Article - Courts and Judicial Proceedings

§1–101.

(a) In this title the following words or terms have the meanings indicated.

(b) "Circuit court" means the circuit court for a county.

(c) "Court" means the Court of Appeals, Court of Special Appeals, circuit court, and District Court of Maryland, or any of them, unless the context clearly requires a contrary meaning. It does not include an orphans' court, or the Maryland Tax Court.

(d) "Judge" means a judge of a court.

§1–102.

Any official letterhead stationery of the judicial department of State government shall include the telephone number of the individual public office which uses that stationery.

§1–201.

(a) The power of the Court of Appeals to make rules and regulations to govern the practice and procedure and judicial administration in that court and in the other courts of the State shall be liberally construed. Without intending to limit the comprehensive application of the term "practice and procedure," the term includes the forms of process; writs; pleadings; motions; parties; depositions; discovery; trials; judgments; new trials; provisional and final remedies; appeals; unification of practice and procedure in actions at law and suits in equity, so as to secure one form of civil action and procedure for both; and regulation of the form and method of taking and the admissibility of evidence in all cases, including criminal cases.

(b) Except for the District Court, other courts may by rule regulate terms of court for purposes other than the return of process and may make other rules of practice and procedure subject to and not inconsistent with any rule of the Court of Appeals. However, except for a rule regulating terms of court, every rule shall be adopted pursuant to the limitations and procedures prescribed by the Maryland Rules, unless authority to adopt rules is expressly granted by public general law.

§1–202.

(a) A court may exercise the power to punish for contempt of court or to compel compliance with its commands in the manner prescribed by Title 15, Chapter 200 of the Maryland Rules.

(b) A person who has been adjudicated guilty of contempt for failure to pay a monetary amount specified in a decree or order passed in a civil proceeding is not barred by reason of the adjudication of contempt from filing a petition for modification of the decree or order, requesting any other relief, or proceeding to hearing on a petition,

even though the contempt has not been purged or removed. A petition filed prior to actual adjudication of contempt may be consolidated in the discretion of the court and heard with a citation for contempt, if the petition is at issue and ready for disposition in accordance with the practice in the court in which the matter is pending.

§1–203.

(a) Except as provided in subsection (b) of this section, no judge may during his term of office practice law, maintain an office for the practice of law, or have any interest in an office for the practice of law, whether conducted in whole or in part by himself or by others. A judge may not allow his name to be used in connection with a law office, nor may he profit directly or indirectly from the practice of law.

(b) Prior to qualification for judicial office, a judge may agree with his former law firm, or his successor in practice, that the judge may receive over a reasonable period of time one or more payments representing the reasonable liquidated value of his interest in his former practice as of the date of the termination of practice. The agreement shall be in writing and a copy shall be filed with the secretary of the Maryland Judicial Conference. In determining reasonable liquidated value, the judge's interest in contingent fees with respect to matters then pending in his law office may be taken into account.

(c) While he is receiving payments under this section, a judge may not hear a case in which a partner or employee of his former firm or successor in interest is an attorney of record.

§1–204.

A judge of the Court of Appeals or the Court of Special Appeals, by reason of residence in Anne Arundel County during his term of office, does not abandon his legal residence in the appellate judicial circuit from which he was appointed or elected unless he registers to vote in any election in Anne Arundel County.

§1–205.

(a) (1) In this section the following words have the meanings indicated.

(2) "Court" means the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court of Maryland, and an orphans' court.

(3) "Personal information" means an individual's:

(i) Social Security number; or

(ii) Driver's license number.

(4) "Publicly post or display" means to intentionally make available to the public.

(b) Except as otherwise provided by law, on or after June 1, 2010, a court, to the extent practicable, may not publicly post or display on an Internet Web site maintained or paid for by the court an individual's personal information.

§1–301.

The Court of Appeals of Maryland, established by Article IV, §§ 1 and 14 of the Maryland Constitution, is the highest court of the State.

§1–302.

(a) In this section, "former judge" means a judge who previously served in a court.

(b) Except as provided in subsection (c) of this section, the Chief Judge of the Court of Appeals may assign any former judge to sit temporarily in any court if the temporary assignment is approved by the administrative judge of the circuit in which the former judge is to be assigned and if the former judge:

(1) Has served in the aggregate at least 2 years as a judge, except that:

(i) In Baltimore City and Charles, Prince George's, and Harford counties the former judge shall have served in the aggregate at least 3 years as a judge; and

(ii) In Talbot County, the former judge shall have served in the aggregate at least 1 year as a judge;

(2) Has been approved for assignment by a majority of the judges of the Court of Appeals;

(3) Meets the standards established by this section as well as any additional standards established by rule of the Court of Appeals; and

(4) Has consented to the assignment.

(c) A former judge may not be recalled for temporary assignment if the judge:

(1) Was removed or involuntarily retired from judicial office pursuant to the Constitution or laws of this State;

(2) Voluntarily retired by reason of disability;

(3) Had the most recent service as a judge terminated by reason of defeat for election to judicial office or by rejection of confirmation by the Senate;

(4) Was censured by the Court of Appeals upon recommendation of the Commission on Judicial Disabilities; or

(5) Is engaged in the practice of law.

(d) A former judge recalled under this section may not be temporarily assigned for more than 180 working days in any calendar year. However, if the case which the former judge is hearing at the end of the 180–day period is not concluded, the time may be extended until that case is concluded.

(e) A former judge temporarily assigned under this section has all the power and authority of a judge of the court to which he is assigned.

(f) (1) Whether or not he is receiving a retirement allowance, a former judge temporarily assigned under this section shall receive a per diem compensation for each day he is actually engaged in the discharge of judicial duties based on the current annual salary of the court in which he served immediately prior to his resignation or retirement. The per diem shall be computed on the basis of 246 working days a year. If the sum of the per diem payments received by a former judge in any one calendar year, when added to the retirement allowance he is entitled to receive during that calendar year, equals the annual salary of a judge of the court in which the former judge served immediately prior to the termination of his active service, no further per diem is payable to the former judge in that calendar year.

(2) A deduction may not be withheld for health benefits or retirement purposes from the compensation paid to a former judge during temporary judicial service. The performance of temporary judicial service does not provide additional service for retirement credit purposes.

(3) In addition to the per diem compensation provided for in paragraph (1) of this subsection, he shall be reimbursed for reasonable expenses actually incurred by reason of the assignment, in accordance with State joint travel regulations.

(g) Preference for temporary assignment shall be given to retired judges from the circuit in which the temporary assignment is to take place.

§1–401.

The Court of Special Appeals is established. It is an intermediate court of appeal authorized by Article IV, §§ 1 and 14A of the Maryland Constitution.

§1–402.

(a) The Court of Special Appeals consists of 15 judges, one of whom shall be designated by the Governor as Chief Judge.

(b) Except as otherwise provided in this section, the judges of the Court of Special Appeals shall be selected, appointed, retained, removed from office, or retired as provided in Article IV of the Maryland Constitution with respect to judges of the Court of Appeals. One judge of the Court of Special Appeals shall be a resident respectively of each of the appellate judicial circuits defined in Article IV, § 14 of the

Maryland Constitution. When election to judicial office is required by the Constitution, each of these judges shall be elected by the qualified voters of his circuit of residence. The remaining judges of the Court of Special Appeals may be residents of any part of the State and, when election to judicial office is required by the Constitution, shall be elected by the qualified voters of the entire State. The term of a judge of the Court of Special Appeals begins on the date of his qualification for office.

§1–403.

(a) (1) Except as provided in paragraph (2) of this subsection, the Court of Special Appeals shall hold its sessions in the City of Annapolis at the time or times it prescribes by rule.

(2) As designated by the Chief Judge of the Court of Special Appeals, in conjunction with the deans of the University of Maryland School of Law and the University of Baltimore School of Law, the Court of Special Appeals may hold sessions at the University of Maryland at Baltimore and the University of Baltimore.

(3) Its sessions shall continue not less than ten months in each year, if the business before it so requires.

(b) A case before the Court of Special Appeals shall be heard by a panel of not less than three judges. The panels shall be constituted, sit at the times, and hear the cases as directed by the Chief Judge from time to time. A quorum of a panel consists of one less than the number of judges designated to sit on the panel. The concurrence of a majority of a panel is necessary for the decision of a case.

(c) A hearing or rehearing before the court in banc may be ordered in any case by a majority of the incumbent judges of the court. Six judges of the court constitute a quorum of the court in banc. The concurrence of a majority of the incumbent judges of the entire court is necessary for decision of a case heard or reheard by the court in banc.

§1–501.

The circuit courts are the highest common-law and equity courts of record exercising original jurisdiction within the State. Each has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.

§1–502.

Notwithstanding § 4-301(b)(1) or § 4-302 of this article, a circuit court has exclusive, original jurisdiction over a misdemeanor under Title 8, Subtitle 5 of this article.

§1–503.

(a) In each county in the first seven judicial circuits there shall be the number of resident judges of the circuit court set forth below, including the judge or judges provided for by the Constitution:

(1) Allegany 2

(2) Anne Arundel 12

(3) Baltimore County 18

(4) Calvert 3

(5) Caroline 1

(6) Carroll 4

(7) Cecil 4

(8) Charles 4

(9) Dorchester 1

(10) Frederick 5

(11) Garrett 1

(12) Harford 5

(13) Howard 5

(14) Kent 1

(15) Montgomery 22

(16) Prince George's 23

(17) Queen Anne's 1

(18) St. Mary's 3

(19) Somerset 1

(20) Talbot 1

(21) Washington 5

(22) Wicomico 4

(23) Worcester 3

(b) In Baltimore City there shall be 33 resident judges of the Circuit Court for Baltimore City.

§1–504.

(a) The Chief Judge of the Court of Appeals shall certify to the Governor for inclusion without revision in each State budget an appropriation not to exceed $500,000 to pay rent directly to counties for space occupied in county facilities by clerks of the circuit courts, as provided in this section.

(b) To the extent provided in the State budget the rent shall be calculated per net usable square foot, with no additional reimbursement of maintenance and utility cost.

(c) Unless the Administrative Office of the Courts and a county agree otherwise, the county may not decrease the net usable square footage allocated to the clerk of the circuit court for the county below the net usable square footage allotted for fiscal year 2002.

§1–601.

The District Court of Maryland is established. It is the court of limited jurisdiction created by Article IV, §§ 1 and 41A through 41-I of the Maryland Constitution. It is a court of record and shall have a seal.

§1–602.

For the purposes of operation and administration of the District Court, the State is divided into the following districts:

(1) District 1 -- Baltimore City.

(2) District 2 -- Dorchester, Wicomico, Somerset, and Worcester counties.

(3) District 3 -- Caroline, Talbot, Queen Anne's, Kent, and Cecil counties.

(4) District 4 -- Charles, St. Mary's, and Calvert counties.

(5) District 5 -- Prince George's County.

(6) District 6 -- Montgomery County.

(7) District 7 -- Anne Arundel County.

(8) District 8 -- Baltimore County.

(9) District 9 -- Harford County.

(10) District 10 -- Howard and Carroll counties.

(11) District 11 -- Frederick and Washington counties.

(12) District 12 -- Allegany and Garrett counties.

§1–603.

(a) The court is composed of a Chief Judge and the number of associate judges provided for in subsection (b) of this section. If the Chief Judge is relieved of the Judge's duties as Chief Judge but not removed from office as a judge of the District Court, the Chief Judge shall serve for the remainder of the Judge's term of office as a District Court judge, as a resident judge of the Judge's district and county of residence, without reference to the maximum number of judges for that district prescribed in subsection (b) of this section.

(b) In each of the districts provided for in § 1–602 of this subtitle, there shall be the following number of associate judges of the District Court:

(1) District 1 — 28

(2) District 2 — 6, two to be appointed from Wicomico County and two to be appointed from Worcester County

(3) District 3 — 6, two to be appointed from Cecil County

(4) District 4 — 6, two to be appointed from Calvert County and three to be appointed from Charles County

(5) District 5 —16

(6) District 6 —12

(7) District 7 — 9

(8) District 8 — 13

(9) District 9 — 4

(10) District 10 — 7, two to be appointed from Carroll County and five to be appointed from Howard County

(11) District 11 — 5, three to be appointed from Frederick County and two to be appointed from Washington County

(12) District 12 — 3, two to be appointed from Allegany County

(c) In each district comprising more than one county, there shall be at least one District Court judge resident and holding court in each county in the district.

(d) To assure that the services of the District Court are readily and practicably available in all areas of District 8 and to assure that these services are provided to all citizens of District 8 with a minimum of inconvenience and a maximum of availability, there shall be a court facility physically located in each of the following areas of that district, and at least one judge shall sit regularly in each location:

(1) The Towson area;

(2) The Catonsville area; and

(3) The Essex area.

§1–603.1.

The District Courthouse, located at 8552 Second Avenue, Silver Spring, Montgomery County, Maryland, shall be renamed the Judge L. Leonard Ruben District Courthouse.

§1–605.

(a) The Chief Judge of the District Court is the chief administrative officer of the District Court and responsible for the maintenance, administration, and operation of the court in all its locations throughout the State.

(b) The Chief Judge of the District Court may make administrative regulations for the governing of the District Court, subject to and not inconsistent with the rules of the Court of Appeals.

(c) The Chief Judge of the District Court may assign a judge of the District Court to sit temporarily in a county other than the judge's county of residence.

(d) In addition to the powers and duties granted and imposed in subsections (a), (b), and (c) of this section, or elsewhere by law or rule, the Chief Judge of the District Court shall:

(1) Appoint a chief clerk of the District Court, a chief administrative clerk for each district, and other personnel of the District Court pursuant to Article IV, § 41F of the Maryland Constitution;

(2) Approve the appointments of commissioners of the District Court pursuant to Article IV, § 41G of the Maryland Constitution;

(3) Establish uniform record–keeping procedures for the District Court;

(4) In conjunction with the Motor Vehicle Administrator, establish uniform procedures for reporting traffic cases in the District Court, including procedures for promptly notifying the Motor Vehicle Administration of each citation within the jurisdiction of the District Court that is issued to a minor licensed in the

State charging the minor with a moving violation as defined in § 11–136.1 of the Transportation Article;

(5) In conjunction with the State Comptroller, establish a system for the collection and remittance of costs, fines, penalties, and forfeitures collected by the District Court;

(6) Approve in writing the destruction of pleadings, papers, or files proposed for destruction pursuant to § 2–205 of this article;

(7) On the recommendation of the administrative judge of any district, approve in writing the invalidation and destruction of certain warrants for arrest, if the administrative judge certifies to the Chief Judge that:

(i) Each of the warrants is more than 3 years old;

(ii) The warrant was properly delivered to an authorized law enforcement agency for execution and service, which was not effected;

(iii) Each of the warrants was issued by a judicial officer of the District Court for:

1. The arrest of the defendant in order that the defendant might stand trial on a misdemeanor offense;

2. The failure of the defendant to appear for trial for a misdemeanor offense, as directed by the District Court;

3. The failure of the defendant to make a deferred payment of a fine or costs as ordered by the District Court for a misdemeanor offense; or

4. A violation of a probation order of the District Court entered in a misdemeanor offense; and

(iv) The administrative judge believes that the invalidation and destruction of the arrest warrant is consistent with the ends of justice;

(8) After consultation with police administrators and the Motor Vehicle Administrator, design arrest – citation forms that shall be used by all law enforcement agencies in the State when charging a person with a criminal, civil, or traffic offense, except for:

(i) Violations by juveniles listed in § 3–8A–33(a) of this article;

(ii) Violations of parking ordinances or regulations adopted under Title 26, Subtitle 3 of the Transportation Article; and

(iii) Other violations as expressly provided by law;

(9) Authorize the use of a single document for issuance of more than one, separately numbered, citation;

(10) Specify appropriate means, such as a signature on a citation, electronic signature, or data encoded in a driver's license or identity card issued by the Motor Vehicle Administration, to be used by:

(i) The police officer issuing a citation to execute it by certifying under penalties of perjury that the facts stated in the citation are true; and

(ii) The person to whom a citation is being issued to acknowledge its receipt;

(11) Authorize a citation to include a summons to appear; and

(12) Cause the District Court to print or otherwise make available uniform motor vehicle citation forms and any other uniform statewide citation forms for offenses triable in the District Court.

(e) Notwithstanding any provision of the Transportation Article, a police officer may dispense with the acknowledgment of a person receiving a citation that contains a summons as provided in subsection (d)(11) of this section and regulations adopted by the police officer's agency.

§1–606.

The State shall provide at a central location adequate and appropriate offices, furnishings, and office equipment for the Chief Judge, chief clerk, and their staffs.

§1–607.

The Chief Judge of the District Court, subject to the approval of the Chief Judge of the Court of Appeals, shall designate a District Court judge in each district as the administrative judge for that district. The administrative judge is responsible for the administration, operation, and maintenance of the District Court in that district and for the conduct of the District Court's business. Subject to the approval of the Chief Judge of the District Court, the District Court of any district may be divided into civil, criminal, traffic, or other functional divisions if the work of the District Court requires.

§1–608.

(a) The cost of maintenance, operation, and administration, and of providing necessary facilities, including capital costs, of the District Court shall be borne exclusively by the State, and, except as provided in Title 7 of this article, or otherwise expressly by law, all revenues derived from the operation and administration of the District Court shall enure to the general funds of the State.

(b) The costs listed in subsection (a) of this section shall be included and

itemized in the annual State budget or in the annual construction loan as submitted to the General Assembly by the Governor and subject to the power of the General Assembly with respect to budget appropriations.

§1–609.

(a) When and in the manner authorized by law, a District Court judge may issue:

(1) Warrants of arrest; and

(2) Warrants for search and seizure or for interception of communications.

(b) A District Court judge may issue:

(1) Writs of habeas corpus ad testificandum or ad prosequendum; and

(2) Writs of error coram nobis.

§1–701.

A judge's salary may not be diminished during his continuance in office.

§1–702.

(a) Subject to the provisions of § 1-701 of this subtitle, a judge shall have the salary provided in the State budget.

(b) The Chief Judge of the District Court, during the period he serves as Chief Judge, shall have a salary equivalent to the annual salary then payable to an associate judge of the Court of Special Appeals.

§1–703.

(a) Title 8, Subtitle 1 of the State Personnel and Pensions Article applies to judicial salaries, except for the provisions of § 8-108(c) of the State Personnel and Pensions Article.

(b) (1) Except as provided in paragraph (2) of this subsection, whenever a general salary increase is awarded to State employees, each judge shall receive the same percentage increase in salary as awarded to the lowest step of the highest salary grade for employees in the Standard Pay Plan.

(2) In any year that a judge's salary is increased in accordance with a resolution under § 1-708 of this subtitle, the judge may not receive a salary increase under paragraph (1) of this subsection.

§1–704.

Any increase in judicial salary shall be included in the portion of the budget bill relating to the executive department, and not the portion relating to the judiciary department. Any proposed increase in judicial salary is subject to legislative review and approval.

§1–705.

(a) In this subtitle, "supplementation" means any payment from a political subdivision to a judge or the surviving spouse of a judge, by way of salary, allowances, or pension. The word includes, but is not limited to, any payment in the form of salary, bonus, pension, spouse's benefit, or expense or travel allowance except: (1) reimbursable expenses actually incurred in connection with the duties of judicial office to the extent permitted by § 1-706; and (2) any pension supplementation expressly permitted by public general law. "Supplementation" excludes payment of benefits under a local group health or hospitalization plan if a judge is entitled to those benefits by law.

(b) Supplementation of a judge's salary is prohibited.

§1–706.

(a) A judge is entitled to mileage, at the rate for State employees, for officially authorized travel outside his county of residence on judicial business. He is also entitled to reimbursement for reasonable costs of meals, lodging, and other expenses actually incurred with the officially authorized travel in accordance with provisions of the State joint travel regulations provided that such reimbursement is approved by the judge authorizing the travel and provided for in the State budget.

(b) Reimbursable expenses actually incurred by a circuit court judge in connection with his duties, other than the expenses described in subsection (a) of this section, shall be paid by the political subdivision in which the circuit court judge resides, as provided in that subdivision's budget, and as first approved by the State Administrative Office of the Courts.

§1–707.

A judge of the District Court who has continued in office as a judge of that Court pursuant to the provisions of Article IV, § 41-I(a) of the Maryland Constitution, and who on July 4, 1971 was a participant in a group health or group hospitalization plan provided by a local subdivision, and who within six months from July 5, 1971, elected to remain a member of that plan, may continue as a member of the plan. In this event, the local subdivision shall continue to make on behalf of the judge any contributions to the plan required by its terms or by law. The State shall periodically reimburse the local subdivision for contributions made pursuant to this section.

§1–708.

(a) The salaries and pensions of the judges of the Court of Appeals, the Court of Special Appeals, the circuit courts of the counties, and the District Court shall be established as provided by this section, §§ 1–701 through 1–707 of this subtitle, and Title 27 of the State Personnel and Pensions Article.

(b) (1) There is a Judicial Compensation Commission. The Commission shall study and make recommendations with respect to all aspects of judicial compensation, to the end that the judicial compensation structure shall be adequate to assure that highly qualified persons will be attracted to the bench and will continue to serve there without unreasonable economic hardship.

(2) The Commission consists of seven members appointed by the Governor. No more than three members of the Commission may be individuals admitted to practice law in this State. In nominating and appointing members, special consideration shall be given to individuals who have knowledge of compensation practices and financial matters. The Governor shall appoint:

(i) Two members from a list of the names of at least five nominees submitted by the President of the Senate;

(ii) Two from a list of the names of at least five nominees submitted by the Speaker of the House of Delegates;

(iii) One from a list of the names of at least three nominees submitted by the Maryland State Bar Association, Inc.; and

(iv) Two at large.

(3) A member of the General Assembly, officer or employee of the State or a political subdivision of the State, or judge or former judge is not eligible for appointment to the Commission.

(4) The term of a member is 6 years, commencing July 1, 1980, and until the member's successor is appointed. However, of the members first appointed to the Commission, the Governor shall designate one of the members nominated by the President of the Senate to serve for 3 years and one for 6 years; one of the members nominated by the Speaker to serve for 4 years and one for 5 years; the member nominated by the Maryland State Bar Association, Inc., to serve for 3 years; and one of the members at large to serve for 2 years, and one for 6 years. A member is eligible for reappointment.

(5) Members of the Commission serve without compensation, but shall be reimbursed for reasonable expenses incurred in carrying out their responsibilities under this section.

(6) The members of the Commission shall elect a member as chairman of

the Commission.

(7) The concurrence of at least five members is required for any formal Commission action.

(8) The Commission may request and receive assistance and information from any unit of State government.

(c) On or after September 1, 2011, September 1, 2013, and every 4 years thereafter, the Commission shall review the salaries and pensions of the judges of the courts listed in subsection (a) of this section and make written recommendations to the Governor and General Assembly on or before the next ensuing regular session of the General Assembly. The Governor shall include in the budget for the next ensuing fiscal year the funding necessary to implement those recommendations, contingent on action by the General Assembly under subsections (d) and (e) of this section.

(d) (1) The salary recommendations made by the Commission shall be introduced as a joint resolution in each House of the General Assembly not later than the fifteenth day of the session. The General Assembly may amend the joint resolution to decrease any of the Commission salary recommendations, but no reduction may diminish the salary of a judge during his continuance in office. The General Assembly may not amend the joint resolution to increase the recommended salaries. If the General Assembly fails to adopt or amend the joint resolution within 50 days after its introduction, the salaries recommended by the Commission shall apply. If the joint resolution is adopted or amended in accordance with this section within 50 days after its introduction, the salaries so provided shall apply. If the General Assembly rejects any or all of the Commission's salary recommendations, the salaries of the judges affected remain unchanged, unless modified under other provisions of law.

(2) The Governor or the General Assembly may not increase the recommended salaries, except as provided under § 1–703(b) of this subtitle.

(e) The recommendation of the Commission as to pensions shall be introduced by the presiding officers of the Senate and the House of Delegates in the form of legislation, and shall become effective only if passed by both Houses.

(f) Any change in salaries or pensions adopted by the General Assembly under this section takes effect as of the July 1 of the year next following the year in which the Commission makes its recommendations.

(g) This section does not affect § 1–702(b), § 1–703(b), or §§ 1–705 through 1–707 of this subtitle, or Title 27 of the State Personnel and Pensions Article.

§2–101.

(a) In this title the following words have the meanings indicated unless the context clearly requires otherwise.

(b) "Appellate court" means the Court of Appeals or the Court of Special Appeals.

(c) "Court" means the court in which the officer serves, but if the officer serves in a district of the District Court it means the District Court for the county or district in which he serves.

(d) "Decree" includes a judgment or order of a court.

(e) "Judge" means the judge of a court in which the officer serves.

(f) "Penalty" includes a fine or forfeiture.

(g) "Writ" includes a warrant, process, or summons.

§2–102.

(a) If advisable in a specific proceeding, a court may appoint an auditor, surveyor, court reporter, assistant counsel for the State, counsel for a party if authorized by law or rule, accountant, master, examiner, or other officer, and may require his presence in court.

(b) A special officer shall receive the compensation provided by this subsection:

(1) Auditor -- Reasonable compensation as set by the court, but not less than $15 for stating an account.

(2) Assistant counsel for the State or counsel for a party -- The amount set by the court but in Baltimore City no appearance fees in a criminal case unless taxed against and paid by the accused as costs.

(3) Surveyor or assistant surveyor -- The fee charged by members of the Maryland Society of Surveyors in the county for similar services.

(4) Other officer -- Reasonable compensation as set by the court.

(c) A special officer's fee may be taxed as costs or paid by the county.

§2–103.

When an officer leaves office for any reason, any duty not fully performed, including the collection of fees, becomes the responsibility of his successor in office.

§2–104.

(a) Every auditor, clerk, sheriff, constable, commissioner, surveyor, or other officer before he assumes the duties of his office, shall take and sign the oath or affirmation prescribed by the Constitution.

(b) Except as provided in subsection (d) of this section, every deputy clerk or sheriff shall take and subscribe the following oath or affirmation: "I, A.B., do swear (or affirm) that I will not for lucre or malice delay any person applying to me for any business belonging to the office I officiate in, and that I will not directly or indirectly ask, take, exact, demand, or receive from or charge to any such person to my own use any fee or reward whatsoever for any services I may do as deputy of the said office, and that in making out the office fees I will not wittingly or willingly charge other or higher fees than are allowed by law."

(c) (1) In addition to the oath or affirmation required under subsection (b) of this section, in St. Mary's County, every deputy sheriff shall take and subscribe the following oath or affirmation: "I, A.B., do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Maryland; that I will serve honestly and faithfully to uphold and defend the Constitution of the United States and the Constitution of Maryland; that I will enforce the laws of St. Mary's County, and the State of Maryland; and that I will obey the orders of the Sheriff and of my superior officers according to the rules and regulations of the Sheriff's Office, St. Mary's County and the State of Maryland."

(2) In addition to the oath or affirmation required under subsection (b) of this section, in Charles County, every deputy sheriff shall take and subscribe the following oath or affirmation: "I, A.B., do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Maryland; that I will serve honestly and faithfully to uphold and defend the Constitution of the United States and the Constitution of Maryland; that I will enforce the laws of Charles County, and the State of Maryland; and that I will obey the orders of the Sheriff and of my superior officers according to the rules and regulations of the Sheriff's Office, Charles County and the State of Maryland."

(d) In Montgomery County and Washington County, every deputy clerk or deputy sheriff shall take and sign the oath or affirmation prescribed by Article I, § 9 of the Maryland Constitution.

(e) (1) Except as authorized by Article I, § 10 of the Maryland Constitution, every officer, except the clerk of the circuit court of a county or an appellate court, shall take the oath before the clerk of the circuit court.

(2) Except as provided in Article I, § 10 of the Maryland Constitution, the clerk of a circuit court shall take the oath before a judge of the court.

(3) The clerk of an appellate court shall take the oath before the Governor.

§2–105.

(a) Each of the following officers, before he assumes the duties of his office, shall be covered by a bond for the faithful performance of the duties of his office:

(1) Clerk of any court;

(2) Commissioner; or

(3) Sheriff.

(b) Each bond, except a sheriff's bond, shall be in a penalty prescribed by the Comptroller. The Comptroller may increase or decrease the amount of a bond at any time.

(c) The sheriff of a county shall give a bond in the penalty of $10,000, except that in Allegany, Charles, Frederick, Prince George's, and Washington counties and Baltimore City the penalty is $25,000.

(d) Every officer's bond except a blanket bond shall have a surety who is approved by a judge of the court. A blanket bond shall have a corporate surety approved by the Comptroller.

(e) The premiums for the bonds of District Court officers shall be paid by the State. The premiums on the bonds of any other officer shall be allowed as expenses of the office.

(f) An officer's bond shall remain in effect during his tenure in office.

§2–106.

(a) A person who is required to take an oath under § 2-104 of this subtitle or to file a bond under § 2-105 of this subtitle but who fails to qualify for office by taking and subscribing the required oath or affirmation or giving the required bond within 30 days from the date his commission is received by the clerk, or if no commission is sent to the clerk, within 30 days after receiving his commission or notice of appointment, is deemed to have refused the office, and the office shall be considered vacant, unless the time is extended by the court for good cause shown.

(b) A clerk of a circuit court for a county who fails to execute the required bond may not receive fees or compensation. A clerk who violates this subsection is subject to a penalty of $1,000.

§2–107.

(a) In a circuit court, an arrest warrant shall be issued on a form that:

(1) Is 8 1/2 by 11 inches in size;

(2) Contains the following information, if known, about the person for whom the warrant is issued:

(i) Full name;

(ii) Last address;

(iii) Race;

(iv) Sex;

(v) Height;

(vi) Weight;

(vii) Hair color;

(viii) Eye color;

(ix) Driver's license number;

(x) Social Security number;

(xi) Distinguishing body marks or scars; and

(xii) Any other pertinent identifying information; and

(3) Contains specific instructions to indicate the judge or court commissioner before whom the person is directed to appear once arrested.

(b) An arrest warrant issued under this section shall be clearly captioned:

(1) "Arrest warrant/State capias";

(2) "Arrest warrant/contempt";

(3) "Arrest warrant/contempt of court"; or

(4) "Arrest warrant/body attachment".

(c) After a judge issues an arrest warrant, the judge shall:

(1) Maintain a copy for the judge's file; and

(2) Provide a copy for:

(i) The clerk of the circuit court;

(ii) The sheriff or other law enforcement officer who will be serving the warrant; and

(iii) The person for whom the warrant is issued.

(d) Failure to use the form described in this section does not have any effect on an otherwise lawful arrest.

§2–201.

(a) The clerk of a court shall:

(1) Have custody of the books, records, and papers of his office;

(2) Make proper legible entries of all proceedings of the court and keep them in well-bound books or other permanent form;

(3) When requested in writing to do so, record any paper filed with his office and required by law to be recorded in the appropriate place, whether or not the title to land is involved;

(4) Unless prohibited by law or order of court, provide copies of records or papers in his custody to a person requesting a copy, under the seal of the court if required;

(5) Issue all writs which may legally be issued from the court;

(6) Deliver a full statement of the costs of a suit to a party requesting a copy;

(7) Receive all books, documents, public letters, and packages sent to him pursuant to law, and carefully dispose of them as the law requires;

(8) Administer an oath;

(9) Replace worn books and records with new ones;

(10) In conjunction with the Motor Vehicle Administrator, establish uniform procedures for reporting both traffic cases and criminal cases involving a motor vehicle in the circuit court to the Motor Vehicle Administration; and

(11) Perform any other duty required by law or rule.

(b) Unless otherwise provided by law, a clerk is not required to record any paper filed with him or to provide any person with a copy of a paper until the applicable charge has been paid.

§2–202.

(a) Subject to the approval of the Chief Judge of the Court of Appeals, a clerk may use appropriate equipment and systems to aid the clerk in the performance of his or her duties and may change the system of indexing records in his or her office to a more modern and efficient system.

(b) The cost of office expenses and necessary equipment used by a clerk to perform the clerk's duties shall be as provided in the budget.

§2–203.

Unless otherwise provided by law or order of court, any person may, without charge, inspect, examine, and make memoranda or notes from an index or paper filed with the clerk of a court.

§2–204.

The office of every clerk of court shall be open to the public for the transaction of business of the court from at least Monday through Friday of each week. Each clerk's office shall be open during the hours and on the additional days prescribed by the judge exercising the functions of administrative judge.

The office shall not be open on legal holidays unless otherwise prescribed by the judge.

§2–205.

(a) The clerk of a circuit court or the chief clerk of the District Court, under rules and regulations promulgated by the Court of Appeals, may authorize the destruction of pleadings, papers, and files in his custody which, because of their character, serve no useful purpose in being retained.

(b) Before any pleadings, papers, or files are destroyed, the proposed destruction shall be approved in writing by the judge exercising the functions of administrative judge in the county in the case of circuit court records or the Chief Judge of the District Court in the case of District Court records, and the records shall be disposed of in accordance with Title 10, Subtitle 6, Part III of the State Government Article.

§2–206.

(a) In cooperation with the clerks of the courts, the Attorney General may:

(1) Prepare basic instructional materials to assist the public in the procedure and preparation of forms for proceedings that involve child custody, visitation, and support; and

(2) Review the instructional materials on a regular basis and revise them as necessary.

(b) Notwithstanding any provision of the Maryland Rules or Title 10 of the Business Occupations and Professions Article, the clerks of the courts and designated employees of the clerks of the courts may provide the materials described in subsection (a) of this section to the public.

§2–207.

(a) For purposes of this section, "person in interest" has the meaning stated in

§ 4–101(e) of the General Provisions Article.

(b) The clerk of the circuit court of each county shall keep a book and record and index in the book the discharge papers of any person who:

(1) At any time has served in the armed forces of the United States; and

(2) Presents the discharge papers of the person for recording.

(c) A clerk may not charge a fee for recording or indexing discharge papers.

(d) The record kept by the clerk, or a certified copy of the record, is admissible in evidence in any court in the State.

(e) (1) A clerk shall deny inspection of the book, and the record and index in the book, described in this section except:

(i) To a party in a civil, administrative, or criminal proceeding in a federal or state court or government agency, or the party's attorney, who presents evidence satisfactory to the clerk that the inspection is related to admitting the record or a certified copy of the record in evidence in the proceeding;

(ii) To a person in interest;

(iii) In accordance with a subpoena or court order; or

(iv) For good cause shown, to a relative of the person who is the subject of the discharge papers, if the request for inspection is made at least 70 years after the discharge papers were presented for recording.

(2) A clerk may provide a certified copy of a record described in this section only:

(i) To a party in a civil, administrative, or criminal proceeding in a federal or state court or government agency, or the party's attorney, who presents evidence satisfactory to the clerk that the certified copy is for the purpose of admission in evidence in the proceeding;

(ii) To a person in interest;

(iii) In accordance with a subpoena or court order; or

(iv) For good cause shown, to a relative of the person who is the subject of the discharge papers, if the request for a certified copy is made at least 70 years after the discharge papers were presented for recording.

§2–208.

(a) This section applies to all licenses issued by the clerk of a circuit court other

than those issued under Title 17 of the Business Regulation Article.

(b) Before the first of May of each year, the clerk of a circuit court shall apply to the Comptroller for the number of blank licenses of each sort that will probably be required for use by the county during the year, or part of a year, ending the next April 30.

(c) A clerk who fails to apply for blank licenses in accordance with subsection (b) of this section shall pay a penalty of $1,000 for each failure.

§2–209.

(a) This section applies to all licenses issued by the clerk of a circuit court other than those issued under Title 17 of the Business Regulation Article.

(b) Before the clerk of a circuit court may issue a license or permit to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the clerk:

(1) A certificate of compliance with the Maryland Workers' Compensation Act; or

(2) The number of a workers' compensation insurance policy or binder.

§2–210.

(a) This section applies to all licenses issued by the clerk of a circuit court other than those issued under Title 17 of the Business Regulation Article.

(b) On or before the first Monday of June and December of each year, the clerk of a circuit court shall return to the Comptroller, under oath, an account of the licenses issued by the clerk, which states:

(1) The number of licenses issued of each grade and kind;

(2) The date each license was issued;

(3) The amount of money received for each license;

(4) The person to whom each license was issued; and

(5) The number, grade, and description of all blank licenses remaining.

(c) If a clerk fails to make an account to the Comptroller in accordance with subsection (a) of this section, the Comptroller shall:

(1) Charge the clerk with the entire cost of blank licenses delivered to the clerk at the rate fixed by law; and

(2) Immediately afterwards, direct a suit to be brought against the official bond of the clerk to recover the amount.

§2–211.

When the Governor issues a civil commission and the Secretary of State delivers the commission to the clerk of a circuit court, the clerk immediately shall deliver the commission to the person to whom the commission is directed and who applies for the commission.

§2–212.

(a) At least once a month, the clerk of a circuit court shall report to the Secretary of State the name and office of each officer who has taken, before the clerk, the oath required by the Constitution or another law.

(b) (1) The clerk of a circuit court may not administer the oath of office to any officer until the officer has paid the tax on the officer's commission that is required by law.

(2) On the first Monday of March, June, September, and December, the clerk shall pay to the Treasurer all money that the clerk has received for taxes on commissions.

(c) (1) On request of any person, the clerk of a circuit court shall give a certificate, under the seal of the clerk's office, of the qualification of any public officer:

(i) Who has taken the oath of office before the clerk; or

(ii) Whose oath of office is recorded in the clerk's office.

(2) The clerk shall charge $1 for issuing a certificate under seal of the qualifications of any public official, including justices of the peace and notaries public.

§2–213.

(a) Except as otherwise provided in this section, the clerk of a circuit court is entitled to 5% of all public money that the clerk receives, collects, and pays over.

(b) The Clerk of the Circuit Court for Anne Arundel County is entitled to receive:

(1) 3% of the amount collected for the tax applicable to instruments recorded with the Clerk under Title 12 of the Tax - Property Article; and

(2) 5% of all other public money that the Clerk receives, collects, and pays over.

(c) The Clerk of the Circuit Court for Baltimore City is entitled to receive:

(1) 2.5% of the amount collected from the tax applicable to instruments recorded with the Clerk under Title 12 of the Tax - Property Article; and

(2) 5% of all other public money that the Clerk receives, collects, and pays over.

(d) The Clerk of the Circuit Court for Baltimore County is entitled to receive:

(1) 3% of the amount collected from the tax applicable to instruments recorded with the Clerk under Title 12 of the Tax - Property Article; and

(2) 5% of all other public money that the Clerk receives, collects, and pays over.

(e) (1) Notwithstanding subsection (a) of this section, the Clerk of the Circuit Court for Charles County shall:

(i) Deduct from collection fees for the tax collected under Title 12 of the Tax - Property Article the cost of two-thirds of the salaries and benefits of the court reporters for the Circuit Court of Charles County; and

(ii) Pay the amount deducted to the Charles County Treasurer.

(2) The Clerk shall make the payment promptly after receipt of a voucher from the Charles County Treasurer stating the amount of the salaries and benefits paid to the court reporters.

(f) The Clerk of the Circuit Court for Harford County is entitled to:

(1) 3% of the amount collected from the tax applicable to instruments recorded with the Clerk under Title 12 of the Tax - Property Article; and

(2) 5% of all other public money that the Clerk receives, collects, and pays over.

(g) The Clerk of the Circuit Court for Montgomery County is entitled to 3% of all public money that the Clerk receives, collects, and pays over.

(h) Notwithstanding subsection (a) of this section, the Clerk of the Circuit Court for St. Mary's County is not entitled to a collection fee for collecting the county transfer tax under Chapter 138 of the Public Local Laws of St. Mary's County when the Clerk collects both the recordation tax under Title 12 of the Tax - Property Article and the county transfer tax for the filing of a single instrument.

(i) Notwithstanding subsection (a) of this section, the Clerk of the Circuit Court for Washington County is not entitled to a collection fee for collecting the county transfer tax under § 2-702 of the Public Local Laws of Washington County when the Clerk collects both the recordation tax under Title 12 of the Tax - Property Article and

the county transfer tax for the filing of a single instrument.

§2–301.

