVES TO INCARCERATION AND INSTITUTIONALIZATION;

(III) PREVENT AND DIVERT CRIMINAL BEHAVIOR; AND

(IV) INCREASE PERSONAL RESPONSIBILITY AND SELF-SUFFICIENCY;

(2) IDENTIFY UNSERVED NEIGHBORHOODS OR COMMUNITIES WITH CRITICAL NEEDS AND SIGNIFICANT NUMBERS OF AT-RISK OR DELINQUENT YOUTH; AND

(3) RECOMMEND PROGRAMS THAT CAN BE ESTABLISHED OR ENHANCED TO ADDRESS THE UNMET NEEDS OF YOUTH AND THEIR FAMILIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 2-501(d) and 2-503(b), (e), and (f).

In subsection (b)(1) of this section, the reference to the local planning group "convened in accordance with § 8-605(b) of this subtitle" is added for clarity.

In the introductory language of subsection (c) of this section, the former reference to the "3-year plan" is deleted in light of the incorporation of the definition of that term in this revision.

As to the State's 3-year plan, *see* Executive Order 01.01.2005.34.

Defined terms: "At-risk youth prevention and diversion program" § 8-601

"Local management board" § 8-101

"Office" § 8-101

8-604. APPLICATIONS FOR FUNDING.

(A) IN GENERAL.

A LOCAL MANAGEMENT BOARD SHALL APPLY TO THE OFFICE FOR FUNDING FOR AN AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM.

(B) LOCAL PLANNING GROUP.

THE APPLICATION SHALL DEMONSTRATE THAT THE LOCAL MANAGEMENT BOARD HAS CONVENED A LOCAL PLANNING GROUP CONSISTING OF PARENTS, YOUTH, AND REPRESENTATIVES OF PUBLIC AND PRIVATE AGENCIES THAT HAVE KNOWLEDGE OF AND EXPERIENCE WORKING WITH AT-RISK YOUTH AND FAMILIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-503(c) and (d).

In subsection (b) of this section, the requirement that the "application shall demonstrate" that the local management board has convened a local planning group is substituted for the former requirement that "[b]efore submitting an application to the Governor's Office for Children, the local management board shall demonstrate that the local management board has convened a local planning group" for brevity and clarity.

Defined terms: "At-risk youth prevention and diversion program" § 8-601
 "Local management board" § 8-101
 "Office" § 8-101

SUBTITLE 7. RESIDENTIAL CHILD CARE PROGRAMS -- GENERAL PROVISIONS.

PART I. STATE RESOURCE PLAN; CONTRACT REQUIREMENTS.

8-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49D, § 7-101(a).

(B) AGENCY.

"AGENCY" MEANS:

- (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (2) THE DEPARTMENT OF HUMAN RESOURCES; OR
- (3) THE DEPARTMENT OF JUVENILE SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49D, § 7-101(b).

In the introductory language of this section, the reference to an "[a]gency" is substituted for the former reference to "[a]gencies" in light of Art. 1, § 8, which provides that the singular generally includes the plural. Correspondingly, in item (2) of this section the word "or" is substituted for the former word "and".

(C) CERTIFIED PROGRAM ADMINISTRATOR.

“CERTIFIED PROGRAM ADMINISTRATOR” MEANS AN INDIVIDUAL WHO IS:

(1) CERTIFIED BY THE STATE BOARD FOR CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM ADMINISTRATORS UNDER TITLE 20 OF THE HEALTH OCCUPATIONS ARTICLE; AND

(2) RESPONSIBLE FOR THE DAY-TO-DAY MANAGEMENT AND OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 49D, § 7–101(c).

The only changes are in style.

Defined term: “Residential child care program” §§ 8–101, 8–701

(D) PLAN.

“PLAN” MEANS THE STATE RESOURCE PLAN FOR RESIDENTIAL CHILD CARE PROGRAMS.

REVISOR’S NOTE: This subsection formerly was Art. 49D, § 7–101(e).

No changes are made.

(E) PROVIDER.

“PROVIDER” MEANS A FOR PROFIT OR NOT FOR PROFIT ENTITY LICENSED BY AN AGENCY TO OPERATE A RESIDENTIAL CHILD CARE PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 49D, § 7–101(f).

No changes are made.

Defined terms: “Agency” § 8–701

“Residential child care program” §§ 8–101, 8–701

(F) RESIDENTIAL CHILD CARE PROGRAM.

“RESIDENTIAL CHILD CARE PROGRAM” DOES NOT INCLUDE SITES LICENSED BY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49D, § 7–101(g)(3).

8–702. LEGISLATIVE INTENT.

IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

(1) IMPROVE THE QUALITY OF CARE PROVIDED BY RESIDENTIAL CHILD CARE PROGRAMS;

(2) PROVIDE THE SAME QUALITY OF CARE TO ALL CHILDREN PLACED IN RESIDENTIAL CHILD CARE PROGRAMS; AND

(3) DEVELOP A SYSTEM THAT EXPANDS SERVICES PROVIDED BY RESIDENTIAL CHILD CARE PROGRAMS TO COUNTIES THAT ARE UNDERSERVED.

REVISOR'S NOTE: This section formerly was Art. 49D, § 7–102.

In item (2) of this section, the reference to “residential child care programs” is substituted for the former reference to “a residential child care program” for consistency with items (1) and (3) of this section.

No other changes are made.

Defined terms: “County” § 1–101

“Residential child care program” §§ 8–101, 8–701

8–703. STATE RESOURCE PLAN.

(A) ESTABLISHED.

THERE IS A STATE RESOURCE PLAN FOR RESIDENTIAL CHILD CARE PROGRAMS.

(B) PURPOSE.

THE PURPOSE OF THE PLAN IS TO ENHANCE ACCESS TO SERVICES PROVIDED BY RESIDENTIAL CHILD CARE PROGRAMS.

(C) DEVELOPMENT.

ON OR BEFORE JULY 1 OF EACH YEAR, THE OFFICE SHALL DEVELOP THE PLAN IN CONSULTATION WITH THE AGENCIES, PROVIDERS, COUNTIES, CHILD ADVOCATES, CONSUMERS, AND ANY OTHER STATE UNIT, ENTITY, OR PERSON THAT THE OFFICE IDENTIFIES AS HAVING RELEVANT INFORMATION OR THAT IS INTERESTED IN THE DEVELOPMENT OF THE PLAN.

(D) CONTENTS.

THE PLAN SHALL:

(1) PROVIDE A FRAMEWORK FOR THE OFFICE AND THE AGENCIES TO PROCURE RESIDENTIAL CHILD CARE PROGRAM SERVICES THAT MEET THE NEEDS IDENTIFIED IN THE PLAN;

(2) PROVIDE THE FOLLOWING INFORMATION ON RESIDENTIAL CHILD CARE PROGRAMS:

(I) THE COUNTY WHERE EACH PROGRAM IS OPERATED;

(II) THE PROVIDER FOR EACH PROGRAM;

(III) THE ACTUAL CAPACITY AND UTILIZATION RATE FOR EACH PROGRAM;

(IV) THE AGES OF THE CHILDREN IN EACH PROGRAM;

(V) THE COUNTY WHERE EACH CHILD IN A PROGRAM LIVED AT THE TIME THE CHILD ENTERED OUT-OF-HOME PLACEMENT;

(VI) THE SERVICES CHILDREN REQUIRE AND A DESCRIPTION OF HOW THOSE SERVICES ARE BEING PROVIDED;

(VII) THE AGENCY THAT PLACED CHILDREN IN EACH PROGRAM; AND

(VIII) ANY OTHER INFORMATION THE OFFICE OR THE AGENCIES, PROVIDERS, OR COUNTIES CONSIDER RELEVANT;

(3) IDENTIFY THE TYPES OF SERVICES NEEDED IN RESIDENTIAL CHILD CARE PROGRAMS AND THE ESTIMATED NUMBER OF CHILDREN REQUIRING THOSE SERVICES IN EACH COUNTY;

(4) IDENTIFY THE COUNTIES WHERE THE SERVICES IDENTIFIED IN ITEM (3) OF THIS SUBSECTION ARE INSUFFICIENTLY SUPPLIED;

(5) ESTABLISH AN INCENTIVE FUND FOR RESIDENTIAL CHILD CARE PROGRAM DEVELOPMENT IN THE COUNTIES IDENTIFIED IN ITEM (4) OF THIS SUBSECTION; AND

(6) IDENTIFY THE REASONS CHILDREN ARE PLACED IN RESIDENTIAL CHILD CARE PROGRAMS OUTSIDE OF THE COUNTIES WHERE THE CHILDREN LIVED AT THE TIME THEY ENTERED OUT-OF-HOME PLACEMENT IN ACCORDANCE WITH § 5-525 OF THE FAMILY LAW ARTICLE.

(E) ANNUAL REPORT.

ON OR BEFORE JANUARY 1 OF EACH YEAR, THE OFFICE SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON THE PLAN'S FINDINGS AND RECOMMENDATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 7-103.

In subsection (c) of this section, the reference to an "entity" is substituted for the former reference to an "agency" to avoid confusion with the defined term "agency".

In subsection (d)(2)(v) and (6) of this section, the references to "the county where each child ... lived at the time the child entered out-of-home placement" and "the counties where the children lived at the time they entered out-of-home placement" are substituted, respectively, for the former references to "the county of each child" and "their county" for clarity.

Defined terms: "Agency" § 8-701

"County" § 1-101

"Office" § 8-101

"Person" § 1-101

"Plan" § 8-701

"Provider" § 8-701

"Residential child care program" §§ 8-101, 8-701

8-704. CONTRACTS FOR RESIDENTIAL CHILD CARE PROGRAMS.

A CONTRACT AWARDED OR RENEWED BETWEEN AN AGENCY AND A PROVIDER FOR A RESIDENTIAL CHILD CARE PROGRAM SHALL:

(1) REQUIRE THE PROVIDER TO FULFILL THE LICENSING REQUIREMENTS UNDER §§ 5-507 THROUGH 5-509 OF THE FAMILY LAW ARTICLE OR §§ 9-235 THROUGH 9-237 OF THIS ARTICLE;

(2) INCLUDE THE FOLLOWING PROVISIONS:

(I) A DESCRIPTION OF THE SERVICES THE PROVIDER IS REQUIRED TO PROVIDE;

(II) AN EXPLANATION FROM THE PROVIDER OF HOW THE PROGRAM WILL FURTHER THE OBJECTIVES OF THE PLAN UNDER § 8-703(B) OF THIS SUBTITLE; AND

(III) ANY OTHER PROVISION THE CONTRACTING AGENCY CONSIDERS NECESSARY;

(3) REQUIRE THE PROVIDER TO REPORT TO THE CONTRACTING AGENCY IN WRITING WITHIN 24 HOURS AFTER A CRITICAL INCIDENT, AS DEFINED IN REGULATION, INVOLVING A CHILD IN THE PROVIDER'S CARE;

(4) INCLUDE A PLAN FOR THE RESIDENTIAL CHILD CARE PROGRAM'S INTERACTION WITH THE SURROUNDING COMMUNITY, INCLUDING A MECHANISM FOR RESPONDING TO COMPLAINTS;

(5) REQUIRE THE PROVIDER TO REPORT TO THE CONTRACTING AGENCY COMMUNITY COMPLAINTS THAT THE RESIDENTIAL CHILD CARE PROGRAM RECEIVES AND THE RESOLUTION OF EACH COMPLAINT WITHIN 10 DAYS AFTER THE COMPLAINT IS RECEIVED;

(6) REQUIRE THAT THE RESIDENTIAL CHILD CARE PROGRAM PROVIDE HEALTH CARE SERVICES UNDER § 5-533 OF THE FAMILY LAW ARTICLE;

(7) REQUIRE THE PROVIDER TO MAINTAIN HEALTH CARE RECORDS DURING THE PLACEMENT OF A CHILD IN THE RESIDENTIAL CHILD CARE PROGRAM, INCLUDING:

(I) HEALTH INSURANCE INFORMATION;

(II) POWERS OF ATTORNEY, IF APPLICABLE;

(III) A HISTORY OF PRIMARY AND PREVENTIVE CARE AND ANY ARRANGEMENTS MADE FOR CONTINUING CARE;

(IV) A HISTORY OF THE HEALTH CARE PROVIDED FOR BEHAVIORAL, MENTAL, OR SUBSTANCE ABUSE DISORDERS AND ANY ARRANGEMENTS MADE FOR CONTINUING CARE; AND

(V) DOCUMENTATION OF DOCTOR AND DENTIST VISITS;

(8) REQUIRE THE PROVIDER TO COMPLY WITH § 7-309 OF THE EDUCATION ARTICLE;

(9) REQUIRE AN ANNUAL FINANCIAL DISCLOSURE, INCLUDING:

(I) A CERTIFIED FINANCIAL AUDIT OF REVENUES AND EXPENDITURES PREPARED BY A LICENSED ACCOUNTANT;

(II) A CERTIFIED FINANCIAL AUDIT PREPARED BY A LICENSED ACCOUNTANT THAT COMPARES ACTUAL REVENUES AND EXPENDITURES TO THE BUDGET SUBMITTED TO THE INTERAGENCY RATES COMMITTEE FOR THE PURPOSE OF DETERMINING THE PROGRAM'S RATE; AND

(III) A STATEMENT IDENTIFYING ANY INTEREST THAT THE PROVIDER OR AN EMPLOYEE OF THE PROVIDER HAS WITH A BUSINESS OR ENTITY THAT ACCOUNTS FOR 5% OR MORE OF THE PROGRAM'S EXPENDITURES;

(10) REQUIRE THE PROVIDER AND THE EMPLOYEES OF THE PROVIDER WHO HAVE DIRECT CONTACT WITH CHILDREN IN THE RESIDENTIAL CHILD CARE PROGRAM TO BE AT LEAST 21 YEARS OF AGE; AND

(11) REQUIRE THE RESIDENTIAL CHILD CARE PROGRAM TO HAVE A CERTIFIED PROGRAM ADMINISTRATOR AS REQUIRED UNDER § 20-301 OF THE HEALTH OCCUPATIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 7-104.

In item (1) of this section, the former reference to "Title 7, Subtitle 9, of the Health – General Article", which requires licensing by the Developmental Disabilities Administration before providing specified services to an individual with a developmental disability, is deleted as inconsistent with the definition of "residential child care program" applicable to this subtitle, which excludes sites licensed by the Developmental Disabilities Administration. This deletion is called to the attention of the General Assembly.

Also in item (1) of this section, the Human Services Article Review Committee notes, for consideration by the General Assembly, that the reference to "[§] 5-507 ... of the Family Law Article", which requires licenses for child placement agencies, may be over-inclusive. The General Assembly may wish to consider deleting this reference.

In the introductory language of item (2) and in item (2)(iii) of this section, the references to "provisions" and "provision" are substituted for the former references to "statements" and "statement" for clarity.

In item (2)(i) of this section, the former reference to "a residential child care program" is deleted as redundant in light of the reference to a "residential child care program" in the introductory language of this section.

In item (2)(iii) of this section, the reference to the “contracting agency” is substituted for the former reference to an “agency” for clarity.

In item (5) of this section, the reference to reporting complaints “to the contracting agency” is added for clarity and consistency with item (3) of this section.

Also in item (5) of this section, the reference to 10 days “after the complaint is received” is added for clarity.

Defined terms: “Agency” § 8–701

“Certified program administrator” § 8–701

“Plan” § 8–701

“Provider” § 8–701

“Residential child care program” §§ 8–101, 8–701

8–705. SAMPLE CONTRACTS.

THE OFFICE SHALL PROVIDE A SAMPLE CONTRACT THAT INCLUDES AN EXAMPLE OF THE PROVISIONS REQUIRED UNDER § 8–704 OF THIS SUBTITLE TO EACH POTENTIAL PROVIDER INTERESTED IN BECOMING LICENSED TO OPERATE A RESIDENTIAL CHILD CARE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49D, §§ 7–105 and 7–101(h).

The reference to the “Office” is substituted for the former reference to the “single point of entry” and the definition of that term for brevity and clarity.

Defined terms: “Office” § 8–101

“Provider” § 8–701

“Residential child care program” §§ 8–101, 8–701

8–706. REGULATIONS.

THE MEMBERS OF THE CHILDREN’S CABINET SHALL ADOPT REGULATIONS TO CARRY OUT THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49D, § 7–106.

8–707. RESERVED.

8–708. RESERVED.

PART II. LICENSING; INSPECTIONS.

8–709. “LICENSING AGENCY” DEFINED.

IN THIS PART, “LICENSING AGENCY”:

(1) MEANS THE AGENCY DESIGNATED BY THE OFFICE AS RESPONSIBLE FOR LICENSING A RESIDENTIAL CHILD CARE PROGRAM; AND

(2) INCLUDES THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, AND THE DEPARTMENT OF JUVENILE SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(a)(1) and (3).

Defined terms: "Office" § 8-101

"Residential child care program" § 8-101

8-710. OPERATING WITHOUT A LICENSE.

(A) PROHIBITED.

A PERSON MAY NOT OPERATE A RESIDENTIAL CHILD CARE PROGRAM IN THE STATE WITHOUT A LICENSE.

(B) PENALTY.

A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 FOR EACH DAY OF OPERATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-102.

In subsection (a) of this section, the reference to a "residential child care" program is added for consistency throughout this subtitle.

Defined terms: "Person" § 1-101

"Residential child care program" § 8-101

8-711. LICENSE DENIAL.

A LICENSING AGENCY MAY DENY A LICENSE TO:

(1) A CORPORATION OR ENTITY THAT HAS HAD A LICENSE REVOKED BY A LICENSING AGENCY WITHIN THE PREVIOUS 10 YEARS; OR

(2) A CORPORATION OR ENTITY THAT HAS A CORPORATE OFFICER WHO HAS SERVED AS A CORPORATE OFFICER FOR A CORPORATION OR ENTITY THAT HAS HAD A LICENSE REVOKED BY A LICENSING AGENCY WITHIN THE PREVIOUS 10 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(h).

Defined term: "Licensing agency" § 8-709

8-712. UNANNOUNCED INSPECTIONS.

(A) REQUIRED.

UNLESS A PROGRAM ADMINISTRATOR OR AN EMPLOYEE OF A RESIDENTIAL CHILD CARE PROGRAM IS REQUIRED TO BE PRESENT, A LICENSING AGENCY SHALL CONDUCT UNANNOUNCED INSPECTIONS OF RESIDENTIAL CHILD CARE PROGRAMS.

(B) TIME OF INSPECTIONS.

THE UNANNOUNCED INSPECTIONS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE INSPECTIONS CONDUCTED DURING NONBUSINESS HOURS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(i).

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the meaning of the phrase "[u]nless a program administrator or an employee of a residential child care program is required to be present" in subsection (a) of this section is unclear. The General Assembly may wish to clarify its intent.

Defined terms: "Licensing agency" § 8-709
"Residential child care program" § 8-101

SUBTITLE 8. RESIDENTIAL CHILD CARE PROGRAMS -- CORPORATE RESPONSIBILITY AND GOVERNANCE.

8-801. "LICENSING AGENCY" DEFINED.

IN THIS SUBTITLE, "LICENSING AGENCY":

(1) MEANS THE AGENCY DESIGNATED BY THE OFFICE AS RESPONSIBLE FOR LICENSING A RESIDENTIAL CHILD CARE PROGRAM; AND

(2) INCLUDES THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, AND THE DEPARTMENT OF JUVENILE SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(a)(1) and (3).

Defined terms: "Office" § 8-101
"Residential child care program" § 8-101

REVISOR'S NOTE TO SECTION:

Former Art. 49D, § 6-101(a)(5), which defined "program" to mean a residential child care program, is deleted as unnecessary because the defined term "residential child care program" is substituted for the former references to "program" throughout this subtitle for consistency with Subtitles 7 and 9 of this title.

8-802. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO A CORPORATION THAT IS AN APPLICANT FOR OR HAS BEEN GRANTED A LICENSE TO OPERATE A RESIDENTIAL CHILD CARE PROGRAM IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(a)(2).

It is revised as a scope provision rather than as a definition of "corporation" for clarity.

The former reference to "an entity with articles of incorporation" is deleted as implicit in the reference to a "corporation".

Defined term: "Residential child care program" § 8-101

8-803. LICENSING REQUIREMENTS — IN GENERAL.

EXCEPT AS PROVIDED IN § 8-807 OF THIS SUBTITLE AND IN ADDITION TO THE STANDARDS SET FORTH IN COMAR 14.31.06 AND 14.31.07, A CORPORATION SHALL MEET THE REQUIREMENTS ESTABLISHED IN THIS SUBTITLE AS A CONDITION OF LICENSURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(b).

The phrase "[e]xcept as provided in" is substituted for the former phrase "[n]otwithstanding the provisions of" for clarity.

8-804. REQUIRED DOCUMENTATION.

A CORPORATION SHALL DEMONSTRATE TO THE LICENSING AGENCY THE CAPABILITY TO PROVIDE FOR AND ARRANGE FOR THE PROVISION OF ALL APPLICABLE SERVICES PROPOSED IN THE LICENSE APPLICATION BY SUBMITTING, AT A MINIMUM, THE FOLLOWING DOCUMENTS TO THE LICENSING AGENCY:

(1) A BUSINESS PLAN THAT CLEARLY DEMONSTRATES THE ABILITY OF THE RESIDENTIAL CHILD CARE PROGRAM OPERATED BY THE CORPORATION TO PROVIDE SERVICES IN ACCORDANCE WITH STATE REGULATIONS AND FUNDING REQUIREMENTS;

(2) A SUMMARY OF THE CORPORATION'S DEMONSTRATED EXPERIENCE IN THE FIELD OF HUMAN SERVICES, IN ACCORDANCE WITH STANDARDS DEVELOPED BY THE OFFICE;

(3) PRIOR LICENSING REPORTS ISSUED WITHIN THE PREVIOUS 10 YEARS CONCERNING THE CORPORATION OR ANY IN-STATE OR OUT-OF-STATE ENTITIES ASSOCIATED WITH THE CORPORATION OR THE RESIDENTIAL CHILD CARE PROGRAM, INCLUDING DEFICIENCY REPORTS AND COMPLIANCE RECORDS ON WHICH THE STATE MAY MAKE REASONED DECISIONS ABOUT THE QUALIFICATIONS OF THE CORPORATION OR THE RESIDENTIAL CHILD CARE PROGRAM; AND

(4) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE

LICENSING AGENCY, TO ADDRESS HOW THE CORPORATION WILL ENSURE THE HEALTH AND SAFETY OF THE INDIVIDUALS SERVED BY THE RESIDENTIAL CHILD CARE PROGRAM AND THE QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY THE RESIDENTIAL CHILD CARE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6-101(c).

In the introductory language of this section, the General Assembly may wish to clarify whether a corporation must demonstrate the capability to both provide for "and" arrange for the provision of services or demonstrate the capability to either provide for "or" arrange for the provision of services.

In subsection (a)(3) of this section, the reference to licensing reports concerning "the corporation" is added to correct an obvious omission and for consistency with § 8-711 of this subtitle.

Also in subsection (a)(3) of this section, the word "concerning" is substituted for the former word "from" for clarity and accuracy.

Defined terms: "Licensing agency" § 8-801

"Office" § 8-101

"Residential child care program" § 8-101

8-805. BOARD OF DIRECTORS; CHIEF FINANCIAL OFFICER.

(A) MINIMUM SIZE OF BOARD; QUALIFICATIONS OF MEMBERS.

(1) A CORPORATION SHALL HAVE A BOARD OF DIRECTORS THAT CONSISTS OF AT LEAST FIVE INDIVIDUALS WITH AN INTEREST IN OR KNOWLEDGE OF THE NEEDS OF CHILDREN AND THEIR FAMILIES.

(2) OF THE MEMBERS OF THE BOARD OF DIRECTORS:

(I) AT LEAST ONE SHALL BE A RESIDENT OF THE STATE;

(II) AT LEAST ONE SHALL HAVE DEMONSTRATED EXPERIENCE IN OR KNOWLEDGE OF THE FIELD OF HUMAN SERVICES; AND

(III) AT LEAST ONE SHALL HAVE DEMONSTRATED KNOWLEDGE IN THE FIELDS OF ACCOUNTING, BUSINESS, OR FINANCIAL MANAGEMENT.

(3) (I) AN EMPLOYEE, OR AN IMMEDIATE FAMILY MEMBER OF AN EMPLOYEE, OF A CORPORATION OR RESIDENTIAL CHILD CARE PROGRAM MAY NOT SERVE ON THE CORPORATION'S BOARD OF DIRECTORS.

(II) A PERSON WHO IS COMPENSATED BY A CORPORATION FOR PROVIDING GOODS OR SERVICES MAY NOT SERVE ON THE CORPORATION'S BOARD OF DIRECTORS.

(B) CHIEF FINANCIAL OFFICER.

A CORPORATION SHALL HAVE A CHIEF FINANCIAL OFFICER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6–101(d) and (f).

Defined term: "Residential child care program" § 8–101

8–806. BYLAWS.

A CORPORATION SHALL ADOPT WRITTEN BYLAWS THAT REQUIRE THE CORPORATION'S BOARD OF DIRECTORS TO BE RESPONSIBLE FOR:

(1) OVERSEEING THE MANAGEMENT AND OPERATION OF THE RESIDENTIAL CHILD CARE PROGRAM OPERATED BY THE CORPORATION;

(2) ENSURING THAT THE RESIDENTIAL CHILD CARE PROGRAM OPERATES IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS;

(3) APPROVING THE RESIDENTIAL CHILD CARE PROGRAM'S MISSION STATEMENT, LONG-TERM GOALS, POLICIES, PROCEDURES, AND ANNUAL BUDGET;

(4) DEFINING AND PROHIBITING CIRCUMSTANCES THAT WOULD CREATE A FINANCIAL OR PERSONAL CONFLICT OF INTEREST FOR MEMBERS OF THE BOARD OF DIRECTORS, CORPORATE OFFICERS, EMPLOYEES, AGENTS, ASSIGNS, AND VOLUNTEERS;

(5) ENSURING THAT THE RESIDENTIAL CHILD CARE PROGRAM RESPONDS TO ALL REQUESTS FROM THE LICENSING AGENCY IN A TIMELY MANNER;

(6) APPROVING THE RESIDENTIAL CHILD CARE PROGRAM'S SERVICE PLAN AND ENSURING THAT SERVICES ARE PROVIDED IN ACCORDANCE WITH THE PLAN;

(7) IF THE CORPORATION IS A NONPROFIT CORPORATION, REVIEWING ANNUALLY WHETHER THE CORPORATION IS SATISFYING ITS CHARITABLE MISSION;

(8) ENSURING THAT THE CORPORATION HAS LIABILITY INSURANCE;

(9) REQUIRING THAT MEMBERS OF THE BOARD OF DIRECTORS HAVE TRAINING IN THEIR RESPONSIBILITIES REGARDING THE GOVERNANCE OF THE RESIDENTIAL CHILD CARE PROGRAM; AND

(10) ESTABLISHING COMMITTEES OR MEMBER ASSIGNMENTS TO PERIODICALLY REVIEW AS WARRANTED, BUT NOT LESS THAN ANNUALLY:

(I) COMPENSATION OF OFFICERS AND STAFF OF THE CORPORATION AND THE RESIDENTIAL CHILD CARE PROGRAM;

(II) QUALITY OF SERVICES PROVIDED TO CLIENTS, INCLUDING ALL INCIDENTS HARMING OR POTENTIALLY HARMING CLIENTS;

(III) FINANCIAL PROBLEMS AND CONCERNS RELATING TO THE RESIDENTIAL CHILD CARE PROGRAM;

(IV) PERFORMANCE OF KEY STAFF;

(V) NOMINATIONS OF NEW MEMBERS OF THE BOARD OF DIRECTORS; AND

(VI) POTENTIAL CONFLICTS OF INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6–101(e).

In the introductory language of this section, the former reference to being “legally” responsible is deleted as surplusage.

Defined terms: “Licensing agency” § 8–801
 “Residential child care program” § 8–101

8–807. REGULATIONS.

THE MEMBERS OF THE CHILDREN'S CABINET SHALL ADOPT REGULATIONS TO AUTHORIZE A WAIVER FROM SOME OR ALL OF THE REQUIREMENTS OF THIS SUBTITLE FOR CORPORATIONS THAT CAN DEMONSTRATE THAT THEIR BYLAWS AND POLICIES ARE SUBSTANTIALLY SIMILAR TO THOSE REQUIRED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49D, § 6–101(g).

The reference to “authoriz[ing]” a waiver is substituted for the former reference to “provid[ing]” a waiver for clarity.

SUBTITLE 9. RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM.

8–901. “NONPROFIT ORGANIZATION” DEFINED.

IN THIS SUBTITLE, “NONPROFIT ORGANIZATION” MEANS:

(1) A BONA FIDE RELIGIOUS ORGANIZATION, NO PART OF THE EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM, THE PURCHASE OF EQUIPMENT TO BE USED IN A RESIDENTIAL CHILD CARE PROGRAM, OR THE EXPANSION OF A RESIDENTIAL CHILD CARE PROGRAM; OR

(2) AN ORGANIZATION:

(I) THAT IS CHARTERED AS A NONPROFIT CORPORATION AND CLASSIFIED BY THE INTERNAL REVENUE SERVICE AS NONPROFIT; AND

(II) NO PART OF THE EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM, THE PURCHASE OF EQUIPMENT TO BE USED IN A RESIDENTIAL CHILD CARE PROGRAM, OR THE EXPANSION OF A RESIDENTIAL CHILD CARE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-701(a) and (c).

In this section and throughout this subtitle, the references to a "residential child care program" are substituted for the former references to a "facility" for consistency.

Defined term: "Residential child care program" § 8-101

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 18-701, which defined "wholly owned" is deleted as unnecessary because the term is not used in this subtitle.

8-902. PROGRAM ESTABLISHED; PURPOSES OF GRANTS.

(A) PROGRAM ESTABLISHED.

THERE IS A RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM.

(B) PURPOSES OF GRANTS.

ON THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR, THE BOARD OF PUBLIC WORKS MAY MAKE GRANTS TO COUNTIES, MUNICIPAL CORPORATIONS, AND NONPROFIT ORGANIZATIONS FOR:

(1) THE CONVERSION OF PUBLIC BUILDINGS OR PARTS OF PUBLIC BUILDINGS TO RESIDENTIAL CHILD CARE PROGRAMS;

(2) THE ACQUISITION OF EXISTING BUILDINGS OR PARTS OF BUILDINGS FOR USE AS RESIDENTIAL CHILD CARE PROGRAMS;

(3) THE RENOVATION OF RESIDENTIAL CHILD CARE PROGRAMS;

(4) THE PURCHASE OF CAPITAL EQUIPMENT FOR RESIDENTIAL CHILD CARE PROGRAMS; OR

(5) THE PLANNING, DESIGN, AND CONSTRUCTION OF RESIDENTIAL CHILD CARE PROGRAMS.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-702.

The only changes are in style.

Defined terms: "County" § 1-101

"Nonprofit organization" § 8-901

"Residential child care program" § 8-101

8-903. APPLICATIONS FOR GRANTS.

(A) APPLICANTS.

A COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION SPONSORING A PROJECT INVOLVING WORK SPECIFIED IN § 8-902 OF THIS SUBTITLE MAY APPLY TO THE EXECUTIVE DIRECTOR FOR A STATE GRANT TO BE APPLIED TOWARD THE COST OF THAT PROJECT.

(B) APPLICATIONS.

AN APPLICATION FOR A GRANT SHALL INCLUDE:

- (1) PROJECT PLANS FOR THE WORK TO BE CARRIED OUT;
- (2) A STATEMENT LISTING THE PERSONNEL EMPLOYED OR TO BE EMPLOYED AT THE RESIDENTIAL CHILD CARE PROGRAM, INCLUDING ALL COMPENSATION FOR PERSONNEL SERVICES AND ALL OTHER EXPENSES PAID OR TO BE PAID TO THE PERSONNEL;
- (3) ALL OTHER EXPENSES INCURRED OR TO BE INCURRED IN OPERATING THE RESIDENTIAL CHILD CARE PROGRAM; AND
- (4) A STATEMENT DESCRIBING HOW THE RESIDENTIAL CHILD CARE PROGRAM WILL PROVIDE SERVICES IN AN UNDERSERVED GEOGRAPHIC AREA OF THE STATE, AS IDENTIFIED BY THE OFFICE.

(C) AMENDMENT OF PROJECT PLANS.

AN APPLICANT MAY AMEND THE PROJECT PLANS SUBMITTED WITH ITS APPLICATION DURING OR AFTER THE GRANT APPLICATION PROCESS IF THE AMENDMENTS ARE:

- (1) INTENDED TO MEET THE CHANGING NEEDS OF THE RESIDENTIAL CHILD CARE PROGRAM OR ITS RESIDENTS; AND
- (2) APPROVED BY THE EXECUTIVE DIRECTOR.

(D) APPROVAL OF PROJECT.

ON APPROVAL OF A PROJECT AND THE PROJECT PLANS, THE EXECUTIVE DIRECTOR SHALL:

- (1) PROMPTLY REPORT THE APPLICATION TO THE BOARD OF PUBLIC WORKS; AND
- (2) RECOMMEND THAT THE BOARD MAKE FUNDS AVAILABLE AS PROVIDED IN THIS SUBTITLE.

(E) CONSIDERATIONS FOR DETERMINING AMOUNT.

THE AMOUNT OF THE STATE GRANT RECOMMENDED TO THE BOARD OF PUBLIC WORKS FOR A PROJECT SHALL BE DETERMINED AFTER CONSIDERATION OF:

- (1) ALL ELIGIBLE PROJECTS;

(2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE AT THE TIME THE GRANT RECOMMENDATION IS MADE TO THE BOARD OF PUBLIC WORKS; AND

(3) THE PRIORITIES ESTABLISHED BY THE OFFICE REGARDING GEOGRAPHIC AREAS OF THE STATE IDENTIFIED AS UNDERSERVED BY RESIDENTIAL CHILD CARE PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18-703 and 18-704(d).

In subsection (b)(2) of this section, the reference to "compensation" is substituted for the former reference to "remuneration and perquisites" for brevity and consistency with terminology used elsewhere in this article.

Defined terms: "County" § 1-101

"Executive Director" § 8-101

"Office" § 8-101

"Nonprofit organization" § 8-901

"Residential child care program" § 8-101

8-904. APPROPRIATION AND ALLOCATION OF FUNDS.

(A) APPROPRIATION AUTHORIZED.

BEGINNING IN FISCAL YEAR 2008 AND IN EACH FISCAL YEAR THEREAFTER, THE GOVERNOR MAY INCLUDE AN APPROPRIATION FOR THE RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM IN THE STATE CAPITAL BUDGET TO BE DISTRIBUTED AND MANAGED IN ACCORDANCE WITH THIS SUBTITLE.

(B) ALLOCATION BY BOARD OF PUBLIC WORKS.

(1) THE BOARD OF PUBLIC WORKS SHALL:

(I) MAKE ALLOCATIONS FROM FUNDS AVAILABLE FOR THE RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM IN ACCORDANCE WITH THIS SUBTITLE; AND

(II) CERTIFY THE ALLOCATIONS TO THE COMPTROLLER AND THE TREASURER.

(2) AFTER THE BOARD CERTIFIES THE ALLOCATIONS, THE TREASURER SHALL MAKE PAYMENTS TO OR ON BEHALF OF THE APPLICANT, WHEN NEEDED, FOR AN APPROVED PROJECT.

(3) THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18-705 and 18-704(f).

In subsection (a) of this section, the reference to an appropriation "for the Residential Child Care Capital Grant Program" is added for clarity.

In subsection (b)(1)(i) of this section, the reference to funds available “for the Residential Child Care Capital Grant Program” is substituted for the former reference to funds available “under this subtitle” for clarity.

In subsection (b)(1)(ii) of this section, the reference to the “Comptroller and the Treasurer” is substituted for the former reference to “the proper State officers” for clarity.

8-905. TERMS AND CONDITIONS OF GRANTS.

(A) IN GENERAL.

A STATE GRANT MAY BE USED ONLY FOR THE PURPOSES LISTED UNDER § 8-902 OF THIS SUBTITLE AND APPROVED BY THE EXECUTIVE DIRECTOR UNDER § 8-903 OF THIS SUBTITLE.

(B) APPLICATION OF FEDERAL GRANTS.

(1) ANY FEDERAL OR OTHER GRANT THAT IS RECEIVED FOR AN ELIGIBLE PROJECT SHALL BE APPLIED FIRST TO THE COST OF THE PROJECT.

(2) A STATE GRANT MAY NOT EXCEED 50% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ALL FEDERAL GRANTS HAVE BEEN APPLIED.

(3) FOR PURPOSES OF THIS SUBTITLE, COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS SHALL BE CONSIDERED AS LOCAL MATCHING FUNDS AND MAY NOT BE CONSIDERED AS FEDERAL GRANT FUNDS.

(C) RELIGIOUS PURPOSES PROHIBITED.

(1) A STATE GRANT MAY NOT BE USED:

(I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

(II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR CONSTRUCTION OF ANY BUILDING TO BE USED AS A PLACE OF SECTARIAN RELIGIOUS WORSHIP OR INSTRUCTION; OR

(III) IN CONNECTION WITH ANY PROGRAM OR DEPARTMENT OF DIVINITY FOR ANY RELIGIOUS DENOMINATION.

(2) ON THE REQUEST OF THE BOARD OF PUBLIC WORKS, THE APPLICANT SHALL SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT A GRANT IS NOT BEING USED FOR A PURPOSE PROHIBITED UNDER THIS SUBSECTION OR UNDER APPLICABLE FEDERAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-704(b), (c), and (e).

In subsection (c)(2) and the introductory language of (1) of this section, the former references to a “portion of the proceeds” and the “proceeds” are deleted as surplusage.

Former Art. 41, § 18-704(a), which provided that “[t]he allocation and use

of State funds under this subtitle are subject to the terms and conditions set forth in this section”, is deleted as surplusage. Similarly, the introductory language of former Art. 41, § 18–704(c), which provided that “[t]he allocation and use of State funds under this subtitle are subject to the following terms and conditions” is deleted.

Defined term: “Executive Director” § 8–101

8–906. NOTICE OF STATE’S RIGHT OF RECOVERY.

(A) RECORDATION OF NOTICE.

BEFORE THE STATE MAKES ANY FUNDS AVAILABLE FOR AN APPROVED PROJECT, THE OFFICE SHALL CAUSE A NOTICE OF THE STATE’S RIGHT OF RECOVERY TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(B) EFFECT OF RECORDATION.

THE RECORDING OF THE NOTICE:

(1) DOES NOT CREATE A LIEN AGAINST THE PROPERTY; BUT

(2) CONSTITUTES NOTICE TO ANY POTENTIAL TRANSFEREE, TRANSFEROR, CREDITOR, OR ANY OTHER INTERESTED PARTY OF THE POSSIBILITY THAT THE STATE MAY OBTAIN A LIEN UNDER THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 18–706(b).

In subsection (a) of this section, the former reference to “Baltimore City” is deleted as unnecessary in light of the definition of “county”, which includes Baltimore City.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to consider clarifying who is required to file the notice under subsection (a) of this section.

Defined term: “Office” § 8–101

8–907. STATE’S RIGHT OF RECOVERY.

(A) GROUNDS.

THE STATE MAY RECOVER GRANT FUNDS PAID UNDER THIS SUBTITLE IF, WITHIN 30 YEARS AFTER COMPLETION OF A PROJECT, THE PROPERTY FOR WHICH FUNDS HAVE BEEN PAID:

(1) IS SOLD OR TRANSFERRED TO A PERSON THAT:

(I) WOULD NOT QUALIFY AS AN APPLICANT UNDER THIS SUBTITLE; OR

(II) IS NOT APPROVED AS A TRANSFEREE BY THE BOARD OF PUBLIC WORKS; OR

(2) CEASES TO BE A RESIDENTIAL CHILD CARE PROGRAM.

(B) PERSONS LIABLE.

THE STATE MAY RECOVER FROM THE:

(1) TRANSFEROR;

(2) TRANSFEREE; OR

(3) OWNER OF A PROPERTY THAT HAS CEASED TO BE A RESIDENTIAL CHILD CARE PROGRAM.

(C) AMOUNT OF RECOVERY.

THE STATE MAY RECOVER THE SUM OF:

(1) AN AMOUNT THAT EQUALS THE VALUE OF THE PROJECT PROPERTY AT THE TIME OF THE RECOVERY MULTIPLIED BY A FRACTION:

(I) THE NUMERATOR OF WHICH IS THE AMOUNT OF THE STATE FUNDS FOR THE PROJECT; AND

(II) THE DENOMINATOR OF WHICH IS THE TOTAL ELIGIBLE COST OF THE PROJECT; AND

(2) ALL COSTS AND REASONABLE ATTORNEYS' FEES INCURRED IN THE RECOVERY PROCEEDINGS.

(D) WAIVER.

THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY UNDER THIS SUBTITLE FOR GOOD CAUSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-706(a) and (f)(2).

In the introductory language of subsection (a) of this section, the reference to "grant funds paid under this subtitle" is added for clarity.

In subsection (a)(1) of this section, the former reference to an "agency, or organization" is deleted as included in the reference to a "person".

In subsection (c)(1) of this section, the reference to the "project property" is substituted for the former reference to "so much of the property as constituted an approved project" for brevity.

Also in subsection (c)(1) of this section, the reference to the value "at the time of recovery" is substituted for the former reference to the "then current" value for clarity.

In subsection (d) of this section, the former reference to "releasing the

transferor, transferee, or owner from the obligation imposed under this subtitle” is deleted as implicit.

Defined term: “Residential child care program” § 8–101

8–908. PROCEDURE FOR RECOVERY; TEMPORARY LIEN.

(A) FILING OF CIVIL ACTION.

(1) THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL COMPLAINT UNDER THIS SUBTITLE IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED, AGAINST THE OWNER OF THE PROPERTY AND ANY OTHER INTERESTED PARTIES, INCLUDING ANY TRANSFEROR.

(2) THE COMPLAINT SHALL BE FILED WITH:

(I) AFFIDAVITS STATING FACTS ON WHICH THE ALLEGATIONS OF DEFAULT ARE BASED; AND

(II) A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

(B) TEMPORARY LIEN -- AUTHORIZATION; AMOUNT.

(1) IF THE COURT DETERMINES FROM THE STATE'S INITIAL FILING THAT A DEFAULT DESCRIBED IN § 8–907(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL AUTHORIZE A TEMPORARY LIEN ON THE PROPERTY PENDING FULL DETERMINATION OF THE STATE'S CLAIM.

(2) THE TEMPORARY LIEN SHALL BE IN THE AMOUNT OF THE STATE'S CLAIM, PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER THE COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE, OR ANOTHER AMOUNT THAT THE COURT DETERMINES TO BE REASONABLE.

(C) TEMPORARY LIEN -- EFFECTIVE DATE; RESTRICTIONS ON OWNER OR TRANSFEREE.

(1) A TEMPORARY LIEN SHALL TAKE EFFECT:

(I) ON THE DATE OF THE COURT ORDER AUTHORIZING THE LIEN, IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED WITHIN 10 DAYS AFTER THE DATE OF THE COURT ORDER; OR

(II) ON THE DATE A NOTICE OF TEMPORARY LIEN IS RECORDED.

(2) WHILE THE TEMPORARY LIEN IS IN EFFECT, THE OWNER OR ANY PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST MADE FUNDS AVAILABLE IN CONNECTION WITH THE PROPERTY MAY NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE:

(I) TAKE ANY ACTION THAT WOULD AFFECT THE TITLE TO THE PROPERTY; OR

(II) INSTITUTE ANY PROCEEDINGS TO ENFORCE A SECURITY INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY.

(D) TEMPORARY LIEN — RELEASE.

(1) THE OWNER OF THE PROPERTY OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF A TEMPORARY LIEN AT ANY TIME BY FILING WITH THE COURT A BOND SECURING THE PAYMENT IN FULL OF THE STATE'S CLAIM AND ANY ADDITIONAL AMOUNT NECESSARY TO COVER THE COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE.

(2) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-706(c).

In subsections (a)(1) and (c)(1)(i) of this section, the former references to "Baltimore City" are deleted as unnecessary in light of the definition of "county", which includes "Baltimore City".

In subsection (a)(1) of this section, the former reference to a transferor "that the State wishes to make a party" is deleted as surplusage.

In subsection (a)(2)(i) of this section, the former reference to "sworn" affidavits is deleted as surplusage.

In subsection (b)(1) of this section, the reference to a default "described in § 8-907(a) of this subtitle" is added for clarity.

Also in subsection (b)(1) of this section, the former reference to the "circuit" court is deleted as unnecessary in light of subsection (a)(1) of this section, which provides for the filing of an action in the "circuit" court.

In subsection (b)(2) of this section, the reference to the State's "claim" is substituted for the former reference to the State's "complaint" for clarity.

In subsection (c)(1) of this section, the references to the "court order authorizing the lien" and the "court order" are substituted for the former references to the "court's authorization" for clarity.

Defined terms: "County" § 1-101

"Person" § 1-101

8-909. PRIORITY OF PROCEEDINGS; FINAL JUDGMENT; LIEN.

(A) PRIORITY OF PROCEEDINGS.

PROCEEDINGS TO DETERMINE THE STATE'S RIGHT TO RECOVER AND THE AMOUNT OF ITS RECOVERY UNDER THIS SUBTITLE SHALL HAVE PRIORITY OVER OTHER CIVIL PROCEEDINGS IN THE CIRCUIT COURTS.

(B) FINAL JUDGMENT; LIEN.

(1) AT THE CONCLUSION OF FULL ADVERSARY PROCEEDINGS ON THE ISSUE OF DEFAULT AND OF ANY DISPUTES OVER THE AMOUNT OF THE STATE'S RECOVERY, IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 8-907(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL ISSUE A FINAL JUDGMENT FOR THE AMOUNT IT FINDS TO BE RECOVERABLE BY THE STATE.

(2) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING THE OWNER OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE FOR THE AMOUNT OF THE JUDGMENT.

(3) IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 8-907(A) OF THIS SUBTITLE HAS NOT OCCURRED OR IF THE FULL AMOUNT OF THE COURT'S JUDGMENT IS PAID TO THE STATE WITHIN 30 DAYS AFTER THE COURT'S FINAL ORDER, ANY TEMPORARY LIEN SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS.

(4) (I) IF THE AMOUNT OF THE FINAL JUDGMENT REMAINS UNPAID AFTER 30 DAYS FOLLOWING THE COURT'S FINAL ORDER, THE FINAL JUDGMENT SHALL CONSTITUTE A LIEN ON THE PROPERTY.

(II) EXCEPT AS THE STATE MAY OTHERWISE PROVIDE BY A WRITTEN SUBORDINATION AGREEMENT, THE LIEN IS SUPERIOR TO THE LIEN OR OTHER INTEREST OF A MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT CREDITOR WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER THE STATE FIRST MADE FUNDS AVAILABLE UNDER THIS SUBTITLE.

(C) EFFECTIVE DATE OF LIEN; RELEASE OF TEMPORARY LIEN.

(1) A LIEN TAKES EFFECT ON THE LATER OF:

(I) THE 31ST DAY AFTER THE COURT'S FINAL ORDER IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR BEFORE THE 41ST DAY AFTER THE FINAL ORDER; OR

(II) THE DATE A NOTICE OF LIEN IS RECORDED.

(2) (I) WHEN A LIEN TAKES EFFECT, ANY TEMPORARY LIEN IS AUTOMATICALLY AND FULLY RELEASED.

(II) THE RECORDED NOTICE OF A LIEN CONSTITUTES NOTICE OF THE RELEASE OF A TEMPORARY LIEN.

(D) ENFORCEMENT AND FORECLOSURE OF LIEN.

A LIEN IMPOSED UNDER THIS SECTION MAY BE ENFORCED AND FORECLOSED IN ACCORDANCE WITH THE MARYLAND RULES, EXCEPT THAT THE STATE OR ANY AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY DOES NOT NEED TO FILE A BOND.

(E) RELEASE OF LIEN.

(1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF A LIEN AT ANY TIME BY PAYING TO THE STATE THE FULL AMOUNT OF THE JUDGMENT ENTERED BY THE CIRCUIT COURT, TOGETHER WITH INTEREST FROM THE DATE OF JUDGMENT.

(2) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-706(d) and (e).

In subsection (b)(1) and (3) of this section, the references to a default "described in § 8-907(a) of this subtitle" are added for clarity.

Also in subsection (b)(1) and (3) of this section, the former references to the "circuit" court are deleted as unnecessary in light of § 8-908(a)(1) of this subtitle, which provides for the filing of an action in the "circuit" court.

In subsection (b)(2) of this section, the former phrase "in every case" is deleted as surplusage.

In subsections (b)(3) and (c)(2)(i) of this section, the former references to a temporary lien "then in effect" are deleted as surplusage.

In the introductory language of subsection (c)(1) of this section, the phrase "on the later of" is substituted for the former phrase "[e]xcept as provided in subsubparagraph 2 of this subparagraph" for brevity and clarity.

In subsection (c)(1)(i) of this section, the former reference to "Baltimore City" is deleted as unnecessary in light of the definition of "county", which includes "Baltimore City".

In subsection (d) of this section, the former reference to "the procedures prescribed in" the Maryland Rules is deleted as surplusage.

In subsection (e)(1) of this section, the reference to the judgment "entered" is substituted for the former reference to the judgment "rendered" for clarity and consistency with terminology used in the Maryland Rules.

Defined terms: "County" § 1-101

"Person" § 1-101

8-910. DEPOSIT OF FUNDS RECOVERED.

ALL FUNDS RECOVERED UNDER THIS SUBTITLE SHALL BE DEPOSITED IN THE ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-706(f)(1).

The reference to funds recovered "under this subtitle" is substituted for the

former reference to funds recovered “as a result of this right of recovery” for clarity.

8-911. REGULATIONS.

THE OFFICE SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-707.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that, as a unit created by Executive Order, the Governor’s Office for Children does not have statutory authority to adopt regulations.

GENERAL REVISOR’S NOTE TO TITLE:

Former Article 49D, Title 3 is revised in Title 1, Subtitle 2 of this article.

TITLE 9. JUVENILE SERVICES.

SUBTITLE 1. DEFINITIONS.

9-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83C, § 1-101(a).

(B) DEPARTMENT.

“DEPARTMENT” MEANS THE DEPARTMENT OF JUVENILE SERVICES.

REVISOR’S NOTE: This subsection formerly was Art. 83C, § 1-101(b).

No changes are made.

(C) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF JUVENILE SERVICES.

REVISOR’S NOTE: This subsection formerly was Art. 83C, § 1-101(d).

No changes are made.

(D) STATE ADVISORY BOARD.

“STATE ADVISORY BOARD” MEANS THE STATE ADVISORY BOARD FOR JUVENILE SERVICES.

REVISOR’S NOTE: This section formerly was Art. 83C, § 1-101(g).

No changes are made.

REVISOR'S NOTE TO SECTION:

Former Art. 83C, § 1-101(c), (e), and (f), which defined “[c]ounty”, “[p]erson”, and “[s]tate”, respectively, are deleted in light of § 1-101 of this article to the same effect.

SUBTITLE 2. DEPARTMENT OF JUVENILE SERVICES.

PART I. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

9-201. ESTABLISHED.

THERE IS A DEPARTMENT OF JUVENILE SERVICES ESTABLISHED AS A PRINCIPAL DEPARTMENT OF STATE GOVERNMENT.

REVISOR'S NOTE: This section formerly was Art. 83C, § 2-101(a).

No changes are made.

9-202. SECRETARY.

(A) POSITION AND APPOINTMENT.

(1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT THE SECRETARY OF JUVENILE SERVICES.

(2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

(B) OATH.

BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) RESPONSIBILITY TO GOVERNOR.

(1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

(2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES ON THOSE MATTERS.

(D) COMPENSATION.

THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(E) SEAL.

THE SECRETARY SHALL HAVE A SEAL.

REVISOR'S NOTE: Subsections (a), (c), (d), and (e) of this section are new language derived without substantive change from former Art. 83C, §§ 2-102(a), (b)(1), and (c) and 2-104(d).

Subsection (b) of this section is standard language added to state the requirement that an individual appointed to any office of profit or trust take the oath specified in Md. Constitution, Art. I, § 9. This addition is supported by 64 Op. Att’y Gen. 246 (1979).

In subsection (d) of this section, the reference to the Secretary’s “compensation” is substituted for the former reference to the Secretary’s “salary” for accuracy and consistency throughout this article. *See* General Revisor’s Note to article.

Defined terms: “Department” § 9–101
“Secretary” § 9–101

9–203. ADMINISTRATION OF DEPARTMENT.

(A) OPERATION OF DEPARTMENT.

THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

(B) AREAS OF RESPONSIBILITY IN DEPARTMENT.

THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF RESPONSIBILITY IN THE DEPARTMENT AS NECESSARY TO FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.

REVISOR’S NOTE: This section formerly was Art. 83C, § 2–102(b)(2).

The only changes are in style.

Defined terms: “Department” § 9–101
“Secretary” § 9–101

9–204. SECRETARY’S POWERS AND DUTIES.

(A) ENFORCEMENT.

THE SECRETARY SHALL CARRY OUT AND ENFORCE THIS TITLE, THE REGULATIONS OF THE DEPARTMENT, AND ANY OTHER PROVISION OF LAW THAT RELATES TO THE SECRETARY OR THE DEPARTMENT.

(B) REGULATIONS.

(1) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF LAW THAT ARE WITHIN THE JURISDICTION OF THE SECRETARY.

(2) THE SECRETARY SHALL REVIEW AND MAY REVISE THE REGULATIONS OF:

(I) EACH UNIT IN THE DEPARTMENT THAT IS AUTHORIZED BY LAW TO ADOPT REGULATIONS; AND

(II) THE DEPARTMENT.

(C) BUDGET.

THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE DEPARTMENT AND FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.

(D) ADVISORY COUNCILS.

THE SECRETARY MAY CREATE ANY ADVISORY COUNCIL THAT THE SECRETARY CONSIDERS NECESSARY AND ASSIGN APPROPRIATE FUNCTIONS TO IT.

(E) PLANNING -- IN GENERAL.

(1) THE SECRETARY IS RESPONSIBLE FOR THE COORDINATION AND DIRECTION OF ALL PLANNING THAT THE OFFICE OF THE SECRETARY INITIATES.

(2) THE SECRETARY SHALL KEEP FULLY APPRISED OF PLANS, PROPOSALS, AND PROJECTS OF EACH UNIT IN THE DEPARTMENT AND, EXCEPT AS EXPRESSLY PROVIDED OTHERWISE, MAY APPROVE, DISAPPROVE, OR MODIFY ANY OF THEM.

(F) COMPREHENSIVE PLAN.

(1) THE SECRETARY SHALL DEVELOP A STATE COMPREHENSIVE JUVENILE SERVICES 3-YEAR PLAN.

(2) THE PLAN SHALL:

(I) INCLUDE AN INVENTORY OF ALL IN-DAY TREATMENT PROGRAMS AND RESIDENTIAL CARE PROGRAMS AND AN ACCOUNTING OF THE RESIDENCE OF ALL CLIENTS;

(II) INCLUDE AN INVENTORY OF NONRESIDENTIAL TREATMENT PROGRAMS;

(III) SPECIFY THE NEEDS OF THE VARIOUS AREAS OF SERVICES FOR CLIENTS, INCLUDING ALCOHOL AND DRUG ABUSE REHABILITATION SERVICES;

(IV) SPECIFY THE NEEDS OF CLIENTS, INCLUDING PREDELINQUENT DIVERSION SERVICES PROGRAMS;

(V) ESTABLISH PRIORITIES FOR THE DIFFERENT SERVICES NEEDED;

(VI) SET STANDARDS FOR THE QUALITY OF RESIDENTIAL SERVICES AND OUTREACH SERVICES;

(VII) INCLUDE A PROGRAM DEDICATED TO REDUCING RECIDIVISM RATES OF CLIENTS;

(VIII) INCLUDE PROGRAMS DEDICATED TO DIVERTING CHILDREN FROM THE JUVENILE JUSTICE SYSTEM; AND

(IX) INCLUDE ANY OTHER MATTERS THAT THE SECRETARY CONSIDERS APPROPRIATE.

(3) THE PLAN SHALL BE REVISED FOR EACH FISCAL YEAR AND SUBMITTED, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BY FEBRUARY 1 OF EACH YEAR.

(G) COMPREHENSIVE CLIENT INFORMATION SYSTEM.

(1) THE SECRETARY IS RESPONSIBLE FOR THE DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE OF A COMPREHENSIVE CLIENT INFORMATION SYSTEM, INCLUDING AN INDIVIDUAL CURRENT RECORD ON EACH CHILD, THAT IS INTEGRATED IN AND ACCESSIBLE TO THE VARIOUS UNITS OF THE DEPARTMENT.

(2) THE SECRETARY SHALL UNDERTAKE EFFORTS TO LINK THE SYSTEM TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF ALLOWING THE EXCHANGE OF INFORMATION ON CLIENTS SERVED BY EACH DEPARTMENT.

(3) EACH EMPLOYEE USING THE INFORMATION SHALL PROTECT THE CONFIDENTIALITY OF CLIENT RECORDS.

(H) TRANSFER OF FUNCTIONS, STAFF, AND FUNDS.

(1) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY LAW, THE SECRETARY MAY TRANSFER, BY REGULATION OR WRITTEN DIRECTIVE, ANY FUNCTION, STAFF, OR FUNDS FROM ANY UNIT IN THE DEPARTMENT TO THE OFFICE OF THE SECRETARY OR ANOTHER UNIT IN THE DEPARTMENT.

(2) ANY STAFF TRANSFERRED TO THE OFFICE OF THE SECRETARY SHALL BE PROVIDED SPACE, EQUIPMENT, AND SERVICES BY THE UNIT FROM WHICH THE STAFF WAS TRANSFERRED, UNLESS THE SECRETARY ORDERS REMOVAL TO ANOTHER LOCATION FOR THE PROPER AND EFFICIENT FUNCTIONING OF THAT OFFICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-104(a), (b), (c), (e), (g), (j), and (k).

In subsections (a) and (b) of this section, the former references to "rules" are deleted in light of the references to "regulations". *See* General Revisor's Note to article. Similarly, in subsection (h)(1) of this section, the former reference to a "rule" is deleted.

In subsection (f)(1) of this section, the former reference to the requirement that the State Comprehensive Juvenile Services 3-Year Plan be developed "[p]rior to January 1, 1990" is deleted as obsolete.

In subsection (f)(2) of this section, the former requirement that the Plan include additional specified items "[b]eginning with the Plan submitted by February 1, 2006" is deleted as obsolete.

Also in subsection (f)(2) of this section, the former phrase "in addition to the items listed in subparagraph (i) of this paragraph" is deleted as

unnecessary in light of the integration of the required elements of the Plan.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the access to client records by the "various units of the Department" under subsection (g)(1) of this section may be overbroad and conflict with other provisions providing for confidentiality of juvenile records. The General Assembly may wish to restrict access to employees of the Department "as necessary to perform their duties".

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-205. UNIT REPORTS TO SECRETARY.

EACH UNIT IN THE DEPARTMENT SHALL REPORT TO THE SECRETARY AS PROVIDED IN THE REGULATIONS OR WRITTEN DIRECTIVES THAT THE SECRETARY ADOPTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-104(f).

The former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-206. DEPUTY SECRETARIES.

(A) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY APPOINT TWO DEPUTY SECRETARIES AS NECESSARY.

(B) TERM AND COMPENSATION.

THE DEPUTY SECRETARIES:

(1) SERVE AT THE PLEASURE OF THE SECRETARY; AND

(2) ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(C) DUTIES.

THE DEPUTY SECRETARIES HAVE THE DUTIES PROVIDED BY LAW OR DELEGATED BY THE SECRETARY.

(D) ACTING SECRETARY.

THE SECRETARY SHALL DESIGNATE A DEPUTY SECRETARY TO BE THE ACTING SECRETARY WHEN THE SECRETARY IS ABSENT FROM THE STATE OR OTHERWISE UNAVAILABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-103(a), (b), and (c).

In subsection (b)(2) of this section, the reference to the deputy secretaries' "compensation" is substituted for the former reference to the deputy secretaries' "salary" for accuracy and consistency throughout this article. See General Revisor's Note to article.

Defined term: "Secretary" § 9-101

9-207. STAFF AND CONSULTANTS.

(A) IN GENERAL.

IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A STAFF AND RETAIN CONSULTANTS.

(B) EMPLOYMENT STATUS.

(1) (I) THE SECRETARY SHALL APPOINT:

1. ANY ASSISTANT SECRETARY;
2. ANY DIRECTOR OF AN INSTITUTION;
3. THE SUPERINTENDENT OF THE YOUTH CENTERS; AND
4. THE MANAGING DIRECTOR, DEPUTY DIRECTOR, AND DIRECTOR OF DETENTION AT THE BALTIMORE CITY JUVENILE JUSTICE CENTER.

(II) AN EMPLOYEE OF THE DEPARTMENT SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. IS IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM; AND
2. SERVES AT THE PLEASURE OF THE SECRETARY.

(2) EACH TEACHER WHO DOES NOT HOLD A CERTIFICATE UNDER TITLE 6, SUBTITLE 1 OF THE EDUCATION ARTICLE, PRINCIPAL, DIRECTOR OF EDUCATION, AND SUPERVISOR OF VOCATIONAL EDUCATION WHO IS EMPLOYED BY AN INSTITUTION MANAGED BY THE DEPARTMENT IS IN THE MANAGEMENT SERVICE OF, OR IS A SPECIAL APPOINTMENT IN, THE STATE PERSONNEL MANAGEMENT SYSTEM.

(3) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL APPOINT AND REMOVE ALL STAFF IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) PROHIBITION AGAINST OTHER EMPLOYMENT.

(1) UNLESS THE SECRETARY GRANTS EXPRESS PERMISSION, AN EMPLOYEE OF THE DEPARTMENT WHO IS SUBJECT TO SUBSECTION (B)(1) OF THIS SECTION MAY NOT ENGAGE IN OTHER EMPLOYMENT WHILE EMPLOYED BY THE DEPARTMENT.

(2) THE SECRETARY MAY NOT UNREASONABLY WITHHOLD EXPRESS PERMISSION TO ENGAGE IN OTHER EMPLOYMENT.

(3) IF THE SECRETARY GRANTS PERMISSION TO ENGAGE IN OTHER EMPLOYMENT, THE EMPLOYEE SHALL DISCLOSE TO THE SECRETARY THE SOURCE AND AMOUNT OF ALL INCOME EARNED FROM THAT OTHER EMPLOYMENT.

(D) STAFF -- OTHER UNITS.

(1) THE APPOINTMENT OR REMOVAL OF STAFF OF A UNIT IN THE DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

(2) THE SECRETARY MAY DELEGATE THE POWER OF APPROVAL ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE HEAD OF THE UNIT.

(E) CODE OF CONDUCT.

THE DEPARTMENT SHALL:

(1) ADOPT A CODE OF CONDUCT FOR STAFF OF THE DEPARTMENT; AND

(2) REQUIRE EACH PRIVATE AGENCY UNDER CONTRACT WITH THE DEPARTMENT TO ADOPT A CODE OF CONDUCT FOR ITS STAFF THAT IS IN SUBSTANTIAL COMPLIANCE WITH THE CODE OF CONDUCT FOR STAFF OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-103(d).

In subsections (b)(1)(ii) and (c)(1) of this section, the references to an "employee" are substituted for the former references to "personnel" for consistency with terminology used in §§ 9-208 and 9-209 of this subtitle.

In subsection (b)(3) of this section, the reference to the requirement to appoint and remove staff in accordance with the State Personnel and Pensions Article "[u]nless otherwise provided by law" is substituted for the former reference to "[e]xcept as provided in paragraph (4) of this subsection or otherwise by law" for brevity.

In subsection (d)(2) of this section, the former phrase "[a]s to any unit in the Department" is deleted as surplusage.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-208. EMPLOYEES -- IN GENERAL.

IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT, THE SECRETARY SHALL:

(1) SET MINIMUM SALARIES, QUALIFICATIONS, AND STANDARDS OF TRAINING AND EXPERIENCE FOR THE POSITIONS IN THE DEPARTMENT; AND

(2) FOR EMPLOYEES WHO DESIRE TRAINING IN ADDITION TO IN-SERVICE TRAINING AND WHOSE SERVICE RECORDS SHOW MERIT, PROVIDE:

(I) EDUCATIONAL SUBSIDIES, SCHOLARSHIPS, AND STIPENDS;
AND

(II) INSTITUTES, CONFERENCES, AND CLASSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-129.

In item (2) of this section, the former reference to "officers" is deleted as surplusage.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-209. EMPLOYEES -- CRIMINAL BACKGROUND INVESTIGATIONS.

(A) REQUIRED.

(1) WITHIN THE FIRST MONTH OF EMPLOYMENT WITH THE DEPARTMENT, THE DEPARTMENT SHALL APPLY TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR A FEDERAL AND STATE CRIMINAL HISTORY RECORDS CHECK FOR EACH EMPLOYEE OF THE DEPARTMENT.

(2) THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY SHALL PROVIDE THE REQUESTED INFORMATION IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE.

(B) FINGERPRINTS; FEE.

AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE DEPARTMENT SHALL SUBMIT TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY:

(1) A COMPLETE SET OF THE EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN ON STANDARD FINGERPRINT CARDS;

(2) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A FEDERAL CRIMINAL HISTORY RECORDS CHECK;
AND

(3) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-132.

Defined term: "Department" § 9-101

9-210. LEGAL COUNSEL.

(A) ATTORNEY GENERAL AS LEGAL ADVISER.

THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

(B) ASSIGNMENT OF ASSISTANTS.

THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER OF ASSISTANT ATTORNEYS GENERAL THAT ARE AUTHORIZED BY LAW FOR THE DEPARTMENT AND, AS PROVIDED IN THE STATE BUDGET, ANY ADDITIONAL ASSISTANT ATTORNEYS GENERAL NECESSARY TO GIVE EFFECTIVE LEGAL ADVICE AND COUNSEL.

(C) COUNSEL TO THE DEPARTMENT.

(1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE ASSISTANT ATTORNEYS GENERAL AS COUNSEL TO THE DEPARTMENT.

(2) THE COUNSEL TO THE DEPARTMENT MAY HAVE NO DUTY OTHER THAN TO GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY AND ANY OTHER OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT, AND TO PERFORM FOR THE DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

(3) THE COUNSEL SHALL PERFORM THE DUTIES SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND SUPERVISION OF THE ATTORNEY GENERAL.

(4) AFTER THE ATTORNEY GENERAL DESIGNATES THE COUNSEL TO THE DEPARTMENT, THE ATTORNEY GENERAL MAY NOT REASSIGN THE COUNSEL WITHOUT CONSULTING THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-105.

In subsection (c)(1) of this section, the reference to "one of the" assistant Attorneys General is added for clarity and consistency with §§ 2-208(d)(1) and 7-109(c)(1) of this article.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-211. STATE ADVISORY BOARD — ESTABLISHED.

THERE IS A STATE ADVISORY BOARD FOR JUVENILE SERVICES IN THE DEPARTMENT.

REVISOR'S NOTE: This section formerly was Art. 83C, § 2-106.

No changes are made.

Defined term: "Department" § 9-101

9-212. STATE ADVISORY BOARD — MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE STATE ADVISORY BOARD CONSISTS OF THE FOLLOWING 19 MEMBERS APPOINTED BY THE GOVERNOR:

- (1) ONE REPRESENTATIVE OF THE DEPARTMENT;
- (2) ONE REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION;
- (3) ONE REPRESENTATIVE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (4) ONE REPRESENTATIVE OF THE DEPARTMENT OF STATE POLICE;
- (5) ONE REPRESENTATIVE OF THE SOCIAL SERVICES ADMINISTRATION OF THE DEPARTMENT OF HUMAN RESOURCES;
- (6) ONE REPRESENTATIVE OF A PRIVATE CHILD WELFARE AGENCY;
- (7) ONE REPRESENTATIVE OF A YOUTH SERVICES BUREAU;
- (8) THREE REPRESENTATIVES OF THE STATE JUDICIARY;
- (9) ONE REPRESENTATIVE OF THE GENERAL ASSEMBLY RECOMMENDED BY THE PRESIDENT OF THE SENATE;
- (10) ONE REPRESENTATIVE OF THE GENERAL ASSEMBLY RECOMMENDED BY THE SPEAKER OF THE HOUSE; AND
- (11) SEVEN MEMBERS OF THE GENERAL PUBLIC.

(B) QUALIFICATIONS.

OF THE SEVEN MEMBERS FROM THE GENERAL PUBLIC:

- (1) THREE SHALL BE CHOSEN ON THE BASIS OF THEIR INTEREST IN AND EXPERIENCE WITH MINORS AND JUVENILE PROBLEMS;
- (2) THREE SHALL:
 - (I) AT THE TIME OF APPOINTMENT TO A FIRST TERM, BE AT LEAST 16 YEARS OLD AND UNDER THE AGE OF 25 YEARS; AND
 - (II) INCLUDE AT LEAST ONE INDIVIDUAL WHO HAS BEEN UNDER THE JURISDICTION OF THE DEPARTMENT.

(C) TENURE; VACANCIES.

- (1) THE TERM OF A MEMBER IS 3 YEARS.
- (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE STATE ADVISORY BOARD ON OCTOBER 1, 2007.
- (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER WHO SERVES TWO CONSECUTIVE FULL 3-YEAR TERMS MAY NOT BE REAPPOINTED FOR 3 YEARS AFTER COMPLETION OF THOSE TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-107.

In subsection (a)(5) of this section, the reference to the Social Services Administration "of the Department of Human Resources" is added for clarity.

In subsection (a)(6) of this section, the reference to a "private" child welfare agency is substituted for the former reference to a "voluntary" agency for clarity.

In subsection (c)(2) of this section, the reference to terms being staggered as required by the terms provided for members of the State Advisory Board on "October 1, 2007" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1982". This substitution is not intended to alter the term of any member of the State Advisory Board. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) six in 2008; (2) six in 2009; and (3) six in 2010.

Also in subsection (c)(2) of this section, the former reference to the "terms of one-third of those members end[ing] each year" is deleted as unnecessary.

Defined terms: "Department" § 9-101
"State Advisory Board" § 9-101

9-213. STATE ADVISORY BOARD — OFFICERS.

(A) CHAIR.

FROM AMONG THE MEMBERS OF THE STATE ADVISORY BOARD, THE GOVERNOR SHALL APPOINT A CHAIR.

(B) SECRETARY.

(1) FROM AMONG THE MEMBERS OF THE STATE ADVISORY BOARD, THE CHAIR SHALL APPOINT A SECRETARY.

(2) THE SECRETARY SHALL KEEP FULL AND ACCURATE MINUTES OF EACH STATE ADVISORY BOARD MEETING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-108.

In subsections (a) and (b)(1) of this section, the references to a "chair" are

substituted for the former references to a “chairman” because SG § 12–1238 requires the use of terms that are neutral as to gender to the extent practicable.

In subsection (b) of this section, the former references to the “Board” chair and the “Board” secretary are deleted as surplusage.

Defined term: “State Advisory Board” § 9–101

9–214. STATE ADVISORY BOARD — MEETINGS; COMPENSATION; CONFLICTS OF INTEREST.

(A) MEETINGS.

THE STATE ADVISORY BOARD SHALL MEET REGULARLY AT LEAST SIX TIMES A YEAR ON THE CALL OF ITS CHAIR.

(B) COMPENSATION.

A MEMBER OF THE STATE ADVISORY BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE STATE ADVISORY BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(C) CONFLICTS OF INTEREST.

A MEMBER OF THE STATE ADVISORY BOARD MAY NOT HAVE A DIRECT OR INDIRECT INTEREST IN ANY CONTRACT FOR BUILDING, REPAIRING, EQUIPPING, OR PROVIDING MATERIALS OR SUPPLIES TO THE DEPARTMENT OR HAVE ANY OTHER FINANCIAL INTEREST IN A CONTRACT WITH THE DEPARTMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2–109.

In subsection (a) of this section, the reference to a “chair” is substituted for the former reference to a “chairman” because SG § 12–1238 requires the use of terms that are neutral as to gender to the extent practicable.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the conflict of interest provisions in subsection (c) of this section may be too narrow. The General Assembly may wish to consider clarifying that members of the State Advisory Board are subject to the Maryland Public Ethics Law.

Defined terms: “Department” § 9–101
“State Advisory Board” § 9–101

9–215. STATE ADVISORY BOARD — DUTIES.

IN ADDITION TO ITS OTHER DUTIES SPECIFIED IN THIS TITLE, THE STATE ADVISORY BOARD SHALL:

(1) CONSULT WITH AND ADVISE THE SECRETARY ON:

(I) EACH ASPECT OF THE JUVENILE SERVICES PROGRAM IN THE STATE;

(II) THE EDUCATIONAL PROGRAMS AND SERVICES OF THE DEPARTMENT; AND

(III) PROGRAMS DESIGNED TO DIVERT CHILDREN FROM THE JUVENILE JUSTICE SYSTEM;

(2) RECOMMEND TO THE SECRETARY POLICIES AND PROGRAMS TO IMPROVE JUVENILE SERVICES IN THE STATE;

(3) PARTICIPATE IN INTERPRETING FOR THE PUBLIC THE OBJECTIVES OF THE DEPARTMENT; AND

(4) PARTICIPATE IN PLANNING THE DEVELOPMENT AND USE OF AVAILABLE RESOURCES TO MEET THE NEEDS OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-110.

As to the substitution of references to juvenile "services" for the former references to juvenile "justice" in items (1)(i) and (2) of this section, *see* General Revisor's Note to title.

Defined terms: "Department" § 9-101

"Secretary" § 9-101

"State Advisory Board" § 9-101

9-216. FUNCTIONS OF DEPARTMENT.

(A) CENTRAL ADMINISTRATIVE DEPARTMENT.

THE DEPARTMENT IS THE CENTRAL ADMINISTRATIVE DEPARTMENT FOR:

(1) JUVENILE INTAKE, DETENTION AUTHORIZATION, COMMUNITY DETENTION, INVESTIGATION, PROBATION, PROTECTIVE SUPERVISION, PREDELINQUENT DIVERSION SERVICES, AND AFTERCARE SERVICES; AND

(2) THE STATE JUVENILE DIAGNOSTIC, TRAINING, DETENTION, AND REHABILITATION INSTITUTIONS.

(B) REQUIRED PROGRAMS.

THE DEPARTMENT SHALL:

(1) DEVELOP PROGRAMS FOR PREDELINQUENT CHILDREN WHOSE BEHAVIOR TENDS TO LEAD TO CONTACT WITH LAW ENFORCEMENT AGENCIES;

(2) PROMOTE PREDELINQUENT PROGRAMS, INCLUDING GREATER UTILIZATION OF YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE, THAT PROVIDE SERVICES TO DIVERT CHILDREN FROM THE JUVENILE JUSTICE SYSTEM;

(3) COLLABORATE WITH LOCAL GOVERNMENTS TO ENCOURAGE THE USE OF PREDELINQUENT PROGRAMS PROVIDED BY YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE IN RESPONSE TO IDENTIFIED COMMUNITY NEEDS;

(4) PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS AND YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE TO IDENTIFY ALTERNATIVE FUNDING SOURCES FOR PREDELINQUENT PROGRAMS; AND

(5) ADMINISTER THE SUMMER OPPORTUNITY PILOT PROGRAM UNDER § 9-246 OF THIS SUBTITLE.

(C) PROHIBITED PROGRAMS.

THE DEPARTMENT MAY NOT ADMINISTER ANY CHILD WELFARE PROGRAM OF THE DEPARTMENT OF HUMAN RESOURCES, INCLUDING THE FAMILY INVESTMENT PROGRAM AND THE FOSTER CARE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-111.

In subsection (a)(2) of this section, the former comma following "juvenile" is deleted for accuracy.

In subsection (c) of this section, the reference to the "Family Investment Program" is substituted for the former obsolete reference to the "Aid to Families with Dependent Children Program".

Also in subsection (c) of this section, the reference to the "Department of Human Resources" is substituted for the former reference to the "State Social Services Administration" for accuracy.

Defined term: "Department" § 9-101

9-217. USE OF AND AID TO PUBLIC AND PRIVATE AGENCIES.

THE DEPARTMENT MAY:

(1) DESIGNATE ANY PUBLIC OR PRIVATE AGENCY OR ORGANIZATION IN THE STATE AS ITS AGENT FOR THE PURPOSES OF THIS TITLE; AND

(2) SPEND FUNDS TO AID THAT AGENT OR TO BUY SERVICES FROM IT OR, IF ADEQUATE SERVICES ARE NOT AVAILABLE IN THE STATE, TO BUY SERVICES FROM AN AGENCY OR ORGANIZATION OUTSIDE THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-114.

Defined term: "Department" § 9-101

9-218. FUNDS.

(A) FEDERAL FUNDS.

(1) THE SECRETARY MAY APPLY FOR, RECEIVE, AND SPEND FEDERAL FUNDS AVAILABLE FOR USE IN CARRYING OUT THE POWERS AND DUTIES OF THE SECRETARY OR THE DEPARTMENT.

(2) THE DEPARTMENT MAY:

(I) ACCEPT, MANAGE, AND DISPOSE OF FEDERAL FUNDS AND COMMODITIES; AND

(II) TAKE ADVANTAGE OF ANY AVAILABLE FEDERAL PROGRAM OR GRANT OR OTHER PUBLIC OR PRIVATE ASSISTANCE THAT ACCOMPLISHES OR FURTHERS THE OBJECTIVES OF THIS TITLE.

(B) GIFTS AND GRANTS.

(1) WITH THE APPROVAL OF THE SECRETARY OF BUDGET AND MANAGEMENT, THE DEPARTMENT SHALL ACCEPT, ON BEHALF OF THE STATE, A CONDITIONAL OR UNCONDITIONAL GIFT OR GRANT.

(2) THE DEPARTMENT SHALL PAY ALL FUNDS COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION INTO A SPECIAL FUND OF THE STATE TREASURY AND USE THE SPECIAL FUND TO CARRY OUT THE PROVISIONS OF THIS TITLE.

(C) PAYMENT INTO GENERAL FUND.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL PAY ALL MONEY COLLECTED BY THE DEPARTMENT UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, §§ 2-116 and 2-104(h) and (i).

In subsection (a)(1) of this section, the former reference to the authority of the Department to apply for, receive, and spend "grants-in-aid by the federal government or any of its agencies" is deleted as redundant in light of the reference to "federal funds".

The Human Services Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, the General Assembly may wish to add standard language used for special funds.

In subsection (c) of this section, the reference to "subsection (b) of this section" is added for clarity.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-219. CONFIDENTIAL RESEARCH RECORDS.

(A) "CONFIDENTIAL RESEARCH RECORD" DEFINED.

(1) IN THIS SECTION, "CONFIDENTIAL RESEARCH RECORD" MEANS A RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT:

(I) IS ASSEMBLED OR OBTAINED FOR RESEARCH OR STUDY BY THE DEPARTMENT OR THE SECRETARY; AND

(II) NAMES OR OTHERWISE IDENTIFIES A PERSON.

(2) "CONFIDENTIAL RESEARCH RECORD" INCLUDES A RECORD THAT WAS TRANSFERRED TO THE CUSTODY OF THE DEPARTMENT BY A PREDECESSOR AGENCY.

(B) CUSTODY.

EACH CONFIDENTIAL RESEARCH RECORD SHALL REMAIN IN THE CUSTODY AND CONTROL OF THE DEPARTMENT.

(C) USE.

A CONFIDENTIAL RESEARCH RECORD MAY BE USED ONLY FOR THE RESEARCH AND STUDY FOR WHICH IT WAS ASSEMBLED OR OBTAINED.

(D) DISCLOSURE.

A PERSON MAY NOT DISCLOSE A CONFIDENTIAL RESEARCH RECORD TO ANY PERSON WHO IS NOT ENGAGED IN THE RESEARCH OR STUDY FOR WHICH IT WAS ASSEMBLED OR OBTAINED.

(E) STATISTICAL INFORMATION.

THIS SECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY PERSON WHO IS THE SUBJECT OF A CONFIDENTIAL RECORD.

(F) DISCLOSURE TO BALTIMORE CITY HEALTH DEPARTMENT.

(1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH DEPARTMENT, ON A WRITTEN REQUEST:

(I) A CONFIDENTIAL RESEARCH RECORD CONCERNING A CHILD TO WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE; AND

(II) A CONFIDENTIAL RESEARCH RECORD CONCERNING A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.