(a) Except as provided in § 2-302 of this subtitle, the sheriff shall serve all papers directed to him according to their instructions, within the time set by the court.

(b) (1) A sheriff may serve papers in a county other than the county of which he is sheriff; or

(2) The clerk may send a paper to the sheriff of another county for service by him. After serving the paper the sheriff shall file a return with the court from which it was issued.

§2–302.

(a) A writ of execution or attachment shall be directed to the sheriff of the county where the property is located.

(b) A sheriff may seize only property found within his county.

§2–303.

When a sheriff serves or attempts to serve a paper he shall file a return with the clerk of the court that issued the paper stating whether or not the paper was served, and other information required by rule or law.

§2–304.

(a) If a sheriff fails to file a return within the time set by the court or by rule, the court, on motion, shall order him to do so.

(b) If a sheriff fails to file a return on an original writ within the time set by the court, the court shall amerce the sheriff for the benefit of the plaintiff in the amount of the debt or damages and costs due from the defendant, ascertained from the oath of the plaintiff and other proof required by the court.

(c) If a sheriff fails to file a return on a writ mailed to him for service in his county, the court that issued the writ may cite him for contempt, and may fine the sheriff not more than $50.

(d) If a sheriff fails to file a return on a writ of execution or attachment within the time set by the court, the court may amerce the sheriff, for the benefit of the plaintiff, in the amount of the judgment stated in the writ.

§2–305.

(a) Any officer who neglects or refuses to bring a detained person into court when a writ of habeas corpus commands it shall forfeit $500 to the person detained.

(b) On motion of the State's Attorney the court may order judgment to be entered against the sheriff in the amount of the amercement, or in the amount of the penalty or judgment and costs entered against the person who failed to appear.

§2–306.

If a sheriff pays the plaintiff an amount ordered by the court as an amercement, he is entitled to the full benefit of the cause of action or judgment and may proceed against the defendant in any manner the plaintiff might have proceeded.

§2–307.

A sheriff shall keep an official record of the fees and charges he collects and those which remain to be collected. The official record shall remain in the sheriff's office after the expiration of a sheriff's term and may be audited by the county government.

§2–308.

(a) A sheriff shall collect the fees of a clerk, register, attorney, or other officer when requested to do so.

(b) A sheriff is answerable for all penalties imposed on an inhabitant of his county by a court of the State unless he shows that the person liable for the penalty is insolvent.

(c) A sheriff may request a writ of execution for an uncollected fee or penalty, however, no levy may be made under the writ until 60 days after the date it was issued. Before the 60 days elapse, the person against whom the writ was issued may post a recognizance to stay the execution. If a recognizance is forfeited, the sheriff shall deduct the costs incurred by a county and pay them to the clerk of the court for payment to the county.

(d) (1) After deducting costs, all fees or penalties collected by a sheriff shall be paid to the county where the offense occurred, or to the person or entity entitled to receive them.

(2) Costs shall be paid to the person entitled to receive them.

§2–309.

(a) The sheriff of a county and his deputies shall receive the annual salaries provided by this section for performing the duties required of them by the Constitution and the laws of this State. They shall be reimbursed for expenses as provided by law.

(a–1) The government of each county shall furnish an office for the sheriff and pay the necessary expenses for telephones, stationery and for other purposes, and unless otherwise provided by law, shall provide for the necessary traveling expenses of the sheriff for conveying prisoners to any penal institution in the State and other necessary

traveling expenses.

(b) (1) The Sheriff of Allegany County shall receive the salary set by the County Commissioners in accordance with Title 28, Subtitle 1 of the Local Government Article.

(2) The Sheriff shall appoint not less than five deputies at salaries of at least $2,400 each who are under the county classified service; one of these deputies shall be assigned by the Sheriff to execute process, orders, and directions for the juvenile court, and to perform the other duties the Sheriff assigns.

(3) If authorized by the County Commissioners, the Sheriff may employ a clerk–bookkeeper under the county classified service at a salary agreed upon by the Sheriff and the County Commissioners. The clerk–bookkeeper shall perform the duties assigned by the Sheriff, including the preparation of reports submitted by the Sheriff's Office to the grand jury or the County Commissioners.

(4) If the Sheriff of Allegany County approves after considering personnel needs, the County Commissioners may authorize a deputy sheriff to perform off–duty services for any person who agrees to pay a fee, including hourly rates for off–duty service, any necessary insurance to be determined by the Commissioners, any fringe benefits, and the reasonable rental cost of uniforms or other equipment used by any off–duty personnel.

(5) The Sheriff, with the approval of the County Commissioners, may appoint a chief deputy sheriff who shall perform all legal functions of the Sheriff during any temporary absence, sickness, vacation, or vacancy of Office of the Sheriff. The Sheriff may appoint as chief deputy a person who has not served as a deputy sheriff. The chief deputy sheriff shall serve at the Sheriff's pleasure, and is not under the county classified service.

(6) (i) This subsection does not apply to officers in the Sheriff's Office at a rank of lieutenant or above.

(ii) Deputies, officers, and civilian employees of the Sheriff's Office, including the Allegany County jail, have the right to organize and bargain collectively with the Sheriff concerning wages and benefits, hours, working conditions, discipline procedures, and job security issues through a labor organization selected by the majority of the deputies, officers, and civilian employees.

(iii) The Sheriff shall meet with the labor organization and engage in good faith negotiations to reach a written agreement on wages and benefits, hours, working conditions, discipline procedures, and job security issues.

(iv) If the labor organization and the Sheriff are unable to reach an agreement during the collective bargaining process, either the labor organization or the Sheriff may seek nonbinding mediation through the Federal Mediation and Conciliation Service by giving at least 15 days notice to the other party and to the

Federal Mediation and Conciliation Service.

(v) 1. If the Sheriff and the labor organization are unable to agree to the interpretation or application of a written agreement entered under this subsection, the Sheriff or the labor organization may demand arbitration before a neutral labor arbitrator in accordance with this paragraph.

2. An arbitration initiated under this paragraph shall be conducted before a single arbitrator.

3. The arbitrator shall be selected to hear the dispute from a panel of seven arbitrators who are members of the National Academy of Arbitrators. The panel shall be requested from the Federal Mediation and Conciliation Service.

4. The parties shall select an arbitrator by alternative strikes from the panel.

5. The arbitrator selected may schedule a hearing, issue subpoenas to compel the testimony of witnesses and the production of documents, administer oaths, and declare the record closed.

6. The written decision of the arbitrator shall be:

A. Final and binding on the Sheriff, employee, and the labor organization to the extent the decision addresses wages and benefits; and

B. Nonbinding to the extent the decision addresses hours, working conditions, discipline procedures, and job security issues.

7. The Sheriff and labor organization shall share equally in the costs of the arbitration proceeding.

(vi) This subsection may not be construed to authorize an employee of the Sheriff's Office or of the Allegany County jail to engage in a strike.

(c) (1) The annual salary of the Sheriff of Anne Arundel County shall be:

(i) $128,657 for calendar year 2014; and

(ii) $133,000 for calendar year 2015 and each subsequent calendar year.

(2) (i) The Sheriff of Anne Arundel County shall appoint deputies at a salary as provided by the County Council.

(ii) The Sheriff may appoint a chief deputy who shall serve at the pleasure of the Sheriff.

(3) Employees in the Sheriff's Office shall be in the county merit system.

(4) In case of emergency, the Sheriff may temporarily deputize any able–bodied citizen to assist the Sheriff in carrying out the duties of the Sheriff's Office.

(5) The Sheriff and the deputies whose duties require the use of automobiles shall be furnished at no expense with suitable automobiles and any necessary maintenance, repairs or upkeep by the County Council.

(6) (i) The Sheriff may appoint part–time deputies as provided in the county budget.

(ii) A part–time deputy appointed under this paragraph may not work more than 24 hours per week.

(iii) The Sheriff may set the rate of pay for a part–time deputy.

(iv) A part–time deputy appointed under this paragraph is not eligible for any benefits that are provided to county employees, including pension benefits, unless approved by the County Council.

(d) (1) (i) In Baltimore City, the Sheriff shall receive an expense allowance of $750 two times per year and a salary of:

1. $79,300 in calendar year 2007;

2. $84,600 in calendar year 2008;

3. $89,900 in calendar year 2009;

4. $95,200 in calendar year 2010; and

5. In calendar year 2011 and thereafter, no less than the salary of a Command Staff 2 in the Baltimore City Police Department at the midpoint in the pay scale.

(ii) The Sheriff:

1. Shall appoint an undersheriff or chief deputy sheriff, one assistant sheriff, three deputy sheriff majors, three deputy sheriff captains, six deputy sheriff lieutenants, one secretary sheriff, and one fiscal clerk sheriff; and

2. May appoint up to a maximum of:

A. 9 deputy sheriff sergeants;

B. 103 deputy sheriffs;

C. 2 domestic violence clerks; and

D. 2 domestic violence advocates.

(iii) 1. Except for deputy sheriffs, deputy sheriff sergeants, and deputy sheriff lieutenants, salaries for these employees shall be set by the Secretary of Budget and Management.

2. Salaries for deputy sheriffs shall be set at a rate not less than the salary equivalent to grade 14 of the State pay scale.

3. Salaries for deputy sheriff sergeants shall be set at a rate not less than the salary equivalent to grade 16 of the State pay scale.

4. Salaries for deputy sheriff lieutenants shall be set at a rate not less than the salary equivalent to grade 18 of the State pay scale.

(iv) In addition to any other compensation received, each deputy sheriff shall receive an expense allowance of $400 annually for:

1. Ammunition for practice sessions at the range;

2. Clothing allowance to defray the cost of dry cleaning and maintaining the clothing worn while on duty; and

3. The purchase and maintenance of other items necessary to fulfill duties that currently are not furnished by the Baltimore City Sheriff's Department.

(v) A deputy sheriff who uses a personal automobile is entitled to a monthly automobile allowance at the same rate paid to other State employees. Any Sheriff who is assigned a city–owned automobile may not receive the monthly automobile expense allowance.

(vi) The Sheriff's Office shall also have assistants at the compensation provided for in the annual ordinance of estimates of Baltimore City. Provisions shall also be made in the ordinance for the expenses of the Office of the Sheriff, including the purchase and maintenance of motor vehicles.

(vii) The Mayor and City Council of Baltimore have the same power with respect to the salaries of the Office of the Sheriff as they have under the city charter with respect to the salaries of all municipal departments.

(viii) Employees of the Sheriff's Office, except the Sheriff, shall be selected according to the provisions of the State Personnel and Pensions Article.

(2) The Mayor and City Council shall pay monthly to the Sheriff of Baltimore City one twelfth of the amount provided in the ordinance of estimates for the expenses of the Sheriff's Office. Within 30 days after June 30th in each and every year the Sheriff of Baltimore City shall pay to the Mayor and City Council

of Baltimore any of the unexpended expense funds advanced during the preceding year and render a detailed account to the Mayor and City Council of Baltimore of all expense funds received and expended by him. The Mayor and City Council of Baltimore shall reimburse the State of Maryland for the administrative costs incurred because the employees of the Sheriff's Office of Baltimore City are in the State Personnel Management System.

(3) During the course of his employment, any deputy sheriff of Baltimore City may ride in Baltimore City on public transportation of the Maryland Transit Administration without paying any fare if he shows proper identification regarding his position as a deputy sheriff.

(e) (1) The Sheriff of Baltimore County shall receive an annual salary of:

(i) $75,000 for calendar year 2007;

(ii) $80,000 for calendar year 2008;

(iii) $85,000 for calendar year 2009; and

(iv) $90,000 for calendar year 2010 and each subsequent calendar year.

(2) The Sheriff shall appoint an under–sheriff and any number of deputies and any clerical assistant required by the duties of the office. The Sheriff may also appoint a number of deputies to the ranks of chief deputy, captain, lieutenant, and sergeant as his duties and responsibilities require. The cost and expense of these supervisory, administrative, and clerical positions, including salaries, shall be as provided in the budget of the county by the County Executive and as approved by the County Council. All full–time employees under this subsection are subject to the provisions of the county merit system and the rules and regulations passed by the County Council pursuant to the charter, as to qualifications, compensation, and other regulations. Part–time deputies may not be employed by the Sheriff's Office. However, the Sheriff may appoint as part–time deputies persons employed in specific plants, institutions, colleges, and hospitals situated within Baltimore County who are limited to service only within the particular facility where they are employed, and who may not be compensated by Baltimore County for their services.

(3) (i) This paragraph applies to all full–time deputy sheriffs in the Baltimore County Sheriff's Office at the rank of lieutenant and below.

(ii) 1. Full–time deputy sheriffs at the rank of lieutenant and below may:

A. Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

B. Select a labor organization as their exclusive representation

unit;

C. Engage in collective bargaining with the Baltimore County Administration, or its designee, concerning wages and benefits, not regulated by the Sheriff, through a labor organization certified as their exclusive representation unit;

D. Subject to subsubparagraph 2 of this subparagraph, enter into a collective bargaining agreement, through their exclusive representation unit, covering those wages and benefits not regulated by the Sheriff; and

E. Decertify a labor organization as their exclusive representation unit.

2. Any additional funding required as a result of a negotiated collective bargaining agreement shall be subject to approval by the County Council.

(iii) 1. A labor organization shall be deemed certified as an exclusive representation unit if the following conditions are met:

A. A petition for the labor organization to be recognized by the Baltimore County Administration is signed by at least 51% of the deputy sheriffs at the rank of lieutenant and below indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining; and

B. The petition is submitted to the Baltimore County Administration.

2. If the Baltimore County Administration does not challenge the validity of the petition within 10 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representation unit.

3. If the Baltimore County Administration challenges the validity of the petition, the American Arbitration Association shall be requested to appoint a third–party neutral to conduct an election and to certify whether the labor organization has been selected as the exclusive representation unit by a majority of the votes cast in the election.

4. The costs associated with the American Arbitration Association and the third–party neutral shall be shared equally by the parties.

(iv) 1. Following certification of an exclusive representation unit as provided in subparagraph (iii) of this paragraph, the parties shall meet at reasonable times and engage in collective bargaining in good faith.

2. The parties shall make every reasonable effort to conclude negotiations in a timely manner to allow for inclusion by the Office of the Sheriff of matters agreed on in its budget request to the County Council.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. The agreement may contain a grievance procedure providing for nonbinding arbitration of grievances.

3. An agreement reached in accordance with this subparagraph shall be in writing and signed by the designated representatives of the parties involved in the collective bargaining negotiations.

4. A. Subject to subsubsubparagraph B of this subsubparagraph, an agreement is not effective until it is ratified by a majority of the votes cast by the deputy sheriffs in the bargaining unit and the Baltimore County Administration.

B. Additional funding, if any, required as a result of the agreement shall be subject to the approval of the County Council.

(vi) Nothing in this paragraph may be construed as authorizing or otherwise allowing a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article.

(f) (1) (i) The Sheriff of Calvert County shall receive an annual salary of $90,480.

(ii) 1. On or after January 1, 2011, the County Commissioners may pay to the Sheriff additional compensation equal to the amount of contributions the County Commissioners would have made to the Calvert County Employees' Savings Plan on behalf of the Sheriff for the years of service the Sheriff accrued as the Sheriff of Calvert County prior to joining the Calvert County Employees' Savings Plan.

2. The amount payable in subsubparagraph 1 of this subparagraph may be made in one or more payments as deemed appropriate by the County Commissioners.

(2) The Sheriff may appoint deputy sheriffs in the number and at the salary approved by the County Commissioners. The deputy sheriffs shall serve under the direction of the Sheriff. Within one year of their appointment, they shall complete the course prescribed for police officers by the Maryland Police Training Commission. The deputy sheriffs funded by the County Commissioners will become merit system employees of the Calvert County Sheriff's Office upon completion of their initial probation period and may not be dismissed without cause, except the deputy sheriffs funded through grants or other sources may be dismissed without cause when the funding source is depleted. There may be no honorary deputy sheriffs of Calvert County and no one is authorized to carry badges, certificates, or other materials for the purpose of identifying the bearer as an honorary deputy sheriff. However, the Sheriff may appoint as special deputy sheriffs any members of the police force of the towns of North Beach or Chesapeake Beach who shall have all of the powers and authority of

the deputy sheriffs. The County Commissioners are authorized to reimburse the towns of North Beach and Chesapeake Beach in whole or in part for services performed by the special deputy sheriffs outside the town limits.

(3) (i) The Sheriff may appoint 1 full–time assistant sheriff who shall:

1. Serve under the direction of the Sheriff; and

2. Be designated by the Sheriff as a line officer.

(ii) The Sheriff shall appoint an individual to serve as the assistant sheriff who:

1. Is an active duty deputy sheriff and holds the rank of a commissioned officer in the Calvert County Sheriff's Office; or

2. Is not a current employee of the Calvert County Sheriff's Office.

(iii) 1. The appointment of the assistant sheriff is in the sole discretion of the Sheriff.

2. The Sheriff may appoint the assistant sheriff without subjecting the candidate to a written examination.

3. The assistant sheriff serves at the pleasure of the Sheriff.

(iv) 1. If the assistant sheriff was an active duty deputy sheriff in the Calvert County Sheriff's Office immediately before appointment, the assistant sheriff:

A. Shall receive an annual salary that does not exceed by more than 6 percent the salary of the highest ranking officer in the Calvert County Sheriff's Office;

B. Shall retain merit status; and

C. At the end of an appointment, shall be permitted to return to the previous rank the assistant sheriff held prior to appointment, including any cost–of–living adjustments and salary step increases the assistant sheriff would have received if the deputy sheriff had not been appointed assistant sheriff.

2. If the assistant sheriff was not an employee of the Calvert County Sheriff's Office immediately before appointment, the assistant sheriff:

A. Shall receive an annual salary that is established through a mutual agreement between the Sheriff and the County Commissioners of Calvert County;

B. Shall be afforded all the benefits available to full–time employees in the Calvert County Sheriff's Office; and

C. May not be given merit status.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, any Sheriff of Calvert County who, since 1948, has served for three or more terms shall receive a pension when he leaves office in the annual amount of $150 for each year served. This pension shall be paid not less frequently than once a month.

(ii) This paragraph does not apply to a term of office that begins on or after July 1, 1988.

(5) (i) The County Commissioners of Calvert County may provide in their annual budget for a pension to be paid to the surviving spouse, if any, of any Sheriff of Calvert County who was in office as of October 1970.

(ii) The pension shall be in the amount of $250 a month and shall be paid to the surviving spouse, if any, for the life of that surviving spouse.

(6) (i) This paragraph applies to an individual who:

1. On or after July 1, 2008, serves as the Sheriff of Calvert County; and

2. As the Sheriff of Calvert County does not participate in the Employees' Pension System under Title 23 of the State Personnel and Pensions Article.

(ii) An individual described in subparagraph (i) of this paragraph may participate in the Calvert County Employees' Savings Plan.

(g) (1) The Sheriff of Caroline County shall receive an annual salary of $80,000.

(2) (i) The sheriff may appoint:

1. Deputy sheriffs and other personnel in accordance with the county budget; and

2. A chief deputy sheriff, or the managerial equivalent, who shall serve at the pleasure of the sheriff.

(ii) The sheriff may not refuse to reappoint a deputy sheriff without just cause.

(h) (1) The Sheriff of Carroll County shall receive an annual salary of $90,000 beginning on December 1, 2014, and thereafter.

(2) The Sheriff may employ the number of personnel necessary for the

proper execution of the duties of office. Personnel shall receive the compensation set by the County Commissioners.

(3) Personnel employed by the Sheriff shall be placed on a probationary status and may be dismissed by the Sheriff for any reason. After the probationary period, personnel may only be disciplined or dismissed for just cause:

(i) In accordance with the Law Enforcement Officers' Bill of Rights, if the employee's rights are covered under this bill of rights; or

(ii) In accordance with the personnel rules and regulations of the Carroll County Sheriff's Office, if the employee's rights are not covered under the Law Enforcement Officers' Bill of Rights.

(4) Except for an appeal taken pursuant to the Law Enforcement Officers' Bill of Rights, an appeal by an aggrieved party shall be taken to the Circuit Court for Carroll County.

(5) The Sheriff may also appoint a chief deputy and a warden who shall serve at the pleasure of the Sheriff.

(6) (i) Subject to subparagraph (ii) of this paragraph, the Sheriff of Carroll County may appoint special deputy sheriffs who are:

1. Members of the police force of a Carroll County municipal corporation;

2. Selected by the chief of police of the municipal corporation; and

3. Verified by the chief of police of the municipal corporation as having achieved at least the minimum level of training for police duties in a municipality as designated by the Maryland Police Training Commission.

(ii) The appointment of special deputy sheriffs under subparagraph (i) of this paragraph is subject to the following conditions:

1. The Sheriff may assign the duties of special deputies;

2. The Sheriff may terminate the appointment of a special deputy sheriff at will or on completion of the assignment for which the special deputy was appointed;

3. A special deputy sheriff shall remain an employee of the municipal corporation for the purpose of unemployment insurance or employee benefits; and

4. The Sheriff's liability insurance coverage within its terms

shall be provided to a special deputy sheriff under this subsection only when the special deputy is acting within the special deputy's official duties.

(i) (1) (i) The Sheriff of Cecil County shall receive an annual salary of:

1. $71,500 for fiscal year 2015;

2. $75,075 for fiscal year 2016;

3. $77,350 for fiscal year 2017;

4. $79,675 for fiscal year 2018; and

5. $82,075 for fiscal year 2019 and for each subsequent year.

(ii) In addition, the Sheriff shall receive the benefits and reimbursements for reasonable expenses in the performance of duties as provided in the Cecil County budget or by law, including, where appropriate:

1. Reimbursements under the Standard State Travel Regulations; and

2. Participation in the health care plan that is negotiated for county employees.

(iii) 1. The Sheriff shall appoint a chief deputy sheriff, a community adult rehabilitation center administrator, a detention center director, a detention center deputy director, a law enforcement director, law enforcement personnel, and a personal secretary to the Sheriff.

2. The Sheriff may remove the chief deputy sheriff, community adult rehabilitation center administrator, detention center director, detention center deputy director, law enforcement director, and personal secretary to the Sheriff at any time whether or not for cause.

(iv) The Sheriff shall appoint full–time or part–time employees, as provided in the county budget, to perform the duties of the Sheriff's department. These employees shall include:

1. Deputy sheriffs to perform law enforcement functions;

2. Deputy sheriffs to perform correctional functions;

3. Clerical and other civilian employees;

4. A director of the detention center; and

5. A community adult rehabilitation center administrator.

(v) Except for the chief deputy sheriff, each employee of the Sheriff's department shall serve a probationary period of 12 months. The Sheriff may extend the probationary period for cause.

(vi) During the probationary period of an employee in the Sheriff's department:

1. The employee shall satisfactorily complete any certification or training program specified by the Sheriff; and

2. The determination of an employee's qualifications and ability to serve in the position of a permanent nonprobationary employee shall be within the sole discretion of the Sheriff.

(vii) Except for the chief deputy sheriff, community adult rehabilitation center administrator, detention center director, detention center deputy director, law enforcement director, law enforcement personnel, and personal secretary to the Sheriff, all employees of the Sheriff's department:

1. Shall be governed by the rank, salary, and benefit structures of the Cecil County personnel policy; and

2. Except as provided in subparagraph (viii) of this paragraph, upon completion of the probationary period, shall be subject to the Cecil County personnel regulations and policies in all matters.

(viii) Law enforcement officers and correctional officers of the Sheriff's department may be terminated only for just cause.

(ix) Nothing in this subsection shall affect the rights and protections accorded an employee under any other provision of law.

(2) The County Commissioners shall pay the cost of all necessary expenses incurred by the Sheriff and his staff.

(3) The Sheriff of Cecil County shall have the authority to formulate and administer a plan that includes the method of supervision to use inmates the Sheriff deems eligible and selects to perform, under the supervision of State, county, or municipal employees, tasks the Sheriff assigns within the county or any incorporated municipality within the county.

(4) (i) This paragraph applies only to all full–time sworn law enforcement deputy sheriffs in the Office of the Sheriff of Cecil County at the rank of Sergeant and below.

(ii) A full–time sworn law enforcement deputy sheriff at the rank of Sergeant and below may:

1. Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

2. Select a labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph;

3. Engage in collective bargaining with the Sheriff and the County Commissioners of Cecil County, or the designee of the Sheriff and the County Commissioners, concerning wages, benefits, and any working conditions that are not included in subparagraph (v)4A of this paragraph through a labor organization certified as the exclusive representative of the deputy sheriffs subject to this paragraph;

4. Subject to item 2 of this subparagraph, enter into a collective bargaining agreement, through the exclusive representative of the deputy sheriffs subject to this paragraph, covering the wages, benefits, and other working conditions of the deputy sheriffs subject to this paragraph, to the extent that the agreement does not impair the rights of the Sheriff set forth in subparagraph (v)4 of this paragraph; and

5. Decertify a labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph.

(iii) 1. A labor organization seeking certification as an exclusive representative must submit a petition to the Sheriff and the County Commissioners that is signed by more than 50% of the sworn law enforcement deputy sheriffs at the rank of Sergeant and below indicating the desire of the deputy sheriffs subject to this paragraph to be represented exclusively by the labor organization for the purpose of collective bargaining.

2. If the Sheriff and the County Commissioners do not challenge the validity of the petition within 20 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representative.

3. If the Sheriff or the County Commissioners challenge the validity of the petition, the American Arbitration Association shall appoint a neutral third party to conduct an election and to certify whether the labor organization has been selected as the exclusive representative by a majority of the votes cast in the election.

4. The costs associated with the appointment of a neutral third party shall be shared equally by the parties.

5. A labor organization shall be deemed decertified if a petition is submitted to the Sheriff and the County Commissioners that is signed by more than 50% of the full–time sworn law enforcement deputy sheriffs at the rank of Sergeant and below indicating the desire of the deputy sheriffs to decertify the labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph.

(iv) 1. Following certification of an exclusive representative as provided in subparagraph (iii) of this paragraph, the certified labor organization and the Sheriff and the County Commissioners shall meet at reasonable times and engage in collective bargaining in good faith.

2. The certified labor organization, the Sheriff, and the County Commissioners shall make every reasonable effort to conclude negotiations on or before February 15 of the year in which a collective bargaining agreement is to take effect to allow for inclusion by the Sheriff of matters agreed upon in its budget request to the County Commissioners.

3. A. If the certified labor organization and the Sheriff and the County Commissioners are unable to reach an agreement before the date set forth in subsubparagraph 2 of this subparagraph, either the certified labor organization or the Sheriff and the County Commissioners may seek nonbinding mediation through the Federal Mediation and Conciliation Service.

B. A party seeking nonbinding mediation under subsubsubparagraph A of this subsubparagraph shall give written notice to the other party and to the Federal Mediation and Conciliation Service at least 15 days prior to the start of the first mediation meeting.

C. The costs associated with the mediator or mediation process shall be shared equally by the parties.

D. The certified labor organization, the Sheriff, and the County Commissioners shall engage in nonbinding mediation for at least 30 days unless they mutually agree in writing to termination or extension of the mediation or reach an agreement.

E. The contents of the mediation proceedings may not be disclosed by any of the parties or the mediator.

4. The governing body of Cecil County shall enact a local ordinance that allows for nonbinding arbitration if the certified labor organization, the Sheriff, and the County Commissioners are unable to reach an agreement through mediation under subsubparagraph 3 of this subparagraph.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. A collective bargaining agreement may contain a grievance procedure providing for binding arbitration of grievances in reference to a labor contract, including grievances related to interpretation or breach of contract.

3. A collective bargaining agreement reached in accordance with this paragraph shall be in writing and signed by the certified representatives of the parties involved in the collective bargaining negotiations.

4. Except as provided in the code and regulations of Cecil County, the provisions of this subparagraph and any agreement made under it may not impair the right and the responsibility of the Sheriff to:

A. Determine the mission, budget, organization, numbers, types, classes, grades, and ranks of deputy sheriffs assigned, the services to be rendered, operations to be performed, and the technology to be used;

B. Set the standards of service and exercise control over operations, including the rights to determine work shifts and the number of deputy sheriffs on each shift;

C. Assign and retain deputy sheriffs in positions within the office;

D. Determine and set work projects, tours of duty, schedules, assignments, and methods, means, and personnel by which operations are conducted;

E. Determine and set technology needs, internal security practices, equipment, and the location of facilities;

F. Maintain and improve the efficiency and effectiveness of operations;

G. Hire, direct, supervise, promote, demote, discipline, assign, and with reasonable cause discharge full–time sworn law enforcement deputy sheriffs, with the exception that the promotional process for deputy sheriffs up to the rank of Sergeant and the number and composition of trial boards for the discipline process for deputy sheriffs at the rank of Sergeant and below are subject to collective bargaining;

H. Determine and set the qualifications of deputy sheriffs for appointment and promotions; and

I. Determine and set the standards of conduct, and with consultation and input from the certified labor organization, adopt rules, orders, policies, regulations, and procedures on mutually agreed on subjects.

5. A collective bargaining agreement is not effective until it is ratified by the majority of votes cast by the deputy sheriffs in the bargaining unit and approved by the Sheriff and the County Commissioners.

(vi) Nothing in this paragraph may be construed to:

1. Authorize or otherwise allow a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article; and

2. Authorize the collection of mandatory membership fees from nonmembers of the employee organization.

(j) (1) The salary for the Sheriff of Charles County is equal to the salary of a Department of State Police lieutenant colonel, at the highest available step for a lieutenant colonel under the Department of State Police pay plan in effect on the day prior to the day that the Sheriff begins a term of office.

(2) Any change in the salary paid under the Department of State Police pay plan during the term of Office of the Sheriff may not apply to the incumbent Sheriff, but the changed rate shall take effect at the beginning of the next following term of office.

(3) The Sheriff, in accordance with rules and regulations developed by the Board of County Commissioners and the Sheriff, shall appoint the number of deputy sheriffs that the Board of County Commissioners of Charles County and the Sheriff consider necessary.

(4) The books of the Sheriff shall be audited annually, and copies of the audit published by the County Commissioners in local newspapers.

(5) (i) This paragraph applies to all full–time, merit system sworn law enforcement officers and correctional officers in the Charles County Sheriff's Office at a rank of sergeant or below.

(ii) This paragraph does not apply to the following employees in the Charles County Sheriff's Office:

1. Sworn law enforcement officers or correctional officers in the Charles County Sheriff's Office at a rank of lieutenant or above;

2. Employees in appointed positions;

3. Civilian merit system employees;

4. Full–time reduced hours employees;

5. Part–time employees;

6. Contractual employees;

7. Temporary employees;

8. Emergency employees; or

9. Employees whose employment is administered under the county policies and procedures manual.

(iii) 1. A sworn law enforcement officer or correctional officer subject to this paragraph has the right to:

A. Take part in or refrain from taking part in forming, joining,

supporting, or participating in any employee organization or its lawful activities;

B. Be represented by an exclusive representative, if any, in collective bargaining; and

C. Engage in other concerted activities for the purpose of collective bargaining.

2. Sworn law enforcement officers and correctional officers subject to this paragraph may seek recognition in order to organize and bargain collectively in good faith with the Sheriff or the Sheriff's designee concerning the following matters:

A. Compensation, excluding salary, wages, and those benefits determined, offered, administered, controlled, or managed by the County Commissioners of Charles County;

B. Leave, holidays, and vacations; and

C. Hours, working conditions, and job security.

3. A sworn law enforcement officer or correctional officer who is a member of a bargaining unit with an exclusive representative may discuss any matter with the employer without the intervention of the exclusive representative.

4. A sworn law enforcement officer or correctional officer who is not a member of a bargaining unit with an exclusive representative may be required to pay a proportional service fee for costs associated with the administration and enforcement of any agreement that benefits the affected employees. An exclusive representative shall be selected in accordance with the procedures set forth in subparagraph (v) of this paragraph.

5. This paragraph does not require that sworn law enforcement officers and correctional officers be represented by the same exclusive representative.

(iv) The Sheriff and the Office of the Sheriff for Charles County, through their appropriate officers and employees, may:

1. Determine the:

A. Mission;

B. Budget;

C. Organization;

D. Numbers, types, and grades of employees assigned;

E. Work projects, tours of duty, and methods, means, and personnel by which its operations are conducted;

F. Technology needs;

G. Internal security practices; and

H. Relocation of its facilities;

2. Maintain and improve the efficiency and effectiveness of governmental operations;

3. Determine the services to be rendered, operations to be performed, and technology to be used;

4. Determine the overall methods, processes, means, and classes of work or personnel by which governmental operations are to be conducted;

5. Hire, direct, supervise, and assign employees;

6. A. Promote, demote, discipline, discharge, retain, and lay off employees; and

B. Terminate employment because of lack of funds, lack of work, a determination by the employer that continued work would be inefficient or nonproductive, or for other legitimate reasons;

7. Set the qualifications of employees for appointment and promotions;

8. Set standards of conduct;

9. Adopt office rules, regulations, and procedures;

10. Provide a system of merit employment according to a standard of business efficiency; and

11. Take actions, not otherwise specified in this paragraph, to carry out the mission of the Office of the Sheriff of Charles County.

(v) 1. Except as provided in subsubparagraph 2 of this subparagraph, an exclusive representative may not be recognized by the Sheriff unless that representative is selected and certified by the Department of Labor, Licensing, and Regulation.

2. Any petition to be recognized that is submitted on behalf of the sworn law enforcement officers shall be accompanied by a showing of interest supported by at least 51% of the sworn law enforcement officers indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining.

3. Any petition to be recognized that is submitted on behalf of the correctional officers shall be accompanied by a showing of interest supported by at least 51% of the correctional officers indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining.

(vi) 1. A. The Sheriff may designate at least one, but not more than three, individuals to represent the Sheriff in collective bargaining.

B. The exclusive representative shall designate at least one, but not more than three, individuals to represent the exclusive representative in collective bargaining.

2. The parties shall meet at reasonable times and engage in collective bargaining in good faith.

3. Negotiations or matters relating to negotiations shall be considered closed sessions under § 3–305 of the General Provisions Article.

4. The parties shall make every reasonable effort to conclude negotiations in a timely manner for inclusion by the Sheriff and the Office of the Sheriff of Charles County in its budget request to the County Commissioners of Charles County.

5. Negotiations for an agreement shall begin on or before each July 1 of the year before the expiration of any existing agreement.

(vii) To the extent that any matters negotiated between the Sheriff and the collective bargaining unit require legislative approval or the appropriation of funds, the matters shall be recommended to the General Assembly for the approval of legislation or to the County Commissioners for the appropriation of funds.

(viii) An agreement is not valid if it extends for less than 1 year or for more than 2 years.

(ix) 1. An agreement shall contain all matters of agreement reached in the collective bargaining process.

2. An agreement may contain a grievance procedure for binding arbitration of the interpretation of contract terms and clauses.

3. An agreement reached in accordance with this paragraph shall be in writing and signed by the designated representatives of the Sheriff and the exclusive representative involved in the collective bargaining negotiations.

4. An agreement is not effective until it is ratified by the Sheriff and a majority of the votes cast by the employees in the bargaining unit.

5. A modification to an existing agreement is not valid unless

it is in writing and ratified by the Sheriff and a majority of the votes cast by the employees in the bargaining unit.

(x) This paragraph does not authorize a sworn law enforcement officer or correctional officer to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article.

(xi) Nothing in this paragraph shall be construed as subjecting disciplinary matters or the disciplinary process to negotiation as part of the collective bargaining process.

(k) (1) (i) The Sheriff of Dorchester County shall receive an annual salary of:

1. $65,500 for calendar year 2009;

2. $65,500 for calendar year 2010;

3. $85,000 for calendar year 2011;

4. $86,500 for calendar year 2012;

5. $88,000 for calendar year 2013; and

6. $89,500 for calendar year 2014.

(ii) For calendar year 2015 and thereafter, the Sheriff of Dorchester County shall receive the same annual salary as paid in 2014.

(iii) The Sheriff of Dorchester County shall be allowed the actual operating costs of the Sheriff's Office, including the maintenance of automobiles.

(2) (i) The Sheriff shall appoint a chief deputy sheriff, or the managerial equivalent, who shall serve at the pleasure of the Sheriff.

(ii) If an employee of the Sheriff's Office is appointed as chief deputy sheriff and is subsequently removed from the chief deputy sheriff's position for other than cause, the person may resume the employment status held prior to the appointment to the chief deputy sheriff's position.

(iii) The chief deputy sheriff shall:

1. Perform all duties assigned by the Sheriff; and

2. If the Sheriff is temporarily incapacitated or there is a vacancy in the Office of the Sheriff, perform all legal functions of the Sheriff.

(iv) If the Sheriff becomes incapacitated and the position of chief deputy sheriff is vacant, the County Council shall appoint an acting chief deputy

sheriff to serve until the Sheriff is reactivated or replaced.

(v) The County Council shall approve the salary of the chief deputy sheriff.

(3) (i) The Sheriff may appoint probationary deputy sheriffs, deputy sheriffs, investigators, communications officers, secretaries, supervisors, administrators, and other staff as approved in the county budget.

(ii) The County Council shall approve the salaries for all staff appointed by the Sheriff.

(iii) The Sheriff may not refuse to reappoint a deputy sheriff without just cause.

(4) The County Council may include in the merit system of the county the employees of the Dorchester County Sheriff's Office.

(l) (1) (i) The Sheriff of Frederick County shall receive a salary of $125,000.

(ii) The Sheriff shall appoint deputies as necessary, at salaries of at least $2,400, and jail wardens as necessary, at salaries of at least $1,320 each.

(iii) 1. The Sheriff also may appoint additional temporary deputy sheriffs as the Sheriff considers necessary for the public safety, with the approval of the governing body of Frederick County, by ordinance.

2. The governing body, by ordinance, shall allow reasonable compensation for the temporary additional deputy sheriffs and the temporary deputies may not serve longer than the occasion requires.

(iv) The Sheriff may appoint a chief deputy who shall serve at the pleasure of the Sheriff.

(2) Any deputy sheriff, with the exception of the chief deputy, appointed according to this section shall be placed on a probationary status for at least 18 months of continuous employment and may be dismissed by the Sheriff for any reason during the probationary period.

(3) All full–time civilian employees are subject to the county personnel regulations with regard to qualifications for hiring, promotion, compensation and disciplinary action. All deputy sheriffs, except the chief deputy, are subject to the county personnel regulations with regard to qualifications for hiring, promotion and compensation with regard to matters not covered by the Law Enforcement Officers' Bill of Rights.

(4) (i) The Sheriff of Frederick County may appoint special deputy sheriffs who are:

1. Members of the police force of a Frederick County municipality;

2. Selected by the chief of police of the municipality; and

3. Verified by the chief of police of the municipality as having achieved at least the minimum level of training for police duties in a municipality as designated by the Maryland Police Training Commission.

(ii) The appointment of special deputy sheriffs under this paragraph is subject to the following conditions:

1. The Sheriff may assign the duties of special deputies;

2. The Sheriff may terminate the appointment of the special deputy sheriff at will or on completion of the assignment for which the special deputy was appointed;

3. The special deputy sheriff is not an employee of Frederick County for the purpose of employment security or employee benefits; and

4. County liability insurance coverage within its terms shall be provided to a special deputy sheriff under this subsection only when the special deputy is acting within the special deputy's official duties.

(5) (i) This paragraph applies to all full–time deputy sheriffs in the Frederick County Sheriff's Office at the rank of sergeant and below.

(ii) 1. Full–time deputy sheriffs at the rank of sergeant and below may:

A. Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

B. Select a labor organization as their exclusive representative;

C. Engage in collective bargaining with the Sheriff, or the Sheriff's designee, concerning wages and benefits, not regulated by the Sheriff, through a labor organization certified as their exclusive representative;

D. Subject to subsubparagraph 2 of this subparagraph, enter into a collective bargaining agreement, through their exclusive representative, covering those wages and benefits not regulated by the Sheriff; and

E. Decertify a labor organization as their exclusive representative.

2. Any additional funding required as a result of a negotiated collective bargaining agreement shall be in the Frederick County budget.