(2) (I) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT RECEIVES A CONFIDENTIAL RESEARCH RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH THE CONFIDENTIAL RECORD WAS USED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-115(a), (c), (d), (e), (f), (g), and (h).

Throughout this section, references to a "confidential research record" are substituted for the former references to a "confidential record" to avoid confusion with confidential case records.

In subsection (b) of this section, the former conditions under which records were required to remain in the custody and control of the Department are deleted as unnecessary in light of the definition of "confidential research record".

In subsection (d) of this section, the reference to the research or study project "for which it was assembled or obtained" is substituted for the former reference to the research or study "project" for consistency within this section.

Defined terms: "Department" § 9-101

"Person" § 1-101

"Secretary" § 9-101

9-220. RESEARCH AND DEVELOPMENT UNIT.

THE DEPARTMENT SHALL HAVE A UNIT FOR RESEARCH AND DEVELOPMENT THAT SHALL:

(1) COMPILE ACCURATE STATISTICS AND RELIABLE INFORMATION ON ALL ASPECTS OF THE JUVENILE PROGRAM OF THE STATE;

(2) MONITOR CURRENT DEVELOPMENTS IN THE FIELD OF JUVENILE SERVICES;

(3) ASSESS EXISTING PROGRAMS AND ACTIVITIES, INCLUDING YOUTH SERVICES BUREAUS;

(4) HELP DEVELOP NEW OR IMPROVED MEANS, INCLUDING GREATER UTILIZATION OF YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE, TO PREVENT JUVENILE OFFENSES AND CONTROL AND TREAT JUVENILE OFFENDERS;

(5) IF NECESSARY, INITIATE STUDIES TO HELP THE SECRETARY IN GENERAL PLANNING AND PROGRAM DEVELOPMENT FOR THE DEPARTMENT; AND

(6) FOR THESE AND RELATED PURPOSES, USE RESEARCH AND INFORMATION AVAILABLE FROM ALL SOURCES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-115(b).

As to the substitution of the references to juvenile "services" for the former references to juvenile "justice" in item (2) of this section, *see* General Revisor's Note to title.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-221. INTERAGENCY COOPERATION.

(A) COOPERATION OF OTHER UNITS.

TO CARRY OUT THE OBJECTIVES OF THIS TITLE, THE FOLLOWING STATE UNITS SHALL COOPERATE FULLY WITH THE DEPARTMENT:

- (1) THE STATE DEPARTMENT OF EDUCATION;
- (2) THE DEPARTMENT OF GENERAL SERVICES;
- (3) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (4) THE DEPARTMENT OF HUMAN RESOURCES;
- (5) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;
- (6) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; AND
- (7) EACH OTHER AGENCY NEEDED TO ACCOMPLISH THESE OBJECTIVES.

(B) COOPERATION WITH JUVENILE JUSTICE MONITORING UNIT.

(1) THE DEPARTMENT SHALL COOPERATE WITH THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE BY:

(I) PROVIDING THE UNIT WITH ACCESS TO ALL FACILITIES, REPORTS, AND RECORDS RELATING TO A CHILD ON REQUEST;

(II) ALLOWING THE JUVENILE JUSTICE MONITORS TO CONDUCT INTERVIEWS WITH STAFF, CHILDREN, AND ANY OTHER INDIVIDUALS ON REQUEST; AND

(III) SUBMITTING CORRECTIVE ACTION PLANS AND INCIDENT REPORTS TO THE UNIT IN RESPONSE TO FINDINGS AND RECOMMENDATIONS MADE BY THE JUVENILE JUSTICE MONITORS REGARDING A FACILITY.

(2) (I) THE DEPARTMENT SHALL RESPOND TO REQUESTS FOR INFORMATION FROM A JUVENILE JUSTICE MONITOR CONCERNING A FACILITY WITHIN 30 DAYS AFTER THE DATE OF THE REQUEST.

(II) IF THE DEPARTMENT DOES NOT RESPOND TO A REQUEST FOR INFORMATION, THE MONITOR MAY CONDUCT A REASONABLE INVESTIGATION RELATING TO THE ORIGINAL REQUEST FOR INFORMATION.

(C) COOPERATION WITH STATE DEPARTMENT OF EDUCATION.

THE DEPARTMENT SHALL COOPERATE WITH THE STATE DEPARTMENT OF EDUCATION TO ESTABLISH EDUCATIONAL PROGRAMS AS REQUIRED UNDER TITLE 22, SUBTITLE 3 OF THE EDUCATION ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, §§ 2-113 and 2-118(g), (h), and (i).

In subsection (b)(1) of this section, the references to "child" and "children" are substituted for the former references to "youth" for consistency within this subtitle.

Also in subsection (b)(1) of this section, the former reference to "individual" youth is deleted as surplusage.

Defined term: "Department" § 9-101

9-222. APPLICABILITY OF OTHER LAWS.

(A) COURT ACTIONS.

TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE GOVERNS DETENTION, ADJUDICATION, DISPOSITION, AND PLACE AND PERIOD OF COMMITMENT OF CHILDREN IN NEED OF SUPERVISION AND DELINQUENT CHILDREN.

(B) STATE FINANCE AND PROCUREMENT LAWS.

THE DEPARTMENT SHALL BE SUBJECT TO STATE FINANCE AND PROCUREMENT LAWS UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, §§ 2-112 and 2-104(l).

In subsection (a) of this section, the former phrase "in juvenile causes" is deleted as surplusage.

Defined term: "Department" § 9-101

9-223. STATE POLICY.

IT IS THE POLICY OF THE STATE THAT THE DEPARTMENT COMPLY WITH THE PROVISIONS OF §§ 3-802 AND 3-8A-02 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-101(b).

Defined term: "Department" § 9-101

9-224. RESERVED.

9-225. RESERVED.

PART II. FACILITIES, PROGRAMS, AND SERVICES.

9-226. STATE FACILITIES — ESTABLISHMENT AND OPERATION.

(A) IN GENERAL.

THE DEPARTMENT MAY ESTABLISH AND OPERATE THE FACILITIES THAT ARE NECESSARY TO PROPERLY DIAGNOSE, CARE FOR, TRAIN, EDUCATE, AND REHABILITATE CHILDREN WHO NEED THESE SERVICES.

(B) INCLUDED FACILITIES.

THE FACILITIES DESCRIBED IN SUBSECTION (A) OF THIS SECTION INCLUDE:

- (1) THE ALFRED D. NOYES CHILDREN'S CENTER;
- (2) THE BALTIMORE CITY JUVENILE JUSTICE CENTER;
- (3) THE CHARLES H. HICKEY, JR. SCHOOL;
- (4) THE CHELTENHAM YOUTH FACILITY;
- (5) THE J. DEWEESE CARTER CENTER;
- (6) THE LOWER EASTERN SHORE CHILDREN'S CENTER;
- (7) THE THOMAS J. S. WAXTER CHILDREN'S CENTER;
- (8) THE VICTOR CULLEN CENTER;
- (9) THE WESTERN MARYLAND CHILDREN'S CENTER; AND
- (10) THE YOUTH CENTERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-117(a).

Defined term: "Department" § 9-101

9-227. STATE FACILITIES — MANAGEMENT.

(A) IN GENERAL.

EACH FACILITY DESCRIBED IN § 9-226 OF THIS SUBTITLE SHALL OPERATE UNDER THE CONTROL AND GENERAL MANAGEMENT OF THE DEPARTMENT.

(B) REGULATIONS.

THE DEPARTMENT SHALL:

(1) SUBJECT TO TITLE 3, SUBTITLES 8 AND 8A OF THE COURTS ARTICLE, ADOPT REGULATIONS THAT SET:

(I) POLICIES FOR DETENTION AUTHORIZATION, COMMUNITY DETENTION, ADMISSION, TRANSFER, DISCHARGE, AND AFTERCARE SUPERVISION; AND

(II) STANDARDS OF CARE, INCLUDING PROVISIONS TO ADMINISTER ANY EARLY, PERIODIC SCREENING DIAGNOSIS AND TREATMENT PROGRAM THAT THE DEPARTMENT APPROVES FOR ESTABLISHMENT UNDER 42 U.S.C., § 1396D(A)(4)(B) AND TO TREAT APPROPRIATELY ANY CONDITION THAT THE SCREENING REVEALS;

(2) ADOPT REGULATIONS APPLICABLE TO RESIDENTIAL FACILITIES IT OPERATES THAT:

(I) PROHIBIT THE USE OF LOCKED DOOR SECLUSION AND RESTRAINTS AS PUNISHMENT AND DESCRIBE THE CIRCUMSTANCES UNDER WHICH LOCKED DOOR SECLUSION AND RESTRAINTS MAY BE USED; AND

(II) PROHIBIT ABUSE OF A CHILD; AND

(3) EXCEPT AS PROVIDED IN § 22-308 OF THE EDUCATION ARTICLE, ADOPT REGULATIONS THAT REQUIRE EACH STATE RESIDENTIAL PROGRAM TO PROVIDE:

(I) YEAR-ROUND EDUCATIONAL PROGRAMS THAT ARE DESIGNED TO MEET THE PARTICULAR NEEDS OF ITS RESIDENTS;

(II) MEDICAL AND MENTAL HEALTH ASSESSMENT SERVICES;

(III) ALCOHOL ABUSE AND DRUG ABUSE ASSESSMENT SERVICES;

(IV) EITHER ALCOHOL ABUSE AND DRUG ABUSE REFERRAL SERVICES OR AN ALCOHOL ABUSE AND DRUG ABUSE TREATMENT PROGRAM THAT HAS BEEN CERTIFIED IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 8 OF THE HEALTH - GENERAL ARTICLE; AND

(V) A SAFE, HUMANE, AND CARING ENVIRONMENT.

(C) POLICIES.

(1) THE DEPARTMENT SHALL ADOPT A POLICY TO GOVERN DISCIPLINARY ACTIONS AND GRIEVANCES IN ITS FACILITIES.

(2) THE POLICY SHALL:

(I) REQUIRE PREPARATION OF A WRITTEN REPORT OF ANY DISCIPLINARY ACTION TAKEN AGAINST A CHILD OR OF ANY GRIEVANCE MADE BY OR ON BEHALF OF A CHILD;

(II) REQUIRE THAT EACH WRITTEN REPORT BE FORWARDED TO AND REVIEWED BY THE ADMINISTRATIVE HEAD OF THE FACILITY; AND

(III) REQUIRE THE DEPARTMENT TO FORWARD IN A TIMELY MANNER ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES, AND GRIEVANCE DISPOSITIONS FROM EACH FACILITY TO THE JUVENILE JUSTICE MONITORING UNIT

OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE.

(D) SPECIAL PROGRAMS.

IN EACH FACILITY, THE DEPARTMENT SHALL DEVELOP SPECIAL PROGRAMS THAT ARE DESIGNED TO MEET THE PARTICULAR NEEDS OF ITS RESIDENTS.

(E) CHANGES IN POLICY, CONDUCT, AND MANAGEMENT.

SUBJECT TO TITLE 3, SUBTITLES 8 AND 8A OF THE COURTS ARTICLE, THE DEPARTMENT SHALL ORDER ANY NECESSARY CHANGES IN THE POLICY, CONDUCT, OR MANAGEMENT OF A STATE RESIDENTIAL PROGRAM TO PROVIDE ADEQUATE CARE FOR THE CHILDREN AND ADEQUATE SERVICES TO THE COURTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-118(a) through (f).

In subsections (b)(3)(i) and (d) of this section, the references to a facility's "residents" are substituted for the former references to its "population" for clarity.

In subsection (b)(3)(v) of this section, the former reference to "programs that ensure" a safe, humane, and caring environment is deleted as surplusage.

In subsection (c)(1) of this section, the requirement that the Department adopt a policy "to govern" disciplinary actions and grievances is substituted for the former requirement that the Department adopt a policy "for addressing" disciplinary actions and grievances for clarity.

In subsection (c)(2)(i) of this section, the reference to any grievance "made by or on behalf of a child" is added for clarity.

Defined term: "Department" § 9-101

9-228. STATE FACILITIES -- BOND REQUESTS.

BEFORE THE DEPARTMENT REQUESTS A BOND ISSUE FROM THE GENERAL ASSEMBLY TO BUILD OR RENOVATE A FACILITY, THE DEPARTMENT SHALL CONSULT ON THE PROPOSED CONSTRUCTION OR RENOVATION PLANS WITH THE GOVERNING BODY OF:

- (1) THE COUNTY WHERE THE FACILITY IS TO BE BUILT OR RENOVATED;
AND
- (2) EACH COUNTY TO BE SERVED BY THE FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-117(b).

In item (2) of this section, the reference to each county to be served "by the facility" is added for clarity.

Defined terms: "County" § 1-101

"Department" § 9-101

9-229. STATE FACILITIES — BALTIMORE CITY JUVENILE JUSTICE CENTER.

(A) OPERATION AND MANAGEMENT.

THE DEPARTMENT SHALL OPERATE AND MANAGE THE BALTIMORE CITY JUVENILE JUSTICE CENTER AS A CENTRALIZED REGIONAL JUVENILE INTAKE, ASSESSMENT, COURT, AND DETENTION FACILITY FOR BALTIMORE CITY.

(B) INCLUDED UNITS.

THE BALTIMORE CITY JUVENILE JUSTICE CENTER SHALL INCLUDE:

- (1) THE DEPARTMENT;
- (2) THE JUVENILE DIVISION OF THE CIRCUIT COURT FOR BALTIMORE CITY;
- (3) AN OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY;
- (4) AN OFFICE OF THE BALTIMORE CITY DEPARTMENT OF SOCIAL SERVICES;
- (5) BALTIMORE CITY POLICE SERVICES; AND
- (6) COURTHOUSE SECURITY SERVICES OF THE SHERIFF OF BALTIMORE CITY.

(C) CHILD IN CUSTODY.

IF A CHILD WHO IS DELINQUENT OR IS ALLEGED TO HAVE COMMITTED A DELINQUENT ACT IS TAKEN INTO CUSTODY BY A LAW ENFORCEMENT OFFICER AND BROUGHT TO THE BALTIMORE CITY JUVENILE JUSTICE CENTER, THE DEPARTMENT, IN CONJUNCTION WITH BALTIMORE CITY POLICE SERVICES, SHALL:

(1) FOR PURPOSES OF POSITIVE IDENTIFICATION, OBTAIN PHOTOGRAPHS AND FINGERPRINTS AND SUBMIT THEM TO:

(I) THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY; AND

(II) ANY OTHER AUTOMATED JUVENILE JUSTICE INFORMATION SYSTEM OR REPOSITORY APPROVED BY THE SECRETARY;

(2) CONDUCT A CRIMINAL AND JUVENILE HISTORY RECORDS CHECK; AND

(3) CONDUCT AN AUTOMATED SEARCH FOR OUTSTANDING WARRANTS AND WRITS OF ATTACHMENT.

(D) CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY — DISSEMINATION OF INFORMATION.

(1) AFTER THE PROCESSING OF FINGERPRINTS, THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY SHALL PROVIDE TO THE DEPARTMENT, IN ACCORDANCE WITH STATE AND FEDERAL LAW, INFORMATION CONCERNING CHILDREN TAKEN INTO CUSTODY UNDER SUBSECTION (C) OF THIS SECTION.

(2) INFORMATION CONCERNING A CHILD DISSEMINATED FROM THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IS A POLICE RECORD UNDER § 10-101(H) OF THE CRIMINAL PROCEDURE ARTICLE AND MAY NOT BE REDISSEMINATED EXCEPT IN ACCORDANCE WITH § 3-8A-27(A) OF THE COURTS ARTICLE.

(E) ADMINISTRATORS.

SUBJECT TO THE AUTHORITY OF THE SECRETARY:

(1) THE MANAGING DIRECTOR OF THE BALTIMORE CITY JUVENILE JUSTICE CENTER IS ITS CHIEF ADMINISTRATOR; AND

(2) THE DIRECTOR OF DETENTION OF THE BALTIMORE CITY JUVENILE JUSTICE CENTER IS ITS ADMINISTRATOR OF JUVENILE DETENTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-118.1.

In subsection (d) of this section, the references to "children" and "child" are substituted for the former references to "juveniles" for consistency within this section and this subtitle.

In subsection (d)(1) of this section, the reference to "children taken into custody under subsection (c) of this section" is substituted for the former reference to "arrested juveniles" for clarity and consistency with subsection (c) of this section.

Also in subsection (d)(1) of this section, the former reference to State and federal law "and regulation" is deleted because the broad reference to a "law" includes a "regulation" adopted under the authority of a law. *See, e.g., Maryland Port Administration v. Browner Contracting Co.*, 303 Md. 44, 60 (1985).

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-230. STATE FACILITIES — ADVISORY BOARDS.

(A) AUTHORIZED.

WITH THE CONSENT OF THE STATE ADVISORY BOARD, THE SECRETARY MAY ESTABLISH AN ADVISORY BOARD FOR ONE OR MORE FACILITIES.

(B) COMPOSITION.

EACH BOARD SHALL CONSIST OF INDIVIDUALS THAT THE SECRETARY AND THE STATE ADVISORY BOARD CONSIDER TO BE HELPFUL IN MATTERS THAT RELATE TO THE EFFECTIVE OPERATION AND IMPROVEMENT OF THE FACILITY.

(C) MEETINGS -- ATTENDANCE BY JUVENILE JUSTICE MONITORS.

A REPRESENTATIVE OF THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE SHALL BE AVAILABLE TO ATTEND MEETINGS OF EACH ADVISORY BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-119.

In subsection (b) of this section, the reference to individuals that the Secretary and the State Advisory Board "consider to" be helpful is substituted for the former reference to individuals that the Secretary and the State Advisory Board "believe may" be helpful for clarity.

Defined terms: "Secretary" § 9-101
"State Advisory Board" § 9-101

9-231. GROUP HOMES AND INSTITUTIONS.

(A) PROVISION OF SERVICES.

THE DEPARTMENT MAY PLACE CHILDREN IN GROUP HOMES AND INSTITUTIONS OPERATED BY NONPROFIT OR FOR-PROFIT ENTITIES TO PROVIDE FOR THEIR CARE, DIAGNOSIS, TRAINING, EDUCATION, AND REHABILITATION.

(B) REIMBURSEMENT.

(1) THE DEPARTMENT SHALL REIMBURSE THE ENTITIES DESCRIBED IN SUBSECTION (A) OF THIS SECTION FOR THE COST OF THE SERVICES AT APPROPRIATE MONTHLY RATES THAT THE DEPARTMENT DETERMINES, AS PROVIDED IN THE STATE BUDGET.

(2) THE DEPARTMENT MAY ESTABLISH DIFFERENT REIMBURSEMENT RATES FOR HOMES AND INSTITUTIONS THAT PROVIDE INTERMEDIATE SERVICES AND HOMES AND INSTITUTIONS THAT PROVIDE FULL SERVICES.

(C) COMPLIANCE WITH LICENSING LAWS.

THE DEPARTMENT MAY NOT PLACE A CHILD IN A GROUP HOME OR OTHER RESIDENTIAL FACILITY THAT IS NOT OPERATING IN COMPLIANCE WITH APPLICABLE STATE LICENSING LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-120.

In subsection (a) of this section, the authority of the Department to "place children in group homes and institutions ... to provide for their care, diagnosis, training, education, and rehabilitation" is substituted for the

former requirement that the Department “provide for” these services by placing children in group homes and institutions for clarity. The Human Services Article Review Committee calls this substitution to the attention of the General Assembly.

In subsection (b)(1) of this section, the reference to “the entities described in subsection (a) of this section” is substituted for the former reference to “these entities” for clarity.

In subsection (b)(2) of this section, the phrase “[t]he Department may establish different reimbursement rates” is substituted for the former phrase “[t]he reimbursement rate may differ” for clarity.

Also in subsection (b)(2) of this section, the former reference to intermediate services “as defined by the Department” is deleted as implicit in the Department’s authority to establish reimbursement rates.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that while subsections (a) and (b) of this section refer to group homes and “institutions”, subsection (c) of this section refers to a group home or “other residential facility”. The General Assembly may wish to address this inconsistency.

Defined term: “Department” § 9–101

9–232. RUNAWAY YOUTH HOMES.

THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO HELP HOMES FOR RUNAWAY YOUTHS.

REVISOR’S NOTE: This section formerly was Art. 83C, § 2–121.

No changes are made.

Defined term: “Department” § 9–101

9–233. YOUTH SERVICES BUREAUS.

(A) “YOUTH SERVICES BUREAU” DEFINED.

IN THIS SECTION, “YOUTH SERVICES BUREAU” MEANS A COMMUNITY-BASED ENTITY THAT IS OPERATED:

(1) TO PROVIDE COMMUNITY-ORIENTED DELINQUENCY PREVENTION, YOUTH SUICIDE PREVENTION, DRUG AND ALCOHOL ABUSE PREVENTION, AND YOUTH DEVELOPMENT;

(2) TO AMELIORATE CONDITIONS THAT CONTRIBUTE TO DELINQUENCY, YOUTH SUICIDE, DRUG AND ALCOHOL ABUSE, AND FAMILY DISRUPTION; AND

(3) TO FUNCTION AS AN ADVOCATE OF YOUTH NEEDS.

(B) REGULATIONS.

(1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET ELIGIBILITY GUIDELINES FOR STATE FUNDING OF YOUTH SERVICES BUREAUS UNDER THIS SECTION.

(2) THE REGULATIONS SHALL REQUIRE THAT EACH YOUTH SERVICES BUREAU THAT RECEIVES STATE FUNDING:

(I) PROVIDE, AT CONVENIENT HOURS:

1. INDIVIDUAL, FAMILY, OR GROUP COUNSELING;
2. REFERRAL AND INFORMATION SERVICES;
3. CRISIS INTERVENTION, INCLUDING INTERVENTION RELATING TO YOUTH SUICIDE PREVENTION;

4. ALCOHOL AND DRUG ABUSE ASSESSMENT AND REFERRAL SERVICES BY STAFF WHO HAVE RECEIVED SUBSTANCE ABUSE ASSESSMENT AND REFERRAL TRAINING FROM THE OFFICE OF EDUCATION AND TRAINING FOR ADDICTION SERVICES (OETAS) IN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR FROM ANY OTHER ENTITY THAT THE SECRETARY DETERMINES TO BE QUALIFIED TO PROVIDE SUBSTANCE ABUSE ASSESSMENT AND REFERRAL TRAINING;

5. INFORMAL COUNSELING; AND

6. IN ACCORDANCE WITH THE NEEDS OF THE COMMUNITY AND SUBJECT TO THE AVAILABILITY OF FUNDS:

A. TUTORING;

B. ALTERNATIVE LEISURE ACTIVITIES;

C. EMPLOYMENT ASSISTANCE;

D. COMMUNITY EDUCATION, INCLUDING TRAINING AND INFORMATION RELATING TO YOUTH SUICIDE PREVENTION;

E. AFTERCARE SERVICES; AND

F. OTHER SPECIALIZED SERVICES;

(II) SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, PROVIDE THE SERVICES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH FREE OF CHARGE OR AT A RATE THAT ITS BOARD OF DIRECTORS ESTABLISHES, IN CONSULTATION WITH THE DEPARTMENT, THAT IS BASED ON THE CLIENT'S FAMILY INCOME; AND

(III) DISPOSE OF ALL INFORMATION AND RECORDS ON EACH INDIVIDUAL RECEIVING SERVICES FROM THE YOUTH SERVICES BUREAU 5 YEARS AFTER SERVICES TO THE INDIVIDUAL TERMINATE.

(C) FEES.

(1) A YOUTH SERVICES BUREAU MAY RETAIN ANY FEES CHARGED UNDER SUBSECTION (B)(2)(II) OF THIS SECTION.

(2) THE FEES AUTHORIZED UNDER SUBSECTION (B)(2)(II) OF THIS SECTION DO NOT APPLY TO YOUTH REFERRED TO A YOUTH SERVICES BUREAU BY COURT ORDER.

(D) MONITORING AND EVALUATION BY DEPARTMENT.

(1) THE DEPARTMENT SHALL:

(I) MONITOR THE OPERATIONS OF EACH YOUTH SERVICES BUREAU THAT RECEIVES STATE FUNDING;

(II) EVALUATE ANNUALLY THE EFFECTIVENESS OF EACH YOUTH SERVICES BUREAU; AND

(III) DISCONTINUE FUNDING A YOUTH SERVICES BUREAU THAT IS INEFFECTIVE OR THAT, FOR 2 YEARS, FAILS TO MEET THE ELIGIBILITY GUIDELINES FOR STATE FUNDING.

(2) THE DEPARTMENT SHALL REVIEW AND APPROVE OR DISAPPROVE AN APPLICATION FOR STATE FUNDING OF A YOUTH SERVICES BUREAU OR PROPOSED YOUTH SERVICES BUREAU.

(E) FUNDING.

(1) (I) THE STATE AND THE LOCAL GOVERNMENT SHALL JOINTLY FUND AN ELIGIBLE YOUTH SERVICES BUREAU.

(II) THE STATE SHALL PROVIDE 75% OF THE FUNDING FOR AN ELIGIBLE YOUTH SERVICES BUREAU, AS PROVIDED IN THE STATE BUDGET.

(2) AT THE TIMES THAT THE DEPARTMENT SPECIFIES, EACH ELIGIBLE YOUTH SERVICES BUREAU SHALL SUBMIT A PROPOSED ANNUAL BUDGET TO THE DEPARTMENT FOR REVIEW AND APPROVAL.

(3) THE PROPOSED BUDGET OF THE DEPARTMENT SHALL LIST THE ELIGIBLE YOUTH SERVICES BUREAUS AND ESTIMATE THE AMOUNT OF STATE FUNDS TO BE ALLOCATED TO EACH.

(4) (I) THE LOCAL GOVERNING BODY THAT PROVIDES THE MATCHING FUNDS FOR AN ELIGIBLE YOUTH SERVICES BUREAU MAY CHOOSE TO HAVE THE STATE FUNDS FOR THE YOUTH SERVICES BUREAU PAID DIRECTLY TO ITS PRIVATE SPONSOR OR TO THE LOCAL GOVERNING BODY.

(II) BEFORE THE STATE FUNDS ARE PAID, THE FISCAL OFFICER OF THE LOCAL GOVERNMENT SHALL CERTIFY IN WRITING THE SOURCE OF THE MATCHING FUNDS PROVIDED BY THE LOCAL GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-122.

In subsection (a)(2) of this section, the reference to conditions that "contribute to" delinquency is substituted for the former reference to conditions that "breed" delinquency for clarity.

In subsection (b)(1) and the introductory language of (2) of this section, the former references to “rules” are deleted in light of the references to “regulations”. *See* General Revisor’s Note to article.

In the introductory language of subsection (b)(2) of this section, the reference to each youth services bureau “that receives State funding” is substituted for the former reference to each “State–aided” youth services bureau for clarity and consistency.

In subsection (b)(2)(i)4 of this section, the reference to the Office of Education and Training for “Addiction” Services is substituted for the former incorrect reference to the Office of Education and Training for “Addictions” Services.

In subsection (b)(2)(ii) of this section, the phrase “subject to subsection (c)(2) of this section” is added for clarity.

In subsection (b)(2)(iii) of this section, the reference to 5 years after services “terminate” is substituted for the former reference to 5 years after services “are no longer necessary” for clarity.

Also in subsection (b)(2)(iii) of this section, the former reference to services “under this section” is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to a youth services bureau retaining fees “for the purposes of the youth services bureau” is deleted as implicit.

In subsection (e)(1)(i) of this section, the requirement that the State and the local government “jointly fund” an eligible youth services bureau is substituted for the former requirement that “the funding ... be a shared responsibility of this State and of local governments” for clarity and brevity.

In subsection (e)(1)(ii) of this section, the requirement that the State “provide 75% of the funding for” an eligible youth services bureau is substituted for the former reference to the State’s “share ... of the funding” for clarity.

In subsection (e)(4)(ii) of this section, the reference to the “matching funds provided by the local government” is substituted for the former reference to the “25 percent local funds” for clarity and consistency.

Defined terms: “Department” § 9–101

“Secretary” § 9–101

9–234. JUVENILE CARE FACILITIES -- IN GENERAL.

(A) LEGISLATIVE INTENT.

THE GENERAL ASSEMBLY INTENDS THAT:

(1) ALL CHILDREN WHOSE CARE IS THE RESPONSIBILITY OF THE STATE SHALL HAVE SIMILAR PROTECTION FOR THEIR HEALTH, THEIR SAFETY, AND THE QUALITY OF THEIR CARE; AND

(2) THE REGULATIONS OF STATE UNITS THAT ARE CHARGED WITH CHILD CARE SHALL BE COMPARABLE.

(B) REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT §§ 9-235 AND 9-236 OF THIS SUBTITLE.

(C) MULTIPLE LICENSES NOT REQUIRED.

A CHILD CARE HOME OR CHILD CARE INSTITUTION MAY NOT BE REQUIRED TO OBTAIN A LICENSE FROM MORE THAN ONE STATE UNIT.

(D) COOPERATIVE ARRANGEMENTS AMONG LICENSING UNITS.

A STATE UNIT AUTHORIZED TO LICENSE CHILD CARE HOMES OR CHILD CARE INSTITUTIONS MAY MAKE A COOPERATIVE LICENSING ARRANGEMENT WITH ANOTHER STATE UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-125.

In subsections (a)(2) and (b) of this section, the former references to "rules" are deleted in light of the references to "regulations". *See* General Revisor's Note to article.

In subsection (a)(2) of this section, the reference to "State units" is substituted for the former reference to "agencies" for consistency with terminology used throughout this article. Similarly, in subsections (c) and (d) of this section, the references to a State "unit" are substituted for the former references to a State "agency". *See* General Revisor's Note to article.

In subsection (d) of this section, the reference to a cooperative "licensing" arrangement is substituted for the former reference to a cooperative arrangement "to this end" for clarity.

Defined term: "Department" § 9-101

9-235. JUVENILE CARE FACILITIES -- CHILD CARE HOMES.

(A) LICENSE REQUIRED.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON SHALL BE LICENSED BY THE DEPARTMENT AS A CHILD CARE HOME BEFORE THE PERSON MAY EXERCISE CARE, CUSTODY, OR CONTROL OVER A CHILD WHO IS ALLEGED TO BE OR IS ADJUDICATED DELINQUENT OR IN NEED OF SUPERVISION.

(B) EXCEPTIONS.

THIS SECTION DOES NOT APPLY TO:

- (1) A PARENT OF THE CHILD;
- (2) AN INDIVIDUAL RELATED TO THE CHILD BY BLOOD OR MARRIAGE WITHIN 4 DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW RULE;
- (3) A GUARDIAN OF THE CHILD;
- (4) A PERSON WHO EXERCISES TEMPORARY CUSTODY OR CONTROL OVER THE CHILD AT THE REQUEST OF A PARENT OR GUARDIAN OF THE CHILD AND WHO IS NOT REQUIRED OTHERWISE TO BE LICENSED;
- (5) A PERSON WHO HAS THE CARE, CUSTODY, OR CONTROL OF THE CHILD THROUGH PLACEMENT BY A PARENT OR GRANDPARENT OF THE CHILD IN CONTEMPLATION OF ADOPTION, IF THE REQUIREMENTS OF § 5-507(B)(2) AND (C) OF THE FAMILY LAW ARTICLE ARE MET;
- (6) AN INSTITUTION THAT HAS A CHILD CARE INSTITUTION LICENSE UNDER THIS SUBTITLE OR § 5-509 OF THE FAMILY LAW ARTICLE;
- (7) AN INSTITUTION OPERATED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION; OR
- (8) A FOSTER CARE PROVIDER WITH WHOM THE CHILD IS PLACED BY:
 - (I) A LICENSED CHILD PLACEMENT AGENCY;
 - (II) A LOCAL DEPARTMENT OF SOCIAL SERVICES;
 - (III) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;
 - (IV) THE DEPARTMENT; OR
 - (V) A COURT OF COMPETENT JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-123.

In subsection (a) of this section, the more specific reference to “subsection (b) of this section” is substituted for the more general reference to “this section” for clarity.

In subsection (b)(7) of this section, as to the substitution of the reference to “unit” for the former reference to “agency”, *see* General Revisor’s Note to article.

In the introductory language of subsection (b)(8) of this section, the reference to a “foster care provider with whom the child is placed” is substituted for the former reference to “an individual with whom the child is placed in foster care” for brevity.

In subsection (b)(8)(i) of this section, the reference to a licensed “child” placement agency is added for consistency with Title 5, Subtitle 5 of the Family Law Article.

Defined terms: "Department" § 9-101

"Person" § 1-101

9-236. JUVENILE CARE FACILITIES -- CHILD CARE INSTITUTIONS.

(A) LICENSE REQUIRED.

EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON SHALL BE LICENSED BY THE DEPARTMENT AS A CHILD CARE INSTITUTION BEFORE THE PERSON MAY OPERATE AN INSTITUTION FOR THE CARE, CUSTODY, OR CONTROL OF A CHILD ALLEGED TO BE OR ADJUDICATED DELINQUENT OR IN NEED OF SUPERVISION.

(B) EXCEPTIONS.

THIS SECTION DOES NOT APPLY TO:

(1) AN INSTITUTION OR FACILITY OPERATED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION; OR

(2) A CHILD CARE HOME THAT HAS A LICENSE UNDER THIS SUBTITLE OR § 5-508 OF THE FAMILY LAW ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-124.

In subsection (a) of this section, the more specific reference to "subsection (b) of this section" is substituted for the more general reference to "this section" for clarity.

In subsection (b)(1) of this section, the reference to a "unit" is substituted for the former reference to an "agency" for consistency with terminology used throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 9-101

"Person" § 1-101

9-237. JUVENILE DETENTION FACILITIES -- STANDARDS.

(A) IN GENERAL.

THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR JUVENILE DETENTION FACILITIES OPERATED BY THE DEPARTMENT AND BY PRIVATE AGENCIES UNDER CONTRACT WITH THE DEPARTMENT.

(B) PURPOSES.

THE STANDARDS SHALL REFLECT THE FOLLOWING CENTRAL PURPOSES OF JUVENILE DETENTION:

(1) TO PROTECT THE PUBLIC;

(2) TO PROVIDE A SAFE, HUMANE, AND CARING ENVIRONMENT FOR CHILDREN; AND

(3) TO PROVIDE ACCESS TO REQUIRED SERVICES FOR CHILDREN.

(C) INCLUDED PROVISIONS.

THE STANDARDS SHALL INCLUDE PROVISIONS ESTABLISHING:

(1) A POLICY THAT ELIMINATES THE UNNECESSARY USE OF DETENTION AND THAT PRIORITIZES DIVERSION AND APPROPRIATE NONSECURE ALTERNATIVES;

(2) CRITERIA FOR THE PLACEMENT OF A CHILD IN A PARTICULAR JUVENILE DETENTION FACILITY;

(3) POPULATION LIMITS FOR EACH JUVENILE DETENTION FACILITY THAT MAY NOT BE EXCEEDED EXCEPT IN EMERGENCY CIRCUMSTANCES;

(4) A REQUIREMENT THAT STAFFING RATIOS AND LEVELS OF SERVICES BE MAINTAINED DURING EMERGENCIES;

(5) SPECIFICATIONS FOR THE ARCHITECTURAL STRUCTURE OF A JUVENILE DETENTION FACILITY;

(6) STAFF QUALIFICATIONS AND TRAINING, INCLUDING TRAINING IN RECOGNIZING AND REPORTING CHILD ABUSE AND NEGLECT;

(7) THE RATIO OF STAFF TO CHILDREN IN A JUVENILE DETENTION FACILITY;

(8) THE RIGHTS OF CHILDREN IN A JUVENILE DETENTION FACILITY, INCLUDING THE RIGHT TO PRIVACY, VISITORS, TELEPHONE USE, AND MAIL DELIVERY;

(9) PROHIBITIONS AGAINST THE USE OF EXCESSIVE FORCE AGAINST A CHILD; AND

(10) INTERNAL AUDITING AND MONITORING OF PROGRAMS AND FACILITIES IN THE JUVENILE SERVICES SYSTEM.

(D) CONSISTENCY WITH OTHER LAWS.

THE STANDARDS SHALL BE CONSISTENT WITH THIS TITLE AND TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-135.

As to the substitution of the reference to the "juvenile services system" for the former references to the "Juvenile Justice System" in subsection (c)(10) of this section, *see* General Revisor's Note to title.

Defined term: "Department" § 9-101

9-238. PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTIONS.

(A) "PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION" DEFINED.

IN THIS SECTION, "PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION" MEANS A PRIVATE, NONPROFIT FACILITY THAT:

(1) SERVES 150 OR MORE COURT-ADJUDICATED CHILDREN, INCLUDING CHILDREN IN THE CUSTODY OF THE DEPARTMENT;

(2) PROVIDES ACADEMIC, ATHLETIC, AND WORKFORCE DEVELOPMENT SERVICES TO THE CHILDREN DESCRIBED IN ITEM (1) OF THIS SUBSECTION; AND

(3) HAS BEEN APPROVED TO SERVE CHILDREN DESCRIBED IN THIS SUBSECTION ON OR BEFORE OCTOBER 1, 2005.

(B) EDUCATIONAL PROGRAM.

(1) A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION SHALL DEVELOP AN EDUCATIONAL PROGRAM.

(2) SUBJECT TO THE APPROVAL OF THE EDUCATIONAL PROGRAM DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION BY THE STATE DEPARTMENT OF EDUCATION, A PRIVATE REHABILITATIVE INSTITUTION SHALL IMPLEMENT THE EDUCATIONAL PROGRAM.

(C) PLACEMENT OF CHILDREN.

A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION SHALL:

(1) RECEIVE STATEWIDE REFERRALS; AND

(2) SERVE AS AN OPTION FOR THE PLACEMENT OF CHILDREN WHO ARE TRANSFERRED TO THE JUVENILE COURT UNDER § 4-202 OF THE CRIMINAL PROCEDURE ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-137.

Throughout subsection (a) of this section, the references to "children" are substituted for the former references to "youths" for consistency within this subtitle.

In subsection (c)(2) of this section, the reference to "children who are transferred to the juvenile court under § 4-202 of the Criminal Procedure Article" is substituted for former Art. 83C, § 2-137(a)(3), which defined "reverse-waiver juvenile", for accuracy and for consistency with the terminology used in § 4-202 of the Criminal Procedure Article.

Defined term: "Department" § 9-101

9-239. NONSECURE PLACEMENT ALTERNATIVES -- STANDARDS.

BY REGULATION, THE DEPARTMENT SHALL SET STANDARDS FOR NONSECURE ALTERNATIVES FOR THE PLACEMENT OF A CHILD COMMITTED UNDER § 3-8A-19 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-136.

In this section, the requirement that the Department “[b]y regulation ... set” standards for nonsecure alternatives is substituted for the former requirement that the Department “develop and adopt regulations providing” standards for nonsecure alternatives for brevity.

Defined term: “Department” § 9-101

9-240. STEP-DOWN AFTERCARE.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “STEP-DOWN AFTERCARE” MEANS:

(I) A NETWORK OF PROGRAMS THAT PROVIDE EDUCATION AND REHABILITATION; AND

(II) SERVICES AND TREATMENT TO EASE THE TRANSITION OF CHILDREN FROM THE CUSTODY OF THE DEPARTMENT TO THEIR HOMES AND COMMUNITIES.

(3) “STEP-DOWN AFTERCARE PLAN” MEANS AN INDIVIDUALIZED PLAN FOR EACH CHILD IN STEP-DOWN AFTERCARE THAT PROPOSES SPECIFIC ASSISTANCE, GUIDANCE, TREATMENT, SERVICES, AND SUPERVISION THAT:

(I) PREPARES THE CHILD FOR REENTRY INTO THE SPECIFIC COMMUNITY TO WHICH THE CHILD WILL RETURN;

(II) ENSURES THE DELIVERY OF PRESCRIBED SERVICES TO THE CHILD IN THE COMMUNITY; AND

(III) MONITORS CONDUCT IN THE COMMUNITY TO ENSURE PUBLIC SAFETY.

(B) SERVICES REQUIRED.

(1) A CHILD DISCHARGED FROM A COMMITTED RESIDENTIAL PLACEMENT SHALL RECEIVE STEP-DOWN AFTERCARE FOR THE PERIOD THAT THE DEPARTMENT DETERMINES.

(2) A CHILD IN STEP-DOWN AFTERCARE SHALL RECEIVE:

(I) A STEP-DOWN AFTERCARE PLAN;

(II) SUPERVISION BY STEP-DOWN AFTERCARE STAFF IN ACCORDANCE WITH THE STEP-DOWN AFTERCARE PLAN;

(III) EDUCATIONAL SERVICES; AND

(IV) ANY OTHER SERVICES NECESSARY TO IMPLEMENT THE STEP-DOWN AFTERCARE PLAN.

(C) DUTIES OF STAFF.

THE STEP-DOWN AFTERCARE STAFF SHALL:

(1) PREPARE A STEP-DOWN AFTERCARE PLAN FOR EACH CHILD ASSIGNED TO THE STEP-DOWN AFTERCARE PROGRAM AND FILE THE PLAN WITH THE DEPARTMENT;

(2) KEEP REGULAR RECORDS CONCERNING THE PROGRESS OF EACH CHILD;

(3) FILE WITH THE DEPARTMENT A MONTHLY PROGRESS REPORT ON EACH CHILD; AND

(4) FILE WITH THE DEPARTMENT AN ANNUAL REPORT ON THE OUTCOME OF STEP-DOWN AFTERCARE PLANS FOR THE CHILDREN IN THE STEP-DOWN AFTERCARE PROGRAM, THAT INCLUDES TO THE EXTENT POSSIBLE:

(I) INFORMATION ON THE NUMBER OF CHILDREN WHO:

1. ARE REARRESTED;
2. ARE REARRESTED AND CHARGED WITH SERIOUS OR VIOLENT OFFENSES;
3. ARE REARRESTED AND WAIVED TO THE ADULT SYSTEM;
4. ARE RE-REFERRED TO THE DEPARTMENT;
5. ARE READJUDICATED AND RECOMMITTED;
6. GRADUATE FROM HIGH SCHOOL OR SUCCESSFULLY COMPLETE A HIGH SCHOOL EQUIVALENCY EXAMINATION; AND
7. ARE EMPLOYED; AND

(II) OTHER RELEVANT INFORMATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-127.1.

In subsection (c)(1) of this section, the former reference to each child "in aftercare" is deleted as surplusage.

In subsection (c)(4) of this section, the requirement to file an annual report "with the Department" is added for clarity and consistency with subsection (c)(1) and (3) of this section.

Defined term: "Department" § 9-101

9-241. REQUIRED PROGRAMS.

(A) IN GENERAL.

THE SECRETARY SHALL ESTABLISH PROGRAMS FOR JUVENILE INTAKE, PREDELINQUENT DIVERSION SERVICES, COMMUNITY DETENTION, INVESTIGATION, PROBATION, AND AFTERCARE SERVICES.

(B) STAFF.

(1) EXCEPT FOR PREDELINQUENT DIVERSION SERVICES, THE SECRETARY SHALL PROVIDE SUFFICIENT STAFF TO OPERATE THE PROGRAMS DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

(2) THE STAFF OF THE DEPARTMENT IS UNDER THE IMMEDIATE DIRECTION AND CONTROL OF THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-127.

Defined terms: "Department" § 9-101
"Secretary" § 9-101

9-242. INFORMATIONAL PROGRAMS.

THE SECRETARY SHALL HOLD INSTITUTES, CONFERENCES, AND OTHER PROGRAMS TO FAMILIARIZE THE JUDICIARY, THE BALTIMORE CITY SOCIAL SERVICES COMMISSION AND OTHER BOARDS OF LOCAL DEPARTMENTS OF SOCIAL SERVICES, CITIZENS ACTION GROUPS, AND OTHER INTERESTED PERSONS WITH THE FUNCTIONS AND PROGRAMS OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-130.

The reference to "familiariz[ing]" various persons with the functions and programs of the Department is substituted for the former reference to "inform[ing] and acquaint[ing]" various persons with the functions and programs of the Department for brevity and clarity.

The former reference to "plan[ning]" programs is deleted as included in the reference to "hold[ing]" programs.

Defined terms: "Department" § 9-101
"Person" § 1-101
"Secretary" § 9-101

9-243. RELATIONSHIP TO COURTS.

(A) PROVISION OF SERVICES.

IF REQUESTED BY A JUVENILE COURT OR BY ANY OTHER COURT IN A PROCEEDING THAT INVOLVES THE INTEREST OF A MINOR, THE DEPARTMENT SHALL PROVIDE THE SERVICES DESCRIBED IN THIS TITLE.

(B) EMPLOYEES.

THE DEPARTMENT SHALL PROVIDE THE EMPLOYEES NECESSARY FOR ANY SERVICES THAT A JUVENILE COURT ORDERS.

(C) COOPERATION WITH JUVENILE COURT.

THE DEPARTMENT SHALL COOPERATE WITH THE JUVENILE COURT IN CARRYING OUT THE OBJECTIVES OF THIS TITLE AND TITLE 3, SUBTITLES 8 AND 8A OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-126.

In subsection (a) of this section, the reference to a "juvenile court" is substituted for the former reference to a "court sitting as a juvenile court" for brevity and consistency with other revised articles (*see, e.g.*, CP § 4-202). Correspondingly, in subsection (b) of this section, the reference to a "juvenile court" is substituted for the former reference to a "judge sitting as a juvenile court" and in subsection (c) of this section, the reference to the "juvenile court" is substituted for the former reference to the "judges of the juvenile court".

In subsection (b) of this section, the reference to employees "necessary for any" services is substituted for the former reference to employees "needed to supply such" services for clarity and brevity.

Defined term: "Department" § 9-101

9-244. PROVISION OF COURT STAFF.

(A) IN GENERAL.

THE SECRETARY SHALL:

(1) STUDY THE PROBLEM OF THE UNITS OF WORK THAT ARE INVOLVED IN THE JUVENILE COURTS; AND

(2) ESTABLISH A SYSTEM FOR UNITS OF WORK.

(B) COURT STAFF.

(1) ON THE BASIS OF THE COMPARATIVE WORKLOAD OF ANY JUVENILE COURT, THE SECRETARY SHALL PROVIDE THE COURT WITH ADEQUATE STAFF AND AN ADEQUATE VARIETY OF STAFF.

(2) UNLESS THE JUDGES OF THE COURT CONSENT, A JUVENILE COURT MAY NOT BE ASSIGNED A SMALLER STAFF THAN AUTHORIZED AS OF JULY 1, 1986.

(C) ADDITIONAL STAFF.

(1) WITHIN THE FORMULA DESCRIBED IN THIS SECTION, A JUDGE OF ANY JUVENILE COURT MAY REQUEST THE ADDITIONAL CLERICAL AND PROFESSIONAL COURT SERVICE STAFF THAT THE WORKLOAD OF THE COURT REQUIRES.

(2) THE SECRETARY SHALL CONSIDER AND RESPOND TO A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ACCORDANCE WITH §§ 9-241 AND 9-243 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-128.

In subsection (a)(1) of this section, the reference to the "juvenile" courts is substituted for the former reference to the "several" courts for clarity and consistency within this subtitle.

Throughout subsections (b) and (c) of this section, the references to the "juvenile" court are added for clarity and consistency within this subtitle.

In subsection (b)(2) of this section, the former word "[h]owever" is deleted as surplusage.

Defined term: "Secretary" § 9-101

9-245. FOSTER PARENTS -- LIABILITY INSURANCE AND REIMBURSEMENT.

(A) "FOSTER PARENT" DEFINED.

IN THIS SECTION, "FOSTER PARENT" INCLUDES AN INDIVIDUAL WHO CARES FOR A CHILD ON AN EMERGENCY BASIS UNDER A SHELTER CARE PROGRAM.

(B) INSURANCE REQUIRED.

(1) THE DEPARTMENT SHALL PROVIDE LIABILITY INSURANCE FOR FOSTER PARENTS WHO CARE FOR CHILDREN UNDER FOSTER PARENT PROGRAMS.

(2) SUBJECT TO A REASONABLE DEDUCTIBLE LIMIT THAT THE DEPARTMENT SETS, THE LIABILITY INSURANCE SHALL COVER:

(I) BODILY INJURY AND PROPERTY DAMAGE THAT A FOSTER CHILD CAUSES TO THE PERSON OR PROPERTY OF A PERSON OTHER THAN A FOSTER PARENT; AND

(II) ACTIONS AGAINST A FOSTER PARENT BY A PARENT FOR ANY ACCIDENTAL INJURY TO THE FOSTER CHILD.

(C) REIMBURSEMENT.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY SHALL REIMBURSE A FOSTER PARENT FOR THE COSTS OF BODILY INJURY OR PROPERTY DAMAGE THAT THE FOSTER CHILD CAUSES TO THE FOSTER PARENT AND THAT INSURANCE DOES NOT COVER, IF THE SECRETARY IS SATISFIED THAT THE ACTIONS OF THE FOSTER PARENT DID NOT CONTRIBUTE SUBSTANTIALLY TO THE BODILY INJURY OR PROPERTY DAMAGE.

(2) (I) REIMBURSEMENT UNDER THIS SUBSECTION MAY NOT EXCEED \$5,000.

(II) REIMBURSEMENT EXCEEDING \$2,000 REQUIRES THE APPROVAL OF THE BOARD OF PUBLIC WORKS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 2-131.

In subsection (b)(2)(ii) of this section, the former reference to a “natural” parent is deleted for consistency throughout this article.

Also in subsection (b)(2)(ii) of this section, the reference to an “accidental injury” is substituted for the former reference to an “accident” for clarity.

In subsection (c)(1) of this section, the reference to “paragraph (2) of this section” is substituted for the former reference to “the provisions of this section” for clarity.

Also in subsection (c)(1) of this section, the former phrase “[b]efore reimbursement under this subsection” is deleted as unnecessary in light of the reorganization of former Art. 83C, § 2–131(c)(1) and (2) in this revision.

In subsection (c)(2)(i) of this section, the phrase “[r]eimbursement ... may not exceed \$5,000” is substituted for the former phrase “[r]eimbursement ... shall be made for all costs to a maximum amount of \$5,000” for clarity and brevity.

In subsection (c)(2)(ii) of this section, the reference to “[r]eimbursement” is substituted for the former reference to “all payments” for consistency within this section.

Also in subsection (c)(2)(ii) of this section, the former word “[h]owever” is deleted as surplusage.

Defined terms: “Department” § 9–101
 “Secretary” § 9–101

9–246. SUMMER OPPORTUNITY PILOT PROGRAM.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COUNTY BOARD” MEANS THE BOARD OF EDUCATION OF A COUNTY.

(II) “COUNTY BOARD” INCLUDES THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS.

(3) “FUND” MEANS THE DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM FUND.

(4) “PROGRAM” MEANS THE DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM.

(B) ESTABLISHED.

THERE IS A DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM.

(C) PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO DEVELOP AND IMPLEMENT EDUCATIONAL CURRICULUM AND ACTIVITIES DURING THE SUMMER FOR THE ENRICHMENT OF CHILDREN WHO ARE UNDER THE SUPERVISION OF THE DEPARTMENT.

(D) FUND.

(1) THERE IS A DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM FUND TO FINANCE THE PROGRAM.

(2) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
AND

(II) MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(4) THE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(5) THE FUND SHALL BE INVESTED AND REINVESTED AND ANY INVESTMENT EARNINGS SHALL BE PAID INTO THE FUND.

(E) ADMINISTRATION OF PROGRAM.

(1) THE PROGRAM SHALL BE ADMINISTERED AS PROVIDED IN THIS SUBSECTION.

(2) A GROUP HOME OPERATOR OR OTHER INTERESTED PERSON IN A COUNTY:

(I) MAY DEVELOP A PROPOSAL FOR EDUCATIONAL CURRICULUM AND ACTIVITIES DURING THE SUMMER USING FACULTY OF THE COUNTY SCHOOL SYSTEM FOR CHILDREN IN THAT COUNTY WHO ARE UNDER THE SUPERVISION OF THE DEPARTMENT; AND

(II) SHALL SUBMIT THE PROPOSAL TO THE COUNTY BOARD FOR REVIEW.

(3) THE COUNTY BOARD:

(I) SHALL REVIEW THE PROPOSAL;

(II) IN CONSULTATION WITH THE PERSON THAT SUBMITTED THE PROPOSAL, MAY MAKE ANY CHANGES TO THE PROPOSAL THAT IT CONSIDERS NECESSARY; AND

(III) FROM AMONG THE PROPOSALS SUBMITTED, MAY FORWARD A FINAL PROPOSAL BY JANUARY 15 OF EACH YEAR TO THE DEPARTMENT FOR APPROVAL.

(4) THE DEPARTMENT:

(I) IN CONSULTATION WITH THE STATE BOARD OF EDUCATION, SHALL REVIEW A FINAL PROPOSAL BY MARCH 15 OF EACH YEAR;

(II) MAY MAKE RECOMMENDATIONS THAT IT CONSIDERS NECESSARY; AND

(III) MAY APPROVE A FINAL PROPOSAL OF A COUNTY BOARD FOR IMPLEMENTATION IN THAT COUNTY.

(5) (I) IF THE DEPARTMENT APPROVES A FINAL PROPOSAL OF A COUNTY BOARD, THE DEPARTMENT SHALL DISTRIBUTE TO THE COUNTY BOARD MONEY FROM THE FUND TO EXTEND THE CONTRACTS OF PARTICIPATING TEACHERS TO IMPLEMENT AND OPERATE THE PROGRAM.

(II) MONEY THAT THE DEPARTMENT DISTRIBUTES FROM THE FUND MAY BE USED ONLY TO EXTEND THE CONTRACTS OF PARTICIPATING TEACHERS.

(F) CONTENTS OF FINAL PROPOSAL.

(1) A COUNTY BOARD MAY INCLUDE IN A FINAL PROPOSAL:

(I) CURRICULUM AND ACTIVITIES FOR CHILDREN IN ANY GRADE FROM KINDERGARTEN THROUGH GRADE 12 WHO ARE UNDER THE SUPERVISION OF THE DEPARTMENT;

(II) CURRICULUM AND ACTIVITIES THAT USE SCHOOL FACILITIES, LIBRARIES, OR ANY OTHER FACILITIES AT A LOCATION DESCRIBED IN THE FINAL PROPOSAL;

(III) CURRICULUM AND ACTIVITIES THAT ARE IMPLEMENTED FOR A SCHOOL, A GROUP OF SCHOOLS, OR A COUNTY SCHOOL SYSTEM;

(IV) CURRICULUM AND ACTIVITIES THAT ARE COORDINATED WITH AN AFTER-SCHOOL OPPORTUNITY PROGRAM OPERATING UNDER TITLE 6, SUBTITLE 10 OF THIS ARTICLE;

(V) TUTORING IN SUBJECTS SPECIFIED IN THE FINAL PROPOSAL;
OR

(VI) FIELD TRIPS DESCRIBED IN THE FINAL PROPOSAL.

(2) A COUNTY BOARD SHALL INCLUDE IN A FINAL PROPOSAL THE ESTIMATED COST OF EXTENDING THE CONTRACTS OF PARTICIPATING TEACHERS.

(G) FUNDING.

(1) THE GOVERNOR MAY INCLUDE FUNDS IN THE STATE BUDGET TO ESTABLISH AND MAINTAIN THE PROGRAM AND THE FUND AND TO CARRY OUT THIS SECTION.

(2) AN APPROPRIATION MADE UNDER THIS SECTION TO EXTEND THE CONTRACTS OF PARTICIPATING TEACHERS MAY NOT BE USED TO SUPPLANT THE EXISTING STATE SHARE OF THE FOUNDATION PROGRAM UNDER § 5-202 OF THE EDUCATION ARTICLE.

(H) REGULATIONS.

THE DEPARTMENT MAY ADOPT REGULATIONS TO:

- (1) ESTABLISH CRITERIA FOR APPROVING A FINAL PROPOSAL;
- (2) ADMINISTER THE FUND; AND
- (3) CARRY OUT THIS SECTION.

REVISOR'S NOTE: Subsections (a)(1), (3), and (4) and (b) through (h) of this section are new language derived without substantive change from former Art. 83C, § 2-134.

Subsection (a)(2) of this section is new language added to avoid repetition of the full reference to a "county board of education" and to conform to the definition of "county board" in ED § 1-101.

In subsection (c) of this section, the phrase "during the summer" is substituted for the former phrase "in the summer months" for clarity and brevity.

In subsection (e)(2)(i) of this section, the former reference to summer "months" is deleted as surplusage.

In subsection (e)(3)(ii) of this section, the reference to any changes "to the proposal" is added for clarity.

Also in subsection (e)(3)(ii) of this section, the reference to the "person that submitted the proposal" is substituted for the former reference to the "requesting party" for clarity and for consistency within this section.

In subsection (f)(1)(i) of this section, the former reference to curriculum and activities for "the benefit of" children is deleted as unnecessary in light of the reference to curriculum and activities "for children".

In subsection (g)(1) of this section, the authority of the Governor to include funds to "carry out" this section is substituted for the former authority of the Governor to "accomplish the purposes of" this section for clarity.

Also in subsection (g)(1) of this section, the former reference to "[f]iscal year 2004 and each succeeding fiscal year" is deleted as obsolete.

Defined term: "Department" § 9-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83C, § 2–119.1, which created the Charles H. Hickey, Jr. School Citizen’s Advisory Committee, and which terminated July 1, 1991, is deleted as obsolete.

SUBTITLE 3. INTERSTATE COMPACT ON JUVENILES.

9–301. FINDINGS; POLICY; DEFINITION.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) JUVENILES WHO ARE NOT UNDER PROPER SUPERVISION AND CONTROL OR WHO ABSCOND, ESCAPE, OR RUN AWAY ARE LIKELY TO ENDANGER THE HEALTH, MORALS, AND WELFARE OF THEMSELVES AND OTHERS; AND

(2) COOPERATION OF THIS STATE WITH OTHER STATES IS NECESSARY TO PROVIDE FOR THE WELFARE AND PROTECTION OF JUVENILES AND OF THE PEOPLE OF THIS STATE.

(B) POLICY.

IT IS THE POLICY OF THIS STATE, IN ADOPTING THE INTERSTATE COMPACT ON JUVENILES, TO COOPERATE FULLY WITH OTHER STATES IN ACCORDANCE WITH THE COMPACT:

(1) TO RETURN JUVENILES TO OTHER STATES IF THEIR RETURN IS SOUGHT; AND

(2) TO INITIATE PROCEEDINGS FOR THE RETURN OF A JUVENILE AND ACCEPT THE RETURN OF A JUVENILE, IF A JUVENILE RESIDING IN THIS STATE IS FOUND OR APPREHENDED IN ANOTHER STATE.

(C) DEFINITION OF “PERSON”.

(1) IN THIS SUBTITLE, “PERSON” MEANS AN INDIVIDUAL.

(2) “PERSON” DOES NOT INCLUDE A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83C, § 3–101.

In subsection (c) of this section, the definition of the term “person” is substituted for former Art. 83C, § 3–101(c), which provided that the “definitions of the word ‘person’ in § 1–101 of this article and Art. 1, § 15 of the Code do not apply to this title”, for clarity.

As to the general policy of the Human Services Article Review Committee concerning changes to interstate compacts, *see* General Revisor’s Note to subtitle.

Defined term: "State" § 9-303

9-302. EXECUTION OF COMPACT, ADDITIONAL ARTICLE, AND AMENDMENTS.

ON BEHALF OF THIS STATE, THE GOVERNOR SHALL EXECUTE WITH ANY OTHER STATE OR STATES LEGALLY JOINING IN IT:

(1) AN INTERSTATE COMPACT ON JUVENILES SUBSTANTIALLY AS IT APPEARS IN § 9-303 OF THIS SUBTITLE;

(2) AN ADDITIONAL ARTICLE TO THE COMPACT SUBSTANTIALLY AS IT APPEARS IN § 9-304 OF THIS SUBTITLE; AND

(3) AMENDMENTS TO THE COMPACT SUBSTANTIALLY AS THEY APPEAR IN § 9-305 OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-102.

The only changes are in style and cross-references.

Defined term: "State" § 9-303

9-303. INTERSTATE COMPACT ON JUVENILES.

THE CONTRACTING STATES SOLEMNLY AGREE:

ARTICLE I -- FINDINGS AND PURPOSES

THAT JUVENILES WHO ARE NOT UNDER PROPER SUPERVISION AND CONTROL, OR WHO HAVE ABSCONDED, ESCAPED, OR RUN AWAY, ARE LIKELY TO ENDANGER THEIR OWN HEALTH, MORALS, AND WELFARE, AND THE HEALTH, MORALS, AND WELFARE OF OTHERS. THE COOPERATION OF THE STATES PARTY TO THIS COMPACT IS THEREFORE NECESSARY TO PROVIDE FOR THE WELFARE AND PROTECTION OF JUVENILES AND OF THE PUBLIC WITH RESPECT TO (1) COOPERATIVE SUPERVISION OF DELINQUENT JUVENILES ON PROBATION OR PAROLE; (2) THE RETURN, FROM ONE STATE TO ANOTHER, OF DELINQUENT JUVENILES WHO HAVE ESCAPED OR ABSCONDED; (3) THE RETURN, FROM ONE STATE TO ANOTHER, OF NON-DELINQUENT JUVENILES WHO HAVE RUN AWAY FROM HOME; AND (4) ADDITIONAL MEASURES FOR THE PROTECTION OF JUVENILES AND OF THE PUBLIC, WHICH ANY TWO OR MORE OF THE PARTY STATES MAY FIND DESIRABLE TO UNDERTAKE COOPERATIVELY. IN CARRYING OUT THE PROVISIONS OF THIS COMPACT THE PARTY STATES SHALL BE GUIDED BY THE NONCRIMINAL, REFORMATIVE, AND PROTECTIVE POLICIES WHICH GUIDE THEIR LAWS CONCERNING DELINQUENT, NEGLECTED, OR DEPENDENT JUVENILES GENERALLY. IT SHALL BE THE POLICY OF THE STATES PARTY TO THIS COMPACT TO COOPERATE AND OBSERVE THEIR RESPECTIVE RESPONSIBILITIES FOR THE PROMPT RETURN AND ACCEPTANCE OF JUVENILES AND DELINQUENT JUVENILES WHO BECOME SUBJECT TO THE PROVISIONS OF THIS COMPACT. THE PROVISIONS OF THIS COMPACT SHALL BE REASONABLY AND LIBERALLY CONSTRUED TO ACCOMPLISH THE FOREGOING PURPOSES.

ARTICLE II -- EXISTING RIGHTS AND REMEDIES

THAT ALL REMEDIES AND PROCEDURES PROVIDED BY THIS COMPACT SHALL BE IN ADDITION TO AND NOT IN SUBSTITUTION FOR OTHER RIGHTS, REMEDIES, AND PROCEDURES, AND SHALL NOT BE IN DEROGATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

ARTICLE III -- DEFINITIONS

THAT, FOR THE PURPOSES OF THIS COMPACT, "DELINQUENT JUVENILE" MEANS ANY JUVENILE WHO HAS BEEN ADJUDGED DELINQUENT AND WHO, AT THE TIME THE PROVISIONS OF THIS COMPACT ARE INVOKED, IS STILL SUBJECT TO THE JURISDICTION OF THE COURT THAT HAS MADE SUCH ADJUDICATION OR TO THE JURISDICTION OR SUPERVISION OF AN AGENCY OR INSTITUTION PURSUANT TO AN ORDER OF SUCH COURT; "PROBATION OR PAROLE" MEANS ANY KIND OF CONDITIONAL RELEASE OF JUVENILES AUTHORIZED UNDER THE LAWS OF THE STATES PARTY HERETO; "COURT" MEANS ANY COURT HAVING JURISDICTION OVER DELINQUENT, NEGLECTED, OR DEPENDENT CHILDREN; "STATE" MEANS ANY STATE, TERRITORY, OR POSSESSIONS OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO; AND "RESIDENCE" OR ANY VARIANT THEREOF MEANS A PLACE AT WHICH A HOME OR REGULAR PLACE OF ABODE IS MAINTAINED.

ARTICLE IV -- RETURN OF RUNAWAYS

(A) THAT THE PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO LEGAL CUSTODY OF A JUVENILE WHO HAS NOT BEEN ADJUDGED DELINQUENT BUT WHO HAS RUN AWAY WITHOUT THE CONSENT OF SUCH PARENT, GUARDIAN, PERSON, OR AGENCY MAY PETITION THE APPROPRIATE COURT IN THE DEMANDING STATE FOR THE ISSUANCE OF A REQUISITION FOR THE JUVENILE'S RETURN. THE PETITION SHALL STATE THE NAME AND AGE OF THE JUVENILE, THE NAME OF THE PETITIONER AND THE BASIS OF ENTITLEMENT TO THE JUVENILE'S CUSTODY, THE CIRCUMSTANCES OF THE RUNNING AWAY, THE JUVENILE'S LOCATION IF KNOWN AT THE TIME APPLICATION IS MADE, AND SUCH OTHER FACTS AS MAY TEND TO SHOW THAT THE JUVENILE WHO HAS RUN AWAY IS ENDANGERING THE JUVENILE'S OWN WELFARE OR THE WELFARE OF OTHERS AND IS NOT AN EMANCIPATED MINOR. THE PETITION SHALL BE VERIFIED BY AFFIDAVIT, SHALL BE EXECUTED IN DUPLICATE, AND SHALL BE ACCOMPANIED BY TWO CERTIFIED COPIES OF THE DOCUMENT OR DOCUMENTS ON WHICH THE PETITIONER'S ENTITLEMENT TO THE JUVENILE'S CUSTODY IS BASED, SUCH AS BIRTH CERTIFICATES, LETTERS OF GUARDIANSHIP, OR CUSTODY DECREES. SUCH FURTHER AFFIDAVITS AND OTHER DOCUMENTS AS MAY BE DEEMED PROPER MAY BE SUBMITTED WITH SUCH PETITION. THE JUDGE OF THE COURT TO WHICH THIS APPLICATION IS MADE MAY HOLD A HEARING THEREON TO DETERMINE WHETHER FOR THE PURPOSES OF THIS COMPACT THE PETITIONER IS ENTITLED TO THE LEGAL CUSTODY OF THE JUVENILE, WHETHER OR NOT IT APPEARS THAT THE JUVENILE HAS IN FACT RUN AWAY WITHOUT CONSENT, WHETHER OR NOT THE JUVENILE IS AN EMANCIPATED MINOR, AND WHETHER OR NOT IT IS IN THE BEST INTEREST OF THE JUVENILE TO COMPEL THE JUVENILE'S

RETURN TO THE STATE. IF THE JUDGE DETERMINES, EITHER WITH OR WITHOUT A HEARING, THAT THE JUVENILE SHOULD BE RETURNED, THE JUDGE SHALL PRESENT TO THE APPROPRIATE COURT OR TO THE EXECUTIVE AUTHORITY OF THE STATE WHERE THE JUVENILE IS ALLEGED TO BE LOCATED A WRITTEN REQUISITION FOR THE RETURN OF SUCH JUVENILE. SUCH REQUISITION SHALL SET FORTH THE NAME AND AGE OF THE JUVENILE, THE DETERMINATION OF THE COURT THAT THE JUVENILE HAS RUN AWAY WITHOUT THE CONSENT OF A PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO LEGAL CUSTODY, AND THAT IT IS IN THE BEST INTEREST AND FOR THE PROTECTION OF SUCH JUVENILE THAT THE JUVENILE BE RETURNED. IN THE EVENT THAT A PROCEEDING FOR THE ADJUDICATION OF THE JUVENILE AS A DELINQUENT, NEGLECTED, OR DEPENDENT JUVENILE IS PENDING IN THE COURT AT THE TIME WHEN SUCH JUVENILE RUNS AWAY, THE COURT MAY ISSUE A REQUISITION FOR THE RETURN OF SUCH JUVENILE UPON ITS OWN MOTION, REGARDLESS OF THE CONSENT OF THE PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO LEGAL CUSTODY, RECITING THEREIN THE NATURE AND CIRCUMSTANCES OF THE PENDING PROCEEDING. THE REQUISITION SHALL IN EVERY CASE BE EXECUTED IN DUPLICATE AND SHALL BE SIGNED BY THE JUDGE. ONE COPY OF THE REQUISITION SHALL BE FILED WITH THE COMPACT ADMINISTRATOR OF THE DEMANDING STATE, THERE TO REMAIN ON FILE SUBJECT TO THE PROVISIONS OF LAW GOVERNING RECORDS OF SUCH COURT. UPON THE RECEIPT OF A REQUISITION DEMANDING THE RETURN OF A JUVENILE WHO HAS RUN AWAY, THE COURT OR THE EXECUTIVE AUTHORITY TO WHOM THE REQUISITION IS ADDRESSED SHALL ISSUE AN ORDER TO ANY PEACE OFFICER OR OTHER APPROPRIATE PERSON DIRECTING THE PERSON TO TAKE INTO CUSTODY AND DETAIN SUCH JUVENILE. SUCH DETENTION ORDER MUST SUBSTANTIALLY RECITE THE FACTS NECESSARY TO THE VALIDITY OF ITS ISSUANCE HEREUNDER. NO JUVENILE DETAINED UPON SUCH ORDER SHALL BE DELIVERED OVER TO THE OFFICER WHOM THE COURT DEMANDING THE JUVENILE SHALL HAVE APPOINTED TO RECEIVE THE JUVENILE, UNLESS THE JUVENILE SHALL FIRST BE TAKEN FORTHWITH BEFORE A JUDGE OF A COURT IN THE STATE, WHO SHALL INFORM THE JUVENILE OF THE DEMAND MADE FOR THE JUVENILE'S RETURN AND WHO MAY APPOINT COUNSEL OR GUARDIAN AD LITEM FOR THE JUVENILE. IF THE JUDGE OF SUCH COURT SHALL FIND THAT THE REQUISITION IS IN ORDER, THE JUDGE SHALL DELIVER SUCH JUVENILE OVER TO THE OFFICER WHOM THE COURT DEMANDING THE JUVENILE SHALL HAVE APPOINTED TO RECEIVE THE JUVENILE. THE JUDGE, HOWEVER, MAY FIX A REASONABLE TIME TO BE ALLOWED FOR THE PURPOSE OF TESTING THE LEGALITY OF THE PROCEEDING.

UPON REASONABLE INFORMATION THAT A PERSON IS A JUVENILE WHO HAS RUN AWAY FROM ANOTHER STATE PARTY TO THIS COMPACT WITHOUT THE CONSENT OF A PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO LEGAL CUSTODY, SUCH JUVENILE MAY BE TAKEN INTO CUSTODY WITHOUT A REQUISITION AND BROUGHT FORTHWITH BEFORE A JUDGE OF THE APPROPRIATE COURT WHO MAY APPOINT COUNSEL OR GUARDIAN AD LITEM FOR SUCH JUVENILE AND WHO SHALL DETERMINE AFTER A HEARING WHETHER SUFFICIENT CAUSE EXISTS TO HOLD THE PERSON, SUBJECT TO THE ORDER OF THE COURT, FOR THE PERSON'S OWN PROTECTION AND WELFARE, FOR SUCH A TIME NOT EXCEEDING 90 DAYS AS WILL ENABLE THE RETURN OF THE PERSON TO ANOTHER STATE PARTY TO THIS COMPACT

PURSUANT TO A REQUISITION FOR RETURN FROM A COURT OF THAT STATE. IF, AT THE TIME WHEN A STATE SEEKS THE RETURN OF A JUVENILE WHO HAS RUN AWAY, THERE IS PENDING IN THE STATE WHEREIN THE JUVENILE IS FOUND ANY CRIMINAL CHARGE, OR ANY PROCEEDING TO HAVE THE JUVENILE ADJUDICATED A DELINQUENT JUVENILE FOR AN ACT COMMITTED IN SUCH STATE, OR IF THE JUVENILE IS SUSPECTED OF HAVING COMMITTED WITHIN SUCH STATE A CRIMINAL OFFENSE OR AN ACT OF JUVENILE DELINQUENCY, THE JUVENILE SHALL NOT BE RETURNED WITHOUT THE CONSENT OF SUCH STATE UNTIL DISCHARGED FROM PROSECUTION OR OTHER FORM OF PROCEEDING, IMPRISONMENT, DETENTION, OR SUPERVISION FOR SUCH OFFENSE OR JUVENILE DELINQUENCY. THE DULY ACCREDITED OFFICERS OF ANY STATE PARTY TO THIS COMPACT, UPON THE ESTABLISHMENT OF THEIR AUTHORITY AND THE IDENTITY OF THE JUVENILE BEING RETURNED, SHALL BE PERMITTED TO TRANSPORT SUCH JUVENILE THROUGH ANY AND ALL STATES PARTY TO THIS COMPACT, WITHOUT INTERFERENCE. UPON RETURN TO THE STATE FROM WHICH THE JUVENILE RAN AWAY, THE JUVENILE SHALL BE SUBJECT TO SUCH FURTHER PROCEEDINGS AS MAY BE APPROPRIATE UNDER THE LAWS OF THAT STATE.

(B) THAT THE STATE TO WHICH A JUVENILE IS RETURNED UNDER THIS ARTICLE SHALL BE RESPONSIBLE FOR PAYMENT OF THE TRANSPORTATION COSTS OF SUCH RETURN.

(C) THAT "JUVENILE" AS USED IN THIS ARTICLE MEANS ANY PERSON WHO IS A MINOR UNDER THE LAW OF THE STATE OF RESIDENCE OF THE PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO THE LEGAL CUSTODY OF SUCH MINOR.

ARTICLE V -- RETURN OF ESCAPEES AND ABSCONDERS

(A) THAT THE APPROPRIATE PERSON OR AUTHORITY FROM WHOSE PROBATION OR PAROLE SUPERVISION A DELINQUENT JUVENILE HAS ABSCONDED OR FROM WHOSE INSTITUTIONAL CUSTODY THE DELINQUENT JUVENILE HAS ESCAPED SHALL PRESENT TO THE APPROPRIATE COURT OR TO THE EXECUTIVE AUTHORITY OF THE STATE WHERE THE DELINQUENT JUVENILE IS ALLEGED TO BE LOCATED, A WRITTEN REQUISITION FOR THE RETURN OF SUCH DELINQUENT JUVENILE. SUCH REQUISITION SHALL STATE THE NAME AND AGE OF THE DELINQUENT JUVENILE, THE PARTICULARS OF THE JUVENILE'S ADJUDICATION AS A DELINQUENT JUVENILE, THE CIRCUMSTANCES OF THE BREACH OF THE TERMS OF PROBATION OR PAROLE OR OF THE JUVENILE'S ESCAPE FROM AN INSTITUTION OR AGENCY VESTED WITH LEGAL CUSTODY OR SUPERVISION, AND THE LOCATION OF SUCH DELINQUENT JUVENILE, IF KNOWN, AT THE TIME THE REQUISITION IS MADE. THE REQUISITION SHALL BE VERIFIED BY AFFIDAVIT, SHALL BE EXECUTED IN DUPLICATE, AND SHALL BE ACCOMPANIED BY TWO CERTIFIED COPIES OF THE JUDGMENT, FORMAL ADJUDICATION, OR ORDER OF COMMITMENT WHICH SUBJECTS SUCH DELINQUENT JUVENILE TO PROBATION OR PAROLE OR TO THE LEGAL CUSTODY OF THE INSTITUTION OR AGENCY CONCERNED. SUCH FURTHER AFFIDAVITS AND OTHER DOCUMENTS AS MAY BE DEEMED PROPER MAY BE SUBMITTED WITH SUCH REQUISITION. ONE COPY OF THE REQUISITION SHALL BE FILED WITH THE COMPACT ADMINISTRATOR OF THE DEMANDING STATE, THERE TO REMAIN ON FILE SUBJECT TO THE PROVISIONS OF LAW GOVERNING RECORDS OF

THE APPROPRIATE COURT. UPON THE RECEIPT OF A REQUISITION DEMANDING THE RETURN OF A DELINQUENT JUVENILE WHO HAS ABSCONDED OR ESCAPED, THE COURT OR THE EXECUTIVE AUTHORITY TO WHOM THE REQUISITION IS ADDRESSED SHALL ISSUE AN ORDER TO ANY PEACE OFFICER OR OTHER APPROPRIATE PERSON DIRECTING THE PERSON TO TAKE INTO CUSTODY AND DETAIN SUCH DELINQUENT JUVENILE. SUCH DETENTION ORDER MUST SUBSTANTIALLY RECITE THE FACTS NECESSARY TO THE VALIDITY OF ITS ISSUANCE HEREUNDER. NO DELINQUENT JUVENILE DETAINED UPON SUCH ORDER SHALL BE DELIVERED OVER TO THE OFFICER WHOM THE APPROPRIATE PERSON OR AUTHORITY DEMANDING THE JUVENILE SHALL HAVE APPOINTED TO RECEIVE THE JUVENILE, UNLESS THE JUVENILE SHALL FIRST BE TAKEN FORTHWITH BEFORE A JUDGE OF AN APPROPRIATE COURT IN THE STATE, WHO SHALL INFORM THE JUVENILE OF THE DEMAND MADE FOR THE JUVENILE'S RETURN AND WHO MAY APPOINT COUNSEL OR GUARDIAN AD LITEM FOR THE JUVENILE. IF THE JUDGE OF SUCH COURT SHALL FIND THAT THE REQUISITION IS IN ORDER, THE JUDGE SHALL DELIVER SUCH DELINQUENT JUVENILE OVER TO THE OFFICER WHOM THE APPROPRIATE PERSON OR AUTHORITY DEMANDING THE JUVENILE SHALL HAVE APPOINTED TO RECEIVE THE JUVENILE. THE JUDGE, HOWEVER, MAY FIX A REASONABLE TIME TO BE ALLOWED FOR THE PURPOSE OF TESTING THE LEGALITY OF THE PROCEEDING.

UPON REASONABLE INFORMATION THAT A PERSON IS A DELINQUENT JUVENILE WHO HAS ABSCONDED WHILE ON PROBATION OR PAROLE, OR ESCAPED FROM AN INSTITUTION OR AGENCY VESTED WITH LEGAL CUSTODY OR SUPERVISION IN ANY STATE PARTY TO THIS COMPACT, SUCH PERSON MAY BE TAKEN INTO CUSTODY IN ANY OTHER STATE PARTY TO THIS COMPACT WITHOUT A REQUISITION. BUT IN SUCH EVENT, THE PERSON MUST BE TAKEN FORTHWITH BEFORE A JUDGE OF THE APPROPRIATE COURT, WHO MAY APPOINT COUNSEL OR GUARDIAN AD LITEM FOR SUCH PERSON AND WHO SHALL DETERMINE, AFTER A HEARING, WHETHER SUFFICIENT CAUSE EXISTS TO HOLD THE PERSON SUBJECT TO THE ORDER OF THE COURT FOR SUCH A TIME, NOT EXCEEDING 90 DAYS, AS WILL ENABLE DETENTION OF THE PERSON UNDER A DETENTION ORDER ISSUED ON A REQUISITION PURSUANT TO THIS ARTICLE. IF, AT THE TIME WHEN A STATE SEEKS THE RETURN OF A DELINQUENT JUVENILE WHO HAS EITHER ABSCONDED WHILE ON PROBATION OR PAROLE OR ESCAPED FROM AN INSTITUTION OR AGENCY VESTED WITH LEGAL CUSTODY OR SUPERVISION, THERE IS PENDING IN THE STATE WHEREIN THE DELINQUENT JUVENILE IS DETAINED ANY CRIMINAL CHARGE OR ANY PROCEEDING TO HAVE THE JUVENILE ADJUDICATED A DELINQUENT JUVENILE FOR AN ACT COMMITTED IN SUCH STATE, OR IF THE JUVENILE IS SUSPECTED OF HAVING COMMITTED WITHIN SUCH STATE A CRIMINAL OFFENSE OR AN ACT OF JUVENILE DELINQUENCY, THE JUVENILE SHALL NOT BE RETURNED WITHOUT THE CONSENT OF SUCH STATE UNTIL DISCHARGED FROM PROSECUTION OR OTHER FORM OF PROCEEDING, IMPRISONMENT, DETENTION, OR SUPERVISION FOR SUCH OFFENSE OR JUVENILE DELINQUENCY. THE DULY ACCREDITED OFFICERS OF ANY STATE PARTY TO THIS COMPACT, UPON THE ESTABLISHMENT OF THEIR AUTHORITY AND THE IDENTITY OF THE DELINQUENT JUVENILE BEING RETURNED, SHALL BE PERMITTED TO TRANSPORT SUCH DELINQUENT JUVENILE THROUGH ANY AND ALL STATES PARTY TO THIS COMPACT, WITHOUT INTERFERENCE. UPON RETURN TO THE STATE FROM WHICH THE DELINQUENT JUVENILE ESCAPED OR ABSCONDED, THE

DELINQUENT JUVENILE SHALL BE SUBJECT TO SUCH FURTHER PROCEEDINGS AS MAY BE APPROPRIATE UNDER THE LAWS OF THAT STATE.