(iii) 1. A labor organization shall be deemed certified as an exclusive representative if the following conditions are met:

A. A petition for the labor organization to be recognized by the Sheriff is signed by at least 51% of the deputy sheriffs at the rank of sergeant and below indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining; and

B. The petition is submitted to the Sheriff.

2. If the Sheriff does not challenge the validity of the petition within 10 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representative.

3. If the Sheriff challenges the validity of the petition, the American Arbitration Association shall be requested to appoint a third party neutral to conduct an election and to certify whether the labor organization has been selected as the exclusive representative by a majority of the votes cast in the election.

4. The costs associated with the American Arbitration Association and the third party neutral shall be shared equally by the parties.

(iv) 1. Following certification of an exclusive representative as provided in subparagraph (iii) of this paragraph, the parties shall meet at reasonable times and engage in collective bargaining in good faith.

2. The parties shall make every reasonable effort to conclude negotiations in a timely manner to allow for inclusion by the Office of the Sheriff of matters agreed upon in its budget request.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. The agreement may contain a grievance procedure providing for nonbinding arbitration of grievances.

3. An agreement reached in accordance with this subparagraph shall be in writing and signed by the designated representatives of the parties involved in the collective bargaining negotiations.

4. A. Subject to subsubsubparagraph B of this subsubparagraph, an agreement is not effective until it is ratified by a majority of the votes cast by the deputy sheriffs in the bargaining unit and the Sheriff.

B. Additional funding, if any, required as a result of the

agreement shall be subject to the approval of the governing body of Frederick County.

(vi) Nothing in this paragraph may be construed as authorizing or otherwise allowing a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article.

(6) (i) This paragraph applies to all full–time correctional officers in the Frederick County Sheriff's Office at the rank of sergeant and below.

(ii) 1. Full–time correctional officers at the rank of sergeant and below may:

A. Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

B. Select a labor organization as their exclusive representative;

C. Engage in collective bargaining with the Sheriff, or the Sheriff's designee, concerning wages and benefits, not regulated by the Sheriff, through a labor organization certified as their exclusive representative;

D. Subject to subsubparagraph 2 of this subparagraph, enter into a collective bargaining agreement, through their exclusive representative, covering those wages and benefits not regulated by the Sheriff; and

E. Decertify a labor organization as their exclusive representative.

2. Any additional funding required as a result of a negotiated collective bargaining agreement shall be subject to approval by the governing body of Frederick County.

(iii) 1. A labor organization shall be deemed certified as an exclusive representative if the following conditions are met:

A. A petition for the labor organization to be recognized by the Sheriff is signed by at least 51% of the correctional officers at the rank of sergeant and below indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining; and

B. The petition is submitted to the Sheriff.

2. If the Sheriff does not challenge the validity of the petition within 10 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representative.

3. If the Sheriff challenges the validity of the petition, the

American Arbitration Association shall be requested to appoint a third party neutral to conduct an election and to certify whether the labor organization has been selected as the exclusive representative by a majority of the votes cast in the election.

4. The costs associated with the American Arbitration Association and the third party neutral shall be shared equally by the parties.

(iv) 1. Following certification of an exclusive representative as provided in subparagraph (iii) of this paragraph, the parties shall meet at reasonable times and engage in collective bargaining in good faith.

2. The parties shall make every reasonable effort to conclude negotiations in a timely manner to allow for inclusion by the Office of the Sheriff of matters agreed on in its budget request to the governing body of Frederick County.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. The agreement may contain a grievance procedure providing for nonbinding arbitration of grievances.

3. An agreement reached in accordance with this subparagraph shall be in writing and signed by the designated representatives of the parties involved in the collective bargaining negotiations.

4. A. Subject to subsubsubparagraph B of this subsubparagraph, an agreement is not effective until it is ratified by a majority of the votes cast by the correctional officers in the bargaining unit and the Sheriff.

B. Additional funding, if any, required as a result of the agreement shall be subject to the approval of the governing body of Frederick County.

(vi) Nothing in this paragraph may be construed as authorizing or otherwise allowing a correctional officer to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article.

(m) (1) (i) The Sheriff of Garrett County shall receive:

1. $28,250 for calendar year 1991;

2. $30,500 for calendar year 1992;

3. $32,750 for calendar year 1993;

4. $35,000 for calendar year 1994; and

5. For each subsequent year, the salary set by the County Commissioners in accordance with Chapter 91 of the Public Local Laws of Garrett

County.

(ii) The Sheriff is entitled to a sum set by the County Commissioners, for expenses.

(2) The Sheriff shall employ deputies as needed, within the budgetary limits, at salaries of at least $5,200 each, one of whom shall act as warden of the jail, and a matron for the jail who shall also perform clerical duties at the salary set by the Sheriff. The Sheriff may employ additional special deputies whose compensation shall be approved by the County Commissioners.

(3) The Sheriff and the deputy sheriffs shall be allowed extra car mileage and out–of–county mileage at the rate of 14 cents per mile. This mileage allowance shall not be payable if the Sheriff's Office is furnished with automobiles.

(4) The Sheriff shall be reimbursed for the expenses of boarding prisoners committed to the county jail, to be paid monthly upon vouchers submitted by him to the County Commissioners of Garrett County. He shall also submit with these vouchers an affidavit sworn to by him upon personal knowledge showing for each day of the month just passed the number of prisoners boarded by him. The Sheriff may appoint a cook for the jail who shall receive a salary of at least $2,400. The Sheriff, deputies, and cook shall each receive an additional allowance of $200 per year for uniforms and cleaning.

(5) (i) This paragraph does not apply to the Sheriff or chief deputy sheriff.

(ii) Deputy sheriffs and other employees of the Sheriff's Office are included in the Garrett County classified service system.

(n) (1) (i) The Sheriff of Harford County shall receive a salary of:

1. $90,000 in 2004; and

2. $98,500 commencing January 1, 2007, thereafter to be adjusted annually on July 1 in accordance with subparagraph (ii) of this paragraph.

(ii) 1. On and after July 1, 2007, the annual salary of the Sheriff of Harford County shall be adjusted annually to reflect the annual change in the "Consumer Price Index" for "All urban consumers" for the expenditure category "All items not seasonally adjusted", and for all regions. The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the annual salary of the Sheriff of Harford County while in office.

2. Notwithstanding subsubparagraph 1 of this subparagraph, the adjustment to the annual salary of the Sheriff of Harford County may not exceed 3 percent in any fiscal year.

(2) The Sheriff may not have employment outside of that position unless:

(i) The employment is a part–time teaching position; and

(ii) The total maximum yearly income from the outside employment under this paragraph is $2,500 or less.

(3) The Sheriff shall appoint the number of deputies at the compensation provided in the county budget.

(4) The Sheriff may appoint as a special deputy sheriff:

(i) The chief of police of a Harford County municipality; or

(ii) A member of the police force of a Harford County municipality who is certified by the Maryland Police Training Commission.

(5) A special deputy sheriff appointed under this subsection is not an employee of the Sheriff or of Harford County.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, an employee of the Harford County Sheriff's Office may not be terminated without just cause.

(ii) Subparagraph (i) of this paragraph does not apply to:

1. The chief deputy;

2. A lieutenant colonel or major;

3. The secretary for the Sheriff;

4. A deputy or employee on probationary status; or

5. The warden of the Harford County Detention Center.

(7) (i) A lieutenant colonel or major serves at the pleasure of the Sheriff.

(ii) A lieutenant colonel, major, or captain may not be reduced below the rank of lieutenant without just cause.

(8) The Sheriff of Harford County shall have the authority to formulate and administer a plan that includes the method of supervision to use inmates from the Harford County Detention Center the Sheriff deems eligible and selects to perform, under the supervision of State, county, or municipal employees, tasks the Sheriff assigns within the county or any incorporated municipality within the county.

(o) (1) (i) The Sheriff of Howard County shall receive an annual salary as follows:

1. $85,000 each calendar year for calendar year 2010 through calendar year 2014;

2. $88,000 for calendar year 2015;

3. $91,000 for calendar year 2016;

4. $94,000 for calendar year 2017; and

5. $97,000 for calendar year 2018.

(ii) The Sheriff shall appoint the number of deputies authorized by the county government. The compensation of the deputies shall be set by the county government.

(2) (i) Each full–time deputy sheriff at the rank of lieutenant or below appointed by the Sheriff on or after October 1, 2005:

1. Shall be required by the Sheriff to serve an initial probationary period of 12 months; and

2. May be dismissed by the Sheriff for any reason only during the initial probationary period.

(ii) The Sheriff may extend the probationary period for reasonable cause.

(iii) During the probationary period, the Sheriff has exclusive discretion to determine whether a probationary deputy sheriff has the qualifications and ability to serve in the position of a permanent nonprobationary employee.

(iv) Each probationary deputy sheriff shall be required to complete the minimum number of hours mandated for law enforcement agencies established by the Maryland Police Training Commission.

(v) After the probationary period, a full–time deputy sheriff at a rank of lieutenant or below may be disciplined or dismissed only for just cause:

1. In accordance with the Law Enforcement Officers' Bill of Rights, if the employee's rights are covered under this bill of rights; or

2. In accordance with the personnel rules and regulations of the Howard County Sheriff's Office, if the employee's rights are not covered under the Law Enforcement Officers' Bill of Rights.

(vi) Except for an appeal taken pursuant to the Law Enforcement Officers' Bill of Rights, an appeal by an aggrieved party shall be taken to the Circuit Court for Howard County.

(3) The Sheriff may appoint additional temporary deputy sheriffs when necessary for the public safety and the county government shall allow them reasonable compensation. These deputies may not serve longer than the case actually requires.

(4) The primary duties of the Sheriff are the following:

(i) The security of the circuit court, and the performance of such duties as may be required of the Sheriff by that court;

(ii) The service of process of writs, summonses, orders, petitions, subpoenas, warrants, orders to show cause, and other legal papers; and

(iii) Additional duties, including law enforcement as may be requested by law enforcement or other criminal justice agencies, the circuit court, or the county government, when necessary for the public safety.

(5) (i) This paragraph applies only to full–time deputy sheriffs in the Office of the Sheriff of Howard County at the rank of corporal and below.

(ii) A deputy sheriff may:

1. Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

2. Select a labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph;

3. Engage in collective bargaining with the Sheriff of Howard County, or the designee of the Sheriff, concerning wages, benefits, and other terms and conditions, except those terms and conditions expressly reserved by the Sheriff under subparagraph (v)4A of this paragraph, through a labor organization certified as the exclusive representative of the deputy sheriffs subject to this paragraph;

4. Subject to item 2 of this subparagraph, enter into a collective bargaining agreement, through the exclusive representative of the deputy sheriffs subject to this paragraph, covering the wages, benefits, and other terms and conditions of employment of the deputy sheriffs subject to this paragraph, except those terms and conditions expressly reserved by the Sheriff in subparagraph (v)4 of this paragraph; and

5. Decertify a labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph.

(iii) 1. A labor organization seeking certification as an exclusive representative must submit a petition to the Sheriff that is signed by at least 30% of the deputy sheriffs indicating the desire of the deputy sheriffs subject to this paragraph to be represented exclusively by the labor organization for the purpose of collective bargaining.

2. If the Sheriff does not challenge the validity of the petition within 30 calendar days following the receipt of the petition, the petition shall be submitted to the Commissioner of Labor and Industry to be approved by a consent election under Title 4, Subtitle 2, Part II of the Labor and Employment Article.

3. If the Sheriff challenges the validity of the petition, either party may submit a request to the Commissioner of Labor and Industry to determine the validity of the petition and whether to conduct a consent election under Title 4, Subtitle 2, Part II of the Labor and Employment Article.

4. The costs associated with a determination by the Commissioner of Labor and Industry under subsubparagraph 3 of this subparagraph shall be shared equally by the parties.

5. A labor organization shall be deemed decertified if a petition is submitted to the Sheriff that is signed by more than 50% of the deputy sheriffs indicating the desire of the deputy sheriffs to decertify the labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph.

(iv) 1. Following certification of an exclusive representative as provided in subparagraph (iii) of this paragraph, the certified labor organization and the Sheriff shall meet at reasonable times and engage in collective bargaining in good faith.

2. The certified labor organization and the Sheriff shall make every reasonable effort to conclude negotiations on or before February 1 of the year in which a collective bargaining agreement is to take effect to allow for inclusion by the Sheriff of matters agreed on in its budget request to the County Executive.

3. A. If the certified labor organization and the Sheriff are unable to reach an agreement before the date set forth in subsubparagraph 2 of this subparagraph, an impasse shall be deemed to have been reached, each side shall submit their best and final offers within 24 hours, and within 5 days after an impasse is reached the dispute, along with each side's best and final offer, shall be submitted to the Federal Mediation and Conciliation Service.

B. The mediator appointed by the Federal Mediation and Conciliation Service shall meet with the parties and make written findings of fact and recommendations for the resolution of the dispute by March 1.

C. The costs associated with the mediator or mediation process shall be shared equally by the parties.

D. Copies of the mediator's written findings and recommendations shall be sent to the Sheriff and certified labor organization.

E. The Sheriff and certified labor organization shall meet within 5 days after the conclusion of the mediation to reach a voluntary resolution of

the dispute.

F. If no resolution is reached under subsubsubparagraph E of this subsubparagraph, the Sheriff shall submit to the County Executive the best and final offer of each side and the mediator's findings and recommendations and the County Executive shall review all the materials before making a budget submission for the Sheriff's Office to the County Council.

4. A. Any additional funding required as a result of a negotiated collective bargaining agreement is subject to approval by the County Executive and County Council.

B. A request for additional funding shall be submitted to the County Executive by the Sheriff within the time schedule provided in the agreement.

C. The County Executive and County Council may approve or reject a request for additional funding in whole or in part.

D. If any part of a request for additional funding is rejected, the entire agreement shall be returned to the parties for further bargaining, during which either party may renegotiate all or part of the agreement within the limits of the funding allocated by the County Executive and County Council and within a timetable established by the County Executive.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. A collective bargaining agreement may contain a grievance procedure which shall apply only to questions concerning the interpretation or application of a specific provision of the agreement.

3. A collective bargaining agreement reached in accordance with this paragraph shall be in writing and signed by the certified representatives of the parties involved in the collective bargaining negotiations.

4. An agreement made under this subparagraph may not impair the right and the responsibility of the Sheriff to:

A. Maintain the order and efficiency of the public service entrusted to the Sheriff and to operate and manage the affairs of the Office, including all rights and authority held by the Sheriff prior to signing a collective bargaining agreement except where abridged by an express provision of the agreement;

B. Determine the purposes and objectives of each of the Sheriff's constituent offices and departments;

C. Set the standards of services to be offered to the public;

D. Determine and set work projects, tours of duty, schedules, assignments, and methods, means, personnel, and other resources by which operations are conducted;

E. Determine and set technology needs, internal security practices, equipment, and the location of facilities;

F. Exercise control and discretion over the Sheriff's Office and operations;

G. Hire, promote, transfer, assign, or retain deputy sheriffs in positions within the Office;

H. Establish work rules;

I. Demote, suspend, discharge, or take any other appropriate disciplinary action against employees for just cause and in accordance with the county charter and other applicable law;

J. Determine the mission, budget, organization, numbers, types, classes, grades, and ranks of deputy sheriffs assigned, the services to be rendered, operations to be performed, and the technology to be used;

K. Set the standards of service and exercise control over operations, including the rights to determine work shifts and the number of deputy sheriffs on each shift;

L. Determine and set the qualifications of deputy sheriffs for appointment and promotions;

M. Set the standards of performance, appearance, and conduct;

N. Judge skill, ability, and physical fitness;

O. Create, eliminate, or consolidate job classifications, departments, or operations; and

P. Control and regulate the use of all equipment and other property of the county.

5. A collective bargaining agreement is not effective until it is ratified by the majority of votes cast by the deputy sheriffs in the bargaining unit and approved by the Sheriff.

(vi) Nothing in this paragraph may be construed to:

1. Authorize or otherwise allow a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article; and

2. Restrict in any way the authority of the County Executive or County Council to determine the budget for the Sheriff's Office.

(p) (1) The Sheriff of Kent County shall receive a salary of:

(i) $67,000 for the calendar year 2009;

(ii) $68,000 for the calendar year 2010;

(iii) $82,000 for the calendar year 2011;

(iv) $83,000 for the calendar year 2012;

(v) $84,000 for the calendar year 2013; and

(vi) $85,000 for the calendar year 2014 and each calendar year thereafter.

(2) At the discretion of the County Commissioners, the Sheriff shall receive county–owned automobiles as may be necessary to operate the Sheriff's department.

(3) (i) The Sheriff shall appoint a chief deputy sheriff, or the managerial equivalent, who shall:

1. Receive a salary of at least $8,000; and

2. Serve at the pleasure of the Sheriff.

(ii) The Sheriff may not refuse to reappoint a deputy sheriff without just cause.

(4) The Sheriff and the Sheriff's deputies shall be paid allowances as the Commissioners may deem necessary.

(5) The County Commissioners may authorize additional deputies as necessary and shall set their compensation at the time of their appointment.

(6) The County Commissioners may authorize the Sheriff to appoint as part–time deputies individuals employed in specific plants, schools, hospitals, institutions, business enterprises, and land development tracts situated within Kent County who are limited to service only within the particular facility where they are employed, and who may not be compensated by Kent County for their services.

(q) (1) It is the intent of the General Assembly to:

(i) Protect the right to bargain of the Montgomery County Executive and the Montgomery County Sheriff;

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

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

(2) The Sheriff of Montgomery County shall receive a salary, subject to § 35 of Article III of the Maryland Constitution, and an allowance for expenses, as the County Council provides in its annual budget. The County Council shall provide an automobile for the use of the Sheriff and his deputies for the general public work of the office and the expense of operating the automobile shall be paid by the county.

(3) (i) The Sheriff may appoint 2 full–time assistant sheriffs and the number of deputies provided in the county budget.

(ii) The Sheriff shall also appoint the other clerical and administrative employees provided in the county budget, all of whom shall be paid by the county.

(iii) 1. With the exception of the assistant sheriffs, all full–time deputy sheriffs of all ranks may, upon appointment, be required by the Sheriff to serve a probationary period of 12 months following attainment of sworn status.

2. Civilian employees may, upon appointment, be required by the Sheriff to serve a probationary period of 6 months.

3. The probationary period may be extended by the Sheriff for reasonable cause in accordance with an applicable collective bargaining agreement.

4. During the probationary period, the determination of the employee's qualifications and ability to serve in the position of a permanent, nonprobationary employee shall be within the exclusive discretion of the Sheriff, subject to the Montgomery County merit system laws and personnel regulations.

(4) (i) The Sheriff shall fix the compensation of, and may discharge, the deputy sheriffs, and other employees appointed, subject to budget limitations, the Montgomery County merit system law, personnel regulations, or applicable collective bargaining agreement. The Sheriff shall fix the compensation of the assistant sheriffs subject to budget limitations.

(ii) Except for the assistant sheriffs, personnel appointed by the Sheriff shall be considered for all purposes as Montgomery County merit system employees and subject to the Montgomery County merit system law, personnel

regulations, and applicable collective bargaining agreement. Assistant sheriffs shall serve at the pleasure of the Sheriff and shall meet the qualifications of the Maryland Police Training Commission standards for law enforcement officers.

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

2. Employees, other than the assistant sheriffs, are subject to the Montgomery County merit system law and personnel regulations and may be excluded from those provisions only to the extent that the applicability of those provisions is made the subject of collective bargaining.

3. A. As to the employees described in subsubparagraph 1 of this subparagraph, the Montgomery County Executive shall be considered the employer of the employees under the Montgomery County Code, Chapter 33, Article VII, only for the purpose of collective bargaining for compensation, pension, fringe benefits, and hours.

B. If a single bargaining representative represents both Montgomery County government employees and Montgomery County Sheriff employees, any and all terms and conditions of employment set forth in any current and subsequent collective bargaining agreement between the Montgomery County government and the bargaining representative shall be applicable to employees of the Montgomery County Sheriff unless different terms and conditions of employment are negotiated by the Sheriff in accordance with subsubparagraph 4 of this subparagraph.

4. A. The Sheriff shall be considered the employer for all other purposes and shall be considered the employer under the Montgomery County Code, Chapter 33, Article VII, for all other terms and conditions of employment.

B. If a single bargaining representative represents both Montgomery County government employees and Montgomery County Sheriff employees, the Sheriff shall bargain only over particular matters, not involving compensation, pension, fringe benefits, and hours, applicable to employees of the Montgomery County Sheriff.

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

5. There shall be only one collective bargaining agreement covering both Montgomery County government employees and Montgomery County Sheriff employees and any agreements reached under this subparagraph shall be included in an appendix or addendum to the agreement between the Montgomery County government and the bargaining representative.

(iv) Any required funding for the terms of an agreement negotiated by the Sheriff under subparagraph (iii) of this paragraph is subject to the budget and fiscal policies of Montgomery County.

(v) Except as provided in the Montgomery County merit system law and personnel regulations, the provisions of subparagraph (iii) of this paragraph and any agreement made under it may not impair the right and responsibility of the Sheriff to:

1. Determine the overall mission of the Sheriff's Office and, subject to the budget and fiscal policies of Montgomery County, the Sheriff's Office budget;

2. Maintain and improve the efficiency and effectiveness of operations;

3. Determine the services to be rendered and the operations to be performed;

4. Determine the overall organizational structure, methods, processes, means, and personnel by which operations are to be conducted and the location of facilities;

5. Direct and supervise employees;

6. Hire and select new employees;

7. Establish the standards governing promotion of employees, subject to the Montgomery County merit system law and personnel regulations;

8. Relieve employees from duties because of lack of work or funds or under conditions when the employer determines continued work would be inefficient or nonproductive;

9. Take actions to carry out the mission of government in situations of emergency;

10. Transfer, assign, and schedule employees;

11. Determine the size and composition of the workforce, subject to the county's budget and fiscal policies;

12. Set the standards of productivity and technology;

13. Establish employee performance standards and evaluate employees;

14. Make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards, subject to the budget and fiscal policies of Montgomery County;

15. Introduce new or improved technology, research, development, and services;

16. Control and regulate the use of machinery, equipment, and other property and facilities of the Sheriff's Office;

17. Maintain internal security standards;

18. Create, alter, combine, contract out, or abolish any operation, unit, or other division or service, except that:

A. Contracting out work that will displace employees may not be undertaken by the employer unless 90 days prior to signing the contract, or on another date of notice as agreed to by the parties, written notice has been given to the certified representative and the contracting out of work shall be consistent with any applicable provision of the Montgomery County Code; and

B. Any displacement of bargaining unit members shall be conducted in a manner that is consistent with any applicable provision of the Montgomery County Code and any applicable collective bargaining agreement;

19. Suspend, discharge, or otherwise discipline:

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

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

20. Issue and enforce rules, policies, and regulations necessary to carry out the functions of this subparagraph and all other managerial functions that are not inconsistent with law or the terms of the collective bargaining agreement.

(vi) 1. Each assistant sheriff whose duty assignment requires the use of a motor vehicle shall be reimbursed in such amounts as shall be set forth in the budget for expenses for traveling, transportation, or use of motor vehicles, or may, in

the alternative, be allowed the use of a publicly owned motor vehicle.

2. Each deputy sheriff whose duty assignment requires the use of a motor vehicle shall be reimbursed in an amount set forth in an applicable collective bargaining agreement for expenses for traveling, transportation, or use of motor vehicles, or may, in the alternative, be allowed use of a publicly owned motor vehicle.

(5) Deputy sheriffs are not entitled to any additional compensation for rendering services incident to their office. The County Council shall levy and collect annual taxes on the assessable property in the county in an amount sufficient to pay the salaries and allowances of the Sheriff and the Sheriff's deputies.

(r) (1) The Sheriff of Prince George's County shall:

(i) Receive an annual salary of $132,734 for calendar year 2013 and, for calendar year 2014 and each subsequent calendar year, the Sheriff's annual salary shall equal the salary of a circuit court judge;

(ii) Be provided with an automobile during the term as Sheriff for the use and work of the Sheriff's Office, with adequate maintenance and insurance for the automobile to be at the cost of the county; and

(iii) Receive not more than $5,000 per year for expenses incurred in performing the duties of Sheriff, including training and education, an accounting of which shall be submitted to the County Director of Finance for approval.

(2) (i) The Sheriff of Prince George's County shall be provided with 4 full–time assistant sheriffs, and all assistant sheriffs shall be selected and appointed by the Sheriff and serve at the Sheriff's pleasure. One of the assistant sheriffs shall be appointed as the chief assistant sheriff. The assistant sheriffs shall be considered line officers, if so designated by the Sheriff.

(ii) Each assistant sheriff shall:

1. Be provided with an automobile for so long as they shall remain appointed assistant sheriff, for the use and work of the Office of Sheriff, with adequate maintenance and insurance of the automobile to be at the expense of the county; and

2. Be provided with an expense allowance of not more than $2,500 annually, an accounting of which shall be submitted to the County Director of Finance for approval.

(iii) Each assistant sheriff may participate in the supplemental retirement program provided to deputy sheriffs by the county.

(iv) The assistant sheriffs shall devote their full time and attention

to the Office of Sheriff.

(v) Except as provided in subparagraph (vi) of this paragraph, the chief assistant sheriff shall receive an annual salary of $71,091.

(vi) The salary of a commissioned deputy sheriff appointed to the position of chief assistant sheriff shall be provided for by the Sheriff in the budget of the county.

(vii) The Sheriff and the assistant sheriffs shall be provided with an annual clothing allowance equal to that which is provided to deputy sheriffs of all ranks for the procurement, care, and upkeep of clothing and leather goods, and administered for that purpose.

(viii) 1. Except as provided in subsubparagraph 2 of this subparagraph, the Sheriff, chief assistant sheriff, and assistant sheriffs shall receive each benefit, other than salary increases, that is negotiated for the deputy sheriffs by the Deputy Sheriffs' Association and granted to the management team of the Prince George's County Sheriff's Office.

2. Any additional or increased benefit does not apply to the incumbent Sheriff, but shall take effect at the beginning of the next following term of office.

(3) In addition to the assistant sheriffs, the Sheriff of Prince George's County shall be provided with the number of full–time employees, including civilian employees and commissioned deputy sheriffs, as is deemed necessary and appropriate to carry out the duties and discharge of the Sheriff's Office. The cost and expense of the positions of the full–time employees, including the salaries, shall be provided for in the budget of the county.

(4) All full–time civilian employees shall be subject to the county personnel law. Civilian employees shall have the right to organize and bargain collectively. Civilian employees shall be subject to the Prince George's County Labor Code with regard to collective bargaining for compensation, including pension and fringe benefits, hours, and terms and conditions of employment. The County Executive shall be considered the employer of the civilian employees only for the purpose of collective bargaining for compensation, including pension and fringe benefits, and hours. The Sheriff shall be considered the employer for purposes of collective bargaining for other terms and conditions of employment. However, any required funding for a collective bargaining agreement negotiated by the Sheriff shall be subject to the approval of the County Executive.

(5) With the exception of the assistant sheriffs, all full–time deputy sheriffs of all ranks, provided for the Sheriff in the budget of the county, upon commencement of any position in the Sheriff's department may be required by the Sheriff to serve a probationary period of 12 months. The probationary period may

be extended by the Sheriff for reasonable cause. During the probationary period, the determination of the employee's qualifications and ability to serve in the position of a permanent, nonprobationary employee shall be within the exclusive discretion of the Sheriff. All probationary commissioned deputy sheriffs shall be required to complete the minimum number of hours as mandated to other law enforcement agencies, as set by the Maryland Police Training Commission.

(6) (i) With the exception of the assistant sheriffs, all commissioned full–time employees, including deputy sheriffs of all ranks and court security officers, that are provided for by the Sheriff in the budget of the county, shall be subject to the county personnel law.

(ii) Except as provided in subparagraph (iii) of this paragraph, the assistant sheriffs shall receive an annual salary of $69,888.

(iii) The salary of commissioned deputy sheriffs serving as assistant sheriffs shall be provided for by the Sheriff in the budget of the county.

(7) All nonprobationary commissioned full–time employees, including deputy sheriffs of all ranks, are subject to the Law Enforcement Officers' Bill of Rights. All commissioned full–time employees, including deputy sheriffs of all ranks and court security officers, are also subject to the Labor Code of the county with regard to collective bargaining for compensation, including pension and other fringe benefits, hours, and terms and conditions of employment. The County Executive shall be considered the "employer" of the deputy sheriffs and court security officers only for the purpose of collective bargaining for compensation, including pension and fringe benefits, and hours. The Sheriff shall be considered the employer for purposes of collective bargaining for other terms and conditions of employment. However, any required funding for a collective bargaining agreement negotiated by the Sheriff shall be subject to the approval of the County Executive.

(8) (i) The Sheriff and the Sheriff's deputies shall be limited in their duties as law enforcement officers, as follows:

1. The full power of arrest, the service of process of all writs, summonses, orders, petitions, subpoenas, warrants, rules to show cause, and all other legal papers;

2. The care and supervision of prisoners at any of the county detention centers, hospitals, penal institutions, or other places of confinement;

3. The security of all State and county courts and the performance of such duties as may be required of them by the courts;

4. The transportation of all legally detained persons;

5. The administration and enforcement of casino night permits as authorized by the governing body of the county; and

6. As of October 1, 2007, specific duties as authorized by the county governing body, including:

A. Responding to domestic violence calls;

B. Acting as school resource deputies in county schools; and

C. Providing security for Prince George's County public school sporting events and extracurricular activities that are held in the county, sponsored by a public school, and open to the public.

(ii) 1. The duties authorized in subparagraph (i)6 of this paragraph shall be enumerated in a memorandum of understanding entered into by the Prince George's County Police Department and the Office of the Sheriff of Prince George's County.

2. The memorandum of understanding may be revised only by the county governing body.

3. The memorandum of understanding is in effect from the date it is signed by both parties but not before October 1, 2007.

(9) Neither the Sheriff of Prince George's County nor any of the Sheriff's deputies shall conduct criminal investigations, except:

(i) In matters concerning the Sheriff's department;

(ii) On request of the courts;

(iii) As necessary for the administration and enforcement of casino night permits as authorized by the county governing body; or

(iv) In investigations arising out of or incident to normally assigned duties, including those duties authorized by the county governing body under paragraph (8)(i)6 of this subsection.

(10) When a Sheriff or Sheriff's deputy has commenced an investigation under paragraph (9)(iv) of this subsection, the Sheriff or the Sheriff's deputy:

(i) Shall immediately notify the appropriate law enforcement agency that has jurisdiction over the matter; and

(ii) Shall transfer the investigation to an appropriate law enforcement agency that has jurisdiction over the matter on request of the agency.

(s) (1) (i) The Sheriff of Queen Anne's County shall receive a salary set by the County Commissioners of at least $10,000.

(ii) The Sheriff shall appoint a chief deputy sheriff or the managerial

equivalent, who shall:

1. Receive a salary set by the County Commissioners of at least $4,500; and

2. Serve at the pleasure of the Sheriff.

(iii) 1. The Sheriff may appoint the number of assistant deputy sheriffs as the County Commissioners approve, at salaries set by the County Commissioners of at least $4,200.

2. The Sheriff may not refuse to reappoint a deputy sheriff without just cause.

(iv) The Commissioners may appoint an assistant deputy sheriff, at a salary set by the County Commissioners of at least $4,200.

(2) The salaries are in lieu of all expenses, fees, costs, and charges, except for the board and keeping of prisoners in the county jail and other necessary operating expenses allowed by law or practice, including all expenses for transferring persons to and from penal institutions, places of confinement and State institutions in the State under sentence or order of an authority.

(3) The County Commissioners may include in the merit system of the county the employees of the Queen Anne's County Sheriff's Department.

(t) (1) The annual salary of the Sheriff of St. Mary's County shall be:

(i) $100,000 for the calendar year 2015;

(ii) $102,000 for the calendar year 2016;

(iii) $104,040 for the calendar year 2017; and

(iv) $106,120 for the calendar year 2018.

(2) The Sheriff shall devote full time to the duties of office.

(u) (1) (i) The Sheriff of Somerset County shall receive a salary of not less than $60,000 and no expense allowance.

(ii) He shall appoint a chief deputy who shall receive a salary of not less than $7,500.

(iii) Subject to the approval of the County Commissioners, the Sheriff may appoint additional deputies at the compensation set by the County Commissioners prior to any appointment.

(iv) Deputy sheriffs serve under the direction of the Sheriff.

(v) Deputy sheriffs are required, within 1 year after their appointment, to complete successfully the course that the Maryland Police Training Commission prescribes for police officers.

(vi) 1. Except as provided in subsubparagraph 2 of this subparagraph, a deputy sheriff whose position is funded by the County Commissioners becomes a merit system employee of the Office of Sheriff of Somerset County on completion of the deputy sheriff's initial probation period and may not be dismissed without cause.

2. A deputy sheriff whose position is funded through a grant or other source may be dismissed without cause after the funding source is depleted.

(vii) The County Commissioners may appoint a jail warden as the county jailer. Prior to the appointment of any individual, the County Commissioners shall establish an annual rate of compensation for the county jailer.

(2) The Sheriff and his deputies may wear uniforms when performing their official duties, and the automobiles used by the Sheriff's Office shall be equipped with a two–way radio.

(3) The County Commissioners may pay for the uniforms, radios, automobiles, and operating expenses of the automobiles of the Sheriff's Office.

(4) The County Commissioners may include in the merit system of the county the employees of the Somerset County Sheriff's Office.

(v) (1) The Sheriff of Talbot County shall receive a salary as set by the County Council.

(2) The Sheriff may appoint, subject to the approval of the County Council, the number of deputies the Sheriff deems necessary at the compensation fixed by the County Council prior to the appointment.

(3) The Sheriff may appoint a chief deputy sheriff, or the managerial equivalent, who shall serve at the pleasure of the Sheriff.

(4) The Sheriff may not refuse to reappoint a deputy sheriff without just cause.

(5) The Sheriff's Office shall be operated on a 24–hour daily basis.

(6) The County Council may:

(i) Require the Sheriff and deputy sheriffs to wear the uniforms and equipment prescribed by the County Council while on duty or performing an official act; and

(ii) 1. Issue the required uniforms and equipment to the Sheriff and deputy sheriffs; or

2. Reimburse the Sheriff and deputy sheriffs for the purchase of uniforms and equipment.

(w) (1) (i) The Sheriff of Washington County shall receive a salary of the greater of:

1. $100,000; or

2. The salary set by the County Commissioners of Washington County under Title 28, Subtitle 2 of the Local Government Article.

(ii) The Sheriff shall appoint a chief deputy at a salary level set by the County Commissioners.

(iii) The Sheriff may appoint deputy sheriffs and other personnel necessary to perform the duties of office at salary levels set by the County Commissioners in accordance with the county's budgetary process.

(2) (i) Any deputy sheriff appointed according to this subsection shall be placed on a probationary status for the first two years of his employment, and may be dismissed by the Sheriff for any reason during that probationary period.

(ii) At the conclusion of continuous employment for two years, a deputy sheriff having the rank of major or below has tenure, and may be discharged by the Sheriff only for misfeasance, malfeasance, nonfeasance, or insubordination in office.

(3) If the Sheriff of Washington County approves after considering personnel needs, the County Commissioners may authorize a deputy sheriff to perform off–duty services for any person who agrees to pay a fee, including hourly rates for off–duty service, any necessary insurance to be determined by the Commissioners, any fringe benefits, and the reasonable rental cost of uniforms or other equipment used by any off–duty personnel.

(4) (i) The Sheriff of Washington County may appoint special deputy sheriffs, including members of the police force of a Washington County municipality who are:

1. Selected by the chief of police of the municipality; and

2. Verified by the chief of police of the municipality as having achieved at least the minimum level of training for police duties in a municipality as designated by the Maryland Police Training Commission.

(ii) The appointment of special deputy sheriffs is subject to the

following conditions:

1. The Sheriff shall assign the special deputy sheriff who is a member of the police force to duties in the municipality where the special deputy sheriff is a member of the police force or to duties in other areas of the county, including:

A. Performing a vehicle traffic stop resulting from the special deputy sheriff's observation that the operation of the vehicle endangered human life;

B. Stabilizing a traffic situation that is endangering human life;

C. Stabilizing an emergency situation that involves the potential for loss of human life, bodily injury, or damage to property;

D. Responding as an initial responder or an emergency responder after being dispatched by the Washington County Emergency Communications Center to a location outside the special deputy sheriff's jurisdiction but which the Emergency Communications Center believed was in the special deputy sheriff's jurisdiction;

E. Responding to an emergency under a Mutual Aid and Assistance Agreement to which a municipality and the Washington County Sheriff's Office are parties and which is in effect at the time of the response or under a mutual aid agreement under § 2–105 of the Criminal Procedure Article if the special deputy sheriff is in compliance with the agreement;

F. Serving on a task force that is jointly operated by a municipal police department and the Washington County Sheriff's Office; or

G. Serving on a special response team that has been activated for a response outside the special deputy sheriff's jurisdiction;

2. The Sheriff may terminate the appointment of the special deputy sheriff for cause or on completion of the assignment for which the special deputy sheriff was appointed;

3. The special deputy sheriff is not an employee of Washington County for the purpose of employment security or employee benefits; and

4. County liability insurance may be provided to a special deputy sheriff.

(iii) Except as provided in subparagraph (ii)1 of this paragraph, designation as a special deputy sheriff does not authorize the special deputy sheriff to perform law enforcement duties outside the special deputy sheriff's jurisdiction.

(iv) A special deputy sheriff is under the authority of the Sheriff of

Washington County while the special deputy sheriff is performing duties as a special deputy sheriff.

(x) (1) (i) The Sheriff of Wicomico County shall receive a salary of the greater of:

1. $58,000 in calendar year 1998 and thereafter; or

2. The salary set by the County Council of Wicomico County before the start of the term of office.

(ii) The Sheriff shall appoint a chief deputy at a salary set by the Wicomico County Council, payable in equal monthly installments. The chief deputy's term of office coincides with the Sheriff's and he may be removed by the Sheriff at any time. The Sheriff may appoint additional deputies as he and the County Council of Wicomico County deem necessary, each of whom shall receive the compensation prescribed by the personnel rules and regulations of the county.

(2) The Sheriff of Wicomico County shall be allowed an additional amount to defray all expenses of his office, including necessary automobile mileage allowance at the rate of at least 6 cents per mile for automobiles used by him and his deputies in performing their official duties. However, mileage shall not be allowed if automobiles are furnished to the Sheriff by the County Council. Necessary expenses for telephone and telegraph, and clerical assistants will be allowed if approved by the County Council.

(3) The Sheriff shall submit properly authenticated requisitions containing a full and complete statement under oath setting forth all of the expenses for a month, including the names of all deputies and assistants, the amounts allowed to each and all other items of expense. These sums are in lieu of all expenses, fees and costs now or heretofore allowed the Sheriff for expense in carrying out the duties of his office, including the expenses of transferring prisoners to and from penal institutions and places of confinement in the State under the sentence or order of any authority. The County Council shall not pay the Sheriff additional compensation for any services he renders in discharging his official duties. The County Council is not liable for any other fee or compensation to the Sheriff.

(4) The County Council shall levy each year sufficient funds to pay the salaries and expenses of the Sheriff's Office.

(5) All deputies, except the chief deputy, clerical assistant, and other employees employed are subject to the "personnel provisions" of the charter of Wicomico County and subsequent rules and regulations passed by the County Council. If a deputy subject to the personnel provisions is promoted to chief deputy, then on his removal from the office of chief deputy for other than cause, he shall revert to a deputy with the same status which he had prior to his appointment as chief deputy. A chief deputy who is not a deputy subject to the personnel provisions prior to his appointment as chief deputy, if removed from office for any reason shall not automatically revert to

a deputy.

(y) (1) (i) The Sheriff of Worcester County shall receive an annual salary as set by the County Commissioners of at least $85,000.

(ii) The Sheriff shall appoint at least one chief deputy sheriff and as many deputy sheriffs and other personnel as are necessary to perform the duties of the office and are provided for in the county budget.

(2) The County Commissioners of Worcester County shall pay all necessary expenses of the operation of the Sheriff's Office through the county budget adopted in accordance with all applicable laws and budget procedures and subject to all applicable budget reviews.

(3) (i) The chief deputy sheriff shall serve at the pleasure of the Sheriff.

(ii) If a chief deputy sheriff who was a Worcester County deputy sheriff prior to being appointed as chief deputy is removed from the office of chief deputy for other than cause, that person shall revert to a deputy sheriff with the same status that the person had prior to the person's appointment as chief deputy.

(iii) If a chief deputy sheriff who was not a Worcester County deputy sheriff prior to being appointed as chief deputy is removed from the office of chief deputy for any reason, that person may not automatically revert to a deputy sheriff after being removed as chief deputy.

(4) (i) Except as provided in this subsection, the personnel rules and regulations of Worcester County as adopted by the County Commissioners shall apply to all employees of the Sheriff of Worcester County other than the chief deputy sheriff, including deputy sheriffs, clerks, typists, animal control officers, and other necessary personnel.

(ii) The appointment, disciplinary, and managerial functions of the County Commissioners as provided for in the personnel rules and regulations of Worcester County shall be performed by the Sheriff in the case of all employees of the Sheriff's Office.

(5) The Sheriff may adopt Sheriff's Office manuals, additional rules of conduct, dress, and decorum, and other procedures that shall apply to all employees and shall be conditions of employment with the Sheriff's Office.

(6) An employee of the Sheriff's Office other than the chief deputy sheriff or a probationary employee may be disciplined or terminated for cause only in accordance with the provisions of this subsection, the regulations referred to in this subsection, or the Law Enforcement Officers' Bill of Rights.

(7) When a new Sheriff takes office, or at the beginning of a new term of office of a Sheriff, all deputies other than the chief deputy and all other employees in

good standing shall remain in their positions and shall be considered reappointed or redeputized, subject to the provisions of this subsection and to the extent required. A Sheriff may not refuse to reappoint and redeputize a deputy sheriff without cause.

(8) At the request of the Sheriff, the County Commissioners may provide in–kind support to the Sheriff relating to personnel matters.

(9) The Sheriff shall have complete control over the employees of the Sheriff's Office, subject only to the provisions of this subsection and the reasonable application of the personnel rules and regulations of Worcester County and the protections and benefits those policies provide.

(z) A deputy sheriff shall perform the duties incidental to the office as are assigned to him by the Sheriff. All salaries shall be paid at least once each month.

§2–310.

(a) The sheriff of Baltimore City and each county may appoint, from time to time, from among his deputies a second in command. On the death, disqualification, or resignation of the sheriff or in the event the sheriff is convicted of a felony, the second in command shall succeed to all the powers, duties, responsibilities, and obligations of the sheriff until a successor has been appointed by the Governor.

(b) Immediately upon assuming the powers of the sheriff, the second in command shall file a bond with the State Comptroller, in the same penalty and on the same conditions as that required of the sheriff.

§2–311.

(a) The sheriff of a county may establish and administer reasonable guidelines in accordance with this section for disposing of abandoned, lawfully confiscated, or recovered property that is in the possession of the sheriff's office.

(b) The guidelines shall provide that:

(1) (i) After lawfully confiscated property has been in the possession of the sheriff for a period of one year, notice of the sale of the property shall be given by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence; and

(ii) After abandoned or recovered property has been in the possession of the sheriff for a period of 90 days, notice of the sale of the property shall be given by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence;

(2) The property may be sold at public auction after a description of the

property and the time, place, and terms of the sale have been published in a newspaper of general circulation in the county in each of 2 successive weeks;

(3) The amount received from the sale of property in accordance with this section shall be distributed in the following order of priority:

(i) To the sheriff, in an amount equal to the expense of the sale and all expenses incurred while the property was in the sheriff's custody;

(ii) To lienholders in order of their priority; and

(iii) Subject to the provisions of item (4) of this subsection, to the general fund of the county; and

(4) At any time within 3 years from the date of the sale of the property, any person submitting satisfactory proof of the person's right to the possession of the property shall be paid, without interest, the amount distributed to the general fund pursuant to item (3) of this subsection, and after the expiration of 3 years from the date of the sale, any claims shall be absolutely barred.

§2–401.

(a) An appellate court shall have a clerk who is appointed by and serves at the pleasure of the court. He shall perform the duties required by Subtitle 2 of this title and the additional duties prescribed by the judges.

(b) Subject to approval by the court, the clerk may employ the deputy clerks and other employees necessary for the conduct of his office who shall perform the duties prescribed by the judges.

§2–402.

An appellate court may appoint the law clerks, stenographers, and other full or part time employees it deems necessary.

§2–403.

The clerk, his deputies, and other employees of the court shall receive the compensation provided in the State budget.

§2–404.

An appellate court may direct a sheriff to attend the court or perform services for the court. For serving an appellate court, the sheriff or his county shall receive the compensation set by the court.

§2–501.

(a) Except as provided for the Circuit Court for Baltimore City in Subtitle

5A of this title, the judges of the circuit court for a county may employ the court administrators, assignment commissioners, auditors, masters, examiners, court reporters, messengers, bailiffs, court criers, librarians, clerks, secretaries, stenographers, jury commissioners, law clerks, and other employees necessary to conduct the business of the court.

(b) (1) Each employee of a circuit court is entitled to compensation as provided in the appropriate budget and shall perform the duties that the judge directs.

(2) (i) If a court reporter ordered under § 2–503 of this subtitle to take testimony before a grand jury serves in more than one county, the counties where the reporter serves shall apportion the compensation under this subsection as the county administrative judges agree.

(ii) The Montgomery County Council shall pay the compensation of a court reporter taking or transcribing grand jury testimony in the county.

(c) (1) The resident judge in each county of the seventh judicial circuit shall appoint one or more official court reporters for the circuit court in the county. A reporter shall be competent to record court proceedings and shall serve at the pleasure of the judge who appointed him. The reporter shall receive the compensation set by the county government after consultation with the county administrative judge.

(2) A court reporter shall be reimbursed for expenses as approved by the court. Reimbursement shall be made by the county treasurer or similar officer of the county in which the services were rendered as expenses of the court upon presentation of a certificate from the clerk showing the attendance and services of the reporter.

(3) If directed by the court, the reporter shall attend and take full stenographic notes of, or otherwise record the oral testimony and judicial opinions in all proceedings in the court.

(4) The court may direct the reporter to transcribe the notes of a proceeding and the costs of transcription may be taxed as costs in the case or paid as part of the general expenses of the court.

(5) On request by a party, a reporter shall furnish a typewritten transcript of any portion of his notes, upon payment of the expenses incident to the transcript at the rate fixed by the court.

(d) (1) The five counties comprising the second judicial circuit of Maryland shall provide a pension to any court stenographer of the circuit who has served in that capacity for 25 or more years.

(2) Each county shall share in a pro rata contribution to the pension in the following proportions:

(i) Caroline County — 20.5 percent;

(ii) Cecil County — 15.6 percent;

(iii) Kent County — 19.9 percent;

(iv) Queen Anne's County — 19.9 percent; and

(v) Talbot County — 24.1 percent.

(3) The county commissioners or county council for each of those counties shall appropriate annually the necessary funds to pay its share of the pension.

(4) The pension shall be $4,000 a year and shall be paid in monthly installments of $333.33.

(e) (1) There shall be included in the State budget for the Judicial Branch an appropriation to the Administrative Office of the Courts in the amount necessary to pay salaries and benefits of standing circuit court masters.

(2) The Administrative Office of the Courts shall:

(i) Identify the standing circuit court masters; and

(ii) Develop a personnel management plan and funding plan to implement this subsection.

(3) A standing master of a circuit court or a judicial circuit shall report to and perform the duties and assignments determined by the judges of the respective circuit court or circuit, in accordance with the statewide policy on masters.

(4) The Court of Appeals may adopt rules concerning the master positions described in this subsection.

(5) (i) Except as otherwise provided in this paragraph, circuit court masters identified under paragraph (2) of this subsection shall remain county or Baltimore City employees and shall not be State employees.

(ii) A circuit court master identified under paragraph (2) of this subsection may elect to become a State employee between January 1, 2002, and March 31, 2002, both inclusive.

(iii) A circuit court master who elects under this subsection to become a State employee shall become a State employee on July 1, 2002.

(iv) A standing circuit court master hired on or after July 1, 2002, shall be a State employee.

§2–502.

Each clerk of a circuit court shall keep permanently a test book containing the

oaths of office and signatures of every individual who takes the oath before the clerk.

§2–503.

The jury judge for a county may order a court reporter to take and transcribe testimony given before a grand jury for the county for use as provided in § 8-416(c)(1) of this article.

§2–504.

(a) The clerk of each circuit court shall receive an annual salary of not more than $114,500 as set by the Board of Public Works on the basis of the relative volume of business and receipts in the clerk's office.

(b) A clerk shall devote his full working time to the duties of the clerk's office and is entitled to the salary prescribed in subsection (a) of this section.

(c) The salary of a clerk is payable biweekly.

§2–504.1.

(a) The clerk of each circuit court shall submit annually a budget for the review and approval of the Chief Judge of the Court of Appeals in such form as prescribed by the Secretary of Budget and Management.

(b) Each budget submitted under this section shall:

(1) Specify for each clerk's office:

(i) The number of positions;

(ii) The salaries;

(iii) The expenses; and

(iv) The anticipated revenues; and

(2) Be submitted to the Chief Judge of the Court of Appeals in a uniform format as prescribed by the Secretary of Budget and Management.

(c) The Chief Judge of the Court of Appeals shall provide preliminary estimates of budget appropriations for the clerk of each circuit court to the Secretary of Budget and Management.

(d) (1) The Chief Judge of the Court of Appeals shall submit the budget of the clerk of each circuit court to the Secretary of Budget and Management at the time prescribed by the Secretary.

(2) Each budget shall be included in the State budget as part of the budget

for the Judicial Branch of State government as submitted by the Chief Judge of the Court of Appeals.

§2–505.

(a) The number of positions in the office of clerk of a circuit court shall be as provided in the budget.

(b) The procedure for appointment and removal of personnel in the clerk's office shall be as provided by rules adopted by the Court of Appeals. Those rules may provide whether the positions shall be in the State Personnel Management System or in the personnel system of the Judicial Branch.

(c) The compensation for the positions in the clerk's office shall be set by the Chief Judge.

§2–506.

The minimum hours of work in each week for full-time deputies and employees of the offices of clerks of the circuit courts are 35 1/2 hours.

§2–507.

(a) A bailiff shall receive the compensation provided in this section. Unless otherwise provided, the amount is a per diem sum for each day he attends the circuit court.

(1) Allegany County — As set by the court and approved by the county government.

(2) Anne Arundel County — As set by the court and approved by the county government.

(3) Baltimore City — As set by the city government.

(4) Baltimore County — As set by the court.

(5) Calvert County — As set by the county government and approved by the court.

(6) Caroline County — $15.

(7) Carroll County — As set by the county government.

(8) Cecil County — $17.50.

(9) Charles County — As set by county government.

(10) Dorchester County — As set by the court and confirmed by the County

Commissioners.

(11) Frederick County — As set by the county government.

(12) Garrett County — As set by the court and approved by the County Commissioners.

(13) Harford County — As set by the court.

(14) Howard County — As set by the county government.

(15) Kent County — $25.

(16) Montgomery County — As set by the county government.

(17) Prince George's County — As set by the county government and approved by the court.

(18) Queen Anne's County — As set by the court and approved by the county government.

(19) St. Mary's County — As set by the county government.

(20) Somerset County — $10.

(21) Talbot County — As set by the county government.

(22) Washington County — As set by the court and approved by the County Commissioners.

(23) Wicomico County — As set by the county government.

(24) Worcester County — As set by the county government but not more than $35.

(b) A court crier shall receive the per diem compensation provided by this section for attending the circuit court:

(1) Caroline — $15;

(2) Cecil — As set by the County Commissioners;

(3) Kent — $17.50;

(4) Queen Anne's — As set by the court and approved by the county government;

(5) Somerset — As set by the County Commissioners;

(6) Talbot — As set by the County Commissioners;

(7) Wicomico — As set by the County Commissioners.

§2–508.

(a) In Prince George's County, in accordance with the Maryland Rules, the County Administrative Judge shall:

(1) Establish the Office of Calendar Management to schedule all proceedings before the Circuit Court for Prince George's County, including juvenile matters, civil, criminal, and domestic relations cases;

(2) Appoint the employees of the Office of Calendar Management; and

(3) Supervise directly or through a designee the functions and employees of the Office of Calendar Management.

(b) Prince George's County shall fund all salaries and other expenses of the Office of Calendar Management.

§2–509.

(a) In Anne Arundel County, there is the Office of the Director of Assignments of the Circuit Court.

(b) The Office of the Director of Assignments of the Circuit Court shall:

(1) Schedule all civil cases before the Circuit Court; and

(2) Perform all other duties as directed by the administrative judges of the circuit and Anne Arundel County.

(c) Pursuant to the Maryland Rules, the County Administrative Judge of Anne Arundel County shall:

(1) Appoint the Director of Assignments; and

(2) Supervise the functions and employees of the Office of the Director of Assignments.

(d) (1) Anne Arundel County shall pay all expenses of the Director and the Office of Assignments of the Circuit Court for Anne Arundel County, excluding salary and fringe benefits for other employees of the Office of Assignments.

(2) In Anne Arundel County, the employees in the Office of the Director of Assignments shall be:

(i) Selected from the staff of the Clerk of the Circuit Court;

(ii) Paid from the budget of the Clerk of the Circuit Court; and

(iii) Under the exclusive supervision and control of the Director of Assignments.

§2–510.

(a) This section applies only to employees of the Domestic Relations Division of the Anne Arundel County Circuit Court who, on or before June 30, 2002 were participants in the Anne Arundel County Retirement and Pension System.

(b) An employee of the Domestic Relations Division of the Anne Arundel County Circuit Court who is transferred on or before July 1, 2002 into the State Personnel Management System as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources, including any attorney representing the Child Support Enforcement Administration may elect to:

(1) Remain as a participant in the Anne Arundel County Retirement and Pension System; or

(2) Become an enrollee in the Employees' Pension System of the State of Maryland.

(c) (1) If an employee elects to remain as a participant in the Anne Arundel County Retirement and Pension System, the election remains in effect only as long as the employee remains employed by the Child Support Enforcement Administration of the Department of Human Resources.

(2) If the employee transfers to another position in State service, the employee shall become an enrollee of the Employees' Pension System of Maryland.

(3) While an employee remains a participant in the Anne Arundel County Retirement and Pension System, the State Central Payroll Bureau shall deduct from the employee's biweekly salary an employee contribution that equals the employee's salary multiplied by the employee contribution rate certified by the Anne Arundel County Retirement and Pension System under subsection (d)(2) of this section.

(d) (1) Until the date that the last employee transferred to the State Personnel Management System leaves service in the Child Support Enforcement Administration of the Department of Human Resources, the Department of Human Resources shall pay on a quarterly basis to the Anne Arundel County government:

(i) The amount deducted by the State Central Payroll Bureau from an employee's biweekly salary for that quarter as provided under subsection (c)(3) of this section; and

(ii) An employer contribution for that quarter equal to the total of the employee salaries subject to a deduction under subsection (c)(3) of this section

multiplied by the employer contribution rate determined by the Department of Human Resources under paragraph (3) of this subsection.

(2) On or before May 15 of each year, the Board of Trustees of the Anne Arundel County Retirement and Pension System shall certify to the Department of Human Resources the employer and employee contribution rates for pension benefits determined for the Anne Arundel County Retirement and Pension System for the next fiscal year.

(3) If the employer contribution rate certified under paragraph (2) of this subsection is greater than the employer contribution rate paid by the State for State employees under the State Personnel Management System, the Department of Human Resources may limit the employer contribution rate to the employer contribution rate paid by the State for State employees under the State Personnel Management System.

(4) An employee transferred under this section is not subject to § 22-406(c)(2) of the State Personnel and Pensions Article.

(e) (1) A retiree covered under this section who elected to remain in the Anne Arundel County Retirement and Pension System may:

(i) Enroll in the health insurance benefit option provided under that system; and

(ii) Once enrolled, receive the retirement health benefits provided by the county, subject to the creditable service requirements established in § 2-508 of the State Personnel and Pensions Article.

(2) On or before May 15 of each year, the personnel officer for Anne Arundel County shall certify to the Department of Human Resources the contribution rates for health benefits determined for the Anne Arundel County Retirement and Pension System for the next fiscal year.

(3) The Department of Human Resources shall pay on a quarterly basis to the Anne Arundel County government an amount equal to the employer's contribution for those health benefits.

(4) If the employer contribution rate certified under paragraph (2) of this subsection is greater than the employer contribution rate paid by the State for State retirees under the State Personnel Management System:

(i) The Department of Human Resources may limit the employer contribution rate to the employer contribution rate paid by the State for State employees under the State Personnel Management System; and

(ii) The retiree is responsible for payment of the balance of any monthly premium cost to the county not reimbursed by the State.

§2–511.

There shall be included in the State budget for the Judiciary Department of Maryland beginning in fiscal year 2000, an authorization to the Administrative Office of the Courts in the total amount necessary to provide interpreter services required to be provided by federal or State law in a circuit court proceeding.

§2–512.

(a) Each circuit court judge shall have one law clerk, to be employed by the State.

(b) The budget for the Administrative Office of the Courts shall include funds to employ one law clerk for each circuit court judge.

§2–5A–01.

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

(b) "Director" means the director of the personnel merit system.

(c) "Employee" means a person who is employed in a position that is subject to the personnel merit system.

(d) "Personnel merit system" means the personnel merit system for the office of the clerk of the Circuit Court for Baltimore City, as created and provided for under this subtitle.

§2–5A–02.

The personnel merit system for the office of the clerk of the Circuit Court for Baltimore City is created to provide for and administer the hiring and the other employment policies, procedures, requirements, and programs, as provided in § 2-5A-07 of this subtitle.

§2–5A–03.

(a) There shall be a judicial personnel committee, with duties and powers as set forth in this subtitle.

(b) The judicial personnel committee consists of three members, as follows:

(1) The State Court Administrator;

(2) The administrative judge of the Circuit Court for Baltimore City; and

(3) The clerk of the Circuit Court for Baltimore City.

§2–5A–04.

(a) The personnel merit system shall be administered in accordance with this subtitle by the director of the personnel merit system.

(b) (1) The director shall be appointed by the judges of the Circuit Court for Baltimore City, on the recommendation of the judicial personnel committee.

(2) The judges of the Circuit Court for Baltimore City, on the recommendation of the judicial personnel committee, may remove the director for cause.

§2–5A–05.

All employees of the office of the clerk of the Circuit Court for Baltimore City shall be employees of this State and, except as otherwise provided in this article or other provision of law for specific purposes, are subject to all of the benefits and responsibilities applicable to any other State employee generally.

§2–5A–06.

(a) The following positions shall be subject to the personnel merit system:

(1) Any position to which an appointment by a clerk of the Supreme Bench of Baltimore City is authorized on or before June 30, 1982;

(2) Any position to which an appointment by a judge of the Supreme Bench of Baltimore City is authorized on or before June 30, 1982, and that was assigned to any of the following:

(i) The civil assignment commissioner's office;

(ii) The jury commissioner's office;

(iii) The criminal assignment commissioner's office; or

(iv) The juvenile court clerk's office;

(3) The six positions of deputy clerk of the proposed Circuit Court for Baltimore City that are created for the purpose of transferring the clerks of the several courts of the Supreme Bench to the office of the clerk of the Circuit Court for Baltimore City; and

(4) Any position that is created or redesignated as a permanent position and assigned to the clerk of the Circuit Court for Baltimore City after January 1, 1983.

(b) (1) An employee in a position under subsection (a) of this section who is a member of the A, B, or C plan of the Baltimore City Employees Retirement System as of December 31, 1982, may, within 90 days after that date, make an irrevocable election

to:

(i) Remain a member of the A, B, or C plan of the Baltimore City Employees Retirement System; or

(ii) Become a member of the Employees' Pension System of the State of Maryland.

(2) The State shall pay to Baltimore City, for those employees electing to remain in the City system, the necessary:

(i) Employer contribution; and

(ii) Employee contribution withheld from the employees' compensation by the State in accordance with City ordinance.

(3) For those employees electing to become members of the Employees' Pension System of the State of Maryland, the transfer of employer and employee contributions shall be as provided in § 37-205 of the State Personnel and Pensions Article.

§2–5A–07.

(a) The Supreme Bench affirmative action policy that is in effect on January 1, 1983, and as amended from time to time by the judges of the Circuit Court for Baltimore City, shall apply to the personnel system.

(b) The director of personnel shall adopt rules and regulations and establish policies necessary to administer the personnel merit system, including rules, regulations, and policies to:

(1) Specify rules of employment and the responsibilities of the employees;

(2) Establish a classification and compensation plan and provide for its maintenance;

(3) Provide for a job-related program of recruitment, examination, selection, and appointment;

(4) Provide for certification to the appointing authority of lists of candidates whose qualifications for employment have been determined by an appropriate job-related selection process;

(5) Provide for a job-related program of evaluation, reclassification, promotion, transfer, and demotion of employees;

(6) Establish guidelines for the discipline, supervision, termination of employees and for handling employee grievances;

(7) Develop guidelines for hiring part-time, temporary, and contractual employees;

(8) Establish policies governing use of leave and limitations of travel on court business;

(9) Develop training programs and tuition reimbursement policies; and

(10) Provide for any other guideline, procedure, or program necessary to carry out an equitable and efficient personnel system consistent with this subtitle and any other provision of law.

§2–601.

(a) There shall be a chief clerk of the District Court, four assistant chief clerks, a supervising auditor, a coordinator of commissioner activity, a chief administrative clerk in each district, a clerk in each county, and other clerical and administrative employees necessary to conduct the business of the court.

(b) Except as otherwise provided by law, the clerical, administrative, and constabulary employees of the District Court shall be appointed by the Chief Judge of the District Court on the recommendation of the administrative judge for the district and shall be in the personnel system of the Judicial Branch.

§2–602.

(a) The chief clerk, the assistant chief clerks, the supervising auditor, and the coordinator of commissioner activity are appointed by and serve at the pleasure of the Chief Judge of the District Court.

(b) A chief administrative clerk is appointed by the Chief Judge of the District Court, upon the recommendation of the administrative judge of the district and serves at the pleasure of the Chief Judge of the District Court.

(c) The chief clerk, the assistant chief clerks, the supervising auditor, the coordinator of commissioner activity, and the chief administrative clerks of the districts shall be in the personnel system of the Judicial Branch, subject to the classification authority of the Chief Judge of the Court of Appeals, and shall receive the compensation prescribed by the General Assembly.

§2–603.

(a) Subject to the direction of the Chief Judge of the District Court, the chief clerk of the District Court is responsible for the administration and day-to-day clerical operation of the District Court and its several divisions and locations. He shall perform the other duties prescribed by rule or law. He may delegate administrative duties to other clerical or administrative personnel of the District Court in a manner consistent with rule or law.

(b) The chief administrative clerk in each district is responsible to the chief clerk of the District Court and the administrative judge of the district for the maintenance and operation of the clerical staff and work within the district, including dockets, records, and all necessary papers.

(c) (1) When requested to do so, a clerk of the District Court shall advise and assist, as to procedural matters only, a person in the preparation of a statement of claim or other papers required to be filed in a civil action in which the amount in controversy does not exceed $2,500.

(2) A clerk of the District Court is not liable to any person with respect to any advice or assistance in the preparation of any statement of claim.

(d) (1) This subsection applies to:

(i) A dismissal or nolle prosequi of a charge entered on the record in the District Court; and

(ii) An indefinite postponement in the District Court of a trial of a charge by marking the charge "stet" on the docket.

(2) Notwithstanding any other provision of law, if a dismissal or nolle prosequi of a charge is entered or a charge is stetted, a clerk of the court:

(i) Subject to item (ii) of this paragraph, shall mail notice of the dismissal, nolle prosequi, or stet, as the case may be, to the defendant and the defendant's attorney of record if both the defendant and the defendant's attorney of record are not present in court when the dismissal or nolle prosequi of the charge is entered or the charge is stetted;

(ii) May not mail a notice described in this subsection to the defendant if the defendant's whereabouts are unknown; and

(iii) May not mail a notice described in this subsection to the defendant or the defendant's attorney of record if either is present in court when the dismissal or nolle prosequi of the charge is entered or the charge is stetted.

§2–604.

(a) The Chief Judge of the District Court, upon the recommendation of the administrative judge of each district, shall appoint the number of constables required to serve process of the District Court within that district. The administrative judge shall assign the constables to the various courts or divisions of courts within his district so that every court or division of a court has at least one constable.

(b) Constables may serve either full time or part time. Full-time constables shall be paid on the same salary scale as that set by the Secretary of Budget and Management pursuant to § 2-309(d) of this title for full-time deputy sheriffs in

Baltimore City. Part-time constables are paid the compensation prescribed by the General Assembly, and serve at the pleasure of the Chief Judge of the District Court.

(c) A constable who shows proper identification may ride public transportation in Baltimore City during the course of the constable's employment without paying the fare.

§2–605.

(a) All civil process and papers of the District Court shall be served by the constables of the respective districts, except that the administrative judge of a particular district may order the papers and process served by the sheriff of the county.

(b) All criminal and traffic process, including warrants and summonses for witnesses, shall be served by the constables of the respective districts, or by the sheriffs of the respective counties or by State or local police as the administrative judge of the district shall direct. However, summonses to witnesses in these cases may be served by mail, rather than by personal service, if the administrative judge of the district directs.

§2–606.

A constable shall obey and execute all process directed to him from any judge of the District Court of Maryland concerning any matter within the court's jurisdiction and shall return the process according to its command. He shall serve and levy all executions issued by a judge of the District Court, and in so doing has the same powers, responsibilities and liabilities as a sheriff or deputy sheriff acting in the same capacity if the constable has satisfactorily completed a training program from a police training school approved by the Maryland Police Training Commission.

§2–607.

(a) (1) The administrative judge of each district, with the approval of the Chief Judge of the District Court, may appoint the number of commissioners necessary to perform the functions of the office within each county.

(2) In multicounty districts, the administrative judge shall obtain the recommendation of the resident judge in each county as to the number of commissioners required in the county and as to the persons to be appointed.

(b) (1) Commissioners shall be adult residents of the counties in which they serve, but they need not be lawyers.

(2) Each commissioner shall hold office at the pleasure of the Chief Judge of the District Court, and has the powers and duties prescribed by law.

(3) Except without additional compensation, unless otherwise fixed by law, an employee of the District Court, who is an adult, may be granted, in the

same manner, commissioner powers and duties in the county where the employee is employed.

(c) (1) A commissioner shall receive applications and determine probable cause for the issuance of charging documents.

(2) A commissioner shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to the commissioner in order to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

(3) There shall be in each county, at all times, one or more commissioners available for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses and to advise arrested persons of their rights as required by law.

(4) A commissioner may exercise the powers of office in any county to which the commissioner is assigned by the Chief Judge of the District Court or a designee of the Chief Judge of the District Court.

(5) The Chief Judge of the District Court may authorize one or more commissioners to perform the duties of a commissioner regarding persons arrested in a county other than the county in which the commissioner resides and for which the commissioner was appointed when the arrested persons are brought before the commissioner by a peace officer of the jurisdiction in which that arrest was made.

(6) (i) An individual may file an application for a statement of charges with a District Court commissioner.

(ii) On review of an application for a statement of charges, a District Court commissioner may issue a summons or an arrest warrant.

(iii) A District Court commissioner may issue an arrest warrant only on a finding that:

1. There is probable cause to believe that the defendant committed the offense charged in the charging document; and

2. A. The defendant previously has failed to respond to a summons that has been personally served or a citation;

B. The whereabouts of the defendant are unknown and the issuance of a warrant is necessary to subject the defendant to the jurisdiction of the court;

C. The defendant is in custody for another offense; or

D. There is probable cause to believe that the defendant poses a danger to another person or to the community.

(d) (1) The authority under this subsection applies only to a respondent who is an adult.

(2) A commissioner may issue an interim order for protection of a person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a petitioner in accordance with § 3–1503.1 of this article.

(e) Notwithstanding the residence requirements set out in subsection (b) of this section, the Chief Judge of the District Court or a designee of the Chief Judge of the District Court may assign a commissioner of the District Court to serve temporarily in any county.

§2–608.

(a) (1) In this section the following words have the meanings indicated.

(2) "Charging document" means a written accusation alleging that a defendant has committed an offense.

(3) "Citation" means a charging document, other than an indictment, an information, or a statement of charges, issued to a defendant by a peace officer or other person authorized by law to do so.

(4) "Educator" means a principal, vice-principal, teacher, or teacher's aide at a public or private preschool, elementary, or secondary school.

(5) "Emergency services personnel" means:

(i) A career firefighter of a county or municipal corporation;

(ii) An emergency medical services provider as defined in § 13-516 of the Education Article of a county or municipal corporation;

(iii) A rescue squad employee of a county or municipal corporation; and

(iv) A volunteer firefighter, rescue squad member, or advanced life support unit member of a county or municipal corporation.

(6) "Indictment" means a charging document returned by a grand jury and filed in circuit court.

(7) "Information" means a charging document filed in court by a State's Attorney.

(8) "Offense" means a violation of the criminal laws of the State or any political subdivision of the State.

(9) "Statement of charges" means a charging document, other than a citation, filed in District Court by a peace officer, a District Court Judge, or a District Court Commissioner.

(10) "Law enforcement officer" means a law enforcement officer as defined in § 3-101 of the Public Safety Article or any federal law enforcement officer who exercises the powers set forth in § 2-104 of the Criminal Procedure Article.

(b) An application filed in the District Court that requests that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator for an offense allegedly committed in the course of executing the duties of the law enforcement officer, emergency services personnel, or educator shall immediately be forwarded to the State's Attorney.

(c) (1) Upon receiving an application filed in District Court requesting that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator, the State's Attorney shall:

(i) Investigate the circumstances of the matter; and

(ii) Make a recommendation to the District Court Commissioner as to whether a statement of charges should be filed against the law enforcement officer, emergency services personnel, or the educator.

(2) If the State's Attorney recommends to a District Court Commissioner that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator, the State's Attorney shall also make a recommendation as to whether a summons or warrant should issue.

(d) Notwithstanding any other provision of the Code or the Maryland Rules, a statement of charges for an offense allegedly committed in the course of executing the duties of the law enforcement officer, emergency services personnel, or the educator may not be filed against a law enforcement officer, emergency services personnel, or educator until the State's Attorney has investigated the circumstances of the matter and made recommendations to the District Court Commissioner in accordance with subsection (c) of this section.

(e) This section may not be construed to preclude the State's Attorney from making a determination that an information should be filed against a law enforcement officer, emergency services personnel, or an educator or that a grand jury should be convened to determine whether an indictment should be filed.

§3–101.

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

(b) "Absentee" means a person who has disappeared.

(c) "Court" means a court having jurisdiction as provided in § 13-105(b) of the Estates and Trusts Article.

§3–102.

If the death of a person or the date of his death is at issue, he is not presumed dead in any proceedings under this subtitle or under Title 13 of the Estates and Trusts Article, merely because he has been absent from his place of residence and not heard about for any stated period of time. The issue shall go to the court as one of fact to be determined upon the evidence. If during his absence the person has been exposed to a specific peril of death, this fact shall be considered by the court.

§3–103.

(a) A provision in any policy of life or accident insurance, or in the charter or bylaws of any mutual or fraternal insurance association concerning the effect to be given to evidence of death or absence, is invalid if the policy was executed or the provision adopted after May 31, 1941.

(b) If the policy, charter, or bylaws, executed or adopted after May 31, 1941, contains a provision which requires a beneficiary to bring suit upon a claim of death within one year or other period after the death of the insured and the fact of absence of the insured is relied upon by the beneficiary as evidence of the death, notwithstanding the provisions in the policy, charter, or bylaws, the action may be filed within the period of limitations for filing an action for breach of contract.

(c) For purposes of this section, the period of limitations runs from the date the beneficiary gives written notice of the absence to the insurer, or if notice is not given, from the date the beneficiary last heard about the insured. The notice shall be given within one year from the date the beneficiary last heard about the absent insured.

§3–104.

Proceedings for the protection of property of an absentee shall be conducted under Title 13 of the Estates and Trusts Article.

§3–105.

(a) Upon application, the court may direct the guardian to make search for the absentee in any manner the court considers advisable, including one or more of the following methods:

(1) Inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the absentee's whereabouts;

(2) Notifying officers of justice and public welfare agencies in appropriate

locations of the absentee's disappearance; or

(3) Engaging the services of an investigating agency.

(b) The expenses of the search shall be taxed as costs and paid out of the property of the absentee.

§3–106.

(a) If the court declares that the person is dead, it may terminate the guardianship proceedings pursuant to § 13-221 of the Estates and Trusts Article.

(b) Unless the court has terminated the guardianship proceeding under subsection (a) of this section, the court, after a lapse of five years from the appointment of a guardian or a lapse of one year when the person has been missing for more than 20 years, may enter a decree declaring that all interest of the absentee in his property has ceased, provided the absentee has not appeared in the meantime. The court then shall terminate the guardianship proceeding as if the absentee had died.

§3–108.

An absentee who appears after the guardianship has been terminated under § 3-106 of this subtitle may not bring an action to recover any portion of his property from the distributees of his estate.

§3–109.

(a) If the guardianship is terminated under § 3-106(b) of this subtitle, the court may direct the payment to the beneficiaries of any sum due and unpaid under any policy of insurance on the life of the absentee, if the claim is uncontested by the insurer.

(b) If the guardianship is terminated under § 3-106(b) of this subtitle and an insurer contests a claim under subsection (a) of this section, the court has jurisdiction of the matter and shall determine, with the aid of a jury if one is called for, the issue of death of the absentee and any other issue arising under the policy.

(c) In any proceeding under this section, if the absentee is not found to be dead and the policy provides for a surrender value, the beneficiary may request the guardian to demand the payment of surrender value. The guardian's receipt for the payment is a release to the insurer of all claims under the policy. The guardian shall pay to the beneficiary (or to the absentee's estate, if the beneficiary has not survived the absentee) the sum so received, less the amount allowed by the court as costs of the proceedings under this section.

(d) If the survival of a named beneficiary is not established, the provisions of this subtitle apply as if the proceeds of insurance were a part of the estate of the absentee.

§3–110.

(a) After termination of the guardianship under § 3-106 of this subtitle, the court shall distribute the remaining property in accordance with Title 13 of the Estates and Trusts Article, and this subtitle.

(b) The order of distribution shall be final and binding upon any person, including the absentee.

§3–201.

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

(b) "Court" means a court of equity.

(c) "Guardian" means a person appointed by a court as guardian of the person or property or both of a disabled person.

(d) "Personal representative" means an executor, administrator, or special administrator.

§3–202.

An agreement providing for arbitration under the law of the State confers jurisdiction on a court to enforce the agreement and enter judgment on an arbitration award.

§3–203.

(a) An initial petition shall be filed with the court in the county:

(1) As provided by the agreement; or

(2) Where the arbitration hearing was held.

(b) If the agreement does not provide for a county in which the petition shall be filed or if the hearing has not been held, the petition shall be filed with the court in:

(1) The county where the adverse party resides;

(2) The county where the adverse party has a place of business; or

(3) If the adverse party has neither a residence nor a place of business in the State, any county.

(c) A subsequent petition shall be filed with the court hearing the initial petition unless the court directs otherwise.

§3–204.

The court shall make any determination provided for in this subtitle without a jury.

§3–205.

(a) Except as otherwise provided, a petition under this subtitle shall be heard in the manner and upon the notice provided by law or rule of court for the procedures when a petition is filed in an action.

(b) Unless the parties agree otherwise, notice of the initial petition for an order shall be served in the manner provided by law or rule of court for the service of summons in an action.

§3–206.

(a) Except as otherwise provided in this subtitle, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy arising between the parties in the future is valid and enforceable, and is irrevocable, except upon grounds that exist at law or in equity for the revocation of a contract.

(b) This subtitle does not apply to an arbitration agreement between employers and employees or between their respective representatives unless it is expressly provided in the agreement that this subtitle shall apply.

§3–206.1.

(a) In this section, "consumer" means a party to an arbitration agreement who, in the context of the arbitration agreement, is an individual, not a business, who seeks or acquires, including by lease, any goods or services primarily for personal, family, or household purposes including financial services, health care services, or real property.

(b) (1) Except as provided in paragraph (2) of this subsection, any provision in an insurance contract with a consumer that requires arbitration is void and unenforceable.

(2) This subsection does not apply to a provision that establishes an appraisal process to determine the value of property.

§3–207.

(a) If a party to an arbitration agreement described in § 3-202 of this subtitle refuses to arbitrate, the other party may file a petition with a court to order arbitration.

(b) If the opposing party denies existence of an arbitration agreement, the court shall proceed expeditiously to determine if the agreement exists.

(c) If the court determines that the agreement exists, it shall order arbitration. Otherwise it shall deny the petition.

§3–208.

(a) If a party denies existence of the arbitration agreement, he may petition a court to stay commenced or threatened arbitration proceedings.

(b) (1) A petition to stay arbitration shall be filed with the court where a petition to order arbitration has been filed.

(2) If a petition for order to arbitrate has not been filed, the petition to stay arbitration may be filed in any court subject to venue provisions of Title 6 of this article.

(c) If the court determines that existence of the arbitration agreement is in substantial and bona fide dispute, it shall try this issue promptly and order a stay if it finds for the petitioner. If the court finds for the adverse party, it shall order the parties to proceed with arbitration.

§3–209.

(a) A court shall stay any action or proceeding involving an issue subject to arbitration if:

(1) A petition for order to arbitrate has been filed; or

(2) An order for arbitration has been made.

(b) If the issue subject to arbitration is severable, the court may order the stay with respect to this issue only.

(c) If a petition to stay has been filed with a court where any action or proceeding concerning arbitration is pending, the court's order to arbitrate shall include the stay.

§3–210.

An order for arbitration shall not be refused or an arbitration proceeding stayed:

(1) On the ground that the claim in issue lacks merit or bona fides; or

(2) Because a valid basis for the claim sought to be arbitrated has not been shown.

§3–211.

(a) If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed.

(b) In the absence of a provision in the agreement, a party may file a petition with a court to appoint one or more arbitrators.

(c) A court shall appoint one or more arbitrators if:

(1) The arbitration agreement does not provide a method of appointment;

(2) The agreed method fails or for any reason cannot be followed; or

(3) An appointed arbitrator fails or is unable to act and his successor has not been appointed.

(d) A court appointed arbitrator has all the powers of an arbitrator specifically named in the agreement.

§3–212.

The powers of the arbitrators may be exercised by a majority unless provided otherwise by the agreement or by this subtitle.

§3–213.

(a) (1) Unless the agreement provides otherwise, the arbitrators shall designate a time and place for hearing and notify the parties, personally or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, not less than five days before the hearing.

(2) Appearance at the hearing waives the notice.

(b) (1) Except as provided in § 3-215(b) of this subtitle, the arbitration hearing shall be conducted by all the arbitrators.

(2) The arbitrators may adjourn the hearing from time to time as necessary.

(3) Upon request of a party and for good cause shown or on their own motion, the arbitrators may postpone the hearing to a time not later than the date set by the agreement for the award, unless the parties consent to a later date.

(c) The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear.

(d) On petition of a party, the court may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

§3–214.

(a) At an arbitration hearing, the parties have the right:

(1) To be heard;

(2) To present evidence material to the controversy; and

(3) To cross examine witnesses who appear at the hearing.

(b) Arbitrators are not bound by the technical rules of evidence.

§3–215.

(a) The majority of the arbitrators may determine any question and render a final award.

(b) If an arbitrator for any reason ceases to act during the course of the arbitration hearing, the remaining arbitrators or arbitrator appointed to act as neutral, may continue with a hearing and the determination of the controversy.

§3–216.

(a) A party has the right to be represented by an attorney at any proceeding or hearing under this subtitle.

(b) A waiver of the right to be represented by an attorney prior to the proceeding or hearing is ineffective.

§3–217.

(a) The arbitrators may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and have the power to administer oaths.