(B) THAT THE STATE TO WHICH A DELINQUENT JUVENILE IS RETURNED UNDER THIS ARTICLE SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE TRANSPORTATION COSTS OF SUCH RETURN.

ARTICLE VI -- VOLUNTARY RETURN PROCEDURE

THAT ANY DELINQUENT JUVENILE WHO HAS ABSCONDED WHILE ON PROBATION OR PAROLE, OR ESCAPED FROM AN INSTITUTION OR AGENCY VESTED WITH LEGAL CUSTODY OR SUPERVISION IN ANY STATE PARTY TO THIS COMPACT, AND ANY JUVENILE WHO HAS RUN AWAY FROM ANY STATE PARTY TO THIS COMPACT, WHO IS TAKEN INTO CUSTODY WITHOUT A REQUISITION IN ANOTHER STATE PARTY TO THIS COMPACT UNDER THE PROVISIONS OF ARTICLE IV(A) OR OF ARTICLE V(A), MAY CONSENT TO THE IMMEDIATE RETURN TO THE STATE FROM WHICH THE JUVENILE OR DELINQUENT JUVENILE ABSCONDED, ESCAPED, OR RAN AWAY. SUCH CONSENT SHALL BE GIVEN BY THE JUVENILE OR DELINQUENT JUVENILE AND THE JUVENILE'S COUNSEL OR GUARDIAN AD LITEM, IF ANY, BY EXECUTING OR SUBSCRIBING A WRITING, IN THE PRESENCE OF A JUDGE OF THE APPROPRIATE COURT, WHICH STATES THAT THE JUVENILE OR DELINQUENT JUVENILE AND THE JUVENILE'S COUNSEL OR GUARDIAN AD LITEM, IF ANY, CONSENT TO THE RETURN TO THE DEMANDING STATE. BEFORE SUCH CONSENT SHALL BE EXECUTED OR SUBSCRIBED, HOWEVER, THE JUDGE, IN THE PRESENCE OF COUNSEL OR GUARDIAN AD LITEM, IF ANY, SHALL INFORM THE JUVENILE OR DELINQUENT JUVENILE OF THE JUVENILE'S RIGHTS UNDER THIS COMPACT. WHEN THE CONSENT HAS BEEN DULY EXECUTED, IT SHALL BE FORWARDED TO AND FILED WITH THE COMPACT ADMINISTRATOR OF THE STATE IN WHICH THE COURT IS LOCATED AND THE JUDGE SHALL DIRECT THE OFFICER HAVING THE JUVENILE OR DELINQUENT JUVENILE IN CUSTODY TO DELIVER THE JUVENILE OR DELINQUENT JUVENILE TO THE DULY ACCREDITED OFFICER OR OFFICERS OF THE STATE DEMANDING RETURN OF THE JUVENILE OR DELINQUENT JUVENILE, AND SHALL CAUSE TO BE DELIVERED TO SUCH OFFICER OR OFFICERS A COPY OF THE CONSENT. THE COURT MAY, HOWEVER, UPON THE REQUEST OF THE STATE TO WHICH THE JUVENILE OR DELINQUENT JUVENILE IS BEING RETURNED, ORDER THE JUVENILE OR DELINQUENT JUVENILE TO RETURN UNACCOMPANIED TO SUCH STATE AND SHALL PROVIDE THE JUVENILE OR DELINQUENT JUVENILE WITH A COPY OF SUCH COURT ORDER; IN SUCH EVENT A COPY OF THE CONSENT SHALL BE FORWARDED TO THE COMPACT ADMINISTRATOR OF THE STATE TO WHICH SAID JUVENILE OR DELINQUENT JUVENILE IS ORDERED TO RETURN.

ARTICLE VII -- COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES

(A) THAT THE DULY CONSTITUTED JUDICIAL AND ADMINISTRATIVE AUTHORITIES OF A STATE PARTY TO THIS COMPACT (HEREIN CALLED "SENDING STATE") MAY PERMIT ANY DELINQUENT JUVENILE WITHIN SUCH STATE, PLACED ON PROBATION OR PAROLE, TO RESIDE IN ANY OTHER STATE PARTY TO THIS COMPACT (HEREIN CALLED "RECEIVING STATE") WHILE ON PROBATION OR PAROLE, AND THE

RECEIVING STATE SHALL ACCEPT SUCH DELINQUENT JUVENILE, IF THE PARENT, GUARDIAN, OR PERSON ENTITLED TO THE LEGAL CUSTODY OF SUCH DELINQUENT JUVENILE IS RESIDING OR UNDERTAKES TO RESIDE WITHIN THE RECEIVING STATE. BEFORE GRANTING SUCH PERMISSION, OPPORTUNITY SHALL BE GIVEN TO THE RECEIVING STATE TO MAKE SUCH INVESTIGATIONS AS IT DEEMS NECESSARY. THE AUTHORITIES OF THE SENDING STATE SHALL SEND TO THE AUTHORITIES OF THE RECEIVING STATE COPIES OF PERTINENT COURT ORDERS, SOCIAL CASE STUDIES, AND ALL OTHER AVAILABLE INFORMATION WHICH MAY BE OF VALUE TO AND ASSIST THE RECEIVING STATE IN SUPERVISING A PROBATIONER OR PAROLEE UNDER THIS COMPACT. A RECEIVING STATE, IN ITS DISCRETION, MAY AGREE TO ACCEPT SUPERVISION OF A PROBATIONER OR PAROLEE IN CASES WHERE THE PARENT, GUARDIAN, OR PERSON ENTITLED TO THE LEGAL CUSTODY OF THE DELINQUENT JUVENILE IS NOT A RESIDENT OF THE RECEIVING STATE, AND IF SO ACCEPTED THE SENDING STATE MAY TRANSFER SUPERVISION ACCORDINGLY.

(B) THAT EACH RECEIVING STATE WILL ASSUME THE DUTIES OF VISITATION AND OF SUPERVISION OVER ANY SUCH DELINQUENT JUVENILE AND IN THE EXERCISE OF THOSE DUTIES WILL BE GOVERNED BY THE SAME STANDARDS OF VISITATION AND SUPERVISION THAT PREVAIL FOR ITS OWN DELINQUENT JUVENILES RELEASED ON PROBATION OR PAROLE.

(C) THAT, AFTER CONSULTATION BETWEEN THE APPROPRIATE AUTHORITIES OF THE SENDING STATE AND OF THE RECEIVING STATE AS TO THE DESIRABILITY AND NECESSITY OF RETURNING SUCH A DELINQUENT JUVENILE, THE DULY ACCREDITED OFFICERS OF A SENDING STATE MAY ENTER A RECEIVING STATE AND THERE APPREHEND AND RETAKE ANY SUCH DELINQUENT JUVENILE ON PROBATION OR PAROLE. FOR THAT PURPOSE, NO FORMALITIES WILL BE REQUIRED, OTHER THAN ESTABLISHING THE AUTHORITY OF THE OFFICER AND THE IDENTITY OF THE DELINQUENT JUVENILE TO BE RETAKEN AND RETURNED. THE DECISION OF THE SENDING STATE TO RETAKE A DELINQUENT JUVENILE ON PROBATION OR PAROLE SHALL BE CONCLUSIVE UPON AND NOT REVIEWABLE WITHIN THE RECEIVING STATE, BUT IF, AT THE TIME THE SENDING STATE SEEKS TO RETAKE A DELINQUENT JUVENILE ON PROBATION OR PAROLE, THERE IS PENDING AGAINST THE DELINQUENT JUVENILE WITHIN THE RECEIVING STATE ANY CRIMINAL CHARGE OR ANY PROCEEDING TO HAVE THE DELINQUENT JUVENILE ADJUDICATED A DELINQUENT JUVENILE FOR ANY ACT COMMITTED IN SUCH STATE OR IF THE DELINQUENT JUVENILE IS SUSPECTED OF HAVING COMMITTED WITHIN SUCH STATE A CRIMINAL OFFENSE OR ANY ACT OF JUVENILE DELINQUENCY, THE DELINQUENT JUVENILE SHALL NOT BE RETURNED WITHOUT THE CONSENT OF THE RECEIVING STATE UNTIL DISCHARGED FROM PROSECUTION OR OTHER FORM OF PROCEEDING, IMPRISONMENT, DETENTION, OR SUPERVISION FOR SUCH OFFENSE OR JUVENILE DELINQUENCY. THE DULY ACCREDITED OFFICERS OF THE SENDING STATE SHALL BE PERMITTED TO TRANSPORT DELINQUENT JUVENILES BEING SO RETURNED THROUGH ANY AND ALL STATES PARTY TO THIS COMPACT, WITHOUT INTERFERENCE.

(D) THAT THE SENDING STATE SHALL BE RESPONSIBLE UNDER THIS ARTICLE FOR PAYING THE COSTS OF TRANSPORTING ANY DELINQUENT JUVENILE TO THE RECEIVING STATE OR OF RETURNING ANY DELINQUENT JUVENILE TO THE SENDING STATE.

ARTICLE VIII -- RESPONSIBILITY FOR COSTS

(A) THAT THE PROVISIONS OF ARTICLES IV(B), V(B), AND VII(D) OF THIS COMPACT SHALL NOT BE CONSTRUED TO ALTER OR AFFECT ANY INTERNAL RELATIONSHIP AMONG THE DEPARTMENTS, AGENCIES, AND OFFICERS OF AND IN THE GOVERNMENT OF A PARTY STATE, OR BETWEEN A PARTY STATE AND ITS SUBDIVISIONS, AS TO THE PAYMENT OF COSTS, OR RESPONSIBILITIES THEREFOR.

(B) THAT NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PREVENT ANY PARTY STATE OR SUBDIVISION THEREOF FROM ASSERTING ANY RIGHT AGAINST ANY PERSON, AGENCY, OR OTHER ENTITY IN REGARD TO COSTS FOR WHICH SUCH PARTY STATE OR SUBDIVISION THEREOF MAY BE RESPONSIBLE PURSUANT TO ARTICLES IV(B), V(B), OR VII(D) OF THIS COMPACT.

ARTICLE IX -- DETENTION PRACTICES

THAT, TO EVERY EXTENT POSSIBLE, IT SHALL BE THE POLICY OF STATES PARTY TO THIS COMPACT THAT NO JUVENILE OR DELINQUENT JUVENILE SHALL BE PLACED OR DETAINED IN ANY PRISON, JAIL, OR LOCKUP NOR BE DETAINED OR TRANSPORTED IN ASSOCIATION WITH CRIMINAL, VICIOUS, OR DISSOLUTE PERSONS.

ARTICLE X -- SUPPLEMENTARY AGREEMENTS

THAT THE DULY CONSTITUTED ADMINISTRATIVE AUTHORITIES OF A STATE PARTY TO THIS COMPACT MAY ENTER INTO SUPPLEMENTARY AGREEMENTS WITH ANY OTHER STATE OR STATES PARTY HERETO FOR THE COOPERATIVE CARE, TREATMENT, AND REHABILITATION OF DELINQUENT JUVENILES WHENEVER THEY SHALL FIND THAT SUCH AGREEMENTS WILL IMPROVE THE FACILITIES OR PROGRAMS AVAILABLE FOR SUCH CARE, TREATMENT, AND REHABILITATION. SUCH CARE, TREATMENT, AND REHABILITATION MAY BE PROVIDED IN AN INSTITUTION LOCATED WITHIN ANY STATE ENTERING INTO SUCH SUPPLEMENTARY AGREEMENT. SUCH SUPPLEMENTARY AGREEMENTS SHALL (1) PROVIDE THE RATES TO BE PAID FOR THE CARE, TREATMENT, AND CUSTODY OF SUCH DELINQUENT JUVENILES, TAKING INTO CONSIDERATION THE CHARACTER OF FACILITIES, SERVICES, AND SUBSISTENCE FURNISHED; (2) PROVIDE THAT THE DELINQUENT JUVENILE SHALL BE GIVEN A COURT HEARING PRIOR TO BEING SENT TO ANOTHER STATE FOR CARE, TREATMENT, AND CUSTODY; (3) PROVIDE THAT THE STATE RECEIVING SUCH A DELINQUENT JUVENILE IN ONE OF ITS INSTITUTIONS SHALL ACT SOLELY AS AGENT FOR THE STATE SENDING SUCH DELINQUENT JUVENILE; (4) PROVIDE THAT THE SENDING STATE SHALL AT ALL TIMES RETAIN JURISDICTION OVER DELINQUENT JUVENILES SENT TO AN INSTITUTION IN ANOTHER STATE; (5) PROVIDE FOR REASONABLE INSPECTION OF SUCH INSTITUTIONS BY THE SENDING STATE; (6) PROVIDE THAT THE CONSENT OF THE PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO THE LEGAL CUSTODY OF SAID DELINQUENT JUVENILE SHALL BE

SECURED PRIOR TO THE DELINQUENT JUVENILE BEING SENT TO ANOTHER STATE; AND (7) MAKE PROVISION FOR SUCH OTHER MATTERS AND DETAILS AS SHALL BE NECESSARY TO PROTECT THE RIGHTS AND EQUITIES OF SUCH DELINQUENT JUVENILES AND OF THE COOPERATING STATES.

ARTICLE XI -- ACCEPTANCE OF FEDERAL AND OTHER AID

THAT ANY STATE PARTY TO THIS COMPACT MAY ACCEPT ANY AND ALL DONATIONS, GIFTS, AND GRANTS OF MONEY, EQUIPMENT, AND SERVICES FROM THE FEDERAL OR ANY LOCAL GOVERNMENT, OR ANY AGENCY THEREOF AND FROM ANY PERSON, FIRM, OR CORPORATION, FOR ANY OF THE PURPOSES AND FUNCTIONS OF THIS COMPACT, AND MAY RECEIVE AND UTILIZE, THE SAME SUBJECT TO THE TERMS, CONDITIONS, AND REGULATIONS GOVERNING SUCH DONATIONS, GIFTS, AND GRANTS.

ARTICLE XII -- COMPACT ADMINISTRATORS

THAT THE GOVERNOR OF EACH STATE PARTY TO THIS COMPACT SHALL DESIGNATE AN OFFICER WHO, ACTING JOINTLY WITH LIKE OFFICERS OF OTHER PARTY STATES, SHALL PROMULGATE RULES AND REGULATIONS TO CARRY OUT MORE EFFECTIVELY THE TERMS AND PROVISIONS OF THIS COMPACT.

ARTICLE XIII -- EXECUTION OF COMPACT

THAT THIS COMPACT SHALL BECOME OPERATIVE IMMEDIATELY UPON ITS EXECUTION BY ANY STATE AS BETWEEN IT AND ANY OTHER STATE OR STATES SO EXECUTING. WHEN EXECUTED IT SHALL HAVE THE FULL FORCE AND EFFECT OF LAW WITHIN SUCH STATE, THE FORM OR EXECUTION TO BE IN ACCORDANCE WITH THE LAWS OF THE EXECUTING STATE.

ARTICLE XIV -- RENUNCIATION

THAT THIS COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH EXECUTING STATE UNTIL RENOUNCED BY IT. RENUNCIATION OF THIS COMPACT SHALL BE BY THE SAME AUTHORITY WHICH EXECUTED IT, BY SENDING SIX MONTHS NOTICE IN WRITING OF ITS INTENTION TO WITHDRAW FROM THE COMPACT TO THE OTHER STATES PARTY HERETO. THE DUTIES AND OBLIGATIONS OF A RENOUNCING STATE UNDER ARTICLE VII HEREOF SHALL CONTINUE AS TO PAROLEES AND PROBATIONERS RESIDING THEREIN AT THE TIME OF WITHDRAWAL UNTIL RETAKEN OR FINALLY DISCHARGED. SUPPLEMENTARY AGREEMENTS ENTERED INTO UNDER ARTICLE X HEREOF SHALL BE SUBJECT TO RENUNCIATION AS PROVIDED BY SUCH SUPPLEMENTARY AGREEMENTS, AND SHALL NOT BE SUBJECT TO THE SIX MONTHS' RENUNCIATION NOTICE OF THE PRESENT ARTICLE.

ARTICLE XV -- SEVERABILITY

THAT THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS COMPACT IS DECLARED TO BE

CONTRARY TO THE CONSTITUTION OF ANY PARTICIPATING STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCES SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE PARTICIPATING THEREIN, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-103.

In Articles IV(a), V(a), VI, VII(c), and X of this section, gender neutral terms are substituted for the former references to "his", "he", and "him" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to subtitle.

The only other changes are in style.

9-304. ADDITIONAL ARTICLE TO COMPACT.

ARTICLE XVI -- ADDITIONAL ARTICLE

THAT THIS ARTICLE SHALL PROVIDE ADDITIONAL REMEDIES, AND SHALL BE BINDING ONLY AS AMONG AND BETWEEN THOSE PARTY STATES WHICH SPECIFICALLY EXECUTE THE SAME.

FOR THE PURPOSES OF THIS ARTICLE, "CHILD," AS USED HEREIN, MEANS ANY MINOR WITHIN THE JURISDICTIONAL AGE LIMITS OF ANY COURT IN THE HOME STATE, AND IN THIS STATE MEANS ANY PERSON UNDER EIGHTEEN YEARS OF AGE.

WHEN ANY CHILD IS BROUGHT BEFORE A COURT OF A STATE OF WHICH SUCH CHILD IS NOT A RESIDENT, AND SUCH STATE IS WILLING TO PERMIT SUCH CHILD'S RETURN TO THE HOME STATE OF SUCH CHILD, SUCH HOME STATE, UPON BEING SO ADVISED BY THE STATE IN WHICH SUCH PROCEEDING IS PENDING, SHALL IMMEDIATELY INSTITUTE PROCEEDINGS TO DETERMINE THE RESIDENCE AND JURISDICTIONAL FACTS AS TO SUCH CHILD IN SUCH HOME STATE, AND UPON FINDING THAT SUCH CHILD IS IN FACT A RESIDENT OF SAID STATE AND SUBJECT TO THE JURISDICTION OF THE COURT THEREOF, SHALL WITHIN FIVE DAYS AUTHORIZE THE RETURN OF SUCH CHILD TO THE HOME STATE, AND TO THE PARENTS OR CUSTODIAL AGENCY LEGALLY AUTHORIZED TO ACCEPT SUCH CUSTODY IN SUCH HOME STATE, AND AT THE EXPENSE OF SUCH HOME STATE, TO BE PAID FROM SUCH FUNDS AS SUCH HOME STATE MAY PROCURE, DESIGNATE, OR PROVIDE, PROMPT ACTION BEING OF THE ESSENCE.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-104.

No changes are made.

Defined terms: "Court" § 9-303

"Residence" § 9-303

"State" § 9-303

9-305. AMENDMENTS TO COMPACT.

(A) INTERSTATE RENDITION OF JUVENILES ALLEGED TO BE DELINQUENT.

(I) THIS AMENDMENT SHALL PROVIDE ADDITIONAL REMEDIES, AND SHALL BE BINDING ONLY AS AMONG AND BETWEEN THOSE PARTY STATES WHICH SPECIFICALLY EXECUTE THE SAME.

(II) ALL PROVISIONS AND PROCEDURES OF ARTICLES V AND VI OF THE INTERSTATE COMPACT ON JUVENILES SHALL BE CONSTRUED TO APPLY TO ANY JUVENILE CHARGED WITH BEING A DELINQUENT BY REASON OF A VIOLATION OF ANY CRIMINAL LAW. ANY JUVENILE CHARGED WITH BEING A DELINQUENT BY REASON OF VIOLATING ANY CRIMINAL LAW, SHALL BE RETURNED TO THE REQUESTING STATE UPON A REQUISITION TO THE STATE WHERE THE JUVENILE MAY BE FOUND. A PETITION IN SUCH CASE SHALL BE FILED IN A COURT OF COMPETENT JURISDICTION IN THE REQUESTING STATE WHERE THE VIOLATION OF CRIMINAL LAW IS ALLEGED TO HAVE BEEN COMMITTED. THE PETITION MAY BE FILED REGARDLESS OF WHETHER THE JUVENILE HAS LEFT THE STATE BEFORE OR AFTER THE FILING OF THE PETITION. THE REQUISITION DESCRIBED IN ARTICLE V OF THE COMPACT SHALL BE FORWARDED BY THE JUDGE OF THE COURT IN WHICH THE PETITION HAS BEEN FILED.

(B) OUT-OF-STATE CONFINEMENT OF JUVENILES.

(I) WHENEVER THE DULY CONSTITUTED JUDICIAL OR ADMINISTRATIVE AUTHORITIES IN A SENDING STATE SHALL DETERMINE THAT CONFINEMENT OF A PROBATIONER OR RECONFINEMENT OF A PAROLEE IS NECESSARY OR DESIRABLE, SAID OFFICIALS MAY DIRECT THAT THE CONFINEMENT OR RECONFINEMENT BE IN AN APPROPRIATE INSTITUTION FOR DELINQUENT JUVENILES WITHIN THE TERRITORY OF THE RECEIVING STATE, SUCH RECEIVING STATE TO ACT IN THAT REGARD SOLELY AS AGENT FOR THE SENDING STATE.

(II) ESCAPEES AND ABSCONDERS WHO WOULD OTHERWISE BE RETURNED PURSUANT TO ARTICLE V OF THE COMPACT MAY BE CONFINED OR RECONFINED IN THE RECEIVING STATE PURSUANT TO THIS AMENDMENT. IN ANY SUCH CASE THE INFORMATION AND ALLEGATIONS REQUIRED TO BE MADE AND FURNISHED IN A REQUISITION PURSUANT TO SUCH ARTICLE SHALL BE MADE AND FURNISHED, BUT IN PLACE OF THE DEMAND PURSUANT TO ARTICLE V, THE SENDING STATE SHALL REQUEST CONFINEMENT OR RECONFINEMENT IN THE RECEIVING STATE. WHENEVER APPLICABLE, DETENTION ORDERS AS PROVIDED IN ARTICLE V MAY BE EMPLOYED PURSUANT TO THIS PARAGRAPH PRELIMINARY TO DISPOSITION OF THE ESCAPEE OR ABSCONDER.

(III) THE CONFINEMENT OR RECONFINEMENT OF A PAROLEE, PROBATIONER, ESCAPEE, OR ABSCONDER PURSUANT TO THIS AMENDMENT SHALL REQUIRE THE CONCURRENCE OF THE APPROPRIATE JUDICIAL OR ADMINISTRATIVE AUTHORITIES OF THE RECEIVING STATE.

(IV) AS USED IN THIS AMENDMENT, (1) "SENDING STATE" MEANS SENDING STATE AS THAT TERM IS USED IN ARTICLE VII OF THE COMPACT OR THE STATE FROM WHICH A DELINQUENT JUVENILE HAS ESCAPED OR ABSCONDED WITHIN THE MEANING OF ARTICLE V OF THE COMPACT; (2) "RECEIVING STATE" MEANS ANY STATE, OTHER THAN THE SENDING STATE, IN WHICH A PAROLEE, PROBATIONER, ESCAPEE, OR ABSCONDER MAY BE FOUND, PROVIDED THAT SAID STATE IS A PARTY TO THIS AMENDMENT.

(V) EVERY STATE WHICH ADOPTS THIS AMENDMENT SHALL DESIGNATE AT LEAST ONE OF ITS INSTITUTIONS FOR DELINQUENT JUVENILES AS A "COMPACT INSTITUTION" AND SHALL CONFINE PERSONS THEREIN AS PROVIDED IN PARAGRAPH (I) HEREOF UNLESS THE SENDING AND RECEIVING STATE IN QUESTION SHALL MAKE SPECIFIC CONTRACTUAL ARRANGEMENTS TO THE CONTRARY. ALL STATES PARTY TO THIS AMENDMENT SHALL HAVE ACCESS TO "COMPACT INSTITUTIONS" AT ALL REASONABLE HOURS FOR THE PURPOSE OF INSPECTING THE FACILITIES THEREOF AND FOR THE PURPOSE OF VISITING SUCH OF SAID STATE'S DELINQUENTS AS MAY BE CONFINED IN THE INSTITUTION.

(VI) PERSONS CONFINED IN "COMPACT INSTITUTIONS" PURSUANT TO THE TERMS OF THIS COMPACT SHALL AT ALL TIMES BE SUBJECT TO THE JURISDICTION OF THE SENDING STATE AND MAY AT ANY TIME BE REMOVED FROM SAID "COMPACT INSTITUTION" FOR TRANSFER TO AN APPROPRIATE INSTITUTION WITHIN THE SENDING STATE, FOR RETURN TO PROBATION OR PAROLE, FOR DISCHARGE, OR FOR ANY PURPOSE PERMITTED BY THE LAWS OF THE SENDING STATE.

(VII) ALL PERSONS WHO MAY BE CONFINED IN A "COMPACT INSTITUTION" PURSUANT TO THE PROVISIONS OF THIS AMENDMENT SHALL BE TREATED IN A REASONABLE AND HUMANE MANNER. THE FACT OF CONFINEMENT OR RECONFINEMENT IN A RECEIVING STATE SHALL NOT DEPRIVE ANY PERSON SO CONFINED OR RECONFINED OF ANY RIGHTS WHICH SAID PERSON WOULD HAVE HAD IF CONFINED OR RECONFINED IN AN APPROPRIATE INSTITUTION OF THE SENDING STATE; NOR SHALL ANY AGREEMENT TO SUBMIT TO CONFINEMENT OR RECONFINEMENT PURSUANT TO THE TERMS OF THIS AMENDMENT BE CONSTRUED AS A WAIVER OF ANY RIGHTS WHICH THE DELINQUENT WOULD HAVE HAD IF THE DELINQUENT HAD BEEN CONFINED OR RECONFINED IN ANY APPROPRIATE INSTITUTION OF THE SENDING STATE EXCEPT THAT THE HEARING OR HEARINGS, IF ANY, TO WHICH A PAROLEE, PROBATIONER, ESCAPEE, OR ABSCONDER MAY BE ENTITLED (PRIOR TO CONFINEMENT OR RECONFINEMENT) BY THE LAWS OF THE SENDING STATE MAY BE HAD BEFORE THE APPROPRIATE JUDICIAL OR ADMINISTRATIVE OFFICERS OF THE RECEIVING STATE. IN THIS EVENT, SAID JUDICIAL OR ADMINISTRATIVE OFFICERS SHALL ACT AS AGENTS OF THE SENDING STATE AFTER CONSULTATION WITH APPROPRIATE OFFICERS OF THE SENDING STATE.

(VIII) ANY RECEIVING STATE INCURRING COSTS OR OTHER EXPENSES UNDER THIS AMENDMENT SHALL BE REIMBURSED IN THE AMOUNT OF SUCH COSTS OR OTHER EXPENSES BY THE SENDING STATE UNLESS THE STATES CONCERNED SHALL SPECIFICALLY OTHERWISE AGREE. ANY TWO OR MORE STATES PARTY TO

THIS AMENDMENT MAY ENTER INTO SUPPLEMENTARY AGREEMENTS DETERMINING A DIFFERENT ALLOCATION OF COSTS AS AMONG THEMSELVES.

(IX) THIS AMENDMENT SHALL TAKE INITIAL EFFECT WHEN ENTERED INTO BY ANY TWO OR MORE STATES PARTY TO THE COMPACT AND SHALL BE EFFECTIVE AS TO THOSE STATES WHICH HAVE SPECIFICALLY ENACTED THIS AMENDMENT. RULES AND REGULATIONS NECESSARY TO EFFECTUATE THE TERMS OF THIS AMENDMENT MAY BE PROMULGATED BY THE APPROPRIATE OFFICERS OF THOSE STATES WHICH HAVE ENACTED THIS AMENDMENT.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-105.

In subsection (b)(vii) of this section, the reference to "the delinquent" is substituted for the former reference to "he" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to subtitle.

The only other changes are in style.

9-306. COMPACT ADMINISTRATOR; DUTIES.

(A) COMPACT ADMINISTRATOR.

IN ACCORDANCE WITH THE INTERSTATE COMPACT ON JUVENILES, THE GOVERNOR SHALL DESIGNATE A COMPACT ADMINISTRATOR, WHO SERVES AT THE PLEASURE OF THE GOVERNOR.

(B) DUTIES.

(1) ACTING JOINTLY WITH COMPACT ADMINISTRATORS IN OTHER PARTY STATES, THE COMPACT ADMINISTRATOR SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT EFFECTIVELY THE TERMS OF THE COMPACT.

(2) TO FACILITATE THE PROPER ADMINISTRATION OF THE COMPACT AND OF ANY SUPPLEMENTARY AGREEMENT ENTERED INTO BY THIS STATE UNDER THE COMPACT, THE COMPACT ADMINISTRATOR SHALL COOPERATE WITH ALL AGENCIES OR OFFICERS OF THIS STATE AND ITS SUBDIVISIONS.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-106.

The only changes are in style.

Defined term: "State" § 1-101

9-307. SUPPLEMENTARY AGREEMENTS WITH OTHER STATES.

(A) SUPPLEMENTARY AGREEMENTS.

IN ACCORDANCE WITH THE INTERSTATE COMPACT ON JUVENILES, THE COMPACT ADMINISTRATOR MAY ENTER INTO SUPPLEMENTARY AGREEMENTS WITH APPROPRIATE OFFICIALS OF OTHER STATES.

(B) APPROVAL FOR USE OF FACILITY.

IF A SUPPLEMENTARY AGREEMENT REQUIRES OR CONTEMPLATES THE USE OF AN INSTITUTION OR FACILITY OF THIS STATE OR THE PROVISION OF A SERVICE BY THIS STATE, THE SUPPLEMENTARY AGREEMENT IS NOT EFFECTIVE UNTIL APPROVED BY THE HEAD OF THE AGENCY:

- (1) WITH JURISDICTION OVER THE INSTITUTION OR FACILITY; OR
- (2) THAT WILL BE CHARGED WITH PROVIDING THE SERVICE.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-107.

The only changes are in style.

Defined term: "State" § 1-101

9-308. DISCHARGE OF FINANCIAL OBLIGATIONS.

WITH THE APPROVAL OF THE GOVERNOR, THE COMPACT ADMINISTRATOR MAY MAKE OR ARRANGE FOR ANY PAYMENT NECESSARY TO DISCHARGE A FINANCIAL OBLIGATION IMPOSED ON THIS STATE BY THE INTERSTATE COMPACT ON JUVENILES OR BY A SUPPLEMENTARY AGREEMENT ENTERED INTO UNDER THE COMPACT.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-108.

The only changes are in style.

9-309. ENFORCEMENT OF COMPACT.

EACH COURT, AGENCY, AND OFFICER OF THIS STATE AND ITS SUBDIVISIONS SHALL:

- (1) ENFORCE THE INTERSTATE COMPACT ON JUVENILES; AND
- (2) WITHIN ITS RESPECTIVE JURISDICTION, DO EVERYTHING APPROPRIATE TO CARRY OUT ITS PURPOSES AND INTENT.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-109.

No changes are made.

9-310. ADDITIONAL PROCEDURES FOR RETURN OF RUNAWAY JUVENILE.

IN ADDITION TO ANY PROCEDURE PROVIDED IN ARTICLES IV AND VI OF THE INTERSTATE COMPACT ON JUVENILES FOR THE RETURN OF A RUNAWAY JUVENILE, THE STATE, THE JUVENILE, THE JUVENILE'S PARENTS, THE COURTS, OR OTHER LEGAL CUSTODIAN INVOLVED MAY AGREE TO AND ADOPT ANY OTHER PLAN OR PROCEDURE AUTHORIZED UNDER THE LAWS OF THIS STATE AND THE LAWS OF THE OTHER RESPECTIVE PARTY STATES FOR THE RETURN OF A RUNAWAY JUVENILE.

REVISOR'S NOTE: This section formerly was Art. 83C, § 3-110.

The only changes are in style.

Defined term: "State" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

In revising the various articles of the Annotated Code, it was the usual practice of the former Commission to Revise the Annotated Code and article review committees to make very few, if any, changes to compacts. The Human Services Article Review Committee has made only minor technical and stylistic changes to the Interstate Compact on Juveniles, which comprises this subtitle. These changes include making minor changes to conform to current drafting conventions and deleting pronouns that are not neutral as to gender. These changes do not affect the substance of the Compact. Also, to conform to current code revision drafting conventions, catchlines have been added to sections and subsections of sections of this subtitle. These catchlines, however, are not law and the addition of catchlines to this subtitle does not affect the substance of the Compact.

The Interstate Compact on Juveniles was promulgated in 1955 and ratified by all 50 states, the District of Columbia, the Virgin Islands, and Guam by 1986. A new compact, the Interstate Compact for Juveniles, was promulgated in 2002. As of September, 2006, the new compact has been adopted in 30 states. The compact will become effective upon legislative enactment by at least 35 jurisdictions. The General Assembly may wish to consider adopting the new compact.

SUBTITLE 4. JUVENILE SERVICES FACILITIES CAPITAL PROGRAM.

9-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83C, § 4-101(a).

(B) JUVENILE FACILITY.

"JUVENILE FACILITY" MEANS A PROPERTY USED FOR A JUVENILE PROGRAM THAT IS:

(1) OPERATED UNDER THE AUTHORITY OF:

- (I) A COUNTY OR MUNICIPAL CORPORATION, OR BOTH;
- (II) A FOR PROFIT ORGANIZATION; OR
- (III) A NONPROFIT ORGANIZATION; AND

(2) (I) WHOLLY OWNED BY THE ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; OR

(II) LEASED BY THE ENTITY IF:

1. THE LEASE IS FOR A MINIMUM TERM OF 30 YEARS AFTER COMPLETION OF THE PROJECT OR GIVES THE LESSEE THE RIGHT OF PURCHASE; AND

2. THE LESSOR CONSENTS TO THE RECORDING OF A NOTICE OF THE STATE'S RIGHT OF RECOVERY UNDER § 9-405 OF THIS SUBTITLE IN THE LAND RECORDS OF THE COUNTY IN WHICH THE FACILITY IS LOCATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83C, § 4-101(c) and (f).

The term "juvenile facility" is substituted for the former term "facility" for clarity.

In the introductory language of this subsection, the reference to a juvenile facility as a "property used for a juvenile program" is added for clarity.

In item (2)(ii)2 of this subsection, the reference to the "county" is substituted for the former reference to the "political subdivision" because land records are held in each county.

Defined terms: "County" § 1-101

"Juvenile program" § 9-401

(C) JUVENILE PROGRAM.

"JUVENILE PROGRAM" MEANS A:

(1) PROGRAM THAT:

(I) 1. IS A GROUP HOME OR INSTITUTION DESCRIBED UNDER § 9-231 OF THIS TITLE; OR

2. IS A HOME FOR RUNAWAY YOUTHS DESCRIBED UNDER § 9-232 OF THIS TITLE; AND

(II) PROVIDES RESIDENTIAL SERVICES TO YOUTH PLACED BY THE DEPARTMENT; OR

(2) NONRESIDENTIAL PROGRAM THAT UNDER CONTRACT TO THE STATE PROVIDES EDUCATIONAL, VOCATIONAL, RECREATIONAL, COUNSELING, OR OTHER DAY SERVICES TO YOUTH.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83C, § 4-101(d).

In item (1)(i)1 and 2 of this subsection, the references to a "group home or institution described under § 9-231 of this title" and a "home for runaway youths described under § 9-232 of this title" are substituted for the former reference to a program "that ... [m]eets the definition in §§ 2-120 and 2-121 of this article" for clarity.

In item (2) of this subsection, the reference to providing services "to youth" is added for clarity and consistency with item (1)(ii) of this subsection.

Defined term: "Department" § 9-101

REVISOR'S NOTE TO SECTION:

Former Art. 83C, § 4-101(b), which defined "Department", is deleted in light of § 9-101 of this title to the same effect.

Former Art. 83C, § 4-101(e), which defined "nonprofit organization", is deleted as surplusage because a for profit organization may also qualify as a program applicant.

9-402. GRANTS.

(A) APPLICANT.

A COUNTY, MUNICIPAL CORPORATION, FOR PROFIT ORGANIZATION, OR NONPROFIT ORGANIZATION SPONSORING A PROJECT INVOLVING THE PLANNING, DESIGN, CONSTRUCTION, CONVERSION, ACQUISITION, RENOVATION, AND EQUIPPING OF A JUVENILE FACILITY IN THE STATE MAY APPLY TO THE DEPARTMENT FOR A GRANT UNDER THIS SUBTITLE.

(B) APPLICATIONS AND REQUIRED SUBMISSIONS.

(1) AN APPLICATION SHALL BE FILED WITH THE DEPARTMENT IN THE FORM THE DEPARTMENT REQUIRES.

(2) THE APPLICANT SHALL FILE WITH THE DEPARTMENT A STATEMENT THAT INCLUDES:

(I) A LIST OF THE PERSONNEL EMPLOYED OR TO BE EMPLOYED AT THE JUVENILE FACILITY;

(II) ALL COMPENSATION AND OTHER EXPENSES PAID OR TO BE PAID TO THE PERSONNEL;

(III) ALL OTHER EXPENSES INCURRED OR TO BE INCURRED IN OPERATING THE JUVENILE FACILITY; AND

(IV) A SCHEDULE OF RATES CHARGED OR TO BE CHARGED FOR SERVICES PROVIDED AT THE JUVENILE FACILITY.

(C) APPROVAL OF PROJECT.

IF THE SECRETARY APPROVES THE PROJECT AND THE PROJECT PLANS, THE SECRETARY SHALL PROMPTLY:

(1) REPORT THE APPLICATION TO THE BOARD OF PUBLIC WORKS; AND

(2) RECOMMEND THAT THE BOARD MAKE FUNDS AVAILABLE AS PROVIDED IN THIS SUBTITLE.

(D) CONSIDERATIONS FOR DETERMINING AMOUNT.

THE AMOUNT OF THE STATE GRANT FOR A PROJECT SHALL BE DETERMINED AFTER CONSIDERING:

(1) ALL ELIGIBLE APPLICATIONS;

(2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE WHEN THE APPLICATION IS RECEIVED; AND

(3) THE PRIORITIES OF AREA NEED THAT THE DEPARTMENT ESTABLISHES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, §§ 4-102, 4-103(a), and 4-104(4).

In subsection (b)(1) of this section, the requirement that an application be "filed with the Department in the form that the Department requires" is substituted for the former requirement that an application "be directed to the Secretary" for clarity and consistency with similar provisions in other revised articles.

In the introductory language of subsection (b)(2) of this section, the former phrase "[b]efore the Department approves any project" is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the reference to "compensation" is substituted for the former reference to "remuneration and prerequisite for personal services" for brevity and consistency with terminology used elsewhere in this article.

In subsection (b)(4) of this section, the phrase "at the juvenile facility" is added for clarity.

In the introductory language of subsection (c) of this section, the reference to the "Secretary" is substituted for the former reference to the "Department" for clarity and consistency.

Defined terms: "Department" § 9-101

"Juvenile facility" § 9-401

"Secretary" § 9-101

9-403. ALLOCATION OF FUNDS.

(A) ALLOCATION BY BOARD OF PUBLIC WORKS.

THE BOARD OF PUBLIC WORKS SHALL:

(1) MAKE ALLOCATIONS OF FUNDS AVAILABLE FOR THE JUVENILE SERVICES FACILITIES CAPITAL PROGRAM IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) CERTIFY THE ALLOCATIONS TO THE COMPTROLLER AND THE TREASURER.

(B) PAYMENTS BY TREASURER.

AFTER THE BOARD CERTIFIES THE ALLOCATIONS, THE TREASURER SHALL MAKE PAYMENTS TO OR ON BEHALF OF AN APPLICANT, WHEN NEEDED, FOR THE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 4–105(a) and (b).

In subsection (a)(1) of this section, the reference to the “Juvenile Services Facilities Capital Program” is substituted for the former obsolete reference to the “Juvenile Justice Facilities Capital Program”.

In subsection (a)(2) of this section, the reference to the “Comptroller and the Treasurer” is substituted for the former reference to “the proper State officers” for clarity.

In subsection (b) of this section, the reference to “the project” is substituted for the former reference to the “planning, design, construction, conversion, acquisition, renovation, and equipping of a facility” for brevity.

9–404. TERMS AND CONDITIONS OF GRANTS.

(A) IN GENERAL.

(1) A STATE GRANT MAY BE USED ONLY TO PLAN, DESIGN, CONSTRUCT, CONVERT, ACQUIRE, RENOVATE, AND EQUIP A JUVENILE FACILITY, INCLUDING RELATED REPORTS, PLANS, SPECIFICATIONS, SITE IMPROVEMENTS, SURVEYS, AND PROGRAMS.

(2) ANY AVAILABLE FEDERAL OR OTHER GRANT SHALL BE APPLIED FIRST TO THE COST OF PLANNING, DESIGN, CONSTRUCTION, CONVERSION, ACQUISITION, RENOVATION, OR EQUIPPING OF A JUVENILE FACILITY.

(3) A STATE GRANT MAY NOT EXCEED 50% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ALL FEDERAL AND OTHER GRANTS HAVE BEEN APPLIED.

(B) RELIGIOUS PURPOSES PROHIBITED.

(1) A STATE GRANT MAY NOT BE USED:

(I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

(II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR CONSTRUCTION OF A BUILDING USED OR TO BE USED AS A PLACE OF SECTARIAN RELIGIOUS WORSHIP OR INSTRUCTION; OR

(III) IN CONNECTION WITH A PROGRAM OR DEPARTMENT OF DIVINITY FOR A RELIGIOUS DENOMINATION.

(2) ON REQUEST OF THE BOARD OF PUBLIC WORKS, AN APPLICANT SHALL SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT A GRANT IS NOT BEING USED AND HAS NOT BEEN USED FOR A PURPOSE PROHIBITED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 4–104(1), (2), (3), and (5).

In subsection (a)(1) of this section, the reference to a State “grant” is

substituted for the former reference to State “funds” for consistency throughout this section.

In subsection (b)(2) and the introductory language of (1) of this section, the former references to a “portion of the proceeds” and “none of the proceeds” are deleted as surplusage.

In subsection (b)(2) of this section, the reference to “this section” is substituted for the former overbroad reference to “this title”.

The introductory language of former Art. 83C, § 4–104, which provided that “[t]he allocation and use of State funds under this title are subject to the following terms and conditions”, is deleted as surplusage.

Defined terms: “Department” § 9–101
 “Juvenile facility” § 9–401

9–405. NOTICE OF STATE’S RIGHT OF RECOVERY.

(A) RECORDATION OF NOTICE.

BEFORE ANY STATE FUNDS ARE PAID FOR AN APPROVED PROJECT, THE DEPARTMENT SHALL CAUSE A NOTICE OF THE STATE’S RIGHT OF RECOVERY TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(B) EFFECT OF RECORDATION.

THE RECORDING OF THE NOTICE:

(1) DOES NOT CREATE A LIEN AGAINST THE PROPERTY; BUT

(2) CONSTITUTES NOTICE TO ANY POTENTIAL TRANSFEREE, POTENTIAL CREDITOR, OR OTHER INTERESTED PERSON THAT THE STATE MAY OBTAIN A LIEN UNDER THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83C, § 4–106(b).

In subsection (a) of this section, the reference to “State funds [being] paid” is substituted for the former reference to the “State mak[ing] ... funds available” for clarity and brevity.

Also in subsection (a) of this section, the former reference to “Baltimore City” is deleted as unnecessary in light of the definition of “county”, which includes the City of Baltimore.

In subsection (b)(2) of this section, the reference to an interested “person” is substituted for the former reference to an interested “party” for clarity.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to consider clarifying who is required to file the notice under subsection (a) of this section.

Defined terms: "County" § 1-101
 "Department" § 9-101

9-406. STATE'S RIGHT OF RECOVERY.

(A) GROUNDS.

THE STATE MAY RECOVER GRANT FUNDS PAID UNDER THIS SUBTITLE IF, WITHIN 30 YEARS AFTER COMPLETION OF A PROJECT, THE PROJECT PROPERTY:

(1) IS SOLD OR TRANSFERRED TO A PERSON THAT:

(I) WOULD NOT QUALIFY AS AN APPLICANT UNDER THIS SUBTITLE; OR

(II) THE BOARD OF PUBLIC WORKS DOES NOT APPROVE AS A TRANSFEREE; OR

(2) CEASES TO BE A JUVENILE FACILITY.

(B) PERSONS LIABLE.

THE STATE MAY RECOVER FROM THE:

(1) TRANSFEROR;

(2) TRANSFEREE; OR

(3) OWNER OF A PROPERTY THAT HAS CEASED TO BE A JUVENILE FACILITY.

(C) AMOUNT.

THE STATE IS ENTITLED TO RECOVER THE SUM OF:

(1) AN AMOUNT THAT EQUALS THE VALUE OF THE PROJECT PROPERTY AT THE TIME OF THE RECOVERY MULTIPLIED BY A FRACTION:

(I) THE NUMERATOR OF WHICH IS THE AMOUNT OF THE STATE FUNDS FOR THE PROJECT; AND

(II) THE DENOMINATOR OF WHICH IS THE TOTAL ELIGIBLE COST OF THE PROJECT; AND

(2) ALL COSTS AND REASONABLE ATTORNEYS' FEES INCURRED IN THE RECOVERY PROCEEDINGS.

(D) WAIVER.

THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY FOR GOOD CAUSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 4-106(a) and the second sentence of (e).

In the introductory language of subsection (a) of this section, the reference

to “grant funds paid under this subtitle” is added for clarity.

Also in the introductory language of subsection (a) of this section, the reference to the “project property” is substituted for the former reference to a “juvenile program, with respect to which funds have been paid under this title” for clarity and consistency.

In subsection (a)(1) of this section, the former reference to an “agency, or organization” is deleted as included in the reference to a “person”.

In subsection (c)(1) of this section, the reference to the “project property” is substituted for the former reference to “so much of the property as constituted an approved project” for brevity.

Also in subsection (c)(1) of this section, the reference to the value “at the time of recovery” is substituted for the former reference to the “then current” value for clarity.

Defined terms: “Juvenile facility” § 9–401
“Person” § 1–101

9–407. PROCEDURE FOR RECOVERY; TEMPORARY LIEN.

(A) FILING OF CIVIL ACTION.

(1) IF A DEFAULT DESCRIBED IN § 9–406(A) OF THIS SUBTITLE IS ALLEGED, THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL ACTION UNDER THIS SUBTITLE IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED AGAINST THE OWNER OF THE PROPERTY AND ANY OTHER INTERESTED PARTIES, INCLUDING ANY TRANSFEROR.

(2) THE INITIAL FILING SHALL INCLUDE AFFIDAVITS STATING FACTS ON WHICH THE ALLEGATIONS OF DEFAULT ARE BASED AND A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

(B) TEMPORARY LIEN -- AUTHORIZATION.

(1) IF THE COURT DETERMINES FROM THE STATE'S INITIAL FILING THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A DEFAULT DESCRIBED IN § 9–406(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL AUTHORIZE A TEMPORARY LIEN ON THE PROPERTY PENDING FULL DETERMINATION OF THE STATE'S CLAIM.

(2) THE TEMPORARY LIEN SHALL BE IN THE AMOUNT OF THE STATE'S CLAIM, PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER THE COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE, OR ANOTHER AMOUNT THAT THE COURT DETERMINES IS REASONABLE.

(C) TEMPORARY LIEN -- EFFECTIVE DATE; RIGHTS OF OWNER OR TRANSFEREE.

(1) THE TEMPORARY LIEN TAKES EFFECT:

(I) ON THE DATE OF THE COURT ORDER AUTHORIZING THE LIEN IF, WITHIN 10 DAYS, THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED; OR

(II) IF THE SECRETARY FAILS TO RECORD THE NOTICE WITHIN 10 DAYS, ON THE DATE THE NOTICE OF TEMPORARY LIEN IS RECORDED.

(2) WHILE THE TEMPORARY LIEN IS IN EFFECT, THE OWNER OR ANY PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST MADE FUNDS AVAILABLE UNDER THIS SUBTITLE MAY NOT TAKE AN ACTION THAT WOULD AFFECT THE TITLE TO THE PROPERTY OR INSTITUTE PROCEEDINGS TO ENFORCE A SECURITY INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY, WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE.

(D) TEMPORARY LIEN -- RELEASE BY BOND.

(1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF THE TEMPORARY LIEN AT ANY TIME BY FILING WITH THE COURT A BOND SECURING THE PAYMENT IN FULL OF THE AMOUNT DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION.

(2) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 4-106(c).

In subsections (a)(1) and (c)(1)(i) of this section, the former references to "Baltimore City" are deleted as unnecessary in light of the definition of "county", which includes the City of Baltimore.

In subsection (a)(1) of this section, the reference to "a default described in § 9-406(a) of this subtitle" is substituted for the former reference to "the event of an alleged sale or transfer as described above or in the event that a property is alleged to have ceased to be a facility as defined in this title" for brevity and clarity.

Also in subsection (a)(1) of this section, the reference to a "civil action" is substituted for the former reference to a "claim ... styled as a civil action" for brevity.

Also in subsection (a)(1) of this section, the former reference to a transferor "that the State wishes to make a party" is deleted as surplusage.

In subsection (a)(2) of this section, the former reference to "sworn" affidavits is deleted as redundant.

In subsection (b)(1) of this section, the reference to a default "described in § 9-406(a) of this subtitle" is added for clarity and consistency.

Also in subsection (b)(1) of this section, the former reference to the “circuit” court is deleted as unnecessary in light of subsection (a)(1) of this section, which provides for the filing of an action for recovery in the “circuit” court.

In subsection (c)(1)(ii) of this section, the phrase “if the Secretary fails to record the notice within 10 days” is substituted for the former word “otherwise” for clarity.

In subsection (d)(1) of this section, the reference to the “amount described in subsection (b)(2) of this section” is substituted for the former reference to the “State’s claim and any additional amount necessary to cover the costs and reasonable attorneys’ fees incurred by the State” to avoid the repetition of the specific amounts described in subsection (b)(2) of this section.

Defined term: “County” § 1-101

9-408. PRIORITY OF PROCEEDINGS; FINAL JUDGMENT; LIEN.

(A) PRIORITY OF PROCEEDINGS.

PROCEEDINGS TO DETERMINE THE STATE’S RIGHT TO RECOVER AND THE AMOUNT OF ITS RECOVERY UNDER THIS SUBTITLE HAVE PRIORITY OVER OTHER CIVIL PROCEEDINGS IN THE CIRCUIT COURT.

(B) FINAL JUDGMENT; LIEN.

(1) AFTER A FULL ADVERSARY PROCEEDING, IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 9-406(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL ISSUE A FINAL JUDGMENT FOR THE AMOUNT THE COURT FINDS TO BE RECOVERABLE BY THE STATE.

(2) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING THE OWNER OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE FOR THE AMOUNT OF THE JUDGMENT.

(3) IF THE COURT DOES NOT FIND THAT A DEFAULT DESCRIBED IN § 9-406(A) OF THIS SUBTITLE HAS OCCURRED OR IF THE COURT’S JUDGMENT IS PAID IN FULL TO THE STATE WITHIN 30 DAYS AFTER THE COURT’S FINAL ORDER, ANY TEMPORARY LIEN SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(4) (I) IF THE JUDGMENT REMAINS UNPAID FOR MORE THAN 30 DAYS AFTER THE COURT’S FINAL ORDER, THE AMOUNT SHALL BE A LIEN ON THE PROPERTY.

(II) UNLESS THE STATE PROVIDES OTHERWISE IN A WRITTEN SUBORDINATION AGREEMENT, THE LIEN IS SUPERIOR TO A LIEN OR OTHER INTEREST OF ANY MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT CREDITOR WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER THE STATE AWARDED A GRANT.

(C) EFFECTIVE DATE OF LIEN; NOTICE.

(1) A LIEN UNDER THIS SECTION TAKES EFFECT ON THE LATER OF:

(I) THE 31ST DAY AFTER THE COURT'S FINAL ORDER IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR BEFORE THE 41ST DAY AFTER THE FINAL ORDER; OR

(II) THE DATE A NOTICE OF LIEN IS RECORDED.

(2) (I) WHEN THE LIEN TAKES EFFECT, ANY TEMPORARY LIEN IS AUTOMATICALLY AND FULLY RELEASED.

(II) THE RECORDED NOTICE OF THE LIEN CONSTITUTES NOTICE OF THE RELEASE OF THE TEMPORARY LIEN.

(D) ENFORCEMENT AND FORECLOSURE OF LIEN.

A LIEN UNDER THIS SECTION MAY BE ENFORCED AND FORECLOSED IN ACCORDANCE WITH THE MARYLAND RULES, EXCEPT THAT THE STATE OR ANY AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY DOES NOT NEED TO FILE A BOND.

(E) RELEASE OF LIEN.

(1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF A LIEN UNDER THIS SECTION BY PAYING TO THE STATE THE FULL AMOUNT OF THE JUDGMENT ENTERED BY THE CIRCUIT COURT, AND ANY INTEREST THAT HAS ACCRUED FROM THE DATE OF JUDGMENT.

(2) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, § 4-106(d).

In subsection (b)(1) and (3) of this section, the references to a default "described in § 9-406(a) of this subtitle" are added for clarity and consistency within this subtitle.

Also in subsection (b)(1) and (3) of this section, the former references to the "circuit" court are deleted as unnecessary in light of § 9-407(a)(1) of this subtitle, which provides for the filing of an action for recovery in the "circuit" court.

In subsection (b)(1) of this section, the former reference to "proceedings on the issue of default and on any disputes over the amount of the State's recovery" is deleted as implicit in the reference to "full adversary proceedings".

In subsection (b)(2) of this section, the former phrase “in every case” is deleted as surplusage.

In subsections (b)(3) and (e)(2) of this section, the references to land records “of the county in which the property is located” are added for clarity.

In subsection (b)(3) of this section, the former reference to a temporary lien “then in effect” is deleted as surplusage.

In subsection (b)(4)(ii) of this section, the phrase “awarded a grant” is substituted for the former phrase “first made funds available in connection with the property under this title” for brevity.

In subsections (c)(1), (d), and (e)(1) of this section, the references to a “lien under this section” are substituted for the former references to “this lien” for clarity.

In subsection (c)(1)(i) of this section, the former reference to “Baltimore City” is deleted as unnecessary in light of the definition of “county”, which includes the City of Baltimore.

In subsection (d) of this section, the former reference to the “procedures prescribed” in the Maryland Rules is deleted as surplusage.

In subsection (e)(1) of this section, the reference to interest “that has accrued” is added for clarity.

Also in subsection (e)(1) of this section, the former phrase “at any time” is deleted as surplusage.

Defined term: “County” § 1–101

9–409. DEPOSIT OF FUNDS RECOVERED.

ALL FUNDS RECOVERED UNDER THIS SUBTITLE SHALL BE DEPOSITED IN THE ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83C, § 4–106(e).

The reference to funds recovered “under this subtitle” is substituted for the former reference to funds recovered “as a result of this right of recovery” for clarity.

9–410. REGULATIONS.

(A) DEPARTMENT OF JUVENILE SERVICES.

(1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(2) THE REGULATIONS SHALL REQUIRE EACH JUVENILE FACILITY TO SUBMIT CERTIFIED FINANCIAL STATEMENTS ANNUALLY FOR AT LEAST THE TERM OF THE BONDS USED TO FINANCE ANY PROJECT AT THAT JUVENILE FACILITY.

(3) THE REGULATIONS MAY REQUIRE THE SUBMISSION OF OTHER REPORTS.

(B) BOARD OF PUBLIC WORKS.

THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS FOR:

- (1) RECEIVING APPLICATIONS;
- (2) CONSIDERING APPLICATIONS; AND
- (3) DISBURSING FUNDS TO OR ON BEHALF OF APPLICANTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83C, §§ 4-103(b) and 4-105(c).

In subsection (a)(3) of this section, the reference to "requir[ing] the submission of" certified financial statements is substituted for the former reference to "provid[ing] for" certified financial statements for clarity.

Defined terms: "Juvenile facility" § 9-401

"Secretary" § 9-101

GENERAL REVISOR'S NOTE TO TITLE:

Throughout this title, references to juvenile "services" are substituted for the former obsolete references to juvenile "justice".

TITLE 10. DEPARTMENT OF AGING.

SUBTITLE 1. DEFINITIONS.

10-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 1(a).

In this section and throughout this title, the references to this "title" are substituted for the former references to this "article" to reflect the organization of this article.

No other changes are made.

(B) AREA AGENCY.

"AREA AGENCY" MEANS THE LOCAL AGENCY THAT THE DEPARTMENT DESIGNATES IN ACCORDANCE WITH THE OLDER AMERICANS ACT OF 1965 TO

ADMINISTER THE DELIVERY OF A COMPREHENSIVE AND COORDINATED PLAN OF SOCIAL AND OTHER SERVICES AND ACTIVITIES FOR SENIORS IN A PLANNING AND SERVICE AREA.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 1(b).

The former reference to the Older Americans Act "as amended" is deleted in light of Art. 1, § 21, which provides generally that a reference to a law includes any amendments to the law.

As to the substitution of the reference to "seniors" for the former reference to "the elderly", *see* General Revisor's Note to title.

Defined terms: "Department" § 10-101
 "Planning and service area" § 10-101

(C) CONGREGATE HOUSING SERVICES.

"CONGREGATE HOUSING SERVICES" MEANS SERVICES PROVIDED IN AN APARTMENT BUILDING THAT PROMOTE INDEPENDENT LIVING FOR AN ELIGIBLE INDIVIDUAL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 1(c), except as it related to the services included in "congregate housing services" and eligibility requirements for services.

(D) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF AGING.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 1(d).

No changes are made.

(E) INTERAGENCY COMMITTEE.

"INTERAGENCY COMMITTEE" MEANS THE UNIT ESTABLISHED IN § 10-301 OF THIS TITLE TO OVERSEE THE COORDINATION AND CONSOLIDATION OF SERVICES FOR SENIORS IN THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 1(e).

The reference to the "unit established in § 10-301 of this title" is substituted for the former reference to the "body designated in this article" for clarity.

As to the substitution of the reference to "seniors" for the former reference to "the elderly", *see* General Revisor's Note to title.

The former reference to the Interagency Committee "on Aging Services" is deleted for brevity.

(F) PLANNING AND SERVICE AREA.

“PLANNING AND SERVICE AREA” MEANS AN AREA OF THE STATE THAT THE DEPARTMENT DESIGNATES IN ACCORDANCE WITH THE OLDER AMERICANS ACT OF 1965 FOR THE PLANNING AND ADMINISTRATION OF SOCIAL, HEALTH, AND OTHER SERVICES FOR SENIORS.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 1(f).

The reference to an “area” is substituted for the former reference to a “subdivision or subdivisions” for clarity.

As to the substitution of the reference to “seniors” for the former reference to “the elderly”, *see* General Revisor’s Note to title.

The former reference to the Older Americans Act “as amended” is deleted in light of Art. 1, § 21, which provides generally that a reference to a law includes any amendments to the law.

Defined term: “Department” § 10–101

(G) SECRETARY.

“SECRETARY” MEANS THE SECRETARY OF AGING.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 1(g).

No changes are made.

SUBTITLE 2. DEPARTMENT OF AGING.

10–201. ESTABLISHED.

THERE IS A DEPARTMENT OF AGING ESTABLISHED AS A PRINCIPAL DEPARTMENT OF THE STATE GOVERNMENT.

REVISOR’S NOTE: This section formerly was Art. 70B, § 2(a).

It is set forth as a separate section for emphasis.

The only changes are in style.

See SG § 8–201, which lists the principal departments of State government.

10–202. SECRETARY.

(A) POSITION AND APPOINTMENT.

(1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT THE SECRETARY OF AGING.

(2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

(B) OATH.

BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) RESPONSIBILITY TO GOVERNOR.

(1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

(2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES ON THOSE MATTERS.

(D) COMPENSATION.

THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: Subsections (a), (c), and (d) of this section are new language derived without substantive change from former Art. 70B, § 2(b), (d), and (c)(1).

Subsection (b) of this section is standard language added to state the requirement that an individual appointed to any office of profit or trust shall take the oath specified in Md. Constitution, Art. I, § 9. This addition is supported by 64 Op. Att'y Gen. 246 (1979).

In subsection (d) of this section, the reference to the Secretary's "compensation" is substituted for the former reference to the Secretary's "salary" for accuracy and consistency throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 10-101
"Secretary" § 10-101

10-203. ADMINISTRATION OF DEPARTMENT.

(A) OPERATION OF DEPARTMENT.

THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT OPERATION OF THE DEPARTMENT.

(B) AREAS OF RESPONSIBILITY.

THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF RESPONSIBILITY IN THE DEPARTMENT AS NECESSARY TO FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 2(c)(2).

In subsection (b) of this section, the reference to duties assigned "to" the

Secretary is substituted for the former reference to duties assigned “by” the Secretary for accuracy and consistency with §§ 2–203(b) and 7–106(b) of this article and with similar provisions in other revised articles of the Code. *See, e.g.*, EN § 1–402(b)(2), HG § 2–101(b)(2), and SF § 3–202(d)(2). This substitution is called to the attention of the General Assembly.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that former Article 70B did not include provisions typically included in similar provisions in other revised articles of the Code establishing principal departments of State government, such as legal counsel, authority to employ staff, authority to adopt regulations, and responsibility for planning activities of the Department. The General Assembly may wish to address these omissions.

Defined terms: “Department” § 10–101
 “Secretary” § 10–101

10–204. DUTIES OF SECRETARY.

(A) ADMINISTRATION OF PROGRAMS AND ACTIVITIES.

THE SECRETARY SHALL ADMINISTER THE PROGRAMS AND ACTIVITIES THAT THE FEDERAL GOVERNMENT DELEGATES TO THE STATE UNDER THE OLDER AMERICANS ACT OF 1965 THAT ARE NOT OTHERWISE COMMITTED BY LAW TO ANOTHER UNIT OF STATE GOVERNMENT.

(B) RELATIONSHIP TO OTHER GOVERNMENTAL LEVELS AND UNITS.

THE SECRETARY:

- (1) IS A MEMBER OF THE GOVERNOR’S EXECUTIVE COUNCIL; AND
- (2) SHALL COOPERATE WITH AND RECEIVE THE COOPERATION OF STATE, FEDERAL, AND LOCAL GOVERNMENTAL UNITS TO CARRY OUT THE PURPOSES OF THIS TITLE.

(C) COORDINATION OF PROGRAMS AND SERVICES.

THE SECRETARY SHALL:

- (1) EVALUATE THE SERVICE NEEDS OF SENIORS IN THE STATE;
- (2) DETERMINE THE EXTENT TO WHICH EXISTING PUBLIC AND PRIVATE PROGRAMS MEET THE NEEDS OF SENIORS;
- (3) ESTABLISH PRIORITIES FOR MEETING THE NEEDS OF SENIORS;
- (4) COORDINATE, SUBJECT TO EXISTING LAW, AND ASSESS AND EVALUATE ALL STATE AND LOCAL PROGRAMS AND SERVICES, BOTH PUBLIC AND PRIVATE, THAT RELATE AND ARE IMPORTANT TO THE WELL-BEING OF SENIORS IN THE STATE, INCLUDING PROGRAMS AND SERVICES IN THE AREAS OF:
 - (I) INCOME MAINTENANCE;

- (II) PUBLIC HEALTH;
- (III) MENTAL HEALTH;
- (IV) HOUSING AND URBAN DEVELOPMENT;
- (V) EMPLOYMENT;
- (VI) EDUCATION;
- (VII) RECREATION; AND

(VIII) REHABILITATION OF SENIORS WITH PHYSICAL OR MENTAL DISABILITIES; AND

(5) DEVELOP A STATEWIDE PLAN INCORPORATING LOCAL PLANS FOR A COMPREHENSIVE AND COORDINATED SYSTEM OF HEALTH, SOCIAL, AND COMMUNITY SERVICES FOR SENIORS, INCLUDING HOUSING AND INSTITUTIONAL AND NONINSTITUTIONAL CARE.

(D) ADVOCACY AND CONSULTATION.

THE SECRETARY SHALL:

(1) REPRESENT THE INTERESTS OF SENIORS BY SERVING AS AN ADVOCATE AT ALL LEVELS OF GOVERNMENT;

(2) CONSULT WITH AND ADVISE THE SECRETARIES OF THE PRINCIPAL DEPARTMENTS OF STATE GOVERNMENT ABOUT THE PROGRAMS AND SERVICES FOR SENIORS THAT ARE THE PRIMARY RESPONSIBILITY OF THOSE DEPARTMENTS;

(3) CONSULT WITH THE COMMISSION ON AGING ON ALL MATTERS PERTAINING TO PROGRAMS FOR SENIORS;

(4) PROVIDE CONSULTATION AND TECHNICAL ASSISTANCE TO COMMUNITIES AND CIVIC GROUPS DEVELOPING LOCAL SERVICES FOR SENIORS;

(5) MAINTAIN A CLEARINGHOUSE OF INFORMATION RELATED TO THE INTERESTS OF SENIORS; AND

(6) REVIEW AND RECOMMEND POLICIES TO THE GOVERNOR ON PUBLICLY FUNDED PLANS AND PROGRAMS THAT AFFECT SENIORS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4(a)(1) through (10) and (12) through (15).

As to the substitution of references to "seniors" for the former references to "elderly persons", "the elderly", and "the aged" throughout this section, *see* General Revisor's Note to title.

In subsection (a) of this section, the former reference to the Older Americans Act of 1965 "as amended" is deleted in light of Art. 1, § 21, which provides that a reference to a statute includes amendments.

In subsection (b)(2) of this section, the former reference to "agencies" is

deleted in light of the reference to “units”. *See* General Revisor’s Note to article.

In subsection (c)(4)(viii) of this section, the reference to “seniors with physical or mental disabilities” is substituted for the former obsolete reference to “the physically and mentally handicapped”.

In subsection (d)(3) of this section, the reference to programs “for seniors” is added for clarity.

In subsection (d)(6) of this section, the reference to “recommend[ing] policies” is substituted for the former reference to “formulat[ing] policy recommendations” for brevity.

Defined term: “Secretary” § 10–101

10–205. FUNDING.

(A) BUDGET.

THE SECRETARY SHALL PREPARE AND SUBMIT A BUDGET FOR THE DEPARTMENT.

(B) ACCEPTANCE OF FUNDS.

THE SECRETARY MAY ACCEPT AND USE ANY STATE OR FEDERAL FUNDS FOR THE PURPOSES SPECIFIED IN THIS TITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4(a)(16) and (17).

In subsection (a) of this section, the former phrase “in accordance with the normal budget procedures” is deleted as surplusage.

In subsection (b) of this section, the word “may” is substituted for the former word “shall” to make it clear that the Secretary is not obligated to accept federal funds regardless of the conditions attached to the funding by federal law. The Human Services Article Review Committee calls this substitution to the attention of the General Assembly.

Defined terms: “Department” § 10–101

“Secretary” § 10–101

10–206. ANNUAL REPORT.

(A) IN GENERAL.

WITH THE ADVICE AND RECOMMENDATION OF THE COMMISSION ON AGING, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1 OF EACH YEAR.

(B) CONTENTS.

THE REPORT SHALL INCLUDE:

- (1) A DESCRIPTION OF THE SENIOR CITIZEN ACTIVITIES CENTERS IN EACH COUNTY;
- (2) THE ALLOCATION AND USE OF FUNDS MADE AVAILABLE FOR SENIOR CITIZEN ACTIVITIES CENTERS;
- (3) THE RESULTS OF ANY STUDIES; AND
- (4) ANY RECOMMENDATIONS FOR LEGISLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4(a)(18).

In subsection (b)(1) and (2) of this section, the references to "senior citizen activities centers" are substituted for the former references to "elderly citizen activities centers" for consistency with Subtitle 5 of this title.

In subsection (b)(1) of this section, the reference to each "county" is substituted for the former reference to each "political subdivision" for clarity.

Defined terms: "County" § 1-101
 "Secretary" § 10-101

10-207. DEPUTY SECRETARY.

THE SECRETARY SHALL APPOINT A DEPUTY SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4(a)(19).

The former phrase "[s]ubject to § 2 of this article" is deleted as surplusage.

Defined term: "Secretary" § 10-101

10-208. COMMISSION ON AGING.

(A) ESTABLISHED.

THERE IS A COMMISSION ON AGING IN THE DEPARTMENT.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COMMISSION CONSISTS OF 13 MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(I) 1 SHALL BE A MEMBER OF THE SENATE OF MARYLAND, WHO MAY NOT VOTE;

(II) 1 SHALL BE A MEMBER OF THE MARYLAND HOUSE OF DELEGATES, WHO MAY NOT VOTE; AND

(III) 11 SHALL BE SELECTED TO REFLECT THE GEOGRAPHIC DIVERSITY OF THE STATE AND BECAUSE OF THEIR INTEREST IN THE NEEDS OF SENIORS.

(2) AT LEAST 7 MEMBERS SHALL BE AT LEAST 55 YEARS OLD.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF THE COMMISSION IS 4 YEARS.

(2) THE TERMS OF MEMBERS APPOINTED UNDER SUBSECTION (B)(1)(III) OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2007.

(3) A MEMBER OF THE COMMISSION APPOINTED UNDER SUBSECTION (B)(1)(III) OF THIS SECTION MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) CHAIR.

FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL DESIGNATE A CHAIR.

(E) COMPENSATION.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

(F) POWERS AND DUTIES.

THE COMMISSION SHALL:

(1) EXERCISE THE POWERS AND PERFORM THE DUTIES SPECIFIED IN THIS TITLE;

(2) REVIEW:

(I) ONGOING STATEWIDE PROGRAMS AND ACTIVITIES FOR SENIORS; AND

(II) NEW STATEWIDE PROGRAMS FOR SENIORS BEFORE THE PROGRAMS ARE IMPLEMENTED;

(3) MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT STATEWIDE PROGRAMS AND ACTIVITIES FOR SENIORS; AND

(4) PREPARE AND SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND THE SECRETARY THAT INCLUDES RECOMMENDATIONS FOR LEGISLATIVE OR OTHER ACTIONS TO STRENGTHEN STATEWIDE PROGRAMS AND ACTIVITIES FOR SENIORS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 3.

In subsection (b)(1)(iii) of this section, the reference to "seniors" is substituted for the former reference to "the aging" for consistency throughout this title. *See* General Revisor's Note to title.

Also in subsection (b)(1)(iii) of this section, the reference to the "needs" of seniors is substituted for the former reference to the "problems" of seniors for consistency with the duties of the Commission.

Subsection (c) of this section is revised in standard language for consistency with similar provisions throughout the revised articles of the Code.

In subsection (c)(2) of this section, the reference to terms being staggered as required by the terms provided for Commission members on "October 1, 2007" is substituted for the former obsolete reference to the terms of the initial members "[b]eginning in 1983". This substitution is not intended to alter the term of any member of the Commission. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 3 on June 30, 2009; (2) 4 on June 30, 2010; and (3) 4 on June 30, 2011.

In subsection (c)(3) of this section, the reference to a "member ... appointed under subsection (b)(1)(iii)" of this section being prohibited from serving more than two consecutive terms is substituted for the former reference to the "limitation of tenure ... not apply[ing] to any members from the General Assembly of Maryland" for brevity and clarity.

In subsection (c)(5) of this section, the former reference to "the Governor" filling a vacancy is deleted in light of subsection (b)(1) of this section, which requires the Governor to appoint all of the members.

Subsection (e) of this section is revised in standard language used to provide for reimbursement for members of boards and commissions.

In subsection (f)(1) of this section, the reference to "perform[ing]" duties is added for clarity.

Defined term: "Secretary" § 10-101

10-209. CONGREGATE HOUSING SERVICES.

(A) IN GENERAL.

(1) THE SECRETARY SHALL DEVELOP CONGREGATE HOUSING SERVICES PROGRAMS FOR SENIORS IN CONJUNCTION WITH:

(I) PUBLIC OR PRIVATE FOR PROFIT OR NONPROFIT CORPORATIONS; OR

(II) STATE OR FEDERAL UNITS.

(2) CONGREGATE HOUSING SERVICES SHALL INCLUDE CONGREGATE MEALS, HOUSEKEEPING, AND PERSONAL SERVICES.

(B) ELIGIBILITY FOR SERVICES.

(1) AN INDIVIDUAL IS ELIGIBLE FOR CONGREGATE HOUSING SERVICES IF THE INDIVIDUAL IS AT LEAST 62 YEARS OLD AND HAS TEMPORARY OR PERIODIC DIFFICULTY WITH ONE OR MORE ESSENTIAL ACTIVITIES OF DAILY LIVING, SUCH AS FEEDING, BATHING, GROOMING, DRESSING, OR TRANSFERRING.

(2) THE SPOUSE OF AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS ELIGIBLE FOR CONGREGATE HOUSING SERVICES IF THE SPOUSE IS AT LEAST 55 YEARS OLD AND HAS TEMPORARY OR PERIODIC DIFFICULTY WITH ONE OR MORE ESSENTIAL ACTIVITIES OF DAILY LIVING, SUCH AS FEEDING, BATHING, GROOMING, DRESSING, OR TRANSFERRING.

(C) SECRETARY'S DUTIES.

THE SECRETARY SHALL:

(1) MAKE MAXIMUM USE OF RENT AND OTHER SUBSIDIES AVAILABLE FROM FEDERAL AND STATE SOURCES;

(2) PROVIDE FOR SUBSIDIES NECESSARY FROM STATE GENERAL FUNDS TO ASSIST LOW-INCOME SENIORS TO RESIDE IN CONGREGATE HOUSING AS AN ALTERNATIVE TO MORE COSTLY INSTITUTIONAL CARE THAT IS NOT REQUIRED;

(3) FIND SPONSORS OR MANAGERS FOR CONGREGATE HOUSING SERVICES PROGRAMS;

(4) ASSIST DEVELOPERS IN FORMULATING DESIGN CONCEPTS AND MEETING PROGRAM NEEDS; AND

(5) WHEN NECESSARY, PROVIDE SUBSIDIES FOR CONGREGATE MEALS, HOUSEKEEPING, AND PERSONAL SERVICES IN CONGREGATE HOUSING SERVICES PROGRAMS AND DEVELOP ELIGIBILITY REQUIREMENTS FOR THE SUBSIDIES.

(D) REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO:

(1) GOVERN THE CERTIFICATION AND OPERATION OF CONGREGATE HOUSING SERVICES PROGRAMS; AND

(2) PROVIDE FOR INVESTIGATIONS OF CRIMINAL RECORDS OF CONGREGATE HOUSING SERVICES PROVIDERS AND EMPLOYEES UNDER SUBSECTION (E) OF THIS SECTION.

(E) CRIMINAL RECORDS CHECKS.

THE SECRETARY IS AUTHORIZED TO CONDUCT FEDERAL AND STATE CRIMINAL BACKGROUND INVESTIGATIONS OF PROVIDERS OF CONGREGATE HOUSING SERVICES PROGRAMS AND THEIR EMPLOYEES.

(F) CONGREGATE HOUSING SERVICES PROGRAM CERTIFICATION.

(1) A CONGREGATE HOUSING SERVICES PROGRAM MUST BE CERTIFIED BY THE SECRETARY.

(2) THE SECRETARY SHALL REVIEW THE COMPLIANCE OF CONGREGATE HOUSING SERVICES PROGRAMS WITH THE REGULATIONS GOVERNING THEIR CERTIFICATION AND OPERATION.

(3) BEFORE THE SECRETARY MAY CERTIFY OR RENEW THE CERTIFICATION OF A PROVIDER OF CONGREGATE HOUSING SERVICES FOR SENIORS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS, THE PROVIDER SHALL HAVE AN IN-SERVICE EDUCATION PROGRAM THAT INCLUDES INSTRUCTION ON DEMENTIA AND THE TECHNIQUES NECESSARY TO MANAGE PATIENTS WITH PHYSICAL, INTELLECTUAL, AND BEHAVIORAL MANIFESTATIONS OF DEMENTIA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4(b)(1) through (10) and, as it related to the services included in "congregate housing services" and eligibility requirements for services, § 1(c).

As to the substitution of references to "seniors" for the former references to "the elderly", "aged", and "elderly individuals" throughout this section, *see* General Revisor's Note to title.

In subsection (a)(1)(ii) of this section, the reference to State or federal "units" is substituted for the former reference to a State or federal "agency". *See* General Revisor's Note to article.

In subsection (c)(2) of this section, the reference to "congregate housing" is substituted for the former reference to "congregate housing services programs" for brevity and clarity.

In subsection (d)(2) of this section, the reference to "subsection (e) of this section" is substituted for the former incorrect reference to "paragraph (6) of this subsection".

Defined terms: "Congregate housing services" § 10-101
"Secretary" § 10-101

10-210. CONGREGATE HOUSING SERVICES — VIOLATIONS; PENALTIES.

(A) IN GENERAL.

THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY AGAINST A PROVIDER OF CONGREGATE HOUSING SERVICES FOR A VIOLATION:

(1) THAT RESULTS IN CONDITIONS PRESENTING AN IMMINENT DANGER OR A SUBSTANTIAL PROBABILITY OF DEATH OR SERIOUS PHYSICAL HARM TO A RESIDENT OF CONGREGATE HOUSING;

(2) OF A RESIDENT'S RIGHTS AS SPECIFIED IN REGULATIONS ADOPTED UNDER THIS TITLE; OR

(3) OF A STATE OR LOCAL FIRE SAFETY LAW.

(B) NOTICE OF VIOLATION.

BEFORE IMPOSING A PENALTY UNDER THIS SECTION, THE DEPARTMENT SHALL SEND A NOTICE OF VIOLATION TO THE PROVIDER THAT STATES:

(1) WHEN THE PROVIDER MUST SUBMIT A PLAN OF CORRECTION THAT IS ACCEPTABLE TO THE DEPARTMENT;

(2) WHEN EACH IDENTIFIED VIOLATION MUST BE SUBSTANTIALLY CORRECTED; AND

(3) THAT A CIVIL MONEY PENALTY MAY BE IMPOSED FOR FAILURE TO:

(I) SUBMIT AN ACCEPTABLE PLAN OF CORRECTION; OR

(II) CORRECT AN IDENTIFIED VIOLATION.

(C) REINSPECTION.

(1) AFTER THE TIME FOR CORRECTING A VIOLATION HAS ENDED, THE DEPARTMENT SHALL REINSPECT THE FACILITY TO DETERMINE WHETHER THE VIOLATION HAS BEEN CORRECTED.

(2) AFTER THE REINSPECTION, THE SECRETARY MAY:

(I) EXTEND THE TIME TO CORRECT THE VIOLATION; OR

(II) IMPOSE A CIVIL MONEY PENALTY UNDER SUBSECTION (D) OF THIS SECTION.

(D) AMOUNT OF PENALTY.

(1) THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY NOT EXCEEDING \$20 PER VIOLATION PER RESIDENT FOR EACH DAY THAT A VIOLATION REMAINS UNCORRECTED AFTER THE TIME SET FOR CORRECTION UNDER SUBSECTION (B)(2) OF THIS SECTION.

(2) A PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$1,000 PER VIOLATION OR \$5,000 IN TOTAL.

(E) NOTICE OF PENALTY.

(1) THE SECRETARY SHALL PROVIDE WRITTEN NOTICE OF A CIVIL MONEY PENALTY TO THE PROVIDER.

(2) THE NOTICE SHALL:

(I) BE SERVED ON THE PROVIDER BY CERTIFIED MAIL; AND

(II) STATE:

1. EACH PENALTY IMPOSED;

2. THE REGULATION OR PROVISION VIOLATED;

3. THE AMOUNT OF THE PENALTY;

4. THE PROVIDER'S RIGHT TO REQUEST A REDUCTION OF THE PENALTY; AND

5. HOW TO FILE AN ADMINISTRATIVE APPEAL OF THE PENALTY.

(F) REQUEST FOR REDUCTION.

(1) A PROVIDER OF CONGREGATE HOUSING SERVICES MAY REQUEST A REDUCTION OF A CIVIL MONEY PENALTY.

(2) A REQUEST FOR A REDUCTION SHALL:

(I) BE MADE IN WRITING WITHIN 10 DAYS AFTER THE PROVIDER RECEIVES THE NOTICE OF THE CIVIL MONEY PENALTY; AND

(II) STATE THE REASONS FOR THE REQUEST.

(3) A REQUEST FOR A REDUCTION OF A CIVIL MONEY PENALTY DOES NOT AFFECT THE ACCRUAL OF THE PENALTIES UNDER SUBSECTION (D) OF THIS SECTION.