(b) At the arbitration hearing a witness shall be sworn:

(1) At the request of a party; or

(2) At the request of a majority of the arbitrators.

(c) (1) A party or the arbitrators may file a petition with a court to enforce a subpoena.

(2) A subpoena shall be enforced in the manner provided by law or rule for the enforcement of subpoenas in a civil action.

(d) All provisions of law which compel a person under subpoena to testify apply to proceedings under this subtitle.

§3–218.

On application of a party and for use as evidence, the arbitrators may permit a

deposition to be taken in the manner and upon the terms designated by the arbitrators, if:

(1) The witness cannot be subpoenaed; or

(2) The witness is unable to attend a hearing.

§3–219.

(a) The arbitration award shall be in writing and signed by the arbitrators who joined in the award.

(b) (1) The arbitration award shall be made within the time set by the agreement.

(2) If the agreement does not set a time, a party may petition a court to set the time.

(3) The parties may extend the time for making an award in writing at any time.

(c) The arbitrators shall deliver a copy of the award to each party:

(1) As provided in the agreement;

(2) Personally; or

(3) By certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

(d) A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

§3–220.

(a) The arbitrators may, and on application of a party shall, order that part or all of the proceedings be transcribed.

(b) The record made from the transcript shall be available to either side for purpose of appeal or otherwise.

§3–221.

(a) Unless the arbitration agreement provides otherwise, the award shall provide for payment of the arbitrators' expenses, fees, and any other expense incurred in the conduct of the arbitration.

(b) Unless the arbitration agreement provides otherwise, the award may not

include counsel fees.

§3–222.

(a) A party may apply to the arbitrators to modify or correct an award within 20 days after delivery of the award to the applicant.

(b) A written notice of an application to modify or correct the award shall be given to the opposing party, stating that he shall serve any objection to the application within ten days.

(c) The arbitrators may modify or correct an award:

(1) On the grounds stated in § 3-223(b)(1), (2), or (3) of this subtitle; or

(2) For the purpose of clarity.

(d) The arbitrators shall modify or correct an award consistent with the order of court, if a petition under § 3-223, § 3-224, or § 3-227 of this subtitle is pending.

(e) The modified or corrected award is subject to the provisions of §§ 3-223, 3-224, and 3-227 of this subtitle.

§3–223.

(a) A petition to modify or correct the award shall be filed within 90 days after delivery of a copy of the award to the applicant.

(b) The court shall modify or correct the award if:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(c) If the petition is granted, the court shall modify or correct the award to effect its intent and confirm the award as modified or corrected. Otherwise, the court shall confirm the award as made.

(d) An application to modify or correct an award may be joined, in the alternative, with an application to vacate the award.

§3–224.

(a) (1) Except as provided in paragraph (2), a petition to vacate the award shall be filed within 30 days after delivery of a copy of the award to the petitioner.

(2) If a petition alleges corruption, fraud, or other undue means it shall be filed within 30 days after the grounds become known or should have been known to the petitioner.

(b) The court shall vacate an award if:

(1) An award was procured by corruption, fraud, or other undue means;

(2) There was evident partiality by an arbitrator appointed as a neutral, corruption in any arbitrator, or misconduct prejudicing the rights of any party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown for the postponement, refused to hear evidence material to the controversy, or otherwise so conducted the hearing, contrary to the provisions of § 3-213 of this subtitle, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement as described in § 3-206 of this subtitle, the issue was not adversely determined in proceedings under § 3-208 of this subtitle, and the party did not participate in the arbitration hearing without raising the objection.

(c) The court shall not vacate the award or refuse to confirm the award on the ground that a court of law or equity could not or would not grant the same relief.

§3–225.

(a) If any award is vacated on grounds other than those stated in § 3-224(b)(5) of this subtitle, the court may order a rehearing before new arbitrators selected by the parties as provided by the agreement, or by the court in the absence of an agreement as provided in § 3-211 of this subtitle.

(b) If the award is vacated on grounds set forth in § 3-224(b)(3) and (4) of this subtitle, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with § 3-211 of this subtitle.

(c) The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order or at a time specified by the court.

§3–226.

If an application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

§3–227.

(a) A party may petition the court to confirm the award.

(b) The court shall confirm the award, unless the other party has filed an application to vacate, modify, or correct the award within the time provided in §§ 3-222 and 3-223 of this subtitle.

(c) If an application to vacate, modify, or correct the award has been filed, the court shall proceed as provided in §§ 3-223 and 3-224 of this subtitle.

§3–228.

(a) (1) If an order confirming, modifying, or correcting an award is granted, a judgment shall be entered in conformity with the order.

(2) The judgment may be enforced as any other judgment.

(b) A court may award costs of the petition, the subsequent proceedings, and disbursements.

§3–229.

(a) Notwithstanding the death of a party who made a written agreement to submit a controversy to arbitration, the arbitration proceedings may begin or continue if an application has been filed by or notice given to his personal representative.

(b) If a guardian has been appointed, the proceedings may be continued:

(1) Upon the application of the guardian; or

(2) Upon the notice to the guardian.

(c) Upon the death or incompetence of a party, the court may extend the time within which a petition to confirm, vacate, or modify the award, or to stay arbitration, must be made.

(d) If a party dies after an award was delivered, the subsequent proceedings are the same as where a party dies after a verdict.

§3–230.

(a) If a party dies before an award is returned and judgment rendered, the cause does not abate and the arbitrators shall give a reasonable notice of the pending

proceedings to the personal representative.

(b) Notwithstanding the death of a party, the arbitrators shall proceed with a determination and return their award upon which judgment may be entered.

§3–231.

This subtitle applies only to agreements made after May 31, 1965.

§3–232.

This subtitle shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

§3–234.

This subtitle may be cited as the Maryland Uniform Arbitration Act.

§3–2A–01.

(a) In this subtitle the following terms have the meanings indicated unless the context of their use requires otherwise.

(b) "Arbitration panel" means the arbitrators selected to determine a health care malpractice claim in accordance with this subtitle.

(c) "Court" means a circuit court for a county.

(d) "Director" means the Director of the Health Care Alternative Dispute Resolution Office.

(e) "Economic damages" retains its judicially determined meaning.

(f) (1) "Health care provider" means a hospital, a related institution as defined in § 19-301 of the Health - General Article, a medical day care center, a hospice care program, an assisted living program, a freestanding ambulatory care facility as defined in § 19-3B-01 of the Health - General Article, a physician, an osteopath, an optometrist, a chiropractor, a registered or licensed practical nurse, a dentist, a podiatrist, a psychologist, a licensed certified social worker-clinical, and a physical therapist, licensed or authorized to provide one or more health care services in Maryland.

(2) "Health care provider" does not include any nursing institution conducted by and for those who rely upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

(g) "Medical injury" means injury arising or resulting from the rendering or failure to render health care.

(h) "Noneconomic damages" means:

(1) In a claim for personal injury, pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury; or

(2) In a claim for wrongful death, mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, care, marital care, parental care, filial care, attention, advice, counsel, training, guidance, or education, or other noneconomic damages authorized under Subtitle 9 of this title.

§3–2A–02.

(a) (1) All claims, suits, and actions, including cross claims, third-party claims, and actions under Subtitle 9 of this title, by a person against a health care provider for medical injury allegedly suffered by the person in which damages of more than the limit of the concurrent jurisdiction of the District Court are sought are subject to and shall be governed by the provisions of this subtitle.

(2) An action or suit of that type may not be brought or pursued in any court of this State except in accordance with this subtitle.

(3) Except for the procedures stated in § 3-2A-06(f) of this subtitle, an action within the concurrent jurisdiction of the District Court is not subject to the provisions of this subtitle.

(b) A claim filed under this subtitle and an initial pleading filed in any subsequent action may not contain a statement of the amount of damages sought other than that they are more than a required jurisdictional amount.

(c) (1) In any action for damages filed under this subtitle, the health care provider is not liable for the payment of damages unless it is established that the care given by the health care provider is not in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities at the time of the alleged act giving rise to the cause of action.

(2) (i) This paragraph applies to a claim or action filed on or after January 1, 2005.

(ii) 1. In addition to any other qualifications, a health care provider who attests in a certificate of a qualified expert or testifies in relation to a proceeding before a panel or court concerning a defendant's compliance with or departure from standards of care:

A. Shall have had clinical experience, provided consultation relating to clinical practice, or taught medicine in the defendant's specialty or a related field of health care, or in the field of health care in which the defendant provided care or treatment to the plaintiff, within 5 years of the date of the alleged act or omission

giving rise to the cause of action; and

B. Except as provided in subsubparagraph 2 of this subparagraph, if the defendant is board certified in a specialty, shall be board certified in the same or a related specialty as the defendant.

2. Subsubparagraph 1B of this subparagraph does not apply if:

A. The defendant was providing care or treatment to the plaintiff unrelated to the area in which the defendant is board certified; or

B. The health care provider taught medicine in the defendant's specialty or a related field of health care.

(d) Except as otherwise provided, the Maryland Rules shall apply to all practice and procedure issues arising under this subtitle.

§3–2A–03.

(a) The Health Care Alternative Dispute Resolution Office is created as a unit in the Executive Department. It is headed by a Director appointed by the Governor with the advice and consent of the Senate.

(b) (1) The Director shall receive the salary and may employ the staff provided in the State budget. He shall have the powers and perform the duties set forth in this subtitle.

(2) The Director shall have subpoena power in any claim for which a panel chairman has not been appointed and in any claim for which a chairman is not performing his duties in a timely fashion.

(3) The Director may adopt reasonable rules and regulations to govern procedures under this subtitle.

(4) (i) After giving a panel member at least 15 days notice of his intention and the reason for his proposed action, the Director may remove the panel member for good cause shown.

(ii) On receipt of a notice of the intention to remove him, the panel member may submit a written statement of why he should not be removed. The Director shall consider any such statement that is submitted prior to the date for which notice of the intended action was given.

(iii) In any event, a removal is not effective unless and until the Director submits to the panel member and the chairman a written confirmation of the removal.

(c) (1) Except as otherwise provided in this subsection, the Director shall prepare a list of qualified persons willing to serve as arbitrators of health care malpractice claims.

(2) (i) The list shall be divided into three categories, one containing the names of attorneys, one containing the names of individuals who are health care providers, and one containing the names of individuals from the general public who are neither attorneys, health care providers, or agents or employees of an insurance company or society.

(ii) The list of health care providers shall, if practicable, include at least one health care provider from each recognized specialty, as requested by any party.

(iii) The individuals from the general public shall be selected at random from existing or current jury lists, which a jury commissioner may make available to the Director when requested by the Director, only as allowed by rule that the Court of Appeals adopts.

(3) An attorney is qualified to serve:

(i) If the attorney has been in the practice of law in the State for 3 years; or

(ii) If before January 1, 1986, the attorney's name appeared on the list of qualified persons willing to serve as arbitrators of health care malpractice claims.

(4) (i) The list of health care providers shall include the names of all physicians licensed to practice medicine in the State, and who are residents of the State.

(ii) Every physician who is licensed to practice medicine in the State, and who is a resident of the State, shall be available to serve as an arbitrator of health care malpractice claims.

(d) The Director shall by regulation determine the fees that may be charged by arbitrators for services rendered by them in proceedings conducted pursuant to this subtitle.

§3–2A–03A.

(a) There is a Health Claims Arbitration Fund.

(b) At the time of the filing of any claim or a response to a claim, the Director shall collect a fee of:

(1) $40 for the filing of the claim, including any third-party claim; and

(2) $25 for the filing of the response to the claim.

(c) (1) The Director shall pay all filing fees collected under this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute:

(i) 20% of the filing fees received from the Director to the General Fund of the State; and

(ii) The balance of the filing fees to the Health Care Alternative Dispute Resolution Office.

(d) (1) The Fund shall be used exclusively to pay the fees of arbitrators and other operating expenses of the Health Care Alternative Dispute Resolution Office.

(2) In accordance with the assessment of costs under § 3-2A-05(f) of this subtitle, the parties to an arbitration shall reimburse the Fund for all fees paid to the arbitrators from the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302 of the State Finance and Procurement Article.

(2) (i) Subject to subparagraph (ii) of this paragraph, any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified under this subtitle.

(ii) Unspent portions of the Fund that exceed $100,000 at the end of any fiscal year shall revert to the General Fund.

(f) (1) The Director shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized by this subtitle.

(g) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

§3–2A–04.

(a) (1) (i) A person having a claim against a health care provider for damage due to a medical injury shall file the claim with the Director and, if the claim is against a physician, the Director shall forward copies of the claim to the State Board of Physicians.

(ii) The Director shall cause a copy of the claim to be served upon the health care provider by the appropriate sheriff in accordance with the Maryland Rules.

(iii) The health care provider shall file a response with the Director and serve a copy on the claimant and all other health care providers named therein

within the time provided in the Maryland Rules for filing a responsive pleading to a complaint.

(iv) The claim and the response may include a statement that the matter in controversy falls within one or more particular recognized specialties.

(2) A third-party claim shall be filed within 30 days of the response of the third-party claimant to the original claim unless the parties consent to a later filing or a later filing is allowed by the panel chairman or the court, as the case may be, for good cause shown.

(3) A claimant may not add a new defendant after the arbitration panel has been selected, or 10 days after the prehearing conference has been held, whichever is later.

(4) Until all costs attributable to the first filing have been satisfied, a claimant may not file a second claim on the same or substantially the same grounds against any of the same parties.

(b) Unless the sole issue in the claim is lack of informed consent:

(1) (i) 1. Except as provided in item (ii) of this paragraph, a claim or action filed after July 1, 1986, shall be dismissed, without prejudice, if the claimant or plaintiff fails to file a certificate of a qualified expert with the Director attesting to departure from standards of care, and that the departure from standards of care is the proximate cause of the alleged injury, within 90 days from the date of the complaint; and

2. The claimant or plaintiff shall serve a copy of the certificate on all other parties to the claim or action or their attorneys of record in accordance with the Maryland Rules; and

(ii) In lieu of dismissing the claim or action, the panel chairman or the court shall grant an extension of no more than 90 days for filing the certificate required by this paragraph, if:

1. The limitations period applicable to the claim or action has expired; and

2. The failure to file the certificate was neither willful nor the result of gross negligence.

(2) (i) A claim or action filed after July 1, 1986, may be adjudicated in favor of the claimant or plaintiff on the issue of liability, if the defendant disputes liability and fails to file a certificate of a qualified expert attesting to compliance with standards of care, or that the departure from standards of care is not the proximate cause of the alleged injury, within 120 days from the date the claimant or plaintiff served the certificate of a qualified expert set forth in paragraph (1) of this subsection

on the defendant.

(ii) If the defendant does not dispute liability, a certificate of a qualified expert is not required under this subsection.

(iii) The defendant shall serve a copy of the certificate on all other parties to the claim or action or their attorneys of record in accordance with the Maryland Rules.

(3) (i) The attorney representing each party, or the party proceeding pro se, shall file the appropriate certificate with a report of the attesting expert attached.

(ii) Discovery is available as to the basis of the certificate.

(4) A health care provider who attests in a certificate of a qualified expert or who testifies in relation to a proceeding before an arbitration panel or a court concerning compliance with or departure from standards of care may not devote annually more than 20 percent of the expert's professional activities to activities that directly involve testimony in personal injury claims.

(5) An extension of the time allowed for filing a certificate of a qualified expert under this subsection shall be granted for good cause shown.

(6) In the case of a claim or action against a physician, the Director shall forward copies of the certificates filed under paragraphs (1) and (2) of this subsection to the State Board of Physicians.

(7) For purposes of the certification requirements of this subsection for any claim or action filed on or after July 1, 1989:

(i) A party may not serve as a party's expert; and

(ii) The certificate may not be signed by:

1. A party;

2. An employee or partner of a party; or

3. An employee or stockholder of any professional corporation of which the party is a stockholder.

(c) (1) Within 20 days after the filing of the claimant's certificate of a qualified expert, or, in a case in which lack of informed consent is the sole issue, within 20 days after the filing of the defendant's response, the Director shall deliver to each party the names of 6 persons chosen at random from the attorney categorical list prepared by him pursuant to § 3-2A-03(c) of this subtitle, together with a brief biographical statement as to each of these persons.

(2) No later than 20 days after receiving notice of the scheduled hearing, the Director shall deliver to each party the names of 6 persons chosen at random from each of the remaining categorical lists prepared by him pursuant to § 3-2A-03(c) of this subtitle, together with a brief biographical statement as to each of these persons. If the claim or the response states that the matter falls within one or more recognized specialties, the Director, if practicable, shall include persons in the specialty on the list from the health care provider category. Before delivering each list, the Director shall inquire of the persons selected and assure himself that they do not have a personal or economic relationship with any of the parties or their counsel, or any cases in which they are a party before the arbitration office, that can form the basis of any partiality on their part. If, in the judgment of the Director, a person selected has such a relationship with a party, his name shall be replaced by another chosen at random.

(3) The biographical statements sent to the parties under this subsection shall have been updated within 2 years.

(d) (1) Within 15 days after delivery of the list, a party may object in writing stating the reasons therefor to the inclusion of any arbitrator on the list. If the Director finds a reasonable basis for the objection, he shall replace the name of the arbitrator with the name of another arbitrator. Within 30 days after delivery of the initial list or, if an arbitrator is replaced, within 30 days after delivery of the replacement list, each party shall strike from the list in each category any name or names that are unacceptable and return a copy of the list with his strikes to the Director. Upon motion of either party, the panel chairman, for good cause shown and in conjunction with the Director, shall require that subsequent strikes be made in a lesser period of time. A party may not strike more than two names in any category.

(2) If:

(i) The claim is against more than one health care provider, whether directly by a claimant or as a result of a third-party claim, the health care providers claimed against shall be treated as a single party and shall exercise their strikes jointly;

(ii) There is more than one claimant, the claimants shall be treated as a single party and shall exercise their strikes jointly;

(iii) Within the time period specified in paragraph (1) of this subsection, multiple claimants or multiple health care providers fail to agree on their strikes in any category, they shall notify the Director of their disagreement, and the Director may make the strikes on their behalf with respect to that category; and

(iv) Any party fails to return a copy of the list with his strikes within the time period specified in paragraph (1) of this subsection, the Director may make the strikes for that party.

(e) (1) The Director shall compare the lists returned to him and the lists from which he has stricken names pursuant to subsection (d) of this section, and shall select

the first mutually agreeable person in each category as the arbitrators.

(2) The Director shall establish by regulation procedures for selection of alternates to serve in place of arbitrators unable to serve after appointment. Procedures for the selection of alternate arbitrators shall provide that alternate arbitrators are chosen at random from the categorical lists prepared by the Director under § 3-2A-03(c) of this subtitle, and may not be confined to time limitations in subsection (d)(1) of this section. The Director may require the attendance of an appropriate alternate at any proceeding under this subtitle.

(f) (1) The parties may, within the time for returning their lists to the Director, agree in writing upon a single arbitrator. In that event, they shall advise the Director in writing of their choice, and the one arbitrator shall constitute the arbitration panel.

(2) The Director shall prepare a separate list of qualified attorneys willing to serve as single arbitrators.

(g) An arbitrator shall have the immunity from suit described under § 5-615 of this article.

§3–2A–05.

(a) (1) Except as provided under paragraph (2) of this subsection, all issues of law shall be referred by the Director to the panel chairman. All issues of fact shall be referred by the Director to the arbitration panel.

(2) Where a panel chairman has not been appointed or is temporarily unable to serve, and the Director is admitted to the Maryland Bar, the Director may rule on all issues of law arising prior to hearing that are not dispositive of the case and shall include the assessment of costs.

(b) (1) The provisions of §§ 3-212 through 3-217 of this title are applicable to proceedings under this subtitle.

(2) Except for the provisions of the Maryland Rules relating to time for the completion of discovery, the provisions of the Maryland Rules relating to discovery are applicable to proceedings under this subtitle. All discovery in any action under this subtitle shall be completed within 270 days from the date on which all defendants have been served, unless extended by the panel chairman for good cause shown.

(3) Properly authenticated hospital records and the records of treating health care providers are admissible without the necessity of calling the physician, subject to reasonable notice and the right of the opposing party to depose.

(c) The attorney member of the panel shall be chairman and he shall decide all prehearing procedures including issues relating to discovery and motions in limine. The chairman shall rule in camera on any motion in limine.

(d) A party may not present testimony from more than 2 experts in a designated specialty before an arbitration panel unless the panel chairman, for good cause shown, permits additional experts.

(e) (1) The arbitration panel shall first determine the issue of liability with respect to a claim referred to it.

(2) If the arbitration panel determines that the health care provider is not liable to the claimant or claimants the award shall be in favor of the health care provider.

(3) If the arbitration panel determines that a health care provider is liable to the claimant or claimants, it shall then consider, itemize, assess, and apportion appropriate damages against one or more of the health care providers that it has found to be liable.

(4) The award shall itemize by category and amount any damages assessed for incurred medical expenses, rehabilitation costs, and loss of earnings. Damages assessed for any future expenses, costs, and losses shall be itemized separately.

(f) (1) The award shall include an assessment of costs, including the arbitrators' fees.

(2) If there is no panel determination, the panel chairman shall assess costs.

(3) The party who pays the costs shall receive a credit for the filing fee the party pays under § 3-2A-03A(b) of this subtitle.

(g) (1) The arbitration panel shall make its award and deliver it to the Director in writing within 1 year from the date on which all defendants have been served and within 10 days after the close of the hearing.

(2) The Director shall cause a copy of it to be served on each party within 15 days of having received it from the arbitration panel.

(h) (1) A party may apply to the arbitration panel to modify or correct an award as to liability, damages, or costs in accordance with § 3-222 of this title.

(2) (i) The application may include a request that damages be reduced to the extent that the claimant has been or will be paid, reimbursed, or indemnified under statute, insurance, or contract for all or part of the damages assessed.

(ii) The panel chairman shall receive such evidence in support and opposition to a request for reduction, including evidence of the cost to obtain such payment, reimbursement, or indemnity.

(iii) After hearing the evidence in support and opposition to the request, the panel chairman may modify the award if satisfied that modification is supported by the evidence.

(iv) The award may not be modified as to any sums paid or payable to a claimant under any workers' compensation act, criminal injuries compensation act, employee benefit plan established under a collective bargaining agreement between an employer and an employee or a group of employers and a group of employees that is subject to the provisions of the federal Employee Retirement Income Security Act of 1974, program of the Department of Health and Mental Hygiene for which a right of subrogation exists under §§ 15-120 and 15-121.1 of the Health - General Article, or as a benefit under any contract or policy of life insurance or Social Security Act of the United States.

(v) An award may not be modified as to any damages assessed for any future expenses, costs, and losses unless:

1. The panel chairman orders the defendant or the defendant's insurer to provide adequate security; or

2. The insurer is authorized to do business in this State and maintains reserves in compliance with rules of the Insurance Commissioner to assure the payment of all such future damages up to the amount by which the award has been modified as to such future damages in the event of termination.

(vi) Except as expressly provided by federal law, no person may recover from the claimant or assert a claim of subrogation against a defendant for any sum included in the modification of an award.

(i) Subject to § 3-2A-06 of this subtitle, the award of the panel shall be final and binding on the parties. After the time for either rejecting or modifying the award has expired the Director may, or, when requested by any party, shall file a copy of the award with the circuit court having proper venue, as provided in Title 6, Subtitle 2 of this article and the court shall confirm the award. Upon confirmation the award shall constitute a final judgment.

(j) Except for time limitations pertaining to the filing of a claim or response, the Director or the panel chairman, for good cause shown, may lengthen or shorten the time limitations prescribed in subsections (b) and (g) of this section and § 3-2A-04 of this subtitle.

§3–2A–06.

(a) A party may reject an award or the assessment of costs under an award for any reason. A notice of rejection must be filed with the Director and the arbitration panel and served on the other parties or their counsel within 30 days after the award is served upon the rejecting party, or, if a timely application for modification or correction has been filed within 10 days after a disposition of the application by the

panel, whichever is greater.

(b) (1) At or before the time specified in subsection (a) of this section for filing and serving a notice of rejection, the party rejecting the award shall file an action in court to nullify the award or the assessment of costs under the award and shall file a copy of the action with the Director. Failure to file this action timely in court shall constitute a withdrawal of the notice of rejection. Subject to the provisions of subsection (c) of this section, the procedures applicable to the action including the form and necessary allegations in the initial pleading shall be governed by the Maryland Rules. The Director need not be named a party to any action under this section.

(2) If any party to the proceeding elects to have the case tried by a jury in accordance with the Maryland Rules, it shall be tried by a jury. Otherwise, the case shall be tried by a judge.

(3) The trial date for each rejection of a panel determination shall have precedence over all cases except criminal matters and workers' compensation appeals.

(4) The clerk of the court in which an action is filed under this subtitle shall forward a copy of the action to the State Board of Physicians.

(c) An allegation by any party that an award or the assessment of costs under an award is improper because of any ground stated in § 3-223(b) or § 3-224(b)(1), (2), (3), or (4) of this title or § 3-2A-05(h) of this subtitle shall be made by preliminary motion, and shall be determined by the court without a jury prior to trial. Failure to raise such a defense by pretrial preliminary motion shall constitute a waiver of it. If the court finds that a condition stated in § 3-223(b) of this title exists, or that the award or the assessment of costs under an award was not appropriately modified in accordance with § 3-2A-05(h) of this subtitle, it shall modify or correct the award or the assessment of costs under an award. If the rejecting party still desires to proceed with judicial review, the modified or corrected award shall be substituted for the original award. If the court finds that a condition stated in § 3-224(b)(1), (2), (3), or (4) of this title exists, it shall vacate the award, and trial of the case shall proceed as if there had been no award.

(d) Unless vacated by the court pursuant to subsection (c) of this section, the unmodified arbitration award is admissible as evidence in the judicial proceeding. The award shall be presumed to be correct, and the burden is on the party rejecting it to prove that it is not correct.

(e) (1) Depositions taken in the arbitration proceedings shall be as fully admissible as if noticed in court proceedings. Interrogatories and requests for admissions and production of documents in the arbitration proceedings remain binding in the court proceedings, subject to a duty of supplementation.

(2) The provisions of paragraph (1) of this subsection do not affect any rights to discovery on appeal.

(f) (1) Upon timely request, the trier of fact shall by special verdict or specific

findings itemize by category and amount any damages assessed for incurred medical expenses, rehabilitation costs, and loss of earnings. Damages assessed for any future expenses, costs, and losses shall be itemized separately. If the verdict or findings include any amount for such expenses, costs, and losses, a party filing a motion for a new trial may object to the damages as excessive on the ground that the plaintiff has been or will be paid, reimbursed, or indemnified to the extent and subject to the limits stated in § 3-2A-05(h) of this subtitle.

(2) The court shall hold a hearing and receive evidence on the objection.

(3) (i) If the court finds from the evidence that the damages are excessive on the grounds stated in § 3-2A-05(h) of this subtitle, subject to the limits and conditions stated in § 3-2A-05(h) of this subtitle, it may grant a new trial as to such damages or may deny a new trial if the plaintiff agrees to a remittitur of the excess and the order required adequate security when warranted by the conditions stated in § 3-2A-05(h) of this subtitle.

(ii) In the event of a new trial granted under this subsection, evidence considered by the court in granting the remittitur shall be admissible if offered at the new trial and the jury shall be instructed to consider such evidence in reaching its verdict as to damages.

(iii) Upon a determination of those damages at the new trial, no further objection to damages may be made exclusive of any party's right of appeal.

(4) Except as expressly provided by federal law, no person may recover from the plaintiff or assert a claim of subrogation against a defendant for any sum included in a remittitur or awarded in a new trial on damages granted under this subsection.

(5) Nothing in this subsection shall be construed to otherwise limit the common law grounds for remittitur.

(g) If the verdict of the trier of fact is not more favorable to the party that rejected the arbitration panel's award, than was the award, the costs of the judicial proceedings shall be assessed against the rejecting party. Otherwise, the court may determine the assessment of such costs. If the court vacates an assessment of arbitration costs, it shall reassess those costs as justice requires.

(h) Venue shall be determined in accordance with the provisions of § 6-201 of this article.

(i) The clerk of the court shall file a copy of the verdict or any other final disposition with the Director.

§3–2A–06A.

(a) At any time before the hearing of a claim with the Health Care Alternative

Dispute Resolution Office, the parties may agree mutually to waive arbitration of the claim, and the provisions of this section then shall govern all further proceedings on the claim.

(b) (1) The claimant shall file with the Director a written election to waive arbitration which must be signed by all parties or their attorneys of record in the arbitration proceeding.

(2) After filing, the written election shall be mutually binding upon all parties.

(c) (1) Within 60 days after filing the election to waive arbitration, the plaintiff shall file a complaint and a copy of the election to waive arbitration with the circuit court or United States District Court.

(2) After filing the complaint, the plaintiff shall serve a summons and a copy of the complaint upon the attorney of record for all parties in the health claims arbitration proceeding.

(3) Failure to file a complaint within 60 days of filing the election to waive arbitration may constitute grounds for dismissal of the complaint upon motion by an adverse party and upon a finding of prejudice to that party due to the delay in the filing of the complaint.

(d) After filing the election to waive arbitration, the plaintiff may not join an additional health care provider as a defendant in any action brought under subsection (c) of this section unless a written election to waive arbitration has been filed by that health care provider under subsection (b) of this section.

(e) In any case subject to this section, the procedures of § 3-2A-06(f) of this subtitle shall apply.

(f) (1) If the parties mutually agree to a neutral case evaluation, the circuit court or United States District Court, to which the case has been transferred after the waiver of arbitration, may refer the case to the Health Care Alternative Dispute Resolution Office not later than 6 months after a complaint is filed under subsection (c) of this section.

(2) (i) On receipt of the case, the Director shall send to the parties a list of six attorneys who:

1. Meet the qualifications listed in § 3-2A-03(c)(3) of this subtitle; and

2. Have tried at least three health care malpractice cases.

(ii) Each party may strike two names from the list.

(iii) If the claim is against more than one health care provider, whether directly by a claimant or as a result of a third-party claim, the health care providers claimed against shall be treated as a single party and shall exercise their strikes jointly.

(iv) If there is more than one claimant, the claimants shall be treated as a single party and shall exercise their strikes jointly.

(v) If multiple claimants or multiple health care providers fail to agree on their strikes or fail to return their strike list to the Director within the time specified in paragraph (vi) of this subsection, the Director shall make the strikes on their behalf.

(vi) The strikes shall be submitted to the Director within 10 days after delivery of the list.

(vii) The Director shall appoint an evaluator from the unstricken names on the list.

(3) Upon appointment, the evaluator shall schedule a neutral case evaluation session to be held within 45 days after the appointment to pursue the neutral case evaluation of the claim or to resolve any issues to which the parties agree to stipulate before trial.

(4) Within 10 days after the neutral case evaluation session, the evaluator shall notify, in writing, the Director and the circuit court or United States District Court of the results of the neutral case evaluation.

(5) (i) During the neutral case evaluation period, the circuit court or United States District Court shall continue to have jurisdiction to rule on any motions or discovery matters.

(ii) The neutral case evaluation may not interfere with the scheduled trial.

(6) (i) The evaluator shall be paid in accordance with § 3-2A-03(d) of this subtitle.

(ii) Unless otherwise agreed by the parties, the cost of neutral case evaluation, which may not exceed $300 per case, shall be divided equally between the parties.

(g) The provisions of this section apply only if no party waives arbitration of the claim under the provisions of § 3-2A-06B of this subtitle.

§3–2A–06B.

(a) Arbitration of a claim with the Health Care Alternative Dispute Resolution

Office may be waived by the claimant or any defendant in accordance with this section, and the provisions of this section shall govern all further proceedings on any claim for which arbitration has been waived under this section.

(b) (1) Subject to the time limitation under subsection (d) of this section, any claimant may waive arbitration at any time after filing the certificate of qualified expert required by § 3-2A-04(b) of this subtitle by filing with the Director a written election to waive arbitration signed by the claimant or the claimant's attorney of record in the arbitration proceeding.

(2) The claimant shall serve the written election on all other parties to the claim in accordance with the Maryland Rules.

(3) If the claimant waives arbitration under this subsection, all defendants shall comply with the requirements of § 3-2A-04(b) of this subtitle by filing their certificates at the Health Care Alternative Dispute Resolution Office or, after the election, in the appropriate circuit court or United States District Court.

(c) (1) Subject to the time limitation under subsection (d) of this section, any defendant may waive arbitration at any time after the claimant has filed the certificate of qualified expert required by § 3-2A-04(b) of this subtitle by filing with the Director a written election to waive arbitration signed by the defendant or the defendant's attorney of record in the arbitration proceeding.

(2) The defendant shall serve the written election on all other parties to the claim in accordance with the Maryland Rules.

(3) If a defendant waives arbitration under this subsection, the defendant shall comply with the requirements of § 3-2A-04(b) of this subtitle by filing the certificate at the Health Care Alternative Dispute Resolution Office, or, after the election, in the appropriate circuit court or United States District Court.

(d) (1) A waiver of arbitration by any party under this section may be filed not later than 60 days after all defendants have filed a certificate of qualified expert under § 3-2A-04(b) of this subtitle.

(2) Any waiver of arbitration after the date specified in paragraph (1) of this subsection shall be in accordance with the provisions of § 3-2A-06A of this subtitle.

(e) After filing, the written election shall be binding upon all parties.

(f) (1) Within 60 days after the filing of an election to waive arbitration by any party, the plaintiff shall file a complaint and a copy of the election to waive arbitration in the appropriate circuit court or the United States District Court.

(2) After filing the complaint, the plaintiff shall serve a summons and a copy of the complaint upon all defendants or the attorney of record for all parties in the health claims arbitration proceeding.

(3) Failure to file a complaint within 60 days of filing the election to waive arbitration may constitute grounds for dismissal of the complaint upon:

(i) A motion by an adverse party; and

(ii) A finding of prejudice to the adverse party due to the delay in the filing of the complaint.

(g) After the filing of an election to waive arbitration under this section, if a party joins an additional health care provider as a defendant in an action, the party shall file a certificate of qualified expert required by § 3-2A-04(b) of this subtitle with respect to the additional health care provider.

(h) In any case subject to this section, the procedures of § 3-2A-06(f) of this subtitle shall apply.

(i) (1) If the parties mutually agree to a neutral case evaluation, the circuit court or United States District Court, to which the case has been transferred after the waiver of arbitration, may refer the case to the Health Care Alternative Dispute Resolution Office not later than 6 months after a complaint is filed under subsection (c) of this section.

(2) (i) On receipt of the case, the Director shall send to the parties a list of six attorneys who:

1. Meet the qualifications listed in § 3-2A-03(c)(3) of this subtitle; and

2. Have tried at least three health care malpractice cases.

(ii) Each party may strike two names from the list.

(iii) If the claim is against more than one health care provider, whether directly by a claimant or as a result of a third-party claim, the health care providers claimed against shall be treated as a single party and shall exercise their strikes jointly.

(iv) If there is more than one claimant, the claimants shall be treated as a single party and shall exercise their strikes jointly.

(v) If multiple claimants or multiple health care providers fail to agree on their strikes or fail to return their strike list to the Director within the time specified in paragraph (vi) of this subsection, the Director shall make the strikes on their behalf.

(vi) The strikes shall be submitted to the Director within 10 days after delivery of the list.

(vii) The Director shall appoint an evaluator from the unstricken names on the list.

(3) Upon appointment, the evaluator shall schedule a neutral case evaluation session to be held within 45 days after the appointment to pursue the neutral case evaluation of the claim or to resolve any issues to which the parties agree to stipulate before trial.

(4) Within 10 days after the neutral case evaluation session, the evaluator shall notify, in writing, the Director and the circuit court or United States District Court of the results of the neutral case evaluation.

(5) (i) During the neutral case evaluation period, the circuit court or United States District Court shall continue to have jurisdiction to rule on any motions or discovery matters.

(ii) The neutral case evaluation may not interfere with the scheduled trial.

(6) (i) The evaluator shall be paid in accordance with § 3-2A-03(d) of this subtitle.

(ii) Unless otherwise agreed by the parties, the cost of neutral case evaluation, which may not exceed $300 per case, shall be divided equally between the parties.

§3–2A–06C.

(a) (1) In this section the following words have the meanings indicated.

(2) "Alternative dispute resolution" means mediation, neutral case evaluation, neutral fact-finding, or a settlement conference.

(3) "Mediation" has the meaning stated in Title 17 of the Maryland Rules.

(4) "Mediator" means an individual who conducts mediation.

(5) "Neutral case evaluation" has the meaning stated in Title 17 of the Maryland Rules.

(6) "Neutral fact-finding" has the meaning stated in Title 17 of the Maryland Rules.

(7) "Neutral provider" means an individual who conducts neutral case evaluation or neutral fact-finding.

(8) "Settlement conference" has the meaning stated in Title 17 of the Maryland Rules.

(b) (1) This section does not apply if:

(i) All parties file with the court an agreement not to engage in alternative dispute resolution; and

(ii) The court finds that alternative dispute resolution under this section would not be productive.

(2) In determining whether alternative dispute resolution would not be productive under paragraph (1)(ii) of this subsection, the court may consider whether the parties have already engaged in alternative dispute resolution.

(c) In addition to the qualifications and requirements of Title 17 of the Maryland Rules, the Court of Appeals may adopt rules requiring a mediator, neutral provider, or individual conducting a settlement conference to have experience with health care malpractice claims.

(d) Within 30 days of the later of the filing of the defendant's answer to the complaint or the defendant's certificate of a qualified expert under § 3-2A-04 of this subtitle, the court shall order the parties to engage in alternative dispute resolution at the earliest possible date.

(e) (1) Within 30 days of the later of the filing of the defendant's answer to the complaint or the defendant's certificate of a qualified expert under § 3-2A-04 of this subtitle, the parties may choose a mediator, neutral provider, or individual to conduct a settlement conference.

(2) If the parties choose a mediator, neutral provider, or individual to conduct a settlement conference, the parties shall notify the court of the name of the individual.

(f) (1) If the parties do not notify the court that they have chosen a mediator, neutral provider, or individual to conduct a settlement conference within the time required under subsection (e) of this section, the court shall assign a mediator, neutral provider, or individual to conduct a settlement conference to the claim within 30 days.

(2) (i) Within 15 days after the parties are notified of the identity of the mediator, neutral provider, or individual conducting a settlement conference, a party may object in writing to the selection, stating the reasons for the objection.

(ii) If the court sustains the objection, the court shall appoint a different mediator, neutral provider, or individual to conduct a settlement conference.

(3) A mediator, neutral provider, or individual conducting a settlement conference shall follow the "Maryland Standards of Practice for Mediators, Arbitrators, and Other ADR Practitioners" adopted by the Court of Appeals.

(g) The mediator, neutral provider, or individual conducting a settlement

conference shall schedule an initial conference with the parties as soon as practicable.

(h) (1) At least 15 days before the initial conference, the parties shall send to the mediator, neutral provider, or individual conducting a settlement conference a brief written outline of the strengths and weaknesses of the party's case.

(2) A party may not be required to provide to another party the written outline described in paragraph (1) of this subsection.

(i) (1) Alternative dispute resolution under this section may not operate to delay discovery in the action.

(2) If the mediator, neutral provider, or individual conducting a settlement conference finds that the parties need to engage in discovery for a limited period of time in order to facilitate the alternative dispute resolution, the mediator, neutral provider, or individual conducting a settlement conference may mediate the scope and schedule of discovery needed to proceed with the alternative dispute resolution, adjourn the initial conference, and reschedule an additional conference for a later date.

(j) A neutral expert may be employed in alternative dispute resolution under this section as provided in Title 17 of the Maryland Rules.

(k) In accordance with Maryland Rule 17-109, the outline described in subsection (h) of this section and any written or oral communication made in the course of a conference under this section:

(1) Are confidential;

(2) Do not constitute an admission; and

(3) Are not discoverable.

(l) Unless excused by the mediator, neutral provider, or individual conducting a settlement conference, the parties and the claims representative for each defendant shall appear at all conferences held under this section.

(m) A party who fails to comply with the provisions of subsection (h), (k), or (l) of this section is subject to the sanctions provided in Maryland Rule 2-433.