(4) WITHIN 14 DAYS AFTER RECEIVING THE REQUEST FOR REDUCTION, THE DEPARTMENT SHALL HOLD AN INFORMAL CONFERENCE WITH THE PROVIDER ON THE ISSUE OF WHETHER TO REDUCE THE CIVIL MONEY PENALTY.

(5) IN DECIDING WHETHER TO REDUCE THE PENALTY, THE SECRETARY SHALL CONSIDER:

(I) THE PROVIDER'S HISTORY OF VIOLATIONS;

(II) THE PROVIDER'S CURRENT AND PAST DILIGENCE IN CORRECTING VIOLATIONS; AND

(III) OTHER FACTORS THAT THE SECRETARY CONSIDERS APPROPRIATE.

(6) THE SECRETARY SHALL ISSUE A WRITTEN DETERMINATION GRANTING OR DENYING THE REQUEST FOR A REDUCTION OF A CIVIL MONEY PENALTY THAT STATES THE REASONS FOR THE DETERMINATION.

(7) AS A CONDITION OF REDUCING A PENALTY, THE SECRETARY SHALL REQUIRE CORRECTION OF ALL VIOLATIONS.

(G) APPEAL.

IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE PROVIDER HAS THE RIGHT TO APPEAL FROM THE ORDER IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(H) TRIPLE PENALTY.

THE SECRETARY MAY IMPOSE A PENALTY OF THREE TIMES THE AMOUNT SET FORTH IN SUBSECTION (D) OF THIS SECTION ON A PROVIDER OF CONGREGATE HOUSING SERVICES IF A PENALTY WAS IMPOSED ON THE PROVIDER FOR THE SAME VIOLATION DURING THE 2 YEARS BEFORE THE DATE ON WHICH THE NOTICE OF VIOLATION WAS ISSUED.

(I) FINAL ORDER.

(1) AN ORDER IMPOSING A CIVIL MONEY PENALTY IS FINAL WHEN THE PROVIDER HAS EXHAUSTED ALL OPPORTUNITIES TO CONTEST THE PENALTY UNDER SUBSECTION (F) OR (G) OF THIS SECTION.

(2) A PROVIDER SHALL PAY ALL PENALTIES TO THE DEPARTMENT WITHIN 10 DAYS AFTER THE PROVIDER RECEIVES A FINAL ORDER IMPOSING A PENALTY.

(3) IF A PROVIDER DOES NOT COMPLY WITH THIS SECTION, THE DEPARTMENT MAY FILE A CIVIL ACTION TO RECOVER THE PENALTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 4-I and 4(b)(11).

In the introductory language of subsection (a) of this section, the former phrase "under § 4-I of this article" is deleted as surplusage.

In subsection (a)(1) of this section, the reference to a resident of "congregate housing" is substituted for the former reference to a resident of the "program" for clarity.

Also in subsection (a)(1) of this section, the former reference to a violation "in a congregate housing services program" is deleted as implicit.

In subsection (a)(3) of this section, the reference to a fire safety "law" is substituted for the former reference to "regulations" for clarity.

Also in subsection (a)(3) of this section, the reference to "a violation ... of" a State or local fire safety law is substituted for the former reference to "[n]oncompliance with" a State or local fire safety law for clarity.

In the introductory language of subsection (b) of this section, the phrase "[b]efore imposing a penalty under this section" is substituted for the former phrase "[i]f the Department issues a notice of a violation under subsection (a) of this section" for clarity.

Also in the introductory language of subsection (b) of this section, the requirement that "the Department shall send a notice of violation to the provider" is added for clarity.

In subsection (b)(1) and (2) of this section, the word “when” is substituted for the former references to “[t]he time in which” for brevity.

In subsections (b)(2) and (3)(ii) and (c)(1) of this section, the references to a “violation” are substituted for the former references to a “deficiency or deficiencies” for consistency.

In subsection (b)(3) of this section, the former phrases “as required by item (1) of this subsection”, “as required by item (2) of this subsection”, and “an order ... under subsection (d) of this section” are deleted as surplusage.

In subsection (c)(1) of this section, the requirement that the Department “reinspect” the facility is substituted for the former requirement that the Department “schedule a reinspection of” the facility for brevity.

Also in subsection (c)(1) of this section, the former reference to the time “set forth in subsection (b)(2) of this section” is deleted as surplusage.

In subsection (c)(2) of this section, the reference to extending “the time to correct the violation” is substituted for the former reference to extending “the time frame in which the deficiency must be corrected” for brevity and clarity.

In the introductory language of subsection (e)(2) of this section, the former reference to the notice “of a civil money penalty” is deleted as implicit.

In subsection (e)(2)(ii) of this section, the word “state” is substituted for the former phrase “include a statement specifying” for brevity.

In subsection (e)(2)(ii)4 of this section, the former phrase “under subsection (e) of this section” is deleted as surplusage.

In subsection (f)(3) of this section, the word “affect” is substituted for the former word “interrupt” for clarity.

In subsection (f)(4) of this section, the former reference to a request “under this subsection” is deleted as surplusage.

In subsection (f)(5) of this section, the former reference to considering “such factors as” those listed is deleted in light of the reference to “other factors” for brevity.

In subsection (f)(7) of this section, the former phrase “[i]n granting a provider’s request for reduction of a civil money penalty” is deleted as implicit.

Defined terms: “Congregate housing services” § 10–101
“Department” § 10–101
“Secretary” § 10–101

10–211. ASSISTED LIVING PROGRAMS.

(A) “ASSISTED LIVING PROGRAM” DEFINED.

IN THIS SECTION, "ASSISTED LIVING PROGRAM" HAS THE MEANING STATED IN § 19-1801 OF THE HEALTH - GENERAL ARTICLE.

(B) IN GENERAL.

THE SECRETARY SHALL DEVELOP ASSISTED LIVING PROGRAMS FOR SENIORS IN CONJUNCTION WITH:

- (1) PUBLIC OR PRIVATE FOR PROFIT OR NONPROFIT CORPORATIONS; OR
- (2) STATE OR FEDERAL UNITS.

(C) SUBSIDIES.

(1) THE SECRETARY SHALL:

(I) MAKE MAXIMUM USE OF RENT AND OTHER SUBSIDIES AVAILABLE FROM FEDERAL AND STATE SOURCES; AND

(II) PROVIDE FOR AND SET, BY REGULATION, THE AMOUNT OF SUBSIDIES NECESSARY FROM STATE GENERAL FUNDS TO ASSIST LOW-INCOME SENIORS TO RESIDE IN ASSISTED LIVING PROGRAMS AS AN ALTERNATIVE TO MORE COSTLY INSTITUTIONAL CARE THAT IS NOT REQUIRED.

(2) SUBSIDIES UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION MAY INCLUDE, WHEN NECESSARY AND IN ACCORDANCE WITH AVAILABLE FUNDS, MONTHLY SUBSIDIES FOR RESIDENTS OF ASSISTED LIVING PROGRAMS WHOSE ADJUSTED GROSS ANNUAL INCOME IS LESS THAN THEIR COST OF CARE FOR ASSISTED LIVING SERVICES.

(3) WHEN NECESSARY AND IN ACCORDANCE WITH AVAILABLE FUNDS, THE SECRETARY SHALL PROVIDE SUBSIDIES FOR CONGREGATE MEALS, HOUSEKEEPING, AND PERSONAL SERVICES FOR ASSISTED LIVING PROGRAMS AND DEVELOP ELIGIBILITY REQUIREMENTS FOR THESE SUBSIDIES.

(4) THE SECRETARY SHALL ADOPT REGULATIONS TO GOVERN ELIGIBILITY REQUIREMENTS FOR SUBSIDIES.

(D) PROMOTION OF PROGRAMS.

THE SECRETARY SHALL:

- (1) FIND SPONSORS FOR ASSISTED LIVING PROGRAMS; AND
- (2) ASSIST DEVELOPERS IN FORMULATING DESIGN CONCEPTS AND MEETING PROGRAM NEEDS.

(E) COMPLIANCE.

THE SECRETARY SHALL REVIEW THE COMPLIANCE OF ASSISTED LIVING PROGRAMS WITH THE REGULATIONS THAT THE SECRETARY OF HEALTH AND MENTAL HYGIENE ADOPTS FOR LICENSING THESE PROGRAMS TO OPERATE IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4(d).

As to the substitution of the references to "seniors" for the former references to "the elderly" and "elderly individuals" in the introductory language of subsection (b) and in subsection (c)(1)(ii) of this section, *see* General Revisor's Note to title.

In subsection (b)(2) of this section, the reference to State or federal "units" is substituted for the former reference to a State or federal "agency". *See* General Revisor's Note to article.

Defined term: "Secretary" § 10–101

10–212. RELATED INSTITUTIONS.

(A) "RELATED INSTITUTION" DEFINED.

IN THIS SECTION, "RELATED INSTITUTION" HAS THE MEANING STATED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE.

(B) INVESTIGATIONS AND OVERSIGHT.

ON THE SECRETARY'S INITIATIVE, THE SECRETARY MAY VISIT A RELATED INSTITUTION TO DETERMINE WHETHER THE RELATED INSTITUTION IS COMPLYING WITH APPLICABLE LAWS AND REGULATIONS.

(C) COMPLAINTS.

THE SECRETARY SHALL RECEIVE, INVESTIGATE, AND SEEK TO RESOLVE COMPLAINTS ABOUT THE OPERATION OF A RELATED INSTITUTION.

(D) FINDINGS.

(1) IF THE SECRETARY FINDS THAT A RELATED INSTITUTION IS IN VIOLATION OF ANY LAW OR ANY REGULATION OF A STATE UNIT THAT IS DIRECTLY AND SPECIFICALLY CHARGED WITH REGULATING ANY ASPECT OF THE RELATED INSTITUTION, THE SECRETARY SHALL NOTIFY THE UNIT IMMEDIATELY IN WRITING OF THE FINDING.

(2) IF THE VIOLATION IS NOT CORRECTED WITHIN A REASONABLE TIME:

(I) THE SECRETARY SHALL REQUEST THE STATE UNIT TO TAKE THE STEPS NECESSARY TO BRING THE RELATED INSTITUTION INTO COMPLIANCE; AND

(II) THE STATE UNIT SHALL TAKE APPROPRIATE ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 5(a) and (b).

In subsection (b) of this section, the reference to the Secretary's "initiative" is substituted for the former reference to the Secretary's "own motion" for clarity.

Also in subsection (b) of this section, the word “visit” is substituted for the former phrase “make on-site visits” for brevity.

In subsections (b) and (d)(1) of this section, the former references to “rules” and “rule” are deleted in light of the references to “regulations” and “regulation”. *See* General Revisor’s Note to article.

In subsection (d) of this section, the references to a State “unit” are substituted for the former references to a State “agency” for consistency throughout this article. *See* General Revisor’s Note to article.

In subsection (d)(1) of this section, the reference to a “law” is substituted for the former reference to a “statute” for consistency with subsection (b) of this section.

Defined term: “Secretary” § 10–101

10–213. LONG-TERM CARE OMBUDSMAN PROGRAM.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PROGRAM” MEANS THE MARYLAND LONG-TERM CARE OMBUDSMAN PROGRAM.

(3) “RELATED INSTITUTION” HAS THE MEANING STATED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE.

(B) ESTABLISHED.

THERE IS A MARYLAND LONG-TERM CARE OMBUDSMAN PROGRAM IN THE DEPARTMENT.

(C) LONG-TERM CARE OMBUDSMAN.

(1) THE SECRETARY SHALL DESIGNATE A MARYLAND LONG-TERM CARE OMBUDSMAN.

(2) THE SECRETARY MAY DELEGATE THE SECRETARY’S AUTHORITY UNDER § 10–212 OF THIS SUBTITLE TO:

(I) THE MARYLAND LONG-TERM CARE OMBUDSMAN; AND

(II) THE DIRECTOR OF AN AREA AGENCY IN ACCORDANCE WITH A LOCAL LONG-TERM CARE OMBUDSMAN PROGRAM ESTABLISHED UNDER REGULATIONS THAT THE SECRETARY ADOPTS.

(D) REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO GOVERN:

(1) CONFLICTS OF INTEREST WITHIN THE PROGRAM;

(2) MINIMUM TRAINING REQUIREMENTS FOR ALL PROGRAM STAFF AND VOLUNTEERS;

(3) COOPERATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE DEPARTMENT OF HUMAN RESOURCES;

(4) ANNUAL REVIEW BY THE DEPARTMENT OF ALL OMBUDSMAN ACTIVITIES;

(5) COMPLAINT REVIEW, INVESTIGATION, AND RESOLUTION PROCEDURES, INCLUDING PROVISIONS TO ENSURE THE CONFIDENTIALITY OF COMPLAINTS AND THE RIGHT OF PRIVACY OF A COMPLAINANT OR RESIDENT OF A RELATED INSTITUTION;

(6) MAINTENANCE OF RECORDKEEPING OR INFORMATION SYSTEMS BY THE LOCAL OMBUDSMAN THAT ENSURE THE CONFIDENTIALITY OF RECORDS AND THE RIGHT OF PRIVACY OF A COMPLAINANT OR RESIDENT OF A RELATED INSTITUTION;

(7) ACCESS, REVIEW, AND COPYING OF MEDICAL RECORDS TO THE EXTENT AUTHORIZED BY § 4-305(B)(3) OF THE HEALTH – GENERAL ARTICLE WHEN THE LOCAL OMBUDSMAN IS THE PERSON IN INTEREST OR AS OTHERWISE PROVIDED BY LAW; AND

(8) A PROCESS FOR ASSISTING INDIVIDUALS WITH ORGANIZING AND OPERATING A FAMILY COUNCIL IN A NURSING HOME.

(E) STAFFING RATIOS.

THE SECRETARY SHALL ESTABLISH AND SUBMIT A BUDGET FOR MINIMUM STAFFING RATIOS FOR THE PROGRAM AT THE HIGHEST OF:

(1) ONE FULL-TIME OMBUDSMAN PER 1,000 LONG-TERM CARE BEDS;

(2) 20 HOURS OF OMBUDSMAN TIME PER WEEK PER AREA AGENCY; OR

(3) 10 HOURS OF OMBUDSMAN TIME PER WEEK PER NURSING HOME.

(F) LIABILITY.

A REPRESENTATIVE OF THE PROGRAM MAY NOT BE HELD LIABLE FOR THE GOOD FAITH PERFORMANCE OF AN OFFICIAL DUTY.

(G) PROHIBITED ACTS.

(1) A PERSON MAY NOT WILLFULLY INTERFERE WITH A REPRESENTATIVE OF THE PROGRAM IN THE PERFORMANCE OF AN OFFICIAL DUTY.

(2) A PERSON MAY NOT RETALIATE OR MAKE REPRISALS WITH RESPECT TO ANY PERSON WHO FILED A COMPLAINT WITH, OR PROVIDED INFORMATION TO, A REPRESENTATIVE OF THE PROGRAM.

(3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A PENALTY NOT EXCEEDING \$1,500.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language to a definition section.

Subsection (a)(2) of this section is new language added to avoid repetition of the full reference to the "Maryland Long-Term Care Ombudsman Program".

Subsections (a)(3) and (b) through (g) of this section are new language derived without substantive change from former Art. 70B, § 5(c) through (f) and, as it defined "related institution", (a).

Subsection (b) of this section is revised in standard language for consistency with similar provisions throughout this article.

In subsection (c)(2)(ii) of this section, the defined term "area agency" is substituted for the former reference to a "local office on aging" for consistency throughout this title.

In subsection (d)(6) of this section, the former reference to "files" is deleted in light of the reference to "records".

In the introductory language of subsection (e) of this section, the word "highest" is substituted for the former incorrect word "higher".

The Human Services Article Review Committee notes, for consideration by the General Assembly, that although the term "nursing home" is used in subsections (d)(8) and (e)(3) of this section, the term is not defined. The General Assembly may wish to define the term for purposes of this section.

Defined terms: "Area agency" § 10-101

"Department" § 10-101

"Person" § 1-101

"Secretary" § 10-101

10-214. UNCLAIMED DECEASED NURSING HOME RESIDENTS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "NURSING HOME" MEANS COMPREHENSIVE CARE FACILITIES AND EXTENDED CARE FACILITIES.

(3) "UNCLAIMED DECEASED NURSING HOME RESIDENT" MEANS A RESIDENT OF A NURSING HOME:

(I) WHO HAS NOT PREARRANGED AND PREPAID FOR THE DISPOSAL OF THE RESIDENT'S BODY; AND

(II) FOR WHOM NO PERSON HAS CLAIMED THE BODY AND ASSUMED FUNERAL OR BURIAL RESPONSIBILITY ON THE DEATH OF THE RESIDENT.

(B) REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS ESTABLISHING GUIDELINES FOR NURSING HOME ADMINISTRATORS REGARDING FUNERAL AND BURIAL ARRANGEMENTS FOR UNCLAIMED DECEASED NURSING HOME RESIDENTS:

- (1) CONSISTENT WITH § 5-406 OF THE HEALTH – GENERAL ARTICLE; AND
- (2) WITH THE COOPERATION OF THE STATE ANATOMY BOARD.

(C) NOTIFICATION.

A NURSING HOME ADMINISTRATOR SHALL:

- (1) IMMEDIATELY NOTIFY THE DEPARTMENT OF THE DEATH OF AN UNCLAIMED DECEASED NURSING HOME RESIDENT; AND
- (2) OBTAIN THE APPROVAL OF THE DEPARTMENT BEFORE BURYING OR MAKING FUNERAL ARRANGEMENTS FOR THE UNCLAIMED DECEASED NURSING HOME RESIDENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 5A.

In the introductory language of subsection (b) of this section, the reference to “adopt[ing] regulations” is added for consistency with Title 10, Subtitle 1 of the State Government Article and to reflect current practice.

Defined terms: “Department” § 10-101
 “Secretary” § 10-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 70B, § 25, which established a Senior Housing Managers Training Program, is deleted as obsolete. The Department of Aging advises that the Program no longer exists.

SUBTITLE 3. INTERAGENCY COMMITTEE ON AGING SERVICES.

10-301. ESTABLISHED.

THERE IS AN INTERAGENCY COMMITTEE ON AGING SERVICES IN THE EXECUTIVE DEPARTMENT.

REVISOR'S NOTE: This section formerly was Art. 70B, § 4A.

No changes are made.

10-302. MEMBERSHIP.

- (A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE INTERAGENCY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

- (1) THE SECRETARY OF AGING;
- (2) THE SECRETARY OF DISABILITIES;
- (3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;
- (4) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;
- (5) THE SECRETARY OF HUMAN RESOURCES;
- (6) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;
- (7) THE SECRETARY OF TRANSPORTATION;
- (8) A REPRESENTATIVE FROM AN AREA AGENCY APPOINTED BY THE GOVERNOR FROM A LIST SUBMITTED BY THE MARYLAND ASSOCIATION OF AREA AGENCIES ON AGING; AND
- (9) A MEMBER OF THE PUBLIC APPOINTED BY THE GOVERNOR.

(B) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR UNDER SUBSECTION (A)(8) OR (9) OF THIS SECTION IS 2 YEARS.

(2) A MEMBER APPOINTED BY THE GOVERNOR UNDER SUBSECTION (A)(8) OR (9) OF THIS SECTION MAY NOT BE REAPPOINTED FOR MORE THAN 2 ADDITIONAL TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4B(a) and (b).

In subsection (a)(8) of this section, the defined term "area agency" is substituted for the former reference to a "local area agency on aging" for consistency throughout this title.

In subsection (a)(9) of this section, the former reference to the "general" public is deleted as surplusage.

In subsection (b) of this section, the references to a "member appointed by the Governor under subsection (a)(8) or (9) of this section" are substituted for the former reference to the "representative from the local area agency and the general public member" for clarity.

Defined terms: "Area agency" § 10-101
 "Interagency Committee" § 10-101

10-303. CHAIR.

THE GOVERNOR SHALL APPOINT THE CHAIR OF THE INTERAGENCY COMMITTEE FROM AMONG THE MEMBERS LISTED IN § 10-302(A)(1) THROUGH (7) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4B(c).

In this section and throughout this subtitle, the reference to the "chair" is substituted for the former reference to the "Chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent possible.

The reference to the "members listed in § 10-302(a)(1) through (7) of this subtitle" is substituted for the former reference to "the agency heads who serve on the Committee" for clarity.

Former Art. 70B, § 4(a)(11), which required that the Secretary of Aging chair the Interagency Committee on Aging Services, is deleted as inconsistent with former Art. 70B, § 4B(c), which required the Governor to appoint the chair from among the agency heads who serve on the Committee. If two statutes contain an irreconcilable conflict, the later statute governs to the extent of the conflict. *See State v. Ghajari*, 346 Md. 101 (1997). Former Art. 70B, § 4(a)(11) was enacted by Ch. 101, Acts of 1982; former Art. 70B, § 4B(c) was enacted by Ch. 538, Acts of 1989. Accordingly, the later enactment has been given effect in this revision. The Human Services Article Review Committee calls this deletion to the attention of the General Assembly.

Defined term: "Interagency Committee" § 10-101

10-304. EXECUTIVE DIRECTOR; LIAISONS.

(A) EXECUTIVE DIRECTOR.

(1) AN EXECUTIVE DIRECTOR SHALL SERVE AS THE PRINCIPAL STAFF OF THE INTERAGENCY COMMITTEE.

(2) THE EXECUTIVE DIRECTOR SHALL BE AN EMPLOYEE OF THE DEPARTMENT.

(B) LIAISONS.

EACH MEMBER OF THE INTERAGENCY COMMITTEE LISTED IN § 10-302(A)(1) THROUGH (7) OF THIS SUBTITLE SHALL DESIGNATE AN EMPLOYEE AS LIAISON WITH THE EXECUTIVE DIRECTOR TO:

- (1) IMPLEMENT POLICIES OF THE INTERAGENCY COMMITTEE; AND
- (2) MONITOR THE EXPENDITURE OF FUNDS TO SERVE SENIORS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4B(d).

In the introductory language of subsection (b) of this section, the reference to "[e]ach member of the Interagency Committee listed in § 10-302(a)(1) through (7) of this subtitle" is substituted for the former reference to "[e]ach member agency" for clarity.

As to the substitution of the reference to “seniors” for the former reference to “the elderly” in subsection (b)(2) of this section, *see* General Revisor’s Note to title.

Defined terms: “Department” § 10–101
 “Interagency Committee” § 10–101

10–305. MEETINGS.

(A) IN GENERAL.

THE INTERAGENCY COMMITTEE SHALL MEET AT LEAST QUARTERLY.

(B) EXECUTIVE MEETING.

THE CHAIR SHALL DESIGNATE AT LEAST ONE MEETING EACH YEAR AS AN EXECUTIVE MEETING.

(C) DESIGNEES.

A MEMBER OF THE INTERAGENCY COMMITTEE MAY SEND A DESIGNEE TO REPRESENT THE MEMBER AT ANY MEETING THAT IS NOT AN EXECUTIVE MEETING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4C(c).

In subsection (a) of this section, the former reference to meeting quarterly “during each year” is deleted as implicit.

Defined term: “Interagency Committee” § 10–101

10–306. DUTIES.

(A) COORDINATED SERVICES PLAN.

(1) THE INTERAGENCY COMMITTEE SHALL DEVELOP AND UPDATE ANNUALLY A PLAN FOR PROVIDING COORDINATED HEALTH SERVICES, SOCIAL SERVICES, TRANSPORTATION, HOUSING, AND EMPLOYMENT SERVICES TO SENIORS IN THE STATE CONSISTENT WITH THE PRIORITIES THAT THE DEPARTMENT ESTABLISHES.

(2) IF THE MEMBERS OF THE INTERAGENCY COMMITTEE CANNOT AGREE ON A PLAN, THE CHAIR SHALL REFER THE MATTER TO THE GOVERNOR FOR RESOLUTION.

(B) CONSOLIDATED OPERATING BUDGET.

ANNUALLY ON OR BEFORE A DATE THAT THE GOVERNOR SETS, THE INTERAGENCY COMMITTEE SHALL DEVELOP AND PRESENT TO THE GOVERNOR AND THE GENERAL ASSEMBLY A CONSOLIDATED OPERATING BUDGET FOR SERVICES TO SENIORS THAT:

(1) SETS FORTH THE RELEVANT PORTIONS OF THE OPERATING BUDGET OF ANY UNIT RESPONSIBLE FOR SERVICES TO SENIORS; AND

(2) IS CONSISTENT WITH THE PLAN DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION.

(C) INTERAGENCY AGREEMENTS.

THE INTERAGENCY COMMITTEE SHALL ESTABLISH INTERAGENCY AGREEMENTS AND ADOPT REGULATIONS TO:

(1) IMPLEMENT AND COORDINATE SERVICES TO SENIORS CONSISTENT WITH THE PLAN DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION;

(2) MAXIMIZE THE SHARING OF RESOURCES AMONG UNITS OF STATE GOVERNMENT FOR SERVICES TO SENIORS;

(3) CONSOLIDATE PLANNING AND EVALUATION EFFORTS AT THE STATE AND LOCAL LEVELS; AND

(4) COORDINATE AND EXPEDITE THE DELIVERY OF SERVICES TO SENIORS BY PROVIDING TECHNICAL ASSISTANCE TO LOCAL AGENCIES.

(D) LOCAL INTERAGENCY COMMITTEES.

(1) THE INTERAGENCY COMMITTEE SHALL ASSIST COUNTY AGENCIES TO ESTABLISH LOCAL INTERAGENCY COMMITTEES COMPOSED OF:

(I) THE DIRECTORS OF THE LOCAL HEALTH DEPARTMENT, LOCAL DEPARTMENT OF SOCIAL SERVICES, AND AREA AGENCY; AND

(II) OFFICIALS FROM HOUSING, TRANSPORTATION, MENTAL HEALTH, EMPLOYMENT, AND ECONOMIC DEVELOPMENT AGENCIES.

(2) LOCAL INTERAGENCY COMMITTEES SHALL COORDINATE AND EXPEDITE THE DELIVERY OF SERVICES TO SENIORS AT THE LOCAL LEVEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4C(b) and (d).

As to the substitution of the references to "seniors" for the former references to "elderly persons" and "the elderly" in subsections (a)(1), (c)(4), and (d)(2) of this section and the substitution of the references to "services to seniors" for the former references to "aging services" in subsections (b)(1) and (c)(1) and the introductory language of (b) of this section, *see* General Revisor's Note to title.

In subsection (a)(2) of this section, the former reference to a plan "for services to elderly persons" is deleted as implicit.

In subsection (b)(2) of this section, the reference to the "plan developed under subsection (a) of this section" is substituted for the former reference to the "Interagency Committee plan for providing coordinated health services, social services, transportation, housing, and employment services to elderly persons in this State" for brevity.

In the introductory language of subsection (c) of this section, the former

reference to “appropriate” agreements is deleted as implicit in the authority to establish agreements. Similarly, the former reference to “necessary” regulations is deleted.

Also in the introductory language of subsection (c) of this section, the former reference to “rules” is deleted in light of the reference to “regulations”. *See* General Revisor’s Note to article.

In subsection (c)(1) of this section, the reference to the “plan developed under subsection (a) of this section” is substituted for the former reference to the “Interagency Committee plan” for clarity and consistency.

In subsection (c)(2) of this section, the reference to “units of State government” is substituted for the former word “agency” for clarity and consistency. *See* General Revisor’s Note to article.

Former Art. 70B, § 4C(a), which provided that the powers and duties under this section are in addition to any other powers and duties under this subtitle, is deleted as surplusage.

Defined terms: “Area agency” § 10–101
 “County” § 1–101
 “Department” § 10–101
 “Interagency Committee” § 10–101

10–307. SINGLE POINT OF ENTRY PROGRAM.

(A) IN GENERAL.

(1) THE INTERAGENCY COMMITTEE SHALL ESTABLISH AND COORDINATE A PROGRAM TO PROVIDE SINGLE POINTS OF ENTRY WITHIN EACH PLANNING AND SERVICE AREA.

(2) THE DEPARTMENT SHALL SUPERVISE THE PROGRAM FOR THE INTERAGENCY COMMITTEE.

(B) OPERATION.

EACH AREA AGENCY SHALL OPERATE A SINGLE POINT OF ENTRY PROGRAM TO ASSESS THE NEEDS OF SENIORS AND THEIR CAREGIVERS AND PROVIDE APPROPRIATE SERVICES.

(C) SERVICES.

THE FOLLOWING SERVICES SHALL BE PROVIDED THROUGH A SINGLE POINT OF ENTRY:

(1) PROVIDING CURRENT INFORMATION ON AVAILABLE PROGRAMS, SERVICES, OR BENEFITS;

(2) DETERMINING THE SERVICE NEEDS OF EACH SENIOR WHO REQUESTS SERVICE;

(3) PROCESSING REQUESTS FOR SERVICE FROM SENIORS;

(4) THROUGH WIDELY PUBLICIZED LOCAL OUTREACH FACILITIES AND COMMUNICATIONS SYSTEMS, PROVIDING ACCESS TO AVAILABLE PUBLIC AND PRIVATE PROGRAMS AND SERVICES FOR SENIORS, INCLUDING:

- (I) TRANSPORTATION SERVICES;
- (II) HEALTH AND NUTRITION SERVICES;
- (III) FINANCIAL ASSISTANCE;
- (IV) SOCIAL SERVICES;
- (V) EDUCATIONAL SERVICES;
- (VI) SERVICES AVAILABLE THROUGH VOLUNTEER ORGANIZATIONS OR PRIVATE AGENCIES;
- (VII) APPROPRIATE HOUSING ARRANGEMENTS;
- (VIII) HEALTH INSURANCE COUNSELING;
- (IX) EMPLOYMENT AND VOLUNTEER OPPORTUNITIES;
- (X) RESPITE CARE SERVICES; AND
- (XI) OTHER PROGRAMS, INFORMATION, COUNSELING, OR BENEFITS FOR SENIORS;

(5) MONITORING THE OUTCOME OF REQUESTS FOR SERVICE OR INFORMATION; AND

(6) ARRANGING WITH OTHER AGENCIES FOR INDIVIDUAL ASSESSMENT TO DETERMINE THE SERVICE NEEDS OF A FRAIL OR HEALTH-IMPAIRED SENIOR.

(D) LOCATION; HOURS.

TO THE EXTENT POSSIBLE, EACH SINGLE POINT OF ENTRY SHALL BE:

- (1) LOCATED IN A SENIOR CITIZEN CENTER; AND
- (2) AVAILABLE FOR ACCESS AT LEAST 5 DAYS A WEEK.

(E) STAFF.

LOCAL INTERAGENCY COMMITTEES ON SERVICES TO SENIORS SHALL MAKE AGREEMENTS AMONG THEMSELVES AND WITH OTHER AGENCIES TO PROVIDE STAFF ON A REGULAR BASIS AT THE SINGLE POINTS OF ENTRY TO:

- (1) PROVIDE INFORMATION AND SERVICES TO SENIORS; AND
- (2) ADMINISTER AGENCY PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 4E and 4F.

As to the substitution of references to "seniors" and "senior" for the former

references to “elderly persons”, “the elderly”, and “elderly person” throughout this section, *see* General Revisor’s Note to title.

In subsection (a) of this section, the former reference to a “designated” planning and service area is deleted in light of the definition of “planning and service area”. *See* § 10–101 of this title.

Also in subsection (a) of this section, the former reference to each planning and service area “throughout the State” is deleted as implicit.

As to the substitution of the reference to “services to seniors” for the former reference to “aging services” in subsection (e) of this section, *see* General Revisor’s Note to title.

Also in subsection (e) of this section, the former reference to other “public and private” agencies is deleted as implicit and for consistency throughout this subtitle. *See, e.g.*, §§ 10–306(c)(4) and (d) and 10–307(c)(6).

Defined terms: “Area agency” § 10–101

“Department” § 10–101

“Interagency Committee” § 10–101

“Planning and service area” § 10–101

10–308. TELEPHONE INFORMATION AND REFERRAL SERVICE.

EACH PLANNING AND SERVICE AREA SHALL HAVE A TELEPHONE INFORMATION AND REFERRAL SERVICE THAT IS AVAILABLE ON A 24-HOUR BASIS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4G.

The reference to being “available” is substituted for the former reference to being “in effect” for clarity.

The former reference to a “designated” planning and service area is deleted in light of the definition of “planning and service area”. *See* § 10–101 of this title.

Defined term: “Planning and service area” § 10–101

10–309. SERVICES FOR FRAIL OR HEALTH-IMPAIRED SENIORS.

(A) IN GENERAL.

(1) THE INTERAGENCY COMMITTEE SHALL:

(I) DEVELOP A SYSTEM TO PROVIDE SERVICES TO FRAIL OR HEALTH-IMPAIRED SENIORS AT RISK OF INSTITUTIONALIZATION; AND

(II) COORDINATE THE SYSTEM AMONG THE AGENCIES REPRESENTED ON THE INTERAGENCY COMMITTEE.

(2) THE DEPARTMENT SHALL ADMINISTER THE SYSTEM FOR THE INTERAGENCY COMMITTEE.

(B) SERVICES INCLUDED.

THE SERVICES SHALL INCLUDE:

- (1) INTEGRATED SCREENING AND EVALUATION;
- (2) DEVELOPMENT OF AN INDIVIDUAL PLAN OF CARE;
- (3) IN-HOME SERVICES SUCH AS MINOR HOME REPAIR, SHOPPING ASSISTANCE, HOMEMAKING, PERSONAL CARE, MEAL DELIVERY OR PREPARATION, SUPPORTIVE SERVICES TO GROUP OR SHARED LIVING ARRANGEMENTS, TRANSPORTATION SERVICES, AND HEALTH SERVICES; AND
- (4) COMMUNITY SERVICES SUCH AS DAY CARE, CONGREGATE MEALS, AND OTHER PROGRAMS TO ASSIST SENIORS OR ADULT CAREGIVERS IN PROVIDING CARE FOR SENIORS.

(C) COMMUNITY-BASED PLAN.

TO BE ELIGIBLE TO PARTICIPATE IN THE SYSTEM, A COUNTY OR COUNTIES SHALL ESTABLISH A COMMUNITY-BASED PLAN THAT:

- (1) IS DEVELOPED BY A LOCAL OR REGIONAL COMMITTEE COMPOSED OF:
 - (I) THE DIRECTORS OF THE LOCAL HEALTH DEPARTMENT, LOCAL DEPARTMENT OF SOCIAL SERVICES, AND AREA AGENCY; AND
 - (II) OFFICIALS OF OTHER RELEVANT AGENCIES, SUCH AS LOCAL HOUSING, TRANSPORTATION, EMPLOYMENT, AND ECONOMIC DEVELOPMENT OFFICIALS;
 - (2) IS CONSISTENT WITH THE PLAN DEVELOPED UNDER § 10-306(A) OF THIS SUBTITLE;
 - (3) SPECIFIES ADMINISTRATIVE ARRANGEMENTS TO EVALUATE AND DEVELOP CARE PLANS FOR FRAIL OR HEALTH-IMPAIRED SENIORS;
 - (4) ENCOURAGES FURTHER COORDINATION OF SERVICE DELIVERY;
 - (5) FOSTERS INDIVIDUAL CONTRIBUTIONS FOR SERVICES PROVIDED;
 - (6) FOSTERS THE DEVELOPMENT OF INNOVATIVE SERVICE DELIVERY;
 - (7) FOSTERS THE DEVELOPMENT OF SERVICES IN CONJUNCTION WITH THE PRIVATE SECTOR; AND
 - (8) FOSTERS COMMUNITY INVOLVEMENT THROUGH THE USE OF VOLUNTEERS.
- (D) MANAGEMENT AND COORDINATION.

THE INTERAGENCY COMMITTEE, THROUGH THE DEPARTMENT, SHALL WORK WITH LOCAL HEALTH DEPARTMENTS, LOCAL DEPARTMENTS OF SOCIAL SERVICES,

AREA AGENCIES, AND LOCAL HOUSING, TRANSPORTATION, ECONOMIC DEVELOPMENT, AND EMPLOYMENT DEVELOPMENT OFFICIALS TO DEVELOP:

(1) A SYSTEM TO DESIGNATE CASE MANAGERS TO SECURE AND MANAGE NECESSARY SERVICES FOR EACH FRAIL OR HEALTH-IMPAIRED SENIOR IN NEED; AND

(2) GUIDELINES TO ESTABLISH LOCAL OR REGIONAL COMMITTEES TO COORDINATE THE SERVICES SYSTEM TO IMPLEMENT THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4H.

As to the substitution of references to "seniors" and "senior" for the former references to "elderly persons", "the elderly", and "elderly person" throughout this section, *see* General Revisor's Note to title.

In subsection (a)(1)(ii) of this section, the reference to the "agencies represented on the Interagency Committee" is substituted for the former reference to the "various agencies" for clarity.

In subsection (a)(2) of this section, the former reference to the "services" system is deleted as surplusage.

In subsection (b)(4) of this section, the reference to "providing care for" seniors is substituted for the former reference to "maintaining" seniors for clarity.

Also in subsection (b)(4) of this section, the former reference to "[o]ther" community services is deleted as surplusage.

In subsection (c)(1) of this section, the defined term "area agency" is substituted for the former reference to an "area agency on aging" for consistency throughout this subtitle.

In subsection (c)(2) of this section, the reference to the "plan developed under § 10-306(a) of this subtitle" is substituted for the former reference to the "Interagency Committee coordinated plan for elderly persons" for clarity and consistency.

Defined terms: "Area agency" § 10-101

"County" § 1-101

"Department" § 10-101

"Interagency Committee" § 10-101

10-310. ANNUAL REPORT.

SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE INTERAGENCY COMMITTEE SHALL PRESENT A REPORT BEFORE EACH LEGISLATIVE SESSION TO THE GENERAL ASSEMBLY ON:

(1) THE PLAN DEVELOPED UNDER § 10-306(A) OF THIS SUBTITLE;

- (2) THE ACTIVITIES OF THE INTERAGENCY COMMITTEE; AND
- (3) THE STATUS OF SERVICES TO SENIORS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 4D.

In item (1) of this section, the reference to the "plan developed under § 10-306(a) of this subtitle" is substituted for the former reference to "the annual aging services plan" for clarity and consistency.

As to the substitution of the reference to "services to seniors" for the former reference to "aging services" in item (3) of this section, *see* General Revisor's Note to title.

Also in item (3) of this section, the former reference to the "current" status of services is deleted as implicit.

Defined term: "Interagency Committee" § 10-101

SUBTITLE 4. CONTINUING CARE.

PART I. DEFINITIONS; GENERAL PROVISIONS.

10-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(a).

No changes are made.

(B) ASSISTED LIVING PROGRAM.

"ASSISTED LIVING PROGRAM" HAS THE MEANING STATED IN § 19-1801 OF THE HEALTH - GENERAL ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(b).

No changes are made.

(C) CERTIFIED FINANCIAL STATEMENT.

"CERTIFIED FINANCIAL STATEMENT" MEANS A COMPLETE AUDIT PREPARED AND CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(c).

No changes are made.

(D) CONTINUING CARE.

"CONTINUING CARE" MEANS:

- (1) CONTINUING CARE IN A RETIREMENT COMMUNITY; OR
- (2) CONTINUING CARE AT HOME.

REVISOR'S NOTE: This subsection is new language added for clarity.

Defined terms: "Continuing care at home" § 10-401
 "Continuing care in a retirement community" § 10-401

- (E) CONTINUING CARE AGREEMENT.

"CONTINUING CARE AGREEMENT" MEANS AN AGREEMENT BETWEEN A PROVIDER AND A SUBSCRIBER TO PROVIDE CONTINUING CARE.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(e).

No changes are made.

Defined terms: "Continuing care" § 10-401
 "Provider" § 10-401
 "Subscriber" § 10-401

- (F) CONTINUING CARE AT HOME.

(1) "CONTINUING CARE AT HOME" MEANS PROVIDING MEDICAL, NURSING, OR OTHER HEALTH RELATED SERVICES DIRECTLY OR BY CONTRACTUAL ARRANGEMENT:

(I) TO AN INDIVIDUAL WHO IS AT LEAST 60 YEARS OF AGE AND NOT RELATED BY BLOOD OR MARRIAGE TO THE PROVIDER;

(II) FOR THE LIFE OF THE INDIVIDUAL OR FOR A PERIOD EXCEEDING 1 YEAR; AND

(III) UNDER A WRITTEN AGREEMENT THAT REQUIRES A TRANSFER OF ASSETS OR AN ENTRANCE FEE NOTWITHSTANDING PERIODIC CHARGES.

(2) "CONTINUING CARE AT HOME" INCLUDES PROVIDING ASSISTANCE WITH THE PHYSICAL MAINTENANCE OF THE INDIVIDUAL'S DWELLING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 22A(a).

The former introductory language "[i]n this section:" is deleted as unnecessary in light of subsection (a) of this section.

Defined terms: "Entrance fee" § 10-401
 "Health related services" § 10-401

- (G) CONTINUING CARE IN A RETIREMENT COMMUNITY.

"CONTINUING CARE IN A RETIREMENT COMMUNITY" MEANS PROVIDING SHELTER AND PROVIDING EITHER MEDICAL AND NURSING OR OTHER HEALTH RELATED SERVICES OR MAKING THE SERVICES READILY ACCESSIBLE THROUGH THE

PROVIDER OR AN AFFILIATE OF THE PROVIDER, WHETHER OR NOT THE SERVICES ARE SPECIFICALLY OFFERED IN THE WRITTEN AGREEMENT FOR SHELTER:

- (1) TO AN INDIVIDUAL WHO IS AT LEAST 60 YEARS OF AGE AND NOT RELATED BY BLOOD OR MARRIAGE TO THE PROVIDER;
- (2) FOR THE LIFE OF THE INDIVIDUAL OR FOR A PERIOD EXCEEDING 1 YEAR; AND
- (3) UNDER ONE OR MORE WRITTEN AGREEMENTS THAT REQUIRE A TRANSFER OF ASSETS OR AN ENTRANCE FEE NOTWITHSTANDING PERIODIC CHARGES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(d) and (r).

In the introductory language of this section, the former phrase "for use by a subscriber" is deleted as surplusage.

The former defined term "[m]aking available either medical and nursing services or other health related services" in former Art. 70B, § 7(r) was only used in the former definition of "[c]ontinuing care" in former § 7(d). The elements of former § 7(r) are incorporated into the revised definition of "[c]ontinuing care in a retirement community" in this subsection.

In this subsection and throughout this subtitle, references to "continuing care in a retirement community" are substituted for former references to "continuing care", where appropriate, to clearly distinguish it from "continuing care at home".

Defined terms: "Entrance fee" § 10-401

"Health related services" § 10-401

"Provider" § 10-401

(H) CONTRACTUAL ENTRANCE FEE REFUND.

(1) "CONTRACTUAL ENTRANCE FEE REFUND" MEANS A REPAYMENT OF ALL OR PART OF A SUBSCRIBER'S ENTRANCE FEE TO THE SUBSCRIBER OR THE SUBSCRIBER'S ESTATE OR DESIGNATED BENEFICIARY, AS REQUIRED BY THE TERMS OF THE CONTINUING CARE AGREEMENT.

(2) "CONTRACTUAL ENTRANCE FEE REFUND" DOES NOT INCLUDE A PAYMENT REQUIRED UNDER § 10-446 OR § 10-448 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(f).

In paragraph (2) of this subsection, the word "include" is substituted for the former word "mean" to conform to standard language used in definitions throughout other revised articles of the Code.

Defined terms: "Continuing care agreement" § 10-401

"Entrance fee" § 10-401

"Subscriber" § 10-401

(I) CONVERSION.

"CONVERSION" MEANS CONVERTING A PHYSICAL PLANT THAT PROVIDES HOUSING OR SHELTER INTO A FACILITY IF:

(1) THE RESIDENTIAL ACCOMMODATIONS EXIST BEFORE A STATEMENT OF INTENT IS FILED UNDER § 10-409(B) OF THIS SUBTITLE; AND

(2) AT LEAST 60% OF THE AVAILABLE RESIDENTIAL ACCOMMODATIONS OF THE FACILITY OWNER WERE OCCUPIED DURING THE TWO FISCAL YEARS PRIOR TO THE FILING OF A STATEMENT OF INTENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(f-1).

In the introductory language of this subsection, the reference to a "physical plant" is substituted for the former reference to a "facility" to avoid confusion with the defined term "facility".

Also in the introductory language of this subsection, the former phrase "the process of taking" is deleted for brevity.

Also in the introductory language of this subsection, the former reference to a "continuing care" facility is deleted as surplusage.

In item (2) of this subsection, the reference to "the filing of a statement of intent" is added for clarity.

Defined term: "Facility" § 10-401

(J) DEPOSIT.

"DEPOSIT" MEANS A PORTION OF AN ENTRANCE FEE.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(i).

No changes are made.

Defined term: "Entrance fee" § 10-401

(K) ENTRANCE FEE.

(1) "ENTRANCE FEE" MEANS A SUM OF MONEY OR OTHER CONSIDERATION PAID INITIALLY OR IN DEFERRED PAYMENTS, THAT:

(I) ASSURES A SUBSCRIBER CONTINUING CARE FOR THE LIFE OF THE SUBSCRIBER OR FOR A PERIOD EXCEEDING 1 YEAR; AND

(II) IS AT LEAST THREE TIMES THE WEIGHTED AVERAGE OF THE MONTHLY COST OF THE PERIODIC FEES CHARGED FOR INDEPENDENT LIVING AND ASSISTED LIVING UNITS.

(2) "ENTRANCE FEE" INCLUDES A FEE OF SIMILAR FORM AND APPLICATION, REGARDLESS OF TITLE.

(3) "ENTRANCE FEE" DOES NOT INCLUDE A SURCHARGE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(j).

Defined terms: "Continuing care" § 10-401

"Subscriber" § 10-401

"Surcharge" § 10-401

(L) EXPANSION.

(1) "EXPANSION" MEANS ANY SINGLE NEW CAPITAL ADDITION TO AN EXISTING FACILITY THAT MEETS EITHER OF THE FOLLOWING CRITERIA:

(I) IF INDEPENDENT OR ASSISTED LIVING UNITS ARE TO BE CONSTRUCTED, THE NUMBER OF UNITS TO BE CONSTRUCTED IS LESS THAN OR EQUAL TO 25% OF THE NUMBER OF EXISTING INDEPENDENT AND ASSISTED LIVING UNITS; OR

(II) IF INDEPENDENT OR ASSISTED LIVING UNITS ARE NOT TO BE CONSTRUCTED, THE TOTAL PROJECTED COST EXCEEDS THE SUM OF:

1. 10% OF THE TOTAL OPERATING EXPENSES, LESS DEPRECIATION, AMORTIZATION, AND INTEREST EXPENSE OF THE FACILITY AS SHOWN ON THE CERTIFIED FINANCIAL STATEMENT FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE; AND

2. THE AMOUNT OF THE EXISTING RESERVES PROPERLY ALLOCABLE TO, AND ALLOCATED FOR, THE EXPANSION.

(2) "EXPANSION" DOES NOT INCLUDE RENOVATION AND NORMAL REPAIR AND MAINTENANCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(k).

In the introductory language of this subsection, the reference to an addition to "an existing facility" is added for clarity.

Defined terms: "Certified financial statement" § 10-401

"Facility" § 10-401

(M) FACILITY.

"FACILITY" MEANS A PHYSICAL PLANT IN WHICH CONTINUING CARE IN A RETIREMENT COMMUNITY IS PROVIDED IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(m).

Defined term: "Continuing care in a retirement community" § 10-401

(N) FINANCIAL DIFFICULTY.

“FINANCIAL DIFFICULTY” MEANS CURRENT OR IMPENDING FINANCIAL CONDITIONS THAT IMPAIR OR MAY IMPAIR THE ABILITY OF A PROVIDER TO MEET EXISTING OR FUTURE OBLIGATIONS.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(n).

The only changes are in style.

Defined term: “Provider” § 10–401

(O) GOVERNING BODY.

“GOVERNING BODY” MEANS A BOARD OF DIRECTORS, BOARD OF TRUSTEES, OR SIMILAR GROUP THAT ULTIMATELY DIRECTS THE AFFAIRS OF A PROVIDER, BUT WHOSE MEMBERS ARE NOT REQUIRED TO HAVE AN EQUITY INTEREST IN THE PROVIDER.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(p).

No changes are made.

Defined term: “Provider” § 10–401

(P) HEALTH RELATED SERVICES.

(1) “HEALTH RELATED SERVICES” MEANS SERVICES THAT ARE NEEDED BY A SUBSCRIBER TO MAINTAIN THE SUBSCRIBER’S HEALTH.

(2) “HEALTH RELATED SERVICES” INCLUDES:

(I) PRIORITY ADMISSION TO A NURSING HOME OR ASSISTED LIVING PROGRAM; OR

(II) EXCEPT FOR THE PROVISION OF MEALS, ASSISTANCE WITH THE ACTIVITIES OF DAILY LIVING.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(q).

Defined terms: “Assisted living program” § 10–401
“Subscriber” § 10–401

(Q) PERSON.

“PERSON” INCLUDES A GOVERNMENTAL ENTITY OR UNIT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(t).

The reference to a “governmental entity or unit” is substituted for the former reference to a “public body” for clarity and consistency.

The former reference to “any natural person, firm, association, corporation,

company, trust, partnership, limited liability company ..., or other business or nonprofit entity” is deleted as included in the definition of “person” in § 1–101 of this article.

Defined term: “Person” § 1–101

(R) PROCESSING FEE.

“PROCESSING FEE” MEANS A FEE IMPOSED BY A PROVIDER FOR DETERMINING THE FINANCIAL, MENTAL, AND PHYSICAL ELIGIBILITY OF AN APPLICANT FOR ENTRANCE INTO A FACILITY.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(u).

The only changes are in style.

Defined terms: “Facility” § 10–401

“Provider” § 10–401

(S) PROVIDER.

“PROVIDER” MEANS A PERSON WHO:

(1) UNDERTAKES TO PROVIDE CONTINUING CARE; AND

(2) IS:

(I) THE OWNER OR OPERATOR OF A FACILITY; OR

(II) AN APPLICANT FOR OR THE HOLDER OF A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(v).

The only changes are in style.

Defined terms: “Continuing care” § 10–401

“Facility” § 10–401

“Person” §§ 1–101, 10–401

(T) RECORDS.

“RECORDS” MEANS INFORMATION MAINTAINED BY A PROVIDER FOR THE PROPER OPERATION OF A FACILITY UNDER THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(x).

The only changes are in style.

Defined terms: “Facility” § 10–401

“Provider” § 10–401

(U) RENOVATION.

(1) “RENOVATION” MEANS ANY SINGLE CAPITAL IMPROVEMENT TO, OR REPLACEMENT OF, ALL OR PART OF AN EXISTING FACILITY THAT WILL NOT

INCREASE THE NUMBER OF INDEPENDENT OR ASSISTED LIVING UNITS AND FOR WHICH THE TOTAL PROJECTED COST EXCEEDS THE SUM OF:

(I) 20% OF THE TOTAL OPERATING EXPENSES, LESS DEPRECIATION, AMORTIZATION, AND INTEREST EXPENSE OF THE FACILITY AS SHOWN ON THE CERTIFIED FINANCIAL STATEMENT FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE; AND

(II) THE AMOUNT OF EXISTING RESERVES PROPERLY ALLOCABLE TO, AND ALLOCATED FOR, THE RENOVATION.

(2) "RENOVATION" DOES NOT INCLUDE NORMAL REPAIR OR MAINTENANCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(y).

Defined terms: "Certified financial statement" § 10-401

"Facility" § 10-401

(V) SUBSCRIBER.

"SUBSCRIBER" MEANS AN INDIVIDUAL FOR WHOM A CONTINUING CARE AGREEMENT IS PURCHASED.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(bb).

No changes are made.

Defined term: "Continuing care agreement" § 10-401

(W) SURCHARGE.

(1) "SURCHARGE" MEANS A SEPARATE AND ADDITIONAL CHARGE THAT:

(I) IS IMPOSED SIMULTANEOUSLY WITH THE ENTRANCE FEE; AND

(II) MAY BE REQUIRED OF SOME, BUT NOT ALL, SUBSCRIBERS BECAUSE OF A CONDITION OR CIRCUMSTANCE THAT APPLIES ONLY TO THOSE SUBSCRIBERS.

(2) "SURCHARGE" DOES NOT INCLUDE A SECOND PERSON ENTRANCE FEE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(cc).

Defined terms: "Entrance fee" § 10-401

"Person" §§ 1-101, 10-401

"Subscriber" § 10-401

10-402. APPLICATION OF SUBTITLE AND OTHER LAWS.

(A) APPLICATION OF SUBTITLE.

(1) A CONTINUING CARE AT HOME PROVIDER IS SUBJECT TO EACH PROVISION OF THIS SUBTITLE EXCEPT PART II AND §§ 10-446 AND 10-448.

(2) A CONTINUING CARE IN A RETIREMENT COMMUNITY PROVIDER IS SUBJECT TO EACH PROVISION OF THIS SUBTITLE EXCEPT PART VI.

(B) APPLICATION OF OTHER LAWS.

(1) A CONTINUING CARE OPERATION THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE IS NOT SUBJECT TO:

(I) THE MARYLAND HEALTH MAINTENANCE ORGANIZATION ACT UNDER TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE;

(II) EXCEPT FOR § 15-603 OF THE INSURANCE ARTICLE, THE INSURANCE ARTICLE;

(III) TITLE 8 OF THE REAL PROPERTY ARTICLE; OR

(IV) ANY COUNTY OR MUNICIPAL LANDLORD-TENANT LAW.

(2) IF A PROVIDER CONTRACTUALLY UTILIZES THE SERVICES OF A LICENSED HOME HEALTH AGENCY OR RESIDENTIAL SERVICE AGENCY AND IS NOT ITSELF DIRECTLY PROVIDING THE TYPE OF SERVICES PROVIDED BY A HOME HEALTH AGENCY OR RESIDENTIAL SERVICE AGENCY, THE PROVIDER IS NOT SUBJECT TO TITLE 19, SUBTITLES 4 AND 4A OF THE HEALTH – GENERAL ARTICLE.

(3) EXCEPT AS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A CONTINUING CARE AT HOME PROVIDER IS SUBJECT TO ALL OTHER APPLICABLE LICENSING OR CERTIFICATION REQUIREMENTS OF STATE LAW.

(C) SUBTITLE NOT APPLICABLE TO INSURANCE AGREEMENTS.

THIS SUBTITLE DOES NOT APPLY TO AN AGREEMENT THAT IS REGULATED AS INSURANCE UNDER THE INSURANCE ARTICLE.

(D) ASSISTED LIVING PROGRAM SERVICES.

A PROVIDER THAT OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM OF CARE IN ACCORDANCE WITH A CONTINUING CARE AGREEMENT MAY:

(1) EXECUTE A SEPARATE ASSISTED LIVING RESIDENT AGREEMENT AND A SEPARATE ASSISTED LIVING DISCLOSURE STATEMENT; OR

(2) MEET THE REQUIREMENTS OF §§ 10-425(C) AND 10-444(E) OF THIS SUBTITLE.

(E) LIMITATION ON LIABILITY.

THE LIABILITY OF A PROVIDER TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER § 15-603 OF THE INSURANCE ARTICLE SHALL BE LIMITED TO THE AMOUNT OF THE REFUND THAT WOULD BE DUE TO THE SUBSCRIBER IF THE SUBSCRIBER WERE DISMISSED UNDER § 10-448 OF THIS SUBTITLE AT THE TIME OF

ENROLLMENT IN SERVICES PROVIDED BY OR PAID WHOLLY OR PARTLY BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 23, 7(ee), and 22A(o) and (p).

In subsection (a)(1) of this section, the reference to "Part II", which includes former Art. 70B, § 9, is substituted for the former reference to "§§ 10, 11, 14, and 15 of this subtitle" for accuracy.

In subsections (a)(2) and (c) of this section, the former definition of the term "written agreement" is revised as substantive scope provisions for clarity.

In subsection (b)(1)(i) of this section, the reference to the "Maryland" Health Maintenance Organization Act is added for accuracy.

Also in subsection (b)(1)(i) of this section, the reference to "Title 19, Subtitle 7" of the Health – General Article is added for clarity.

Defined terms: "Assisted living program" § 10–401

"Continuing care" § 10–401

"Continuing care agreement" § 10–401

"Continuing care at home" § 10–401

"Continuing care in a retirement community" § 10–401

"County" § 1–101

"Provider" § 10–401

"Subscriber" § 10–401

10–403. DUTIES OF DEPARTMENT.

(A) IN GENERAL.

THE DEPARTMENT SHALL:

- (1) ADMINISTER THIS SUBTITLE;
- (2) PREPARE AND FURNISH ALL FORMS NECESSARY OR DESIRABLE UNDER THIS SUBTITLE;
- (3) ESTABLISH AND COLLECT REASONABLE FILING FEES TO CARRY OUT THIS SUBTITLE;
- (4) ADOPT REGULATIONS NECESSARY TO ENFORCE THIS SUBTITLE; AND
- (5) PREPARE AND DISTRIBUTE RELEVANT PUBLIC INFORMATION AND EDUCATIONAL MATERIALS DESIGNED TO ADVISE INDIVIDUALS, INSTITUTIONS, AND ORGANIZATIONS OF THEIR RIGHTS AND RESPONSIBILITIES UNDER THIS SUBTITLE.

(B) AVAILABILITY OF INFORMATION.

- (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL MAKE AVAILABLE TO INTERESTED PERSONS ANY

INFORMATION REQUIRED TO BE PROVIDED TO THE DEPARTMENT UNDER THIS SUBTITLE AND PUBLICIZE THE AVAILABILITY OF THE INFORMATION.

(2) (I) A FEASIBILITY STUDY FILED UNDER § 10-408 OF THIS SUBTITLE MAY NOT BE DISCLOSED UNTIL THE DEPARTMENT ISSUES AN INITIAL CERTIFICATE OF REGISTRATION FOR THE PROJECT.

(II) INFORMATION REQUIRED TO BE PROVIDED UNDER § 10-434(B)(2) OF THIS SUBTITLE SHALL BE DISCLOSED ONLY TO THE EXTENT REQUIRED UNDER THE PUBLIC INFORMATION ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 8 and 11(l).

In the introductory language and in item (1) of subsection (a) this section, the phrase “[t]he Department shall ... administer this subtitle” is substituted for the introductory language of former Art. 70B, § 8, which provided “[t]he administration of this subtitle is vested in the Department” for clarity and consistency in the enumerated duties of the Department.

In subsection (a)(3) of this section, the former reference to filing fees “established for” is deleted as redundant in light of the requirement that the Department “establish” filing fees.

In subsection (b)(1) of this section, the reference to information required to be provided “to the Department” is added for clarity.

In subsection (b)(2)(i) of this section, the phrase “may not be disclosed” is substituted for the former phrase “which shall be confidential” for clarity.

In subsection (b)(2)(ii) of this section, the former phrase “[p]aragraph (1) of this subsection does not apply” is deleted as unnecessary in light of the phrase “[e]xcept as provided in paragraph (2) of this subsection” in subsection (b)(1) of this section.

Defined terms: “Department” § 10-101

“Person” §§ 1-101, 10-401

10-404. PAYMENT FOR HEALTH RELATED SERVICES.

MEDICAL AND NURSING SERVICES AND OTHER HEALTH RELATED SERVICES MAY BE COVERED BY AN ENTRANCE FEE OR PERIODIC CHARGES OR, AT THE OPTION OF THE SUBSCRIBER, MAY BE PURCHASED FOR AN ADDITIONAL FEE.

REVISOR'S NOTE: This section formerly was Art. 70B, § 7A.

No changes are made.

Defined terms: “Entrance fee” § 10-401

“Health related services” § 10-401

“Subscriber” § 10-401

10-405. RESERVED.

10-406. RESERVED.

PART II. CONTINUING CARE IN A RETIREMENT COMMUNITY — CERTIFICATES OF REGISTRATION.

10-407. SCOPE OF PART.

THIS PART APPLIES ONLY TO CONTINUING CARE IN A RETIREMENT COMMUNITY OPERATIONS.

REVISOR'S NOTE: This section is new language added for clarity.

Defined term: "Continuing care in a retirement community" § 10-401

10-408. GENERAL REQUIREMENTS.

(A) COMPLIANCE WITH APPLICABLE PROVISIONS.

A PROVIDER SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF §§ 10-409 THROUGH 10-415 OF THIS SUBTITLE BEFORE THE PROVIDER MAY:

(1) OFFER CONTINUING CARE IN A RETIREMENT COMMUNITY;

(2) ENTER INTO OR RENEW CONTINUING CARE AGREEMENTS;

(3) BEGIN CONSTRUCTION OF A NEW FACILITY;

(4) BEGIN CONSTRUCTION OF AN EXPANSION TO OR RENOVATION OF AN EXISTING FACILITY; OR

(5) COLLECT DEPOSITS FOR CONTINUING CARE IN THIS STATE.

(B) CAPITAL ADDITIONS AND IMPROVEMENTS.

(1) A NEW CAPITAL ADDITION TO A FACILITY THAT WILL RESULT IN THE CONSTRUCTION OF A NUMBER OF INDEPENDENT AND ASSISTED LIVING UNITS THAT IS GREATER THAN 25% OF THE NUMBER OF EXISTING UNITS IS CONSIDERED NEW DEVELOPMENT AND IS SUBJECT TO §§ 10-409 THROUGH 10-411 OF THIS SUBTITLE.

(2) A NEW CAPITAL ADDITION TO A FACILITY THAT DOES NOT INVOLVE THE CONSTRUCTION OF INDEPENDENT OR ASSISTED LIVING UNITS AND THAT DOES NOT MEET THE STANDARD OF § 10-401(L)(1)(II) OF THIS SUBTITLE IS NOT SUBJECT TO REVIEW BY THE DEPARTMENT UNDER §§ 10-409 THROUGH 10-415 OF THIS SUBTITLE.

(3) A CAPITAL IMPROVEMENT OR REPLACEMENT THAT DOES NOT MEET THE STANDARD OF § 10-401(W) OF THIS SUBTITLE IS NOT SUBJECT TO REVIEW BY THE DEPARTMENT UNDER §§ 10-409 THROUGH 10-415 OF THIS SUBTITLE.

(C) APPLICANTS WITH MORE THAN ONE FACILITY.

A PROVIDER THAT HAS MORE THAN ONE FACILITY OFFERING CONTINUING CARE SHALL MAKE A SEPARATE APPLICATION FOR EACH FACILITY FOR PRELIMINARY, INITIAL, AND RENEWAL CERTIFICATES OF REGISTRATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 9.

In subsection (b)(1) and (2) of this section, the references to a capital addition "to a facility" are added for clarity.

Defined terms: "Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Continuing care in a retirement community" § 10-401

"Department" § 10-101

"Deposit" § 10-401

"Expansion" § 10-401

"Facility" § 10-401

"Provider" § 10-401

"Renovation" § 10-401

10-409. FEASIBILITY STUDY.

(A) REQUIRED.

A PROVIDER MAY NOT COLLECT DEPOSITS FOR CONTINUING CARE OR BEGIN CONSTRUCTION OF A NEW FACILITY UNTIL THE DEPARTMENT APPROVES A FEASIBILITY STUDY.

(B) STATEMENT OF INTENT.

A PERSON WHO INTENDS TO SUBMIT A FEASIBILITY STUDY UNDER SUBSECTION (C) OF THIS SECTION SHALL FILE WITH THE DEPARTMENT A STATEMENT OF INTENT TO PROVIDE CONTINUING CARE AT LEAST 30 DAYS BEFORE THE PERSON SUBMITS THE FEASIBILITY STUDY TO THE DEPARTMENT.

(C) FORM AND CONTENTS.

A FEASIBILITY STUDY SHALL:

(1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND

(2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(I) A STATEMENT OF THE PURPOSE OF THE PROPOSED CONSTRUCTION OR CONVERSION;

(II) DOCUMENTATION OF THE FINANCIAL RESOURCES OF THE PROVIDER;

(III) A STATEMENT OF THE CAPITAL EXPENDITURES NECESSARY TO ACCOMPLISH THE PROJECT AND THE PLAN FOR ACQUIRING THE NECESSARY CAPITAL;

(IV) A PLAN DEMONSTRATING THE FINANCIAL FEASIBILITY OF THE PROPOSED PROJECT, INCLUDING FUTURE FUNDING SOURCES;

(V) A STUDY THAT DEMONSTRATES THE MARKET FOR THE PROJECT;

(VI) AN ACTUARIAL FORECAST REVIEWED BY A QUALIFIED ACTUARY;

(VII) A STATEMENT OF THE PLANNED FEE STRUCTURE, INCLUDING ANY PROPOSED ESCALATOR OR OTHER AUTOMATIC ADJUSTMENT PROVISION;

(VIII) A DESCRIPTION OF THE FACILITY PROPOSED TO BE USED OR BEING USED FOR CONTINUING CARE;

(IX) A COPY OF THE PROPOSED ESCROW AND DEPOSIT AGREEMENTS; AND

(X) THE FORM AND SUBSTANCE OF ANY PROPOSED ADVERTISEMENT, ADVERTISING CAMPAIGN, OR PROMOTIONAL MATERIAL FOR THE FACILITY THAT IS AVAILABLE AT THE TIME OF FILING.

(D) APPROVAL OF FEASIBILITY STUDY.

THE DEPARTMENT MAY APPROVE A FEASIBILITY STUDY IF THE DEPARTMENT DETERMINES THAT:

(1) THE NUMBER OF COMPREHENSIVE CARE OR ASSISTED LIVING BEDS IN THE FACILITY FOR WHICH LICENSES ARE REQUIRED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IS NOT INCONSISTENT WITH THE STATE HEALTH PLAN;

(2) A REASONABLE FINANCIAL PLAN HAS BEEN SUBMITTED FOR DEVELOPING AND OPERATING THE PROJECT;

(3) A MARKET FOR THE FACILITY APPEARS TO EXIST;

(4) A RECOGNIZED AUTHORITY PREPARED THE FEASIBILITY STUDY;

(5) THE ACTUARIAL FORECAST SUPPORTS THE PROJECTIONS FOR THE PROJECT;

(6) THE DEPARTMENT HAS APPROVED THE ESCROW AGREEMENT AND DEPOSIT AGREEMENT; AND

(7) THE APPROVED ESCROW AGREEMENT IS EXECUTED BY THE PROVIDER AND THE FINANCIAL INSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 10(a), (b), and (d).

Defined terms: "Continuing care" § 10-401

"Conversion" § 10-401

"Department" § 10-101

"Deposit" § 10-401

"Facility" § 10-401

"Person" § 10-401

"Provider" § 10-401

10-410. DEPOSITS.

(A) COLLECTION OF DEPOSITS.

A PROVIDER MAY COLLECT DEPOSITS FROM PROSPECTIVE SUBSCRIBERS IF:

(1) THE DEPARTMENT HAS APPROVED THE PROVIDER'S FEASIBILITY STUDY; AND

(2) FUNDS COLLECTED ARE MAINTAINED IN AN ESCROW ACCOUNT.

(B) DEPOSIT AGREEMENTS.

EACH DEPOSIT AGREEMENT SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTION (C) OR (D) OF THIS SECTION.

(C) REQUIREMENTS FOR DEPOSIT AGREEMENTS — WITHOUT APPROVAL TO WITHDRAW DEPOSITS.

IF A DEPOSIT AGREEMENT IS USED FOR A DEPOSIT ON A UNIT FOR WHICH THE PROVIDER HAS NOT RECEIVED WRITTEN APPROVAL TO WITHDRAW DEPOSITS, THE DEPOSIT AGREEMENT SHALL:

(1) STATE THAT ALL DEPOSITS AND ENTRANCE FEES WILL BE HELD IN ESCROW UNTIL:

(I) AN INITIAL CERTIFICATE OF REGISTRATION FOR THE UNIT IS ISSUED;

(II) CONSTRUCTION IS COMPLETED;

(III) A CERTIFICATE OF OCCUPANCY, OR ITS EQUIVALENT, IS ISSUED BY THE LOCAL JURISDICTION; AND

(IV) THE PROVIDER HAS THE APPROPRIATE LICENSES OR CERTIFICATES FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE MARYLAND HEALTH CARE COMMISSION, AND THE DEPARTMENT;

(2) DESCRIBE THE DISPOSITION OF ANY INTEREST EARNED ON DEPOSITS AND ENTRANCE FEES;

(3) STATE THE AMOUNT OF ANY PROCESSING FEE AND WHETHER IT WILL BE REFUNDED IF THE DEPOSIT AGREEMENT IS CANCELED; AND

(4) DESCRIBE THE DISPOSITION OF THE DEPOSIT IF THE DEPOSIT AGREEMENT IS CANCELED BEFORE THE CONTINUING CARE AGREEMENT IS EXECUTED.

(D) REQUIREMENTS FOR DEPOSIT AGREEMENTS — WITH APPROVAL TO WITHDRAW DEPOSITS.

IF A DEPOSIT AGREEMENT IS USED FOR A DEPOSIT ON A UNIT FOR WHICH THE PROVIDER HAS RECEIVED WRITTEN APPROVAL TO WITHDRAW DEPOSITS, THE DEPOSIT AGREEMENT SHALL:

(1) STATE THAT THE PROVIDER MAY USE ALL DEPOSITS AND ENTRANCE FEES AT ANY TIME; OR

(2) DESCRIBE ANY APPLICABLE LIMITATIONS ON THE USE OF DEPOSITS AND ENTRANCE FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 10(c) and (c-1).

In subsection (a)(1) of this section, the reference to "the provider's" feasibility study is added for clarity.

In the introductory language of subsections (c) and (d) of this section, the former reference to written approval to withdraw deposits "under § 11(c) of this subtitle" is deleted for accuracy. Former Art. 70B, § 11(c), which is revised in § 10-412(f) of this subtitle, did not expressly authorize the issuance of written approval to withdraw deposits. This deletion is called to the attention of the General Assembly.

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Deposit" § 10-401

"Entrance fee" § 10-401

"Processing fee" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-411. PRELIMINARY CERTIFICATE OF REGISTRATION.

(A) REQUIRED.

A PROVIDER MAY NOT ENTER INTO A CONTINUING CARE AGREEMENT UNTIL THE DEPARTMENT ISSUES A PRELIMINARY CERTIFICATE OF REGISTRATION.

(B) APPLICATION — FORM.

AN APPLICATION FOR A PRELIMINARY CERTIFICATE OF REGISTRATION SHALL BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT.

(C) APPLICATION — CONTENTS.

AN APPLICATION SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(1) THE NAME AND ADDRESS OF THE FACILITY AND THE NAME AND ADDRESS OF ANY AFFILIATE, PARENT, OR SUBSIDIARY;

(2) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE PROVIDER, INCLUDING:

(I) FOR A CORPORATION OR LIMITED LIABILITY COMPANY, ITS NAME, THE STATE IN WHICH IT IS INCORPORATED OR FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

(II) FOR A PARTNERSHIP, THE NAMES OF THE GENERAL PARTNERS, THE STATE GOVERNING ITS FORMATION, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

(III) FOR AN UNINCORPORATED ASSOCIATION, THE NAMES OF THE MEMBERS, THE STATE GOVERNING ITS ACTIVITIES, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

(IV) FOR A PARTNERSHIP THAT HAS A CORPORATION OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS, THE NAME OF EACH CORPORATION OR LIMITED LIABILITY COMPANY, THE STATE IN WHICH IT IS INCORPORATED OR FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

(V) FOR A TRUST, THE NAME OF THE TRUSTEE, THE NAMES OF THE OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE STATE GOVERNING IT, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR OVERSEEING ITS ACTIVITIES;

(VI) THE NAME AND OCCUPATION OF EACH OFFICER, DIRECTOR, TRUSTEE, MANAGING OR GENERAL PARTNER, AND EACH PERSON WITH A 10% OR GREATER FINANCIAL EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER AND A DESCRIPTION OF THE PERSON'S FINANCIAL INTEREST IN OR OCCUPATION WITH THE PROVIDER;

(VII) THE NAME AND ADDRESS OF ANY ENTITY IN WHICH A PERSON IDENTIFIED IN ITEM (VI) OF THIS PARAGRAPH HAS A 10% OR GREATER FINANCIAL INTEREST AND THAT IS ANTICIPATED TO PROVIDE GOODS, PREMISES, OR SERVICES WITH A VALUE OF \$10,000 OR MORE TO THE FACILITY OR PROVIDER IN A FISCAL YEAR AND A DESCRIPTION OF THE GOODS, PREMISES, OR SERVICES AND THEIR ANTICIPATED COST TO THE FACILITY OR PROVIDER, WHICH NEED NOT INCLUDE SALARY, WAGE, OR BENEFIT INFORMATION OF EMPLOYEES OF THE PROVIDER; AND

(VIII) A STATEMENT WHETHER THE PROVIDER IS QUALIFIED, OR INTENDS TO QUALIFY, AS A TAX EXEMPT ORGANIZATION UNDER THE INTERNAL REVENUE CODE;

(3) A COPY OF THE CORPORATE CHARTER, PARTNERSHIP AGREEMENT, ARTICLES OF ASSOCIATION, MEMBERSHIP AGREEMENT, TRUST AGREEMENT, OR SIMILAR INSTRUMENT OR AGREEMENT GOVERNING THE LEGAL ORGANIZATION OF THE PROVIDER;

(4) (I) A CERTIFIED FINANCIAL STATEMENT OF THE PROVIDER FOR AS MANY OF THE MOST RECENT FISCAL YEARS, NOT EXCEEDING 3 YEARS, FOR WHICH CERTIFIED FINANCIAL STATEMENTS ARE OBTAINABLE UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(II) IF THE PROVIDER'S FISCAL YEAR ENDED MORE THAN 90 DAYS BEFORE THE DATE THE APPLICATION IS FILED, AN INCOME STATEMENT, WHICH NEED NOT BE CERTIFIED, COVERING THE PERIOD BETWEEN THE END OF THE FISCAL YEAR AND A DATE NOT MORE THAN 90 DAYS BEFORE THE DATE THE APPLICATION IS FILED;

(5) A STATEMENT OF ANY AFFILIATION WITH A RELIGIOUS, CHARITABLE, OR OTHER NONPROFIT ORGANIZATION, THE EXTENT OF THE AFFILIATION, AND THE EXTENT, IF ANY, TO WHICH THE AFFILIATE ORGANIZATION WILL BE RESPONSIBLE FOR THE PROVIDER'S FINANCIAL AND CONTRACTUAL OBLIGATIONS;

(6) A COPY OF THE PROPOSED CONTINUING CARE AGREEMENT;

(7) A COPY OF ANY PRIORITY ADMISSION AGREEMENTS BETWEEN THE PROVIDER AND ANY HEALTH CARE PROVIDER FOR HEALTH RELATED SERVICES;

(8) A STATEMENT OF THE CURRENT FEE STRUCTURE, INCLUDING ESCALATOR OR OTHER AUTOMATIC ADJUSTMENT PROVISIONS;

(9) A STATEMENT OF THE ROLE OF ANY PUBLICLY FUNDED BENEFIT OR INSURANCE PROGRAM IN THE FINANCING OF CARE;

(10) THE FORM AND SUBSTANCE OF ANY ADVERTISEMENT, ADVERTISING CAMPAIGN, OR OTHER PROMOTIONAL MATERIAL FOR THE FACILITY THAT HAS NOT BEEN PREVIOUSLY SUBMITTED TO THE DEPARTMENT; AND

(11) OTHER REASONABLE AND PERTINENT INFORMATION THAT THE DEPARTMENT REQUIRES.

(D) ISSUANCE.

THE DEPARTMENT SHALL ISSUE A PRELIMINARY CERTIFICATE OF REGISTRATION TO A PROVIDER IF:

(1) THE FEASIBILITY STUDY HAS BEEN APPROVED; AND

(2) THE DEPARTMENT DETERMINES THAT:

(I) THE PROPOSED CONTINUING CARE AGREEMENT MEETS THE REQUIREMENTS OF §§ 10-444, 10-445, 10-446, AND 10-448 OF THIS SUBTITLE;

(II) ALL OF THE FINANCIAL AND ORGANIZATIONAL MATERIALS REQUIRED TO BE SUBMITTED UNDER SUBSECTION (C) OF THIS SECTION HAVE BEEN SUBMITTED TO THE DEPARTMENT; AND

(III) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

(E) FAILURE TO OBTAIN PRELIMINARY CERTIFICATE.

IF A PRELIMINARY CERTIFICATE OF REGISTRATION IS NOT ISSUED WITHIN 6 MONTHS AFTER THE FEASIBILITY STUDY IS APPROVED, OR A LONGER TIME ALLOWED BY THE DEPARTMENT FOR GOOD CAUSE SHOWN, THE PROVIDER SHALL REFUND ALL DEPOSITS AND STOP MARKETING CONTINUING CARE UNDER THAT APPLICATION.

(F) ADVERTISEMENTS.

A PROVIDER THAT PLANS TO ADVERTISE BEFORE AN INITIAL CERTIFICATE OF REGISTRATION IS ISSUED UNDER § 10-412 OF THIS SUBTITLE SHALL SUBMIT TO THE DEPARTMENT THE FORM AND SUBSTANCE OF ANY ADVERTISEMENT, ADVERTISING CAMPAIGN, OR OTHER PROMOTIONAL MATERIAL BEFORE IT MAY BE USED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 10(e) through (h).

In subsection (c)(1) of this section, the former reference to an affiliate, parent, or subsidiary "person" is deleted as surplusage.

In subsection (c)(2)(vii) of this section, the reference to an "entity" is substituted for the former reference to a "professional service firm, association, trust, partnership, company, or corporation" for brevity.

In subsection (c)(6) of this section, the reference to the "proposed continuing care agreement" is substituted for the former reference to "the agreement to be entered into between the provider and subscriber for continuing care" for brevity. Similarly, in subsection (d)(2) of this section, the reference to the "proposed" continuing care agreement is substituted for the former reference to the continuing care agreement "to be used between the provider and the subscriber".

Defined terms: "Certified financial statement" § 10-401

"Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Department" § 10-101

"Deposit" § 10-401

"Facility" § 10-401

"Health related services" § 10-401

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"State" § 10-101

10-412. INITIAL CERTIFICATE OF REGISTRATION.

(A) REQUIRED.

A PROVIDER MAY NOT PROVIDE CONTINUING CARE UNTIL THE DEPARTMENT ISSUES AN INITIAL CERTIFICATE OF REGISTRATION.

(B) APPLICATION — FORM.

AN APPLICATION FOR AN INITIAL CERTIFICATE OF REGISTRATION SHALL BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT.

(C) APPLICATION — CONTENTS.

AN APPLICATION SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(1) FOR A PROJECT OTHER THAN A CONVERSION, VERIFICATION THAT CONTINUING CARE AGREEMENTS HAVE BEEN EXECUTED WITH SUBSCRIBERS FOR

AT LEAST 65% OF THE INDEPENDENT LIVING UNITS AND AT LEAST 10% OF THE TOTAL ENTRANCE FEE FOR EACH CONTRACTED UNIT HAS BEEN COLLECTED;

(2) FOR A CONVERSION PROJECT, VERIFICATION THAT AT LEAST 80% OF THE ACCOMMODATIONS IN THE PROJECT THAT ARE NOT LICENSED AS ASSISTED LIVING OR COMPREHENSIVE CARE BEDS ARE OCCUPIED OR RESERVED IN ACCORDANCE WITH:

(I) LEASES;

(II) CONTINUING CARE AGREEMENTS EXECUTED WITH SUBSCRIBERS WHO HAVE PAID A DEPOSIT THAT:

1. EQUALS AT LEAST 10% OF THE TOTAL ENTRANCE FEE;

AND

2. HAS BEEN DEPOSITED BY THE PROVIDER UNDER AN ESCROW AGREEMENT APPROVED BY THE DEPARTMENT; OR

(III) OTHER APPROPRIATE CONTRACTUAL ARRANGEMENTS;

(3) VERIFICATION THAT THE PROVIDER HAS RECEIVED A WRITTEN COMMITMENT FOR PERMANENT LONG-TERM FINANCING; AND

(4) IF CONSTRUCTION FINANCING IS REQUIRED, VERIFICATION THAT THE PROVIDER HAS APPLIED FOR THE FINANCING.

(D) LENDERS.

(1) IF REQUESTED BY THE PERMANENT FINANCING LENDER, THE DEPARTMENT MAY ISSUE A LETTER STATING THAT THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS SECTION HAVE BEEN MET.

(2) IF REQUESTED BY THE CONSTRUCTION LENDER, THE DEPARTMENT MAY ISSUE A LETTER STATING THAT:

(I) THE REQUIREMENTS OF SUBSECTION (C)(1) AND (3) OF THIS SECTION HAVE BEEN MET; AND

(II) THE INITIAL CERTIFICATE OF REGISTRATION WILL BE ISSUED ON THE CLOSING OF THE CONSTRUCTION LOAN.