(n) (1) If a case is settled, the parties shall notify the court that the case has been settled.

(2) If the parties agree to settle some but not all of the issues in dispute, the mediator, neutral provider, or individual conducting a settlement conference shall file a written notice of partial settlement with the court.

(3) If the parties have not agreed to a settlement the mediator, neutral provider, or individual conducting a settlement conference shall file a written notice

with the court that the case was not settled.

(o) Unless otherwise agreed by the parties, the costs of alternative dispute resolution shall be divided equally between the parties.

(p) An individual who conducts alternative dispute resolution shall have the immunity from suit described under § 5-615 of this article.

§3–2A–06D.

(a) (1) This section applies only to an initial complaint filed on or after January 1, 2005, for which a certificate of a qualified expert is required to be filed in accordance with § 3-2A-04 of this subtitle.

(2) This section does not apply if the defendant admits liability.

(b) (1) Within 15 days after the date that discovery is required to be completed, a party shall file with the court a supplemental certificate of a qualified expert, for each defendant, that attests to:

(i) The certifying expert's basis for alleging what is the specific standard of care;

(ii) The certifying expert's qualifications to testify to the specific standard of care;

(iii) The specific standard of care;

(iv) For the plaintiff:

1. The specific injury complained of;

2. How the specific standard of care was breached;

3. What specifically the defendant should have done to meet the specific standard of care; and

4. The inference that the breach of the standard of care proximately caused the plaintiff's injury; and

(v) For the defendant:

1. How the defendant complied with the specific standard of care;

2. What the defendant did to meet the specific standard of care; and

3. If applicable, that the breach of the standard of care did not

proximately cause the plaintiff's injury.

(2) An extension of the time allowed for filing a supplemental certificate under this section shall be granted for good cause shown.

(3) The facts required to be included in the supplemental certificate of a qualified expert shall be considered necessary to show entitlement to relief sought by a plaintiff or to raise a defense by a defendant.

(c) Subject to the provisions of this section:

(1) If a plaintiff fails to file a supplemental certificate of a qualified expert for a defendant, on motion of the defendant the court may dismiss, without prejudice, the action as to that defendant; or

(2) If the defendant fails to file a supplemental certificate of a qualified expert, on motion of the plaintiff the court may adjudicate in favor of the plaintiff on the issue of liability as to that defendant.

(d) (1) The Maryland Rules apply to filing and serving a copy of a certificate required under this section and in motions relating to a violation of this section.

(2) Nothing contained in this section prohibits or limits a party from moving for summary judgment in accordance with the Maryland Rules.

(e) For purposes of the certification requirements of this section:

(1) A party may not serve as a party's expert; and

(2) The certificate may not be signed by:

(i) A party;

(ii) An employee or partner of a party; or

(iii) An employee or stockholder of any professional corporation of which the party is a stockholder.

(f) (1) The clerk of the court shall forward to the Department of Health and Mental Hygiene copies of the certificates filed under this section.

(2) In the case of a complaint against a physician, the Department of Health and Mental Hygiene shall forward to the State Board of Physicians copies of the supplemental certificate of a qualified expert filed under this section.

§3–2A–07.

(a) If the arbitration panel finds that the conduct of any party in maintaining or defending any action is in bad faith or without substantial justification, the

panel may require the offending party, the attorney advising the conduct, or both, to pay to the adverse party the costs of the proceeding and reasonable expenses, including reasonable attorney's fees, incurred by the adverse party in opposing it. A determination made under this subsection shall become part of the panel award and subject to judicial review.

(b) If a legal fee is in dispute, an attorney may not charge or collect compensation for services rendered in connection with an arbitration claim unless it is approved by the arbitration panel, or by the court in the event an action to nullify a panel determination has been filed therein.

§3–2A–08.

(a) Evidence of advanced payments made pursuant to § 19-104(b) of the Insurance Article is not admissible in any arbitration or judicial proceeding for damages due to medical injury until there is an award, in the case of arbitration proceedings, or a verdict, in the case of judicial proceedings, in favor of the claimant and against the person who made the advanced payments. Upon the finding of such an award or verdict, the arbitration panel, or the trier of fact, shall make a finding of total damages, and shall then deduct whatever amounts it finds were paid by or on behalf of the defendants pursuant to § 19-104(b) of the Insurance Article. The net amount, after this deduction, shall be entered as its award or verdict.

(b) If the award or verdict exceeds the amount of advanced payments and the arbitration panel or the court finds that the advanced payments were reasonable, the panel or the court may (1) order that the amount by which the award or verdict exceeds the amount of advanced payments be paid over a period of time consistent with the needs of the claimant, rather than in a lump sum, and (2) authorize, as part of its order, the creation of a trust or other mechanism to assure the periodic payments. The panel or court shall provide to the claimant the option to choose either a lump sum or payments paid over a period of time.

(c) If the advanced payment exceeds the liability of the person making it, the arbitration panel or the court on appeal may order such adjustments as justice may require under the award or verdict, including, where appropriate, contribution by other parties found to be liable. In no event shall an advance payment in excess of the liability of the person making it be repayable by the person receiving it.

§3–2A–08A.

(a) In this section, "costs" means the costs described under Maryland Rule 2-603.

(b) This section does not apply to cases dismissed following a settlement.

(c) (1) At any time not less than 45 days before the trial begins, a party to an action for a medical injury may serve on the adverse party an offer of judgment to be taken for the amount of money specified in the offer, with costs then accrued.

(2) When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, a party adjudged liable or a party in whose favor liability was determined may make an offer of judgment not less than 45 days before the commencement of hearings to determine the amount or extent of liability.

(d) (1) If within 15 days after the service of the offer of judgment, the adverse party serves written notice that the offer is accepted, either party may then file with the court the offer and notice of acceptance together with an affidavit of service notifying the other parties of the filing of the offer and acceptance.

(2) If the court receives the filings specified in paragraph (1) of this subsection, the court shall enter judgment.

(e) (1) If an adverse party does not accept an offer of judgment within the time specified in subsection (d)(1) of this section, the offer shall be deemed withdrawn and evidence of the offer is not admissible except in a proceeding to determine costs.

(2) An offer of judgment that is not accepted does not preclude a party from making a subsequent offer of judgment in the time specified in this section.

(f) If the judgment finally obtained is not more favorable to the adverse party than the offer, the adverse party who received the offer shall pay the costs of the party making the offer incurred after the making of the offer.

§3–2A–09.

(a) This section applies to an award under § 3-2A-05 of this subtitle or a verdict under § 3-2A-06 of this subtitle for a cause of action arising on or after January 1, 2005.

(b) (1) (i) Except as provided in paragraph (2)(ii) of this subsection, an award or verdict under this subtitle for noneconomic damages for a cause of action arising between January 1, 2005, and December 31, 2008, inclusive, may not exceed $650,000.

(ii) The limitation on noneconomic damages provided under subparagraph (i) of this paragraph shall increase by $15,000 on January 1 of each year beginning January 1, 2009. The increased amount shall apply to causes of action arising between January 1 and December 31 of that year, inclusive.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the limitation under paragraph (1) of this subsection shall apply in the aggregate to all claims for personal injury and wrongful death arising from the same medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants.

(ii) If there is a wrongful death action in which there are two or more claimants or beneficiaries, whether or not there is a personal injury action arising from the same medical injury, the total amount awarded for noneconomic damages for all

actions may not exceed 125% of the limitation established under paragraph (1) of this subsection, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants.

(c) (1) In a jury trial, the jury may not be informed of the limitation under subsection (b) of this section.

(2) If the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b) of this section, the court shall reduce the amount to conform to the limitation.

(3) In a wrongful death action in which there are two or more claimants or beneficiaries, if the jury awards an amount for noneconomic damages that exceeds the limitation under subsection (b) of this section or a reduction under paragraph (4) of this subsection, the court shall:

(i) If the amount of noneconomic damages for the primary claimants, as described under § 3-904(d) of this title, equals or exceeds the limitation under subsection (b) of this section or a reduction under paragraph (4) of this subsection:

1. Reduce each individual award of a primary claimant proportionately to the total award of all primary claimants so that the total award to all claimants or beneficiaries conforms to the limitation or reduction; and

2. Reduce each award, if any, to a secondary claimant as described under § 3-904(e) of this title to zero dollars; or

(ii) If the amount of noneconomic damages for the primary claimants does not exceed the limitation under subsection (b) of this section or a reduction under paragraph (4) of this subsection or if there is no award to a primary claimant:

1. Enter an award to each primary claimant, if any, as directed by the verdict; and

2. Reduce each individual award of a secondary claimant proportionately to the total award of all of the secondary claimants so that the total award to all claimants or beneficiaries conforms to the limitation or reduction.

(4) In a case in which there is a personal injury action and a wrongful death action, if the total amount awarded by the jury for noneconomic damages for both actions exceeds the limitation under subsection (b) of this section, the court shall reduce the award in each action proportionately so that the total award for noneconomic damages for both actions conforms to the limitation.

(d) (1) A verdict for past medical expenses shall be limited to:

(i) The total amount of past medical expenses paid by or on behalf

of the plaintiff; and

(ii) The total amount of past medical expenses incurred but not paid by or on behalf of the plaintiff for which the plaintiff or another person on behalf of the plaintiff is obligated to pay.

(2) (i) A court may on its own motion, or on motion of a party, employ a neutral expert witness to testify on the issue of a plaintiff's future medical expenses or future loss of earnings.

(ii) Unless otherwise agreed to by the parties, the costs of a neutral expert witness shall be divided equally among the parties.

(iii) Nothing contained in this subsection limits the authority of a court concerning a court's witness.

§3–2A–10.

Except as otherwise provided in §§ 3-2A-08A and 3-2A-09 of this subtitle, the provisions of this subtitle shall be deemed procedural in nature and may not be construed to create, enlarge, or diminish any cause of action not heretofore existing, except the defense of failure to comply with the procedures required under this subtitle.

§3–2B–01.

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

(b) "Arbitral tribunal" means a sole arbitrator or a panel of arbitrators.

(c) (1) "International commercial arbitration" means an arbitration in which:

(i) The relevant place of business of at least 1 of the parties to the agreement is in a country other than the United States; or

(ii) If none of the parties has a relevant place of business in a country other than the United States, the relationship between any of the parties to an arbitration agreement involves property located abroad, envisages performance or enforcement abroad, or has some other reasonable relation with 1 or more foreign countries.

(2) (i) If a party has more than 1 place of business, the relevant place of business shall be the place of business:

1. That has the closest relationship to the arbitration agreement; or

2. Designated by the agreement of the parties.

(ii) If a party does not have a place of business, the party's habitual residence shall be deemed the place of business.

§3–2B–02.

The purpose of this subtitle is to:

(1) Promote international commercial arbitration in this State;

(2) Enforce arbitration agreements by parties in international commercial transactions;

(3) Facilitate the prompt and efficient resolution by arbitration of disputes in international commercial agreements and transactions; and

(4) Promote uniformity in the law of international commercial arbitration in the United States.

§3–2B–03.

(a) In all matters relating to the process and enforcement of international commercial arbitration and awards, the laws of Maryland shall be the arbitration statutes and laws of the United States.

(b) This subtitle shall be interpreted and construed as to promote uniformity in the law of international commercial arbitration in the United States.

§3–2B–04.

The circuit courts of this State shall have jurisdiction:

(1) To enforce agreements and orders providing for international commercial arbitration;

(2) To enter judgments on arbitration awards; and

(3) To recognize and enforce in accordance with this subtitle arbitration awards rendered in foreign countries.

§3–2B–05.

(a) Any complaint filed in circuit court with respect to international commercial arbitration shall be filed with the court in the county:

(1) As provided by the agreement; or

(2) Where the arbitration hearing was held.

(b) If the agreement does not provide for a county in which a complaint shall be

filed or if the hearing has not been held, the complaint shall be filed with the court:

(1) In the county where the adverse party resides;

(2) In the county where the adverse party has a place of business or owns real property; or

(3) If the adverse party has neither a residence nor a place of business or property in the State, in Baltimore City.

§3–2B–06.

(a) Unless the arbitration agreement provides otherwise, the arbitral tribunal in an international commercial arbitration in this State may, at the request of a party and after an opportunity for any other party to the arbitration agreement to be heard, order any party to post security or countersecurity in a form satisfactory to the arbitral tribunal in an amount not to exceed the amount of that party's claim, cross-claim, or counterclaim (excluding attorneys' fees) if:

(1) The party to be required to post security or countersecurity resides in a country that has not ratified and adopted the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and does not have sufficient assets in the United States to satisfy the amount of the claim or counterclaim; or

(2) The arbitral tribunal otherwise determines that there is good cause to require security or countersecurity.

(b) (1) On motion of a party to a circuit court to vacate or modify an order for security or countersecurity, a hearing shall be held promptly.

(2) Unless the party required to post security or countersecurity establishes that an order for security or countersecurity is an abuse of discretion by the arbitral tribunal, the courts of this State shall enforce orders for security or countersecurity.

§3–2B–07.

(a) In an international commercial arbitration proceeding in this State, a court of this State may not intervene unless otherwise permitted by this subtitle and the statutes and laws incorporated by this subtitle.

(b) Notwithstanding any other provision of law, the court shall make any determination provided for in this subtitle without a jury.

§3–2B–08.

(a) A party to an action involving international commercial arbitration may appeal:

(1) An order:

(i) Refusing a stay of any court action involving a matter referable to arbitration;

(ii) Denying a motion to order arbitration to proceed;

(iii) Denying application to compel arbitration;

(iv) Confirming or denying confirmation of an award or partial award; or

(v) Modifying, correcting, or vacating an award;

(2) An interlocutory order granting, continuing, or modifying an injunction against arbitration; or

(3) A final decision with respect to an arbitration that is subject to this subtitle.

(b) An appeal from the circuit court in an action involving international commercial arbitration may not be taken from an interlocutory order:

(1) Granting a stay of any court action involving a matter referable to arbitration;

(2) Directing arbitration to proceed;

(3) Compelling arbitration; or

(4) Refusing to enjoin an arbitration.

§3–2B–09.

This subtitle may be cited as the Maryland International Commercial Arbitration Act.

§3–2C–01.

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

(b) "Claim" means a civil action, including an original claim, counterclaim, cross-claim, or third-party claim, originally filed in a circuit court or United States District Court against a licensed professional or the employer, partnership, or other entity through which the licensed professional performed professional services that is based on the licensed professional's alleged negligent act or omission in rendering professional services, within the scope of the professional's license, permit, or certificate, for others.

(c) "Licensed professional" means:

(1) An architect licensed under Title 3 of the Business Occupations and Professions Article;

(2) An interior designer certified under Title 8 of the Business Occupations and Professions Article;

(3) A landscape architect licensed under Title 9 of the Business Occupations and Professions Article;

(4) A professional engineer licensed under Title 14 of the Business Occupations and Professions Article; or

(5) A professional land surveyor or property line surveyor licensed under Title 15 of the Business Occupations and Professions Article.

(d) (1) "Qualified expert" means an individual who is a licensed professional, or comparably licensed or certified professional under the laws of another jurisdiction, knowledgeable in the accepted standard of care in the same discipline as the licensed professional against whom a claim is filed.

(2) "Qualified expert" does not include:

(i) A party to the claim;

(ii) An employee or partner of a party;

(iii) An employee or stockholder of a professional corporation of which a party is a stockholder; or

(iv) A person having a financial interest in the outcome of the claim.

§3–2C–02.

(a) (1) Except as provided in subsections (b) and (c) of this section, a claim shall be dismissed, without prejudice, if the claimant fails to file a certificate of a qualified expert with the court.

(2) A certificate of a qualified expert shall:

(i) Contain a statement from a qualified expert attesting that the licensed professional failed to meet an applicable standard of professional care;

(ii) Subject to the provisions of subsections (b) and (c) of this section, be filed within 90 days after the claim is filed; and

(iii) Be served on all other parties to the claim or the parties' attorneys of record in accordance with the Maryland Rules.

(b) (1) Upon written request made by the claimant within 30 days of the date the claim is served, the defendant shall produce documentary evidence that would be otherwise discoverable, if the documentary evidence is reasonably necessary in order to obtain a certificate of a qualified expert.

(2) The time for filing a certificate of a qualified expert shall begin on the date on which the defendant's production of the documentary evidence under paragraph (1) of this subsection is completed.

(3) The defendant's failure to produce the requested documentary evidence under paragraph (1) of this subsection shall constitute a waiver of the requirement that the claimant file a certificate of a qualified expert as to that defendant.

(c) (1) Upon written request by the claimant and a finding of good cause by the court, the court may waive or modify the requirement for the filing of the certificate of a qualified expert.

(2) The time for filing the certificate of merit of a qualified expert shall be suspended until the court rules on the request and, absent an order to the contrary, the certificate shall be filed within 90 days of the court's ruling.

(d) Discovery by the defendant as to the basis of the certificate of a qualified expert shall be available.

§3–301.

(a) A court of equity or a court of law, including the District Court, may issue an attachment on a judgment or decree in lieu of any other execution.

(b) A plaintiff may attach a debt due the defendant on a judgment or decree of a court of law or equity, including the District Court.

(c) If the property attached consists of a debt due the defendant on a judgment, the attachment does not prevent the issuance of execution of the judgment, provided the writ of execution shall direct the proceeds of the execution to be brought into court, subject to further order of the court to abide the result in the attachment.

§3–302.

A court of law including the District Court, within the limits of its jurisdiction, may issue an attachment at the commencement of the action or while it is pending against any property or credits, whether matured or unmatured, belonging to the debtor upon the application of the plaintiff in the action.

§3–303.

(a) An attachment before judgment may issue in any of the instances in this

section.

(b) If the debtor is a nonresident individual, or a corporation which has no resident agent in this State, and:

(1) The debtor is a person over whom the court could exercise personal jurisdiction pursuant to §§ 6–102, 6–103, and 6–104 of this article; or

(2) The action involves claims to property in this State which property is to be attached; or

(3) The action is any other in which the attachment is constitutionally permitted.

(c) If a resident individual defendant or an agent authorized to accept process for a corporation has acted to evade service.

(d) If the debtor has absconded or is about to abscond from the State; or if an individual has removed, or is about to remove, from his place of abode in the State with intent to defraud his creditors.

(e) (1) If the debtor is about to assign, dispose of, conceal, or remove his property or a portion of it from the State with intent to defraud his creditors; or

(2) If the debtor has done any of these acts, or fraudulently contracted the debt or incurred the obligation which is the subject of the pending action.

(f) If the debtor is deceased and an adult nonresident is entitled by descent or devise from the debtor to any land or interest in land in the State, an attachment may issue against that land or interest held by descent or devise from the person indebted.

(g) If any person who is required to be but is not licensed under the provisions of the Maryland Home Improvement Law, in an action against that person arising out of a home improvement transaction.

§3–304.

(a) An attachment under § 3-303(b), (d), and (g) of this subtitle may issue in an action based on contract, whether the damages are liquidated or unliquidated, or in an action based on tort.

(b) An attachment under § 3-303(c), (e), and (f) of this subtitle may issue only in an action based on contract for liquidated damages.

§3–305.

An attachment may be issued against any property or credit, matured or unmatured, which belong to a debtor.

§3–401.

In this subtitle, "person" includes the State, any county, municipal corporation, or other political subdivisions of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

§3–402.

This subtitle is remedial. Its purpose is to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations. It shall be liberally construed and administered.

§3–403.

(a) Except for the District Court, a court of records within its jurisdiction may declare rights, status, and other legal relations whether or not further relief is or could be claimed. An action or proceeding is not open to objection on the ground that a declaratory judgment or decree is prayed for.

(b) The enumeration in §§ 3–406, 3–407, 3–408, and 3–408.1 of this subtitle does not limit or restrict the exercise of the general powers conferred in subsection (a) of this section in any proceeding where declaratory relief is sought and in which a judgment or decree will terminate the controversy or remove an uncertainty.

§3–404.

The fact that a proceeding is brought under this subtitle does not affect a right to jury trial which otherwise may exist.

§3–405.

(a) (1) If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party.

(2) Except in a class action, the declaration may not prejudice the rights of any person not a party to the proceeding.

(b) In any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party and is entitled to be heard.

(c) If the statute, municipal or county ordinance, or franchise is alleged to be unconstitutional, the Attorney General need not be made a party but, immediately after suit has been filed, shall be served with a copy of the proceedings by certified mail. He is entitled to be heard, submit his views in writing within a time deemed reasonable by the court, or seek intervention pursuant to the Maryland Rules.

§3–406.

Any person interested under a deed, will, trust, land patent, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation, land patent, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it.

§3–407.

A contract may be construed before or after a breach of the contract.

§3–408.

Any person interested as or through a personal representative, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or beneficiary of a trust, in the administration of a trust, or of the estate of a decedent, a minor, disabled person, or insolvent, may have a declaration of rights or legal relations in respect to the trust or the estate of a decedent in order to:

(1) Ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(2) Direct the personal representative, guardian, or other fiduciary or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(3) Determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

§3–408.1.

(a) In this section, "Commissioner", "land", and "patent" have the same meanings as provided in Title 13 of the Real Property Article.

(b) A court shall render a declaratory judgment in a land patent proceeding on being requested to do so under § 13-407 of the Real Property Article. The party filing for the declaratory judgment shall attach as exhibits copies of any relevant material filed with the Commissioner.

(c) The declaration shall be made according to the provisions of this subtitle and Title 13 of the Real Property Article. The declaratory judgment may be appealed as provided in this article and the Maryland Rules.

(d) The declaration of the court shall be binding on all of the land, regardless of whether some of the land is located in a county other than where the court is located.

§3–409.

(a) Except as provided in subsection (d) of this section, a court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if:

(1) An actual controversy exists between contending parties;

(2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or

(3) A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.

(b) If a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed in lieu of a proceeding under this subtitle.

(c) A party may obtain a declaratory judgment or decree notwithstanding a concurrent common-law, equitable, or extraordinary legal remedy, whether or not recognized or regulated by statute.

(d) Proceeding by declaratory judgment is not permitted in any case in which divorce or annulment of marriage is sought.

(e) A court may order a speedy hearing of an action of a declaratory judgment and may advance it on the calendar.

§3–410.

In any proceeding under this subtitle the court may make such award of costs as may seem equitable and just.

§3–411.

The declaration may be affirmative or negative in form and effect and has the force and effect of a final judgment or decree.

§3–412.

(a) Further relief based on a declaratory judgment or decree may be granted if necessary or proper.

(b) An application for further relief shall be by petition to a court having jurisdiction to grant the relief.

(c) If the application is sufficient, the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted.

§3–413.

The provisions of this subtitle, except the provisions of §§ 3-403(a), 3-406, and 3-411 of this subtitle, are severable. The finding by a court that a severable provision of this subtitle is invalid does not affect the validity or operation of the other provisions of this subtitle, unless the court finds that the lone remaining valid provisions are incomplete and incapable of being executed in accordance with the legislative intent.

§3–414.

This subtitle shall be interpreted and construed to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

§3–415.

This subtitle may be cited as the Maryland Uniform Declaratory Judgments Act.

§3–501.

Any word spoken falsely and maliciously and likely to injure a woman's character or reputation for chastity is slander.

§3–502.

(a) A single or married woman whose character or reputation for chastity is defamed by any person may maintain an action against that person.

(b) The husband may maintain an action of slander against any person for words spoken falsely and maliciously about his wife for her character or reputation for chastity before or during the marriage.

§3–503.

An owner, licensee, or operator of a television or radio station or network of stations, and his agents or employees are not liable for a defamatory statement published or uttered over the facilities of the station or network of stations by a candidate for public office as to his opponents for the office he seeks, if the publication or utterance cannot be censored by the owner, licensee, or operator under any regulation of the Federal Communications Commission or a federal statute.

§3–504.

(a) (1) An owner, licensee, or operator of a television or radio station or network of stations and his agents or employees may be liable for a defamatory statement published or uttered over the facilities of the station or network of stations by a candidate for public office as to a person other than his opponent.

(2) Except as provided in subsection (b) of this section, the liability is limited to compensation for actual damages sustained.

(b) Upon proof of actual malice on part of the owner, licensee, or operator of the broadcasting station or network of stations and his agents or employees, punitive damages may be assessed.

§3–601.

A court may not refuse to specifically enforce a contract on the ground that the party seeking specific enforcement has an adequate remedy in damages unless the party resisting specific enforcement shall:

(1) Prove that the party has property from which the damages may be collected; or

(2) Give bond in an amount to be determined by the court and with security approved by the court, to perform the contract or pay all costs and damages that may be adjudged for breach or nonperformance against the party resisting specific enforcement.

§3–701.

A judge of the circuit court for a county, of the Court of Special Appeals, or of the Court of Appeals has the power to grant the writ of habeas corpus and exercise jurisdiction in all matters pertaining to habeas corpus.

§3–702.

(a) A person committed, detained, confined, or restrained from his lawful liberty within the State for any alleged offense or under any color or pretense or any person in his behalf, may petition for the writ of habeas corpus to the end that the cause of the commitment, detainer, confinement, or restraint may be inquired into.

(b) (1) Upon receiving the petition, a judge shall grant the writ of habeas corpus immediately, if it appears that the petitioner is entitled to the relief, or shall immediately refer the application to any court in the judicial circuit in which the person confined was convicted, without taking any other action on the application.

(2) An application may not be referred to any judge who presided at the trial at which the person was convicted, except with the written consent of the applicant or the person confined.

(3) A court to which an application for a writ has been referred shall act immediately on the application and has no power to refer or transfer the application.

(4) In exercising discretion, the judge to whom an application for a writ is made shall consider the interests and convenience of all parties concerned, including

the State.

§3–703.

(a) If it appears to the judge from the petition for the writ or otherwise, that a petitioner, confined as a result of sentence for a criminal offense or judgment in a juvenile proceeding has previously been given a hearing on a prior petition for release from confinement under the same commitment, it is discretionary with the judge whether or not to issue the writ.

(b) In exercising his discretion the judge may consider whether new grounds of a substantial nature appear to exist for granting of the writ or whether the grounds for the issuance of any former writ were fully and adequately presented.

§3–704.

(a) On return of a writ of habeas corpus and production of a person and cause of his detention before a judge, the judge shall immediately inquire into the legality and propriety of the confinement or detention.

(b) If it appears to the judge that the person is detained without legal warrant or authority, he shall release or discharge the person immediately.

(c) If the judge considers the detention lawful and proper, the person shall be:

(1) Remanded to custody; or

(2) Admitted to bail.

(d) If the person is admitted to bail, the judge shall take a recognizance for his appearance in court and transmit it to a court having jurisdiction over the offense charged.

§3–705.

(a) Except as provided in subsection (b) of this section, a person who has been released on habeas corpus may not be imprisoned or committed in connection with the same offense.

(b) A person who has been released on habeas corpus may be imprisoned or committed in connection with the same offense:

(1) By order of the court for violation of the terms of his release;

(2) By order of any court having jurisdiction over the case;

(3) Upon surrender by his bondsman; or

(4) Upon his conviction.

§3–706.

(a) If a person is released or discharged by a judge under the writ of habeas corpus on the ground that the law under which the person was convicted is unconstitutional, in whole or in part, the judge shall file a memorandum within five days after the release or discharge and transmit it with original papers in the case to the clerk of the Court of Special Appeals.

(b) (1) The Court of Special Appeals shall consider the memorandum and the original papers at the earliest feasible time and render its opinion.

(2) The opinion has the same effect as an opinion filed in a case formally heard and determined by the court on an appeal.

§3–707.

(a) If a judge refuses to issue a writ of habeas corpus sought for the purpose of determining the right to bail, or if a judge sets bail claimed to be excessive prior to trial or after conviction, but prior to final judgment, a petitioner may apply to the Court of Special Appeals for leave to appeal from the refusal.

(b) (1) A petitioner shall file the application for leave to appeal within ten days after the denial or grant of habeas corpus relief stating briefly why the order of the lower court should be reversed or modified.

(2) The record on the application for leave to appeal shall contain a copy of the petition for habeas corpus, the State's answer, if any, the order of the court, and the memorandum of reasons issued by the judge.

(3) If the Court grants the application, it may order the preparation of a transcript of any proceedings related to the habeas corpus petition.

(c) (1) The Court of Special Appeals may grant or deny the application for leave to appeal. If the Court grants the application, it may affirm, reverse, or modify the order of the lower court granting or denying the relief sought by the writ.

(2) If the Court determines that the lower court was wrong in refusing to admit to bail or that the bail set is not appropriate, it may determine the proper amount of bail. This determination is binding on the lower court, unless a change of circumstances warrants a different decision.

§3–801.

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

(b) "Abuse" means:

(1) Sexual abuse of a child, whether a physical injury is sustained or not;

or

(2) Physical or mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or is at substantial risk of being harmed by:

(i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child; or

(ii) A household or family member.

(c) "Adjudicatory hearing" means a hearing under this subtitle to determine whether the allegations in the petition, other than the allegation that the child requires the court's intervention, are true.

(d) "Adult" means an individual who is at least 18 years old.

(e) "Child" means an individual under the age of 18 years.

(f) "Child in need of assistance" means a child who requires court intervention because:

(1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and

(2) The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

(g) "CINA" means a child in need of assistance.

(h) "Commit" means to transfer custody.

(i) "Court" means the circuit court for a county sitting as the juvenile court.

(j) "Custodian" means a person or governmental agency to whom custody of a child has been given by order of court, including a court other than the juvenile court.

(k) "Custody" means the right and obligation, unless otherwise determined by the court, to provide ordinary care for a child and determine placement.

(l) "Developmental disability" means a severe chronic disability of an individual that:

(1) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(2) Is likely to continue indefinitely;

(3) Results in an inability to live independently without external support or continuing and regular assistance; and

(4) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

(m) "Disposition hearing" means a hearing under this subtitle to determine:

(1) Whether a child is in need of assistance; and

(2) If so, the nature of the court's intervention to protect the child's health, safety, and well–being.

(n) "Guardian" means a person to whom guardianship of a child has been given by order of court, including a court other than the juvenile court.

(o) "Guardianship" means an award by a court, including a court other than the juvenile court, of the authority to make ordinary and emergency decisions as to the child's care, welfare, education, physical and mental health, and the right to pursue support.

(p) "Local department" means:

(1) The local department of social services for the county in which the court is located; or

(2) In Montgomery County, the county department of health and human services.

(q) (1) "Mental disorder" means a behavioral or emotional illness that results from a psychiatric or neurological disorder.

(2) "Mental disorder" includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another.

(3) "Mental disorder" does not include mental retardation.

(r) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(s) "Neglect" means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

(1) That the child's health or welfare is harmed or placed at substantial risk of harm; or

(2) That the child has suffered mental injury or been placed at substantial risk of mental injury.

(t) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

(u) (1) "Party" means:

(i) A child who is the subject of a petition;

(ii) The child's parent, guardian, or custodian;

(iii) The petitioner; or

(iv) An adult who is charged under § 3–828 of this subtitle.

(2) "Party" does not include a foster parent.

(v) "Reasonable efforts" means efforts that are reasonably likely to achieve the objectives set forth in § 3–816.1(b)(1) and (2) of this subtitle.

(w) "Relative" means an individual who is:

(1) Related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law; and

(2) (i) At least 21 years old; or

(ii) 1. At least 18 years old; and

2. Lives with a spouse who is at least 21 years old.

(x) (1) "Sexual abuse" means an act that involves sexual molestation or sexual exploitation of a child by:

(i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child; or

(ii) A household or family member.

(2) "Sexual abuse" includes:

(i) Allowing or encouraging a child to engage in:

1. Obscene photography, films, poses, or similar activity;

2. Pornographic photography, films, poses, or similar activity; or

3. Prostitution;

(ii) Human trafficking;

(iii) Incest;

(iv) Rape;

(v) Sexual offense in any degree;

(vi) Sodomy; and

(vii) Unnatural or perverted sexual practices.

(y) "Shelter care" means a temporary placement of a child outside of the home at any time before disposition.

(z) "Shelter care hearing" means a hearing held before disposition to determine whether the temporary placement of the child outside of the home is warranted.

(aa) "TPR proceeding" means a proceeding to terminate parental rights.

(bb) "Voluntary placement" means a placement in accordance with § 5–525(b)(1)(i) or (iii) or (3) of the Family Law Article.

(cc) "Voluntary placement hearing" means a hearing to obtain a judicial determination as to whether continuing a voluntary placement is in the best interests of the child.

§3–802.

(a) The purposes of this subtitle are:

(1) To provide for the care, protection, safety, and mental and physical development of any child coming within the provisions of this subtitle;

(2) To provide for a program of services and treatment consistent with the child's best interests and the promotion of the public interest;

(3) To conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare;

(4) To hold parents of children found to be in need of assistance responsible for remedying the circumstances that required the court's intervention;

(5) Except as otherwise provided by law, to hold the local department responsible for providing services to assist the parents with remedying the circumstances that required the court's intervention;

(6) If necessary to remove a child from the child's home, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which the child's parents should have given;

(7) To achieve a timely, permanent placement for the child consistent with the child's best interests; and

(8) To provide judicial procedures for carrying out the provisions of this subtitle.

(b) This subtitle shall be construed liberally to effectuate these purposes.

(c) (1) In all judicial proceedings conducted in accordance with this subtitle or § 5-326 of the Family Law Article, the court may direct the local department to provide services to a child, the child's family, or the child's caregiver to the extent that the local department is authorized under State law.

(2) The court shall exercise the authority described in paragraph (1) of this subsection to protect and advance a child's best interests.

§3–803.

(a) In addition to the jurisdiction specified in Subtitle 8A of this title, the court has exclusive original jurisdiction over:

(1) Voluntary placement hearings;

(2) Proceedings arising from a petition alleging that a child is a CINA;

(3) Proceedings arising under the Interstate Compact on the Placement of Children;

(4) Proceedings to terminate parental rights after a CINA proceeding;

(5) Guardianship review proceedings after a TPR proceeding; and

(6) Adoption proceedings, if any, after a TPR proceeding.

(b) (1) The court has concurrent jurisdiction over:

(i) Custody, visitation, support, and paternity of a child whom the court finds to be a CINA; and

(ii) Custody of a child alleged to be a CINA under the circumstances described in § 3-819(d) of this subtitle.

(2) During pendency of an action under this subtitle, a party has a continuing duty to advise the court and any other court considering custody, support, visitation, or paternity of a child, of the pendency of any other action concerning the

child, whether the action is in this or another state.

(3) (i) The court may decline to exercise jurisdiction under this subsection if there is a proceeding pending in another court of competent jurisdiction.

(ii) If the court and another court both have pending actions involving a child described in paragraph (1) of this subsection, the court shall communicate with the other court expeditiously to determine the more appropriate court to take further action, consistent with the best interest of the child.

(iii) The court shall advise the parties of the decision and the basis for the decision.

(c) (1) The court has concurrent jurisdiction over proceedings against an adult for a violation of § 3-828 of this subtitle.

(2) (i) The court may waive its jurisdiction under this subsection on its own motion or on the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court.

(ii) On motion by the State's Attorney or the adult charged under § 3-828 of this subtitle, the court shall waive its jurisdiction and the adult shall be tried in the criminal court according to the usual criminal procedure.

(3) The age of the child at the time a petition is filed under § 3-828 of this subtitle controls the determination of jurisdiction under this subsection.

§3–804.

(a) (1) Except as provided in paragraph (2) of this subsection, the court has jurisdiction under this subtitle only if the alleged CINA or child in a voluntary placement is under the age of 18 years when the petition is filed.

(2) The court has jurisdiction under this subtitle over a former CINA:

(i) Whose commitment to the local department was rescinded after the individual reached the age of 18 years but before the individual reached the age of 20 years and 6 months; and

(ii) Who did not exit foster care due to reunification, adoption, guardianship, marriage, or military duty.

(b) If the court obtains jurisdiction over a child, that jurisdiction continues in that case until the child reaches the age of 21 years, unless the court terminates the case.

(c) After the court terminates jurisdiction, a custody order issued by the court in a CINA case:

(1) Remains in effect; and

(2) May be revised or superseded only by another court of competent jurisdiction.

§3–805.

(a) (1) A petition alleging that a child is a CINA shall be filed in the county where:

(i) The child is residing when the petition is filed; or

(ii) The act on which the petition is based allegedly occurred.

(2) A voluntary placement petition shall be filed in the county where:

(i) The parent or legal guardian resides;

(ii) The former CINA's commitment to the local department was rescinded; or

(iii) The former CINA receives voluntary placement services.

(b) (1) Whenever a petition is filed other than in the county where the child resides, the court, on its own motion or on motion of a party, may transfer the case at any time to any appropriate county, including a county where:

(i) Another case involving custody, visitation, or support of the child is pending;

(ii) The child resides;

(iii) A parent of the child resides; or

(iv) The court determines it is in the child's best interests for further proceedings concerning the child to take place.

(2) (i) Before the court transfers a case to another court in the State, the court shall communicate with the juvenile judge of the other court or the judge's designee.

(ii) The court shall advise the parties of the decision made to transfer the case and the basis for the decision.

(3) Before the court transfers a case to a court outside the State, the court shall communicate with the other court in accordance with the Maryland Uniform Child Custody Jurisdiction Act.

(4) (i) Within 15 days after the court orders a transfer, the clerk of the

sending court shall forward to the receiving court every document on file with the sending court.

(ii) If a case is transferred to another court in this State, the receiving court shall treat the case as if it had been filed with that court initially and shall set hearing dates as close as practicable to those set forth in any pending orders issued by the sending court.

(c) If information about a child is alleged to be available in another jurisdiction in or outside of this State, the court, on its own motion or on motion of a party, may use the provisions of the Maryland Uniform Child Custody Jurisdiction Act to obtain that information.

§3–806.

(a) (1) In every county, one or more judges shall be assigned specially to handle cases arising under this subtitle and Subtitle 8A of this title.

(2) The assignment shall be made by the circuit administrative judge, subject to the approval of the Chief Judge of the Court of Appeals.

(3) The judges so assigned are not subject to an automatic regular rotation.

(b) To the extent feasible, the judges assigned under this section shall:

(1) Desire to be so assigned;

(2) Have the temperament necessary to deal properly with the cases and children likely to come before the court; and

(3) Have special experience or training in juvenile causes and the problems of children likely to come before the court.

§3–807.

(a) (1) The judges of a circuit court may not appoint a master for juvenile causes arising under this subtitle and Subtitle 8A of this title unless the appointment and the appointee are approved by the Chief Judge of the Court of Appeals.

(2) The standards expressed in § 3–806(b) of this subtitle, with respect to the assignment of judges, are applicable to the appointment of masters.

(3) A master, at the time of appointment and at all times while serving as a master, shall be a member in good standing of the Maryland Bar.

(b) (1) A master appointed for juvenile causes may conduct hearings.

(2) Each proceeding shall be recorded, and the master shall make findings of fact, conclusions of law, and recommendations as to an appropriate order.

(3) The proposals and recommendations shall be in writing, and, within 10 days after the hearing, the original shall be filed with the court and a copy served on each party to the proceeding.

(c) (1) Any party, in accordance with the Maryland Rules, may file written exceptions to any or all of the master's findings, conclusions, and recommendations, but shall specify those items to which the party objects.

(2) The party who files exceptions may elect a hearing de novo or a hearing on the record before the court unless the party is the State in proceedings involving juvenile delinquency under Subtitle 8A of this title.

(3) If the State is the excepting party in proceedings involving juvenile delinquency, the hearing shall be on the record, supplemented by additional evidence as the judge considers relevant and to which the parties raise no objection.

(4) In either case, the hearing shall be limited to those matters to which exceptions have been taken.

(d) (1) The proposals and recommendations of a master for juvenile causes do not constitute orders or final action of the court.

(2) The proposals and recommendations shall be promptly reviewed by the court, and, in the absence of timely and proper exceptions, they may be adopted by the court and appropriate orders entered based on them.

(3) Detention, community detention, or shelter care may be ordered by a master pending court review of the master's findings, conclusions, and recommendations.

(e) If the court, on its own motion and in the absence of timely and proper exceptions, decides not to adopt the master's findings, conclusions, and recommendations, or any of them, the court shall conduct a de novo hearing, unless all parties and the court agree to a hearing on the record.