(E) ISSUANCE OF CERTIFICATE.

(1) THE DEPARTMENT SHALL ISSUE AN INITIAL CERTIFICATE OF REGISTRATION TO A PROVIDER IF THE DEPARTMENT DETERMINES THAT:

(I) THE PROVIDER HAS A PRELIMINARY CERTIFICATE OF REGISTRATION;

(II) THE PROVIDER HAS SUBMITTED THE REQUIRED DOCUMENTS;

(III) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

(IV) FOR A PROJECT OTHER THAN A CONVERSION, CONTINUING CARE AGREEMENTS HAVE BEEN EXECUTED WITH SUBSCRIBERS FOR AT LEAST 65% OF THE INDEPENDENT LIVING UNITS AND AT LEAST 10% OF THE ENTRANCE FEE HAS BEEN PAID AS A DEPOSIT FOR EACH CONTRACTED UNIT;

(V) FOR A CONVERSION PROJECT, AT LEAST 80% OF THE ACCOMMODATIONS IN THE PROJECT THAT ARE NOT LICENSED AS ASSISTED LIVING OR COMPREHENSIVE CARE BEDS ARE OCCUPIED OR RESERVED IN ACCORDANCE WITH:

1. LEASES;
 2. CONTINUING CARE AGREEMENTS EXECUTED WITH SUBSCRIBERS WHO HAVE PAID A DEPOSIT THAT:
 - A. EQUALS AT LEAST 10% OF THE TOTAL ENTRANCE FEE;
- AND
- B. HAS BEEN DEPOSITED BY THE PROVIDER UNDER AN ESCROW AGREEMENT APPROVED BY THE DEPARTMENT; OR
 3. OTHER APPROPRIATE CONTRACTUAL ARRANGEMENTS;

(VI) IF CONSTRUCTION FINANCING IS REQUIRED, CLOSING ON THE FINANCING HAS OCCURRED; AND

(VII) THE PROVIDER HAS A COMMITMENT FOR PERMANENT LONG-TERM FINANCING.

(2) THE DEPARTMENT MAY ISSUE THE INITIAL CERTIFICATE OF REGISTRATION FOR A PERIOD NOT EXCEEDING 18 MONTHS.

(F) USE OF DEPOSITS HELD IN ESCROW.

A DEPOSIT HELD IN ESCROW MAY NOT BE USED UNTIL:

- (1) AN INITIAL CERTIFICATE OF REGISTRATION HAS BEEN ISSUED;
- (2) CONSTRUCTION IS COMPLETED;
- (3) THE PROVIDER HAS A CERTIFICATE OF OCCUPANCY OR THE EQUIVALENT FROM THE APPROPRIATE LOCAL JURISDICTION; AND
- (4) THE PROVIDER HAS THE APPROPRIATE LICENSES OR CERTIFICATES FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR THE DEPARTMENT.

(G) FAILURE TO OBTAIN CERTIFICATE OF REGISTRATION.

IF AN INITIAL CERTIFICATE OF REGISTRATION IS NOT ISSUED WITHIN 24 MONTHS AFTER THE ISSUANCE OF A PRELIMINARY CERTIFICATE OF REGISTRATION,

OR A LONGER TIME ALLOWED BY THE DEPARTMENT FOR GOOD CAUSE SHOWN, THE PROVIDER SHALL REFUND ALL DEPOSITS AND STOP OFFERING CONTINUING CARE UNDER THAT APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11(a) through (d).

In subsections (c)(2)(ii)2 and (e)(1)(v)2B of this section, the reference to "an escrow agreement approved by the Department" is substituted for the former reference to "a proper escrow agreement" for clarity.

In subsection (e)(1)(iv) of this section, the reference to "continuing care agreements hav[ing] been executed with subscribers" for at least 65% of the independent living units is substituted for the former reference to at least 65% having been "contracted for" for clarity.

In subsection (e)(2) of this section, the former phrase "at the discretion of the Department" is deleted as surplusage.

In subsection (g) of this section, the requirement that a provider "stop" offering continuing care is substituted for the former requirement that a provider "cease in its attempts" for brevity.

Defined terms: "Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Conversion" § 10-401

"Department" § 10-101

"Deposit" § 10-401

"Entrance fee" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-413. RENEWAL CERTIFICATE OF REGISTRATION.

(A) APPLICATION.

(1) EACH YEAR, WITHIN 120 DAYS AFTER THE END OF A PROVIDER'S FISCAL YEAR, THE PROVIDER SHALL FILE AN APPLICATION FOR A RENEWAL CERTIFICATE OF REGISTRATION IN A FORM SATISFACTORY TO THE DEPARTMENT.

(2) A RENEWAL APPLICATION SHALL CONTAIN:

(I) ANY ADDITIONS OR CHANGES TO THE INFORMATION REQUIRED BY §§ 10-408 THROUGH 10-410 OF THIS SUBTITLE;

(II) AN AUDITED FINANCIAL STATEMENT FOR THE PRECEDING FISCAL YEAR PREPARED IN ACCORDANCE WITH AN AUDIT GUIDE THAT THE DEPARTMENT ADOPTS;

(III) AN OPERATING BUDGET FOR THE CURRENT FISCAL YEAR AND A PROJECTED OPERATING BUDGET FOR THE NEXT FISCAL YEAR;

(IV) A CASH FLOW PROJECTION FOR THE CURRENT FISCAL YEAR AND THE NEXT TWO FISCAL YEARS;

(V) A PROJECTION OF THE LIFE EXPECTANCY AND THE NUMBER OF RESIDENTS WHO WILL REQUIRE NURSING HOME CARE;

(VI) AN ACTUARIAL STUDY REVIEWED BY A QUALIFIED ACTUARY AND SUBMITTED EVERY 3 YEARS, UNLESS THE PROVIDER IS EXEMPTED FROM THE REQUIREMENT FOR AN ACTUARIAL STUDY BY REGULATIONS ADOPTED BY THE DEPARTMENT EXEMPTING CATEGORIES OF PROVIDERS THAT THE DEPARTMENT DETERMINES HAVE SUBSTANTIALLY LIMITED LONG-TERM CARE LIABILITY EXPOSURE;

(VII) THE FORM AND SUBSTANCE OF ANY PROPOSED ADVERTISEMENT, ADVERTISING CAMPAIGN, OR OTHER PROMOTIONAL MATERIAL NOT PREVIOUSLY SUBMITTED TO THE DEPARTMENT; AND

(VIII) ANY FURTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(B) FAILURE TO MAKE TIMELY APPLICATION.

(1) THE DEPARTMENT MAY CHARGE A LATE FEE IF THE APPLICATION AND ACCOMPANYING INFORMATION ARE NOT RECEIVED BY THE DEPARTMENT WITHIN 120 DAYS AFTER THE END OF THE PROVIDER'S FISCAL YEAR.

(2) FAILURE TO FILE THE REQUIRED INFORMATION WITHIN 90 DAYS AFTER THE DUE DATE IS A VIOLATION OF THIS SUBTITLE.

(C) ISSUANCE.

THE DEPARTMENT SHALL ISSUE A RENEWAL CERTIFICATE OF REGISTRATION IF THE DEPARTMENT DETERMINES THAT:

(1) THE REQUIRED DOCUMENTS HAVE BEEN FILED;

(2) ANY REVISED CONTINUING CARE AGREEMENTS MEET THE REQUIREMENTS OF THIS SUBTITLE;

(3) IF THE PROVIDER HAS BEEN FOUND TO BE IN FINANCIAL DIFFICULTY, THE PROVIDER HAS COMPLIED WITH PART VII OF THIS SUBTITLE;

(4) WHEN APPROPRIATE, THE FACILITY HAS BEEN LICENSED OR CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR THE DEPARTMENT; AND

(5) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED TO THE DEPARTMENT ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11(e) through (g).

In the introductory language of subsection (a) of this section, the reference

to the end of “a provider’s” fiscal year is substituted for the former reference to “the” fiscal year for clarity. Similarly, in subsection (b)(1) of this section, the reference to “120 days after the end of the provider’s fiscal year” is substituted for the former reference to “the 120-day period”.

In subsection (a)(2)(iii) of this section, the former reference to the next “succeeding” fiscal year is deleted as surplusage.

Defined terms: “Continuing care agreement” § 10-401

“Department” § 10-101

“Facility” § 10-401

“Financial difficulty” § 10-401

“Provider” § 10-401

10-414. RENOVATIONS.

(A) APPROVAL REQUIRED.

A PROVIDER MAY NOT BEGIN CONSTRUCTION OF A RENOVATION UNTIL THE PROVIDER RECEIVES WRITTEN APPROVAL FROM THE DEPARTMENT.

(B) REQUEST FOR APPROVAL.

(1) A PROVIDER SHALL FILE WITH THE DEPARTMENT A REQUEST FOR APPROVAL FOR EACH RENOVATION.

(2) AT LEAST 30 DAYS BEFORE FILING THE REQUEST, THE PROVIDER SHALL SUBMIT TO THE DEPARTMENT A WRITTEN STATEMENT OF INTENT TO FILE A REQUEST FOR APPROVAL OF A RENOVATION.

(3) A REQUEST FOR APPROVAL OF A RENOVATION SHALL BE IN A FORM SATISFACTORY TO THE DEPARTMENT.

(4) A REQUEST FOR APPROVAL SHALL INCLUDE:

(I) A STATEMENT OF THE PURPOSE OF AND NEED FOR THE RENOVATION;

(II) A FINANCIAL PLAN THAT DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT THE RENOVATION WILL NOT HAVE AN UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE AGREEMENTS AND THIS SUBTITLE AT THE FACILITY TO BE RENOVATED AND AT THE PROVIDER'S OTHER FACILITIES IN THE STATE; AND

(III) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(C) CONDITIONS FOR APPROVAL.

THE DEPARTMENT SHALL APPROVE A RENOVATION IF THE DEPARTMENT DETERMINES THAT THE PROPOSED RENOVATION WILL NOT HAVE AN

UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE AGREEMENTS AND THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11(h) and (i).

In subsection (b)(2) of this section, the reference to a "statement of intent" is substituted for the former reference to a "statement that sets forth the provider's intent" for brevity.

In subsection (b)(4)(ii) of this section, the reference to the facility "to be renovated" is substituted for the former reference to the facility "identified in the plan" for clarity.

In subsection (c) of this section, the former reference to a renovation "requested in accordance with this section" is deleted as surplusage.

Defined terms: "Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Department" § 10-101

"Facility" § 10-401

"Provider" § 10-401

"Renovation" § 10-401

10-415. EXPANSIONS.

(A) APPROVAL REQUIRED.

A PROVIDER MAY NOT BEGIN CONSTRUCTION OF AN EXPANSION UNTIL THE PROVIDER RECEIVES WRITTEN APPROVAL FROM THE DEPARTMENT.

(B) REQUEST FOR APPROVAL.

(1) A PROVIDER SHALL FILE WITH THE DEPARTMENT A REQUEST FOR APPROVAL FOR EACH EXPANSION.

(2) AT LEAST 30 DAYS BEFORE FILING THE REQUEST, THE PROVIDER SHALL SUBMIT TO THE DEPARTMENT A WRITTEN STATEMENT OF INTENT TO FILE A REQUEST FOR APPROVAL OF AN EXPANSION.

(3) A REQUEST FOR APPROVAL OF AN EXPANSION SHALL BE IN A FORM SATISFACTORY TO THE DEPARTMENT.

(4) A REQUEST FOR APPROVAL SHALL INCLUDE:

(I) A STATEMENT OF THE PURPOSE OF AND NEED FOR THE EXPANSION;

(II) IF THE EXPANSION INVOLVES LIVING UNITS, A PLAN THAT DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT A MARKET EXISTS FOR THE ADDITIONAL LIVING UNITS;

(III) A FINANCIAL PLAN THAT DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT THE EXPANSION WILL NOT HAVE AN UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE AGREEMENTS AND THIS SUBTITLE AT THE FACILITY TO BE EXPANDED AND AT THE PROVIDER'S OTHER FACILITIES IN THE STATE; AND

(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(C) CONDITIONS FOR APPROVAL.

THE DEPARTMENT SHALL APPROVE AN EXPANSION AND, IF APPROPRIATE, ISSUE A NEW CERTIFICATE OF REGISTRATION IF THE DEPARTMENT DETERMINES THAT THE PROPOSED EXPANSION WILL NOT HAVE AN UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE AGREEMENTS AND THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11(j) and (k).

In subsection (b)(2) of this section, the reference to a "statement of intent" is substituted for the former references to a "statement that sets forth the provider's intent" for brevity.

In subsection (b)(4)(iii) of this section, the reference to the facility "to be expanded" is substituted for the former reference to the facility "identified in the plan" for clarity.

In subsection (c) of this section, the former reference to an expansion "requested in accordance with this section" is deleted as surplusage.

Defined terms: "Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Department" § 10-101

"Expansion" § 10-401

"Facility" § 10-401

"Provider" § 10-401

10-416. DENIAL, SUSPENSION, OR REVOCATION.

(A) AUTHORIZED.

FOR CAUSE, THE DEPARTMENT MAY:

(1) DENY A FEASIBILITY STUDY APPROVAL; OR

(2) DENY, SUSPEND, OR REVOKE A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION.

(B) GROUNDS.

(1) GROUNDS FOR A DENIAL, SUSPENSION, OR REVOCATION INCLUDE:

- (I) VIOLATION OF THIS SUBTITLE;
- (II) VIOLATION OF A REGULATION THE DEPARTMENT ADOPTS UNDER THIS SUBTITLE;
- (III) MISREPRESENTATION; OR
- (IV) SUBMISSION OF A FALSE FINANCIAL STATEMENT.

(2) THE DEPARTMENT SHALL SET FORTH IN WRITING ITS REASONS FOR A DENIAL, SUSPENSION, OR REVOCATION.

(C) APPEAL.

TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE GOVERNS THE APPEAL OF A DENIAL, REVOCATION, OR SUSPENSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22.

In subsection (c) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to "[t]he Maryland Administrative Procedure Act" for accuracy and consistency with § 10-210 of this title.

Also in subsection (c) of this section, the former reference to "[t]he proceedings ... [being] conducted in accordance with" is deleted as surplusage.

Defined term: "Department" § 10-101

10-417. RESERVED.

10-418. RESERVED.

GENERAL REVISOR'S NOTE TO PART:

Throughout this part, references to "proposed advertisements", "advertising campaigns", and "other promotional materials" are substituted for the former references to "any advertising campaign or proposed advertisement", "any advertising campaign, advertisement, or other promotional material", "all advertising and other promotional materials", "any advertisement or advertising campaign", and "any advertising campaign, proposed advertisement, or other promotional materials" for consistency throughout this part and with Part VI of this subtitle.

PART III. PROVIDERS.

10-419. "NET OPERATING EXPENSES" DEFINED.

IN THIS PART, "NET OPERATING EXPENSES" MEANS THE TOTAL OPERATING EXPENSES AT EACH FACILITY OF A PROVIDER, LESS DEPRECIATION, AMORTIZATION, UNUSUAL AND INFREQUENT EXPENSES, CHANGES IN THE OBLIGATION TO PROVIDE FUTURE SERVICES, AND CHANGES IN THE FAIR MARKET VALUE OF INTEREST RATE SWAP AGREEMENTS NOT INVOLVING AN EXCHANGE OF FUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 70B, § 11B(a).

In this section and in § 10-420(b)(1) of this subtitle, references to this "part" are substituted for the former references to this "section" to reflect the reorganization of provisions formerly contained in Art. 70B, § 11B. No substantive change is intended.

Defined terms: "Facility" § 10-401
 "Provider" § 10-401

10-420. OPERATING RESERVES -- IN GENERAL.

(A) EXCLUSION OF INTEREST EXPENSES.

INTEREST EXPENSES MAY BE EXCLUDED FROM THE CALCULATION OF NET OPERATING EXPENSES FOR A FISCAL YEAR, IF THE PROVIDER FUNDED A DEBT SERVICE RESERVE OR OTHER INTEREST RESERVE UNDER REQUIREMENTS IMPOSED BY A FINANCIAL INSTITUTION OR UNDER APPLICABLE FINANCING DOCUMENTS, TO THE EXTENT THE RESERVE FUND INCLUDED AMOUNTS TO COVER INTEREST FOR THAT FISCAL YEAR.

(B) OPERATING RESERVES -- AMOUNT AND FORM.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, A PROVIDER SHALL SET ASIDE FOR EACH FACILITY SUBJECT TO THIS SUBTITLE OPERATING RESERVES EQUAL TO 15% OF THE FACILITY'S NET OPERATING EXPENSES FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.

(2) THE PROVIDER SHALL KEEP THE OPERATING RESERVES IN A REASONABLY LIQUID FORM IN THE JUDGMENT OF THE PROVIDER.

(C) OPERATING RESERVES -- TIME PERIOD FOR MEETING RESERVE REQUIREMENT.

(1) A PROVIDER SHALL MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION WITHIN 10 FULL FISCAL YEARS AFTER THE DATE OF ITS INITIAL CERTIFICATE OF REGISTRATION.

(2) A PROVIDER SHALL SET ASIDE AT LEAST 10% OF THE RESERVES REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AT THE END OF EACH FISCAL YEAR AFTER THE DATE OF ITS INITIAL CERTIFICATE OF REGISTRATION, UP TO A TOTAL OF 100% AT THE END OF THE 10TH FISCAL YEAR.

(3) THE DEPARTMENT MAY ALLOW A PROVIDER TO MODIFY THE MINIMUM RATE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION OR EXTEND THE TIME TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF THE MODIFICATION IS NECESSARY TO MAINTAIN THE FINANCIAL VIABILITY OF THE FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11B(b), (g), and the second sentence of (a).

In subsection (a) of this section, the reference to the calculation of net operating expenses “for a fiscal year” is added for clarity.

Also in subsection (a) of this section, the reference to “that fiscal year” is substituted for the former reference to “the year in question” for clarity.

In subsection (c)(1) and (2) of this section, the former reference to “the later of October 1, 1996 or” is deleted as obsolete.

In subsection (c)(3) of this section, the reference to the minimum rate “required under paragraph (2) of this subsection” is added for clarity.

Also in subsection (c)(3) of this section, the reference to “extend[ing]” the time is substituted for the former reference to “authoriz[ing] an additional amount of” time for brevity.

Defined terms: “Certified financial statement” § 10–401

“Department” § 10–101

“Facility” § 10–401

“Net operating expenses” § 10–419

“Provider” § 10–401

10–421. OPERATING RESERVES — COMPUTATION.

(A) COMPUTING OPERATING RESERVES.

(1) A PROVIDER SHALL COMPUTE OPERATING RESERVES FOR EACH FACILITY AS OF THE END OF THE FACILITY'S MOST RECENT FISCAL YEAR.

(2) WHEN A PROVIDER FILES AN APPLICATION FOR A RENEWAL CERTIFICATE OF REGISTRATION, THE PROVIDER SHALL SHOW COMPLIANCE WITH OPERATING RESERVE REQUIREMENTS BY INCLUDING WITH THE APPLICATION:

(I) A LETTER TO THE DEPARTMENT FROM A CERTIFIED PUBLIC ACCOUNTANT THAT STATES THE AMOUNT SET ASIDE; OR

(II) A CERTIFIED FINANCIAL STATEMENT THAT STATES THE AMOUNT SET ASIDE.

(B) APPLICATION OF OTHER RESERVES.

A PROVIDER MAY APPLY TOWARD THE OPERATING RESERVES REQUIRED BY § 10–420(B) OF THIS SUBTITLE ANY RESERVES, EXCEPT DEBT SERVICE RESERVES, THAT ARE MAINTAINED UNDER APPLICABLE FINANCING DOCUMENT REQUIREMENTS IF THE RESERVES ARE AVAILABLE TO THE PROVIDER TO MEET THE FACILITY'S OPERATING EXPENSES.

(C) VALUE OF INVESTMENTS.

FOR THE PURPOSE OF COMPUTING A PROVIDER'S OPERATING RESERVES, INVESTMENTS HELD TO THE CREDIT OF THE RESERVES SHALL BE CALCULATED AT THEIR MARKET VALUE AS OF THE END OF THE PROVIDER'S MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11B(c), (d), and (e).

In subsection (a)(2)(i) of this section, the former reference to the amount “actually” set aside is deleted as surplusage.

In subsection (c) of this section, the reference to “computing” operating reserves is substituted for the former reference to “calculating” operating reserves for consistency with subsection (a) of this section.

Defined terms: “Certified financial statement” § 10-401

“Department” § 10-101

“Facility” § 10-401

“Provider” § 10-401

10-422. OPERATING RESERVES — DRAWING FUNDS FROM RESERVES.

(A) NOTICE OF WITHDRAWAL.

A PROVIDER SHALL NOTIFY THE DEPARTMENT IN WRITING IMMEDIATELY ON THE WITHDRAWAL OF ANY AMOUNT FROM THE FUNDS AVAILABLE TO SATISFY THE OPERATING RESERVES REQUIRED BY § 10-420(B) OF THIS SUBTITLE.

(B) WRITTEN PLAN.

WITHIN 30 DAYS AFTER MAKING A WITHDRAWAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE PROVIDER SHALL SUBMIT TO THE DEPARTMENT A WRITTEN PLAN FOR RESTORING THE RESERVES TO THE LEVEL REQUIRED BY § 10-420(B) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11B(f).

In subsection (b) of this section, the reference to “a withdrawal described in subsection (a) of this section” is substituted for the former reference to “such draw” for clarity.

Also in subsection (b) of this section, the reference to the “reserves” is substituted for the former reference to the “funds in the reserve” for brevity and consistency throughout this part.

Defined terms: “Department” § 10-101

“Provider” § 10-401

10-423. OPERATING RESERVES — UNCONVERTED FACILITIES.

(A) AMOUNT.

FOR A FACILITY THAT HAS NOT BEEN THE SUBJECT OF A CONVERSION AND THAT HAS RESIDENTS WHO ARE NOT PARTIES TO CONTINUING CARE AGREEMENTS, THE PROVIDER SHALL SET ASIDE OPERATING RESERVES EQUAL TO AT LEAST 15% OF THE PRO RATA PROPORTION OF THE NET OPERATING EXPENSES CALCULATED UNDER SUBSECTION (B) OF THIS SECTION.

(B) CALCULATION OF PRO RATA PROPORTION OF NET OPERATING EXPENSES.

THE PRO RATA PROPORTION OF THE NET OPERATING EXPENSES EQUALS THE NUMBER OF UNITS IN THE FACILITY FOR WHICH THE DEPARTMENT HAS ISSUED A CERTIFICATE OF REGISTRATION DIVIDED BY THE TOTAL NUMBER OF ACCOMMODATIONS IN THE FACILITY MULTIPLIED BY THE NET OPERATING EXPENSES FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11B(h).

In subsection (a) of this section, the reference to the pro rata proportion of the net operating expenses "calculated under subsection (b) of this section" is added for clarity.

Defined terms: "Certified financial statement" § 10-401

"Continuing care agreement" § 10-401

"Conversion" § 10-401

"Department" § 10-101

"Facility" § 10-401

"Net operating expenses" § 10-419

"Provider" § 10-401

10-424. DISCLOSURE STATEMENTS -- IN GENERAL.

(A) REQUIRED.

(1) A PROVIDER SHALL GIVE WITHOUT COST A DISCLOSURE STATEMENT FOR EACH FACILITY FOR WHICH THE PROVIDER HOLDS A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION:

(I) TO A PROSPECTIVE SUBSCRIBER BEFORE THE EARLIER OF PAYMENT OF ANY PART OF THE ENTRANCE FEE OR EXECUTION OF A CONTINUING CARE AGREEMENT; AND

(II) ANNUALLY TO ANY SUBSCRIBER WHO REQUESTS A DISCLOSURE STATEMENT.

(2) A PROVIDER SHALL SUBMIT ITS INITIAL DISCLOSURE STATEMENT TO THE DEPARTMENT FOR REVIEW AT LEAST 45 DAYS BEFORE GIVING THE STATEMENT TO ANY PROSPECTIVE SUBSCRIBER.

(B) ANNUAL REVISIONS.

(1) A PROVIDER SHALL REVISE THE DISCLOSURE STATEMENT ANNUALLY AND FILE IT WITH THE DEPARTMENT WITHIN 120 DAYS AFTER THE END OF THE PROVIDER'S FISCAL YEAR.

(2) THE DEPARTMENT SHALL REVIEW THE DISCLOSURE STATEMENT SOLELY TO ENSURE COMPLIANCE WITH § 10-425 OF THIS SUBTITLE.

(C) AMENDED STATEMENTS.

(1) AN AMENDED DISCLOSURE STATEMENT IS SUBJECT TO EACH REQUIREMENT OF THIS SUBTITLE.

(2) A PROVIDER SHALL FILE AN AMENDED DISCLOSURE STATEMENT WITH THE DEPARTMENT WHEN IT IS DELIVERED TO A SUBSCRIBER OR PROSPECTIVE SUBSCRIBER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11C(a), (b), and (e).

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Entrance fee" § 10-401

"Facility" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-425. DISCLOSURE STATEMENTS — CONTENTS.

(A) IN GENERAL.

A DISCLOSURE STATEMENT SHALL INCLUDE:

(1) THE NAME, ADDRESS, AND DESCRIPTION OF THE FACILITY AND THE IDENTITY OF THE OWNER OR OWNERS OF THE FACILITY AND THE LAND ON WHICH IT IS LOCATED;

(2) THE NAME AND ADDRESS OF THE PROVIDER AND OF ANY PARENT OR SUBSIDIARY;

(3) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE PROVIDER, INCLUDING:

(I) FOR A CORPORATION OR LIMITED LIABILITY COMPANY, ITS NAME, THE STATE IN WHICH IT IS INCORPORATED OR FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

(II) FOR A PARTNERSHIP, THE NAMES OF THE GENERAL PARTNERS, THE STATE GOVERNING ITS FORMATION, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

(III) FOR AN UNINCORPORATED ASSOCIATION, THE NAMES OF THE MEMBERS, THE STATE GOVERNING ITS ACTIVITIES, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

(IV) FOR A PARTNERSHIP THAT HAS A CORPORATION OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS, THE NAME OF EACH CORPORATION OR LIMITED LIABILITY COMPANY, THE STATE IN WHICH IT IS INCORPORATED OR FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

(V) FOR A TRUST, THE NAME OF THE TRUSTEE, THE NAMES OF THE OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE STATE GOVERNING IT, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR OVERSEEING ITS ACTIVITIES; AND

(VI) A STATEMENT WHETHER THE PROVIDER IS QUALIFIED, OR INTENDS TO QUALIFY, AS A TAX-EXEMPT ORGANIZATION UNDER THE INTERNAL REVENUE CODE;

(4) THE NAME AND OCCUPATION OF EACH OFFICER, DIRECTOR, TRUSTEE, MANAGING OR GENERAL PARTNER, AND EACH PERSON WITH A 10% OR GREATER EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER, AND A DESCRIPTION OF THE PERSON'S FINANCIAL INTEREST IN OR OCCUPATION WITH THE PROVIDER;

(5) THE NAME AND ADDRESS OF ANY ENTITY IN WHICH A PERSON IDENTIFIED IN ITEM (4) OF THIS SUBSECTION HAS A 10% OR GREATER FINANCIAL INTEREST AND THAT IS ANTICIPATED TO PROVIDE GOODS, PREMISES, OR SERVICES WITH A VALUE OF \$10,000 OR MORE TO THE FACILITY OR PROVIDER IN A FISCAL YEAR AND A DESCRIPTION OF THE GOODS, PREMISES, OR SERVICES AND THEIR ANTICIPATED COST TO THE FACILITY OR PROVIDER, WHICH NEED NOT INCLUDE SALARY, WAGE, OR BENEFIT INFORMATION OF EMPLOYEES OF THE PROVIDER;

(6) A DESCRIPTION OF ANY MATTER IN WHICH AN INDIVIDUAL IDENTIFIED IN ITEM (4) OF THIS SUBSECTION:

(I) HAS BEEN CONVICTED OF A FELONY OR PLEADED NOLO CONTENDERE TO A FELONY CHARGE, IF THE FELONY INVOLVED FRAUD, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY;

(II) HAS BEEN HELD LIABLE OR ENJOINED IN A CIVIL ACTION BY FINAL JUDGMENT, IF THE CIVIL ACTION INVOLVED FRAUD, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION AS A FIDUCIARY;

(III) HAS BEEN SUBJECT TO AN EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OF A COURT OF RECORD IN AN ACTION THAT AROSE OUT OF OR RELATED TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING AN ACTION THAT AFFECTED A LICENSE TO OPERATE A FACILITY OR SERVICE FOR SENIOR, IMPAIRED, OR DEPENDENT PERSONS; OR

(IV) IN THE PAST 10 YEARS, HAD A STATE OR FEDERAL LICENSE OR PERMIT SUSPENDED OR REVOKED BECAUSE A GOVERNMENTAL UNIT BROUGHT AN ACTION THAT AROSE OUT OF OR RELATED TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING AN ACTION THAT AFFECTED A LICENSE TO OPERATE A FACILITY OR SERVICE FOR SENIOR, IMPAIRED, OR DEPENDENT PERSONS;

(7) A DESCRIPTION OF THE PROVIDER'S FORM OF GOVERNANCE AND THE COMPOSITION OF ITS GOVERNING BODY, AND A STATEMENT THAT THE PROVIDER WILL SATISFY THE REQUIREMENTS OF §§ 10-426 AND 10-427 OF THIS SUBTITLE;

(8) A STATEMENT OF ANY AFFILIATION OF THE PROVIDER WITH A RELIGIOUS, CHARITABLE, OR OTHER NONPROFIT ORGANIZATION, AND THE EXTENT OF THE ORGANIZATION'S RESPONSIBILITY FOR THE FINANCIAL AND CONTRACTUAL OBLIGATIONS OF THE PROVIDER;

(9) IF THE FACILITY WILL BE MANAGED ON A DAY-TO-DAY BASIS BY A PERSON OTHER THAN AN INDIVIDUAL WHO IS DIRECTLY EMPLOYED BY THE PROVIDER, THE NAME OF THE PROPOSED MANAGER OR MANAGEMENT COMPANY AND A DESCRIPTION OF THE BUSINESS EXPERIENCE OF THE MANAGER OR COMPANY IN OPERATING OR MANAGING SIMILAR FACILITIES;

(10) A COPY OF THE MOST RECENT CERTIFIED FINANCIAL STATEMENT OBTAINABLE UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES;

(11) A DESCRIPTION OF THE LONG-TERM FINANCING FOR THE FACILITY;

(12) A CASH FLOW FORECAST FOR THE CURRENT AND THE NEXT TWO FISCAL YEARS;

(13) A DESCRIPTION OF ANY ACTIVITY RELATED TO A RENOVATION, EXPANSION, OR NEW DEVELOPMENT DURING THE PRECEDING FISCAL YEAR OR PROPOSED FOR THE CURRENT FISCAL YEAR;

(14) A DESCRIPTION OF:

(I) THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THE OPERATING RESERVE REQUIREMENTS UNDER § 10-420(B) OF THIS SUBTITLE; AND

(II) THE PROVIDER'S INVESTMENT POLICY RELATED TO THE REQUIRED RESERVES, INCLUDING HOW OFTEN AND BY WHOM THE RESERVE FUND INVESTMENT IS REVIEWED;

(15) A DESCRIPTION OF THE FINANCIAL ARRANGEMENTS THAT THE PROVIDER HAS MADE, IF ANY, TO ADDRESS THE RENEWAL AND REPLACEMENT OF THE BUILDINGS AND IMPROVEMENTS AT THE FACILITY, SUCH AS THE ESTABLISHMENT OF A RENEWAL AND REPLACEMENT FUND;

(16) IF THE FACILITY HAS NOT REACHED 85% OCCUPANCY OF ITS INDEPENDENT LIVING UNITS, A SUMMARY OF THE FEASIBILITY STUDY;

(17) IF APPLICABLE, A DESCRIPTION OF THE CONDITIONS UNDER WHICH THE PROVIDER MAY BE ISSUED AN INITIAL CERTIFICATE OF REGISTRATION AND MAY USE ESCROWED DEPOSITS;

(18) A DESCRIPTION OF ALL BASIC FEES, INCLUDING ENTRANCE FEES, FEES FOR HEALTH RELATED SERVICES, AND PERIODIC FEES THAT THE PROVIDER COLLECTS FROM SUBSCRIBERS, AND THE AMOUNT AND FREQUENCY OF ANY FEE CHANGES DURING THE PREVIOUS 5 YEARS OR, IF THE FACILITY HAS BEEN IN OPERATION LESS THAN 5 YEARS, FOR EACH YEAR OF OPERATION;

(19) A SUMMARY OF THE BASIC SERVICES PROVIDED OR PROPOSED TO BE PROVIDED AT THE FACILITY UNDER THE CONTINUING CARE AGREEMENT,

INCLUDING THE EXTENT TO WHICH HEALTH RELATED SERVICES ARE PROVIDED, THAT CLEARLY STATES WHICH SERVICES ARE INDICATED IN THE AGREEMENT AS INCLUDED IN THE BASIC FEE AND WHICH SERVICES ARE OR WILL BE MADE AVAILABLE AT OR BY THE FACILITY AT AN EXTRA CHARGE;

(20) IF APPLICABLE, A STATEMENT THAT IT IS THE PROVIDER'S POLICY TO IMPOSE A SURCHARGE ON SOME, BUT NOT ALL, SUBSCRIBERS BECAUSE OF A CONDITION OR CIRCUMSTANCE THAT APPLIES ONLY TO THOSE SUBSCRIBERS AND THAT THE SURCHARGE IS NOT PART OF THE ENTRANCE FEE REFUND REQUIRED UNDER § 10-448 OF THIS SUBTITLE;

(21) A DESCRIPTION OF THE ROLE OF ANY RESIDENT ASSOCIATION;

(22) A DESCRIPTION OF THE INTERNAL GRIEVANCE PROCEDURE;

(23) A STATEMENT THAT THE PROVIDER WILL AMEND ITS DISCLOSURE STATEMENT WHENEVER THE PROVIDER OR THE DEPARTMENT CONSIDERS AN AMENDMENT NECESSARY TO PREVENT THE DISCLOSURE STATEMENT FROM CONTAINING:

(I) A MATERIAL MISSTATEMENT OF A FACT REQUIRED BY THIS SECTION TO BE STATED IN THE DISCLOSURE STATEMENT; OR

(II) AN OMISSION OF A MATERIAL FACT REQUIRED BY THIS SECTION TO BE STATED IN THE DISCLOSURE STATEMENT; AND

(24) ANY OTHER MATERIAL INFORMATION ABOUT THE FACILITY OR THE PROVIDER THAT THE DEPARTMENT REQUIRES OR THAT THE PROVIDER WISHES TO INCLUDE.

(B) REQUIRED NOTICES.

THE DISCLOSURE STATEMENT SHALL CONTAIN A COVER PAGE THAT STATES, IN A PROMINENT LOCATION AND TYPE FACE:

(1) THE DATE OF THE DISCLOSURE STATEMENT; AND

(2) THAT THE ISSUANCE OF A CERTIFICATE OF REGISTRATION DOES NOT:

(I) CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT OF THE FACILITY BY THE DEPARTMENT; OR

(II) EVIDENCE OR ATTEST TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION IN THE DISCLOSURE STATEMENT.

(C) ADDITIONAL DISCLOSURES REGARDING ASSISTED LIVING PROGRAM.

(1) THIS SUBSECTION APPLIES TO A PROVIDER THAT:

(I) HAS A CONTINUING CARE AGREEMENT THAT INCLUDES A PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES; AND

(II) DOES NOT EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT.

(2) IN ADDITION TO ANY OTHER REQUIREMENT OF THIS SECTION, THE DISCLOSURE STATEMENT SHALL CONTAIN THE FOLLOWING INFORMATION ABOUT THE ASSISTED LIVING PROGRAM:

(I) THE NAME AND ADDRESS AND A DESCRIPTION OF EACH FACILITY THAT THE PROVIDER OPERATES;

(II) A STATEMENT REGARDING THE RELATIONSHIP OF THE PROVIDER TO OTHER PROVIDERS OR SERVICES IF THE RELATIONSHIP AFFECTS THE CARE OF THE RESIDENT;

(III) A DESCRIPTION OF ANY SPECIAL PROGRAMMING, STAFFING, AND TRAINING PROVIDED BY THE PROGRAM FOR INDIVIDUALS WITH PARTICULAR NEEDS OR CONDITIONS SUCH AS COGNITIVE IMPAIRMENT;

(IV) NOTICE OF:

1. THE AVAILABILITY OF LOCKS FOR STORAGE;
2. THE AVAILABILITY OF LOCKS FOR THE SUBSCRIBER'S ROOM;
3. THE SECURITY PROCEDURES THAT THE PROVIDER WILL IMPLEMENT TO PROTECT THE SUBSCRIBER AND THE SUBSCRIBER'S PROPERTY; AND
4. THE PROVIDER'S RIGHT, IF ANY, TO ENTER A SUBSCRIBER'S ROOM;

(V) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER, THE SUBSCRIBER, OR THE SUBSCRIBER'S AGENT FOR:

1. ARRANGING OR OVERSEEING MEDICAL CARE;
2. MONITORING THE SUBSCRIBER'S HEALTH STATUS;
3. PURCHASING OR RENTING ESSENTIAL OR DESIRED EQUIPMENT AND SUPPLIES; AND
4. ASCERTAINING THE COST OF AND PURCHASING DURABLE MEDICAL EQUIPMENT;

(VI) AN EXPLANATION OF THE ASSISTED LIVING PROGRAM'S COMPLAINT OR GRIEVANCE PROCEDURE; AND

(VII) NOTICE OF ANY MATERIAL CHANGES IN THE ASSISTED LIVING PROGRAM.

(3) THE PROVIDER SHALL:

(I) GIVE TO EACH SUBSCRIBER ANNUALLY AND WITHOUT COST REVISIONS TO THE DISCLOSURE STATEMENT PROVISIONS UNDER PARAGRAPH (2) OF THIS SUBSECTION;

(II) ENSURE THAT EACH SUBSCRIBER OR THE SUBSCRIBER'S AGENT INITIALS THE REVISED DISCLOSURE STATEMENT TO ACKNOWLEDGE THE REVISIONS; AND

(III) MAKE COPIES OF THE INITIALED DISCLOSURE STATEMENTS AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH – GENERAL ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11C(c), (d), and (f).

In subsection (a)(2) of this section, the former reference to a parent or subsidiary "person" is deleted as surplusage.

In subsection (a)(5) of this section, the reference to an "entity" is substituted for the former reference to a "professional service firm, association, trust, partnership, company, or corporation" for brevity.

As to the substitution in subsection (a)(6)(iii) of the reference to "senior" persons for the former reference to "aging" persons, *see* General Revisor's Note to title.

In subsection (a)(13) of this section, the former phrase "whether or not subject to Department review" is deleted for accuracy. All renovations, expansions, and new developments are subject to review by the Department. This deletion is called to the attention of the General Assembly.

In subsection (a)(14) of this section, the reference to a "description of" the provider's investment policy is substituted for the former reference to a "general statement regarding" the policy for consistency throughout this section.

In subsection (a)(20) of this section, the reference to a condition or circumstance "that applies only to those subscribers" is substituted for the former reference to "some" condition or circumstance for clarity and consistency with the definition of "surcharge".

In subsection (a)(21) of this section, the reference to a description of "any" resident association is substituted for the former reference to a description of "the existence of" the resident association for clarity.

In subsection (a)(23) of this section, the word "whenever" is substituted for the former phrase "if, at any time" for brevity.

Also in subsection (a)(23) of this section, the word "considers" is substituted for the former phrase "in the opinion of" for brevity.

In subsection (c)(2)(iv)2 of this section, the former phrase “if any” is deleted for clarity and consistency with subsection (c)(2)(iv)1 of this section.

Defined terms: “Assisted living program” § 10–401

“Certified financial statement” § 10–401

“Continuing care agreement” § 10–401

“Department” § 10–101

“Deposit” § 10–401

“Entrance fee” § 10–401

“Expansion” § 10–401

“Facility” § 10–401

“Governing body” § 10–401

“Health related services” § 10–401

“Person” §§ 1–101, 10–401

“Provider” § 10–401

“Renovation” § 10–401

“State” § 1–101

“Subscriber” § 10–401

“Surcharge” § 10–401

10–426. ANNUAL MEETING.

(A) IN GENERAL.

AT LEAST ONCE A YEAR, EACH PROVIDER SHALL HOLD A MEETING OPEN TO ALL OF THE PROVIDER'S SUBSCRIBERS.

(B) PURPOSE.

AT THE MEETING, AN AUTHORIZED OFFICER OF THE PROVIDER SHALL:

(1) SUMMARIZE THE PROVIDER'S OPERATIONS, SIGNIFICANT CHANGES FROM THE PREVIOUS YEAR, AND GOALS AND OBJECTIVES FOR THE NEXT YEAR; AND

(2) ANSWER SUBSCRIBERS' QUESTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11A(a).

In subsection (b)(2) of this section, the former reference to the provider “mak[ing] provisions to have an authorized officer receive” questions is deleted as surplusage.

Defined terms: “Provider” § 10–401

“Subscriber” § 10–401

10–427. SUBSCRIBER INPUT.

(A) PROVIDER WITH GOVERNING BODY.

(1) IF A PROVIDER HAS A GOVERNING BODY, AT LEAST ONE OF THE PROVIDER'S SUBSCRIBERS SHALL BE A FULL AND REGULAR MEMBER OF THE GOVERNING BODY.

(2) IF THE PROVIDER OWNS OR OPERATES MORE THAN THREE FACILITIES IN THE STATE, THE GOVERNING BODY SHALL INCLUDE AT LEAST ONE OF THE PROVIDER'S SUBSCRIBERS FOR EVERY THREE FACILITIES IN THE STATE.

(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A MEMBER OF THE GOVERNING BODY WHO IS SELECTED TO MEET THE REQUIREMENTS OF THIS SUBSECTION SHALL BE A SUBSCRIBER AT A FACILITY IN THE STATE AND BE SELECTED ACCORDING TO THE SAME GENERAL WRITTEN STANDARDS AND CRITERIA USED TO SELECT OTHER MEMBERS OF THE GOVERNING BODY.

(4) THE GOVERNING BODY SHALL CONFER WITH THE RESIDENT ASSOCIATION AT EACH OF THE PROVIDER'S FACILITIES BEFORE THE SUBSCRIBER OFFICIALLY JOINS THE GOVERNING BODY.

(5) THE SECRETARY MAY WAIVE THE REQUIREMENTS OF THIS SUBSECTION FOR A PROVIDER IN THE PROCESS OF DECERTIFYING AS A PROVIDER, IF THE SECRETARY DETERMINES THAT THERE ARE NO SUBSCRIBERS WILLING AND ABLE TO SERVE ON THE GOVERNING BODY.

(B) PROVIDER WITHOUT A GOVERNING BODY.

(1) IF A PROVIDER DOES NOT HAVE A GOVERNING BODY, THE PROVIDER SHALL APPOINT A SELECT COMMITTEE OF ITS OFFICERS OR PARTNERS TO MEET AT LEAST TWICE A YEAR WITH THE RESIDENT ASSOCIATION AT EACH OF ITS FACILITIES TO ADDRESS CONCERNS OF THE SUBSCRIBERS AND TO ENSURE THAT THE OPINIONS OF SUBSCRIBERS ARE RELAYED TO ALL OFFICERS OR PARTNERS OF THE PROVIDER.

(2) IF A FACILITY DOES NOT HAVE A RESIDENT ASSOCIATION, THE COMMITTEE SHALL MEET WITH A REASONABLE NUMBER OF REPRESENTATIVES, NOT REQUIRED TO EXCEED FIFTEEN, THAT THE SUBSCRIBERS ELECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11A(b) and (c).

In subsection (a)(2) of this section, the former reference to including a subscriber "as a full and regular member of the governing body" is deleted as implicit in the requirement that the "governing body shall include at least one subscriber".

Defined terms: "Facility" § 10-401

"Governing body" § 10-401

"Provider" § 10-401

"Secretary" § 10-101

"Subscriber" § 10-401

10-428. INTERNAL GRIEVANCE PROCEDURE.

(A) IN GENERAL.

A PROVIDER SHALL ESTABLISH AN INTERNAL GRIEVANCE PROCEDURE TO ADDRESS A SUBSCRIBER'S GRIEVANCE.

(B) PROCEDURE.

THE INTERNAL GRIEVANCE PROCEDURE SHALL:

- (1) ALLOW A SUBSCRIBER TO SUBMIT A WRITTEN GRIEVANCE TO THE PROVIDER;
- (2) REQUIRE THE PROVIDER TO SEND A WRITTEN ACKNOWLEDGMENT TO THE SUBSCRIBER WITHIN 5 DAYS AFTER RECEIPT OF THE WRITTEN GRIEVANCE;
- (3) GIVE A SUBSCRIBER WHO FILES A WRITTEN GRIEVANCE THE RIGHT TO MEET WITH MANAGEMENT OF THE PROVIDER WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN GRIEVANCE TO PRESENT THE SUBSCRIBER'S GRIEVANCE; AND
- (4) REQUIRE THE PROVIDER TO RESPOND WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN GRIEVANCE REGARDING THE INVESTIGATION AND RESOLUTION OF THE GRIEVANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11G.

In subsection (b)(1) of this section, the reference to "allow[ing]" a subscriber to submit a written grievance is substituted for the former reference to "provid[ing] for ... [t]he opportunity for" a subscriber to submit a written grievance for brevity.

In subsection (b)(3) of this section, the former phrase "to afford the subscriber the opportunity" is deleted as surplusage.

Defined terms: "Provider" § 10-401

"Subscriber" § 10-401

10-429. COPIES OF MATERIALS.

A PROVIDER SHALL MAKE READILY AVAILABLE TO ITS SUBSCRIBERS FOR REVIEW AT THE FACILITY COPIES OF ALL MATERIALS THAT THE PROVIDER SUBMITS TO THE DEPARTMENT THAT ARE REQUIRED TO BE DISCLOSED UNDER THE PUBLIC INFORMATION ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11A(d).

Defined terms: "Department" § 10-101

"Facility" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-430. RESERVED.

10-431. RESERVED.

PART IV. FACILITIES AND ASSETS.

10-432. SALE OR TRANSFER OF FACILITY OWNERSHIP -- IN GENERAL.

(A) SCOPE OF PROVISIONS GOVERNING SALE OR TRANSFER OF FACILITY OWNERSHIP.

(1) THIS SECTION AND §§ 10-433 THROUGH 10-435 OF THIS SUBTITLE DO NOT APPLY TO A TRANSFER OF OWNERSHIP OF A FACILITY, OR A TRANSFER OF OWNERSHIP OR CONTROL OF A PERSON THAT OWNS OR CONTROLS A FACILITY, IF:

(I) THE TRANSFER IS PART OF A BUSINESS REORGANIZATION; AND

(II) THE SAME PERSON OR PERSONS HOLDING A MAJORITY OF OWNERSHIP OR RIGHT TO CONTROL BEFORE THE BUSINESS REORGANIZATION WILL RETAIN, DIRECTLY OR INDIRECTLY, A MAJORITY OF OWNERSHIP OR RIGHT TO CONTROL AFTER THE BUSINESS REORGANIZATION.

(2) THE PROVIDER SHALL NOTIFY THE DEPARTMENT AND THE FACILITY'S SUBSCRIBERS 30 DAYS BEFORE ANY REORGANIZATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(B) RESTRICTIONS ON SALE OR TRANSFER OF FACILITY.

UNLESS THE DEPARTMENT APPROVES THE SALE OR TRANSFER IN ACCORDANCE WITH §§ 10-433 THROUGH 10-435 OF THIS SUBTITLE, A PROVIDER THAT HOLDS A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION OR A PERSON WITH AN OWNERSHIP INTEREST IN OR A RIGHT TO CONTROL THE PROVIDER, THROUGH GOVERNING BODY APPOINTMENTS OR CONTRACTUAL OR SIMILAR ARRANGEMENTS, MAY NOT SELL OR OTHERWISE TRANSFER, DIRECTLY OR INDIRECTLY:

(1) MORE THAN 50% OF THE PROVIDER'S OWNERSHIP OF A FACILITY; OR

(2) MORE THAN 50% OF THE OWNERSHIP OF OR RIGHT TO CONTROL A PERSON THAT OWNS OR CONTROLS A FACILITY.

(C) AGGREGATION.

ANY SERIES OF SALES OR OTHER TRANSFERS DESCRIBED IN SUBSECTION (B) OF THIS SECTION THAT OCCUR IN A 12-MONTH PERIOD SHALL BE AGGREGATED FOR PURPOSES OF THIS SECTION AND §§ 10-433 THROUGH 10-435 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11D(a).

In subsection (a)(1)(ii) of this section, the reference to the "same person or persons" is substituted for the former reference to "the same party or parties" for internal consistency.

In subsection (a)(2) of this section, the reference to a reorganization “described in” paragraph (1) of this subsection is substituted for the former reference to a reorganization “meeting the standards of” paragraph (3) for clarity.

Also in subsection (a)(2) of this section, the former phrase “[n]otwithstanding paragraph (3) of this subsection” is deleted as surplusage.

In the introductory language of subsection (b) of this section, the phrase “[u]nless the Department approves” is substituted for the former phrase “unless the provider or person obtains the approval of the Department” for brevity.

In subsection (c) of this section, the reference to sales or other transfers “described in subsection (b) of this section” is substituted for the former reference to “such” sales or other transfers for clarity.

Defined terms: “Department” § 10-101

“Facility” § 10-401

“Governing body” § 10-401

“Person” §§ 1-101, 10-401

“Provider” § 10-401

“Subscriber” § 10-401

10-433. SALE OR TRANSFER OF FACILITY OWNERSHIP -- NOTICES.

(A) IN GENERAL.

(1) AT LEAST 90 DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF A SALE OR OTHER TRANSFER, A PROVIDER SUBJECT TO § 10-432(B) OF THIS SUBTITLE SHALL FILE WITH THE DEPARTMENT A STATEMENT OF INTENT TO TRANSFER OWNERSHIP OR CONTROL.

(2) AT LEAST 65 DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF THE SALE OR OTHER TRANSFER, A PROVIDER SUBJECT TO § 10-432(B) OF THIS SUBTITLE AND ANY PROPOSED NEW PROVIDER SHALL GIVE WRITTEN NOTICE OF THE PROPOSED SALE OR OTHER TRANSFER, INCLUDING NOTICE OF THE PLACE AND TIME OF THE MEETING REQUIRED BY § 10-434(B) OF THIS SUBTITLE, TO THE SUBSCRIBERS OF THE AFFECTED FACILITY AND THE DEPARTMENT.

(B) CONTENTS OF NOTICE.

(1) THE WRITTEN NOTICE TO THE DEPARTMENT REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE EXISTING PROVIDER AND ANY PROPOSED NEW PROVIDER AND THE OFFICE OF EACH TO WHICH COMMENTS MAY BE SENT UNDER § 10-434 OF THIS SUBTITLE;

(II) THE NAME AND ADDRESS OF THE AFFECTED FACILITY;

(III) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE PROVIDER AND THE FACILITY AFTER THE PROPOSED SALE OR OTHER TRANSFER IS COMPLETED, INCLUDING:

1. IF THE PROVIDER IS TO BE A CORPORATION OR LIMITED LIABILITY COMPANY, ITS NAME, ITS STATE OF INCORPORATION OR FORMATION, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

2. IF THE PROVIDER IS TO BE A PARTNERSHIP, THE NAMES OF THE GENERAL PARTNERS, THE STATE GOVERNING ITS FORMATION, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

3. IF THE PROVIDER IS TO BE AN UNINCORPORATED ASSOCIATION, THE NAMES OF THE MEMBERS, THE STATE GOVERNING ITS ACTIVITIES, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

4. IF THE PROVIDER IS TO BE A TRUST, THE TRUSTEE'S NAME, THE NAMES OF THE OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE STATE THAT GOVERNS IT, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR OVERSEEING ITS ACTIVITIES;

5. IF THE PROVIDER IS TO BE A PARTNERSHIP THAT HAS A CORPORATION OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS, THE NAME OF EACH CORPORATION OR LIMITED LIABILITY COMPANY, ITS STATE OF INCORPORATION OR FORMATION, AND THE NAME OF ITS CHIEF EXECUTIVE OFFICER; AND

6. THE NAME AND OCCUPATION OF EACH OFFICER, DIRECTOR, TRUSTEE, GENERAL PARTNER, PRINCIPAL, AND EACH PERSON WHO WILL HAVE A 10% OR GREATER EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER OR IN A PERSON THAT OWNS OR CONTROLS THE PROVIDER;

(IV) A COPY OF THE CORPORATE CHARTER, PARTNERSHIP AGREEMENT, ARTICLES OF ASSOCIATION, MEMBERSHIP AGREEMENT, OR TRUST AGREEMENT THAT WILL GOVERN THE LEGAL ORGANIZATION OF THE PROVIDER AFTER THE SALE OR TRANSFER;

(V) A STATEMENT OF ANY AFFILIATION WITH A RELIGIOUS, CHARITABLE, OR OTHER NONPROFIT ORGANIZATION AFTER THE PROPOSED SALE OR TRANSFER AND THE EXTENT, IF ANY, OF THE AFFILIATE ORGANIZATION'S RESPONSIBILITY FOR THE FINANCIAL AND CONTRACTUAL OBLIGATIONS OF THE PROVIDER;

(VI) THE NAME AND ADDRESS OF ANY BUSINESS OR PROFESSIONAL ENTITY IN WHICH A PERSON IDENTIFIED IN ITEM (III)6 OF THIS PARAGRAPH HAS A 10% OR GREATER FINANCIAL INTEREST AND THAT IS LIKELY TO PROVIDE GOODS, PREMISES, OR SERVICES WITH A VALUE OF \$10,000 OR MORE A YEAR TO THE FACILITY OR PROVIDER AFTER THE SALE OR TRANSFER, AND A DESCRIPTION OF THE GOODS, PREMISES, OR SERVICES;

(VII) THE NAME OF THE PROPOSED MANAGER OR MANAGEMENT

COMPANY THAT WILL MANAGE THE DAY-TO-DAY OPERATIONS OF THE FACILITY AFTER THE SALE OR OTHER TRANSFER, AND A DESCRIPTION OF THE BUSINESS EXPERIENCE OF THE MANAGER OR COMPANY IN OPERATING OR MANAGING SIMILAR FACILITIES;

(VIII) A DESCRIPTION OF ANY MATTER IN WHICH A PERSON IDENTIFIED IN ITEM (III)6 OF THIS PARAGRAPH:

1. HAS BEEN CONVICTED OF A FELONY OR PLEADED NOLO CONTENDERE TO A FELONY CHARGE, IF THE FELONY INVOLVED FRAUD, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY;

2. HAS BEEN HELD LIABLE OR ENJOINED IN A CIVIL ACTION BY FINAL JUDGMENT, IF THE CIVIL ACTION INVOLVED FRAUD, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION AS A FIDUCIARY;

3. WAS SUBJECT TO AN EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OF A COURT OF RECORD IN AN ACTION THAT AROSE OUT OF OR RELATED TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING AN ACTION THAT AFFECTED A LICENSE TO OPERATE A FACILITY OR SERVICE FOR SENIOR, IMPAIRED, OR DEPENDENT PERSONS; OR

4. WITHIN THE PAST 10 YEARS, HAD A STATE OR FEDERAL LICENSE OR PERMIT SUSPENDED OR REVOKED BECAUSE OF AN ACTION BROUGHT BY A GOVERNMENTAL UNIT ARISING OUT OF OR RELATING TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING ACTIONS AFFECTING A LICENSE TO OPERATE A FACILITY OR SERVICE FOR SENIOR, IMPAIRED, OR DEPENDENT PERSONS;

(IX) A FINANCIAL PLAN PROVIDED BY THE ENTITY THAT WILL BE THE PROVIDER AFTER THE PROPOSED SALE OR OTHER TRANSFER IS COMPLETED IN A FORM REASONABLY ACCEPTABLE TO THE DEPARTMENT THAT DEMONSTRATES THE PROJECTED EFFECTS OF THE SALE OR TRANSFER ON THE FINANCIAL OPERATIONS OF THE PROVIDER AND THE FACILITY, INCLUDING ANY OBLIGATIONS OF THE PROVIDER TO MAKE PAYMENTS IN CONNECTION WITH THE SALE OR TRANSFER FROM THE FINANCIAL RESOURCES OF THE PROVIDER OR THE FACILITY; AND

(X) A STATEMENT BY THE ENTITY THAT WILL BE THE PROVIDER AFTER THE PROPOSED SALE OR TRANSFER IS COMPLETED THAT DEMONSTRATES THAT THE SALE OR TRANSFER IS NOT LIKELY TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

1. THE PROVIDER'S FINANCIAL STABILITY; OR

2. THE PROVIDER'S CAPACITY TO PERFORM ITS CONTINUING CARE AGREEMENT OBLIGATIONS TO SUBSCRIBERS.

(2) IN ADDITION TO THE INFORMATION REQUIRED TO BE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PROVIDER SUBJECT TO § 10-432(B) OF THIS SUBTITLE AND ANY PROPOSED NEW PROVIDER SHALL PROVIDE TO THE DEPARTMENT ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES TO EVALUATE THE PROPOSED TRANSACTION.

(3) ON REQUEST, THE EXISTING PROVIDER AND ANY PROPOSED NEW PROVIDER SHALL GIVE TO A SUBSCRIBER OF THE AFFECTED FACILITY THE INFORMATION INCLUDED IN THE WRITTEN NOTICE TO THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11D(b)(1), (2), (3), and (4).

In subsection (a)(2) of this section, the reference to the notice "including" notice of the place and time of the meeting is substituted for the former reference to the notice "specify[ing]" the place and time for brevity.

In the introductory language of subsection (b)(1) of this section, the reference to the notice "required under subsection (a)(2) of this section" is added for clarity.

In subsection (b)(1)(i) of this section, the reference to the office to which comments may be sent "under § 10-434 of this subtitle" is added for clarity.

In subsection (b)(1)(iii)6 of this section, the former references to an "entity" are deleted as included in the reference to a "person".

In subsection (b)(1)(iv) of this section, the reference to the document "that will govern" the legal organization of the provider is substituted for the former reference to the document "as it will pertain to" the legal organization for clarity.

In subsection (b)(1)(v) of this section, the former reference to any affiliation "that will exist" after the proposed sale or transfer is deleted as surplusage.

In subsection (b)(1)(vi) of this section, the former reference to an "operation" is deleted as included in the reference to an "entity".

In subsection (b)(1)(viii) of this section, the reference to a governmental "unit" is substituted for the former reference to a governmental "agency" for consistency throughout this article. *See* General Revisor's Note to article.

As to the substitution of the reference to "senior" persons for the former reference to "aging" persons in subsection (b)(1)(viii) of this section, *see* General Revisor's Note to title.

In the introductory language of subsection (b)(1)(x) of this section, and throughout this part, the word "effect" is substituted for the former word "impact" for clarity and consistency throughout this part.

Defined terms: "Department" § 10-101

"Facility" § 10-401

"Person" §§ 1-101, 10-401

“Provider” § 10-401

“State” § 1-101

“Subscriber” § 10-401

10-434. SALE OR TRANSFER OF FACILITY OWNERSHIP -- SUBSCRIBER QUESTIONS AND COMMENTS.

(A) SUBMISSION OF WRITTEN QUESTIONS AND COMMENTS.

WITHIN 15 DAYS AFTER THE NOTICE REQUIRED UNDER § 10-433(A)(2) OF THIS SUBTITLE IS GIVEN, SUBSCRIBERS MAY SUBMIT TO THE EXISTING PROVIDER, ANY PROPOSED NEW PROVIDER, AND THE DEPARTMENT WRITTEN QUESTIONS AND COMMENTS ABOUT THE PROPOSED SALE OR TRANSFER.

(B) MEETING REQUIRED.

(1) WITHIN 25 DAYS AFTER THE NOTICE REQUIRED UNDER § 10-433(A)(2) OF THIS SUBTITLE IS GIVEN, REPRESENTATIVES OF THE EXISTING PROVIDER AND ANY PROPOSED NEW PROVIDER SHALL HOLD A MEETING WITH NOT MORE THAN 15 REPRESENTATIVES CHOSEN BY THE SUBSCRIBERS OF THE AFFECTED FACILITY TO DISCUSS THE PROPOSED SALE OR TRANSFER.

(2) THE SUBSCRIBER REPRESENTATIVES SHALL GIVE THEIR NAMES AND ADDRESSES TO THE EXISTING PROVIDER, ANY PROPOSED NEW PROVIDER, AND THE DEPARTMENT.

(3) REPRESENTATIVES OF THE DEPARTMENT MAY ATTEND THE MEETING.

(C) ADDITIONAL WRITTEN COMMENTS.

WITHIN 10 DAYS AFTER THE MEETING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, SUBSCRIBERS MAY SUBMIT TO THE EXISTING PROVIDER, ANY PROPOSED NEW PROVIDER, AND THE DEPARTMENT ADDITIONAL WRITTEN COMMENTS ABOUT THE PROPOSED SALE OR TRANSFER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11D(b)(5), (6), and (7).

Defined terms: “Department” § 10-101

“Facility” § 10-401

“Provider” § 10-401

“Subscriber” § 10-401

10-435. SALE OR TRANSFER OF FACILITY OWNERSHIP -- APPROVAL BY DEPARTMENT.

(A) DETERMINATION BY DEPARTMENT.

(1) AFTER REVIEWING THE INFORMATION REQUIRED BY §§ 10-433 AND 10-434 OF THIS SUBTITLE, THE DEPARTMENT SHALL DETERMINE WHETHER THE SALE OR TRANSFER SATISFIES THE STANDARD FOR APPROVAL SET FORTH IN SUBSECTION (B) OF THIS SECTION.

(2) THE DEPARTMENT SHALL MAKE THE DETERMINATION WITHIN 50 DAYS AFTER THE DATE OF THE NOTICE REQUIRED UNDER § 10-433(A)(2) OF THIS SUBTITLE UNLESS EXTENDED BY THE DEPARTMENT FOR GOOD CAUSE.

(3) THE DEPARTMENT SHALL NOTIFY THE EXISTING PROVIDER, ANY PROPOSED NEW PROVIDER, AND THE SUBSCRIBER REPRESENTATIVES IN WRITING OF THE DETERMINATION AND THE REASONS FOR IT AND, IF APPLICABLE, THAT THE DEPARTMENT INTENDS TO TRANSFER THE CERTIFICATE OF REGISTRATION TO THE NEW PROVIDER.

(B) STANDARD FOR APPROVAL.

THE DEPARTMENT SHALL APPROVE A SALE OR OTHER TRANSFER OF OWNERSHIP OR CONTROL UNLESS THE DEPARTMENT DETERMINES THAT THE SALE OR TRANSFER IS LIKELY TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

(1) THE FINANCIAL STABILITY OF THE PROVIDER; OR

(2) THE CAPACITY OF THE PROVIDER TO PERFORM CONTINUING CARE AGREEMENT OBLIGATIONS TO SUBSCRIBERS.

(C) APPEAL OF DECISION.

(1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE PROVIDER MAY APPEAL THE DEPARTMENT'S DECISION ON THE PROPOSED SALE OR TRANSFER.

(2) A PERSON OTHER THAN THE PROVIDER MAY NOT APPEAL THE DEPARTMENT'S DECISION OR BE A PARTY IN INTEREST TO THE PROCEEDINGS.

(3) THE DEPARTMENT SHALL GIVE PROMPT NOTICE OF ANY APPEAL AND OF ANY DECISION ISSUED IN THE APPEAL TO THE SUBSCRIBER REPRESENTATIVES.

(D) COMPLETION OF SALE OR TRANSFER.

A SALE OR OTHER TRANSFER OF OWNERSHIP OR CONTROL SUBJECT TO THIS SECTION AND §§ 10-432 THROUGH 10-434 OF THIS SUBTITLE MAY NOT BE COMPLETED UNTIL 15 DAYS AFTER THE LATER OF:

(1) THE DAY THE DEPARTMENT ISSUES THE NOTICE REQUIRED UNDER SUBSECTION (A)(3) OF THIS SECTION OF ITS DECISION TO APPROVE THE SALE OR TRANSFER; OR

(2) IF AN APPEAL IS TAKEN UNDER SUBSECTION (C) OF THIS SECTION, THE DAY THE ADMINISTRATIVE LAW JUDGE ISSUES A DECISION TO ALLOW THE SALE OR TRANSFER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11D(c), (d), (e), and (f).

In subsection (c)(1) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to

the “Administrative Procedure Act” for clarity and accuracy.

In subsection (c)(2) of this section, the phrase “[a] person other than the provider may not ... be” a party in interest is substituted for the former phrase “[n]o other person shall be deemed to be” a party in interest for clarity.

In subsection (c)(3) of this section, the former phrase “[i]f an appeal is taken by the provider” is deleted as implicit.

In subsection (d)(2) of this section, the former reference to a “hearing officer” is deleted as obsolete.

Defined terms: “Continuing care agreement” § 10–401

“Department” § 10–101

“Person” §§ 1–101, 10–401

“Provider” § 10–401

“Subscriber” § 10–401

10–436. SALE OR TRANSFER OF ASSETS.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) A TRANSACTION UNDERTAKEN UNDER A CONTRACTUAL OBLIGATION IN EFFECT ON OCTOBER 1, 1996;

(2) A TRANSACTION MADE IN THE ORDINARY COURSE OF BUSINESS OF OPERATING A FACILITY;

(3) A REFUND UNDER A CONTRACT ENTERED INTO IN THE ORDINARY COURSE OF BUSINESS;

(4) A TRANSFER OF CASH, SECURITIES, OR OTHER INVESTMENT PROPERTY IN CONNECTION WITH AN ORDINARY INVESTMENT TRANSACTION;

(5) A GRANT OF A MORTGAGE, DEED OF TRUST, OR SECURITY INTEREST TO AN UNRELATED THIRD PARTY;

(6) A TRANSACTION INVOLVING AN EASEMENT, RIGHT-OF-WAY, ROAD WIDENING, OR SIMILAR CONVEYANCE FOR THE BENEFIT OF A PUBLIC BODY OR A UTILITY;

(7) A TRANSACTION MADE FOR AN EXPANSION OR RENOVATION; OR

(8) ANY OTHER SALE, TRANSFER, OR OTHER DISPOSITION EXEMPTED BY THE DEPARTMENT BY REGULATION.

(B) RESTRICTIONS ON SALE OR TRANSFER OF ASSETS.

(1) A PROVIDER THAT HOLDS A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION MAY NOT SELL, TRANSFER, OR OTHERWISE DISPOSE OF MORE THAN 10% OF ITS TOTAL ASSETS IN ANY 12-MONTH PERIOD UNLESS THE

DEPARTMENT APPROVES THE SALE, TRANSFER, OR DISPOSITION IN ACCORDANCE WITH §§ 10-437 AND 10-438 OF THIS SUBTITLE.

(2) A PROVIDER MAY NOT SELL, TRANSFER, OR OTHERWISE DISPOSE OF ASSETS EQUAL TO OR LESS THAN 10% OF ITS TOTAL ASSETS IF THE SALE, TRANSFER, OR DISPOSITION IS LIKELY, ACCORDING TO STANDARDS SET BY REGULATION, TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

(I) THE FINANCIAL STABILITY OF THE PROVIDER; OR

(II) THE CAPACITY OF THE PROVIDER TO PERFORM ITS OBLIGATIONS UNDER ITS CONTINUING CARE AGREEMENTS.

(3) DETERMINATIONS OF TOTAL ASSETS SHALL BE BASED ON THE PROVIDER'S LATEST CERTIFIED FINANCIAL STATEMENTS AVAILABLE AT THE TIME THE SALE, TRANSFER, OR OTHER DISPOSITION IS MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11E(a) and (b).

In the introductory language of subsection (a) of this section, the phrase "[t]his section does not apply to" is substituted for the former phrase "[t]he following transactions are not considered sales, transfers, or other dispositions of assets for purposes of subsection (a) of this section" for brevity.

In subsection (a)(8) of this section, the phrase "exempted by the Department by regulation" is substituted for the former phrase "identified by the Department in regulations as appropriate to fall within this subsection" for brevity and clarity.

In subsection (b)(1) of this section, the phrase "unless the Department approves" is substituted for the former phrase "unless the provider obtains the approval of the Department" for brevity.

Defined terms: "Certified financial statement" § 10-401

"Continuing care agreement" § 10-401

"Department" § 10-101

"Expansion" § 10-401

"Facility" § 10-401

"Provider" § 10-401

"Renovation" § 10-401

10-437. SALE OR TRANSFER OF ASSETS — NOTICES TO DEPARTMENT.

(A) IN GENERAL.

A PROVIDER SUBJECT TO § 10-436(B)(1) OF THIS SUBTITLE SHALL:

(1) AT LEAST 60 DAYS BEFORE THE SALE, TRANSFER, OR OTHER DISPOSITION, FILE WITH THE DEPARTMENT A STATEMENT OF INTENT TO SELL, TRANSFER, OR OTHERWISE DISPOSE OF ASSETS; AND

(2) AT LEAST 30 DAYS BEFORE THE SALE, TRANSFER, OR OTHER DISPOSITION, GIVE WRITTEN NOTICE TO THE DEPARTMENT OF THE PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

(B) STATEMENT OF INTENT -- CONTENTS.

THE STATEMENT OF INTENT REQUIRED TO BE FILED WITH THE DEPARTMENT UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL INCLUDE:

(1) IDENTIFICATION OF EACH ASSET TO BE SOLD, TRANSFERRED, OR OTHERWISE DISPOSED OF;

(2) IF THE PROVIDER IS SUBJECT TO § 10-436(B)(1) OF THIS SUBTITLE BECAUSE OF A SERIES OF SALES, TRANSFERS, OR OTHER DISPOSITIONS THAT HAVE EXCEEDED CUMULATIVELY 10% OF ITS TOTAL ASSETS, IDENTIFICATION OF EACH ASSET THAT HAS BEEN SOLD, TRANSFERRED, OR DISPOSED OF; AND

(3) THE REASON FOR THE SALE, TRANSFER, OR OTHER DISPOSITION IDENTIFIED IN ITEM (1) OF THIS SUBSECTION.

(C) NOTICE OF PROPOSED SALE, TRANSFER, OR DISPOSITION -- CONTENTS.

THE NOTICE TO THE DEPARTMENT REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL INCLUDE:

(1) A STATEMENT THAT DEMONSTRATES THAT THE PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION IS NOT LIKELY TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

(I) THE FINANCIAL STABILITY OF THE PROVIDER; OR

(II) THE CAPACITY OF THE PROVIDER TO PERFORM ITS OBLIGATIONS UNDER ITS CONTINUING CARE AGREEMENTS; AND

(2) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11E(c).

In the introductory language of subsection (b) of this section, the former phrase "the following information" is deleted as surplusage.

In subsection (b)(1) and (2) of this section, the references to "each asset" are substituted for the former references to "the asset or assets" and "all of the assets" for brevity and clarity.

In subsection (b)(2) of this section, the former requirement that "the provider shall" identify each asset is deleted as implicit.

Also in subsection (b)(2) of this section, the former reference to assets that "have resulted cumulatively in exceeding the 10% amount" is deleted as redundant.

In subsection (c)(1)(ii) of this section, the reference to "its" continuing care

agreements is substituted for the former reference to continuing care agreements "to which it is a party" for brevity.

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Provider" § 10-401

10-438. SALE OR TRANSFER OF ASSETS -- APPROVAL BY DEPARTMENT.

(A) DETERMINATION BY DEPARTMENT.

(1) AFTER REVIEWING THE INFORMATION REQUIRED BY § 10-437 OF THIS SUBTITLE, THE DEPARTMENT SHALL DETERMINE WHETHER THE SALE, TRANSFER, OR OTHER DISPOSITION SATISFIES THE STANDARD FOR APPROVAL SET FORTH IN SUBSECTION (B) OF THIS SECTION.

(2) THE DEPARTMENT SHALL MAKE ITS DETERMINATION AND NOTIFY THE PROVIDER IN WRITING WITHIN 25 DAYS AFTER THE DATE OF THE NOTICE REQUIRED BY § 10-437(A)(2) OF THIS SUBTITLE, UNLESS EXTENDED BY THE DEPARTMENT FOR GOOD CAUSE.

(3) IF THE DEPARTMENT DOES NOT APPROVE THE PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION, THE DEPARTMENT SHALL INCLUDE THE REASONS FOR ITS DETERMINATION IN THE WRITTEN NOTICE TO THE PROVIDER.

(B) STANDARD FOR APPROVAL.

THE DEPARTMENT SHALL APPROVE THE SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS UNLESS IT DETERMINES THAT THE SALE, TRANSFER, OR DISPOSITION IS LIKELY TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

(1) THE FINANCIAL STABILITY OF THE PROVIDER; OR

(2) THE CAPACITY OF THE PROVIDER TO PERFORM ITS OBLIGATIONS UNDER ITS CONTINUING CARE AGREEMENTS.

(C) REGULATIONS.

(1) BY REGULATION, THE DEPARTMENT SHALL ADOPT REASONABLE OBJECTIVE FINANCIAL STANDARDS FOR A PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

(2) IF THE DEPARTMENT DETERMINES THAT THE PROVIDER HAS MET THE OBJECTIVE FINANCIAL STANDARDS, THE DEPARTMENT SHALL APPROVE THE PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

(3) IF THE DEPARTMENT DETERMINES THAT THE PROVIDER HAS NOT MET THE OBJECTIVE FINANCIAL STANDARDS, THE DEPARTMENT MAY APPROVE A PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS IF IT SATISFIES THE REQUIREMENTS SET FORTH IN SUBSECTION (B) OF THIS SECTION.

(D) APPEAL OF DEPARTMENT'S DETERMINATION.

(1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE PROVIDER MAY APPEAL THE DEPARTMENT'S DECISION ON THE PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

(2) A PERSON OTHER THAN THE PROVIDER MAY NOT APPEAL THE DEPARTMENT'S DECISION OR BE A PARTY IN INTEREST TO THE PROCEEDINGS.

(E) COMPLETION OF TRANSFER OR OTHER DISPOSITION.

A SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS SUBJECT TO THIS PART MAY NOT BE COMPLETED UNTIL 5 DAYS AFTER THE LATER OF:

(1) THE DAY THE DEPARTMENT ISSUES THE NOTICE REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION OF ITS DECISION TO APPROVE THE SALE, TRANSFER, OR OTHER DISPOSITION; OR

(2) IF AN APPEAL IS TAKEN UNDER SUBSECTION (D) OF THIS SECTION, THE DAY THE ADMINISTRATIVE LAW JUDGE ISSUES A DECISION TO ALLOW THE SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11E(d), (e), (f), (g), and (h).

In subsection (a)(2) of this section, the requirement that the Department "notify" the provider of its determination is substituted for the former requirement that the determination be "communicated to" the provider for clarity. Similarly, in subsection (a)(3) of this section, the reference to the written "notice" is substituted for the former reference to the written "communication".

In subsection (b)(2) of this section, the reference to "its" continuing care agreements is substituted for the former reference to the continuing care agreements "to which it is a party" for brevity.

In subsection (c)(2) of this section, the requirement that the Department approve a proposed transaction "[i]f the Department determines that the provider has met the objective financial standards" is substituted for the former phrase "satisfaction of which will result in approval" for clarity.

In subsection (c)(3) of this section, the authority for the Department to approve a proposed transaction "if it satisfies the requirements set forth in subsection (b) of this section" is substituted for the former prohibition that "[t]hose objective standards may not be the only basis on which a determination can be made that a proposed [transaction] satisfies the condition" set forth in subsection (b) of this section for brevity and clarity.

In subsection (d)(1) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to the "Administrative Procedure Act" for clarity and accuracy.

In subsection (d)(2) of this section, the phrase "[a] person other than the provider may not ... be" a party in interest is substituted for the former

phrase “[n]o other person shall be deemed to be” a party in interest for clarity.

In the introductory language of subsection (e) and in subsection (e)(2) of this section, the reference to a “sale”, transfer, or other disposition is added for consistency within this section. Similarly, in subsection (e)(1) of this section, the reference to a sale, transfer, “or other disposition” is added. These additions are called to the attention of the General Assembly.

In subsection (e)(2) of this section, the former reference to a “hearing officer” is deleted as obsolete.

Defined terms: “Continuing care agreement” § 10–401

“Department” § 10–101

“Person” §§ 1–101, 10–401

“Provider” § 10–401

10–439. TERMINATION OF OR FAILURE TO RENEW LEASE AFTER CONVERSION.

A PROVIDER WHOSE FACILITY HAS BEEN THE SUBJECT OF A CONVERSION MAY NOT TERMINATE OR FAIL TO RENEW A LEASE FOR AN ACCOMMODATION IN ORDER TO ENTER INTO A CONTINUING CARE AGREEMENT FOR THAT ACCOMMODATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 11F.

Defined terms: “Continuing care agreement” § 10–401

“Conversion” § 10–401

“Facility” § 10–401

“Provider” § 10–401

10–440. REMOVAL OF RECORDS OR ASSETS FROM STATE.

(A) IN GENERAL.

A PROVIDER MAY NOT REMOVE A RECORD OR ASSET OF THE PROVIDER RELATED TO THE OPERATION OF A FACILITY OR THE PROVISION OF SERVICES UNDER A CONTINUING CARE AGREEMENT FROM THE STATE UNLESS THE DEPARTMENT CONSENTS IN WRITING.

(B) CONSENT OF DEPARTMENT.

CONSENT SHALL BE BASED ON THE PROVIDER’S SUBMISSION OF SATISFACTORY EVIDENCE THAT THE REMOVAL:

(1) WILL FACILITATE AND MAKE THE OPERATIONS OF THE PROVIDER MORE ECONOMICAL; AND

(2) WILL NOT DIMINISH THE SERVICE OR PROTECTION TO BE GIVEN TO THE PROVIDER’S SUBSCRIBERS IN THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 12.

In subsection (a) of this section, the former phrase "to such removal" is deleted as surplusage.

In subsection (b)(2) of this section, the former word "thereafter" is deleted as surplusage.

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Facility" § 10-401

"Provider" § 10-401

"Records" § 10-401

"Subscriber" § 10-401

10-441. INSPECTIONS.

(A) AUTHORITY TO INSPECT.

THE DEPARTMENT MAY:

(1) INSPECT A FACILITY THAT OFFERS CONTINUING CARE;

(2) EXAMINE THE FACILITY'S BOOKS AND RECORDS; AND

(3) AUDIT OR OBSERVE A SERVICE PROVIDED UNDER A CONTINUING CARE AGREEMENT.

(B) COORDINATION WITH DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

IF ALL OR PART OF A FACILITY IS SUBJECT TO LICENSURE BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT SHALL COORDINATE ITS INSPECTIONS UNDER THIS SECTION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO AVOID DUPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17.

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Facility" § 10-401

"Records" § 10-401

10-442. RESERVED.

10-443. RESERVED.

PART V. CONTINUING CARE AGREEMENTS.

10-444. CONTINUING CARE AGREEMENTS -- CONTENTS.

(A) SCOPE OF SECTION.

EXCEPT AS PROVIDED IN SUBSECTION (B)(23) OF THIS SECTION, A REQUIREMENT OF THIS SECTION DOES NOT APPLY TO ANY CONTINUING CARE AGREEMENT ENTERED INTO BEFORE THE EFFECTIVE DATE OF THE REQUIREMENT.

(B) REQUIRED PROVISIONS.

IN A FORM ACCEPTABLE TO THE DEPARTMENT, EACH CONTINUING CARE AGREEMENT SHALL:

(1) SHOW THE TOTAL CONSIDERATION PAID BY THE SUBSCRIBER FOR CONTINUING CARE, INCLUDING THE VALUE OF ALL PROPERTY TRANSFERRED, DONATIONS, ENTRANCE FEES, SUBSCRIPTIONS, MONTHLY FEES, AND ANY OTHER FEES PAID OR PAYABLE BY OR ON BEHALF OF A SUBSCRIBER;

(2) SPECIFY ALL SERVICES THAT ARE TO BE PROVIDED BY THE PROVIDER TO EACH SUBSCRIBER, SUCH AS FOOD, SHELTER, MEDICAL CARE, NURSING CARE, OR OTHER HEALTH RELATED SERVICES, INCLUDING IN DETAIL ALL ITEMS THAT EACH SUBSCRIBER WILL RECEIVE, AND WHETHER THE ITEMS WILL BE PROVIDED FOR LIFE OR FOR A DESIGNATED TIME PERIOD;

(3) DESIGNATE THE CLASSES OF SUBSCRIBERS ACCORDING TO TYPES OF PAYMENT PLANS;

(4) SUBJECT TO SUBSECTION (C) OF THIS SECTION, DESCRIBE THE PROCEDURES TO BE FOLLOWED BY THE PROVIDER WHEN THE PROVIDER TEMPORARILY OR PERMANENTLY CHANGES THE SUBSCRIBER'S ACCOMMODATIONS WITHIN THE FACILITY OR TRANSFERS THE SUBSCRIBER TO ANOTHER HEALTH FACILITY;

(5) DESCRIBE THE POLICIES THAT WILL BE IMPLEMENTED IF THE SUBSCRIBER BECOMES UNABLE TO PAY THE MONTHLY FEES;

(6) STATE THE POLICY OF THE PROVIDER CONCERNING CHANGES IN ACCOMMODATIONS AND THE PROCEDURE TO IMPLEMENT THAT POLICY IF THE NUMBER OF PERSONS OCCUPYING AN INDIVIDUAL UNIT CHANGES;

(7) PROVIDE IN CLEAR AND UNDERSTANDABLE LANGUAGE, IN BOLDFACE TYPE, AND IN THE LARGEST TYPE USED IN THE BODY OF THE AGREEMENT:

(I) THE TERMS GOVERNING THE REFUND OF ANY PORTION OF THE ENTRANCE FEE IF THE PROVIDER DISCHARGES THE SUBSCRIBER OR THE SUBSCRIBER CANCELS THE AGREEMENT; AND

(II) WHETHER MONTHLY FEES, IF CHARGED, WILL BE SUBJECT TO PERIODIC INCREASES;

(8) STATE THE TERMS UNDER WHICH AN AGREEMENT IS CANCELED BY THE DEATH OF THE SUBSCRIBER;

(9) PROVIDE THAT CHARGES FOR CARE PAID IN ADVANCE IN A LUMP SUM MAY NOT BE INCREASED OR CHANGED FOR THE DURATION OF THE AGREED-UPON CARE;

(10) STATE THAT THE SUBSCRIBER HAS RECEIVED, AT LEAST TWO WEEKS BEFORE SIGNING THE AGREEMENT, THE CURRENT VERSION OF THE WRITTEN RULES OF THE PROVIDER;

- (11) DESCRIBE THE LIVING QUARTERS;
- (12) IF APPLICABLE, STATE THE CONDITIONS UNDER WHICH A SUBSCRIBER MAY ASSIGN A UNIT FOR THE USE OF ANOTHER INDIVIDUAL;
- (13) STATE THE PROVIDER'S RELIGIOUS OR CHARITABLE AFFILIATIONS AND THE EXTENT, IF ANY, TO WHICH THE AFFILIATE ORGANIZATION IS RESPONSIBLE FOR THE PROVIDER'S FINANCIAL AND CONTRACTUAL OBLIGATIONS;
- (14) STATE THE SUBSCRIBER'S AND PROVIDER'S RESPECTIVE RIGHTS AND OBLIGATIONS CONCERNING:
 - (I) USE OF THE FACILITY; AND
 - (II) ANY REAL AND PERSONAL PROPERTY OF THE SUBSCRIBER PLACED IN THE PROVIDER'S CUSTODY;
- (15) STATE THAT SUBSCRIBERS HAVE THE RIGHT TO ORGANIZE AND OPERATE A SUBSCRIBER ASSOCIATION AT THE FACILITY AND TO MEET PRIVATELY TO CONDUCT BUSINESS;
- (16) STATE THAT THERE IS AN INTERNAL GRIEVANCE PROCEDURE TO ADDRESS A SUBSCRIBER'S GRIEVANCE;
- (17) STATE THE FEE ADJUSTMENTS, IF ANY, THAT WILL BE MADE IF THE SUBSCRIBER IS VOLUNTARILY ABSENT FROM THE FACILITY FOR AN EXTENDED PERIOD OF TIME;
- (18) SPECIFY THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE SUBSCRIBER WILL BE REQUIRED TO APPLY FOR MEDICAID, MEDICARE, PUBLIC ASSISTANCE, OR ANY PUBLIC BENEFIT PROGRAM AND WHETHER THE FACILITY PARTICIPATES IN MEDICARE OR MEDICAL ASSISTANCE;
- (19) STATE THAT THE SUBSCRIBER RECEIVED A COPY OF THE LATEST CERTIFIED FINANCIAL STATEMENT AT LEAST TWO WEEKS BEFORE SIGNING THE AGREEMENT AND THAT THE SUBSCRIBER HAS REVIEWED THE STATEMENT;
- (20) PROVIDE THAT, ON REQUEST, THE PROVIDER WILL MAKE AVAILABLE TO THE SUBSCRIBER ANY CERTIFIED FINANCIAL STATEMENT SUBMITTED TO THE DEPARTMENT;
- (21) IF APPLICABLE, DESCRIBE THE CONDITIONS UNDER WHICH THE PROVIDER MAY BE ISSUED AN INITIAL CERTIFICATE OF REGISTRATION AND THE CONDITIONS UNDER WHICH THE PROVIDER MAY USE ESCROWED DEPOSITS, AND STATE THE AMOUNT OF THE SUBSCRIBER'S DEPOSIT;
- (22) STATE THAT FEES COLLECTED BY A PROVIDER UNDER THE TERMS OF A CONTINUING CARE AGREEMENT MAY ONLY BE USED FOR PURPOSES SET FORTH IN THE AGREEMENT;

(23) ALLOW A SUBSCRIBER TO DESIGNATE A BENEFICIARY TO RECEIVE ANY REFUNDABLE PORTION OF THE ENTRANCE FEE THAT IS OWED DUE TO THE DEATH OF THE SUBSCRIBER ON OR AFTER THE DATE OF OCCUPANCY, IF THE DESIGNATION IS:

- (I) IN WRITING;
- (II) WITNESSED BY AT LEAST TWO COMPETENT WITNESSES;
- (III) NOT CONTINGENT; AND
- (IV) SPECIFIED IN PERCENTAGES AND ACCOUNTS FOR 100% OF THE REFUND DUE;

(24) STATE THE FUNERAL AND BURIAL SERVICES, IF ANY, THAT THE PROVIDER WILL PROVIDE; AND

(25) CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE AND IN THE LARGEST TYPE USED IN THE AGREEMENT: "A PRELIMINARY CERTIFICATE OF REGISTRATION OR CERTIFICATE OF REGISTRATION IS NOT AN ENDORSEMENT OR GUARANTEE OF THIS FACILITY BY THE STATE OF MARYLAND. THE MARYLAND DEPARTMENT OF AGING URGES YOU TO CONSULT WITH AN ATTORNEY AND A SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY DOCUMENTS."

(C) RESTRICTIONS ON CHANGE IN ACCOMMODATIONS.

A SUBSCRIBER'S ACCOMMODATIONS MAY BE CHANGED ONLY TO PROTECT THE HEALTH OR SAFETY OF THE SUBSCRIBER OR THE GENERAL AND ECONOMIC WELFARE OF OTHER RESIDENTS.

(D) ADDITIONAL PROVISIONS.

A CONTINUING CARE AGREEMENT MAY CONTAIN, IN A FORM ACCEPTABLE TO THE DEPARTMENT, ANY OTHER APPROPRIATE PROVISION TO EFFECTUATE THE PURPOSE OF THE AGREEMENT.

(E) ASSISTED LIVING PROGRAM SERVICES.

(1) THIS SUBSECTION APPLIES IF:

(I) A PROVIDER'S CONTINUING CARE AGREEMENT INCLUDES A PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES; AND

(II) THE PROVIDER DOES NOT EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT.

(2) IN ADDITION TO ANY OTHER REQUIREMENT OF THIS SECTION, THE CONTINUING CARE AGREEMENT SHALL INCLUDE THE FOLLOWING PROVISIONS CONCERNING THE ASSISTED LIVING PROGRAM:

(I) A STATEMENT OF THE LEVEL OF CARE THAT THE ASSISTED LIVING PROGRAM IS LICENSED TO OFFER;

(II) A DESCRIPTION OF THE PROCEDURES TO BE FOLLOWED BY THE PROVIDER FOR NOTIFYING THE SUBSCRIBER OF THE LEVEL OF CARE THE SUBSCRIBER NEEDS IF THE SUBSCRIBER TRANSFERS TO AN ASSISTED LIVING PROGRAM;

(III) A STATEMENT INDICATING THE OPTIONS AVAILABLE TO A SUBSCRIBER IF THE SUBSCRIBER'S LEVEL OF CARE, AFTER ADMISSION TO AN ASSISTED LIVING PROGRAM, EXCEEDS THE LEVEL OF CARE FOR WHICH THE PROVIDER IS LICENSED;

(IV) BASED ON A SAMPLE LIST OF ASSISTED LIVING PROGRAM SERVICES THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAINTAINS, A STATEMENT OF WHICH SERVICES ARE PROVIDED BY THE ASSISTED LIVING PROGRAM AND WHICH SERVICES ARE NOT;

(V) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER AND THE SUBSCRIBER OR THE SUBSCRIBER'S AGENT FOR HANDLING THE SUBSCRIBER'S FINANCES;

(VI) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER AND THE SUBSCRIBER OR THE SUBSCRIBER'S AGENT FOR DISPOSITION OF THE SUBSCRIBER'S PROPERTY ON THE SUBSCRIBER'S DISCHARGE OR DEATH; AND

(VII) THE APPLICABLE RATE STRUCTURE AND PAYMENT PROVISIONS COVERING:

1. ALL RATES TO BE CHARGED TO THE SUBSCRIBER, INCLUDING:

A. SERVICE PACKAGES;

B. FEE-FOR-SERVICE RATES; AND

C. ANY OTHER NONSERVICE-RELATED CHARGES;

2. CRITERIA TO BE USED FOR IMPOSING ADDITIONAL CHARGES TO PROVIDE ADDITIONAL SERVICES, IF THE SUBSCRIBER'S SERVICE AND CARE NEEDS CHANGE;

3. PAYMENT ARRANGEMENTS AND FEES, IF KNOWN, FOR THIRD-PARTY SERVICES NOT COVERED BY THE CONTINUING CARE AGREEMENT, BUT ARRANGED FOR BY THE SUBSCRIBER, THE SUBSCRIBER'S AGENT, OR THE ASSISTED LIVING PROGRAM;

4. IDENTIFICATION OF THE PERSONS RESPONSIBLE TO PAY ALL FEES AND CHARGES AND A CLEAR INDICATION OF WHETHER THE PERSON'S RESPONSIBILITY IS OR IS NOT LIMITED TO THE EXTENT OF THE SUBSCRIBER'S FUNDS;

5. A PROVISION FOR NOTICE AT LEAST 45 DAYS BEFORE ANY RATE INCREASE, EXCEPT FOR AN INCREASE NECESSITATED BY A CHANGE IN THE SUBSCRIBER'S MEDICAL CONDITION; AND

6. FAIR AND REASONABLE BILLING AND PAYMENT POLICIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 13(a), (b), and (d).

In the introductory language of subsection (b) of this section, the defined term "continuing care agreement" is substituted for the former reference to an "agreement executed between a subscriber and a provider" for consistency.

In subsection (b)(4) of this section, the phrase "subject to subsection (c) of this section" is added for clarity.

In subsection (b)(6) of this section, the phrase "if the number of persons ... changes" is substituted for the former phrase "in the event of an increase or decrease in the number of persons" for brevity.

In subsection (b)(7)(ii) of this section, the former reference to whether "or not" is deleted as implicit.

In subsection (b)(16) of this section, the reference to "address[ing] a subscriber's grievance" is substituted for the former reference to "investigat[ing] a subscriber's grievance" for consistency with § 10-428 of this subtitle.

In subsection (b)(20) of this section, the reference to the "provider" is substituted for the former reference to the "facility" for consistency.

In subsection (e)(2)(ii) of this section, the phrase "if the subscriber transfers" is substituted for the former phrase "if the subscriber is transferred" for accuracy and consistency with the Health Care Decisions Act.

Also in subsection (e)(2)(ii) of this section, the former phrase "[a]s part of the procedures to be followed under subsection (a)(4) of this section" is deleted as surplusage.

Defined terms: "Assisted living program" § 10-401

"Certified financial statement" § 10-401

"Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Department" § 10-101

"Deposit" § 10-401

"Entrance fee" § 10-401

"Facility" § 10-401

"Health related services" § 10-401

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-445. CONTINUING CARE AGREEMENTS -- APPROVAL BY DEPARTMENT;
AVAILABILITY FOR INSPECTION.

(A) APPROVAL BY DEPARTMENT.

(1) IF A PROVIDER'S FEASIBILITY STUDY HAS BEEN APPROVED UNDER § 10-409 OF THIS SUBTITLE, THE DEPARTMENT SHALL DECIDE WHETHER TO APPROVE A CONTINUING CARE AGREEMENT WITHIN 180 DAYS AFTER RECEIPT OF A COMPLETE AGREEMENT.

(2) IF THE DEPARTMENT DOES NOT ACT WITHIN 180 DAYS, THE AGREEMENT IS DEEMED APPROVED.

(B) AVAILABILITY FOR INSPECTION.

THE PROVIDER SHALL MAINTAIN THE CONTINUING CARE AGREEMENT AT THE FACILITY AND MAKE IT AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER TITLE 19, SUBTITLE 18, OF THE HEALTH - GENERAL ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 13(c) and (e).

In subsection (b) of this section, the reference to "at the facility" is substituted for the former reference to "on site" for clarity.

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Facility" § 10-401

"Provider" § 10-401

10-446. RESCISSION OF AGREEMENT; WITHDRAWAL OF APPLICATION.

(A) RIGHT TO RESCIND.

A SUBSCRIBER MAY RESCIND A CONTINUING CARE AGREEMENT FOR ANY REASON BEFORE THE DATE OF OCCUPANCY BY THE SUBSCRIBER.

(B) REFUND -- AUTOMATIC CANCELLATION.

(1) A CONTINUING CARE AGREEMENT IS AUTOMATICALLY CANCELED IF, BEFORE THE DATE OF OCCUPANCY:

(I) THE SUBSCRIBER DIES;

(II) THE PROVIDER DETERMINES THAT THE SUBSCRIBER IS INELIGIBLE FOR ADMISSION TO THE FACILITY; OR

(III) THE SUBSCRIBER TERMINATES THE CONTINUING CARE AGREEMENT BECAUSE OF A SUBSTANTIAL CHANGE IN THE SUBSCRIBER'S PHYSICAL, MENTAL, OR FINANCIAL CONDITION.

(2) WITHIN 30 DAYS AFTER A CONTINUING CARE AGREEMENT IS CANCELED UNDER THIS SUBSECTION, THE SUBSCRIBER OR THE SUBSCRIBER'S LEGAL REPRESENTATIVE SHALL RECEIVE A FULL REFUND OF ALL MONEY PAID TO THE PROVIDER, LESS:

(I) A PROCESSING FEE APPROVED BY THE DEPARTMENT; AND

(II) ANY SPECIAL ADDITIONAL COSTS INCURRED BY THE PROVIDER DUE TO MODIFICATIONS IN THE STRUCTURE OR FURNISHINGS OF THE UNIT SPECIFICALLY REQUESTED BY THE SUBSCRIBER, IF:

1. THE COSTS DO NOT EXCEED THE COSTS OF MODIFICATION AND THE REASONABLE COSTS OF RESTORATION ACTUALLY INCURRED BY THE PROVIDER; AND

2. THE COSTS WERE SET FORTH IN WRITING IN A SEPARATE ADDENDUM TO THE AGREEMENT SIGNED BY THE SUBSCRIBER.

(C) REFUND -- RESCISSION.

(1) IF THE SUBSCRIBER RESCINDS THE CONTINUING CARE AGREEMENT WITHIN 90 DAYS AFTER ENTERING INTO THE AGREEMENT AND BEFORE THE DATE OF OCCUPANCY FOR ANY REASON OTHER THAN THE REASONS SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION, THE PROVIDER SHALL REFUND THE AMOUNT DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION TO THE SUBSCRIBER OR THE SUBSCRIBER'S LEGAL REPRESENTATIVE WITHIN 30 DAYS AFTER THE DATE OF RESCISSION.

(2) IF THE SUBSCRIBER RESCINDS THE CONTINUING CARE AGREEMENT MORE THAN 90 DAYS AFTER ENTERING INTO THE AGREEMENT AND BEFORE THE DATE OF OCCUPANCY FOR ANY REASON OTHER THAN THE REASONS SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION, THE PROVIDER MAY RETAIN UP TO 25% OF THE SUBSCRIBER'S ENTRANCE FEE DEPOSIT.

(D) RESCISSION FOR VIOLATION OF SUBTITLE; DAMAGES.

(1) A SUBSCRIBER MAY RESCIND A CONTINUING CARE AGREEMENT AT ANY TIME IF A TERM OF THE AGREEMENT VIOLATES THIS SUBTITLE AND THE SUBSCRIBER IS INJURED BY THE VIOLATION.

(2) THE SUBSCRIBER IS ENTITLED TO TREBLE DAMAGES FOR EXTENSIVE INJURIES ARISING FROM A VIOLATION.

(E) WITHDRAWAL OF APPLICATION.

(1) AN APPLICANT FOR ADMISSION TO A FACILITY WHO WITHDRAWS THE APPLICATION BEFORE EXECUTING A CONTINUING CARE AGREEMENT SHALL RECEIVE A REFUND OF ALL MONEY PAID TO THE PROVIDER EXCEPT A PROCESSING FEE APPROVED BY THE DEPARTMENT.

(2) THE REFUND SHALL BE PAID WITHIN 60 DAYS AFTER THE APPLICANT WITHDRAWS THE APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 14.

In the introductory language of subsection (b)(2) of this section, the word "less" is substituted for the former word "except" for clarity.

In subsection (b)(2)(ii)1 of this section, the reference to the costs of modification "and" the reasonable costs of restoration is substituted for the former reference to "or" for accuracy.

In subsection (c)(1) of this section, the requirement that the "provider shall refund the amount described in subsection (b)(2) of this section ... within 30 days after the date of rescission" is substituted for the former phrase "the refund provisions shall be the same as those provided for in subsection (b)(1) of this section" for clarity.

The Human Services Article Review Committee suggests that the General Assembly may wish to consider clarifying the meaning of the term "extensive injuries" in subsection (d)(2) of this section.

Defined terms: "Continuing care agreement" § 10-401

"Department" § 10-101

"Entrance fee" § 10-401

"Facility" § 10-401

"Processing fee" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-447. SERVICES UNDER AN EXTENSIVE OR MODIFIED AGREEMENT.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EXTENSIVE AGREEMENT" MEANS A CONTINUING CARE AGREEMENT UNDER WHICH THE PROVIDER PROMISES TO PROVIDE RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND LONG-TERM CARE SERVICES IN A LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM:

(I) FOR AS LONG AS THE SUBSCRIBER NEEDS THE SERVICES; AND

(II) FOR NO INCREASE IN THE SUBSCRIBER'S ENTRANCE FEE OR PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO ACCOUNT FOR INCREASED OPERATING COSTS CAUSED BY INFLATION OR OTHER FACTORS UNRELATED TO THE INDIVIDUAL SUBSCRIBER.

(3) "MODIFIED AGREEMENT" MEANS A CONTINUING CARE AGREEMENT:

(I) UNDER WHICH THE PROVIDER PROMISES TO PROVIDE RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND A LIMITED AMOUNT OF LONG-TERM CARE SERVICES IN A LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM:

- AND
1. FOR AS LONG AS THE SUBSCRIBER NEEDS THE SERVICES;
 2. FOR NO INCREASE IN THE SUBSCRIBER'S ENTRANCE FEE OR PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO ACCOUNT FOR INCREASED OPERATING COSTS CAUSED BY INFLATION OR OTHER FACTORS UNRELATED TO THE INDIVIDUAL SUBSCRIBER; AND

(II) THAT PROVIDES THAT LONG-TERM CARE SERVICES IN A LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM BEYOND THE LIMITED AMOUNT OF SERVICES TO BE PROVIDED UNDER ITEM (I) OF THIS PARAGRAPH WILL BE PROVIDED AT A PER DIEM, FEE-FOR-SERVICE, OR OTHER AGREED-UPON RATE.

(B) ASSISTED LIVING SERVICES.

(1) A PROVIDER SHALL PROVIDE THE ASSISTED LIVING SERVICES A SUBSCRIBER NEEDS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION IF:

(I) THE SUBSCRIBER'S CONTINUING CARE AGREEMENT IS AN EXTENSIVE OR MODIFIED AGREEMENT THAT PROMISES THE PROVIDER WILL PROVIDE ASSISTED LIVING SERVICES; AND

(II) THE PROVIDER DOES NOT HAVE AN ASSISTED LIVING BED AVAILABLE AT THE FACILITY WHEN THE SUBSCRIBER NEEDS THE PROMISED CARE.

(2) THE PROVIDER SHALL PROVIDE ASSISTED LIVING SERVICES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A SUBSCRIBER:

(I) AT THE SAME RATE THE SUBSCRIBER WOULD PAY IF AN ASSISTED LIVING BED WERE AVAILABLE; AND

(II) AT THE PROVIDER'S OPTION:

1. IN THE SUBSCRIBER'S INDEPENDENT LIVING UNIT; OR
2. IN A NEARBY LICENSED ASSISTED LIVING FACILITY.

(C) COMPREHENSIVE CARE SERVICES.

(1) A PROVIDER SHALL PROVIDE THE COMPREHENSIVE CARE SERVICES A SUBSCRIBER NEEDS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION IF:

(I) THE SUBSCRIBER'S CONTINUING CARE AGREEMENT IS AN EXTENSIVE OR MODIFIED AGREEMENT THAT PROMISES THE PROVIDER WILL PROVIDE THE SUBSCRIBER WITH COMPREHENSIVE CARE SERVICES IF THE SUBSCRIBER NEEDS THEM; AND

(II) THE PROVIDER DOES NOT HAVE A COMPREHENSIVE CARE BED AVAILABLE WHEN THE SUBSCRIBER NEEDS THE PROMISED CARE.

(2) THE PROVIDER SHALL PROVIDE THE SERVICES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) AT THE SAME RATE THE SUBSCRIBER WOULD PAY IF A COMPREHENSIVE BED WERE AVAILABLE; AND

(II) AT THE PROVIDER'S OPTION:

1. IN THE SUBSCRIBER'S INDEPENDENT OR ASSISTED LIVING UNIT; OR

2. IN A NEARBY LICENSED COMPREHENSIVE CARE FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 14A and 7(l) and (s).

In subsection (a)(2) and (3) of this section, the references to an "[e]xtensive agreement" and a "[m]odified agreement" are substituted for the former references to an "[e]xtensive contract" and a "[m]odified contract" for consistency with terminology used in subsections (b)(1)(i) and (c)(1)(i) of this section.

In subsection (a)(3)(i) of this section, the references to a continuing care contract "under which the provider promises to provide residential facilities, meals, amenities, and a limited amount of long-term care services" is substituted for the former reference to a continuing care agreement that "[w]ould be an extensive contract but for its limiting the amount of long-term care services to be provided" for clarity.

The Human Services Article Review Committee suggests that the General Assembly may wish to define the term "comprehensive care services" used in subsection (c) of this section.

Defined terms: "Assisted living program" § 10-401

"Continuing care agreement" § 10-401

"Entrance fee" § 10-401

"Facility" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-448. DISMISSAL OR DISCHARGE OF SUBSCRIBER BEFORE EXPIRATION OF AGREEMENT.

(A) DISMISSAL OR DISCHARGE OF SUBSCRIBER BY PROVIDER.

A CONTINUING CARE AGREEMENT MAY NOT ALLOW DISMISSAL OR DISCHARGE OF THE SUBSCRIBER FROM THE FACILITY PROVIDING CARE BEFORE THE AGREEMENT EXPIRES UNLESS:

(1) THE PROVIDER HAS JUST CAUSE FOR THE DISMISSAL OR DISCHARGE; AND

(2) THE PROVIDER GIVES THE SUBSCRIBER AT LEAST 60 DAYS' ADVANCE NOTICE.

(B) REFUND REQUIRED.

IF A PROVIDER TERMINATES A SUBSCRIBER'S CONTINUING CARE AGREEMENT FOR JUST CAUSE, THE PROVIDER SHALL PAY THE SUBSCRIBER A REFUND CALCULATED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, WITHIN 60 DAYS AFTER THE LATER OF:

- (1) THE DATE OF DISMISSAL OR DISCHARGE; OR
 - (2) THE DATE THE SUBSCRIBER VACATES THE UNIT.
- (C) CALCULATION OF REFUND.

(1) THE SUBSCRIBER'S REFUND SHALL EQUAL THE ENTRANCE FEE DIVIDED BY THE SUBSCRIBER'S YEARS OF EXPECTED LIFETIME AT ADMISSION, MULTIPLIED BY THE SUBSCRIBER'S YEARS OF EXPECTED LIFETIME AT DISMISSAL OR DISCHARGE.

(2) A SUBSCRIBER'S YEARS OF EXPECTED LIFETIME AT ADMISSION AND AT DISMISSAL OR DISCHARGE SHALL BE COMPUTED BASED ON THE APPROPRIATE TABLES MOST RECENTLY PUBLISHED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES AT THE TIME OF DISMISSAL OR DISCHARGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 15.

In subsection (a) of this section, the reference to the "dismissal or discharge" is substituted for the former reference to "such removal" for consistency throughout this section.

In the introductory language of subsection (b) of this section, the reference to terminating "a subscriber's continuing care agreement" is substituted for the former reference to terminating "a subscriber" for clarity and accuracy.

In subsection (c)(2) of this section, the phrase "at admission and at dismissal or discharge" is substituted for the former phrase "for both purposes" for clarity.

Defined terms: "Continuing care agreement" § 10-401

"Entrance fee" § 10-401

"Facility" § 10-401

"Provider" § 10-401

"Subscriber" § 10-401

10-449. CONTRACTUAL ENTRANCE FEE REFUND DUE TO TERMINATION OF CONTINUING CARE AGREEMENT BY SUBSCRIBER.

(A) ELECTION TO TERMINATE AGREEMENT.

A CONTINUING CARE AGREEMENT SHALL ALLOW A SUBSCRIBER TO TERMINATE THE AGREEMENT BY GIVING A WRITTEN TERMINATION NOTICE TO THE PROVIDER.

(B) TERMINATION WITHIN FIRST 90 DAYS OF OCCUPANCY.

IF A CONTINUING CARE AGREEMENT IS TERMINATED BY THE SUBSCRIBER'S ELECTION OR DEATH WITHIN THE FIRST 90 DAYS OF OCCUPANCY, THE PROVIDER SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND WITHIN 30 DAYS AFTER THE EARLIER TO OCCUR OF:

- (1) THE RECONTRACTING OF THE SUBSCRIBER'S UNIT BY:
 - (I) ANOTHER SUBSCRIBER FOR WHOM AN ENTRANCE FEE HAS BEEN PAID; OR
 - (II) ANOTHER PARTY WHO IS NOT A SUBSCRIBER; OR
- (2) THE LATER TO OCCUR OF:
 - (I) THE 90TH DAY AFTER THE DATE THE WRITTEN TERMINATION NOTICE IS GIVEN OR THE DATE OF DEATH; OR
 - (II) THE DAY THE INDEPENDENT LIVING UNITS AT THE FACILITY HAVE OPERATED AT 95% OF CAPACITY FOR THE PREVIOUS 6 MONTHS.
- (C) TERMINATION AFTER FIRST 90 DAYS OF OCCUPANCY.

IF A CONTINUING CARE AGREEMENT IS TERMINATED BY THE SUBSCRIBER'S ELECTION OR DEATH AFTER THE FIRST 90 DAYS OF OCCUPANCY, THE PROVIDER SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND WITHIN 60 DAYS AFTER THE SUBSCRIBER'S DEATH OR THE EFFECTIVE DATE OF TERMINATION, IF ON THE DATE OF DEATH OR AT ANY TIME BETWEEN THE DATE THE WRITTEN TERMINATION NOTICE IS GIVEN AND THE EFFECTIVE DATE OF TERMINATION:

- (1) THE SUBSCRIBER RESIDES IN A UNIT AT A HIGHER LEVEL OF CARE THAN THE LEVEL OF CARE IN WHICH THE SUBSCRIBER RESIDED ON INITIALLY ENTERING THE FACILITY; AND
- (2) THE LAST UNIT IN WHICH THE SUBSCRIBER RESIDED AT THE INITIAL LEVEL OF CARE ON ENTERING THE FACILITY HAS BEEN OCCUPIED BY OR RESERVED FOR ANOTHER SUBSCRIBER WHO HAS PAID AN ENTRANCE FEE.

(D) CONSTRUCTION.

THIS SECTION DOES NOT PROHIBIT A PROVIDER FROM REQUIRING THAT A SUBSCRIBER'S UNIT BE VACATED BEFORE ANY CONTRACTUAL ENTRANCE FEE REFUND IS PAID AS A RESULT OF THE SUBSCRIBER'S ELECTION TO TERMINATE A CONTINUING CARE AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 15A.

In subsection (a) of this section, the former reference to allowing a subscriber "to elect" to terminate the agreement is deleted as surplusage.

In subsection (c) of this section, the former reference to a subscriber "no longer resid[ing] in a unit at the level of care in which the subscriber resided upon initially entering the facility" is deleted as included in the

reference to a subscriber “resid[ing] in a unit at a higher level of care than the level of care in which the subscriber resided on initially entering the facility”.

Defined terms: “Continuing care agreement” § 10–401

“Contractual entrance fee refund” § 10–401

“Facility” § 10–401

“Provider” § 10–401

“Subscriber” § 10–401

10–450. WAIVER OF CERTAIN PROVISIONS PROHIBITED.

AN ACT, AGREEMENT, OR STATEMENT BY A SUBSCRIBER OR BY AN INDIVIDUAL PURCHASING CARE FOR A SUBSCRIBER UNDER AN AGREEMENT TO FURNISH CARE TO THE SUBSCRIBER IS NOT A VALID WAIVER OF ANY PROVISION OF THIS SUBTITLE INTENDED FOR THE BENEFIT OR PROTECTION OF THE SUBSCRIBER OR THE INDIVIDUAL PURCHASING CARE FOR THE SUBSCRIBER.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 16.

Defined term: “Subscriber” § 10–401

10–451. RESERVED.

10–452. RESERVED.

PART VI. CONTINUING CARE AT HOME.

10–453. SCOPE OF PART.

THIS PART APPLIES ONLY TO CONTINUING CARE AT HOME OPERATIONS.

REVISOR’S NOTE: This section is new language added for clarity.

Defined term: “Continuing care at home” § 10–401

10–454. REGULATIONS.

(A) ADOPTION.

THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

- (1) SET STANDARDS FOR CONTINUING CARE AT HOME PROVIDERS; AND
- (2) PROVIDE FOR THE CERTIFICATION OF CONTINUING CARE AT HOME PROVIDERS AND THE ANNUAL RENEWAL OF CERTIFICATES OF REGISTRATION.

(B) CONTENTS.

IN ADDITION TO THE PROVISIONS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE REGULATIONS ADOPTED BY THE DEPARTMENT SHALL, AT A MINIMUM:

- (1) PROVIDE FOR AND ENCOURAGE THE ESTABLISHMENT OF CONTINUING CARE AT HOME PROGRAMS;

(2) FOR AN INDIVIDUAL WHO IS EMPLOYED BY OR UNDER CONTRACT WITH A CONTINUING CARE AT HOME PROVIDER AND WHO WILL ENTER A SUBSCRIBER'S HOME TO PROVIDE CONTINUING CARE AT HOME SERVICES:

(I) SET MINIMUM REQUIREMENTS;

(II) REQUIRE A CRIMINAL HISTORY RECORDS CHECK, IF THE INDIVIDUAL WILL HAVE ROUTINE, DIRECT ACCESS TO A SUBSCRIBER; AND

(III) REQUIRE THE PROVIDER TO SCREEN AND VERIFY THE INDIVIDUAL'S CHARACTER REFERENCES;

(3) ESTABLISH STANDARDS FOR THE RENEWAL OF CERTIFICATES OF REGISTRATION;

(4) ESTABLISH STANDARDS FOR ENTRANCE FEES, DEPOSITS, AND THE NUMBER OF EXECUTED AGREEMENTS NECESSARY TO BEGIN OPERATIONS;

(5) ESTABLISH CONDITIONS FOR THE RELEASE OF DEPOSITS AND ENTRANCE FEES FROM ESCROW ACCOUNTS;

(6) ESTABLISH STANDARDS FOR WHEN AND HOW A SUBSCRIBER OR PROVIDER MAY RESCIND A CONTINUING CARE AT HOME AGREEMENT BEFORE CONTINUING CARE AT HOME SERVICES ARE PROVIDED TO THE SUBSCRIBER;

(7) ALLOW A SUBSCRIBER TO RESCIND A CONTINUING CARE AT HOME AGREEMENT AT ANY TIME IF THE TERMS OF THE AGREEMENT VIOLATE THIS SUBTITLE; AND

(8) ESTABLISH THAT A PROVIDER MAY TERMINATE AN AGREEMENT OR DISCHARGE A SUBSCRIBER ONLY FOR JUST CAUSE AND ESTABLISH PROCEDURES TO CARRY OUT THE TERMINATION OR DISCHARGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22A(b) and (c).

In subsection (a)(1) of this section, the reference to "continuing care at home providers" is substituted for the former reference to "providers that enter into continuing care at home agreements" for consistency with subsection (a)(2) of this section.

In subsection (b)(1) of this section and throughout this part, the reference to continuing care at home "programs" is substituted for the former reference to continuing care at home "projects" for clarity.

In the introductory language of subsection (b)(2) of this section, the reference to entering a "subscriber's" home is added for clarity.

Also in the introductory language of subsection (b)(2) of this section, the reference to an individual who will "enter" a home is substituted for the former reference to "going into" homes for brevity.

In subsection (b)(2)(i) of this section, the former phrase "[s]ubject to the

provisions of subsection (p) of this section” is deleted as surplusage.

In subsection (b)(5) of this section, the reference to establishing “conditions for” is substituted for the former reference to establishing “requirements for when” for brevity and clarity.

In subsection (b)(8) of this section, the reference to “establish[ing] procedures to carry out the termination or discharge” is substituted for the former reference to “provid[ing] how such a termination or discharge would be carried out” for brevity and clarity.

Defined terms: “Continuing care at home” § 10-401

“Department” § 10-101

“Deposit” § 10-401

“Entrance fee” § 10-401

“Provider” § 10-401

“Subscriber” § 10-401

10-455. FEASIBILITY STUDY.

(A) REQUIRED.

A PROVIDER MAY NOT COLLECT DEPOSITS TO PROVIDE CONTINUING CARE AT HOME SERVICES UNTIL THE DEPARTMENT APPROVES A FEASIBILITY STUDY.

(B) STATEMENT OF INTENT.

A PROVIDER THAT INTENDS TO DEVELOP A CONTINUING CARE AT HOME PROGRAM AND PROVIDE CONTINUING CARE AT HOME SERVICES SHALL FILE A STATEMENT OF INTENT WITH THE DEPARTMENT AT LEAST 30 DAYS BEFORE SUBMITTING THE FEASIBILITY STUDY REQUIRED UNDER THIS SECTION.

(C) FORM AND CONTENTS.

A FEASIBILITY STUDY SHALL:

- (1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND
- (2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:
 - (I) A STATEMENT OF THE PURPOSE OF THE PROGRAM AND THE NEED FOR THE PROPOSED SERVICES;
 - (II) DOCUMENTATION OF THE FINANCIAL RESOURCES OF THE PROVIDER;
 - (III) A PLAN DEMONSTRATING THE FINANCIAL FEASIBILITY OF THE PROPOSED PROGRAM, INCLUDING FUTURE FUNDING SOURCES;
 - (IV) AN ACTUARIAL FORECAST THAT HAS BEEN REVIEWED BY A QUALIFIED ACTUARY;
 - (V) A STUDY DEMONSTRATING THE PROPOSED MARKET FOR THE PROGRAM;

(VI) THE FORM AND SUBSTANCE OF ANY PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, OR OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM THAT IS AVAILABLE AT THE TIME OF FILING;

(VII) A DETAILED STATEMENT OF THE COVERED SERVICES; AND

(VIII) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(D) APPROVAL.

THE DEPARTMENT SHALL APPROVE A FEASIBILITY STUDY FILED UNDER THIS SECTION IF THE DEPARTMENT DETERMINES THAT:

(1) THE PROPOSED USE OF NEW OR EXISTING HEALTH FACILITIES IS NOT INCONSISTENT WITH THE STATE HEALTH PLAN;

(2) A REASONABLE FINANCIAL PLAN HAS BEEN DEVELOPED TO PROVIDE CONTINUING CARE AT HOME SERVICES, INCLUDING THE NUMBER OF AGREEMENTS TO BE EXECUTED BEFORE BEGINNING OPERATIONS AND THE CRITERIA TO RELEASE FUNDS FROM ESCROW;

(3) A MARKET FOR THE CONTINUING CARE AT HOME PROGRAM APPEARS TO EXIST;

(4) THE FEASIBILITY STUDY WAS PREPARED BY A RECOGNIZED AUTHORITY;

(5) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM;

(6) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

(7) THE ACTUARIAL FORECAST SUPPORTS THE MARKET FOR THE PROGRAM;

(8) THE APPROVED ESCROW AGREEMENT AND DEPOSIT AGREEMENT STATE THE CONDITIONS FOR THE RELEASE OF DEPOSITS AND ENTRANCE FEES FROM ESCROW;

(9) A COPY OF THE ESCROW AGREEMENT EXECUTED BY THE PROVIDER AND THE FINANCIAL INSTITUTION HAS BEEN FILED WITH THE DEPARTMENT; AND

(10) ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT HAS BEEN SUBMITTED AND APPROVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22A(d), (e), and (f).

In subsection (d)(6) of this section, the former reference to being "approved by the Department" is deleted as redundant.

As to the substitution of the references to “proposed advertisements”, “advertising campaigns”, and “other promotional materials” in this section, *see* General Revisor’s Note to part.

Defined terms: “Continuing care at home” § 10–401

“Department” § 10–101

“Deposit” § 10–401

“Entrance fee” § 10–401

“Provider” § 10–401

10–456. DEPOSITS.

(A) COLLECTION OF DEPOSITS.

A PROVIDER MAY COLLECT DEPOSITS FROM PROSPECTIVE SUBSCRIBERS IF:

(1) THE DEPARTMENT HAS APPROVED THE PROVIDER’S FEASIBILITY STUDY; AND

(2) THE PROVIDER MAINTAINS THE FUNDS COLLECTED IN AN ESCROW ACCOUNT.

(B) HOLDING DEPOSITS IN ESCROW.

DEPOSITS COLLECTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE HELD IN ESCROW UNTIL:

(1) THE PROVIDER HAS BEEN ISSUED A CERTIFICATE OF REGISTRATION UNDER § 10–458 OF THIS SUBTITLE; OR

(2) A LATER TIME THAT THE DEPARTMENT MAY SET BY REGULATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22A(g).

In subsection (b)(1) of this section, the former phrase “at least the time” is deleted as surplusage.

Defined terms: “Department” § 10–101

“Deposit” § 10–401

“Provider” § 10–401

“Subscriber” § 10–401

10–457. PRELIMINARY CERTIFICATION OF REGISTRATION.

(A) REQUIRED.

A PROVIDER MAY NOT ENTER INTO AN AGREEMENT TO PROVIDE CONTINUING CARE AT HOME SERVICES UNTIL THE DEPARTMENT ISSUES A PRELIMINARY CERTIFICATE OF REGISTRATION TO THE PROVIDER.

(B) APPLICATION.

AN APPLICATION FOR A PRELIMINARY CERTIFICATE OF REGISTRATION SHALL:

- (1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND
- (2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(I) A COPY OF THE PROPOSED CONTINUING CARE AT HOME AGREEMENT, WHICH SHALL INCLUDE THE FOLLOWING STATEMENT SET FORTH IN PRINT NO SMALLER THAN THE LARGEST TYPE USED IN THE BODY OF THE AGREEMENT:

“A CERTIFICATE OF REGISTRATION IS NOT AN ENDORSEMENT OR GUARANTEE OF THIS CONTINUING CARE AT HOME PROVIDER BY THE STATE OF MARYLAND. THE MARYLAND DEPARTMENT OF AGING URGES YOU TO CONSULT AN ATTORNEY AND A SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY DOCUMENTS.”;

(II) THE FORM AND SUBSTANCE OF ANY PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, OR OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM THAT IS AVAILABLE AT THE TIME OF FILING THE APPLICATION AND THAT HAS NOT BEEN FILED PREVIOUSLY WITH THE DEPARTMENT; AND

(III) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(C) ISSUANCE.

THE DEPARTMENT SHALL ISSUE A PRELIMINARY CERTIFICATE OF REGISTRATION TO A PROVIDER IF THE DEPARTMENT DETERMINES THAT:

(1) THE PROPOSED CONTINUING CARE AT HOME AGREEMENT IS SATISFACTORY;

(2) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM;

(3) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

(4) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE FEASIBILITY STUDY UNDER § 10-455 OF THIS SUBTITLE ARE CURRENT AND ACCURATE OR HAVE BEEN UPDATED TO MAKE THEM ACCURATE; AND

(5) THE PROVIDER HAS SUBMITTED ANY OTHER INFORMATION THAT THE DEPARTMENT REQUESTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22A(h) and (i).

In subsections (b)(2)(i) and (c)(1) of this section, the references to the “proposed continuing care at home agreement” are substituted for the former references to the “agreement that is to be entered into between the provider and the subscriber for the provision of continuing care at home services” and the “agreement to be entered into between the provider and the subscriber” for brevity.

In subsection (b)(2)(ii) of this section, the reference to the “program” is substituted for the former reference to the “provider” for consistency throughout this part.

Also in subsection (b)(2)(ii) of this section, the reference to filing the “application” is substituted for the former reference to filing “for the preliminary certificate of registration” for brevity and clarity.

In subsection (c)(3) of this section, the former reference to being “approved by the Department” is deleted as redundant.

As to the substitution of the references to “proposed advertisements”, “advertising campaigns”, and “other promotional materials” in this section, *see* General Revisor’s Note to part.

Defined terms: “Continuing care at home” § 10–401

“Department” § 10–101

“Provider” § 10–401

10–458. CERTIFICATE OF REGISTRATION.

(A) REQUIRED.

A PROVIDER MAY NOT PROVIDE CONTINUING CARE AT HOME SERVICES UNTIL THE DEPARTMENT ISSUES A CERTIFICATE OF REGISTRATION TO THE PROVIDER.

(B) APPLICATION.

AN APPLICATION FOR A CERTIFICATE OF REGISTRATION SHALL:

(1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND

(2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(I) VERIFICATION THAT THE REQUIRED NUMBER OF AGREEMENTS HAS BEEN EXECUTED AND THE CORRESPONDING DEPOSITS COLLECTED;

(II) THE FORM AND SUBSTANCE OF ANY PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, OR OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM THAT ARE AVAILABLE AT THE TIME OF FILING AND THAT HAVE NOT BEEN FILED PREVIOUSLY WITH THE DEPARTMENT;

(III) VERIFICATION THAT ANY OTHER LICENSE OR CERTIFICATE REQUIRED BY OTHER APPROPRIATE STATE UNITS HAS BEEN ISSUED TO THE PROVIDER; AND

(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(C) ISSUANCE.

THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF REGISTRATION TO A PROVIDER IF THE DEPARTMENT DETERMINES THAT:

(1) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE FEASIBILITY STUDY AND APPLICATION FOR A PRELIMINARY CERTIFICATE OF REGISTRATION ARE CURRENT AND ACCURATE OR HAVE BEEN UPDATED TO MAKE THEM ACCURATE;

(2) THE REQUIRED NUMBER OF AGREEMENTS HAS BEEN EXECUTED AND THE CORRESPONDING DEPOSITS COLLECTED;

(3) ANY OTHER LICENSE OR CERTIFICATE REQUIRED BY OTHER APPROPRIATE STATE UNITS HAS BEEN ISSUED TO THE PROVIDER;

(4) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM;

(5) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD; AND

(6) THE PROVIDER HAS SUBMITTED ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRED.

(D) SUBMISSION OF ADVERTISEMENTS.

IF A PROVIDER INTENDS TO ADVERTISE BEFORE THE DEPARTMENT ISSUES A CERTIFICATE OF REGISTRATION UNDER SUBSECTION (C) OF THIS SECTION, THE PROVIDER SHALL SUBMIT TO THE DEPARTMENT ANY ADVERTISEMENT, ADVERTISING CAMPAIGN, OR OTHER PROMOTIONAL MATERIALS BEFORE USING IT.

(E) FAILURE TO OBTAIN CERTIFICATE OF REGISTRATION.

IF A CERTIFICATE OF REGISTRATION IS NOT ISSUED TO A PROVIDER WITHIN 24 MONTHS AFTER THE DEPARTMENT APPROVES A FEASIBILITY STUDY, OR A LONGER TIME ALLOWED BY THE DEPARTMENT FOR GOOD CAUSE SHOWN, THE PROVIDER SHALL REFUND ALL DEPOSITS COLLECTED AND STOP OFFERING CONTINUING CARE AT HOME SERVICES UNDER THAT APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22A(j), (k), (l), and (m).

In subsection (b)(2)(ii) of this section, the reference to the "program" is substituted for the former reference to the "provider" for consistency throughout this part.

Also in subsection (b)(2)(ii) of this section, the reference to filing "the application" is substituted for the former reference to filing "for the certificate of registration" for brevity and clarity.

In subsection (b)(2)(iii) of this section, the reference to "verification that" other licenses or certificates have been issued is added for clarity.

In subsection (c)(5) of this section, the former reference to being "approved by the Department" is deleted as redundant.

In subsection (e) of this section, the word “stop” is substituted for the former phrase “cease its attempts” for brevity.

As to the substitution of the references to “proposed advertisements”, “advertising campaigns”, and “other promotional materials” in this section, *see* General Revisor’s Note to part.

Defined terms: “Continuing care at home” § 10–401

“Department” § 10–101

“Deposit” § 10–401

“Provider” § 10–401

10–459. RENEWAL CERTIFICATE OF REGISTRATION.

(A) APPLICATION.

(1) EACH YEAR, WITHIN 120 DAYS AFTER THE END OF A PROVIDER’S FISCAL YEAR, THE PROVIDER SHALL FILE AN APPLICATION FOR A RENEWAL CERTIFICATE OF REGISTRATION WITH THE DEPARTMENT.

(2) AN APPLICATION SHALL:

(I) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT;

AND

(II) CONTAIN ANY REASONABLE AND PERTINENT INFORMATION THAT THE DEPARTMENT REQUIRES.

(B) ISSUANCE.

THE DEPARTMENT SHALL ISSUE A RENEWAL CERTIFICATE OF REGISTRATION IF THE DEPARTMENT DETERMINES THAT:

(1) ALL REQUIRED DOCUMENTS HAVE BEEN FILED AND ARE SATISFACTORY;

(2) ANY REVISED AGREEMENTS FOR CONTINUING CARE AT HOME SERVICES MEET THE DEPARTMENT’S REQUIREMENTS;

(3) THE PROPOSED USE OF NEW OR EXISTING HEALTH FACILITIES IS NOT INCONSISTENT WITH THE STATE HEALTH PLAN;

(4) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE PROGRAM; AND

(5) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS, ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22A(n).

In subsection (b)(1) of this section, the former reference to being “found by

the Department” is deleted as redundant.

In subsection (b)(5) of this section, the former reference to being “approved by the Department” is deleted as redundant.

As to the substitution of the references to “proposed advertisements”, “advertising campaigns”, and “other promotional materials” in this section, *see* General Revisor’s Note to part.

Defined terms: “Continuing care at home” § 10–401

“Department” § 10–101

“Provider” § 10–401

10–460. DENIAL, SUSPENSION, OR REVOCATION.

(A) AUTHORIZED.

FOR CAUSE, THE DEPARTMENT MAY:

(1) DENY A FEASIBILITY STUDY APPROVAL; OR

(2) DENY, SUSPEND, OR REVOKE A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION.

(B) GROUNDS.

(1) GROUNDS FOR A DENIAL, SUSPENSION, OR REVOCATION INCLUDE:

(I) VIOLATION OF THIS SUBTITLE;

(II) VIOLATION OF A REGULATION THE DEPARTMENT ADOPTS UNDER THIS SUBTITLE;

(III) MISREPRESENTATION; OR

(IV) SUBMISSION OF A FALSE FINANCIAL STATEMENT.

(2) THE DEPARTMENT SHALL SET FORTH IN WRITING ITS REASONS FOR A DENIAL, SUSPENSION, OR REVOCATION.

(C) APPEAL.

TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE GOVERNS THE APPEAL OF A DENIAL, REVOCATION, OR SUSPENSION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 22.

In subsection (c) of this section, the reference to “Title 10, Subtitle 2 of the State Government Article” is substituted for the former reference to “the Maryland Administrative Procedure Act” for accuracy and consistency with § 10–210 of this title.

Also in subsection (c) of this section, the former reference to “[t]he

proceedings ... [being] conducted in accordance with” is deleted as surplusage.

Defined term: “Department” § 10–101

10–461. RESERVED.

10–462. RESERVED.

GENERAL REVISOR’S NOTE TO PART

Throughout this part, references to “proposed advertisements”, “advertising campaigns”, and “other promotional materials” are substituted for the former references to the “advertising campaign or proposed advertisement” and the “advertising information” for consistency throughout this part and with Part II of this subtitle.

PART VII. FINANCIAL REVIEW.

10–463. “COMMITTEE” DEFINED.

IN THIS PART, “COMMITTEE” MEANS THE FINANCIAL REVIEW COMMITTEE ESTABLISHED IN § 10–464 OF THIS SUBTITLE.

REVISOR’S NOTE: This section is new language added to avoid the repetition of the full reference to the Financial Review Committee.

10–464. FINANCIAL REVIEW COMMITTEE.

THERE IS A FINANCIAL REVIEW COMMITTEE IN THE DEPARTMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(a).

The reference to the Committee being “in the Department” is added for clarity and consistency with similar provisions throughout this article.

Defined term: “Department” § 10–101

10–465. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE COMMITTEE CONSISTS OF SEVEN MEMBERS APPOINTED BY THE SECRETARY.

(2) OF THE SEVEN MEMBERS:

(I) TWO SHALL BE KNOWLEDGEABLE IN THE FIELD OF CONTINUING CARE;

(II) TWO SHALL BE CERTIFIED PUBLIC ACCOUNTANTS;

(III) ONE SHALL BE FROM THE FINANCIAL COMMUNITY; AND

(IV) TWO SHALL BE CONSUMER MEMBERS.

(3) IN APPOINTING THE CONSUMER MEMBERS, THE SECRETARY SHALL GIVE A PREFERENCE TO SUBSCRIBERS OF CONTINUING CARE FACILITIES.

(B) TERMS OF OFFICE.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2007.

(3) A MEMBER MAY SERVE CONSECUTIVE TERMS.

(C) CHAIR.

THE COMMITTEE SHALL ELECT ITS CHAIR.

(D) COMPENSATION; EXPENSES.

A MEMBER:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(E) IMMUNITY.

A MEMBER IS IMMUNE FROM CIVIL LIABILITY AS PROVIDED IN § 5-514 OF THE COURTS ARTICLE.

(F) CONFLICT OF INTEREST PROHIBITED.

A MEMBER MAY NOT PARTICIPATE IN A REVIEW OF A PROVIDER'S FINANCIAL CONDITION IF THAT MEMBER HAS AN INTEREST, AS DEFINED UNDER THE MARYLAND PUBLIC ETHICS LAW IN § 15-102 OF THE STATE GOVERNMENT ARTICLE, IN THE PROVIDER.

(G) CONFIDENTIALITY.

THE DELIBERATIONS OF THE COMMITTEE AND COMMUNICATIONS BETWEEN THE DEPARTMENT AND THE COMMITTEE, INCLUDING RECOMMENDATIONS OF THE COMMITTEE, SHALL BE CONFIDENTIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(b).

Throughout this section, the references to a "member" are substituted for the former references to a "member of the Committee" or a "Financial Review Committee" member for brevity.

In subsection (a)(3) of this section, the reference to the Secretary "giv[ing] a preference" to subscribers in appointing the consumer members is substituted for the former reference to the consumer members being "preferably" subscribers for clarity.

In subsection (b)(2) of this section, the reference to “October 1, 2007” is substituted for the former obsolete reference to “July 1, 1985” to reflect the effective date of this revision. This substitution is not intended to alter the term of any member of the Committee. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) three in 2008; (2) one in 2009; and (3) three in 2010.

In subsection (c) of this section, the reference to a “chair” is substituted for the former reference to a “chairman” because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

In subsection (d)(1) of this section, the former reference to expenses “incurred in the performance of their official duties” is deleted as surplusage.

In subsection (f) of this section, the reference to “§ 15–102 of the State Government Article” is added for clarity.

Defined terms: “Committee” § 10–463

“Continuing care” § 10–401

“Department” § 10–101

“Provider” § 10–401

“Secretary” § 10–101

“Subscriber” § 10–401

10–466. REFERRALS TO COMMITTEE.

(A) AUTHORIZED.

(1) THE DEPARTMENT MAY REFER TO THE COMMITTEE FOR ITS CONSIDERATION:

(I) A PROVIDER’S APPLICATION FOR A RENEWAL CERTIFICATE OF REGISTRATION AFTER REVIEW BY THE DEPARTMENT; OR

(II) A FINDING OF POSSIBLE FINANCIAL DIFFICULTY, AT ANY TIME.

(2) THE DEPARTMENT SHALL PROVIDE TO THE COMMITTEE ANY MATERIALS THE DEPARTMENT CONSIDERS NECESSARY.

(B) REVIEW AND RECOMMENDATIONS BY COMMITTEE.

(1) THE COMMITTEE SHALL REVIEW THE REFERRAL FROM THE DEPARTMENT AND MAY REQUEST ADDITIONAL INFORMATION FROM THE DEPARTMENT.

(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITHIN 45 DAYS AFTER RECEIPT OF A REFERRAL, THE COMMITTEE SHALL NOTIFY THE DEPARTMENT IN WRITING WHETHER THE COMMITTEE RECOMMENDS THAT THE DEPARTMENT:

(I) FIND THE PROVIDER IN FINANCIAL DIFFICULTY; AND

(II) FIND THAT THE FINANCIAL DIFFICULTY, IF ANY, INCLUDES A SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE WITH § 10-469 OF THIS SUBTITLE.

(3) IN MAKING A RECOMMENDATION TO THE DEPARTMENT, THE COMMITTEE SHALL STATE THE REASON FOR THE RECOMMENDATION.

(C) EXTENSION.

(1) THE COMMITTEE MAY REQUEST FROM THE SECRETARY ONE 30-DAY EXTENSION OF THE DEADLINE UNDER SUBSECTION (B)(2) OF THIS SECTION.

(2) THE SECRETARY MAY GRANT OR DENY THE EXTENSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(c).

In subsection (a)(2) of this section, the requirement that the Department provide to the Committee "any materials the Department considers necessary" is substituted for the former reference to "accompanying materials" to conform to current practice. This addition is called to the attention of the General Assembly.

In subsection (b)(1) of this section, the reference to the "referral" is substituted for the former references to the "application and the materials" and the "finding" for brevity.

In the introductory language of subsection (b)(2) of this section, the former reference to whether "or not" is deleted as implicit.

In subsection (b)(2)(ii) of this section, the phrase "if any" is added to clarify that only if the provider is found in financial difficulty could the financial difficulty be identified as including a significant risk of financial failure.

Also in subsection (b)(2)(ii) of this section, the reference to "find[ing]" is substituted for the former reference to "identifying" for consistency with subsection (b)(1)(i) of this section.

In subsection (b)(3) of this section, the reference to "making a recommendation to the Department" is added to clarify the circumstances under which the Committee is required to state its reasons for a recommendation.

Also in subsection (b)(3) of this section, the former reference to "reasons" is deleted in light of the reference to "reason" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(1) of this section, the reference to an extension of the "deadline" is added for clarity.

Defined terms: "Committee" § 10-463
"Department" § 10-101

“Financial difficulty” § 10–401

“Provider” § 10–401

“Secretary” § 10–101

10–467. FINAL DETERMINATION OF FINANCIAL DIFFICULTY.

(A) IN GENERAL.

WITHIN 25 DAYS AFTER RECEIPT OF THE COMMITTEE'S RECOMMENDATIONS, THE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS AND MAKE A FINAL DETERMINATION OF WHETHER FINANCIAL DIFFICULTY EXISTS AND, IF SO, WHETHER THERE IS A SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE WITH § 10–469 OF THIS SUBTITLE.

(B) NOTICE TO PROVIDER.

IF THE DEPARTMENT DETERMINES THAT THE PROVIDER IS IN FINANCIAL DIFFICULTY IT SHALL IMMEDIATELY NOTIFY THE PROVIDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND INFORM THE PROVIDER WHETHER THE DEPARTMENT HAS DETERMINED THAT THERE IS A SIGNIFICANT RISK OF FINANCIAL FAILURE.

(C) MEETING WITH REPRESENTATIVES OF SUBSCRIBERS.

THE PROVIDER SHALL:

(1) ADVISE ITS SUBSCRIBERS OF THE DEPARTMENT'S DETERMINATION IN A MEETING TO BE HELD BY THE PROVIDER WITH REPRESENTATIVES OF THE SUBSCRIBERS;

(2) HOLD THE MEETING WITHIN 10 DAYS AFTER THE PROVIDER'S RECEIPT OF NOTICE FROM THE DEPARTMENT; AND

(3) ADVISE THE DEPARTMENT OF THE DATE, TIME, AND LOCATION OF THE MEETING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(d).

In subsection (a) of this section, the phrase “after receipt of” is substituted for the former phrase “of being notified of” for clarity.

Also in subsection (a) of this section, the phrase “and, if so,” is substituted for the former word “including” to clarify that only if the provider is found in financial difficulty could there be a finding of a significant risk of financial failure.

Defined terms: “Committee” § 10–463

“Department” § 10–101

“Financial difficulty” § 10–401

“Provider” § 10–401

“Subscriber” § 10–401

10-468. FINANCIAL PLAN.

(A) SUBMISSION OF 5-YEAR PLAN.

(1) A PROVIDER NOTIFIED OF FINANCIAL DIFFICULTY BY THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE DEPARTMENT FOR ITS APPROVAL A 5-YEAR FINANCIAL PLAN TO CORRECT THE CAUSES OF THE FINANCIAL DIFFICULTY.

(2) THE FINANCIAL PLAN SHALL BE SUBMITTED WITHIN 60 DAYS AFTER RECEIPT OF NOTIFICATION.

(3) THE PROVIDER MAY REQUEST ONE 30-DAY EXTENSION FROM THE SECRETARY.

(4) THE SECRETARY MAY GRANT OR DENY THE EXTENSION.

(B) RESPONSE BY DEPARTMENT.

(1) THE DEPARTMENT SHALL RESPOND TO THE PROVIDER WITHIN 60 DAYS AFTER RECEIPT OF THE PROPOSED FINANCIAL PLAN.

(2) THE DEPARTMENT MAY:

(I) WORK WITH THE PROVIDER TO ESTABLISH THE FINANCIAL PLAN; AND

(II) CONSULT WITH THE COMMITTEE BEFORE APPROVING THE FINANCIAL PLAN.

(C) IMPLEMENTATION OF PLAN.

(1) ON APPROVAL, THE FINANCIAL PLAN SHALL BE IMPLEMENTED.

(2) THE PROVIDER SHALL MAKE AVAILABLE TO ITS SUBSCRIBERS COPIES OF ITS APPROVED FINANCIAL PLAN.

(D) PROGRESS REPORTS; REVISION OF PLAN.

THE PROVIDER SHALL:

(1) SUBMIT TO THE DEPARTMENT AN ANNUAL PROGRESS REPORT FOR THE TERM OF ITS FINANCIAL PLAN; AND

(2) REVISE ITS FINANCIAL PLAN IF THE DEPARTMENT DETERMINES THAT REVISIONS ARE NECESSARY.

(E) FAILURE TO PREPARE OR IMPLEMENT PLAN.

THE DEPARTMENT MAY WITHHOLD THE RENEWAL CERTIFICATE OF REGISTRATION OR WITHDRAW A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION IF:

(1) THE PROVIDER DOES NOT PREPARE A FINANCIAL PLAN;

- (2) THE PROVIDER IS UNWILLING OR UNABLE TO PREPARE A FINANCIAL PLAN;
- (3) THE FINANCIAL PLAN IS INADEQUATE TO CORRECT THE CURRENT OR IMPENDING FINANCIAL CONDITION THAT NECESSITATED THE FINANCIAL PLAN; OR
- (4) THE PROVIDER FAILS TO IMPLEMENT THE FINANCIAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(e), (f), and (g).

In subsection (a)(2) of this section, the reference to "receipt" of notification is added for clarity.

In subsection (a)(4) of this section, the reference to "deny[ing]" an extension is added as implicit in the authority to grant an extension and for consistency with § 10-466(c)(2) of this subtitle.

In subsections (b)(1) and (2)(ii), (c)(1), and (e)(4) of this section, the references to the "financial" plan are added for consistency and clarity. Similarly, in subsection (c)(2) of this section, the reference to the "financial plan" is substituted for the former reference to the "5-year plan".

Defined terms: "Committee" § 10-463

"Department" § 10-101

"Financial difficulty" § 10-401

"Provider" § 10-401

"Secretary" § 10-101

"Subscriber" § 10-401

10-469. DETERMINATION OF RISK OF FINANCIAL FAILURE.

THE DEPARTMENT MAY DETERMINE THAT THERE EXISTS A SIGNIFICANT RISK OF THE FINANCIAL FAILURE OF A PROVIDER BASED ON ONE OR MORE OF THE FOLLOWING FINDINGS OR CIRCUMSTANCES:

(1) THE PROVIDER HAS FAILED TO MEET LOAN COVENANTS THAT GIVE A LENDER OR A BOND TRUSTEE THE OPTION TO EXERCISE REMEDIES ON ITS COLLATERAL;

(2) AN ACTUARIAL REPORT HAS BEEN PROVIDED TO THE DEPARTMENT REFLECTING SIGNIFICANT UNDERFUNDING OF FUTURE LIABILITIES THAT ARE UNLIKELY TO BE READILY ADDRESSED;

(3) THERE IS A SIGNIFICANT SHORTFALL BY THE PROVIDER IN MAINTAINING REQUIRED RESERVES FOR A SIGNIFICANT PERIOD OF TIME;

(4) A SIGNIFICANT BALLOON PAYMENT OR FUTURE LOAN PAYMENT WILL BECOME DUE WITHIN THE NEXT 12 MONTHS AND THE PROVIDER IS UNABLE TO DEMONSTRATE THAT IT WILL OBTAIN A MODIFICATION FROM ITS LENDER, HAVE THE RESOURCES TO MAKE THE PAYMENT, OR HAVE THE ABILITY TO REFINANCE;

(5) THERE HAS BEEN A SIGNIFICANT DECLINE IN THE OCCUPANCY RATE THAT IS LIKELY TO HAVE A MATERIAL ADVERSE FINANCIAL IMPACT ON THE PROVIDER;

(6) THERE HAS BEEN A MATERIAL ADVERSE CHANGE IN DEBT SERVICE COVERAGE RATIO FOR AN EXTENDED PERIOD OF TIME THAT REDUCES THE RATIO TO LESS THAN 1.0;

(7) THERE HAS BEEN A SIGNIFICANT DECLINE IN DAYS CASH ON HAND THAT IS UNRELATED TO ADDITIONS TO PROPERTY, PLANT, AND EQUIPMENT OR OTHER COMMUNITY ENHANCEMENTS AND THAT COULD RESULT IN AN INABILITY TO PAY OBLIGATIONS OF THE PROVIDER AS THEY BECOME DUE;

(8) THERE HAS BEEN A SIGNIFICANT INCREASE IN THE OPERATING RATIO, ADJUSTED FOR UNREALIZED GAINS AND LOSSES ON INVESTMENTS, THAT COULD RESULT IN THE INABILITY OF THE PROVIDER TO MEET ITS OBLIGATIONS; OR

(9) THE REFUSAL OR INABILITY OF THE PROVIDER TO PROVIDE ACCURATE INFORMATION OR DATA REQUIRED TO BE SUBMITTED TO THE DEPARTMENT UNDER THIS SUBTITLE AND RELATED REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(h).

In item (5) of this section, the reference to the financial impact "on the provider" is added for clarity.

Also in item (5) of this section, the reference to a "significant decline in the occupancy rate" is substituted for the former reference to a "significant declining occupancy" for accuracy since it would be the occupancy rate that would be declining.

Defined terms: "Department" § 10-101
"Provider" § 10-401

10-470. RESERVED.

10-471. RESERVED.

PART VIII. DELINQUENCY PROCEEDINGS.

10-472. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) CREDITOR.

"CREDITOR" MEANS A PERSON WITH A CLAIM AGAINST A PROVIDER.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(g).

In this subsection and throughout this part, the defined term "provider" is substituted for the former reference to a "continuing care provider" for consistency throughout this subtitle.

No other changes are made.

Defined terms: "Person" §§ 1-101, 10-401

"Provider" § 10-401

(C) DELINQUENCY PROCEEDING.

"DELINQUENCY PROCEEDING" MEANS A PROCEEDING UNDER THIS SUBTITLE TO LIQUIDATE, REHABILITATE, REORGANIZE, OR CONSERVE A PROVIDER.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(h).

The only changes are in style.

Defined term: "Provider" § 10-401

(D) GENERAL ASSETS.

"GENERAL ASSETS" MEANS:

(1) ALL PROPERTY THAT IS NOT SPECIFICALLY MORTGAGED, PLEDGED, DEPOSITED, OR OTHERWISE ENCUMBERED FOR THE SECURITY OR BENEFIT OF SPECIFIED PERSONS OR A LIMITED CLASS OF PERSONS;

(2) TO THE EXTENT THAT PROPERTY OF A PROVIDER IS SPECIFICALLY ENCUMBERED, THE AMOUNT OF THE PROPERTY OR ITS PROCEEDS THAT EXCEEDS THE AMOUNT NECESSARY TO DISCHARGE THE ENCUMBRANCE; AND

(3) ASSETS HELD IN TRUST AND ASSETS HELD ON DEPOSIT FOR THE SECURITY OR BENEFIT OF ALL SUBSCRIBERS AND CREDITORS IN THE UNITED STATES.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(o).

The only changes are in style.

Defined terms: "Creditor" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Subscriber" § 10-401

(E) RECEIVER.

"RECEIVER" INCLUDES A CONSERVATOR, REHABILITATOR, AND LIQUIDATOR.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(w).

No changes are made.

(F) SECURED CLAIM.

(1) "SECURED CLAIM" MEANS A CLAIM THAT:

(I) IS SECURED BY MORTGAGE, TRUST DEED, PLEDGE, DEPOSIT AS SECURITY, ESCROW, OR OTHERWISE; OR

(II) HAS BECOME A LIEN ON SPECIFIC ASSETS THROUGH JUDICIAL PROCESS.

(2) "SECURED CLAIM" DOES NOT INCLUDE A SPECIAL DEPOSIT CLAIM OR A CLAIM AGAINST GENERAL ASSETS.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(z).

No changes are made.

Defined terms: "General assets" § 10-472

"Special deposit claim" § 10-472

(G) SPECIAL DEPOSIT CLAIM.

(1) "SPECIAL DEPOSIT CLAIM" MEANS A CLAIM SECURED BY A DEPOSIT REQUIRED BY LAW FOR THE SECURITY OR BENEFIT OF A LIMITED CLASS OF PERSONS.

(2) "SPECIAL DEPOSIT CLAIM" DOES NOT INCLUDE A CLAIM AGAINST GENERAL ASSETS.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(aa).

No changes are made.

Defined terms: "Deposit" § 10-401

"General assets" § 10-472

"Person" §§ 1-101, 10-401

(H) TRANSFER.

"TRANSFER" MEANS:

(1) THE SALE OR OTHER DIRECT OR INDIRECT DISPOSITION OF PROPERTY OR AN INTEREST IN PROPERTY;

(2) THE FIXING OF A LIEN ON PROPERTY OR AN INTEREST IN PROPERTY;
OR

(3) THE RETENTION OF A SECURITY TITLE TO PROPERTY DELIVERED TO A DEBTOR.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 7(dd).

The former phrase "when used in conjunction with property in §§ 20A through 21 of this subtitle" is deleted as surplusage.

10-473. EXCLUSIVENESS OF REMEDY.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO § 10-493 OF THIS SUBTITLE, A DELINQUENCY PROCEEDING IS THE EXCLUSIVE METHOD OF LIQUIDATING, REHABILITATING, REORGANIZING, OR CONSERVING A PROVIDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 20A.

The former phrase "with respect to a continuing care provider" is deleted as surplusage.

Defined terms: "Delinquency proceeding" § 10-472
"Provider" § 10-401

10-474. IMMUNITY FROM LIABILITY.

THE SECRETARY, DEPUTY SECRETARY, SPECIAL DEPUTY SECRETARY, OR ANY PERSON ACTING AS RECEIVER IN A REHABILITATION, LIQUIDATION, OR CONSERVATION OF A PROVIDER AS A RESULT OF A COURT ORDER SHALL HAVE THE SAME IMMUNITY FROM LIABILITY THAT THE MARYLAND INSURANCE COMMISSIONER, DEPUTY COMMISSIONER, SPECIAL DEPUTY COMMISSIONER, OR ANY PERSON ACTING AS RECEIVER IN A REHABILITATION, LIQUIDATION, OR CONSERVATION OF AN INSURER WOULD HAVE UNDER § 5-410 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20B.

The only changes are in style.

Defined terms: "Person" §§ 1-101, 10-401
"Provider" § 10-401
"Receiver" § 10-472
"Secretary" § 10-101

10-475. FEES AND COSTS.

(A) SECRETARY EXEMPT FROM FEES.

(1) THIS SUBSECTION APPLIES EVEN IF A PAPER OR INSTRUMENT IS NOT:

(I) EXECUTED BY THE SECRETARY OR A DEPUTY, EMPLOYEE, OR ATTORNEY OF RECORD OF THE SECRETARY; AND

(II) CONNECTED WITH THE COMMENCEMENT OF AN ACTION OR PROCEEDING BY OR AGAINST THE SECRETARY OR WITH THE SUBSEQUENT CONDUCT OF THE ACTION OR PROCEEDING.

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY MAY NOT BE REQUIRED TO PAY TO A PUBLIC OFFICER IN THE STATE A FEE FOR FILING, RECORDING, OR ISSUING A TRANSCRIPT OR CERTIFICATE OR FOR AUTHENTICATING A PAPER OR INSTRUMENT THAT RELATES TO THE EXERCISE BY THE SECRETARY OF A POWER OR DUTY OF THE SECRETARY UNDER THIS SUBTITLE.

(B) PAYMENT OF COSTS.

(1) THE SECRETARY OR DEPUTY SECRETARY, WHEN ACTING AS RECEIVER OR ANCILLARY RECEIVER UNDER THIS SUBTITLE, SHALL PAY ALL COURT COSTS OUT OF THE ASSETS OF THE PROVIDER BEFORE ANY DISTRIBUTION TO CREDITORS OR TERMINATION OF REHABILITATION.

(2) IN ALL CASES, COURT COSTS AND THOSE SPECIFIED IN SUBSECTION (A) OF THIS SECTION SHALL:

(I) BE CHARGED IN THE ACCOUNTS OF THE SECRETARY TO THE COURT; OR

(II) BE PAID BY THE PROVIDER AS A CONDITION OF TERMINATION OF THE ACTION OR PROCEEDING.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20C.

The only changes are in style.

Defined terms: "Creditor" § 10-472

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

10-476. APPOINTMENT OF STAFF.

(A) IN GENERAL.

(1) IN A DELINQUENCY PROCEEDING IN WHICH THE SECRETARY HAS BEEN APPOINTED RECEIVER, THE SECRETARY MAY:

(I) APPOINT ONE OR MORE SPECIAL DEPUTY SECRETARIES TO ACT FOR THE SECRETARY; AND

(II) EMPLOY COUNSEL, CLERKS, AND ASSISTANTS.

(2) COMPENSATION OF THE SPECIAL DEPUTIES, COUNSEL, CLERKS, AND ASSISTANTS AND ALL EXPENSES OF TAKING POSSESSION OF THE PROVIDER AND OF CONDUCTING THE DELINQUENCY PROCEEDING SHALL BE:

(I) SET BY THE SECRETARY, SUBJECT TO APPROVAL BY THE COURT; AND

(II) PAID OUT OF THE ASSETS OR FUNDS OF THE PROVIDER.

(3) WITHIN THE LIMITS OF DUTIES IMPOSED ON A SPECIAL DEPUTY CONCERNING A DELINQUENCY PROCEEDING, THE SPECIAL DEPUTY:

(I) HAS ALL POWERS GIVEN TO THE RECEIVER; AND

(II) IN THE EXERCISE OF THOSE POWERS, IS SUBJECT TO ALL THE DUTIES IMPOSED ON THE RECEIVER CONCERNING THE DELINQUENCY PROCEEDING.

(B) REPRESENTATION.

IN A CIVIL PROCEEDING FILED AGAINST A SPECIAL DEPUTY SECRETARY APPOINTED UNDER THIS SUBTITLE, THE SPECIAL DEPUTY SECRETARY IS ENTITLED TO REPRESENTATION BY THE ATTORNEY GENERAL AS SPECIFIED IN TITLE 12, SUBTITLE 3, PART II OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20D.

The only changes are in style.

Defined terms: "Delinquency proceeding" § 10-472

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

10-477. JURISDICTION AND VENUE.

(A) ORIGINAL JURISDICTION.

THE CIRCUIT COURT OF BALTIMORE CITY:

(1) HAS EXCLUSIVE ORIGINAL JURISDICTION OVER DELINQUENCY PROCEEDINGS; AND

(2) MAY ISSUE ALL NECESSARY AND PROPER ORDERS TO CARRY OUT THIS SUBTITLE.

(B) ADDITIONAL JURISDICTION.

IF SERVICE IS MADE IN ACCORDANCE WITH THE MARYLAND RULES OR OTHER APPLICABLE LAW, A COURT WITH SUBJECT MATTER JURISDICTION OVER AN ACTION BROUGHT UNDER THIS SUBTITLE ALSO HAS JURISDICTION OVER:

(1) AN OFFICER, DIRECTOR, MANAGER, TRUSTEE, ORGANIZER, PROMOTER, OR ATTORNEY IN FACT OF A PROVIDER AGAINST WHICH A DELINQUENCY PROCEEDING HAS BEEN COMMENCED, IN AN ACTION RESULTING FROM OR INCIDENTAL TO THE PERSON'S RELATIONSHIP WITH THE PROVIDER;

(2) A PERSON THAT, AT THE TIME OF OR AFTER COMMENCEMENT OF THE DELINQUENCY PROCEEDING, HELD OR WAS IN CONTROL OF ASSETS IN WHICH THE RECEIVER CLAIMS AN INTEREST ON BEHALF OF THE PROVIDER, IN AN ACTION CONCERNING THE ASSETS OF THE PROVIDER; AND

(3) A PERSON OBLIGATED TO THE PROVIDER IN ANY WAY, IN AN ACTION ON OR INCIDENTAL TO THE OBLIGATION.

(C) VENUE.

THE VENUE OF ALL DELINQUENCY PROCEEDINGS IS IN BALTIMORE CITY.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20E.

The only changes are in style.

Defined terms: "Delinquency proceeding" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Receiver" § 10-472

10-478. COMMENCEMENT OF DELINQUENCY PROCEEDINGS.

(A) APPLICATION FOR SHOW CAUSE ORDER.

THE SECRETARY SHALL COMMENCE A DELINQUENCY PROCEEDING AGAINST A PROVIDER BY APPLYING TO THE COURT FOR AN ORDER THAT DIRECTS THE PROVIDER TO SHOW CAUSE WHY THE COURT SHOULD NOT GRANT THE RELIEF REQUESTED.

(B) ACTION BY COURT.

(1) THE COURT MAY CONSIDER AN APPLICATION FOR COMMENCEMENT OF A DELINQUENCY PROCEEDING ONLY IF THE APPLICATION IS FILED BY THE SECRETARY IN THE NAME OF THE STATE.

(2) AFTER A HEARING UNDER THE TERMS OF THE SHOW CAUSE ORDER, THE COURT:

(I) SHALL GRANT OR DENY THE APPLICATION; AND

(II) MAY ORDER OTHER RELIEF AS THE NATURE OF THE CASE AND THE INTERESTS OF THE CREDITORS, STOCKHOLDERS, MEMBERS, SUBSCRIBERS, OR THE PUBLIC MAY REQUIRE.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20F.

The only changes are in style.

Defined terms: "Creditor" § 10-472

"Delinquency proceeding" § 10-472

"Provider" § 10-401

"Secretary" § 10-101

"Subscriber" § 10-401

10-479. GROUNDS FOR CONSERVATION, REHABILITATION, OR LIQUIDATION OF PROVIDERS.

(A) CONSERVATION OR REHABILITATION.

THE SECRETARY MAY APPLY TO THE COURT FOR AN ORDER THAT DIRECTS THE SECRETARY TO CONSERVE OR REHABILITATE A PROVIDER, IF THE PROVIDER:

(1) IS A PROVIDER FOR WHICH THE DEPARTMENT HAS MADE A DETERMINATION OF SIGNIFICANT RISK OF FINANCIAL FAILURE UNDER PART VII OF THIS SUBTITLE;

(2) HAS REFUSED TO SUBMIT TO THE SECRETARY OR A DEPUTY OR EXAMINER OF THE SECRETARY, FOR REASONABLE EXAMINATION, ANY OF THE

PROPERTY, BOOKS, RECORDS, ACCOUNTS, OR AFFAIRS OF THE PROVIDER, OR OF A SUBSIDIARY OR RELATED COMPANY OF THE PROVIDER WITHIN THE PROVIDER'S CONTROL;

(3) HAS CONCEALED OR REMOVED ITS ASSETS OR RECORDS;

(4) HAS WILLFULLY VIOLATED ITS CHARTER, ARTICLES OF INCORPORATION, A STATE LAW, OR AN ORDER OF THE SECRETARY;

(5) AFTER REASONABLE NOTICE, HAS FAILED PROMPTLY AND EFFECTIVELY TO TERMINATE THE EMPLOYMENT, STATUS, AND INFLUENCE OVER THE MANAGEMENT OF THE PROVIDER OF A PERSON THAT HAS EXECUTIVE AUTHORITY IN FACT OVER THE PROVIDER AND HAS REFUSED TO BE EXAMINED UNDER OATH ABOUT THE AFFAIRS OF THE PROVIDER IN THE STATE OR ELSEWHERE;

(6) HAS BEEN OR IS THE SUBJECT OF AN APPLICATION FOR APPOINTMENT OF A RECEIVER, TRUSTEE, CUSTODIAN, SEQUESTRATOR, OR SIMILAR FIDUCIARY OF THE PROVIDER OR ITS PROPERTY IN AN ACTION THAT WAS NOT FILED UNDER THIS SUBTITLE, REGARDLESS OF WHETHER THE APPOINTMENT:

(I) HAS BEEN MADE;

(II) MAY DENY THE COURTS OF THE STATE JURISDICTION; OR

(III) MAY PREJUDICE AN ORDERLY DELINQUENCY PROCEEDING UNDER THIS SUBTITLE;

(7) HAS CONSENTED TO THE ORDER FOR CONSERVATION OR REHABILITATION THROUGH A MAJORITY OF ITS DIRECTORS, STOCKHOLDERS, MEMBERS, OR SUBSCRIBERS;

(8) HAS FAILED TO PAY A FINAL JUDGMENT RENDERED AGAINST IT IN THE STATE ON A CONTINUING CARE AGREEMENT ISSUED OR ASSUMED BY THE PROVIDER, WITHIN 60 DAYS AFTER THE LATEST OF:

(I) THE DAY ON WHICH THE JUDGMENT BECAME FINAL;

(II) THE DAY ON WHICH THE TIME FOR TAKING AN APPEAL EXPIRED; OR

(III) THE DAY ON WHICH AN APPEAL WAS DISMISSED BEFORE FINAL TERMINATION;

(9) AFTER EXAMINATION BY THE SECRETARY, IS FOUND TO BE IN A CONDITION IN WHICH FURTHER TRANSACTION OF ITS BUSINESS WILL BE HAZARDOUS TO ITS SUBSCRIBERS, BONDHOLDERS, CREDITORS, OR THE PUBLIC;

(10) HAS FAILED TO REMOVE A PERSON THAT HAS EXECUTIVE AUTHORITY IN FACT OVER THE PROVIDER AFTER THE SECRETARY HAS FOUND THAT PERSON TO BE DISHONEST OR UNTRUSTWORTHY IN A MANNER THAT MAY AFFECT THE BUSINESS OF THE PROVIDER;

(11) HAS REASONABLE CAUSE TO KNOW, OR SHOULD HAVE KNOWN, THAT THERE HAS BEEN:

- (I) EMBEZZLEMENT OF FUNDS FROM THE PROVIDER;
- (II) WRONGFUL SEQUESTRATION OR DIVERSION OF ASSETS OF THE PROVIDER;
- (III) FORGERY OR FRAUD THAT AFFECTS THE PROVIDER; OR
- (IV) OTHER ILLEGAL CONDUCT IN, BY, OR WITH RESPECT TO THE PROVIDER;

(12) IS CONTROLLED DIRECTLY OR INDIRECTLY BY A PERSON THAT THE SECRETARY FINDS TO BE UNTRUSTWORTHY; OR

(13) HAS FAILED TO FILE A FINANCIAL REPORT REQUIRED BY LAW WITHIN THE TIME ALLOWED BY LAW AND, AFTER WRITTEN DEMAND BY THE SECRETARY, HAS FAILED TO GIVE AN IMMEDIATE AND ADEQUATE EXPLANATION.