§3–808.

The court shall try cases under this subtitle without a jury.

§3–809.

(a) On receipt of a complaint from a person or agency having knowledge of facts which may cause a child to be subject to the jurisdiction of the court under this subtitle, the local department shall file a petition under this subtitle if it concludes that the court has jurisdiction over the matter and that the filing of a petition is in the best interests of the child.

(b) Within 5 days after reaching a decision not to file a petition, the local

department shall inform in writing the following persons of the decision and the reasons for the decision:

(1) A child over the age of 10 who would have been the subject of the petition, if appropriate;

(2) The parent, guardian, or custodian of the child who would have been the subject of the petition; and

(3) Each person or agency that requested that a petition be filed.

(c) Within 15 days after notice that a local department has decided not to file a petition, the person or agency that requested that a petition be filed may request review by the Secretary of Human Resources.

(d) Within 15 days after a request for review is received, the Secretary of Human Resources or the Secretary's designee, in consultation with the director of the local department, shall review the report and may direct the local department to file a petition within 5 days.

(e) If the Secretary of Human Resources or the Secretary's designee refuses to direct the local department to file a petition, the person or agency that filed the complaint under subsection (a) of this section or caused it to be filed may file the petition.

§3–810.

(a) (1) Except as otherwise provided in this subtitle, the Maryland Rules govern the format of a petition and of other pleadings and the procedures to be followed by the court and parties under this subtitle.

(2) Each document that a local department serves on a parent under this subtitle shall include information about the website that the Department of Human Resources maintains under § 2–302 of the Human Services Article.

(b) (1) In any proceeding in which a child is alleged to be in need of assistance or in any voluntary placement hearing, the court may exclude the general public from a hearing and admit only those persons having a direct interest in the proceeding and their representatives.

(2) The court shall exclude the general public from a hearing where the proceedings involve discussion of confidential information from the child abuse and neglect report and record, or any information obtained from the child welfare agency concerning a child or family who is receiving Title IV-B child welfare services or Title IV-E foster care or adoption assistance.

(c) The clerk of the court shall make a separate file for each case.

§3–811.

(a) (1) A CINA petition under this subtitle shall allege that a child is in need of assistance and shall set forth in clear and simple language the facts supporting that allegation.

(2) A voluntary placement petition under this subtitle shall allege that continuation of a voluntary placement is in the best interests of the child or former CINA and shall set forth in clear and simple language the facts supporting that allegation.

(b) A separate petition shall be filed as to each child.

§3–812.

(a) (1) In this section the following words have the meanings indicated, unless the context of their use indicates otherwise.

(2) "Crime of violence":

(i) Has the meaning stated in § 14–101 of the Criminal Law Article; or

(ii) As to a crime committed in another state, means a crime that, if committed in this State, would be a crime of violence as defined in § 14–101 of the Criminal Law Article.

(3) "Torture" means to cause intense pain to body or mind for purposes of punishment or extraction of information or for sadistic purposes.

(b) In a petition under this subtitle, a local department may ask the court to find that reasonable efforts to reunify a child with the child's parent or guardian are not required if the local department concludes that a parent or guardian has:

(1) Subjected the child to:

(i) Chronic abuse;

(ii) Chronic and life–threatening neglect;

(iii) Sexual abuse; or

(iv) Torture;

(2) Been convicted, in any state or any court of the United States, of:

(i) A crime of violence against:

1. A minor offspring of the parent or guardian;

2. The child; or

3. Another parent or guardian of the child; or

(ii) Aiding or abetting, conspiring, or soliciting to commit a crime described in item (i) of this item; or

(3) Involuntarily lost parental rights of a sibling of a child.

(c) If the local department determines after the initial petition is filed that any of the circumstances specified in subsection (b) of this section exists, the local department may immediately request the court to find that reasonable efforts to reunify the child with the child's parent or guardian are not required.

(d) If the court finds by clear and convincing evidence that any of the circumstances specified in subsection (b) of this section exists, the court shall waive the requirement that reasonable efforts be made to reunify the child with the child's parent or guardian.

(e) If the court finds that reasonable efforts are not required, the local department shall:

(1) Request that a permanency planning hearing be held in accordance with § 3–823 of this subtitle within 30 days after the court makes the finding; and

(2) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan and complete the steps necessary to finalize the permanent placement of the child.

(f) If a parent consents to guardianship or adoption in accordance with § 5–320 or § 5–338 of the Family Law Article, loss of parental rights shall be considered voluntary.

§3–813.

(a) Except as provided in subsections (b) and (c) of this section, a party is entitled to the assistance of counsel at every stage of any proceeding under this subtitle.

(b) Except for the local department and the child who is the subject of the petition, a party is not entitled to the assistance of counsel at State expense unless the party is:

(1) Indigent; or

(2) Otherwise not represented and:

(i) Under the age of 18 years; or

(ii) Incompetent by reason of mental disability.

(c) The Office of the Public Defender may not represent a party in a CINA proceeding unless the party:

(1) Is the parent or guardian of the alleged CINA;

(2) Applies to the Office of the Public Defender requesting legal representation by the Public Defender in the proceeding; and

(3) Is financially eligible for the services of the Public Defender.

(d) (1) A child who is the subject of a CINA petition shall be represented by counsel.

(2) Unless the court finds that it would not be in the best interests of the child, the court shall:

(i) Appoint an attorney with whom the Department of Human Resources has contracted to provide those services, in accordance with the terms of the contract; and

(ii) If another attorney has previously been appointed, strike the appearance of that attorney.

(e) In addition to, but not instead of, the appointment of an attorney under this section, the court, in any action, may appoint an individual provided by a Court-Appointed Special Advocate Program created under § 3-830 of this subtitle.

(f) The court may assess against any party reasonable compensation for the services of an attorney appointed to represent a child in an action under this subtitle.

§3–814.

(a) A child may be taken into custody under this subtitle by any of the following methods:

(1) In accordance with an order of the court;

(2) In accordance with § 5-709 of the Family Law Article; or

(3) By a law enforcement officer if the officer has reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary for the child's protection.

(b) Whenever a law enforcement officer takes a child into custody under this section, the officer shall:

(1) Immediately notify the child's parent, guardian, or custodian;

(2) Immediately notify the local department; and

(3) Keep custody only until the local department either takes custody under § 3-815 of this subtitle or authorizes release of the child unless the officer determines that it is safe to return the child to the child's parent, custodian, or guardian.

(c) (1) If a parent, guardian, or custodian fails to bring the child before the court when requested, the court may issue a writ of attachment directing that the child be taken into custody and brought before the court.

(2) The court may proceed against the parent, guardian, or custodian for contempt.

§3–815.

(a) In accordance with regulations adopted by the Department of Human Resources, a local department may authorize shelter care for a child who may be in need of assistance and has been taken into custody under this subtitle.

(b) A local department may place a child in emergency shelter care before a hearing if:

(1) Placement is required to protect the child from serious immediate danger;

(2) There is no parent, guardian, custodian, relative, or other person able to provide supervision; and

(3) (i) 1. The child's continued placement in the child's home is contrary to the welfare of the child; and

2. Because of an alleged emergency situation, removal from the home is reasonable under the circumstances to provide for the safety of the child; or

(ii) 1. Reasonable efforts have been made but have been unsuccessful in preventing or eliminating the need for removal from the child's home; and

2. As appropriate, reasonable efforts are being made to return the child to the child's home.

(c) (1) Whenever a child is not returned to the child's parent, guardian, or custodian, the local department shall immediately file a petition to authorize continued shelter care.

(2) (i) The court shall hold a shelter care hearing on the petition before disposition to determine whether the temporary placement of the child outside of the home is warranted.

(ii) Unless extended on good cause shown, a shelter care hearing shall be held not later than the next day on which the circuit court is in session.

(3) If the child's parents, guardian, custodian, or relatives can be located, reasonable notice, oral or written, stating the time, place, and purpose of the shelter care hearing shall be given.

(4) A court may not order shelter care for more than 30 days except that shelter care may be extended for up to an additional 30 days if the court finds after a hearing held as part of an adjudication that continued shelter care is needed to provide for the safety of the child.

(5) Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when ordering shelter care for a child.

(d) A court may continue shelter care beyond emergency shelter care only if the court finds that:

(1) Return of the child to the child's home is contrary to the safety and welfare of the child; and

(2) (i) Removal of the child from the child's home is necessary due to an alleged emergency situation and in order to provide for the safety of the child; or

(ii) Reasonable efforts were made but were unsuccessful in preventing or eliminating the need for removal of the child from the home.

(e) (1) If the court continues shelter care on the basis of an alleged emergency, the court shall assess whether the absence of efforts to prevent removal was reasonable.

(2) If the court finds that the absence of efforts to prevent removal was not reasonable, the court shall make a written determination so stating.

(3) The court shall make a written determination as to whether reasonable efforts are being made to make it possible to return the child to the child's home or whether the absence of such efforts is reasonable.

(f) (1) An alleged CINA may not be placed in:

(i) Detention, as defined in § 3-8A-01 of this title; or

(ii) A mental health facility, unless committed involuntarily in accordance with §§ 10-613 through 10-619 of the Health - General Article.

(2) (i) If the child is alleged to be in need of assistance because of a mental disorder or a developmental disability, the child may be placed in a shelter care facility maintained or licensed by the Department of Health and Mental Hygiene or, if no such facility is available, in a private home or shelter care facility approved by

the court.

(ii) If the child is alleged to be in need of assistance for any other reason, the child may be placed in a shelter care facility maintained or approved by the Social Services Administration or in a private home or shelter care facility approved by the court.

(3) An alleged CINA may not be placed in a shelter care facility that is not operating in compliance with applicable State licensing laws.

(4) The Secretary of Human Resources, the Secretary of Juvenile Services, the Secretary of Health and Mental Hygiene, the State Superintendent of Schools, and the Special Secretary for Children, Youth, and Families, when appropriate, shall jointly adopt regulations to ensure that any child placed in shelter care in accordance with a petition filed under this section is provided appropriate services, including:

(i) Health care services;

(ii) Mental health care services;

(iii) Counseling services;

(iv) Education services;

(v) Social work services;

(vi) Drug and alcohol abuse assessment or treatment services; and

(vii) Visitation with siblings and biological family.

(5) In addition to any other provision, the regulations shall require the local department:

(i) Within 45 days of placement of a child in a shelter care facility, to develop a plan to assess the child's treatment needs; and

(ii) To submit the plan to all parties to the petition and their counsel.

§3–816.

(a) After a petition is filed under this subtitle, the court may order the local department or another qualified agency to make or arrange for a study concerning the child, the child's family, the child's environment, and other matters relevant to the disposition of the case.

(b) (1) As part of a study under this section, the court may order that the child or any parent, guardian, or custodian be examined at a suitable place by a physician, psychiatrist, psychologist, or other professionally qualified person.

(2) (i) The court may not order an inpatient evaluation unless, after a hearing, the court finds that an inpatient evaluation is necessary and there are no less restrictive means to obtain an evaluation.

(ii) Placement in an inpatient facility may not exceed 21 days unless the court finds good cause.

(c) (1) The report of a study under this section is admissible as evidence at a disposition hearing but not at an adjudicatory hearing.

(2) The attorney for each party has the right to receive the report at least 5 days before its presentation to the court, to challenge or impeach its findings and to present appropriate evidence with respect to it.

(3) The time requirement specified in paragraph (2) of this subsection does not apply to an emergency dispositional review hearing held in accordance with § 3-820 of this subtitle.

§3–816.1.

(a) The provisions of this section apply to a hearing conducted in accordance with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle or a review hearing conducted in accordance with § 5–326 of the Family Law Article in which a child is placed under an order of guardianship, commitment, or shelter care.

(b) (1) In a hearing conducted in accordance with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department's custody.

(2) In a review hearing conducted in accordance with § 3–823 of this subtitle or § 5–326 of the Family Law Article, the court shall make a finding whether a local department made reasonable efforts to:

(i) Finalize the permanency plan in effect for the child; and

(ii) Meet the needs of the child, including the child's health, education, safety, and preparation for independence.

(3) In a hearing conducted in accordance with § 3–815, § 3–817, or § 3–819 of this subtitle, before determining whether a child with a developmental disability or a mental illness is a child in need of assistance, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department's custody by determining whether the local department could have placed the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) or (iii) of the Family Law Article.

(4) The court shall require a local department to provide evidence of its

efforts before the court makes a finding required under this subsection.

(5) The court's finding under this subsection shall assess the efforts made since the last adjudication of reasonable efforts and may not rely on findings from prior hearings.

(c) In making its findings in accordance with subsection (b) of this section, the court shall consider:

(1) The extent to which a local department has complied with the law, regulations, state or federal court orders, or a stipulated agreement accepted by the court regarding the provision of services to a child in an out–of–home placement;

(2) Whether a local department has ensured that:

(i) A caseworker is promptly assigned to and actively responsible for the case at all times;

(ii) The identity of the caseworker has been promptly communicated to the court and the parties; and

(iii) The caseworker is knowledgeable about the case and has received on a timely basis all pertinent files and other information after receiving the assignment from the local department;

(3) For a hearing under § 3–823 of this subtitle, whether a local department has provided appropriate services that facilitate the achievement of a permanency plan for the child, including consideration of in–State and out–of–state placement options;

(4) Whether the child's placement has been stable and in the least restrictive setting appropriate, available, and accessible for the child during the period since the most recent hearing held by the court;

(5) Whether a local department notified the court and all parties before any change of placement for the child, or, if emergency conditions made a change necessary, as soon as possible after the change of placement;

(6) On receipt of a report of maltreatment of a child occurring while the child is in the custody of a local department, whether the local department provided the appropriate parties, including the child's attorney, a report or notice of a report of the suspected maltreatment of the child and of the disposition of the investigation within the time required by regulation and court order; and

(7) Whether a local department has provided appropriate and timely services to help maintain the child in the child's existing placement, including all services and benefits available in accordance with State law, regulations, state and federal court orders, stipulated agreements, or professional standards regarding the

provision of services to children in out–of–home placements.

(d) In making a finding in accordance with subsection (b) of this section, a court may not consider a potential loss of federal funding for placement of a child that may result from a determination that reasonable efforts were not made.

(e) A court shall make the findings required under subsection (b) of this section in writing if it finds that reasonable efforts are being made for a child, but also finds that at least one of the following conditions exists:

(1) A local department did not comply with law, regulations, court orders, or agreements described in subsection (c)(1) of this section;

(2) A local department did not ensure continuity of casework as described in subsection (c)(2) of this section;

(3) A local department did not provide the services described in subsection (c)(3) of this section;

(4) During the period since the most recent court hearing, the child has not been placed in a stable placement or in the least restrictive setting appropriate, available, and accessible for the child;

(5) A local department failed to provide reports or notices of reports in a timely manner as described in subsection (c)(5) or (6) of this section; or

(6) A local department has not provided the services described in subsection (c)(7) of this section.

(f) If the court finds that reasonable efforts for a child were not made in accordance with subsection (b) of this section or finds that reasonable efforts were made but that one of the conditions described in subsection (e) of this section exists, the court promptly shall send its written findings to:

(1) The director of the local department;

(2) The Social Services Administration;

(3) The State Citizens Review Board for Children established under § 5–535 of the Family Law Article;

(4) If applicable, the local citizens review panel established under § 5–539.2 of the Family Law Article; and

(5) Any individual or agency identified by a local department or the court as responsible for monitoring the care and services provided to children in the legal custody or guardianship of the local department on a systematic basis.

§3–816.2.

(a) (1) The court shall conduct a hearing to review the status of each child under its jurisdiction within 6 months after the filing of the first petition under this subtitle and at least every 6 months thereafter.

(2) At a review hearing under this section, the court shall:

(i) Evaluate the safety of the child;

(ii) Determine the continuing necessity for and appropriateness of any out–of–home placement;

(iii) Determine the appropriateness of and extent of compliance with the case plan for the child;

(iv) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating the court's jurisdiction; and

(v) Project a reasonable date by which the child may be returned to and safely maintained in the home or placed for adoption or under a legal guardianship.

(b) If a permanency plan for the child has been determined under § 3–823 of this subtitle, a review hearing conducted by the court under § 3–823(h) of this subtitle shall satisfy the requirements of this section.

§3–816.3.

(a) In this section, "preadoptive parent" means an individual whom a child placement agency, as defined in § 5–101 of the Family Law Article, approves to adopt a child who has been placed in the individual's home for adoption before the order of adoption.

(b) Unless waived for good cause, before any proceeding concerning a child, the local department shall give at least 10 days' notice in writing to the child's foster parent, preadoptive parent, or caregiver of the date, time, and place of the proceeding and of the right to be heard at the proceeding.

(c) The foster parent, preadoptive parent, caregiver, or an attorney for the foster parent, preadoptive parent, or caregiver shall be given the right to be heard at the proceeding.

(d) The foster parent, preadoptive parent, caregiver, or attorney may not be considered to be a party solely on the basis of the right to notice and the right to be heard provided under this section.

§3–816.4.

(a) In this section, "educational stability" means the continuous process of identifying and implementing the appropriate educational placement, training, resources, services, and experiences that will address the fundamental needs necessary to ensure the successful educational outcome of a child and contribute to the child's overall well–being.

(b) The court shall inquire as to the educational stability of a child at a shelter care hearing, adjudicatory hearing, disposition hearing, and any change of placement proceeding.

(c) In determining the educational stability of a child under this section, the court may consider the following factors:

(1) The appropriateness of the child's current school placement;

(2) The school placement of the child's siblings;

(3) The minimization of school changes;

(4) The proximity of the school to the child's placement;

(5) Transportation to and from school;

(6) The proper release and prompt transfer of the child's education records;

(7) The child's school attendance;

(8) The identification of and consultation with the child's educational guardian;

(9) The maintenance of any individual education plan (IEP); and

(10) The child's appropriate grade level progress or progress toward graduation.

§3–817.

(a) After a CINA petition is filed under this subtitle, the court shall hold an adjudicatory hearing.

(b) The rules of evidence under Title 5 of the Maryland Rules shall apply at an adjudicatory hearing.

(c) The allegations in a petition under this subtitle shall be proved by a preponderance of the evidence.

§3–818.

Within 1 year after a child's birth, there is a presumption that a child is not receiving proper care and attention from the mother for purposes of § 3–801(f)(2) of this subtitle if:

(1) (i) The child was born exposed to cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine as evidenced by any appropriate tests of the mother or child; or

(ii) Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine as evidenced by any appropriate toxicology test; and

(2) Drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of drug treatment.

§3–819.

(a) (1) Unless a CINA petition under this subtitle is dismissed, the court shall hold a separate disposition hearing after an adjudicatory hearing to determine whether the child is a CINA.

(2) The disposition hearing shall be held on the same day as the adjudicatory hearing unless on its own motion or motion of a party, the court finds that there is good cause to delay the disposition hearing to a later day.

(3) If the court delays a disposition hearing, it shall be held no later than 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(i) Find that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case;

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:

1. Order the local department to assess or reassess the family's and child's eligibility for placement of the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) of the Family Law Article;

2. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown;

3. If the local department does not find the child eligible

for placement in accordance with a voluntary placement agreement, hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and

4. After the hearing:

A. Find that the child is not in need of assistance and order the local department to offer to place the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) of the Family Law Article;

B. Find that the child is in need of assistance; or

C. Dismiss the case; or

(iii) Subject to paragraph (2) of this subsection, find that the child is in need of assistance and:

1. Not change the child's custody status; or

2. Commit the child on terms the court considers appropriate to the custody of:

A. A parent;

B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or

C. A local department, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.

(2) (i) 1. In this paragraph, "disability" means:

A. A physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

B. A mental impairment or deficiency;

C. A record of having a physical or mental impairment as defined under this paragraph; or

D. Being regarded as having a physical or mental impairment as defined under this paragraph.

2. "Disability" includes:

A. Any degree of paralysis or amputation;

B. Blindness or visual impairment;

C. Deafness or hearing impairment;

D. Muteness or speech impediment;

E. Physical reliance on a service animal or a wheelchair or other remedial appliance or device; and

F. Intellectual disability, as defined in § 7–101 of the Health – General Article, and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(ii) In making a disposition on a CINA petition under this subtitle, a disability of the child's parent, guardian, or custodian is relevant only to the extent that the court finds, based on evidence in the record, that the disability affects the ability of the parent, guardian, or custodian to give proper care and attention to the child and the child's needs.

(3) Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.

(b–1) (1) If the court finds that a child enrolled in a public elementary or secondary school is in need of assistance and commits the child to the custody of a local department, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of assistance and has been committed to the custody of a local department.

(2) If the court rescinds the commitment order for a child enrolled in a public elementary or secondary school, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child is no longer committed to the custody of a local department of social services.

(3) The notice authorized under paragraphs (1) and (2) of this subsection may not include any order or pleading related to the child in need of assistance case.

(c) In addition to any action under subsection (b)(1)(iii) of this section, the court may:

(1) (i) Place a child under the protective supervision of the local department on terms the court considers appropriate;

(ii) Grant limited guardianship to the department or an individual or both for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to

services that are in the best interest of the child; or

(iii) Order the child and the child's parent, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and family; and

(2) Determine custody, visitation, support, or paternity of a child in accordance with § 3–803(b) of this subtitle.

(d) If guardianship of a child is awarded to the local department under this subtitle, the local department shall notify the parents of the child and their attorneys as soon as practicable of any emergency decision made by the guardian with respect to the child under § 3–801(o) of this subtitle.

(e) If the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

(f) If the disposition removes a child from the child's home, the order shall:

(1) Set forth specific findings of fact as to the circumstances that caused the need for the removal; and

(2) Inform the parents, custodian, or guardian, if any, that the person or agency to which the child is committed may change the permanency plan of reunification to another permanency plan, which may include the filing of a petition for termination of parental rights if the parents:

(i) Have not made significant progress to remedy the circumstances that caused the need for the removal as specified in the court order; and

(ii) Are unwilling or unable to give the child proper care and attention within a reasonable period of time.

(g) A guardian appointed under this section has no control over the property of the child unless the court expressly grants that authority.

(h) The court may not commit a child for inpatient care and treatment in a psychiatric facility unless the court finds on the record based on clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of the child or others;

(3) The child is unable or unwilling to be voluntarily admitted to such

facility; and

(4) There is no less restrictive form of intervention available that is consistent with the child's condition and welfare.

(i) The court may not commit a child for inpatient care and treatment in a facility for the developmentally disabled unless the court finds on the record based on clear and convincing evidence that:

(1) The child is developmentally disabled;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in–residence care or treatment; and

(3) There is no less restrictive form of care and treatment available that is consistent with the child's welfare and safety.

(j) (1) (i) Each commitment order issued under subsection (h) or (i) of this section shall require the custodian to file progress reports with the court at intervals no greater than every 6 months during the life of the order.

(ii) The custodian shall provide each party or attorney of record with a copy of each report, which shall be considered at the next scheduled hearing.

(iii) After the first 6 months of the commitment and at 6–month intervals thereafter, on the request of any party, the custodian, or the facility, the court shall hold a hearing to determine whether the standards specified in subsection (h) or (i) of this section continue to be met.

(2) (i) If an individualized treatment plan developed under § 10–706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (h) of this section, the court shall grant a hearing to review the commitment order.

(ii) The court may grant a hearing at any other time to determine whether the standards specified in subsection (h) of this section continue to be met.

(3) (i) If an individualized plan of habilitation developed under § 7–1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, the court shall grant a hearing to review the commitment order.

(ii) The court may grant a hearing at any other time to determine whether the standards specified in subsection (i) of this section continue to be met.

(k) An order vesting legal custody of a child in a person or agency is effective for an indeterminate period of time, but is not effective after the child reaches the age of 21.

(l) After giving the parent a reasonable opportunity to be heard, and determining the income of the parent, the court may order either parent or both parents to pay a sum in the amount the court directs to cover wholly or partly the support of the child under this subtitle.

§3–819.1.

(a) Within 30 days after a voluntary placement petition is filed, the court shall hold a voluntary placement hearing and shall make findings as to:

(1) Whether continuation of the placement is in the child's best interests; and

(2) Whether reasonable efforts have been made to reunify the child with the family or place the child in a timely manner in accordance with the child's permanency plan.

(b) Except as provided in subsection (c) of this section, in making a disposition on a voluntary placement petition under this section, the court shall:

(1) Order the child's voluntary placement to be terminated and the child returned to the child's home and provided with available services and support needed for the child to remain in the home;

(2) Order the child's voluntary placement to continue if the local department and the child's parent or guardian continue to agree to the voluntary placement;

(3) Subject to the provisions of § 3–819(h), (i), and (j) of this subtitle, order an amendment to the voluntary placement agreement to address the needs of the child; or

(4) If necessary to ensure the care, protection, safety, and mental and physical development of the child, order the local department to file a CINA petition.

(c) In making a disposition on a voluntary placement petition for a former CINA, the court shall:

(1) Order the former CINA's voluntary placement to continue and make any necessary orders to address the needs of the former CINA, if the local department and the former CINA continue to agree to the voluntary placement; or

(2) (i) Order the former CINA's voluntary placement to be terminated; and

(ii) Terminate the local department's placement and care responsibilities for the former CINA.

§3–819.2.

(a) (1) In this section, "disability" means:

(i) A physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

(ii) A mental impairment or deficiency;

(iii) A record of having a physical or mental impairment as defined under this subsection; or

(iv) Being regarded as having a physical or mental impairment as defined under this subsection.

(2) "Disability" includes:

(i) Any degree of paralysis or amputation;

(ii) Blindness or visual impairment;

(iii) Deafness or hearing impairment;

(iv) Muteness or speech impediment;

(v) Physical reliance on a service animal or a wheelchair or other remedial appliance or device; and

(vi) Intellectual disability, as defined in § 7–101 of the Health – General Article, and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(b) Subject to subsection (f) of this section, the court may grant custody and guardianship to a relative or a nonrelative under this subtitle.

(c) An order granting custody and guardianship to an individual under this section terminates the local department's legal obligations and responsibilities to the child.

(d) A guardian appointed under this subtitle has legal custody of the child unless the court that appoints the guardian gives legal custody to another person.

(e) After granting custody and guardianship to an individual under this section, the court may order any further reviews that the court determines to be in the child's best interests, consistent with § 3–823(h)(1)(iii) of this subtitle.

(f) (1) Before granting custody and guardianship under this section, the court shall consider:

(i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;

(ii) All factors necessary to determine the best interests of the child; and

(iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Resources, on the suitability of the individual to be the guardian of the child.

(2) The report under paragraph (1)(iii) of this subsection shall include a:

(i) Home study;

(ii) Child protective services history;

(iii) Criminal history records check; and

(iv) Review of the proposed guardian's physical and mental health history.

(3) If the local department has not produced the report described in paragraph (1)(iii) of this subsection within 120 days after the date that the court issued the order to the local department to produce the report, the court shall:

(i) Hold an immediate hearing to determine the causes of the delay;

(ii) State on the record the determined causes of the delay; and

(iii) Make a determination as to whether the progress of the local department is acceptable.

(4) Following the hearing required under paragraph (3) of this subsection, the court shall:

(i) Grant the local department an extension of no more than 90 days; or

(ii) Order production of the report by a licensed child placement agency, within a reasonable time and order the local department to bear the cost.

(g) In determining whether to grant custody and guardianship to a relative or a nonrelative under this section, a disability of the relative or nonrelative is relevant only to the extent that the court finds, based on evidence in the record, that the disability affects the best interest of the child.

(h) A court may not enter an order granting custody and guardianship under this section until the report under subsection (f)(1)(iii) of this section is submitted to and considered by the court.

§3–820.

(a) After a CINA disposition, when the court has ordered a specific placement of a child, a local department may remove the child from that placement prior to a hearing only if:

(1) Removal is required to protect the child from serious immediate danger;

(2) The child's continued placement in the court-ordered placement is contrary to the welfare of the child; or

(3) The person or agency with whom the child is placed has requested the immediate removal of the child.

(b) (1) Before removal or, if not possible, immediately after removal, the local department shall notify all parties, counsel, and the court of the removal of the child.

(2) The local department shall provide the address and phone number of the child's new placement to the child's counsel.

(c) (1) If the child is not returned to the court-ordered placement, the local department shall immediately file a motion to authorize the removal of the child and the child's new placement.

(2) The motion shall set forth:

(i) The facts on which the local department relied in removing the child; and

(ii) The identity of each witness.

(d) (1) The court shall hold an emergency review placement hearing on the motion not later than the next day on which the circuit court is in session.

(2) All parties shall be given reasonable notice of the hearing.

(e) At the emergency review placement hearing, the court's decision to reject or to ratify the local department's removal of the child shall be based upon such evidence as would be sufficient under § 3-815(d) of this subtitle to order shelter care.

(f) (1) Unless all parties agree to the court's order at the emergency review placement hearing, the court, at that hearing, shall schedule a regular review hearing within 30 days after the emergency review hearing for a full hearing on the merits of the local department's action.

(2) At the full hearing on the merits, the rules of evidence under Title 5 of the Maryland Rules shall apply.

(3) The hearing may be postponed by agreement of the parties or for good cause shown.

§3–821.

(a) The court, on its own motion or on application of a party, may issue an appropriate order directing, restraining, or otherwise controlling the conduct of a person who is properly before the court, if the court finds that the conduct:

(1) Is or may be detrimental or harmful to a child over whom the court has jurisdiction;

(2) Will tend to defeat the execution of an order or disposition made or to be made under this subtitle; or

(3) Will assist in the rehabilitation of or is necessary for the welfare of the child.

(b) Subsection (a) of this section shall apply to a person not a party to the petition if the person is given:

(1) Notice of the proposed order controlling the person's conduct; and

(2) The opportunity to contest the entry of the proposed order.

(c) An order issued under this section is enforceable under Title 15, Chapter 200 of the Maryland Rules.

§3–822.

(a) (1) At each CINA hearing, the court shall inquire into, and make findings of fact on the record as to, the identity and current address of each parent of each child before the court.

(2) In carrying out paragraph (1) of this subsection, the court shall:

(i) Inform all parties present of their continuing obligation to assist the court in identifying and locating each parent of each child;

(ii) Inform the parents present of their continuing obligation to keep the clerk of the court apprised of their current address;

(iii) Inform the parents present of available means to establish paternity, if not yet established; and

(iv) If appropriate, refer the parents to the appropriate support enforcement agency to establish paternity and support.

(b) Each parent of a child who is the subject of a CINA proceeding shall notify

the court and the local department of all changes in the parent's address.

(c) The clerk of the court shall keep a listing of every address provided by a parent of a child who is the subject of a CINA proceeding.

(d) On request of a local department, the clerk's office shall disclose to the local department all addresses listed by a parent of a CINA within the preceding 270 days.

(e) The court may:

(1) Order a parent or putative parent to:

(i) Apply for child support services with the appropriate support enforcement agency; and

(ii) Cooperate with the appropriate support enforcement agency to establish paternity and child support; and

(2) Make a finding of paternity in accordance with Title 5, Subtitle 10, Part VI of the Family Law Article.

(f) Any court may consider evidence taken and findings made on the record in a CINA hearing and in a paternity, custody, child support, or guardianship proceeding regarding that child or a sibling of a child.

§3–823.

(a) In this section, "out–of–home placement" has the meaning stated in § 5–501 of the Family Law Article.

(b) (1) The court shall hold a permanency planning hearing to determine the permanency plan for a child:

(i) No later than 11 months after a child committed under § 3–819 of this subtitle or continued in a voluntary placement under § 3–819.1(b) of this subtitle enters an out–of–home placement; or

(ii) Within 30 days after the court finds that reasonable efforts to reunify a child with the child's parent or guardian are not required based on a finding that a circumstance enumerated in § 3–812 of this subtitle has occurred.

(2) For purposes of this section, a child shall be considered to have entered an out–of–home placement 30 days after the child is placed into an out–of–home placement.

(3) If all parties agree, a permanency planning hearing may be held on the same day as the reasonable efforts hearing.

(c) (1) On the written request of a party or on its own motion, the court may

schedule a hearing at any earlier time to determine a permanency plan or to review the implementation of a permanency plan for any child committed under § 3–819 of this subtitle.

(2) A written request for review shall state the reason for the request and each issue to be raised.

(d) At least 10 days before the permanency planning hearing, the local department shall provide all parties and the court with a copy of the local department's permanency plan for the child.

(e) (1) At a permanency planning hearing, the court shall:

(i) Determine the child's permanency plan, which, to the extent consistent with the best interests of the child, may be, in descending order of priority:

1. Reunification with the parent or guardian;

2. Placement with a relative for:

A. Adoption; or

B. Custody and guardianship under § 3–819.2 of this subtitle;

3. Adoption by a nonrelative;

4. Custody and guardianship by a nonrelative under § 3–819.2 of this subtitle; or

5. Another planned permanent living arrangement that:

A. Addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and

B. Includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life; and

(ii) For a child who has attained the age of 16 years, determine the services needed to assist the child to make the transition from placement to independent living.

(2) In determining the child's permanency plan, the court shall consider the factors specified in § 5–525(f)(1) of the Family Law Article.

(f) The court may not order a child to be continued in a placement under subsection (e)(1)(i)5 of this section unless the court finds that the person or agency to which the child is committed has documented a compelling reason for determining that it would not be in the best interest of the child to:

(1) Return home;

(2) Be referred for termination of parental rights; or

(3) Be placed for adoption or guardianship with a specified and appropriate relative or legal guardian willing to care for the child.

(g) In the case of a child for whom the court determines that the plan should be changed to adoption under subsection (e)(1)(i)3 of this section, the court shall:

(1) Order the local department to file a petition for guardianship in accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the local department does not support the plan, within 60 days; and

(2) Schedule a TPR hearing instead of the next 6–month review hearing.

(h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the court shall conduct a hearing to review the permanency plan at least every 6 months until commitment is rescinded or a voluntary placement is terminated.

(ii) The court shall conduct a review hearing every 12 months after the court determines that the child shall be continued in out–of–home placement with a specific caregiver who agrees to care for the child on a permanent basis.

(iii) 1. Unless the court finds good cause, a case shall be terminated after the court grants custody and guardianship of the child to a relative or other individual.

2. If the court finds good cause not to terminate a case, the court shall conduct a review hearing every 12 months until the case is terminated.

3. The court may not conclude a review hearing under subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

(2) At the review hearing, the court shall:

(i) Determine the continuing necessity for and appropriateness of the commitment;

(ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;

(iii) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating commitment;

(iv) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;

(v) Evaluate the safety of the child and take necessary measures to

protect the child; and

(vi) Change the permanency plan if a change in the permanency plan would be in the child's best interest.

(3) Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months after the date of initial placement.

(i) At a review hearing under this section, the court shall consider any written report of a local out–of–home care review board required under § 5–545 of the Family Law Article.

(j) (1) At least every 12 months at a hearing under this section, the court shall consult on the record with the child in an age–appropriate manner to obtain the child's views on permanency.

(2) (i) If, after a hearing or with the agreement of all parties, the court determines that the child is medically fragile and that it is detrimental to the child's physical or mental health to be transported to the courthouse, the court may, subject to subparagraph (ii) of this paragraph:

1. Visit the child at the child's placement and use appropriate technology to document the consultation for the record; or

2. Use video conferencing to consult with the child on the record during the hearing.

(ii) If the court visits the child at the child's placement under subparagraph (i)1 of this paragraph or uses video conferencing under subparagraph (i)2 of this paragraph, the court shall give each party notice and an opportunity to attend the visit or the video conferencing, unless the court determines that it is not in the best interest of the child for a party to attend the visit or the video conferencing.

(3) Subject to the provisions of paragraph (2)(ii) of this subsection, if the child's placement is outside the State and, after a hearing or with the agreement of all parties, the court determines that it is not in the best interest of the child to be transported to the court, the court may use video conferencing to consult with the child on the record during the hearing.

§3–824.

(a) The court shall hear and rule on a petition seeking an order for emergency medical or psychiatric treatment on an expedited basis.

(b) (1) The court may order emergency medical, dental, or surgical treatment of a child alleged to have a condition or illness that, in the opinion of a licensed physician or dentist, as the case may be, requires immediate treatment, if the child's parent, guardian, or custodian is not available or, without good cause, refuses to consent to the

treatment.

(2) A child may be placed in an emergency facility on an emergency basis under Title 10, Subtitle 6, Part IV of the Health - General Article.

(c) The court shall apply the factors specified in § 13-711(b) of the Estates and Trusts Article, to the extent relevant, when deciding whether to withhold or withdraw a life-sustaining procedure, as defined in § 13-711(c) of the Estates and Trusts Article.

§3–825.

(a) A court may not commit a child who is subject to this subtitle to, and the child may not be detained at or transferred to, a correctional facility, as defined in § 1-101 of the Correctional Services Article.

(b) A child who is not a delinquent child, as defined in § 3-8A-01 of this title, may not be committed or transferred to a facility used for the confinement of delinquent children.

(c) Unless an individualized treatment plan developed under § 10-706 of the Health - General Article indicates otherwise, a child may not be:

(1) Committed or transferred to any public or private facility or institution unless the child is placed in accommodations that are separate from adults who are confined to that facility or institution; or

(2) Treated in any group with adults.

§3–826.

(a) (1) Unless the court directs otherwise, a local department shall provide all parties with a written report at least 10 days before any scheduled disposition, permanency planning, or review hearing under § 3-819 or § 3-823 of this subtitle.

(2) The time requirements specified in paragraph (1) of this subsection do not apply to an emergency review placement hearing under § 3-820 of this subtitle.

(b) If a child is committed to a person or agency under this subtitle, the court may order the custodian to file periodic written progress reports, with copies sent to all parties.

§3–827. IN EFFECT

(a) (1) All court records under this subtitle pertaining to a child shall be confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

(2) This subsection does not prohibit review of a court record by:

(i) Personnel of the court;

(ii) A party;

(iii) Counsel for a party;

(iv) A Court–Appointed Special Advocate for the child;

(v) Authorized personnel of the Social Services Administration and local departments in order to conduct a child abuse or neglect investigation or to comply with requirements imposed under Title IV–E of the Social Security Act; or

(vi) The Baltimore City Health Department's Office of Youth Violence Prevention:

1. If the Baltimore City Health Department's Office of Youth Violence Prevention is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. If the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

3. If the record 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.

(3) Information obtained from a court record is subject to the provisions of §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article.

(4) (i) The Baltimore City Health Department's Office of Youth Violence Prevention shall be liable for the unauthorized release of a court record it reviews under this subsection.

(ii) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention reviews a court record under this subsection, the Baltimore City Health Department's Office of Youth Violence Prevention shall submit a report to the court detailing the purposes for which the record was used.

(b) (1) On its own motion or on petition, and for good cause shown, the court:

(i) May order the court records of a child sealed; and

(ii) Shall order them sealed after the child has reached the age of 21.

(2) If sealed, the court records of a child may not be opened, for any purpose, except by order of the court on good cause shown.

3–827. // EFFECTIVE SEPTEMBER 30, 2019 PER CHAPTER 474 OF 2013 //

(a) (1) All court records under this subtitle pertaining to a child shall be confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

(2) This subsection does not prohibit review of a court record by:

(i) Personnel of the court;

(ii) A party;

(iii) Counsel for a party;

(iv) A Court–Appointed Special Advocate for the child; or

(v) Authorized personnel of the Social Services Administration and local departments in order to conduct a child abuse or neglect investigation or to comply with requirements imposed under Title IV–E of the Social Security Act.

(3) Information obtained from a court record is subject to the provisions of §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article.

(b) (1) On its own motion or on petition, and for good cause shown, the court:

(i) May order the court records of a child sealed; and

(ii) Shall order them sealed after the child has reached the age of 21.

(2) If sealed, the court records of a child may not be opened, for any purpose, except by order of the court on good cause shown.

§3–828.

(a) An adult may not willfully contribute to, encourage, cause or tend to cause any act, omission, or condition that renders a child in need of assistance.

(b) A person may be convicted under this section even if the child is not adjudicated a CINA.

(c) An adult who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $2,500 or imprisonment not exceeding 3 years or both.

(d) A petition alleging a violation of this section shall be prepared and filed by the State's Attorney.