(B) LIQUIDATION.

(1) IF THE APPOINTMENT OF THE SECRETARY AS RECEIVER IS NOT THEN IN EFFECT, AND EVEN IF NO PREVIOUS ORDER HAS DIRECTED THE SECRETARY TO REHABILITATE A PROVIDER, THE SECRETARY MAY APPLY TO THE COURT FOR AN ORDER THAT APPOINTS THE SECRETARY AS RECEIVER AND THAT DIRECTS THE SECRETARY TO LIQUIDATE THE PROVIDER IF THE PROVIDER:

- (I) HAS NOT DONE BUSINESS FOR AT LEAST 1 YEAR;
- (II) IS A PROVIDER DETERMINED TO HAVE A SIGNIFICANT RISK OF FINANCIAL FAILURE UNDER PART VII OF THIS SUBTITLE AND HAS COMMENCED VOLUNTARY LIQUIDATION OR DISSOLUTION, OR ATTEMPTS TO COMMENCE OR PROSECUTE AN ACTION OR PROCEEDING TO LIQUIDATE ITS BUSINESS OR AFFAIRS, TO DISSOLVE ITS CORPORATE CHARTER, OR TO PROCURE THE APPOINTMENT OF A RECEIVER, TRUSTEE, CUSTODIAN, OR SEQUESTRATOR UNDER ANY LAW EXCEPT THIS TITLE;
- (III) IS DOING BUSINESS IN A FRAUDULENT MANNER; OR
- (IV) IS IN A CONDITION IN WHICH FURTHER REHABILITATION EFFORTS ON ANY GROUNDS SPECIFIED IN SUBSECTION (A) OF THIS SECTION APPEAR TO BE USELESS.

(2) IF AT ANY TIME DURING A REHABILITATION PROCEEDING THE SECRETARY DETERMINES THAT FURTHER EFFORTS TO REHABILITATE THE PROVIDER WOULD BE USELESS, THE SECRETARY MAY APPLY TO THE COURT FOR AN ORDER OF LIQUIDATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 20G.

Defined terms: "Creditor" § 10-472

"Delinquency proceeding" § 10-472

"Department" § 10-101

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

"Subscriber" § 10-401

10-480. ORDERS TO REHABILITATE, LIQUIDATE, OR CONSERVE PROVIDERS.

(A) ORDER TO REHABILITATE.

(1) AN ORDER TO REHABILITATE A PROVIDER SHALL:

(I) APPOINT THE SECRETARY AS REHABILITATOR;

(II) DIRECT THE SECRETARY:

1. TO TAKE POSSESSION OF THE PROPERTY OF THE PROVIDER AND CONDUCT THE BUSINESS OF THE PROVIDER UNDER THE GENERAL SUPERVISION OF THE COURT; AND

2. TO TAKE ACTION THE COURT DIRECTS TO REMOVE THE CAUSES AND CONDITIONS THAT HAVE MADE REHABILITATION NECESSARY;

(III) VEST TITLE TO ALL PROPERTY OF THE PROVIDER IN THE REHABILITATOR; AND

(IV) REQUIRE THE REHABILITATOR TO MAKE ACCOUNTINGS TO THE COURT THAT:

1. ARE AT INTERVALS AS THE COURT SPECIFIES IN ITS ORDER, BUT NOT LESS FREQUENTLY THAN TWO TIMES EACH YEAR; AND

2. INCLUDE THE OPINION OF THE REHABILITATOR ABOUT THE LIKELIHOOD OF SUCCESS OF THE REHABILITATION.

(2) ISSUANCE OF AN ORDER OF REHABILITATION:

(I) DOES NOT CONSTITUTE AN ANTICIPATORY BREACH OF ANY CONTRACT OF THE PROVIDER; AND

(II) IS NOT GROUNDS FOR RETROACTIVE REVOCATION OR RETROACTIVE CANCELLATION OF A CONTRACT OF THE PROVIDER, UNLESS THE REHABILITATOR REVOKES OR CANCELS THE CONTRACT.

(B) ORDER TO TERMINATE REHABILITATION PROCEEDING.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY, OR AN INTERESTED PERSON ON DUE NOTICE TO THE SECRETARY, MAY APPLY TO THE COURT AT ANY TIME FOR AN ORDER THAT:

(I) TERMINATES A REHABILITATION PROCEEDING; AND

(II) ALLOWS THE PROVIDER TO RESUME POSSESSION OF ITS PROPERTY AND THE CONDUCT OF ITS BUSINESS.

(2) AN ORDER UNDER THIS SUBSECTION MAY NOT BE ISSUED UNLESS, AFTER A HEARING, THE COURT DETERMINES THAT THE PURPOSES OF THE REHABILITATION PROCEEDING HAVE BEEN FULLY ACCOMPLISHED.

(C) ORDER TO LIQUIDATE.

(1) AN ORDER TO LIQUIDATE THE BUSINESS OF A PROVIDER SHALL DIRECT THE SECRETARY PROMPTLY TO:

(I) TAKE POSSESSION OF THE PROPERTY OF THE PROVIDER;

(II) LIQUIDATE THE BUSINESS OF THE PROVIDER;

(III) DEAL WITH THE PROPERTY AND BUSINESS OF THE PROVIDER IN THE NAME OF THE SECRETARY OR IN THE NAME OF THE PROVIDER, AS THE COURT DIRECTS; AND

(IV) NOTIFY EACH CREDITOR THAT MAY HAVE A CLAIM AGAINST THE PROVIDER TO PRESENT THE CREDITOR'S CLAIM.

(2) THE SECRETARY MAY APPLY FOR, AND THE COURT MAY ISSUE, AN ORDER TO DISSOLVE THE CORPORATE EXISTENCE OF A PROVIDER:

(I) ON APPLICATION OF THE SECRETARY FOR AN ORDER TO LIQUIDATE THE PROVIDER; OR

(II) AT ANY TIME AFTER THE COURT HAS GRANTED THE ORDER OF LIQUIDATION.

(D) ORDER TO CONSERVE ASSETS.

AN ORDER TO CONSERVE THE ASSETS OF A PROVIDER SHALL REQUIRE THE SECRETARY PROMPTLY TO TAKE POSSESSION OF AND CONSERVE THE PROPERTY OF THE PROVIDER IN THE STATE, SUBJECT TO FURTHER DIRECTION BY THE COURT.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20H.

The only changes are in style.

Defined terms: "Creditor" § 10-472

"Provider" § 10-401

"Secretary" § 10-101

10-481. APPOINTED RECEIVERS.

(A) "APPOINTED RECEIVER" DEFINED.

IN THIS SECTION, "APPOINTED RECEIVER" MEANS A PERSON, OTHER THAN THE SECRETARY, THAT THE COURT APPOINTS AS A CONSERVATOR, REHABILITATOR, OR RECEIVER UNDER THIS SECTION.

(B) IN GENERAL.

(1) ON MOTION OF THE COURT OR THE SECRETARY, THE COURT MAY ISSUE AN ORDER THAT APPOINTS OR SUBSTITUTES A PERSON OTHER THAN THE SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER:

(I) ON INITIAL APPLICATION BY THE SECRETARY FOR AN ORDER TO APPOINT THE SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER UNDER THIS SUBTITLE; OR

(II) AT ANY TIME DURING THE COURSE OF A CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP UNDER THIS SUBTITLE.

(2) AN APPOINTED RECEIVER HAS THE SAME POWERS AND DUTIES THAT THE SECRETARY HAS UNDER THIS SUBTITLE AS CONSERVATOR, REHABILITATOR, OR RECEIVER.

(C) REPORT REQUIRED.

(1) IN ADDITION TO ANY OTHER REPORT REQUIRED BY THE COURT, THE COURT SHALL REQUIRE AN APPOINTED RECEIVER AT LEAST QUARTERLY TO FILE WITH THE SECRETARY AND COURT A REPORT ABOUT:

(I) THE STATUS OF THE CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP; AND

(II) THE ACTIVITIES OF THE APPOINTED RECEIVER SINCE THE LAST REPORT FILED UNDER THIS PARAGRAPH.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AT A MINIMUM SHALL INCLUDE:

(I) INFORMATION OF THE CHARACTER REQUIRED BY TITLE 13 OF THE MARYLAND RULES THAT APPLIES TO RECEIVERS GENERALLY;

(II) ANY OTHER INFORMATION NECESSARY TO PROVIDE A COMPLETE REPORT ON THE FINANCIAL AFFAIRS AND CONDITION OF THE CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP;

(III) A COMPLETE ACCOUNT OF ALL EFFORTS BY THE APPOINTED RECEIVER SINCE THE LAST REPORT:

1. TO SELL OR DISPOSE OF THE REMAINING BUSINESS OR ASSETS OF THE PROVIDER; OR

2. TO OTHERWISE BRING TO A PROMPT CONCLUSION THE CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP; AND

(IV) COPIES OF ANY ACTUARIAL OR OTHER EVALUATIONS OF THE BUSINESS AND ASSETS UNDER THE CONTROL OF THE APPOINTED RECEIVER.

(3) THE REPORT SHALL BE AUDITED UNLESS FOR GOOD CAUSE THE COURT WAIVES THE AUDIT.

(D) INFORMATION UNDER SEAL.

SUBJECT TO ANY PROTECTIVE ORDER THAT THE COURT CONSIDERS APPROPRIATE, INFORMATION FILED UNDER SEAL SHALL BE PROVIDED TO THE SECRETARY.

(E) ACCESS TO DOCUMENTS AND RECORDS.

THE APPOINTED RECEIVER SHALL GIVE THE SECRETARY FULL ACCESS TO ALL DOCUMENTS AND RECORDS RELATED TO THE CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP THAT ARE IN THE POSSESSION OF THE APPOINTED RECEIVER.

(F) SECRETARY AS PARTY.

THE SECRETARY MAY BE A PARTY TO A CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP FOR WHICH THERE IS AN APPOINTED RECEIVER.

(G) NEGOTIATION FOR SALE OF ASSETS.

(1) SUBJECT TO APPROVAL OF THE COURT, THE SECRETARY MAY NEGOTIATE FOR SALE OF ALL OR PART OF THE ASSETS OR BUSINESS OF THE PROVIDER PLACED IN CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP.

(2) THE APPOINTED RECEIVER:

(I) SHALL COOPERATE FULLY IN ANY SALES NEGOTIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) MAY OBJECT TO THE TERMS OF A SALE OF THE ASSETS OR BUSINESS OF THE PROVIDER THAT RESULTS FROM THE NEGOTIATION.

(3) AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, THE COURT MAY LIMIT THE EFFORTS OF THE SECRETARY TO UNDERTAKE OR CONTINUE NEGOTIATIONS FOR THE SALE OF THE ASSETS OR BUSINESS OF THE PROVIDER IF THE NEGOTIATIONS WOULD IMPAIR THE ABILITY OF THE APPOINTED RECEIVER TO ENGAGE IN SIMILAR NEGOTIATIONS OR DISCHARGE OTHER RESPONSIBILITIES.

(H) DISCHARGE OF APPOINTED RECEIVER.

(1) IF THE SECRETARY DETERMINES THAT AN APPOINTED RECEIVER IS NOT ADEQUATELY DISCHARGING THE DUTIES AND RESPONSIBILITIES OF THE POSITION, THE SECRETARY MAY FILE WITH THE COURT AN APPLICATION THAT SEEKS TO DISCHARGE THE APPOINTED RECEIVER AND TO APPOINT THE SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER OR TO APPOINT ANOTHER RECEIVER.

(2) IF THE SECRETARY ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT GROUNDS EXIST FOR DISCHARGE OF AN APPOINTED RECEIVER, THE COURT SHALL GRANT THE APPLICATION OF THE SECRETARY TO DISCHARGE THE APPOINTED RECEIVER AND TO APPOINT THE SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER OR TO APPOINT ANOTHER RECEIVER.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20-I.

The only changes are in style.

Defined terms: “Person” §§ 1–101, 10–401

“Provider” § 10–401

“Receiver” § 10–472

“Secretary” § 10–101

10–482. NOTICE TO SUBSCRIBERS OF DELINQUENCY PROCEEDING.

WITHIN 15 DAYS AFTER APPOINTMENT AS RECEIVER OR CONSERVATOR FOR A PROVIDER AGAINST WHICH A DELINQUENCY PROCEEDING HAS BEEN COMMENCED, THE RECEIVER OR CONSERVATOR SHALL NOTIFY EACH SUBSCRIBER OF THE PROVIDER, BY LETTER OR OTHER MEANS APPROVED BY THE COURT, OF THE COMMENCEMENT OF THE DELINQUENCY PROCEEDING AND OF THE POSSIBILITY THAT THE CONTINUING CARE AGREEMENT OF THE SUBSCRIBER MAY BE CANCELED.

REVISOR’S NOTE: This section formerly was Art. 70B, § 20J.

The only changes are in style.

Defined terms: “Continuing care agreement” § 10–401

“Delinquency proceeding” § 10–472

“Provider” § 10–401

“Receiver” § 10–472

“Subscriber” § 10–401

10–483. APPEALS TO COURT OF SPECIAL APPEALS.

AN APPEAL MAY BE TAKEN TO THE COURT OF SPECIAL APPEALS FROM:

(1) AN ORDER THAT GRANTS OR REFUSES REHABILITATION, LIQUIDATION, OR CONSERVATION; AND

(2) ANY OTHER ORDER IN A DELINQUENCY PROCEEDING THAT HAS THE CHARACTER OF A FINAL ORDER AS TO THE PARTICULAR PART OF THE DELINQUENCY PROCEEDING COVERED BY THE ORDER.

REVISOR’S NOTE: This section formerly was Art. 70B, § 20K.

No changes are made.

Defined term: “Delinquency proceeding” § 10–472

10–484. LOANS AND PLEDGES OF ASSETS.

(A) IN GENERAL.

TO FACILITATE THE REHABILITATION, LIQUIDATION, CONSERVATION, OR DISSOLUTION OF A PROVIDER UNDER THIS SUBTITLE, THE SECRETARY, SUBJECT TO THE APPROVAL OF THE COURT, MAY:

(1) BORROW MONEY;

(2) EXECUTE, ACKNOWLEDGE, AND DELIVER NOTES OR OTHER EVIDENCES OF INDEBTEDNESS FOR THE LOAN;

(3) SECURE THE REPAYMENT OF THE LOAN BY THE MORTGAGE, PLEDGE, ASSIGNMENT, OR TRANSFER IN TRUST OF ALL OR PART OF THE PROPERTY OF THE PROVIDER; AND

(4) TAKE ANY OTHER ACTION NECESSARY AND PROPER TO CONSUMMATE THE LOAN AND TO PROVIDE FOR ITS REPAYMENT.

(B) OBLIGATION OF SECRETARY.

THE SECRETARY IS NOT OBLIGATED PERSONALLY OR IN AN OFFICIAL CAPACITY TO REPAY A LOAN MADE UNDER THIS SECTION.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20L.

The only changes are in style.

Defined terms: "Provider" § 10-401

"Secretary" § 10-101

10-485. ADMINISTRATION OF ASSETS.

(A) IN GENERAL.

WHENEVER UNDER THIS SUBTITLE A RECEIVER IS TO BE APPOINTED IN A DELINQUENCY PROCEEDING FOR A PROVIDER, THE COURT SHALL:

(1) APPOINT THE SECRETARY AS RECEIVER; AND

(2) ORDER THE SECRETARY PROMPTLY TO TAKE POSSESSION OF THE ASSETS OF THE PROVIDER AND TO ADMINISTER THE ASSETS UNDER THE ORDERS OF THE COURT.

(B) TITLE TO ASSETS.

BEGINNING ON THE DATE OF ISSUANCE OF AN ORDER THAT DIRECTS THE SECRETARY TO REHABILITATE OR LIQUIDATE A PROVIDER, THE SECRETARY AS RECEIVER IS VESTED BY OPERATION OF LAW WITH TITLE TO AND MAY TAKE POSSESSION OF ALL OF THE PROPERTY, CONTRACTS, RIGHTS OF ACTION, BOOKS, AND RECORDS OF THE PROVIDER, WHEREVER LOCATED.

(C) EFFECT OF FILING ORDER.

THE FILING OF THE ORDER THAT DIRECTS POSSESSION TO BE TAKEN, OR A CERTIFIED COPY OF THE ORDER, IN AN OFFICE WHERE INSTRUMENTS AFFECTING TITLE TO PROPERTY ARE REQUIRED TO BE FILED PROVIDES THE SAME NOTICE AS WOULD BE PROVIDED BY A DEED, BILL OF SALE, OR OTHER EVIDENCE OF TITLE THAT IS SO FILED.

(D) DUTIES OF SECRETARY AS RECEIVER.

(1) THE SECRETARY AS RECEIVER SHALL ADMINISTER PROPERLY ALL ASSETS THAT COME INTO THE POSSESSION OR CONTROL OF THE SECRETARY.

(2) IF CONSIDERED DESIRABLE TO PROTECT THE ASSETS, THE COURT AT ANY TIME MAY REQUIRE A BOND FROM THE SECRETARY OR DEPUTY SECRETARY.

(3) ON TAKING POSSESSION OF THE ASSETS OF A PROVIDER AND SUBJECT TO THE DIRECTION OF THE COURT, THE SECRETARY IMMEDIATELY SHALL:

(I) CONDUCT THE BUSINESS OF THE PROVIDER; OR

(II) TAKE ACTION AUTHORIZED BY THIS SUBTITLE TO REHABILITATE, LIQUIDATE, OR CONSERVE THE AFFAIRS OR ASSETS OF THE PROVIDER.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20M.

In subsection (d)(3)(i) of this section, the former reference to a "domestic" provider is deleted as inapplicable to continuing care providers.

The only other changes are in style.

Defined terms: "Delinquency proceeding" § 10-472

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

10-486. ATTACHMENT OR GARNISHMENT OF ASSETS.

(A) IN GENERAL.

DURING PENDENCY OF A DELINQUENCY PROCEEDING FOR A PROVIDER, AN ATTACHMENT, GARNISHMENT, EXECUTION, OR SIMILAR ACTION OR PROCEEDING MAY NOT BE COMMENCED OR MAINTAINED IN A COURT OF THIS STATE AGAINST THE PROVIDER OR ITS ASSETS.

(B) EFFECT ON RIGHTS IN DELINQUENCY PROCEEDING.

A LIEN OBTAINED OR AN ACTION OR PROCEEDING PROHIBITED BY SUBSECTION (A) OF THIS SECTION IS VOID AS AGAINST ANY RIGHTS ARISING IN THE DELINQUENCY PROCEEDING, IF THE LIEN WAS OBTAINED OR THE ACTION OR PROCEEDING COMMENCED WITHIN 4 MONTHS BEFORE OR AT ANY TIME AFTER COMMENCEMENT OF A DELINQUENCY PROCEEDING.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20N.

The only changes are in style.

Defined terms: "Delinquency proceeding" § 10-472

"Provider" § 10-401

10-487. VOIDABLE TRANSFERS.

(A) IN GENERAL.

A TRANSFER OF OR LIEN ON THE PROPERTY OF A PROVIDER IS VOIDABLE IF THE TRANSFER OR LIEN IS:

(1) MADE OR CREATED WITHIN 4 MONTHS BEFORE THE ISSUANCE OF A SHOW CAUSE ORDER UNDER THIS SUBTITLE;

(2) MADE OR CREATED WITH THE INTENT TO GIVE A CREDITOR A PREFERENCE OR TO ENABLE THE CREDITOR TO OBTAIN A GREATER PERCENTAGE OF THE DEBT THAN ANOTHER CREDITOR OF THE SAME CLASS; AND

(3) ACCEPTED BY THE CREDITOR HAVING REASONABLE CAUSE TO BELIEVE THAT THE PREFERENCE WILL OCCUR.

(B) PERSONAL LIABILITY.

EACH DIRECTOR, OFFICER, EMPLOYEE, STOCKHOLDER, MEMBER, SUBSCRIBER, AND ANY OTHER PERSON ACTING ON BEHALF OF A PROVIDER THAT IS CONCERNED IN A VOIDABLE TRANSFER UNDER SUBSECTION (A) OF THIS SECTION AND EACH PERSON THAT, AS A RESULT OF THE VOIDABLE TRANSFER, RECEIVES ANY PROPERTY OF THE PROVIDER OR BENEFITS FROM THE VOIDABLE TRANSFER:

(1) IS PERSONALLY LIABLE; AND

(2) SHALL ACCOUNT TO THE SECRETARY.

(C) OTHER TRANSFERS.

THE SECRETARY AS RECEIVER IN A DELINQUENCY PROCEEDING MAY:

(1) AVOID A TRANSFER OF OR LIEN ON THE PROPERTY OF A PROVIDER THAT A CREDITOR, STOCKHOLDER, SUBSCRIBER, OR MEMBER OF THE PROVIDER MIGHT HAVE AVOIDED; AND

(2) RECOVER THE TRANSFERRED PROPERTY OR ITS VALUE FROM THE PERSON THAT RECEIVED IT UNLESS THAT PERSON WAS A BONA FIDE HOLDER FOR VALUE BEFORE THE DATE OF ISSUANCE OF A SHOW CAUSE ORDER UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20-O.

The only changes are in style.

Defined terms: "Creditor" § 10-472

"Delinquency proceeding" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

"Subscriber" § 10-401

10-488. DEPOSITS.

(A) IN GENERAL.

(1) THE SECRETARY SHALL DEPOSIT MONEYS COLLECTED IN A DELINQUENCY PROCEEDING IN A STATE OR NATIONAL BANK, SAVINGS BANK, OR TRUST COMPANY.

(2) DEPOSITS MADE BY THE SECRETARY UNDER PARAGRAPH (1) OF THIS SUBSECTION HAVE PRIORITY OF PAYMENT EQUAL TO ANY OTHER PRIORITY SPECIFIED BY THE BANKING LAWS OF THIS STATE IF THE DEPOSITORY:

(I) IS AN INSTITUTION ORGANIZED AND SUPERVISED UNDER THE LAWS OF THIS STATE; AND

(II) BECOMES INSOLVENT OR LIQUIDATES VOLUNTARILY OR INVOLUNTARILY.

(3) THE SECRETARY MAY DEPOSIT ALL OR PART OF THE MONEYS COLLECTED IN A NATIONAL BANK OR TRUST COMPANY AS A TRUST FUND.

(B) SAVINGS AND LOAN OR BUILDING AND LOAN ASSOCIATION.

TO THE EXTENT THAT AN INVESTMENT OR ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE SECRETARY MAY INVEST IN SHARES OF OR DEPOSITS IN A SAVINGS AND LOAN ASSOCIATION OR BUILDING AND LOAN ASSOCIATION.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20P.

No changes are made.

Defined terms: "Delinquency proceeding" § 10-472
"Secretary" § 10-101

10-489. PROCEDURES FOR FILING CLAIMS.

(A) AFTER ORDER THAT PROVIDER IS IMPAIRED.

(1) IF ON ISSUANCE OF AN ORDER OF LIQUIDATION UNDER THIS SUBTITLE OR AT ANY TIME DURING A LIQUIDATION PROCEEDING THE PROVIDER IS NOT CLEARLY SOLVENT, THE COURT, AFTER NOTICE IT CONSIDERS PROPER AND A HEARING, SHALL ISSUE AN ORDER THAT THE PROVIDER IS AN IMPAIRED PROVIDER.

(2) NOTWITHSTANDING ANY PREVIOUS NOTICE GIVEN TO CREDITORS, AFTER ISSUANCE OF AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL NOTIFY EACH PERSON THAT MAY HAVE A CLAIM AGAINST THE PROVIDER THAT THE CLAIM IS FOREVER BARRED UNLESS THE PERSON FILES THE CLAIM WITH THE SECRETARY AT A PLACE AND WITHIN THE TIME SPECIFIED IN THE NOTICE.

(3) THE TIME SPECIFIED IN THE NOTICE:

(I) SHALL BE AS SET BY THE COURT FOR FILING CLAIMS; BUT

(II) MAY NOT BE LESS THAN 6 MONTHS AFTER ISSUANCE OF THE ORDER THAT THE PROVIDER IS AN IMPAIRED PROVIDER.

(4) THE NOTICE SHALL BE GIVEN IN THE MANNER AND FOR THE REASONABLE PERIOD OF TIME THAT THE COURT ORDERS.

(B) FORM AND FILING OF CLAIMS.

(1) EACH CLAIMANT SHALL SET FORTH IN REASONABLE DETAIL:

(I) THE AMOUNT OF THE CLAIM OR THE BASIS ON WHICH THE AMOUNT CAN BE DETERMINED;

(II) THE FACTS ON WHICH THE CLAIM IS BASED; AND

(III) ANY PRIORITY ASSERTED BY THE CLAIMANT.

(2) EACH CLAIM SHALL:

(I) BE VERIFIED BY THE AFFIDAVIT OF THE CLAIMANT OR A PERSON AUTHORIZED TO ACT ON BEHALF OF THE CLAIMANT WHO HAS KNOWLEDGE OF THE FACTS; AND

(II) BE SUPPORTED BY ANY DOCUMENTS THAT MAY BE MATERIAL TO THE CLAIM.

(3) EACH CLAIM SHALL BE FILED WITH THE RECEIVER IN THE STATE ON OR BEFORE THE LAST DATE SPECIFIED UNDER THIS SUBTITLE FOR FILING OF CLAIMS.

(C) REPORT AND RECOMMENDATION OF RECEIVER.

THE RECEIVER SHALL:

(1) REPORT A CLAIM TO THE COURT:

(I) WITHIN 10 DAYS AFTER RECEIVING THE CLAIM; OR

(II) WITHIN AN ADDITIONAL PERIOD SET BY THE COURT FOR GOOD CAUSE SHOWN; AND

(2) RECOMMEND IN THE REPORT ACTION TO BE TAKEN ON THE CLAIM.

(D) TIME FOR HEARING; NOTICE.

(1) ON RECEIPT OF THE REPORT OF THE RECEIVER, THE COURT SHALL:

(I) SET A TIME FOR HEARING THE CLAIM; AND

(II) DIRECT THE CLAIMANT OR RECEIVER TO GIVE NOTICE AS THE COURT DETERMINES TO EACH PERSON THAT APPEARS TO THE COURT TO BE INTERESTED IN THE CLAIM.

(2) THE NOTICE GIVEN IN ACCORDANCE WITH THIS SUBSECTION SHALL:

(I) SPECIFY THE TIME AND PLACE OF THE HEARING; AND

(II) STATE CONCISELY:

1. THE AMOUNT AND NATURE OF THE CLAIM;

2. ANY PRIORITY ASSERTED BY THE CLAIMANT; AND

3. THE RECOMMENDATION OF THE RECEIVER ABOUT THE CLAIM.

(E) HEARING AND ORDER.

(1) AT THE HEARING SPECIFIED UNDER SUBSECTION (D) OF THIS SECTION:

(I) EACH PERSON WITH AN INTEREST IN THE CLAIM MAY APPEAR;
AND

(II) THE COURT SHALL ISSUE AN ORDER IN WHICH THE COURT ALLOWS IN PART, OR DISALLOWS THE CLAIM.

(2) AN ORDER UNDER THIS SUBSECTION IS A FINAL ORDER SUBJECT TO APPEAL.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20Q.

The only changes are in style.

Defined terms: "Creditor" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

10-490. PRIORITY OF CLAIMS.

(A) "PREFERRED CLAIM" DEFINED.

IN THIS SECTION, "PREFERRED CLAIM" MEANS A CLAIM THAT IS GIVEN PRIORITY OF PAYMENT FROM THE GENERAL ASSETS OF A PROVIDER UNDER THE LAWS OF THE STATE OR THE UNITED STATES.

(B) COMPENSATION OF OFFICERS OR EMPLOYEES.

(1) THE FIRST \$500 OF COMPENSATION OR WAGES OWED TO AN OFFICER OR EMPLOYEE OF A PROVIDER FOR SERVICES RENDERED WITHIN 3 MONTHS BEFORE THE COMMENCEMENT OF A DELINQUENCY PROCEEDING AGAINST THE PROVIDER SHALL BE PAID BEFORE PAYMENT OF ANY OTHER DEBT OR CLAIM.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY MAY PAY THE COMPENSATION REQUIRED TO BE PAID UNDER THIS SUBSECTION AS SOON AS PRACTICABLE AFTER COMMENCEMENT OF THE DELINQUENCY PROCEEDING.

(3) AT ALL TIMES, THE SECRETARY SHALL RESERVE FUNDS THAT THE SECRETARY BELIEVES ARE SUFFICIENT FOR EXPENSES OF ADMINISTRATION.

(4) THE PRIORITY REQUIRED UNDER THIS SUBSECTION IS INSTEAD OF ANY OTHER SIMILAR PRIORITY THAT MAY BE AUTHORIZED BY LAW AS TO WAGES OR COMPENSATION.

(C) CLAIMS BY SUBSCRIBERS.

PRIORITY OVER ALL OTHER CLAIMS IN A LIQUIDATION PROCEEDING, OTHER THAN CLAIMS FOR WAGES SPECIFIED IN SUBSECTION (B) OF THIS SECTION, EXPENSES OF ADMINISTRATION, AND TAXES, SHALL BE GIVEN TO CLAIMS BY SUBSCRIBERS THAT ARISE FROM CONTINUING CARE AGREEMENTS WITH THE PROVIDER, INCLUDING CLAIMS TO THE STATUTORY REFUND REQUIRED BY § 10-448 OF THIS SUBTITLE.

(D) SECURED CLAIMS.

(1) THE OWNER OF A SECURED CLAIM AGAINST A PROVIDER FOR WHICH A RECEIVER HAS BEEN APPOINTED IN THIS STATE OR ANOTHER STATE MAY:

(I) SURRENDER THE SECURITY AND FILE THE CLAIM AS A GENERAL CREDITOR; OR

(II) HAVE THE CLAIM DISCHARGED BY RESORT TO THE SECURITY.

(2) IF THE OWNER OF A SECURED CLAIM HAS THE CLAIM DISCHARGED BY RESORT TO THE SECURITY, ANY DEFICIENCY SHALL BE TREATED AS A CLAIM AGAINST THE GENERAL ASSETS OF THE PROVIDER ON THE SAME BASIS AS THE CLAIMS OF UNSECURED CREDITORS.

(3) THE AMOUNT OF A DEFICIENCY IS CONCLUSIVE IF ADJUDICATED BY A COURT OF COMPETENT JURISDICTION IN A PROCEEDING IN WHICH THE RECEIVER HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY TO BE HEARD.

(4) IF THE AMOUNT OF A DEFICIENCY IS NOT CONCLUSIVE, THE AMOUNT SHALL BE DETERMINED IN A DELINQUENCY PROCEEDING IN THE STATE.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20R.

The only changes are in style.

Defined terms: "Continuing care agreement" § 10-401

"Creditor" § 10-472

"Delinquency proceeding" § 10-472

"General assets" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Receiver" § 10-472

"Secretary" § 10-101

"Secured claim" § 10-472

"State" § 1-101

"Subscriber" § 10-401

10-491. DISPOSITION OF CLAIMS.

(A) CONTINGENT AND UNLIQUIDATED CLAIMS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, CONTINGENT AND UNLIQUIDATED CLAIMS MAY NOT SHARE IN A DISTRIBUTION OF THE ASSETS OF A PROVIDER THAT HAS BEEN ADJUDICATED TO BE AN IMPAIRED PROVIDER BY AN ORDER ISSUED UNDER THIS SUBTITLE.

(2) IF PROPERLY PRESENTED, A CONTINGENT AND UNLIQUIDATED CLAIM SHALL BE CONSIDERED AND MAY BE ALLOWED TO SHARE IF:

(I) THE CLAIM BECOMES ABSOLUTE AGAINST THE PROVIDER ON OR BEFORE THE LAST DAY FOR FILING CLAIMS AGAINST THE ASSETS OF THE PROVIDER; OR

(II) THERE IS A SURPLUS AND THE LIQUIDATION IS SUBSEQUENTLY CONDUCTED ON THE BASIS THAT THE PROVIDER IS SOLVENT.

(B) CLAIMS OF SECURED CLAIMANTS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CLAIM OF A PERSON THAT HAS A SECURED CLAIM MAY NOT BE ALLOWED AT A SUM GREATER THAN THE DIFFERENCE BETWEEN:

(I) THE VALUE OF THE CLAIM WITHOUT SECURITY; AND

(II) THE VALUE OF THE SECURITY ITSELF ON:

1. THE DATE OF ISSUANCE OF THE LIQUIDATION ORDER; OR

2. ANOTHER DATE SET BY THE COURT FOR DETERMINING RIGHTS AND LIABILITIES AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(2) IF THE CLAIMANT SURRENDERS THE SECURITY TO THE SECRETARY, THE CLAIM SHALL BE ALLOWED IN THE FULL AMOUNT FOR WHICH IT IS VALUED.

(C) DATE RIGHTS FIXED ON LIQUIDATION.

SUBJECT TO THE PROVISIONS OF THIS SUBTITLE ON THE RIGHTS OF CLAIMANTS HOLDING CONTINGENT CLAIMS, AND UNLESS OTHERWISE DIRECTED BY THE COURT, THE RIGHTS AND LIABILITIES OF A PROVIDER AND CREDITORS, STOCKHOLDERS, MEMBERS, SUBSCRIBERS, AND OTHER PERSONS INTERESTED IN THE ESTATE OF THE PROVIDER ARE FIXED ON THE DATE ON WHICH THE ORDER THAT DIRECTS THE LIQUIDATION OF THE PROVIDER IS FILED IN THE OFFICE OF THE CLERK OF THE COURT THAT ISSUED THE ORDER.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20S.

The only changes are in style and cross-references.

Defined terms: "Creditor" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

"Secretary" § 10-101

"Secured claim" § 10-472

"Subscriber" § 10-401

10-492. OFFSETS.

(A) REQUIRED.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ALL CASES OF MUTUAL DEBTS AND CREDITS BETWEEN A PROVIDER AND ANOTHER PERSON IN CONNECTION WITH A DELINQUENCY PROCEEDING, THE DEBTS AND CREDITS SHALL BE OFFSET AND THE BALANCE ONLY SHALL BE ALLOWED OR PAID.

(B) EXCEPTION.

AN OFFSET MAY NOT BE ALLOWED IN FAVOR OF ANOTHER PERSON IF:

(1) ON THE DATE OF ISSUANCE OF A LIQUIDATION ORDER OR OTHERWISE, AS SPECIFIED IN § 10-491(C) OF THIS SUBTITLE, THE OBLIGATION OF THE PROVIDER TO THE PERSON WOULD NOT ENTITLE THE PERSON TO SHARE AS A CLAIMANT IN THE ASSETS OF THE PROVIDER; OR

(2) THE OBLIGATION OF THE PROVIDER TO THE PERSON WAS PURCHASED BY OR TRANSFERRED TO THE PERSON FOR USE AS AN OFFSET.

REVISOR'S NOTE: This section formerly was Art. 70B, § 20T.

The only changes are in style.

Defined terms: "Delinquency proceeding" § 10-472

"Person" §§ 1-101, 10-401

"Provider" § 10-401

10-493. BANKRUPTCY OR RECEIVERSHIP.

IF A PROVIDER IS THE SUBJECT OF A BANKRUPTCY OR RECEIVERSHIP ACTION, THE CLAIMS OF SUBSCRIBERS SHALL BE ADMINISTERED IN ACCORDANCE WITH § 10-490(C) OF THIS SUBTITLE FOR THE PURPOSE OF ANY LEGAL ACTION IN CONJUNCTION WITH THE BANKRUPTCY OR RECEIVERSHIP.

REVISOR'S NOTE: This section formerly was Art. 70B, § 21.

The only changes are in cross-references.

Defined terms: "Provider" § 10-401

"Subscriber" § 10-401

10-494. RESERVED.

10-495. RESERVED.

PART IX. PROHIBITED ACTS; PENALTIES; REMEDIES.

10-496. PROHIBITED ACTS; PENALTIES.

(A) MAINTENANCE OR OPERATION OF FACILITY WITHOUT CERTIFICATE OF REGISTRATION.

A PERSON MAY NOT MAINTAIN OR OPERATE A FACILITY OFFERING CONTINUING CARE WITHOUT HAVING OBTAINED AN INITIAL OR RENEWAL CERTIFICATE OF REGISTRATION.

(B) PROHIBITED ADVERTISING.

A PERSON MAY NOT DISSEMINATE PROHIBITED ADVERTISING OR PROMOTIONAL MATERIALS.

(C) FALSIFIED REGISTRATION INFORMATION.

A PERSON MAY NOT PROVIDE FALSE REGISTRATION INFORMATION TO THE DEPARTMENT.

(D) PENALTIES.

(1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

(2) EACH VIOLATION OF THIS SUBTITLE CONSTITUTES A SEPARATE OFFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 18.

Throughout this section, the former references to an "association, or corporation" are deleted as included in the defined term "person".

In subsection (b) of this section, the reference to "promotional materials" is substituted for the former reference to "circulars" for consistency with terminology used in Parts II and VI of this subtitle.

Defined terms: "Continuing care" § 10-401

"Department" § 10-101

"Facility" § 10-401

"Person" §§ 1-101, 10-401

10-497. CIVIL MONEY PENALTIES.

(A) AUTHORITY OF SECRETARY.

THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY AGAINST A PROVIDER FOR AN ACTION OR INACTION THAT VIOLATES THIS SUBTITLE OR ANY REGULATION ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE.

(B) NOTICE OF VIOLATION.

(1) BEFORE IMPOSING A CIVIL MONEY PENALTY UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A NOTICE OF VIOLATION TO THE PROVIDER.

(2) THE NOTICE SHALL STATE:

(I) WHEN THE PROVIDER MUST SUBMIT A PLAN OF CORRECTION THAT IS ACCEPTABLE TO THE DEPARTMENT;

(II) WHEN EACH IDENTIFIED VIOLATION MUST BE SUBSTANTIALLY CORRECTED, WHICH MAY NOT BE LESS THAN 30 DAYS; AND

(III) THAT FAILURE TO SUBMIT AN ACCEPTABLE PLAN OF CORRECTION AS REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH OR TO CORRECT AN IDENTIFIED VIOLATION MAY RESULT IN AN ORDER IMPOSING A CIVIL MONEY PENALTY UNDER SUBSECTION (D) OF THIS SECTION.

(C) EFFECT OF FAILURE TO CORRECT VIOLATION.

IF AT THE EXPIRATION OF THE TIME SET FORTH IN THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION THE DEPARTMENT DETERMINES A VIOLATION HAS NOT BEEN CORRECTED, THE SECRETARY MAY:

(1) EXTEND THE TIME IN WHICH THE VIOLATION MUST BE CORRECTED;
OR

(2) IMPOSE A CIVIL MONEY PENALTY UNDER SUBSECTION (D) OF THIS SECTION.

(D) CIVIL MONEY PENALTY.

(1) THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(2) IN SETTING THE AMOUNT OF A CIVIL MONEY PENALTY UNDER THIS SECTION, THE SECRETARY SHALL CONSIDER THE FOLLOWING FACTORS:

(I) THE NUMBER, NATURE, AND SERIOUSNESS OF THE VIOLATIONS;

(II) THE DEGREE OF RISK TO THE HEALTH, LIFE, OR PHYSICAL OR FINANCIAL SAFETY OF THE SUBSCRIBERS CAUSED BY THE VIOLATIONS;

(III) THE EFFORTS MADE BY THE PROVIDER TO CORRECT THE VIOLATIONS;

(IV) WHETHER THE AMOUNT OF THE PROPOSED CIVIL MONEY PENALTY WILL JEOPARDIZE THE FINANCIAL ABILITY OF THE PROVIDER TO CONTINUE OPERATING; AND

(V) OTHER FACTORS AS JUSTICE MAY REQUIRE.

(3) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE DEPARTMENT SHALL ISSUE AN ORDER STATING:

(I) THE BASIS ON WHICH THE ORDER IS MADE;

(II) EACH REGULATION OR STATUTE VIOLATED;

(III) EACH CIVIL MONEY PENALTY IMPOSED AND THE TOTAL AMOUNT OF THE CIVIL MONEY PENALTY IMPOSED; AND

(IV) THE MANNER IN WHICH THE AMOUNT OF THE CIVIL MONEY PENALTY WAS CALCULATED.

(4) (I) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO A PROVIDER OF THE IMPOSITION OF A CIVIL MONEY PENALTY.

(II) THE NOTICE SHALL BE SERVED ON THE PROVIDER BY CERTIFIED MAIL AND SHALL INCLUDE THE ORDER AND A STATEMENT ON HOW TO FILE AN ADMINISTRATIVE APPEAL.

(5) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE PROVIDER HAS THE RIGHT TO APPEAL FROM THE ORDER IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(E) PAYMENT OF CIVIL MONEY PENALTY.

(1) A PROVIDER SHALL PAY A CIVIL MONEY PENALTY TO THE DEPARTMENT WITHIN 10 DAYS AFTER THE PROVIDER RECEIVES A FINAL ORDER IMPOSING THE CIVIL MONEY PENALTY.

(2) AN ORDER IMPOSING A CIVIL MONEY PENALTY IS FINAL WHEN THE PROVIDER HAS EXHAUSTED ALL OPPORTUNITIES TO CONTEST THE CIVIL PENALTY IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(3) IF A PROVIDER DOES NOT COMPLY WITH THIS SECTION, THE DEPARTMENT MAY FILE A CIVIL ACTION TO RECOVER THE PENALTY.

(4) THE DEPARTMENT SHALL DEPOSIT ALL CIVIL MONEY PENALTIES COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 18A.

The Human Services Article Review Committee suggests that the General Assembly may wish to clarify when the 30-day period for correcting violations under subsection (b)(2)(ii) of this section begins to run.

In subsection (b)(2)(iii) of this section, the reference to "item (i) of this paragraph" is substituted for the former reference to "item (1) of this subsection" for accuracy.

In the introductory language of subsection (c) of this section, the reference to "the notice required under" subsection (b) is added for accuracy.

Also in the introductory language of subsection (c) of this section, the reference to "subsection (b)" is substituted for the former reference to "subsection (b)(2)" for accuracy.

In subsection (c)(1) of this section, the former reference to the time "frame" is deleted as surplusage.

In the introductory language of subsection (d)(2) of this section, the reference to the "Secretary" is substituted for the former reference to the "Department" for consistency with subsection (d)(1) of this section.

In subsection (d)(5) of this section, the former reference to the "Administrative Procedure Act" is deleted as unnecessary in light of the more specific reference to "Title 10, Subtitle 2 of the State Government Article". Similarly, in subsection (e)(2) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to the "Administrative Procedure Act" to state explicitly the law governing review of the Department's decisions.

Defined terms: "Department" § 10-101

"Provider" § 10-401

"Secretary" § 10-101

"Subscriber" § 10-401

10-498. ACTIONS FOR EQUITABLE RELIEF OR DAMAGES.

(A) STANDING OF SUBSCRIBER.

(1) ANY SUBSCRIBER INJURED BY A VIOLATION OF THIS SUBTITLE MAY BRING AN ACTION FOR EQUITABLE RELIEF OR AN ACTION FOR DAMAGES IN ANY COURT OF GENERAL JURISDICTION.

(2) IN AN ACTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A SUBSCRIBER IN WHOSE FAVOR A JUDGMENT IS ENTERED.

(B) AUTHORITY OF DEPARTMENT.

THE DEPARTMENT MAY BRING AN ACTION FOR AN APPROPRIATE TEMPORARY RESTRAINING ORDER OR INJUNCTION FOR A VIOLATION OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 19 and 20(a).

In subsection (a)(1) of this section, the former reference to an "appropriate" action is deleted as surplusage.

Also in subsection (a)(1) of this section, the former reference to an action for "the recovery of" damages is deleted as surplusage.

Defined terms: "Department" § 10-101

"Subscriber" § 10-401

10-499. RECEIVERSHIP.

(A) IN GENERAL.

THE DEPARTMENT MAY USE THE RECEIVERSHIP PROVISIONS OF PART VIII OF THIS SUBTITLE TO PROTECT THE INTERESTS OF SUBSCRIBERS IN:

(1) THE SUBSTANTIAL ADVANCE PAYMENTS SUBSCRIBERS HAVE MADE IN THE FORM OF ENTRANCE FEES AND, WHEN APPLICABLE, PERIODIC FEES, FOR FUTURE CONTINUING CARE WITHOUT NECESSARILY HAVING ANY OWNERSHIP IN OR CONTROL OF THE PROVIDER OR THE FACILITY;

(2) THE INSURANCE ASPECTS OF CONTINUING CARE AGREEMENTS, AS APPLICABLE; AND

(3) THE CONTINUED DELIVERY OF SERVICES COMMITTED TO UNDER CONTINUING CARE AGREEMENTS.

(B) PETITION FOR APPOINTMENT OF RECEIVER.

THE DEPARTMENT MAY PETITION FOR THE APPOINTMENT OF A RECEIVER:

(1) IF THERE IS A THREAT OF IMMEDIATE CLOSURE OF A FACILITY;

(2) IF THE PROVIDER IS NOT HONORING ITS CONTRACTS WITH ITS SUBSCRIBERS;

(3) TO PROHIBIT THE IMPROPER DIVERSION OF THE PROVIDER'S ASSETS AND RECORDS FROM THE FACILITY OR THE STATE; OR

(4) IF THE DEPARTMENT HAS MADE A DETERMINATION OF A SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE WITH §§ 10-467 AND 10-469 OF THIS SUBTITLE.

(C) TIMING OF PETITION.

THE DEPARTMENT MAY PETITION FOR THE APPOINTMENT OF A RECEIVER BEFORE THE PROVIDER FILES A PLAN OF CORRECTION.

(D) POWER OF RECEIVER.

THE RECEIVER MAY REHABILITATE, CONSERVE, OR LIQUIDATE AS PROVIDED BY THE ORDER OF APPOINTMENT AND PART VIII OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 20(b), (c), (d), and (e).

In the introductory language of subsection (a) of this section, the reference to the receivership provisions of "Part VIII of" this subtitle is added for clarity.

In subsection (c) of this section, the reference to "petition[ing]" for the appointment of a receiver is substituted for the former reference to "pursu[ing]" the appointment of a receiver for consistency with subsection (b) of this section.

Defined terms: "Continuing care" § 10-401

"Continuing care agreement" § 10-401

"Department" § 10-101

"Entrance fee" § 10-401

"Facility" § 10-401

“Provider” § 10–401
 “Receiver” § 10–472
 “Subscriber” § 10–401

SUBTITLE 5. SENIOR CITIZEN ACTIVITIES CENTERS.

PART I. CAPITAL IMPROVEMENT GRANTS PROGRAM.

10–501. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 26(a).

It is restated in the standard introductory language to a definition section.

(B) CAPITAL EQUIPMENT.

“CAPITAL EQUIPMENT” MEANS ESSENTIAL FIXED EQUIPMENT AND FURNISHINGS WITH AN EXPECTED USEFUL LIFE OF AT LEAST 15 YEARS.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 26(c).

The only changes are in style.

(C) COST.

(1) “COST” MEANS ALL EXPENSES INCIDENT TO THE CONSTRUCTION, ACQUISITION, CONVERSION, RENOVATION, OR IMPROVEMENT OF A PROJECT.

(2) “COST” INCLUDES:

(I) THE COST TO ACQUIRE ANY INTEREST IN REAL OR PERSONAL PROPERTY IN CONNECTION WITH A PROJECT;

(II) THE COST OF FINANCIAL, TECHNICAL, PROFESSIONAL, ENGINEERING, AND LEGAL SERVICES IN CONNECTION WITH A PROJECT WHETHER THE EXPENSES ARE INCURRED BEFORE OR AFTER ANY BOND, NOTE, OR OTHER EVIDENCE OF INDEBTEDNESS OR OBLIGATION IS ISSUED BY THE STATE TO FINANCE THE PROJECT;

(III) THE COST OF DEVELOPMENT OF A SENIOR CITIZEN ACTIVITIES CENTER MASTER PLAN; AND

(IV) THE COST OF PLANS, SPECIFICATIONS, SURVEYS, ESTIMATES OF COSTS AND REVENUES, FEASIBILITY OR PRACTICABILITY REPORTS, MACHINERY, EQUIPMENT, AND ADMINISTRATIVE EXPENSES, AND OTHER EXPENSES THAT ARE NECESSARY AND INCIDENT TO THE FINANCING AUTHORIZED FOR THE PROJECT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 26(b) and (d).

The former defined term “[b]ond” in former Art. 70B, § 26(b) was only used in the former definition of “[c]ost” in former Art. 70B, § 26(d). The substance of former § 26(b) is incorporated into the revised definition of “[c]ost” in this subsection.

In paragraph (1) of this subsection, the reference to cost “means” is substituted for the former reference to cost “includes” as this definition is intended to be exhaustive in nature, not merely illustrative.

Also in paragraph (1) of this subsection, the former reference to “as applied to any project” is deleted as unnecessary in light of the reference to the “expenses incident to ... a project”.

Also in paragraph (1) of this subsection, the former reference to the “cost of” is deleted as redundant.

Also in paragraph (1) of this subsection, the former reference to a project for “use as a senior citizen activities center” is deleted as redundant in light of the definition of “project”.

In the introductory language of paragraph (2) of this subsection, the former reference to “expenses” is deleted as included in the reference to “cost”.

In paragraph (2)(ii) of this subsection, the phrase “whether the expenses are incurred before or after any bond ... is issued” is substituted for the former phrase “as to any obligation or expense that is incurred before the bonds are issued” for clarity.

Also in paragraph (2)(ii) of this subsection, the former reference to the cost of services “that may be used in the construction, acquisition, conversion, renovations, or improvement” of a project is deleted as included in the reference to the cost of services “in connection with” a project. Similarly, in paragraph (2)(iv) of this subsection, the former reference to expenses that are necessary and incident to the financing authorized for the “construction, acquisition, conversion, renovation, or improvement” is deleted as included in the reference to expenses that are necessary and incident to the financing authorized for the “project”.

Also in paragraph (2)(ii) of this subsection, the former reference to the State being authorized to issue any bond, note, or other evidence of indebtedness or obligation “under this article” is deleted for accuracy. Former Article 70B did not authorize the State to issue bonds, notes, or other evidence of indebtedness or obligation.

Defined terms: “Improvement” § 10–501

“Master plan” § 10–501

“Project” § 10–501

(D) GRANT.

“GRANT” MEANS A GRANT FROM THE STATE UNDER THE PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 26(f).

Defined term: "Program" § 10-501

(E) IMPROVEMENT.

"IMPROVEMENT" MEANS CONSTRUCTION, REPLACEMENT, EXTENSION, OR BETTERMENT OF A PROJECT OR REAL PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 70B, § 26(h).

The only changes are in style.

Defined term: "Project" § 10-501

(F) MASTER PLAN.

"MASTER PLAN" MEANS A COMPREHENSIVE PLAN FOR A LOCAL GOVERNMENT'S PROJECTED NEED FOR FUNDS FOR SENIOR CITIZEN ACTIVITIES CENTERS OVER 15 YEARS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 26(i).

The only changes are in style.

Defined term: "Senior citizen activities center" § 10-501

(G) PROGRAM.

"PROGRAM" MEANS THE SENIOR CITIZEN ACTIVITIES CENTERS CAPITAL IMPROVEMENT GRANTS PROGRAM.

REVISOR'S NOTE: This subsection is new language added to avoid the repetition of the full reference to the "Senior Citizen Activities Centers Capital Improvement Grants Program".

(H) PROJECT.

"PROJECT" MEANS A PROPOSED OR EXISTING SENIOR CITIZEN ACTIVITIES CENTER THAT:

(1) RECEIVES OR HAS RECEIVED A GRANT FOR WORK THAT IS ELIGIBLE UNDER THIS PART;

(2) IS OPERATED UNDER THE AUTHORITY OF A UNIT OF LOCAL GOVERNMENT; AND

(3) IS:

(I) WHOLLY OWNED BY THE UNIT OF LOCAL GOVERNMENT; OR

(II) LEASED BY A UNIT OF LOCAL GOVERNMENT IF:

1. THE LEASE IS FOR A MINIMUM TERM OF 15 YEARS AFTER COMPLETION OF THE PROJECT OR GIVES THE LESSEE THE RIGHT OF PURCHASE; AND

2. THE LESSOR CONSENTS TO THE RECORDING OF A NOTICE OF THE RIGHT OF RECOVERY UNDER § 10-506 OF THIS SUBTITLE IN THE LAND RECORDS OF THE COUNTY IN WHICH THE FACILITY IS LOCATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 26(j) and (l).

In item (1) of this subsection, the reference to "work that is eligible under this part" is substituted for the former reference to "eligible work" for clarity.

In item (2) of this subsection and throughout this subtitle, the term "unit" is substituted for the former term "agency". The term "unit" is used as the general term for an entity in the government because it is inclusive enough to include all those entities.

In item (3)(ii)2 of this subsection, the reference to the "county" is substituted for the former reference to the "political subdivision" because land records are held in each county.

The former defined term "wholly owned" is deleted as unnecessary because the substance of the term is included within this subsection.

Defined terms: "County" § 1-101

"Grant" § 10-501

"Senior citizen activities center" § 10-501

(I) SENIOR CITIZEN ACTIVITIES CENTER.

"SENIOR CITIZEN ACTIVITIES CENTER" MEANS A COMMUNITY OR NEIGHBORHOOD FACILITY IN WHICH A BROAD SPECTRUM OF SERVICES ARE ORGANIZED AND PROVIDED TO INDIVIDUALS AT LEAST 60 YEARS OLD OR THEIR SPOUSES, INCLUDING HEALTH, SOCIAL, NUTRITIONAL, EDUCATIONAL, AND RECREATIONAL SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 26(e) and (k).

The reference to "services" is substituted for the former reference to "programs" for consistency throughout this subsection.

The reference to "individuals" is substituted for the former reference to a "person" because only a human being, and not the other entities included in the defined term "person", may use the described services.

The former defined term "elderly citizen" is deleted as unnecessary because the substance of the term is included within this subsection.

REVISOR'S NOTE TO SECTION:

Former Art. 70B, § 26(g), which defined “[g]rantee” to mean a local government agency, is deleted as unnecessary because only a local government unit may receive a grant under this part.

10-502. GRANTS.

(A) APPLICATIONS; PURPOSES.

A UNIT OF LOCAL GOVERNMENT MAY APPLY TO THE SECRETARY FOR A GRANT FOR THE COST OF:

(1) PLANNING, DESIGN, CONSTRUCTION, ACQUISITION, CONVERSION, RENOVATION, OR IMPROVEMENT OF A PROJECT;

(2) DEVELOPING A MASTER PLAN;

(3) PURCHASING CAPITAL EQUIPMENT FOR A PROJECT;

(4) LEASING A PROJECT AS A LESSEE OR LESSOR; OR

(5) MAKING A SUBGRANT TO A NONPROFIT ORGANIZATION FOR A PURPOSE DESCRIBED IN ITEM (1), (2), (3), OR (4) OF THIS SUBSECTION.

(B) APPROVAL OF APPLICATIONS.

IF THE SECRETARY APPROVES AN APPLICATION FOR A GRANT, THE SECRETARY SHALL FILE WITH THE BOARD OF PUBLIC WORKS A REPORT DESCRIBING THE SCOPE OF THE PROJECT AND A RECOMMENDATION THAT THE BOARD MAKE THE REQUESTED FUNDS AVAILABLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 28 and 27(a) and (b).

In subsection (a)(2) of this section, the former references to a “comprehensive” master plan and “projects in a political subdivision” are deleted as unnecessary in light of the definition of “master plan”.

In subsection (a)(4) of this section, the reference to “leasing a project as a lessee or lessor” derived from former Art. 70B, § 28(5) is included to correct an obvious omission in former Art. 70B, § 27(a).

In subsection (b) of this section, the reference to an “application for a grant” is substituted for the former reference to the “project and project plans” for clarity and consistency with the terminology used in subsection (a) of this section.

Former Art. 70B, § 28, which authorized a grant to be used to “[c]onvert public buildings or parts of public buildings to senior citizen activities centers”, is deleted as unnecessary in light of subsection (a)(1) of this section, which authorizes a grant for the cost of “conversion ... of a project”.

Defined terms: “Capital equipment” § 10-501

“Cost” § 10-501

“Grant” § 10-501

“Improvement” § 10-501

“Master plan” § 10-501

“Project” § 10-501

“Secretary” § 10-101

10-503. USES OF GRANTS.

A GRANT MAY BE USED FOR ANY OF THE PURPOSES SPECIFIED IN § 10-502(A) OF THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 28.

The reference to the “purposes specified in § 10-502(a) of this subtitle” is substituted for the former list of specific purposes for brevity.

10-504. TERMS AND CONDITIONS; AMOUNT.

(A) IN GENERAL.

(1) ANY FEDERAL GRANT THAT IS RECEIVED FOR A PROJECT SHALL BE APPLIED FIRST TO THE COST OF THE PROJECT.

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A STATE GRANT FOR A PROJECT MAY NOT EXCEED THE LESSER OF \$600,000 OR 50% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ANY FEDERAL GRANT IS APPLIED.

(3) A STATE GRANT TO DEVELOP A MASTER PLAN MAY NOT EXCEED THE LESSER OF \$15,000 OR 50% OF THE COST OF DEVELOPMENT OF THE PLAN.

(B) EXCEPTIONS.

THE BOARD OF PUBLIC WORKS MAY AUTHORIZE A GRANT FOR A PROJECT THAT EXCEEDS 50% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ANY FEDERAL GRANT IS APPLIED, IF:

(1) THE PROJECT INVOLVES THE CONVERSION, ACQUISITION, RENOVATION, CONSTRUCTION, OR IMPROVEMENT OF A BUILDING FOR USE AS A SENIOR CITIZEN ACTIVITIES CENTER;

(2) THE VALUE OF REAL PROPERTY AND EXISTING IMPROVEMENTS MADE AVAILABLE BY THE LOCAL GOVERNMENT EQUALS OR EXCEEDS THE AMOUNT OF THE STATE GRANT; AND

(3) THE RESIDUAL VALUE OF THE REAL PROPERTY AND EXISTING IMPROVEMENTS MADE AVAILABLE BY THE LOCAL GOVERNMENT EXCEEDS THE SUM OF:

(I) ANY PRIOR AMOUNTS USED FOR MATCHING FUNDS UNDER THIS PROGRAM;

(II) ANY OUTSTANDING STATE DEBT RELATING TO THE PROPERTY FROM ANOTHER PROGRAM;

(III) ANY PRIOR GRANT UNDER THIS PROGRAM; AND

(IV) ANY OTHER TANGIBLE STATE INVESTMENT IN THE PROPERTY.

(C) CONSIDERATIONS FOR DETERMINING AMOUNT.

THE AMOUNT OF A STATE GRANT FOR A PROJECT SHALL BE DETERMINED AFTER CONSIDERATION OF:

(1) THE DENSITY OF THE SENIOR POPULATION IN THE AREA AFFECTED BY THE PROJECT;

(2) THE PROXIMITY OF THE PROPOSED CENTER TO AN EXISTING SENIOR CITIZEN ACTIVITIES CENTER; AND

(3) OTHER LOCALITIES ELIGIBLE FOR STATE FUNDING THAT HAVE NOT RECEIVED PREVIOUS FUNDING UNDER THE PROGRAM OR SIMILAR PROGRAMS.

(D) EFFECT OF PRIOR GRANTS.

A GRANTEE WHO RECEIVED FUNDS FOR A PROJECT UNDER THIS SUBTITLE OR A PRIOR ACT AUTHORIZING GRANTS FOR SENIOR CITIZEN ACTIVITIES CENTERS MAY RECEIVE ADDITIONAL GRANTS FOR THE PROJECT, BUT ONLY IN AN AMOUNT THAT DOES NOT EXCEED THE DIFFERENCE BETWEEN THE SUM OF ANY PRIOR GRANTS AND THE MAXIMUM FUNDING ALLOWABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 29.

In subsection (a) of this section, the former introductory language is deleted as unnecessary.

In subsections (a)(1) and (d) of this section, the former references to an "eligible" project are deleted as surplusage.

In subsection (a)(3) of this section, the former reference to a "comprehensive" master plan is deleted as included in the definition of "master plan".

As to the substitution of the reference to the "senior" population for the former reference to the "elderly" population in subsection (c)(1) of this section, *see* General Revisor's Note to title.

In subsection (c)(3) of this section, the reference to the "Program or similar programs" is substituted for the former reference to "this or similar acts" for clarity.

In subsection (d) of this section, the former reference to grants "under this subtitle" is deleted as unnecessary in light of the definition of "grant".

Defined terms: "Cost" § 10-501

"Grant" § 10-501

"Improvement" § 10-501

"Master plan" § 10-501

“Program” § 10–501

“Project” § 10–501

“Senior citizen activities center” § 10–501

10–505. INSPECTIONS.

AT ANY REASONABLE TIME, A REPRESENTATIVE OF THE DEPARTMENT MAY ENTER A BUILDING OR PLACE FOR WHICH A GRANT WAS AWARDED UNDER THIS PART TO INSPECT ANY PERTINENT EQUIPMENT OR PART OF THE BUILDING OR PLACE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 32.

The reference to a building or “place” that may be entered is added to be consistent with the reference to the building “or place” that may be inspected.

Defined terms: “Department” § 10–101

“Grant” § 10–501

10–506. RECORDATION; NOTICE.

(A) RECORDATION.

BEFORE STATE FUNDS ARE PAID UNDER THIS PROGRAM, THE GRANTEE SHALL:

(1) RECORD THE NOTICE OF THE STATE’S RIGHT TO RECOVERY IN THE LAND RECORDS OF THE COUNTY IN WHICH THE SENIOR CITIZEN ACTIVITIES CENTER IS OR WILL BE LOCATED; AND

(2) PROVIDE EVIDENCE OF THE RECORDATION TO THE DEPARTMENT.

(B) NOTICE.

THE RECORDATION CONSTITUTES NOTICE TO ANY POTENTIAL TRANSFEREE, POTENTIAL CREDITOR, OR OTHER INTERESTED PARTY OF THE POSSIBILITY THAT THE STATE MAY OBTAIN A LIEN UNDER THIS PART, BUT THE ACT OF RECORDATION DOES NOT CREATE A LIEN AGAINST THE PROPERTY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 30(d).

In subsection (a)(1) of this section, the reference to “county” is substituted for the former reference to “jurisdiction” because land records are kept in each county.

In subsection (a)(2) of this section, the reference to the “Department” is substituted for the former obsolete reference to the “Office [on Aging]”.

Defined terms: “County” § 10–101

“Program” § 10–501

“Senior citizen activities center” § 10–501

10-507. RECOVERY OF STATE GRANT FUNDS.

(A) CONDITIONS.

THE STATE MAY RECOVER STATE GRANT FUNDS IF, WITHIN 15 YEARS AFTER COMPLETION OF A PROJECT:

(1) THE PROJECT'S PROPERTY CEASES TO BE OPERATED AS A SENIOR CITIZEN ACTIVITIES CENTER; OR

(2) AN INTEREST IN PROPERTY FOR WHICH FUNDS HAVE BEEN PAID UNDER THE PROGRAM IS ASSIGNED, TRANSFERRED, OR CONVEYED:

(I) WITHOUT APPROVAL BY THE BOARD OF PUBLIC WORKS; OR

(II) FOR USE OTHER THAN AS A SENIOR CITIZEN ACTIVITIES CENTER.

(B) AMOUNT.

THE STATE IS ENTITLED TO RECOVER THE SUM OF:

(1) AN AMOUNT THAT EQUALS THE VALUE OF THE PROJECT PROPERTY AT THE TIME OF THE RECOVERY MULTIPLIED BY A FRACTION:

(I) THE NUMERATOR OF WHICH IS THE AMOUNT OF THE STATE FUNDS FOR THE PROJECT; AND

(II) THE DENOMINATOR OF WHICH IS THE TOTAL COST OF ALL ELIGIBLE WORK FOR THE PROJECT; AND

(2) COSTS, INCLUDING REASONABLE ATTORNEYS' FEES THAT THE STATE INCURS IN RECOVERY PROCEEDINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 30(a), (b), and (c).

In the introductory language of subsection (a) of this section, the former phrase “[u]nder the conditions of subsection (b) of this section” is deleted as surplusage.

In subsection (a)(1) of this section, the reference to the “project’s property” is substituted for the former reference to “property with respect to which funds have been paid under this Program” for brevity and clarity.

In subsection (a)(2)(i) of this section, the former reference to “any person, agency, or organization which has not been ... as transferee” is deleted for brevity.

In subsection (b)(1) of this section, the reference to the value “at the time of recovery” is substituted for the former reference to the “then current” value for clarity.

Defined terms: "Cost" § 10-501

"Grant" § 10-501

"Program" § 10-501

"Project" § 10-501

"Senior citizen activities center" § 10-501

10-508. PROCEDURE FOR RECOVERY; TEMPORARY LIEN.

(A) FILING OF CIVIL ACTION.

(1) IF A DEFAULT DESCRIBED IN § 10-507(A) OF THIS SUBTITLE IS ALLEGED, THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL ACTION UNDER THIS PART IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED AGAINST THE OWNER OF THE PROPERTY AND ANY OTHER INTERESTED PARTIES, INCLUDING ANY TRANSFEROR THAT THE STATE WISHES TO MAKE A PARTY.

(2) THE INITIAL FILING SHALL INCLUDE SWORN AFFIDAVITS STATING FACTS ON WHICH THE ALLEGATIONS OF DEFAULT ARE BASED AND A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

(B) TEMPORARY LIEN — AUTHORIZATION.

(1) IF THE COURT DETERMINES FROM THE STATE'S INITIAL FILING THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A DEFAULT DESCRIBED IN § 10-507(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL AUTHORIZE A TEMPORARY LIEN ON THE PROPERTY PENDING FULL DETERMINATION OF THE STATE'S CLAIM.

(2) THE TEMPORARY LIEN SHALL BE IN THE AMOUNT OF THE STATE'S CLAIM, PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER THE COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE, OR ANOTHER AMOUNT THAT THE COURT DETERMINES IS REASONABLE.

(C) TEMPORARY LIEN — EFFECTIVE DATE; RIGHTS OF OWNER OR TRANSFEREE.

(1) THE TEMPORARY LIEN TAKES EFFECT:

(I) ON THE DATE OF THE COURT ORDER AUTHORIZING THE LIEN IF, WITHIN 10 DAYS, THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED; OR

(II) IF THE SECRETARY FAILS TO RECORD THE NOTICE WITHIN 10 DAYS, ON THE DATE THE NOTICE OF TEMPORARY LIEN IS RECORDED.

(2) WHILE THE TEMPORARY LIEN IS IN EFFECT, THE OWNER OR ANY PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST MADE FUNDS AVAILABLE UNDER THE PROGRAM MAY NOT TAKE AN ACTION THAT WOULD AFFECT THE TITLE TO THE PROPERTY OR INSTITUTE PROCEEDINGS TO

ENFORCE A SECURITY INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY, WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE.

(D) TEMPORARY LIEN — RELEASE BY BOND.

(1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN A RELEASE OF THE TEMPORARY LIEN AT ANY TIME BY FILING WITH THE COURT A BOND SECURING THE PAYMENT IN FULL OF THE AMOUNT DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION.

(2) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 31(a) through (d).

Throughout this section, the former references to "Baltimore City" are deleted as unnecessary in light of the definition of "county", which includes the City of Baltimore.

In subsection (a)(1) of this section, the reference to "a default described in § 10-507(a) of this subtitle [being] alleged" is substituted for the former reference to an "alleged sale or transfer described in § 30(b)(1) of this subtitle, or in the event that the property is alleged to have ceased to be operated as a senior citizen activities center" for brevity and clarity.

Also in subsection (a)(1) of this section, the reference to a "civil action" is substituted for the former reference to a "claim ... styled as a civil action" for brevity.

In subsection (b)(1) of this section, the reference to a default "described in § 10-507(a) of this subtitle" is added for clarity.

Also in subsection (b)(1) of this section and throughout this part, the former reference to the "circuit" court is deleted as unnecessary in light of subsection (a)(1) of this section, which provides for the filing of an action for recovery in the "circuit" court.

In subsection (c)(1)(i) of this section, the reference to the "court order authorizing the lien" is substituted for the former reference to the "court's authorization" for clarity.

In subsection (c)(2) of this section, the former phrase "in connection with the property" is deleted as surplusage.

In subsection (d)(1) of this section, the reference to the "amount described in subsection (b)(2) of this section" is substituted for the former reference to the "State's claim and any additional amount necessary to cover the costs and reasonable attorneys' fees incurred by the State" to avoid the repetition of the specific amounts described in subsection (b)(2) of this section.

Defined terms: "County" § 1-101
"Program" § 10-501

10-509. PRIORITY OF PROCEEDINGS; FINAL JUDGMENT; LIEN.

(A) PRIORITY OF PROCEEDINGS.

PROCEEDINGS TO DETERMINE THE STATE'S RIGHT TO RECOVER AND THE AMOUNT OF ITS RECOVERY UNDER THE PROGRAM HAVE PRIORITY OVER OTHER CIVIL PROCEEDINGS IN THE CIRCUIT COURT.

(B) FINAL JUDGMENT; LIENS.

(1) AFTER A FULL ADVERSARY PROCEEDING, IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 10-507(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL ISSUE A FINAL JUDGMENT FOR THE AMOUNT THE COURT FINDS TO BE RECOVERABLE BY THE STATE.

(2) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING THE OWNER OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE FOR THE AMOUNT OF THE JUDGMENT.

(3) IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 10-507(A) OF THIS SUBTITLE HAS NOT OCCURRED OR IF THE COURT'S JUDGMENT IS PAID IN FULL TO THE STATE WITHIN 30 DAYS AFTER THE COURT'S FINAL ORDER, ANY TEMPORARY LIEN SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(4) (I) IF THE JUDGMENT REMAINS UNPAID FOR MORE THAN 30 DAYS AFTER THE COURT'S FINAL ORDER, THE AMOUNT SHALL BE A LIEN ON THE PROPERTY.

(II) UNLESS THE STATE PROVIDES OTHERWISE IN A WRITTEN SUBORDINATION AGREEMENT, THE LIEN IS SUPERIOR TO A LIEN OR OTHER INTEREST OF ANY MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT CREDITOR WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER THE STATE AWARDED A GRANT.

(C) EFFECTIVE DATE OF LIEN; NOTICE.

(1) A LIEN ISSUED UNDER THIS SECTION TAKES EFFECT ON THE LATER OF:

(I) THE 31ST DAY AFTER THE COURT'S FINAL ORDER IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR BEFORE THAT DAY; OR

(II) THE DATE A NOTICE OF LIEN IS RECORDED.

(2) (I) WHEN THE LIEN TAKES EFFECT, ANY TEMPORARY LIEN IS AUTOMATICALLY AND FULLY RELEASED.

(II) THE RECORDED NOTICE OF THE LIEN CONSTITUTES NOTICE OF THE RELEASE OF THE TEMPORARY LIEN.

(D) ENFORCEMENT AND FORECLOSURE OF LIEN.

A LIEN ISSUED UNDER THIS PART MAY BE ENFORCED AND FORECLOSED IN ACCORDANCE WITH THE MARYLAND RULES, EXCEPT THAT THE STATE OR ANY AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY NEED NOT FILE A BOND.

(E) RELEASE OF LIEN.

(1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF A LIEN ISSUED UNDER THIS PART BY PAYING TO THE STATE THE FULL AMOUNT OF THE JUDGMENT ENTERED BY THE CIRCUIT COURT, AND ANY INTEREST THAT HAS ACCRUED FROM THE DATE OF JUDGMENT.

(2) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(F) DEPOSIT OF FUNDS RECOVERED.

FUNDS RECOVERED UNDER THIS SECTION SHALL BE DEPOSITED IN THE ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE STATE.

(G) WAIVER OF RIGHT OF RECOVERY.

THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY IF THE BOARD DETERMINES THAT THERE IS GOOD CAUSE FOR RELEASING THE TRANSFEROR, TRANSFEREE, OR OWNER FROM THIS OBLIGATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 31(e) through (l).

In subsection (b)(1) and (3) of this section, the references to a default "described in § 10-507(a) of this subtitle" are added for clarity and consistency within this subtitle.

In subsection (b)(1) of this section, the former reference to proceedings "on the issue of default and on any disputes over the amount of the State's recovery" is deleted as implicit in the reference to "full adversary proceedings".

In subsection (b)(2) of this section, the former phrase "in every case" is deleted as surplusage.

In subsections (b)(3) and (e)(2) of this section, the references to land records "of the county in which the property is located" are added for clarity.

In subsections (b)(3) and (c)(2)(i) of this section, the former references to a temporary lien "then in effect" are deleted as surplusage.

In subsection (b)(4)(ii) of this section, the phrase “awarded a grant” is substituted for the former phrase “first made funds available in connection with the property under this Program” for brevity as the substance of the former reference is included in the definition of “grant”.

In subsection (c)(1)(i) of this section, the reference to “that day” is substituted for the former reference to the “31st day following the final order” for brevity.

Also in subsection (c)(1)(i) of this section, the former reference to “Baltimore City” is deleted as unnecessary in light of the definition of “county”, which includes the City of Baltimore.

In subsection (d) of this section, the former reference to the “procedures prescribed” in the Maryland Ruler is deleted for brevity.

In subsection (e)(1) of this section, the reference to interest “that has accrued” is added for clarity.

Also in subsection (e)(1) of this section, the former phrase “at any time” is deleted as surplusage.

In subsection (f) of this section, the reference to funds recovered “under this section” is substituted for the former reference to funds recovered “as a result of this right of recovery” for clarity and brevity.

Defined terms: “County” § 1–101

“Grant” § 10–501

“Person” §§ 1–101, 10–401

“Program” § 10–501

10–510. REGULATIONS.

SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS, THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 70B, § 27(c).

The former phrase “[b]efore adoption, such regulations shall be” is deleted as surplusage.

Defined term: “Secretary” § 10–101

10–511. RESERVED.

10–512. RESERVED.

PART II. SENIOR CITIZEN ACTIVITIES CENTER OPERATING FUND.

10–513. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 33(a).

(B) FUND.

"FUND" MEANS THE SENIOR CITIZEN ACTIVITIES CENTER OPERATING FUND.

REVISOR'S NOTE: This subsection is new language added to avoid the repetition of the full reference to the "Senior Citizen Activities Center Operating Fund".

(C) SENIOR CITIZEN ACTIVITIES CENTER.

"SENIOR CITIZEN ACTIVITIES CENTER" MEANS A COMMUNITY OR NEIGHBORHOOD FACILITY IN WHICH A BROAD SPECTRUM OF SERVICES ARE ORGANIZED AND PROVIDED TO SENIORS AND THEIR SPOUSES, INCLUDING HEALTH, SOCIAL, NUTRITIONAL, EDUCATIONAL, AND RECREATIONAL SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 33(c).

10-514. ESTABLISHED; USES.

(A) ESTABLISHED.

THERE IS A SENIOR CITIZEN ACTIVITIES CENTER OPERATING FUND.

(B) USES.

THE FUND SHALL BE USED TO SUPPLEMENT, BUT MAY NOT BE USED TO SUPPLANT, ANY EXISTING FUNDING FOR SENIOR CITIZEN ACTIVITIES CENTERS IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 34(a) and (d).

Defined terms: "Fund" § 10-513

"Senior citizen activities center" § 10-513

10-515. ADMINISTRATION; REGULATIONS.

(A) ADMINISTRATION.

THE SECRETARY SHALL ADMINISTER THE FUND.

(B) REGULATIONS.

THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 35(a) and (d).

In subsection (b) of this section, the former reference to regulations "necessary" is deleted as surplusage.

Defined terms: "Fund" § 10-513

"Secretary" § 10-101

10-516. COMPOSITION; DISTRIBUTION.

(A) CONTINUING; NONLAPSING.

THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) COMPOSITION.

(1) THE FUND CONSISTS OF APPROPRIATIONS THAT ARE MADE TO THE FUND FROM THE STATE BUDGET.

(2) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF \$500,000 FOR THE FUND.

(C) DISTRIBUTION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MONEY FROM THE FUND SHALL BE DISTRIBUTED TO COUNTIES FOR SENIOR CITIZEN ACTIVITIES CENTERS BASED ON A COMPETITIVE GRANT PROCESS ADMINISTERED BY THE DEPARTMENT.

(2) AT LEAST 50% OF THE FUND SHALL BE DISTRIBUTED FOR SENIOR CITIZEN ACTIVITIES CENTERS ON THE BASIS OF NEED, AS DETERMINED BY THE DEPARTMENT, TO COUNTIES:

(I) THAT HAVE DEVELOPED AND SUBMITTED A LOCAL STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT THAT HAS BEEN APPROVED BY THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT; AND

(II) FOR WHICH:

1. THE AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST RECENT 18-MONTH PERIOD FOR WHICH DATA IS AVAILABLE IS GREATER THAN 150% OF THE AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE DURING THAT SAME PERIOD; OR

2. THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE MOST RECENT 24-MONTH PERIOD FOR WHICH DATA IS AVAILABLE IS EQUAL TO OR LESS THAN 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE ENTIRE STATE DURING THAT SAME PERIOD.

(D) INVESTMENTS.

THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, §§ 33(b), 34(b), (c), and (e), and 35(b) and (c).

In subsection (b)(2) of this section, the former reference to the budget "bill

submitted to the General Assembly” is deleted as surplusage.

In the introductory language of subsection (c)(2) of this section, the former defined term “[q]ualified distressed county” and the former reference to “qualified distressed counties” are deleted as unnecessary because the substance of the definition is revised in subsection (c)(2) of this section.

Defined terms: “County” § 1–101

“Department” § 10–101

“Fund” § 10–513

“Senior citizen activities center” § 10–513

SUBTITLE 6. INNOVATIONS IN AGING SERVICES PROGRAM.

10–601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 36(a)(1).

(B) COUNCIL.

“COUNCIL” MEANS THE INNOVATIONS IN AGING SERVICES ADVISORY COUNCIL.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 36(a)(2).

The former reference to the Council “established under this section” is deleted as surplusage.

No other changes are made.

(C) PROGRAM.

“PROGRAM” MEANS THE INNOVATIONS IN AGING SERVICES PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 36(a)(3).

The former reference to the Program “established under this section” is deleted as surplusage.

No other changes are made.

10–602. ESTABLISHED; PURPOSES.

(A) ESTABLISHED.

THERE IS AN INNOVATIONS IN AGING SERVICES PROGRAM IN THE DEPARTMENT.

(B) PURPOSES.

THE PURPOSES OF THE PROGRAM ARE TO:

- (1) PROVIDE COMPETITIVE FUNDING GRANTS TO DESIGN AND TEST INNOVATIVE IDEAS IN PROGRAMS AND SERVICES FOR SENIORS;
- (2) PUBLICLY DISSEMINATE THE RESULTS OF THE TESTS; AND
- (3) HELP MEET THE NEED FOR PERSONNEL TRAINED TO PROVIDE SERVICES TO SENIORS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 36(b) and (c).

In subsection (b)(1) and (3) of this section, the references to "seniors" and "seniors in the State" are substituted for the former references to "older individuals" and "Maryland's senior population" for consistency with terminology used throughout this title.

Defined term: "Program" § 10-601

10-603. FUNDING.

(A) FUNDING PLAN.

(1) WITH THE ADVICE OF THE COUNCIL, THE SECRETARY SHALL:

(I) DEVELOP ANNUALLY A PROGRAM PLAN; AND

(II) SUBMIT THE PLAN TO THE GOVERNOR AND GENERAL ASSEMBLY FOR APPROVAL AS PART OF THE ANNUAL STATE BUDGET.

(2) THE PLAN SHALL SET FORTH PRIORITIES FOR:

(I) FUNDING GRANTS FOR INNOVATIVE SERVICES TO SENIORS;
AND

(II) TRAINING PERSONNEL WHO PROVIDE SERVICES TO SENIORS IN THE STATE.

(3) THE PLAN SHALL INCLUDE PROVISIONS FOR EVALUATING ANY PROGRAM FUNDED UNDER THE PLAN.

(B) ADDITIONAL FUNDING.

THE SECRETARY MAY ACCEPT MONEY FROM ANY PUBLIC OR PRIVATE SOURCE TO FUND GRANTS AWARDED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 36(e) and (i).

In the introductory language of subsection (a)(2) of this section, the former reference to "a series of" priorities is deleted as surplusage.

As to the substitution of references to "services to seniors" and "seniors" for the former references to "aging services" and "the elderly" in subsection (a)(2) of this section, *see* General Revisor's Note to title.

Defined terms: "Council" § 10-601

"Program" § 10-601

"Secretary" § 10-101

10-604. INNOVATIONS IN AGING SERVICES ADVISORY COUNCIL.

(A) ESTABLISHED.

THERE IS AN INNOVATIONS IN AGING SERVICES ADVISORY COUNCIL IN THE DEPARTMENT.

(B) MEMBERSHIP.

THE COUNCIL CONSISTS OF THE FOLLOWING 14 MEMBERS:

(1) THE SECRETARY OF AGING;

(2) THE CHAIR OF THE MARYLAND COMMISSION ON AGING OR THE CHAIR'S DESIGNEE;

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE SECRETARY'S DESIGNEE;

(4) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(5) ONE MEMBER OF THE MARYLAND HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER; AND

(6) THE FOLLOWING NINE MEMBERS APPOINTED BY THE SECRETARY OF AGING:

(I) FIVE REPRESENTATIVES OF ORGANIZATIONS PROVIDING SERVICES TO SENIORS;

(II) TWO REPRESENTATIVES OF SENIOR CONSUMERS OF SERVICES TO SENIORS;

(III) A DIRECTOR OF AN AREA AGENCY; AND

(IV) A REPRESENTATIVE OF THE UNIVERSITY OF MARYLAND.

(C) CHAIR.

THE SECRETARY IS THE CHAIR OF THE COUNCIL.

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF THE COUNCIL IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS APPOINTED BY THE SECRETARY ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2007.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 36(d).

In subsection (b)(2) of this section, the reference to the "chair" and the "chair's" are substituted for the former reference to the "chairman" and the "chairman's" because SG § 2-1238 requires the use of terms that are gender neutral to the extent possible.

In subsection (b)(3) of this section, the former reference to the Secretary of "the Department of" Health and Mental Hygiene is deleted as surplusage.

In subsection (b)(4) of this section, the reference to the Senate "of Maryland" is substituted for the former reference to the "State" Senate for accuracy.

As to the substitution of the references to "seniors" and "services to seniors" for the former references to "the elderly" and "aging services" in subsection (b)(6)(i) and (ii) of this section, *see* General Revisor's Note to title.

In subsection (d)(2) of this section, the reference to terms being staggered as required by the terms provided for members of the Council on "October 1, 2007" is substituted for the former obsolete reference to terms being staggered as required by the "terms in effect ... on October 1, 2001". This substitution is not intended to alter the term of any member of the Council. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) two in 2008; (2) three in 2009; (3) two in 2010; and (4) two in 2011.

Defined terms: "Area agency" § 10-101
 "Council" § 10-519
 "Secretary" § 10-101

10-605. GRANTS.

(A) GRANT PROPOSALS.

THE SECRETARY SHALL SOLICIT GRANT PROPOSALS TO IMPLEMENT THE PROGRAM PRIORITIES APPROVED BY THE GOVERNOR AND THE GENERAL ASSEMBLY UNDER § 10-603(A) OF THIS SUBTITLE.

(B) AWARDING GRANTS.

WITH THE ADVICE OF THE COUNCIL, THE SECRETARY SHALL AWARD GRANTS FUNDED IN ACCORDANCE WITH THE APPROVED PROGRAM PRIORITIES.

(C) EVALUATION OF PROGRAMS FUNDED.

THE SECRETARY SHALL PROVIDE FOR THE EVALUATION, BY RECOGNIZED AUTHORITIES IN THE FIELD OF SERVICES TO SENIORS, OF THE PROGRAMS FUNDED BY THE GRANTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 36(f), (g), and (h).

In subsection (a) of this section, the reference to the approval of Program priorities "under § 10-603(a) of this subtitle" is added for clarity.

In subsection (b) of this section, the former reference to "approv[ing] the" award of grants is deleted as surplusage.

Also in subsection (b) of this section, the former reference to priorities "approved by the Governor and General Assembly" is deleted for brevity.

As to the substitution of the reference to "services to seniors" for the former reference to "aging services" in subsection (c) of this section, *see* General Revisor's Note to title.

Defined terms: "Council" § 10-601
 "Program" § 10-601
 "Secretary" § 10-101

10-606. ANNUAL REPORT.

THE SECRETARY SHALL REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE EVALUATIONS OF PROGRAMS FUNDED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 36(j).

Defined term: "Secretary" § 10-101

10-607. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 36(k).

Defined term: "Secretary" § 10-101

SUBTITLE 7. FAMILY CAREGIVER ASSISTANCE PROGRAM.

10-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 45(a)(1).

(B) ADULT DEPENDENT.

“ADULT DEPENDENT” MEANS AN INDIVIDUAL WHO IS:

- (1) AT LEAST 18 YEARS OLD;
- (2) AN INDIVIDUAL WITH LONG-TERM CARE NEEDS; AND
- (3) THE SPOUSE, PARENT, STEPPARENT, GRANDPARENT, CHILD, STEPCHILD, SIBLING, AUNT, UNCLE, SON-IN-LAW, DAUGHTER-IN-LAW, MOTHER-IN-LAW, OR FATHER-IN-LAW OF A FAMILY CAREGIVER.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 45(a)(2) and, as it related to an individual with long-term care needs, (a)(3).

Defined terms: “Family caregiver” § 10-701

“Individual with long-term care needs” § 10-701

(C) FAMILY CAREGIVER.

“FAMILY CAREGIVER” MEANS AN INDIVIDUAL WHO CARES FOR AN ADULT DEPENDENT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 45(a)(3), except as it related to an individual with long-term care needs.

Defined term: “Adult dependent” § 10-701

(D) INDIVIDUAL WITH LONG-TERM CARE NEEDS.

“INDIVIDUAL WITH LONG-TERM CARE NEEDS” MEANS AN INDIVIDUAL WHO:

- (1) IS UNABLE TO PERFORM AT LEAST THREE ACTIVITIES OF DAILY LIVING WITHOUT SUBSTANTIAL ASSISTANCE FROM ANOTHER INDIVIDUAL; OR
- (2) (I) IS UNABLE TO PERFORM AT LEAST ONE ACTIVITY OF DAILY LIVING WITHOUT SUBSTANTIAL ASSISTANCE FROM ANOTHER INDIVIDUAL; AND
 - (II) REQUIRES SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM THREATS TO THE INDIVIDUAL’S HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 70B, § 45(a)(4).

In paragraph (2)(ii) of this subsection, the reference to “the individual’s” health and safety is added for clarity.

(E) PROGRAM.

“PROGRAM” MEANS THE FAMILY CAREGIVER ASSISTANCE PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 70B, § 45(a)(5).

The former reference to the Program “established under this section” is deleted as surplusage.

No other changes are made.

10-702. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS A FAMILY CAREGIVER ASSISTANCE PROGRAM IN THE DEPARTMENT.

(B) PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO ELIGIBLE FAMILY CAREGIVERS TO SUPPLEMENT THE UNMET EXPENSES OF CARING FOR AN ADULT DEPENDENT.

REVISOR'S NOTE: This section formerly was Art. 70B, § 45(b) and (c).

No changes are made.

Defined terms: “Adult dependent” § 10-701

“Family caregiver” § 10-701

“Program” § 10-701

10-703. FUNDING.

(A) STATE BUDGET.

FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET.

(B) OTHER SOURCES.

THE SECRETARY MAY ACCEPT MONEY PROVIDED BY OTHER PUBLIC AND PRIVATE SOURCES, INCLUDING FEDERAL FUNDS, TO PROVIDE GRANTS UNDER THE PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 70B, § 45(d).

The only changes are in style.

Defined terms: “Program” § 10-701

“Secretary” § 10-101

10-704. GRANTS.

(A) ELIGIBILITY.

A FAMILY CAREGIVER IS ELIGIBLE FOR A GRANT FROM THE PROGRAM IF:

- (1) THE FAMILY CAREGIVER RESIDES WITH AN ADULT DEPENDENT;
- (2) THE ADULT DEPENDENT HAS BEEN CERTIFIED BY A LICENSED PHYSICIAN IN THE STATE AS AN INDIVIDUAL WITH LONG-TERM CARE NEEDS FOR AT LEAST 180 CONSECUTIVE DAYS DURING THE YEAR; AND
- (3) THE FAMILY CAREGIVER'S HOUSEHOLD INCOME IS 200% OR LESS OF

THE STATE MEDIAN INCOME, AS ADJUSTED FOR FAMILY SIZE, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.

(B) GRANT AMOUNT.

THE PROGRAM MAY PROVIDE ELIGIBLE FAMILY CAREGIVERS WITH A GRANT OF UP TO \$500 PER HOUSEHOLD PER YEAR.

(C) USE OF GRANT.

A GRANT MAY BE USED TO FUND GOODS AND SERVICES REQUIRED TO PROVIDE CARE FOR AN ADULT DEPENDENT INCLUDING:

- (1) DURABLE MEDICAL EQUIPMENT;
- (2) MEDICAL BILLS;
- (3) MEDICAL SUPPLIES;
- (4) PRESCRIPTION OR OVER-THE-COUNTER MEDICATIONS;
- (5) REPAIRS OR MODIFICATIONS TO THE HOME; AND
- (6) RESPITE CARE FOR THE FAMILY CAREGIVER.

REVISOR'S NOTE: This section formerly was Art. 70B, § 45(e) and (f).

In subsection (a)(3) of this section, the reference to regulations adopted by the "Secretary" is substituted for the former reference to regulations adopted by the "Department" for consistency with § 10-705(1) of this subtitle, which requires the Secretary to adopt regulations to implement the Program.

The only other changes are in style.

Defined terms: "Adult dependent" § 10-701

"Family caregiver" § 10-701

"Individual with long-term care needs" § 10-701

"Program" § 10-701

"Secretary" § 10-101

10-705. DUTIES OF SECRETARY.

THE SECRETARY SHALL:

- (1) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM;
- (2) WORK IN COOPERATION WITH THE DEPARTMENT OF DISABILITIES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE MARYLAND CAREGIVERS SUPPORT COORDINATING COUNCIL TO PROMOTE THE PROGRAM TO FAMILY CAREGIVERS THROUGHOUT THE STATE; AND
- (3) REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

- (I) THE NUMBER OF GRANT REQUESTS RECEIVED;
- (II) THE VALUE OF GRANTS PROVIDED TO FAMILY CAREGIVERS;
- (III) THE PURPOSES FOR WHICH THE GRANTS WERE PROVIDED; AND
- (IV) THE NUMBER OF GRANT REQUESTS THAT THE PROGRAM WAS UNABLE TO FUND AND THE REASON WHY THOSE REQUESTS WERE NOT FUNDED.

REVISOR'S NOTE: This section formerly was Art. 70B, § 45(g).

The only changes are in style.

Defined terms: "Family caregiver" § 10-701

"Program" § 10-701

"Secretary" § 10-101

10-706. ALLOCATION OF FUNDS.

THE REGULATIONS REQUIRED TO BE ADOPTED UNDER § 10-705 OF THIS SUBTITLE SHALL:

(1) ENSURE THAT THE TOTAL AMOUNT OF FUNDING AVAILABLE FOR GRANTS UNDER THE PROGRAM IS ALLOCATED AMONG ALL COUNTIES BASED ON EACH COUNTY'S PROPORTION OF THE TOTAL STATE ADULT POPULATION; AND

(2) PROVIDE THAT IF A COUNTY IS UNABLE TO USE ITS ALLOCATION, ANY UNSPENT FUNDS SHALL REVERT TO THE PROGRAM AND BE REDISTRIBUTED AMONG ALL COUNTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 45(h).

Throughout this section, the former references to "Baltimore City" are deleted in light of § 1-101 of this article, which defines "county" to include Baltimore City.

In item (1) of this section, the reference to the "adult" population is substituted for the former reference to the population "aged 18 and older" for brevity. *See* Art. 1, § 24.

Defined terms: "County" § 10-101

"Program" § 10-701

GENERAL REVISOR'S NOTE TO TITLE:

Throughout this title, references to "seniors" are substituted for the former references to "the aged", "the aging", "the elderly", "elderly persons", "older individuals", and "senior citizens" for consistency. Similarly, references to "services to seniors" are substituted for the former references to "aging services".

TITLE 11. MARYLAND LEGAL SERVICES CORPORATION.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

11-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory clause of former Art. 10, § 45C.

(B) BOARD.

"BOARD" MEANS THE BOARD OF DIRECTORS OF THE MARYLAND LEGAL SERVICES CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 10, § 45C(a).

No changes are made.

(C) CORPORATION.

"CORPORATION" MEANS THE MARYLAND LEGAL SERVICES CORPORATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 10, § 45C(b).

The former phrase "established under this subtitle" is deleted as unnecessary.

(D) ELIGIBLE CLIENT.

"ELIGIBLE CLIENT" MEANS A PERSON WHO IS UNABLE TO AFFORD LEGAL ASSISTANCE AS DETERMINED UNDER § 11-603 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 10, § 45C(c).

Defined terms: "Legal assistance" § 11-101

"Person" § 1-101

(E) FUND.

"FUND" MEANS THE MARYLAND LEGAL SERVICES CORPORATION FUND.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former CJ § 7-408(a).

The former phrase "[i]n this section" is deleted as unnecessary in light of subsection (a) of this section.

(F) GRANTEE.

(1) "GRANTEE" MEANS A NONPROFIT ORGANIZATION THAT:

(I) IS QUALIFIED UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

(II) PROVIDES LEGAL ASSISTANCE TO ELIGIBLE CLIENTS; AND

(III) RECEIVES FINANCIAL ASSISTANCE UNDER § 11-501 OF THIS TITLE FROM THE CORPORATION.

(2) "GRANTEE" INCLUDES:

(I) THE LEGAL AID BUREAU, INC.;

(II) THE MARYLAND DISABILITY LAW CENTER; AND

(III) THE MARYLAND VOLUNTEER LAWYERS SERVICE, INC.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 10, § 45C(e).

In paragraph (1)(iii) of this subsection, the reference to a nonprofit organization that "receives" financial assistance from the Corporation is substituted for the former reference to the Corporation "provid[ing]" financial assistance for clarity.

In the introductory language of paragraph (2) of this subsection, the former phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "includes" is used "by way of illustration, and not by way of limitation".

In paragraph (2)(ii) of this subsection, the reference to the "Maryland Disability Law Center" is substituted for the former reference to the "Maryland Advocacy Unit for the Developmentally Disabled, Inc.".

Defined terms: "Corporation" § 11-101

"Eligible client" § 11-101

"Internal Revenue Code" § 11-101

"Legal assistance" § 11-101

(G) INTERNAL REVENUE CODE.

"INTERNAL REVENUE CODE" MEANS:

(1) TITLE 26 OF THE UNITED STATES CODE; AND

(2) REGULATIONS ADOPTED UNDER TITLE 26 OF THE UNITED STATES CODE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 10, § 45C(f).

In this subsection, the reference to "Title 26 of the United States Code" is substituted for the former reference to the "Internal Revenue Code" for clarity and to conform to the definition of "Internal Revenue Code" in other revised articles of the Code. *See, e.g.*, TG § 1-101 and TP § 1-101.

(H) LEGAL ASSISTANCE.

(1) "LEGAL ASSISTANCE" MEANS THE LEGAL REPRESENTATION OF ELIGIBLE CLIENTS BY GRANTEES.

(2) "LEGAL ASSISTANCE" INCLUDES:

(I) TRAINING;

(II) RESEARCH;

(III) COORDINATION WITH PRIVATE ATTORNEYS; AND

(IV) OTHER ACTIVITIES NECESSARY TO ENSURE THE DELIVERY OF QUALITY LEGAL SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 10, § 45C(g).

Defined terms: "Eligible client" § 11-101

"Grantee" § 11-101

REVISOR'S NOTE TO SECTION: Former Art. 10, § 45C(e), which defined "Governor" to mean the chief executive officer of the State of Maryland, is deleted as unnecessary.

11-102. LEGISLATIVE FINDINGS.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) THERE IS A NEED TO PROVIDE EQUAL ACCESS TO THE SYSTEM OF JUSTICE FOR INDIVIDUALS SEEKING REDRESS OF GRIEVANCES;

(2) REDUCTION OF FEDERAL FUNDS HAS DIMINISHED THE AVAILABILITY OF LEGAL SERVICES PROVIDED BY EXISTING STATEWIDE LEGAL SERVICES PROGRAMS;

(3) THERE IS A NEED TO CONTINUE AND EXPAND LEGAL ASSISTANCE TO THOSE WHO WOULD OTHERWISE BE UNABLE TO AFFORD ADEQUATE LEGAL COUNSEL;

(4) THE AVAILABILITY OF LEGAL SERVICES REAFFIRMS FAITH IN OUR GOVERNMENT OF LAWS;

(5) THE FUNDING OF LEGAL ASSISTANCE PROGRAMS FOR THOSE WHO ARE UNABLE TO AFFORD LEGAL COUNSEL WILL SERVE THE ENDS OF JUSTICE AND THE GENERAL WELFARE OF THE PUBLIC; AND

(6) ATTORNEYS PROVIDING LEGAL ASSISTANCE MUST HAVE FULL FREEDOM TO PROTECT THE BEST INTERESTS OF THEIR CLIENTS IN KEEPING WITH THE MARYLAND RULES OF PROFESSIONAL CONDUCT AND THE HIGH STANDARDS OF THE LEGAL PROFESSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45B.

In the introductory language of this section, the former reference to the General Assembly "of Maryland" is deleted as surplusage.

In item (2) of this section, the reference to the "availability of" legal services is added for clarity.

Also in item (2) of this section, the former reference to "the Legal Aid Bureau, Inc.; the Maryland Advocacy Unit for the Developmentally Disabled, Inc.; and the Maryland Volunteer Lawyers Service, Inc." is deleted for accuracy and to reflect the inclusion of all statewide legal services programs.

In item (5) of this section, the reference to the "public" is substituted for the former reference to "all Maryland citizens". *See* General Revisor's Note to article.

In item (6) of this section, the reference to the "Maryland Rules" of Professional Conduct is substituted for the former reference to the "Code" of Professional Conduct for accuracy.

Defined term: "Legal assistance" § 11-101

SUBTITLE 2. ORGANIZATION AND ADMINISTRATION OF CORPORATION.

11-201. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

(1) THERE IS A MARYLAND LEGAL SERVICES CORPORATION.

(2) THE CORPORATION IS A NONSTOCK CORPORATION.

(B) PURPOSE.

THE PURPOSE OF THE CORPORATION IS TO RECEIVE AND DISTRIBUTE FUNDS TO GRANTEEES THAT PROVIDE LEGAL ASSISTANCE TO ELIGIBLE CLIENTS IN CIVIL PROCEEDINGS OR MATTERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45D(a).

In subsection (a) of this section, the former phrase "established in the State of Maryland ... which shall be known as" is deleted as surplusage.

In subsection (b) of this section, the reference to "civil" proceedings is substituted for the former reference to "noncriminal" proceedings for consistency within this title.

Defined terms: "Corporation" § 11-101

"Eligible client" § 11-101

"Grantee" § 11-101

"Legal assistance" § 11-101

11-202. OFFICE; STATUS.

(A) PRINCIPAL OFFICE AND DESIGNATED AGENT.

(1) THE CORPORATION SHALL MAINTAIN:

(I) ITS PRINCIPAL OFFICE IN THE STATE; AND

(II) A DESIGNATED AGENT TO ACCEPT SERVICE OF PROCESS.

(2) THE CORPORATION SHALL FILE THE NAME AND ADDRESS OF THE DESIGNATED AGENT WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(B) TAX EXEMPT STATUS.

THE CORPORATION IS EXEMPT FROM ANY SPECIAL TAX, PROPERTY TAX, RECORDATION TAX, OR TRANSFER TAX IMPOSED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(C) CORPORATION NOT A UNIT OR INSTRUMENTALITY OF THE STATE.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE CORPORATION IS NOT A UNIT OR INSTRUMENTALITY OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45D(b), (c), and (d).

In subsection (a)(1)(ii) of this section, the former reference to accepting service of process "for the Corporation" is deleted as implicit.

In subsection (a)(2) of this section, the reference to "the Corporation" filing the name and address of the designated agent is substituted for the former phrase "whose name and address shall be filed" for clarity.

In subsection (c) of this section, the reference to a "unit" of the State is substituted for the former reference to a "department [or] agency" of the State for brevity and consistency throughout this article. *See* General Revisor's Note to article.

Defined term: "Corporation" § 11-101

11-203. EXECUTIVE DIRECTOR.

(A) APPOINTMENT.

THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE CORPORATION.

(B) DUTIES.

(1) THE EXECUTIVE DIRECTOR IS THE CHIEF EXECUTIVE OFFICER OF THE CORPORATION.

(2) SUBJECT TO THIS TITLE AND POLICIES ESTABLISHED BY THE BOARD, THE EXECUTIVE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY FOR:

(I) ADMINISTERING THE AFFAIRS OF THE CORPORATION;

(II) APPOINTING AND REMOVING EMPLOYEES AS NECESSARY TO CARRY OUT THE PURPOSES OF THIS TITLE;

(III) MAKING GRANTS;

(IV) ENTERING INTO CONTRACTS;

(V) EXERCISING POWERS INCIDENT TO THE OFFICE OF THE EXECUTIVE DIRECTOR; AND

(VI) PERFORMING OTHER DUTIES THAT THE BOARD PRESCRIBES.

(C) SALARY.

THE EXECUTIVE DIRECTOR IS ENTITLED TO A SALARY AS PROVIDED IN THE BUDGET OF THE CORPORATION.

(D) REMOVAL.

THE EXECUTIVE DIRECTOR MAY BE REMOVED BY A MAJORITY OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45F(a)(2), (3), (4), and, as it related to the appointment of the executive director, (1).

In subsection (b)(2) of this section, the phrase "subject to" is substituted for the former phrase "in accordance with" to clarify the relationship between the responsibility and the authority of the executive director and the Board.

In subsection (b)(2)(i) of this section, the former phrase "day-to-day" is deleted as surplusage.

Defined terms: "Board" § 11-101
"Corporation" § 11-101

11-204. EMPLOYEES.

(A) POLITICAL CONSIDERATIONS PROHIBITED.

A POLITICAL TEST OR POLITICAL QUALIFICATION MAY NOT BE USED IN SELECTING, APPOINTING, PROMOTING, OR TAKING ANY OTHER PERSONNEL ACTION WITH RESPECT TO AN OFFICER, AGENT, OR EMPLOYEE OF THE CORPORATION.

(B) SALARIES.

EMPLOYEES OF THE CORPORATION ARE ENTITLED TO SALARIES AS PROVIDED IN THE BUDGET OF THE CORPORATION.

(C) STATUS.

EMPLOYEES OF THE CORPORATION ARE NOT EMPLOYEES OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45F(b).

In subsection (a) of this section, the reference to a "personnel" action is substituted for the former incorrect reference to a "personal" action.

In subsection (b) of this section, the reference to the budget "of the Corporation" is added for clarity and consistency with § 11-203 of this subtitle.

Defined term: "Corporation" § 11-101

11-205. GENERAL POWERS.

TO THE EXTENT CONSISTENT WITH THIS TITLE, THE CORPORATION SHALL EXERCISE THE POWERS GRANTED TO A NONSTOCK CORPORATION UNDER TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(a).

The reference to "Title 5, Subtitle 2 of the Corporations and Associations Article" is substituted for the former reference to "the Corporations and Associations Article, § 5-201 et seq. of the Code" for clarity.

Defined term: "Corporation" § 11-101

11-206. INDEMNIFICATION.

THE CORPORATION SHALL INDEMNIFY THE MEMBERS OF THE BOARD AND THE OFFICERS, AGENTS, AND EMPLOYEES OF THE CORPORATION TO THE EXTENT AUTHORIZED UNDER THE MARYLAND GENERAL CORPORATION LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(h).

The reference to the officers, agents, and employees "of the Corporation" is substituted for the former reference to "its" officers, agents, and employees for clarity.

The former word "maximum" is deleted as surplusage.

Defined terms: "Board" § 11-101
"Corporation" § 11-101

11-207. ANNUAL REPORT.

(A) REQUIRED.

(1) THE CORPORATION SHALL PUBLISH AN ANNUAL REPORT.

(2) THE CORPORATION SHALL SUBMIT THE ANNUAL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS OF REPORT.

THE REPORT SHALL INCLUDE A DESCRIPTION OF SERVICES PROVIDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(g)(3).

In subsection (a)(2) of this section, the reference to "submit[ting]" the annual report is substituted for the former reference to "fil[ing]" the annual report for consistency with similar provisions throughout the revised articles of the Code.

Defined term: "Corporation" § 11-101

SUBTITLE 3. BOARD OF DIRECTORS.

11-301. ESTABLISHED; MEMBERSHIP.

(A) ESTABLISHED.

THERE IS A BOARD OF DIRECTORS OF THE CORPORATION.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE BOARD CONSISTS OF:

(I) NINE VOTING MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND

(II) THE EXECUTIVE DIRECTOR, WHO IS A NONVOTING EX OFFICIO MEMBER.

(2) VOTING MEMBERS SHALL BE RESIDENTS OF THE STATE AND SHALL REPRESENT THE DIFFERENT GEOGRAPHICAL REGIONS OF THE STATE.

(3) FIVE VOTING MEMBERS SHALL BE LAWYERS ADMITTED TO THE BAR IN THE STATE AND FOUR VOTING MEMBERS SHALL BE NONLAWYERS.

(C) STATUS.

A VOTING MEMBER OF THE BOARD IS NOT AN OFFICER OR EMPLOYEE OF THE STATE.

(D) TENURE; VACANCIES.

(1) THE TERM OF OFFICE OF A VOTING MEMBER IS 3 YEARS.

(2) AT THE END OF A TERM A VOTING MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) THE TERMS OF VOTING MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2007.

(4) IF A VACANCY OCCURS DURING THE TERM OF A VOTING MEMBER, THE GOVERNOR SHALL FILL THE VACANCY.

(5) A VOTING MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(6) A VOTING MEMBER MAY NOT BE REAPPOINTED FOR MORE THAN 2 CONSECUTIVE TERMS IMMEDIATELY FOLLOWING THE MEMBER'S INITIAL TERM.

(E) REMOVAL.

(1) A VOTING MEMBER MAY BE REMOVED BY A VOTE OF SEVEN MEMBERS.

(2) A VOTING MEMBER MAY ONLY BE REMOVED FOR:

(I) MALFEASANCE IN OFFICE;

(II) PERSISTENT NEGLECT OF OR INABILITY TO DISCHARGE DUTIES; OR

(III) OFFENSES INVOLVING MORAL TURPITUDE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45E(a), (b), (c), and (f), and, except as it related to the appointment of the executive director, § 45F(a)(1).

Throughout this section, the reference to "voting" members is added to distinguish the members appointed by the Governor from the executive director, who is a nonvoting ex officio member of the Board.

In subsection (b)(3) of this section, the reference to "lawyers admitted to the Bar in the State" is substituted for the former reference to "members of the Bar of the Court of Appeals of Maryland" for consistency with terminology used in Title 10 of the Business Occupations and Professions Article.

Subsection (d)(2) and (5) of this section, is standard language substituted for the former references to each member of the Board continuing "until a successor has been appointed" and a vacancy occurring being "filled by the Governor for the remainder of the unexpired term" to avoid gaps in membership by indicating that a member serves until a successor takes office.

In subsection (d)(3) of this section, the reference to the terms being staggered as required by the terms provided for members of the Board on October 1, 2007 is substituted for the former phrase "except that 3 of the members first appointed, as designated by the Governor when first appointed, shall served for a term of 1 year and 3 shall served for a term of

2 years". This substitution is not intended to alter the term of any member of the Board. *See* § 11 of Ch. 3, Acts of 2007. The terms of the members serving on October 1, 2007, end as follows: (1) 3 in 2008; (2) 3 in 2009; and (3) 3 in 2010.

In subsection (e)(1) of this section, the word "may" is substituted for the former word "shall" because the mandatory nature of the word "shall" in the source law was intended to modify the reasons for the removal and not the removal itself.

In subsection (e)(2) of this section, the word "only" is substituted for the former phrase "and for no other cause" for brevity.

Defined terms: "Board" § 11-101
"Corporation" § 11-101

11-302. OFFICERS.

(A) CHAIR.

FROM AMONG ITS VOTING MEMBERS, THE BOARD ANNUALLY SHALL ELECT A CHAIR.

(B) OTHER OFFICERS.

FROM AMONG ITS MEMBERS, THE BOARD SHALL APPOINT A SECRETARY, A TREASURER, AND OTHER OFFICERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45E(d) and (e).

In subsection (a) of this section, the former requirement that "[t]he Governor shall select from among the voting members of the Board a chairperson, who shall serve for a term of 3 years" is deleted as obsolete.

Also in subsection (a) of this section, the reference to a "chair" is substituted for the former reference to a "chairperson" for consistency with terminology used throughout this article.

Defined term: "Board" § 11-101

11-303. COMPENSATION.

A MEMBER OF THE BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR NECESSARY EXPENSES INCURRED IN CONNECTION WITH SERVICE ON THE BOARD AS PROVIDED IN THE BUDGET OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45E(g).

In the introductory language of this section, the reference to “[a] member of the Board” is substituted for the former reference to “directors” for clarity and consistency.

In item (1) of this section, the phrase “as a member of the Board” is added to clarify that the executive director, who is an ex officio member of the Board, may receive compensation in the role of executive director.

In item (2) of this section, the reference to the budget “of the Corporation” is added for clarity.

Also in item (2) of this section, the former reference to “travel, subsistence and other” expenses is deleted as included in the reference to “expenses”.

Defined terms: “Board” § 11–101

“Corporation” § 11–101

11–304. MEETINGS.

(A) QUARTERLY MEETINGS.

THE BOARD SHALL MEET AT LEAST 4 TIMES A YEAR.

(B) PUBLIC MEETINGS.

EXCEPT AS PROVIDED IN § 10–508 OF THE STATE GOVERNMENT ARTICLE, A MEETING OF THE BOARD SHALL BE OPEN TO THE PUBLIC.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 10, § 45E(h) and (i).

In subsection (a) of this section, the former reference to a “calendar” year is deleted as unnecessary.

In subsection (b) of this section, the phrase “[e]xcept as provided in” is substituted for the former phrase “except that a meeting may be closed for a purpose listed in” for brevity and for consistency with similar provisions in other revised articles of the Code.

Defined term: “Board” § 11–101

SUBTITLE 4. FUNDING.

11–401. FINANCING.

(A) APPROPRIATION IN THE STATE BUDGET.

IN THE STATE OPERATING BUDGET OR IN ANY SUPPLEMENTAL BUDGET THAT THE GOVERNOR SUBMITS TO THE GENERAL ASSEMBLY, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$500,000 EACH YEAR TO THE MARYLAND LEGAL SERVICES CORPORATION FUND ESTABLISHED UNDER § 11–402 OF THIS SUBTITLE.

(B) TRANSFER FROM ABANDONED PROPERTY FUNDS.

(1) TO SUPPORT OR ADD TO THE APPROPRIATION UNDER SUBSECTION (A) OF THIS SECTION, ON JULY 1 OF EACH YEAR, THE GOVERNOR MAY TRANSFER TO THE FUND UP TO \$500,000 FROM THE PORTION OF ABANDONED PROPERTY FUNDS DEPOSITED IN THE GENERAL FUND OF THE STATE UNDER § 17-317 OF THE COMMERCIAL LAW ARTICLE.

(2) IF, AFTER DEDUCTING ALL COSTS OF ADMINISTERING THE ABANDONED PROPERTY FUND, THE BALANCE IN THE PORTION OF ABANDONED PROPERTY FUNDS DEPOSITED IN THE GENERAL FUND OF THE STATE UNDER § 17-317 OF THE COMMERCIAL LAW ARTICLE IS LESS THAN \$500,000, ONLY THE BALANCE MAY BE TRANSFERRED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(C) NONSTATE FUNDS.

NONSTATE FUNDS RECEIVED BY THE CORPORATION SHALL BE ACCOUNTED FOR AND REPORTED AS RECEIPTS AND DISBURSEMENTS SEPARATE AND DISTINCT FROM STATE FUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45-O(a), (b), and (d).

In subsection (a)(2) of this section, the former reference to the budget submitted "in the third week of January each year" is deleted as surplusage.

In subsection (b)(2) of this section, the word "[i]f" is substituted for the former phrase "[t]o the extent that" for brevity.

Also in subsection (b)(2) of this section, the reference to the "abandoned property fund" is substituted for the former reference to the "Fund" for clarity.

Defined terms: "Corporation" § 11-101
"Fund" § 11-101

11-402. MARYLAND LEGAL SERVICES CORPORATION FUND.

(A) ESTABLISHED.

THERE IS A MARYLAND LEGAL SERVICES CORPORATION FUND.

(B) ADMINISTRATION.

THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ADMINISTER THE FUND.

(C) STATUS.

THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(D) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY DEPOSITED TO THE FUND FROM THE SURCHARGE ASSESSED IN CIVIL CASES UNDER §§ 7-202 AND 7-301 OF THE COURTS ARTICLE;

(2) MONEY APPROPRIATED TO THE FUND UNDER § 11-401 OF THIS SUBTITLE;

(3) INTEREST ON ATTORNEY TRUST ACCOUNTS PAID TO THE FUND UNDER § 10-303 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

(4) INVESTMENT EARNINGS OF THE FUND.

(E) USE OF FUND.

THE CORPORATION SHALL USE THE FUND TO PROVIDE FUNDING FOR CIVIL LEGAL SERVICES TO INDIGENTS UNDER THIS TITLE.

(F) INVESTMENT.

THE TREASURER SHALL:

(1) INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER STATE FUNDS; AND

(2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

(G) EXPENDITURES.

EXPENDITURES FROM THE FUND SHALL BE MADE IN ACCORDANCE WITH AN APPROPRIATION REQUESTED BY THE JUDICIAL BRANCH OF THE STATE GOVERNMENT UNDER § 7-108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET OR BY THE BUDGET AMENDMENT PROCEDURE UNDER § 7-208.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45-O(c) and CJ § 7-408(b) through (g).

In subsection (c) of this section, the reference to the Fund being a "special" fund is added for consistency with similar provisions in other revised articles of the Code.

In subsection (d)(4) of this section, the reference to "investment earnings of the Fund" is new language added for consistency with subsection (f)(2) of this section.

In subsection (e) of this section, the former references to "moneys distributed to" and "moneys appropriated to" the Fund are deleted as included in the reference to the "Fund".

Also in subsection (e) of this section, the former phrases "under this section" and "in accordance with § 7-408(g) of the Courts Article" are deleted as unnecessary in light of the revision of former Art. 10, § 45-O(c) and CJ § 7-408(g) in this section.

Defined terms: "Corporation" § 11-101
 "Fund" § 11-101

11-403. DISPOSITION OF MONEY AND PROPERTY.

THE CORPORATION SHALL ACCEPT AND USE ANY MONEY OR PROPERTY RECEIVED BY GIFT, DEVISE, BEQUEST, OR OTHERWISE TO FURTHER THE PURPOSES OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(c).

The word "use" is substituted for the former words "employ or dispose of" for brevity and clarity.

The former phrase "in the name of the Corporation" is deleted as surplusage.

The former reference to property that is "real, personal, or mixed, tangible or intangible" is deleted as included in the reference to "property".

Defined term: "Corporation" § 11-101

11-404. ISSUANCE OF STOCK PROHIBITED.

THE CORPORATION MAY NOT ISSUE STOCK OR DECLARE OR PAY DIVIDENDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45H(a).

The former reference to "shares of" stock is deleted as surplusage.

Defined term: "Corporation" § 11-101

11-405. RESTRICTIONS ON DISPOSITION OF CORPORATE EARNINGS.

(A) NET EARNINGS.

(1) THIS SUBSECTION DOES NOT APPLY TO REASONABLE COMPENSATION PAID FOR SERVICES RENDERED TO OR FOR THE CORPORATION.

(2) NET EARNINGS OF THE CORPORATION MAY NOT INURE TO THE BENEFIT OF ANY INDIVIDUAL.

(B) CORPORATE ASSETS.

AN INDIVIDUAL MAY NOT SHARE IN THE DISTRIBUTION OF CORPORATE ASSETS ON DISSOLUTION OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45H(c).

In subsection (a)(1) of this section, the former reference to services "actually" rendered is deleted as surplusage.

In subsections (a)(2) and (b) of this section, the references to an

“individual” are substituted for the former references to a “member, trustee, or officer of the Corporation, or any private person” for brevity.

In subsection (a)(2) of this section, the former reference to a “part of” net earnings is deleted as surplusage.

Defined term: “Corporation” § 11–101

11–406. DISPOSITION OF ASSETS ON LIQUIDATION.

ON THE LIQUIDATION, DISSOLUTION, OR WINDING UP OF THE CORPORATION, AFTER PAYMENT OF THE OBLIGATIONS AND LIABILITIES OF THE CORPORATION, ALL OF THE ASSETS OF THE CORPORATION SHALL BE TRANSFERRED TO ONE OR MORE CORPORATIONS OR ASSOCIATIONS THAT:

- (1) HAVE A CHARACTER OR PURPOSE SIMILAR TO THE CORPORATION'S;
- (2) ARE SELECTED BY THE BOARD; AND
- (3) QUALIFY UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45H(f).

In the introductory language of this section, the word “[o]n” is substituted for the former phrase “[i]n the event of” for brevity.

Also in the introductory language of this section, the former phrase “in any manner or for any reason whatever” is deleted as surplusage.

In item (1) of this section, the former reference to an “analogous” character is deleted as included in the reference to a “similar” character.

In item (2) of this section, the reference to the “Board” is substituted for the former reference to the “Corporation's trustees” for accuracy and consistency within this title.

Defined terms: “Board” § 11–101

“Corporation” § 11–101

“Internal Revenue Code” § 11–101

11–407. ANNUAL AUDITS.

(A) REQUIRED.

(1) THE ACCOUNTS OF THE CORPORATION SHALL BE AUDITED ANNUALLY.

(2) THE AUDITS SHALL BE CONDUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(B) PROCEDURES.

(1) AN AUDIT UNDER THIS SECTION SHALL BE CONDUCTED WHERE THE ACCOUNTS OF THE CORPORATION ARE NORMALLY KEPT.

(2) IF OWNED OR IN USE BY THE CORPORATION AND NECESSARY TO FACILITATE THE AUDIT, THE CORPORATION SHALL MAKE AVAILABLE TO THE AUDITOR ALL:

- (I) BOOKS;
- (II) ACCOUNTS;
- (III) FINANCIAL RECORDS;
- (IV) REPORTS;
- (V) FILES; AND
- (VI) OTHER PAPERS OR PROPERTY.

(3) FULL FACILITIES FOR VERIFYING TRANSACTIONS WITH THE BALANCES AND SECURITIES HELD BY DEPOSITORIES, FISCAL AGENTS, AND CUSTODIANS SHALL BE AVAILABLE TO THE AUDITORS.

(C) REPORT.

THE REPORT OF THE ANNUAL AUDIT SHALL:

(1) BE SUBMITTED TO THE GOVERNOR, THE DEPARTMENT OF BUDGET AND MANAGEMENT AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY; AND

(2) BE AVAILABLE FOR PUBLIC INSPECTION DURING BUSINESS HOURS AT THE PRINCIPAL OFFICE OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45K(a).

In subsection (b)(1) of this section, the reference to an audit "under this section" is added for clarity.

Also in subsection (b)(1) of this section, the former phrase "at the place or places" is deleted as surplusage.

In subsection (b)(2) of this section, the word "owned" is substituted for the former words "belonging to" for brevity and clarity.

Also in subsection (b)(2) of this section, the word "auditor" is substituted for the former words "person or persons conducting the audit" for brevity.

In subsection (c)(1) of this section, the words "submitted to" are substituted for the former words "filed with" for clarity.

The Human Services Article Review Committee notes, for consideration by the General Assembly, that the meaning of subsection (b)(3) of this section and § 11-408(b)(3) of this subtitle is unclear. The General Assembly may

wish to consider clarifying these provisions.

Defined term: "Corporation" § 11-101

11-408. AUDITS BY LEGISLATIVE AUDITOR.

(A) AUTHORIZED.

(1) THE AUDIT AUTHORIZED BY THIS SECTION IS IN ADDITION TO THE ANNUAL AUDIT REQUIRED BY § 11-407 OF THIS SUBTITLE.

(2) FOR ANY FISCAL YEAR DURING WHICH STATE FUNDS ARE AVAILABLE TO FINANCE ANY PORTION OF THE OPERATIONS OF THE CORPORATION, THE LEGISLATIVE AUDITOR MAY AUDIT THE FINANCIAL TRANSACTIONS OF THE CORPORATION.

(B) PROCEDURES.

(1) AN AUDIT UNDER THIS SECTION SHALL BE CONDUCTED WHERE THE ACCOUNTS OF THE CORPORATION ARE NORMALLY KEPT.

(2) IF OWNED OR IN USE BY THE CORPORATION AND NECESSARY TO FACILITATE THE AUDIT, THE CORPORATION SHALL MAKE AVAILABLE TO THE LEGISLATIVE AUDITOR ALL:

- (I) BOOKS;
- (II) ACCOUNTS;
- (III) FINANCIAL RECORDS;
- (IV) REPORTS;
- (V) FILES; AND
- (VI) OTHER PAPERS OR PROPERTY.

(3) FULL FACILITIES FOR VERIFYING TRANSACTIONS WITH THE BALANCES AND SECURITIES HELD BY DEPOSITORIES, FISCAL AGENTS, AND CUSTODIANS SHALL BE AVAILABLE TO THE LEGISLATIVE AUDITOR.

(4) UNLESS THE LEGISLATIVE AUDITOR REQUIRES A LONGER PERIOD OF RETENTION, THE ITEMS LISTED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL REMAIN IN THE POSSESSION AND CUSTODY OF THE CORPORATION FOR 3 YEARS.

(C) REPORT.

THE LEGISLATIVE AUDIT SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY AND THE GOVERNOR, WITH ANY RECOMMENDATIONS THE LEGISLATIVE AUDITOR CONSIDERS ADVISABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45K(b).

In subsection (b)(1) of this section, the reference to an audit “under this section” is added for clarity.

Also in subsection (b)(1) of this section, the former phrase “at the place or places” is deleted as surplusage.

In subsection (b)(2) of this section, the requirement to “make available to” the Legislative Auditor the listed items is substituted for the former requirement that the Legislative Auditor “have access to” the listed items for consistency with § 11–407(b)(2) of this subtitle.

Also in subsection (b)(2) of this section, the word “owned” is substituted for the former words “belonging to” for brevity and clarity.

In subsection (b)(4) of this section, the reference to “items listed in paragraph (2) of this subsection” is substituted for the former reference to “books, accounts, financial records, reports, files, and other papers or property of the Corporation” for brevity.

In subsection (c) of this section, the words “submitted to” are substituted for the former words “filed with” for clarity.

Defined term: “Corporation” § 11–101

SUBTITLE 5. GRANTEES.

11–501. FINANCIAL ASSISTANCE TO GRANTEES.

THE CORPORATION SHALL MAKE GRANTS OF FINANCIAL ASSISTANCE TO GRANTEES FOR THE PURPOSE OF PROVIDING LEGAL ASSISTANCE TO ELIGIBLE CLIENTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(b).

The reference to “mak[ing] grants of financial assistance” is substituted for the former reference to “provid[ing] financial assistance” for clarity and consistency throughout this subtitle.

Defined terms: “Corporation” § 11–101

“Eligible client” § 11–101

“Grantee” § 11–101

“Legal assistance” § 11–101

11–502. GRANTS.

(A) DUTY OF CORPORATION IN PROVIDING.

THE CORPORATION SHALL ENSURE THAT GRANTS AND CONTRACTS ARE MADE TO:

(1) PROVIDE THE MOST STABLE, ECONOMICAL, AND EFFECTIVE DELIVERY OF LEGAL ASSISTANCE; AND

(2) PROVIDE ACCESS TO LEGAL ASSISTANCE TO ELIGIBLE CLIENTS IN ALL AREAS OF THE STATE.

(B) POLITICAL CONSIDERATIONS PROHIBITED.

THE CORPORATION MAY NOT USE A POLITICAL TEST OR POLITICAL QUALIFICATIONS TO SELECT OR MONITOR A GRANTEE UNDER THIS TITLE.

(C) TERMINATION OR SUSPENSION OF FINANCIAL ASSISTANCE.

(1) THIS SUBSECTION DOES NOT APPLY TO A SUSPENSION OR TERMINATION OF FINANCIAL ASSISTANCE OR A DENIAL OF AN APPLICATION FOR REFUNDING BECAUSE OF A LACK OF AVAILABLE FUNDS.

(2) THE CORPORATION SHALL PRESCRIBE PROCEDURES IN ACCORDANCE WITH THIS SUBSECTION TO GOVERN:

(I) THE SUSPENSION OR TERMINATION OF FINANCIAL ASSISTANCE; AND

(II) THE DENIAL OF AN APPLICATION FOR REFUNDING.

(3) THE PROCEDURES SHALL ENSURE THAT FINANCIAL ASSISTANCE COMMITTED MAY NOT BE SUSPENDED OR TERMINATED AND AN APPLICATION FOR REFUNDING MAY NOT BE DENIED UNLESS THE GRANTEE HAS BEEN GIVEN:

(I) REASONABLE NOTICE; AND

(II) AN OPPORTUNITY FOR A TIMELY, FULL, AND FAIR HEARING CONDUCTED BY AN INDEPENDENT HEARING EXAMINER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(d) and (g)(4).

In subsection (a)(2) of this section, the reference to "legal assistance" is substituted for the former reference to "those services" for consistency with subsection (a)(1) of this section.

In subsection (b) of this section, the former reference to a grantee "of financial assistance" is deleted as included in the definition of "grantee".

In subsection (c) of this section, the former reference to "the hearing [being] held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding" is deleted as unnecessary because it is implicit in the requirement in subsection (c)(3)(ii) of this section that the procedures of the Corporation shall ensure that financial assistance may not be suspended or terminated and an application for refunding may not be denied unless the grantee has been given an opportunity for a timely, full, and fair hearing.

Defined terms: "Corporation" § 11-101

"Eligible client" § 11-101

"Grantee" § 11-101

"Legal assistance" § 11-101

11-503. DUTIES OF GRANTEES.

(A) CONSIDERATION OF CLIENT NEEDS.

IN APPLYING FOR AND SPENDING GRANT MONEY FROM THE CORPORATION, GRANTEES SHALL CONSIDER THE RELATIVE NEEDS FOR SERVICE OF CLIENTS, PARTICULARLY THE NEEDS OF ELIGIBLE CLIENTS WHO HAVE SPECIAL DIFFICULTIES OF ACCESS TO LEGAL SERVICES OR WHO HAVE SPECIAL LEGAL PROBLEMS, INCLUDING ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(B) RESTRICTIONS ON USE OF FUNDS.

FUNDS PROVIDED TO GRANTEES UNDER THIS TITLE MAY NOT BE USED:

- (1) TO PROVIDE LEGAL ASSISTANCE FOR A FEE-GENERATING CASE;
- (2) TO PROVIDE LEGAL ASSISTANCE FOR THE DEFENSE OF A CRIMINAL PROSECUTION;
- (3) TO PROVIDE LEGAL ASSISTANCE IN A CIVIL ACTION TO A PERSON WHO HAS BEEN CONVICTED OF A CRIMINAL CHARGE IF THE CIVIL ACTION:
 - (I) ARISES OUT OF AN ALLEGED ACT OR FAILURE TO ACT; AND
 - (II) IS BROUGHT AGAINST AN OFFICIAL OF THE COURT OR A LAW ENFORCEMENT OFFICIAL TO CHALLENGE THE VALIDITY OF THE CRIMINAL CONVICTION;
- (4) TO INFLUENCE THE ISSUANCE, AMENDMENT, OR REVOCATION OF AN EXECUTIVE ORDER OR SIMILAR PROMULGATION BY A FEDERAL, STATE, OR LOCAL UNIT, OR TO INFLUENCE THE PASSAGE OR DEFEAT OF LEGISLATION BY THE UNITED STATES CONGRESS, OR BY A STATE OR LOCAL LEGISLATIVE BODY, OR A STATE PROPOSAL BY REFERENDUM OR PETITION;
- (5) TO CONTRIBUTE TO OR BE MADE AVAILABLE TO A POLITICAL PARTY OR ASSOCIATION OR THE CAMPAIGN OF A CANDIDATE FOR PUBLIC OR PARTY OFFICE; OR
- (6) TO PROVIDE REPRESENTATION IN A CLASS ACTION SUIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45J.

In subsection (a) of this section, the reference to "spending grant money from the Corporation" is substituted for the former reference to "expending corporate funds" for clarity.

Also in subsection (a) of this section, the word "consider" is substituted for

the former words “take into account” for brevity and clarity.

In the introductory language of subsection (b) of this section, the reference to funds “provided” to grantees is substituted for the former reference to funds “made available” to grantees for brevity and clarity.

Also in the introductory language of subsection (b) of this section, the former phrase “by the Corporation” is deleted as implicit in the reference to funds provided to grantees “under this title”.

In subsection (b)(4) of this section, the reference to a “unit” is substituted for the former reference to an “agency” for consistency throughout this article. *See* General Revisor’s Note to article.

Also in subsection (b)(4) of this section, the former reference to “undertak[ing]” to influence legislation is deleted as surplusage.

Defined terms: “Eligible client” § 11–101

“Grantee” § 11–101

“Legal assistance” § 11–101

11–504. REPORTS AND RECORDS.

(A) REPORTS.

THE CORPORATION MAY REQUIRE A GRANTEE TO SUBMIT ANY REPORTS THE CORPORATION CONSIDERS NECESSARY REGARDING ACTIVITIES CARRIED OUT UNDER THIS TITLE.

(B) RECORDS.

(1) THE CORPORATION MAY REQUIRE GRANTEES TO KEEP RECORDS REGARDING FUNDS PROVIDED BY THE CORPORATION.

(2) THE CORPORATION SHALL HAVE ACCESS TO THE RECORDS AT ALL REASONABLE TIMES TO ENSURE COMPLIANCE WITH THE GRANT OR CONTRACT OR THE TERMS AND CONDITIONS ON WHICH FINANCIAL ASSISTANCE WAS PROVIDED.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(g)(1) and (2).

Defined terms: “Corporation” § 11–101

“Grantee” § 11–101

11–505. FINANCIAL AUDIT OR REVIEW.

(A) REQUIRED.

EACH YEAR, THE CORPORATION SHALL REQUIRE:

(1) A FINANCIAL AUDIT BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OF EACH GRANTEE WHOSE GRANT INCOME FROM THE CORPORATION IN THE MOST RECENTLY COMPLETED FISCAL YEAR WAS \$50,000 OR MORE; OR

(2) A FINANCIAL REVIEW BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OF EACH GRANTEE WHOSE GRANT INCOME FROM THE CORPORATION IN THE MOST RECENTLY COMPLETED FISCAL YEAR WAS LESS THAN \$50,000.

(B) REPORT.

THE REPORT OF EACH AUDIT OR REVIEW SHALL BE:

- (1) SUBMITTED TO THE GOVERNOR;
- (2) MADE AVAILABLE TO THE LEGISLATIVE AUDITOR; AND
- (3) KEPT FOR AT LEAST 5 YEARS AT THE PRINCIPAL OFFICE OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45K(c).

In subsection (a)(1) and (2) of this section, the references to grant income "from the Corporation" are added for clarity. The Human Services Article Review Committee calls this substitution to the attention of the General Assembly.

In subsection (b)(1) of this section, the words "submitted to" are substituted for the former words "filed with" for clarity.

Defined terms: "Corporation" § 11-101
"Grantee" § 11-101

SUBTITLE 6. LEGAL SERVICES.

11-601. STANDARDS FOR QUALITY SERVICE.

THE CORPORATION SHALL SEEK TO ENSURE THAT A GRANTEE PROVIDING LEGAL ASSISTANCE TO ELIGIBLE CLIENTS:

- (1) MAINTAINS THE HIGHEST QUALITY OF SERVICE AND PROFESSIONAL STANDARDS;
- (2) PRESERVES ATTORNEY-CLIENT RELATIONSHIPS; AND
- (3) PROTECTS THE INTEGRITY OF THE ADVERSARY PROCESS FROM ANY IMPAIRMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(f).

In the introductory language of this section, the reference to "a grantee" providing legal assistance is added for clarity and accuracy.

Defined terms: "Corporation" § 11-101
"Eligible client" § 11-101
"Legal assistance" § 11-101

11-602. APPLICATION FOR LEGAL ASSISTANCE.

EACH APPLICATION FOR LEGAL ASSISTANCE SHALL BE IN WRITING AND ACCOMPANIED BY AN AFFIDAVIT STATING THAT THE INFORMATION CONTAINED IN THE APPLICATION IS TRUE AND CORRECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45L.

Defined term: "Legal assistance" § 11-101

11-603. INCOME ELIGIBILITY LIMITS.

(A) ESTABLISHMENT.

(1) THE CORPORATION SHALL ESTABLISH MAXIMUM INCOME LEVELS FOR CLIENT ELIGIBILITY.

(2) THE INCOME LEVELS SHALL BE BASED ON THE FINANCIAL ABILITY OF A CLIENT TO PAY FOR COMPETENT PRIVATE COUNSEL AND ALL OTHER NECESSARY EXPENSES OF REPRESENTATION.

(B) CONSIDERATIONS.

THE MAXIMUM INCOME LEVELS ESTABLISHED UNDER THIS SECTION AND ELIGIBILITY GUIDELINES ESTABLISHED BY EACH GRANTEE TO IMPLEMENT THIS SECTION SHALL TAKE INTO CONSIDERATION:

- (1) THE SIZE OF THE CLIENT'S FAMILY;
- (2) COST OF LIVING VARIATIONS, INCLUDING DIFFERENCES BETWEEN URBAN AND RURAL AREAS;
- (3) THE ASSETS AND INCOME OF THE CLIENT;
- (4) THE FIXED DEBTS AND MEDICAL EXPENSES OF THE CLIENT; AND
- (5) OTHER FACTORS RELEVANT TO THE CLIENT'S ABILITY TO PAY FOR THE LEGAL SERVICES THE CLIENT REQUIRES.

(C) LIMITATION ON MAXIMUM INCOME LEVELS.

THE CORPORATION MAY NOT SET THE MAXIMUM INCOME LEVELS FOR ELIGIBILITY UNDER THIS SECTION AT A LEVEL GREATER THAN 50% OF THE MEDIAN FAMILY INCOME FOR THE STATE AS CERTIFIED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45G(e).

In subsection (a)(2) of this section, the reference to the financial "ability" of a client is substituted for the former reference to the "inability" for clarity and consistency with subsection (b)(5) of this section.

Also in subsection (a)(2) of this section, the reference to "pay[ing] for"

competent private counsel is substituted for the former reference to “engag[ing] and compensat[ing]” competent private counsel for clarity and consistency with subsection (b)(5) of this section.

Defined terms: “Corporation” § 11–101

“Grantee” § 11–101

11–604. ATTORNEY–CLIENT PRIVILEGE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, INFORMATION SUBJECT TO THE ATTORNEY–CLIENT PRIVILEGE IS CONFIDENTIAL AND MAY NOT BE DISCLOSED TO ANY PERSON UNLESS THE PRIVILEGE IS WAIVED BY THE CLIENT OR A COURT ORDERS THE DISCLOSURE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 10, § 45N.

The reference to a court “order[ing] the disclosure” is added for clarity.

Defined term: “Person” § 1–101

SUBTITLE 7. PROHIBITED ACTS.

11–701. FRAUDULENTLY OBTAINING LEGAL ASSISTANCE.

(A) PROHIBITED.

A PERSON MAY NOT OBTAIN, ATTEMPT TO OBTAIN, OR AID ANOTHER PERSON IN OBTAINING OR ATTEMPTING TO OBTAIN LEGAL ASSISTANCE TO WHICH THE PERSON IS NOT ENTITLED BY:

- (1) WILFULLY MAKING A FALSE STATEMENT OR REPRESENTATION;
- (2) WILFULLY FAILING TO DISCLOSE A MATERIAL CHANGE IN FINANCIAL CONDITION;
- (3) IMPERSONATING ANOTHER; OR
- (4) ANY OTHER FRAUDULENT MEANS.

(B) PENALTY.

(1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

(2) (I) A PERSON CONVICTED UNDER THIS SECTION SHALL MAKE FULL RESTITUTION OF THE VALUE OF THE LEGAL ASSISTANCE UNLAWFULLY RECEIVED.

(II) THE PERSON SHALL BE GIVEN NOTICE AND THE OPPORTUNITY FOR A HEARING ON THE AMOUNT AND TERMS OF THE PAYMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45M.

Subsection (a) of this section is revised in standard language used to state a prohibition.

In subsection (a)(4) of this section, the phrase "any other fraudulent means" is substituted for the former words "fraudulently" and the former phrase "[f]or purposes of this section fraud shall include" for brevity and clarity.

Subsection (b)(1) of this section is revised in standard language used to state a penalty.

In subsection (b)(2)(ii) of this section, the reference to the "terms" of payment is substituted for the former reference to "how the payment is to be made" for brevity.

Defined terms: "Legal assistance" § 11-101
"Person" § 1-101

11-702. ACTS OF THE CORPORATION.

THE CORPORATION MAY NOT:

- (1) PARTICIPATE IN LITIGATION, UNLESS:
 - (I) THE CORPORATION OR A GRANTEE IS A PARTY; OR
 - (II) A GRANTEE IS REPRESENTING AN ELIGIBLE CLIENT IN LITIGATION IN WHICH THE INTERPRETATION OF THIS TITLE OR A GUIDELINE ESTABLISHED BY THE CORPORATION UNDER THIS TITLE IS AN ISSUE;
- (2) INTERFERE WITH A LAWYER'S PROFESSIONAL RESPONSIBILITIES TO CLIENTS UNDER THE MARYLAND RULES OF PROFESSIONAL CONDUCT;
- (3) COMPETE DIRECTLY OR INDIRECTLY WITH ANY GRANTEE;
- (4) CONTRIBUTE OR MAKE AVAILABLE THE CORPORATION'S FUNDS OR SERVICES TO A POLITICAL PARTY OR ASSOCIATION OR THE CAMPAIGN OF A CANDIDATE FOR PUBLIC OR PARTY OFFICE;
- (5) EXCEPT AS PROVIDED IN §§ 501(H) AND 4911 OF THE INTERNAL REVENUE CODE:
 - (I) CARRY ON PROPAGANDA OR OTHERWISE ATTEMPT TO INFLUENCE LEGISLATION; AND
 - (II) PARTICIPATE OR INTERVENE IN A POLITICAL CAMPAIGN ON BEHALF OF A CANDIDATE FOR PUBLIC OFFICE, INCLUDING PUBLISHING OR DISTRIBUTING STATEMENTS;
- (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, CONDUCT OR CARRY ON ACTIVITIES NOT AUTHORIZED FOR AN ORGANIZATION:

(I) QUALIFIED UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

(II) TO WHICH CONTRIBUTIONS ARE DEDUCTIBLE UNDER § 170(C)(2) OF THE INTERNAL REVENUE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45H(b), (d), and (e).

In item (2) of this section, the reference to a "lawyer's" professional responsibilities is substituted for the former reference to an "attorney's" to conform with other revised articles of the Code. *See, e.g.*, BOP Title 10.

Also in item (2) of this section, the reference to the "Maryland Rules" of Professional Conduct is substituted for the former reference to the "Code" of Professional Conduct for accuracy.

Also in item (2) of this section, the former phrase "[u]nder any provision of this subtitle" is deleted as surplusage.

In item (3) of this section, the former reference to any grantee "named in § 45C(e) of this subtitle" is deleted for accuracy and to reflect the inclusion of all grantees.

In the introductory language of item (5) of this section, the former word "permitted" is deleted as included in the word "provided".

Defined terms: "Corporation" § 11-101

"Eligible client" § 11-101

"Grantee" § 11-101

"Internal Revenue Code" § 11-101

SUBTITLE 8. SHORT TITLE.

11-801. SHORT TITLE.

THIS TITLE MAY BE CITED AS THE "MARYLAND LEGAL SERVICES CORPORATION ACT".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 45A.

GENERAL REVISOR'S NOTE TO ARTICLE

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Human Services Article Review Committee conformed the language and organization of this article to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Human Services Article Review Committee that this bulk revision of the substantive human services

law of the State render no substantive change. The guiding principle of the preparation of this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

[T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted)

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this article in no way is intended to make any change to the substantive law of Maryland.

Throughout this article, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

Also throughout this article, for consistency and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted. The procedures to be followed in adopting regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

Also throughout this article, for consistency, the word "law" is substituted for former phrases such as "law or regulation" because the broad reference to a "law" includes a "regulation" adopted under the authority of a law. *See, e.g., Maryland Port Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

Also throughout this article, for accuracy, references to "compensation" are substituted for former references to "salary" when referring to remuneration that is provided to an individual in the State budget. The term "compensation" is substituted for the term "salary" to include nonsalary benefits that are provided in the State budget (*e.g.*, retirement and health care benefits). These substitutions do not make substantive changes in law because references to "compensation" in these contexts are always restricted by the phrase "as provided in the State budget".

Also throughout this article, for clarity and consistency, references to "the public" or "members of the public" are substituted for former references such as "the citizens of this State" and "the citizens of Maryland" because the meaning of the word "citizen" in this context is unclear.

Also throughout this article, for consistency, the term "municipal corporation" is substituted for former references such as "municipality", "incorporated city", "incorporated town", and "incorporated municipality" to conform to Art. XI-E of the Maryland Constitution.

In some provisions in this article, as in other revised articles, the term “unit” is substituted for former references to State entities such as an “agency”, “department”, “division”, “office”, “commission”, “board”, “committee”, and “council”. In revised articles of the Code, the term “unit” is used as the general term for an organization in the State government because it is broad enough to include all such entities.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

In some “Membership” provisions in this article, there is a subsection captioned “Tenure; vacancies”. A standard paragraph included in those subsections provides that a “member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies”. This paragraph applies: (1) when a successor is appointed to replace a member who has died, resigned, or failed for any other reason to complete a term; (2) when a member is appointed to succeed a member who has “held over” into the next term, pending the delayed appointment and qualification of the successor; or (3) when, in any other situation, a member takes office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay in the appointment of a successor but the member who served the prior term does not “hold over”.

The Human Services Article Review Committee considered two provisions contained in the human services laws to be more suitable for revision in other articles.

Former Art. 88A, § 13B, which provided that each reference to a local department of social services, as applied to Montgomery County, meant the Montgomery County government, is revised in Art. 1, § 34 of the Code.

Former Art. 70B, § 4(c), which provided for State employment of individuals 70 years old or older, is revised in § 6–306 of the State Personnel and Pensions Article. Some apparently obsolete provisions allocated to the Human Services Article are transferred to the Session Laws for historical purposes or to avoid any inadvertent substantive effect their repeal might have.

In some instances, the staff of the Department of Legislative Services may create “Special Revisor’s Notes” to reflect the substantive effect of legislation enacted during the 2007 Session on some provisions of this article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 1 – Rules of Interpretation

25.

(a) Unnumbered revised articles of the Annotated Code of Maryland may be cited as stated in this section.

(b) A section of the Agriculture Article may be cited as: “§ ___ of the Agriculture Article”.

(c) A section of the Business Occupations and Professions Article may be cited as: “§ ___ of the Business Occupations and Professions Article”.

(d) A section of the Business Regulation Article may be cited as: “§ ___ of the Business Regulation Article”.

(e) A section of the Commercial Law Article may be cited as: “§ ___ of the Commercial Law Article”.

(f) A section of the Corporations and Associations Article may be cited as: “§ ___ of the Corporations and Associations Article”.

(g) A section of the Correctional Services Article may be cited as: “§ ___ of the Correctional Services Article”.

(h) A section of the Courts and Judicial Proceedings Article may be cited as: “§ ___ of the Courts Article”.

(i) A section of the Criminal Law Article may be cited as: “§ ___ of the Criminal Law Article”.

(j) A section of the Criminal Procedure Article may be cited as: “§ ___ of the Criminal Procedure Article”.

(k) A section of the Education Article may be cited as: “§ ___ of the Education Article”.

(l) A section of the Election Law Article may be cited as: “§ ___ of the Election Law Article”.

(m) A section of the Environment Article may be cited as: “§ ___ of the Environment Article”.

(n) A section of the Estates and Trusts Article may be cited as: “§ ___ of the Estates and Trusts Article”.

(o) A section of the Family Law Article may be cited as: “§ ___ of the Family Law Article”.

(p) A section of the Financial Institutions Article may be cited as: “§ ___ of the Financial Institutions Article”.

(q) A section of the Health – General Article may be cited as: “§ ___ of the Health – General Article”.

(r) A section of the Health Occupations Article may be cited as: “§ ___ of the Health Occupations Article”.

(s) A section of the Housing and Community Development Article may be cited as: “§ ___ of the Housing and Community Development Article”.

(T) A SECTION OF THE HUMAN SERVICES ARTICLE MAY BE CITED AS “§ ___ OF THE HUMAN SERVICES ARTICLE”.

[(t)] (U) A section of the Insurance Article may be cited as: “§ ___ of the Insurance Article”.

[(u)] (V) A section of the Labor and Employment Article may be cited as: “§ ___ of the Labor and Employment Article”.

[(v)] (W) A section of the Natural Resources Article may be cited as: “§ ___ of the Natural Resources Article”.

[(w)] (X) A section of the Public Safety Article may be cited as: “§ ___ of the Public Safety Article”.

[(x)] (Y) A section of the Public Utility Companies Article may be cited as: “§ ___ of the Public Utility Companies Article”.

[(y)] (Z) A section of the Real Property Article may be cited as: “§ ___ of the Real Property Article”.

[(z)] (AA) A section of the State Finance and Procurement Article may be cited as: “§ ___ of the State Finance and Procurement Article”.

[(aa)] (BB) A section of the State Government Article may be cited as: “§ ___ of the State Government Article”.

[(bb)] (CC) A section of the State Personnel and Pensions Article may be cited as: “§ ___ of the State Personnel and Pensions Article”.

[(cc)] (DD) A section of the Tax – General Article may be cited as: “§ ___ of the Tax – General Article”.

[(dd)] (EE) A section of the Tax – Property Article may be cited as: “§ ___ of the Tax – Property Article”.

[(ee)] (FF) A section of the Transportation Article may be cited as: “§ ___ of the Transportation Article”.

34.

IN THIS CODE, UNLESS THE CONTEXT REQUIRES OTHERWISE, EACH REFERENCE TO A LOCAL DEPARTMENT OF SOCIAL SERVICES INCLUDES THE MONTGOMERY COUNTY GOVERNMENT.

REVISOR'S NOTE: Chapter 3, Acts of 2007, which enacted the Human Services Article, also enacted this section, which is new language derived without substantive change from former Art. 88A, § 13B.

Article – State Personnel and Pensions

6–306. ELIGIBILITY OF INDIVIDUALS 70 OR OLDER FOR STATE EMPLOYMENT.

(A) IN GENERAL.

ANY INDIVIDUAL 70 YEARS OLD OR OLDER IS ELIGIBLE FOR APPOINTMENT TO ANY NONTEMPORARY POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM

FOR WHICH THE INDIVIDUAL QUALIFIES, AND THE APPOINTMENT IS SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) PENSION SYSTEM.

ANY INDIVIDUAL WHO IS FIRST APPOINTED TO A NONTEMPORARY POSITION GOVERNED BY THE STATE PERSONNEL MANAGEMENT SYSTEM AT THE AGE OF 70 OR OLDER IS NOT ELIGIBLE FOR MEMBERSHIP IN THE PENSION SYSTEMS OF THE STATE.

REVISOR'S NOTE: Chapter 3, Acts of 2007, which enacted the Human Services Article, also enacted this section, which is new language derived without substantive change from former Art. 70B, § 4(c).

Chapter 9 of the Acts of 2006

[SECTION 4. AND BE IT FURTHER ENACTED, That, to the extent practicable, in making appointments under this Act, the Governor, the President of the Senate, and the Speaker of the House shall ensure geographic diversity among the membership of the Maryland Commission for Women.]

SECTION **[5]** 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2005.

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 3A(c)(3) of Article 88A – Department of Human Resources of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

TRAINING AND COMPETENCY TESTING PROGRAM FOR CASEWORKERS

[3A.] 1.

[(c)]

The Secretary OF HUMAN RESOURCES**[:**

(3) **Shall]** SHALL develop and implement a mandatory in-service training program and competency testing program for caseworkers employed on or before December 31, 1998, through which caseworkers:

[(i)] (1) Complete the required training program; and

[(ii)] (2) Pass a competency test before December 31, 1999, in order to continue their employment; and

REVISOR'S NOTE: This section formerly was Art. 88A, § 3A(c)(3).

Former Art. 88A, § 3A(c)(3) is obsolete because all caseworkers passed the test, resigned, or were reassigned to a noncaseload status. This provision is decodified and retained in the Session Laws, however, for historical purposes.

The only changes are in style.

SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 4A of Article 88A – Department of Human Resources of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

LOCAL GOVERNMENT CONTRIBUTIONS TO COSTS OF SOCIAL SERVICES AND PUBLIC ASSISTANCE PROGRAMS

[4A.] 1.

Any requirement for a local government contribution to the costs of social services or public assistance programs, formerly governed by former Article 88A, § 18A, was intended to be repealed and terminated when Article 88A, § 18A was repealed by Chapter 103 of the Acts of the General Assembly of 1978. Any provision of the Code inconsistent with that intent to eliminate requirements for local government contributions to the costs of social services or public assistance programs is hereby repealed, and any local contribution which may have been required pursuant to such a provision is hereby waived and terminated and of no further force and effect.

REVISOR'S NOTE: This section formerly was Art. 88A, § 4A.

Former Art. 88A, § 4A is not retained in the Code because it is apparently obsolete. However, it is transferred to the Session Laws to avoid any inadvertent effect that its repeal might have.

No changes are made.

SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

9–216.

(B) THE DEPARTMENT SHALL:

(1) DEVELOP PROGRAMS FOR PREDELINQUENT CHILDREN WHOSE BEHAVIOR TENDS TO LEAD TO CONTACT WITH LAW ENFORCEMENT AGENCIES;

(2) PROMOTE PREDELINQUENT PROGRAMS, INCLUDING GREATER UTILIZATION OF YOUTH SERVICES BUREAUS UNDER § 9–234 OF THIS SUBTITLE, THAT PROVIDE SERVICES TO DIVERT CHILDREN FROM THE JUVENILE JUSTICE SYSTEM;

(3) COLLABORATE WITH LOCAL GOVERNMENTS TO ENCOURAGE THE USE OF PREDELINQUENT PROGRAMS PROVIDED BY YOUTH SERVICES BUREAUS UNDER § 9–234 OF THIS SUBTITLE IN RESPONSE TO IDENTIFIED COMMUNITY NEEDS; AND

(4) PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS AND YOUTH SERVICES BUREAUS UNDER § 9–234 OF THIS SUBTITLE TO IDENTIFY ALTERNATIVE FUNDING SOURCES FOR PREDELINQUENT PROGRAMS.

SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Human Services

1-202.

(A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 5, SUBTITLES 7 AND 12 OF THE FAMILY LAW ARTICLE, § 1-203 OF THIS SUBTITLE, AND THIS SECTION, A PERSON MAY NOT DISCLOSE A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT.

(B) A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT SHALL BE DISCLOSED:

(1) UNDER A COURT ORDER; OR

(2) UNDER AN ORDER OF AN ADMINISTRATIVE LAW JUDGE, IF:

(I) THE REQUEST FOR DISCLOSURE CONCERNS A CASE PENDING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

(II) PROVISIONS ARE MADE TO COMPLY WITH OTHER STATE OR FEDERAL CONFIDENTIALITY LAWS AND TO PROTECT THE IDENTITY OF THE REPORTER OR OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY THE DISCLOSURE.

(C) A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT:

(1) MAY BE DISCLOSED ON REQUEST TO:

(I) PERSONNEL OF THE SOCIAL SERVICES ADMINISTRATION OR A LOCAL DEPARTMENT OF SOCIAL SERVICES, LAW ENFORCEMENT PERSONNEL, AND MEMBERS OF MULTIDISCIPLINARY CASE CONSULTATION TEAMS, INCLUDING AN ADDICTION SPECIALIST AS DEFINED IN TITLE 5, SUBTITLE 12 OF THE FAMILY LAW ARTICLE OR § 5-314 OF THIS ARTICLE, WHO ARE INVESTIGATING A REPORT OF KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT OR PROVIDING SERVICES TO OR ASSESSING A CHILD OR FAMILY THAT IS THE SUBJECT OF THE REPORT;

(II) LOCAL OR STATE OFFICIALS RESPONSIBLE FOR THE ADMINISTRATION OF CHILD PROTECTIVE SERVICES, OR CHILD CARE, FOSTER CARE, OR ADOPTION LICENSING, APPROVAL, OR REGULATIONS, AS NECESSARY TO CARRY OUT THEIR OFFICIAL FUNCTIONS;

(III) THE STATE COUNCIL ON CHILD ABUSE AND NEGLECT OR ITS DESIGNEE, THE STATE CITIZENS REVIEW BOARD FOR CHILDREN OR ITS DESIGNEE, OR A CHILD FATALITY REVIEW TEAM, AS NECESSARY TO CARRY OUT THEIR OFFICIAL FUNCTIONS;

(IV) A PERSON WHO IS THE ALLEGED ABUSER OR NEGLECTOR, IF THAT PERSON IS RESPONSIBLE FOR THE CHILD'S WELFARE AND PROVISIONS ARE MADE FOR THE PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE INFORMATION;

(V) A LICENSED PRACTITIONER WHO, OR AN AGENCY, INSTITUTION, OR PROGRAM THAT, IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT FOR A PURPOSE RELEVANT TO THE TREATMENT OR CARE;

(VI) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR TEMPORARY CARE AND CUSTODY OF THE CHILD, IF PROVISIONS ARE MADE FOR THE PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE INFORMATION;

(VII) THE APPROPRIATE PUBLIC SCHOOL SUPERINTENDENT TO CARRY OUT APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTIONS FOLLOWING A REPORT OF SUSPECTED CHILD ABUSE INVOLVING A STUDENT COMMITTED BY:

1. A PUBLIC SCHOOL EMPLOYEE IN THAT SCHOOL SYSTEM;
2. AN INDEPENDENT CONTRACTOR WHO SUPERVISES OR WORKS DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM; OR
3. AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR, INCLUDING A BUS DRIVER OR BUS ASSISTANT, WHO SUPERVISES OR WORKS DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM;

(VIII) THE DIRECTOR OF A LICENSED CHILD CARE FACILITY OR LICENSED CHILD PLACEMENT AGENCY TO CARRY OUT APPROPRIATE PERSONNEL ACTIONS FOLLOWING A REPORT OF SUSPECTED CHILD ABUSE OR NEGLECT ALLEGED TO HAVE BEEN COMMITTED BY AN EMPLOYEE OF THE FACILITY OR AGENCY AND INVOLVING A CHILD WHO IS CURRENTLY OR WAS PREVIOUSLY UNDER THE CARE OF THAT FACILITY OR AGENCY;

(IX) THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE; OR

(X) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A LICENSED PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER TO MAKE DISCHARGE DECISIONS CONCERNING A CHILD, WHEN THE PRACTITIONER SUSPECTS THAT THE CHILD MAY BE IN DANGER AFTER DISCHARGE BASED ON THE PRACTITIONER'S OBSERVATION OF THE BEHAVIOR OF THE CHILD'S PARENTS OR IMMEDIATE FAMILY MEMBERS; AND

(2) MAY BE DISCLOSED BY THE STATE DEPARTMENT OF EDUCATION TO THE OPERATOR OF A CHILD CARE CENTER THAT IS REQUIRED TO BE LICENSED OR TO HOLD A LETTER OF COMPLIANCE UNDER TITLE 5, SUBTITLE 5, PART VII OF THE FAMILY LAW ARTICLE OR TO A FAMILY DAY CARE PROVIDER WHO IS REQUIRED TO BE REGISTERED UNDER TITLE 5, SUBTITLE 5, PART V OF THE FAMILY LAW ARTICLE, TO DETERMINE THE SUITABILITY OF AN INDIVIDUAL FOR EMPLOYMENT IN THE CHILD CARE CENTER OR FAMILY DAY CARE HOME.

(D) ONLY THE FOLLOWING INFORMATION CONCERNING CHILD ABUSE AND NEGLECT MAY BE DISCLOSED TO A PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER UNDER SUBSECTION (C)(1)(X) OF THIS SECTION:

(1) WHETHER THERE IS A PRIOR FINDING OF INDICATED CHILD ABUSE OR NEGLECT BY EITHER PARENT; AND

(2) WHETHER THERE IS AN OPEN INVESTIGATION OF CHILD ABUSE OR NEGLECT PENDING AGAINST EITHER PARENT.

(E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

9-219.

(A) (1) IN THIS SECTION, "CONFIDENTIAL RESEARCH RECORD" MEANS A RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT:

(I) IS ASSEMBLED OR OBTAINED FOR RESEARCH OR STUDY BY THE DEPARTMENT OR THE SECRETARY; AND

(II) NAMES OR OTHERWISE IDENTIFIES A PERSON.

(2) "CONFIDENTIAL RESEARCH RECORD" INCLUDES A RECORD THAT WAS TRANSFERRED TO THE CUSTODY OF THE DEPARTMENT BY A PREDECESSOR AGENCY.

(B) EACH CONFIDENTIAL RESEARCH RECORD SHALL REMAIN IN THE CUSTODY AND CONTROL OF THE DEPARTMENT.

(C) A CONFIDENTIAL RESEARCH RECORD MAY BE USED ONLY FOR THE RESEARCH AND STUDY FOR WHICH IT WAS ASSEMBLED OR OBTAINED.

(D) A PERSON MAY NOT DISCLOSE A CONFIDENTIAL RESEARCH RECORD TO ANY PERSON WHO IS NOT ENGAGED IN THE RESEARCH OR STUDY FOR WHICH IT WAS ASSEMBLED OR OBTAINED.

(E) THIS SECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY PERSON WHO IS THE SUBJECT OF A CONFIDENTIAL RECORD.

SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Human Services

5-310.

(A) (1) FOR APPLICANTS TO THE FIP, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING 20% OF THAT EARNED INCOME.

(2) FOR ELIGIBLE RECIPIENTS WHO OBTAIN UNSUBSIDIZED EMPLOYMENT, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING 35% OF THAT EARNED INCOME.

SECTION 9. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 10. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 12. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 13. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 14. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration

of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 15. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 16. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2007 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 17. AND BE IT FURTHER ENACTED, That Section 6 of this Act shall take effect on the taking effect of the termination provision specified in Section 3 of Chapter 691 of the Acts of the General Assembly of 2001, as amended by Chapter 164 of the Acts of the General Assembly of 2003. If that termination provision takes effect, Sections 9-216(b) and 9-246 of the Human Services Article, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 18. AND BE IT FURTHER ENACTED, That Section 7 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapter 10 of the Acts of the General Assembly of 2006. If that termination provision takes effect, Sections 1-202 and 9-219 of the Human Services Article, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 19. AND BE IT FURTHER ENACTED, That Section 8 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapter 229 of the Acts of the General Assembly of 2002. If that termination provision takes effect, Section 5-310(a) of the Human Services Article, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 20. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 17, 18, and 19 of this Act, this Act shall take effect October 1, 2007.

Approved by the Governor March 22, 2007.