(e) If an adult is charged under this section, the allegations shall be proved beyond a reasonable doubt.

§3–829.

A governing body of a county may create a juvenile court committee to serve as an advisory body to the court for the county and shall determine the composition and members of the committee.

§3–830.

(a) (1) In this section the following words have the meanings indicated.

(2) "Advocate" or "C.A.S.A." means a Court-Appointed Special Advocate.

(3) "Program" means a Court-Appointed Special Advocate service that is created in a county with the support of the court for that county to provide trained volunteers whom the court may appoint to:

(i) Provide the court with background information to aid it in making decisions in the child's best interest; and

(ii) Ensure that the child is provided appropriate case planning and services.

(b) (1) There is a Court-Appointed Special Advocate Program.

(2) The purpose of the Program is to provide volunteers whose primary purpose is to ensure the provision of appropriate service and case planning consistent with the best interests of a child who is the subject of:

(i) A CINA proceeding;

(ii) A custody and guardianship proceeding under § 3-819.2 of this subtitle; or

(iii) A guardianship review proceeding under Title 5, Subtitle 3 of the Family Law Article.

(3) The Administrative Office of the Courts:

(i) Shall administer the Program;

(ii) Shall report annually to the Chief Judge of the Court of Appeals and, subject to § 2-1246 of the State Government Article, to the General Assembly regarding the operation of the Program; and

(iii) May adopt rules governing the implementation and operation of the Program including funding, training, selection, and supervision of volunteers.

(c) The Governor may include funds in the budget to carry out the provisions of this section.

(d) An advocate or a member of the administrative staff of the Program is not liable for an act or omission in providing services or performing a duty on behalf of the Program, unless the act or omission constitutes reckless, willful, or wanton misconduct or intentionally tortious conduct.

§3–8A–01.

(a) In this subtitle the following words have the meanings indicated, unless the context of their use indicates otherwise.

(b) "Adjudicatory hearing" means a hearing under this subtitle to determine whether the allegations in the petition, other than allegations that the child requires treatment, guidance, or rehabilitation, are true.

(c) "Adult" means an individual who is at least 18 years old.

(d) "Child" means an individual under the age of 18 years.

(e) "Child in need of supervision" is a child who requires guidance, treatment, or rehabilitation and:

(1) Is required by law to attend school and is habitually truant;

(2) Is habitually disobedient, ungovernable, and beyond the control of the person having custody of him;

(3) Deports himself so as to injure or endanger himself or others; or

(4) Has committed an offense applicable only to children.

(f) "Citation" means the written form issued by a police officer which serves as the initial pleading against a child for a violation and which is adequate process to give the court jurisdiction over the person cited.

(g) "Commit" means to transfer legal custody.

(h) (1) "Community detention" means a program monitored by the Department of Juvenile Services in which a delinquent child or a child alleged to be delinquent is placed in the home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition of probation or as an alternative to detention.

(2) "Community detention" includes electronic monitoring.

(i) "Competency hearing" means a hearing under this subtitle to determine whether a child alleged to be delinquent is mentally competent to participate in a waiver hearing under § 3–8A–06 of this subtitle, an adjudicatory hearing under § 3–8A–18 of this subtitle, a disposition hearing under § 3–8A–19 of this subtitle, or a violation of probation hearing.

(j) "Court" means the circuit court for a county sitting as the juvenile court.

(k) "Custodian" means a person or agency to whom legal custody of a child has been given by order of the court, other than the child's parent or legal guardian.

(l) "Delinquent act" means an act which would be a crime if committed by an adult.

(m) "Delinquent child" is a child who has committed a delinquent act and requires guidance, treatment, or rehabilitation.

(n) "Detention" means the temporary care of children who, pending court disposition, require secure custody for the protection of themselves or the community, in physically restricting facilities.

(o) "Developmental disability" means a severe chronic disability of a child that:

(1) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(2) Is likely to continue indefinitely;

(3) Results in an inability to live independently without external support or continuing and regular assistance; and

(4) Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are individually planned and coordinated for the child.

(p) "Disposition hearing" means a hearing under this subtitle to determine:

(1) Whether a child needs or requires guidance, treatment, or rehabilitation; and, if so

(2) The nature of the guidance, treatment, or rehabilitation.

(q) "Incompetent to proceed" means that a child is not able to:

(1) Understand the nature or object of the proceeding; or

(2) Assist in the child's defense.

(r) "Intake officer" means the person assigned to the court by the Department of Juvenile Services to provide the intake services set forth in this subtitle.

(s) (1) "Mental disorder" means a behavioral or emotional illness that results from a psychiatric or neurological disorder.

(2) "Mental disorder" includes a mental illness that so substantially

impairs the mental or emotional functioning of a child as to make care or treatment necessary or advisable for the welfare of the child or for the safety of the child or property of another.

(3) "Mental disorder" does not include mental retardation.

(t) "Mental retardation" means a developmental disability that is evidenced by intellectual functioning that is significantly below average and impairment in the adaptive behavior of a child.

(u) "Mentally handicapped child" means a child who is or may be mentally retarded or mentally ill.

(v) "Party" includes a child who is the subject of a petition or a peace order request, the child's parent, guardian, or custodian, the petitioner and an adult who is charged under § 3–8A–30 of this subtitle.

(w) "Peace order proceeding" means a proceeding under § 3–8A–19.2 or § 3–8A–19.4 of this subtitle.

(x) "Peace order request" means the initial pleading filed with the court under § 3–8A–19.1 of this subtitle.

(y) "Petition" means the pleading filed with the court under § 3–8A–13 of this subtitle alleging that a child is a delinquent child or a child in need of supervision or that an adult violated § 3–8A–30 of this subtitle.

(z) "Qualified expert" means a licensed psychologist or licensed psychiatrist who:

(1) Has expertise in child development, with training in the forensic evaluation of children, as approved by the Secretary of Health and Mental Hygiene;

(2) Is familiar with the competency standards contained in this subtitle; and

(3) Is familiar with the treatment, training, and restoration programs for children that are available in this State.

(aa) "Respondent" means the individual against whom a petition or a peace order request is filed.

(bb) (1) "Shelter care" means the temporary care of children in physically unrestricting facilities.

(2) "Shelter care" does not mean care in a State mental health facility.

(cc) (1) "Victim" means:

(i) A person who suffers direct or threatened physical, emotional, or financial harm as a result of a delinquent act; or

(ii) An individual against whom an act specified in § 3–8A–19.1(b) of this subtitle is committed or alleged to have been committed.

(2) "Victim" includes a family member of a minor, disabled, or a deceased victim.

(3) "Victim" includes, if the victim is not an individual, the victim's agent or designee.

(dd) "Violation" means a violation for which a citation is issued under:

(1) § 5–601 of the Criminal Law Article involving the use or possession of less than 10 grams of marijuana;

(2) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(3) § 10–108 of the Criminal Law Article;

(4) § 10–132 of the Criminal Law Article;

(5) § 10–136 of the Criminal Law Article; or

(6) § 26–103 of the Education Article.

(ee) "Witness" means any person who is or expects to be a State's witness.

§3–8A–02.

(a) The purposes of this subtitle are:

(1) To ensure that the Juvenile Justice System balances the following objectives for children who have committed delinquent acts:

(i) Public safety and the protection of the community;

(ii) Accountability of the child to the victim and the community for offenses committed; and

(iii) Competency and character development to assist children in becoming responsible and productive members of society;

(2) To hold parents of children found to be delinquent responsible for the child's behavior and accountable to the victim and the community;

(3) To hold parents of children found to be delinquent or in need of supervision responsible, where possible, for remedying the circumstances that

required the court's intervention;

(4) To provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this subtitle; and to provide for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest;

(5) To conserve and strengthen the child's family ties and to separate a child from his parents only when necessary for his welfare or in the interest of public safety;

(6) If necessary to remove a child from his home, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents;

(7) To provide to children in State care and custody:

(i) A safe, humane, and caring environment; and

(ii) Access to required services; and

(8) To provide judicial procedures for carrying out the provisions of this subtitle.

(b) This subtitle shall be liberally construed to effectuate these purposes.

§3–8A–03.

(a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court has exclusive original jurisdiction over:

(1) A child who is alleged to be delinquent or in need of supervision or who has received a citation for a violation;

(2) Except as provided in subsection (d)(6) of this section, a peace order proceeding in which the respondent is a child; and

(3) Proceedings arising under the Interstate Compact on Juveniles.

(b) The court has concurrent jurisdiction over proceedings against an adult for the violation of § 3-8A-30 of this subtitle. However, the court may waive its jurisdiction under this subsection upon its own motion or upon the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court. Upon motion by either the State's Attorney or the adult charged under § 3-8A-30 of this subtitle, the court shall waive its jurisdiction, and the adult shall be tried in the criminal court according to the usual criminal procedure.

(c) The jurisdiction of the court is concurrent with that of the District Court in

any criminal case arising under the compulsory public school attendance laws of this State.

(d) The court does not have jurisdiction over:

(1) A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article;

(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;

(3) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration;

(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article:

(i) Abduction;

(ii) Kidnapping;

(iii) Second degree murder;

(iv) Manslaughter, except involuntary manslaughter;

(v) Second degree rape;

(vi) Robbery under § 3–403 of the Criminal Law Article;

(vii) Second degree sexual offense under § 3–306(a)(1) of the Criminal Law Article;

(viii) Third degree sexual offense under § 3–307(a)(1) of the Criminal Law Article;

(ix) A crime in violation of § 5–133, § 5–134, § 5–138, or § 5–203 of the Public Safety Article;

(x) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5–621 of the Criminal Law Article;

(xi) Use of a firearm under § 5–622 of the Criminal Law Article;

(xii) Carjacking or armed carjacking under § 3–405 of the Criminal Law Article;

(xiii) Assault in the first degree under § 3–202 of the Criminal Law Article;

(xiv) Attempted murder in the second degree under § 2–206 of the Criminal Law Article;

(xv) Attempted rape in the second degree under § 3–310 of the Criminal Law Article or attempted sexual offense in the second degree under § 3–312 of the Criminal Law Article;

(xvi) Attempted robbery under § 3–403 of the Criminal Law Article; or

(xvii) A violation of § 4–203, § 4–204, § 4–404, or § 4–405 of the Criminal Law Article;

(5) A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article; or

(6) A peace order proceeding in which the victim, as defined in § 3–8A–01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4–501 of the Family Law Article.

(e) If the child is charged with two or more violations of the Maryland Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the same incident and which would result in the child being brought before both the court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of the charges.

§3–8A–04.

The provisions of §§ 3-806, 3-807, and 3-829 of this title govern judges, masters, and local juvenile court committees under this subtitle.

§3–8A–05.

(a) If a person is alleged to be delinquent, the age of the person at the time the alleged delinquent act was committed controls the determination of jurisdiction under this subtitle.

(b) If a person is alleged to have committed an act under § 3-8A-19.1(b) of this subtitle, the age of the person at the time the alleged act was committed controls the determination of jurisdiction under this subtitle.

(c) In all other cases under this subtitle the age of the child at the time the petition is filed controls the determination of jurisdiction under this subtitle.

(d) In a delinquency proceeding there is no presumption of incapacity as a result of infancy for a child who is at least 7 years old.

§3–8A–06.

(a) The court may waive the exclusive jurisdiction conferred by § 3–8A–03 of this subtitle with respect to a petition alleging delinquency by:

(1) A child who is 15 years old or older; or

(2) A child who has not reached his 15th birthday, but who is charged with committing an act which if committed by an adult, would be punishable by life imprisonment.

(b) The court may not waive its jurisdiction under this section until after it has conducted a waiver hearing, held prior to an adjudicatory hearing and after notice has been given to all parties as prescribed by the Maryland Rules. The waiver hearing is solely to determine whether the court should waive its jurisdiction.

(c) (1) Notice of the waiver hearing shall be given to a victim as provided under § 11-104 of the Criminal Procedure Article.

(2) (i) A victim may submit a victim impact statement to the court as provided in § 11-402 of the Criminal Procedure Article.

(ii) This paragraph does not preclude a victim who has not filed a notification request form under § 11-104 of the Criminal Procedure Article from submitting a victim impact statement to the court.

(iii) The court may consider a victim impact statement in determining whether to waive jurisdiction under this section.

(d) (1) The court may not waive its jurisdiction under this section unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.

(2) For purposes of determining whether to waive its jurisdiction under this section, the court shall assume that the child committed the delinquent act alleged.

(e) In making its determination, the court shall consider the following criteria individually and in relation to each other on the record:

(1) Age of the child;

(2) Mental and physical condition of the child;

(3) The child's amenability to treatment in any institution, facility, or program available to delinquents;

(4) The nature of the offense and the child's alleged participation in it; and

(5) The public safety.

(f) If jurisdiction is waived under this section, the court shall order the child held for trial under the regular procedures of the court which would have jurisdiction over the offense if committed by an adult. The petition alleging delinquency shall be considered a charging document for purposes of detaining the child pending a bail hearing.

(g) An order waiving jurisdiction is interlocutory.

(h) If the court has once waived its jurisdiction with respect to a child in accordance with this section, and that child is subsequently brought before the court on another charge of delinquency, the court may waive its jurisdiction in the subsequent proceeding after summary review.

§3–8A–07.

(a) If the court obtains jurisdiction over a child under this subtitle, that jurisdiction continues until that person reaches 21 years of age unless terminated sooner.

(b) This section does not affect the jurisdiction of other courts over a person who commits an offense after the person reaches the age of 18.

(c) Unless otherwise ordered by the court, the court's jurisdiction is terminated over a person who has reached 18 years of age when he is convicted of a crime, including manslaughter by automobile, unauthorized use or occupancy of a motor vehicle, any violation of Title 2, Subtitle 5 or § 3-211 of the Criminal Law Article, or § 21-902 of the Transportation Article, but excluding a conviction for a violation of any other traffic law or ordinance or any provision of the State Boat Act, or the fish and wildlife laws of the State.

(d) A person subject to the jurisdiction of the court may not be prosecuted for a criminal offense committed before he reached 18 years of age unless jurisdiction has been waived.

(e) The court has exclusive original jurisdiction, but only for the purpose of waiving it, over a person 21 years of age or older who is alleged to have committed a delinquent act while a child.

§3–8A–08.

(a) If a petition alleges that a child is in need of supervision, the petition shall

be filed in the county where the child resides.

(b) If delinquency or violation of § 3-8A-30 of this subtitle is alleged or if a citation is issued, the petition, if any, or the citation shall be filed in the county where the alleged act occurred subject to transfer as provided in § 3-8A-09 of this subtitle.

(c) A peace order request shall be filed in the county where the alleged act occurred subject to transfer as provided in § 3-8A-09 of this subtitle.

(d) If the alleged delinquent act is escape or attempted escape under § 9-404 or § 9-405 of the Criminal Law Article, the petition, if any, shall be filed and the adjudicatory hearing held in the county where the alleged escape or attempted escape occurred unless the court in the county of the child's domicile requests a transfer. For purposes of the disposition hearing, proceedings may be transferred as provided in § 3-8A-09 of this subtitle to the court exercising jurisdiction over the child at the time of the alleged act.

§3–8A–09.

(a) (1) If a petition, peace order request, or citation is filed under this subtitle in a county other than the county where the child is living or domiciled, the court on its own motion or on motion of a party, may transfer the proceedings to the county of residence or domicile at any time prior to final termination of jurisdiction, except that the proceedings may not be transferred until after an adjudicatory hearing if the allegation is escape or attempted escape under § 9-404 or § 9-405 of the Criminal Law Article.

(2) In its discretion, the court to which the case is transferred may take further action.

(b) Every document, social history, and record on file with the clerk of the court pertaining to the case shall accompany the transfer.

§3–8A–10. IN EFFECT

(a) This section does not apply to allegations that a child is in need of assistance, as defined in § 3–801 of this title.

(b) An intake officer shall receive:

(1) Complaints from a person or agency having knowledge of facts which may cause a person to be subject to the jurisdiction of the court under this subtitle; and

(2) Citations issued by a police officer under § 3–8A–33 of this subtitle.

(c) (1) Except as otherwise provided in this subsection, in considering the complaint, the intake officer shall make an inquiry within 25 days as to whether the court has jurisdiction and whether judicial action is in the best interests of the public

or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) Subject to the provisions of § 3–8A–10.1 of this subtitle, in accordance with this section, the intake officer may, after such inquiry and within 25 days of receiving the complaint:

(i) Authorize the filing of a petition or a peace order request or both;

(ii) Propose an informal adjustment of the matter; or

(iii) Refuse authorization to file a petition or a peace order request or both.

(4) (i) If a complaint is filed that alleges the commission of an act which would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article, and if the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer shall immediately:

1. Forward the complaint to the State's Attorney; and

2. Forward a copy of the entire intake case file to the State's Attorney with information as to any and all prior intake involvement with the child.

(ii) The State's Attorney shall make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child. The need for restitution may be considered as one factor in the public interest. After the preliminary review the State's Attorney shall, within 30 days of the receipt of the complaint by the State's Attorney, unless the court extends the time:

1. File a petition or a peace order request or both;

2. Refer the complaint to the Department of Juvenile Services for informal disposition; or

3. Dismiss the complaint.

(iii) This subsection may not be construed or interpreted to limit the authority of the State's Attorney to seek a waiver under § 3–8A–06 of this subtitle.

(c–1) (1) In this subsection, "seriously emotionally disturbed" has the meaning stated in § 15–130 of the Health – General Article.

(2) (i) As soon as possible and in no event later than 25 days after receipt of a complaint, the intake officer shall discuss with the child who is the subject of a complaint and the child's parent or guardian information regarding a referral for a mental health and substance abuse screening of the child.

(ii) The screening authorized under subparagraph (i) of this paragraph shall be conducted by a person who:

1. Has been selected by the child's parent or guardian;

2. Has been approved by the child's health insurance carrier; and

3. Is:

A. A qualified health, mental health, or substance abuse professional; or

B. Staff trained by a qualified health, mental health, or substance abuse professional.

(iii) Within 15 days of the date of the discussion with the child and the child's parent or guardian, the intake officer shall document whether the child's parent or guardian made an appointment for a mental health and substance abuse screening of the child who is the subject of a complaint.

(3) If, as a result of the screening authorized under paragraph (2) of this subsection, it is determined that the child is a mentally handicapped or seriously emotionally disturbed child, or is a substance abuser, the qualified health, mental health, or substance abuse professional or staff, no later than 5 working days after the screening, shall conduct a comprehensive mental health or substance abuse assessment of the child.

(4) The Department of Juvenile Services and the Department of Health and Mental Hygiene:

(i) May not disclose to any person any information received by the departments relating to a specific mental health and substance abuse screening or assessment conducted under this section that could identify the child who was the subject of the screening or assessment; and

(ii) May make public other information unless prohibited by law.

(5) The Secretary of Juvenile Services and the Secretary of Health and Mental Hygiene jointly shall adopt any regulation necessary to carry out this subsection.

(d) (1) Subject to the provisions of § 3–8A–10.1 of this subtitle, the intake

officer may authorize the filing of a petition or a peace order request or both if, based upon the complaint and the inquiry, the intake officer concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) In delinquency cases, the need for restitution may be considered by the intake officer as one factor in the public interest.

(4) The intake officer shall inform the following persons of any authorization decision specified in paragraph (1) of this subsection and the reasons for the decision:

(i) The child who is the subject of the complaint, if practicable;

(ii) The parent, guardian, or custodian of the child who is the subject of the complaint;

(iii) The victim;

(iv) The arresting police officer; and

(v) The person or agency that filed the complaint or caused it to be filed.

(e) (1) Subject to the provisions of § 3–8A–10.1 of this subtitle, the intake officer may propose an informal adjustment of the matter if, based on the complaint and the inquiry, the intake officer concludes that the court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child.

(2) The intake officer shall propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted.

(3) The intake officer may not proceed with an informal adjustment unless the victim, the child, and the child's parent or guardian consent to the informal adjustment procedure.

(f) (1) During the informal adjustment process, the child shall be subject to such supervision as the intake officer deems appropriate and if the intake officer decides to have an intake conference, the child and the child's parent or guardian shall appear at the intake conference.

(2) The informal adjustment process may not exceed 90 days unless:

(i) That time is extended by the court; or

(ii) The intake officer determines that additional time is necessary for the child to complete a substance abuse treatment program that is part of the informal adjustment process.

(3) If the victim, the child, and the child's parent or guardian do not consent to an informal adjustment, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(4) If at any time before the completion of an agreed upon informal adjustment the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(g) (1) If based upon the complaint and the inquiry, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, the intake officer may deny authorization to file a petition or a peace order request or both.

(2) If the intake officer denies authorization to file a petition or a peace order request or both, the intake officer shall inform the following persons of the decision, the reasons for it, and their right of review provided in this section:

(i) The victim;

(ii) The arresting police officer; and

(iii) The person or agency that filed the complaint or caused it to be filed.

(3) The intake officer shall inform the persons specified in paragraph (2) of this subsection of the decision to deny authorization to file a petition for the alleged commission of a delinquent act through use of the form prescribed by § 3–8A–11 of this subtitle.

(h) (1) If the complaint alleges the commission of a delinquent act and the intake officer denies authorization to file a petition, the following persons may appeal the denial to the State's Attorney:

(i) The victim;

(ii) The arresting police officer; and

(iii) The person or agency that filed the complaint or caused it to be filed.

(2) In order for an appeal to be made, it must be received by the State's Attorney's office within 30 days after the form prescribed by § 3–8A–11 of this subtitle is mailed by the juvenile intake officer to the person being informed of the intake officer's decision.

(3) (i) The State's Attorney shall review the denial.

(ii) If the State's Attorney concludes that the court has jurisdiction and that judicial action is in the best interests of the public or the child, the State's Attorney may file a petition.

(iii) This petition shall be filed within 30 days of the receipt of the complainant's appeal.

(i) (1) If authorization to file a petition for a complaint which alleges a child is in need of supervision or if authorization to file a peace order request is denied, the person or agency that filed the complaint or caused it to be filed, within 15 days of personal notice of the denial to that person or agency or the mailing to the last known address, may submit the denial for review by the Department of Juvenile Services Area Director for the area in which the complaint was filed.

(2) The Department of Juvenile Services Area Director shall review the denial.

(3) If, within 15 days, the Department of Juvenile Services Area Director concludes that the court has jurisdiction and that judicial action is in the best interests of the public and the child, the Department of Juvenile Services Area Director may authorize the filing of a petition in writing.

(4) The petition shall be filed within 5 days of the decision.

(j) (1) If the complaint alleges that a minor 16 years of age or older has committed an act in violation of any provision of the Maryland Vehicle Law or other traffic law or ordinance under the jurisdiction of the juvenile court, the complaint shall be filed directly with the State's Attorney of the jurisdiction in which the alleged violation occurred.

(2) If the State's Attorney elects to proceed with the case, the State's Attorney may prepare a petition for filing with the court of proper jurisdiction.

(k) (1) If the intake officer receives a citation other than a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to an alcohol or substance abuse education or rehabilitation program;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second or subsequent violation;

(iii) Require the parent or guardian of the child to withdraw the parent's or guardian's consent to the child's license to drive, and advise the Motor Vehicle Administration of the withdrawal of consent; or

(iv) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation, other than a citation authorized under § 10–108 of the Criminal Law Article, to the State's Attorney if:

(i) The parent or guardian of the child refuses to withdraw consent to the child's license to drive;

(ii) The child fails to comply with an alcohol or substance abuse education or rehabilitation program referral; or

(iii) The child fails to comply with a supervised work program assignment.

(l) (1) If the intake officer receives a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation; or

(iii) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation authorized under § 10–108 of the Criminal Law Article to the State's Attorney if the child fails to comply with a smoking program referral or a supervised work program assignment described under paragraph (1) of this subsection.

(m) (1) Except as provided in paragraph (2) of this subsection, within 15 days after a law enforcement officer takes a child into custody under this subtitle the law enforcement officer shall file a complaint with an intake officer.

(2) If a child is referred to a diversion program, the law enforcement officer may file the complaint with an intake officer more than 30 days after but no later than 120 days after the law enforcement officer took the child into custody.

(n) The court may dismiss a petition or a peace order request for failure to

comply with this section only if the respondent has demonstrated actual prejudice.

3–8A–10. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 413 OF 2013 //

(a) This section does not apply to allegations that a child is in need of assistance, as defined in § 3–801 of this title.

(b) An intake officer shall receive:

(1) Complaints from a person or agency having knowledge of facts which may cause a person to be subject to the jurisdiction of the court under this subtitle; and

(2) Citations issued by a police officer under § 3–8A–33 of this subtitle.

(c) (1) Except as otherwise provided in this subsection, in considering the complaint, the intake officer shall make an inquiry within 25 days as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) In accordance with this section, the intake officer may, after such inquiry and within 25 days of receiving the complaint:

(i) Authorize the filing of a petition or a peace order request or both;

(ii) Propose an informal adjustment of the matter; or

(iii) Refuse authorization to file a petition or a peace order request or both.

(4) (i) If a complaint is filed that alleges the commission of an act which would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article, and if the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer shall immediately:

1. Forward the complaint to the State's Attorney; and

2. Forward a copy of the entire intake case file to the State's Attorney with information as to any and all prior intake involvement with the child.

(ii) The State's Attorney shall make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child. The need for restitution may be considered as one factor in the public interest. After the preliminary review the State's Attorney shall, within 30

days of the receipt of the complaint by the State's Attorney, unless the court extends the time:

1. File a petition or a peace order request or both;

2. Refer the complaint to the Department of Juvenile Services for informal disposition; or

3. Dismiss the complaint.

(iii) This subsection may not be construed or interpreted to limit the authority of the State's Attorney to seek a waiver under § 3–8A–06 of this subtitle.

(c–1) (1) In this subsection, "seriously emotionally disturbed" has the meaning stated in § 15–130 of the Health – General Article.

(2) (i) As soon as possible and in no event later than 25 days after receipt of a complaint, the intake officer shall discuss with the child who is the subject of a complaint and the child's parent or guardian information regarding a referral for a mental health and substance abuse screening of the child.

(ii) The screening authorized under subparagraph (i) of this paragraph shall be conducted by a person who:

1. Has been selected by the child's parent or guardian;

2. Has been approved by the child's health insurance carrier; and

3. Is:

A. A qualified health, mental health, or substance abuse professional; or

B. Staff trained by a qualified health, mental health, or substance abuse professional.

(iii) Within 15 days of the date of the discussion with the child and the child's parent or guardian, the intake officer shall document whether the child's parent or guardian made an appointment for a mental health and substance abuse screening of the child who is the subject of a complaint.

(3) If, as a result of the screening authorized under paragraph (2) of this subsection, it is determined that the child is a mentally handicapped or seriously emotionally disturbed child, or is a substance abuser, the qualified health, mental health, or substance abuse professional or staff, no later than 5 working days after the screening, shall conduct a comprehensive mental health or substance abuse assessment of the child.

(4) The Department of Juvenile Services and the Department of Health and Mental Hygiene:

(i) May not disclose to any person any information received by the departments relating to a specific mental health and substance abuse screening or assessment conducted under this section that could identify the child who was the subject of the screening or assessment; and

(ii) May make public other information unless prohibited by law.

(5) The Secretary of Juvenile Services and the Secretary of Health and Mental Hygiene jointly shall adopt any regulation necessary to carry out this subsection.

(d) (1) The intake officer may authorize the filing of a petition or a peace order request or both if, based upon the complaint and the inquiry, the intake officer concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) In delinquency cases, the need for restitution may be considered by the intake officer as one factor in the public interest.

(4) The intake officer shall inform the following persons of any authorization decision specified in paragraph (1) of this subsection and the reasons for the decision:

(i) The child who is the subject of the complaint, if practicable;

(ii) The parent, guardian, or custodian of the child who is the subject of the complaint;

(iii) The victim;

(iv) The arresting police officer; and

(v) The person or agency that filed the complaint or caused it to be filed.

(e) (1) The intake officer may propose an informal adjustment of the matter if, based on the complaint and the inquiry, the intake officer concludes that the court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child.

(2) The intake officer shall propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted.

(3) The intake officer may not proceed with an informal adjustment unless the victim, the child, and the child's parent or guardian consent to the informal adjustment procedure.

(f) (1) During the informal adjustment process, the child shall be subject to such supervision as the intake officer deems appropriate and if the intake officer decides to have an intake conference, the child and the child's parent or guardian shall appear at the intake conference.

(2) The informal adjustment process may not exceed 90 days unless:

(i) That time is extended by the court; or

(ii) The intake officer determines that additional time is necessary for the child to complete a substance abuse treatment program that is part of the informal adjustment process.

(3) If the victim, the child, and the child's parent or guardian do not consent to an informal adjustment, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(4) If at any time before the completion of an agreed upon informal adjustment the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(g) (1) If based upon the complaint and the inquiry, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, the intake officer may deny authorization to file a petition or a peace order request or both.

(2) If the intake officer denies authorization to file a petition or a peace order request or both, the intake officer shall inform the following persons of the decision, the reasons for it, and their right of review provided in this section:

(i) The victim;

(ii) The arresting police officer; and

(iii) The person or agency that filed the complaint or caused it to be filed.

(3) The intake officer shall inform the persons specified in paragraph (2) of this subsection of the decision to deny authorization to file a petition for the alleged commission of a delinquent act through use of the form prescribed by § 3–8A–11 of this subtitle.

(h) (1) If the complaint alleges the commission of a delinquent act and the intake officer denies authorization to file a petition, the following persons may appeal the denial to the State's Attorney:

(i) The victim;

(ii) The arresting police officer; and

(iii) The person or agency that filed the complaint or caused it to be filed.

(2) In order for an appeal to be made, it must be received by the State's Attorney's office within 30 days after the form prescribed by § 3–8A–11 of this subtitle is mailed by the juvenile intake officer to the person being informed of the intake officer's decision.

(3) (i) The State's Attorney shall review the denial.

(ii) If the State's Attorney concludes that the court has jurisdiction and that judicial action is in the best interests of the public or the child, the State's Attorney may file a petition.

(iii) This petition shall be filed within 30 days of the receipt of the complainant's appeal.

(i) (1) If authorization to file a petition for a complaint which alleges a child is in need of supervision or if authorization to file a peace order request is denied, the person or agency that filed the complaint or caused it to be filed, within 15 days of personal notice of the denial to that person or agency or the mailing to the last known address, may submit the denial for review by the Department of Juvenile Services Area Director for the area in which the complaint was filed.

(2) The Department of Juvenile Services Area Director shall review the denial.

(3) If, within 15 days, the Department of Juvenile Services Area Director concludes that the court has jurisdiction and that judicial action is in the best interests of the public and the child, the Department of Juvenile Services Area Director may authorize the filing of a petition in writing.

(4) The petition shall be filed within 5 days of the decision.

(j) (1) If the complaint alleges that a minor 16 years of age or older has

committed an act in violation of any provision of the Maryland Vehicle Law or other traffic law or ordinance under the jurisdiction of the juvenile court, the complaint shall be filed directly with the State's Attorney of the jurisdiction in which the alleged violation occurred.

(2) If the State's Attorney elects to proceed with the case, the State's Attorney may prepare a petition for filing with the court of proper jurisdiction.

(k) (1) If the intake officer receives a citation other than a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to an alcohol or substance abuse education or rehabilitation program;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second or subsequent violation;

(iii) Require the parent or guardian of the child to withdraw the parent's or guardian's consent to the child's license to drive, and advise the Motor Vehicle Administration of the withdrawal of consent; or

(iv) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation, other than a citation authorized under § 10–108 of the Criminal Law Article, to the State's Attorney if:

(i) The parent or guardian of the child refuses to withdraw consent to the child's license to drive;

(ii) The child fails to comply with an alcohol or substance abuse education or rehabilitation program referral; or

(iii) The child fails to comply with a supervised work program assignment.

(l) (1) If the intake officer receives a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation; or

(iii) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation authorized under § 10–108 of the Criminal Law Article to the State's Attorney if the child fails to comply with a smoking program referral or a supervised work program assignment described under paragraph (1) of this subsection.

(m) (1) Except as provided in paragraph (2) of this subsection, within 15 days after a law enforcement officer takes a child into custody under this subtitle the law enforcement officer shall file a complaint with an intake officer.

(2) If a child is referred to a diversion program, the law enforcement officer may file the complaint with an intake officer more than 30 days after but no later than 120 days after the law enforcement officer took the child into custody.

(n) The court may dismiss a petition or a peace order request for failure to comply with this section only if the respondent has demonstrated actual prejudice.

§3–8A–10.1. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTER 413 OF 2013 //

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Designated assessment service provider" means a community–based provider of assessment, intervention, and referral services to children alleged to be in need of supervision and their parents or guardians.

(ii) "Designated assessment service provider" includes county staff, contractors, and resources that may provide assessment, intervention, and referral services to children alleged to be in need of supervision and their parents or guardians.

(3) "Pilot community" means:

(i) Baltimore City;

(ii) Baltimore County;

(iii) Cecil County;

(iv) Montgomery County; or

(v) Prince George's County.

(b) The Secretary of Juvenile Services shall establish a Department of Juvenile Services Child in Need of Supervision Pilot Program in:

(1) Baltimore City;

(2) Baltimore County;

(3) Cecil County;

(4) Montgomery County; and

(5) Prince George's County.

(c) (1) The Pilot Program shall select designated assessment service providers in each pilot community.

(2) The designated assessment service providers shall be contracted and funded by the local management board of each pilot community.

(d) On receipt of a complaint under § 3–8A–10 of this subtitle that alleges that a child in a pilot community is in need of supervision, unless the intake officer concludes under § 3–8A–10(c) of this subtitle that the court has no jurisdiction or that neither an informal adjustment nor judicial action is appropriate, the intake officer shall refer the child and the child's parents or guardians to a designated assessment service provider for the pilot community before the intake officer may authorize the filing of a petition or peace order request or propose an informal adjustment.

(e) A designated assessment service provider shall:

(1) Meet with a child referred to the provider and the child's parents or guardians at least two and not more than six times to discuss the child's:

(i) School performance;

(ii) Family interactions;

(iii) Relationships with peers; and

(iv) Emotional and physical health, including drug and alcohol use;

(2) Review all available, relevant records concerning the child, including:

(i) Academic records;

(ii) Medical records; and

(iii) Psychiatric records;

(3) Conduct an assessment of the child; and

(4) Establish a case plan and a case record for the provision of services to the child, including:

(i) Family counseling;

(ii) Educational advocacy;

(iii) Drug and alcohol counseling;

(iv) Sex education;

(v) After–school programs;

(vi) Truancy and dropout prevention;

(vii) Transitional living services;

(viii) Mediation services;

(ix) Employment and job training services;

(x) Alternative school placement; and

(xi) Drug and alcohol counseling for the parents, guardians, or other family members of the child.

(f) An intake officer may not authorize the filing of a petition or peace order request or propose an informal adjustment for a child alleged to be in need of supervision in a pilot community unless the designated assessment service provider has filed a report with the intake officer stating:

(1) The date of the initial meeting with the child and the child's parents or guardians required under this section; and

(2) That all attempts to provide assessment, intervention, and referral services have failed.

§3–8A–11.

(a) An intake officer shall use the following form to inform persons, in accordance with § 3-8A-10 of this subtitle, of his decision to deny authorization to file a petition for the alleged commission of a delinquent act:

Date: (Date form is mailed)

Re: .....

Offense No.: .....

Date of Offense: .....

Nature of Offense: .....

.....

.....

.....

Dear ..... :

I have reviewed the facts concerning the offense referred to above and have decided not to authorize juvenile court action. This decision included consideration of the facts of the case and the juvenile's involvement. Home, school, and community adjustment along with parental concern and control were examined. Past history with the police and court was also considered.

The reasons for this decision are as follows:

..... The juvenile was issued a reprimand and warned against future involvement in delinquent activities.

..... The juvenile is currently under supervision of the juvenile court.

..... The juvenile will receive informal supervision by this intake officer. This will include counseling, and possibly referral to a program or agency to further work with problems seen as important to the juvenile's future adjustment.

..... The juvenile has successfully completed a pretrial program of intensive counseling and supervision of 45 to 90 days, and has shown a satisfactory adjustment during this time.

..... This case is not legally sufficient.

Additional Comments: .....

.....

.....

If you disagree with this decision and desire to appeal, you must fill in the form provided below and send it to the State's Attorney's office so that it is received in that office by ..... (Date)

If you have any questions or want to talk about this case with me before making a decision on whether to appeal, please call me at..... (Phone Number)

However, if you do this, it will not extend the 30-day period within which you are allowed to appeal.

Sincerely,

.....

Intake Officer

.....

.....

If you disagree with the above decision of the intake officer, fill out the form below and send it to:

..... (To be filled in by intake officer prior to mailing
..... to person being informed of intake decision)
.....
(Name and address of appropriate
State's Attorney authority)

Re: ..... (To be filled in by intake officer prior to mailing
Offense: ..... to person being informed of intake decision)
Date of Offense: .....
Nature of Offense: .....

I have been informed by the juvenile intake officer of his decision not to forward this case for action in the juvenile court.

I disagree with this decision and ask that the State's Attorney's office review it and decide whether court proceedings should be carried out.

.....
Signed

(b) The use of the form prescribed by subsection (a) of this section does not preclude the Department of Juvenile Services from sending other information, in addition to this form, to explain the intake officer's decision and advise persons of their right to appeal the decision of the intake officer.

§3–8A–12. IN EFFECT

(a) A statement made by a participant while counsel and advice are being given, offered, or sought, in the discussions or conferences incident to an informal adjustment or referral to a designated assessment service provider under § 3–8A–10.1 of this subtitle may not be admitted in evidence in any adjudicatory hearing or peace order proceeding or in a criminal proceeding against the participant prior to conviction.

(b) Any information secured or statement made by a participant during a preliminary or further inquiry pursuant to § 3–8A–10 of this subtitle or a study pursuant to § 3–8A–17 of this subtitle may not be admitted in evidence in any adjudicatory hearing or peace order proceeding except on the issue of respondent's competence to participate in the proceedings and responsibility for his conduct as provided in § 3–109 of the Criminal Procedure Article where a petition alleging delinquency has been filed, or in a criminal proceeding prior to conviction.

(c) A statement made by a child, his parents, guardian or custodian at a waiver hearing is not admissible against him or them in criminal proceedings prior to conviction except when the person is charged with perjury, and the statement is relevant to that charge and is otherwise admissible.

(d) If jurisdiction is not waived, any statement made by a child, his parents,

guardian, or custodian at a waiver hearing may not be admitted in evidence in any adjudicatory hearing unless a delinquent offense of perjury is alleged, and the statement is relevant to that charge and is otherwise admissible.

3–8A–12. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 413 OF 2013 //

(a) A statement made by a participant while counsel and advice are being given, offered, or sought, in the discussions or conferences incident to an informal adjustment may not be admitted in evidence in any adjudicatory hearing or peace order proceeding or in a criminal proceeding against the participant prior to conviction.

(b) Any information secured or statement made by a participant during a preliminary or further inquiry pursuant to § 3–8A–10 of this subtitle or a study pursuant to § 3–8A–17 of this subtitle may not be admitted in evidence in any adjudicatory hearing or peace order proceeding except on the issue of respondent's competence to participate in the proceedings and responsibility for his conduct as provided in § 3–109 of the Criminal Procedure Article where a petition alleging delinquency has been filed, or in a criminal proceeding prior to conviction.

(c) A statement made by a child, his parents, guardian or custodian at a waiver hearing is not admissible against him or them in criminal proceedings prior to conviction except when the person is charged with perjury, and the statement is relevant to that charge and is otherwise admissible.

(d) If jurisdiction is not waived, any statement made by a child, his parents, guardian, or custodian at a waiver hearing may not be admitted in evidence in any adjudicatory hearing unless a delinquent offense of perjury is alleged, and the statement is relevant to that charge and is otherwise admissible.

§3–8A–13.

(a) A petition shall allege that a child is either delinquent or in need of supervision. If it alleges delinquency, it shall set forth in clear and simple language the alleged facts which constitute the delinquency, and shall also specify the laws allegedly violated by the child. If it alleges that the child is in need of supervision, the petition shall set forth in clear and simple language the alleged facts supporting that allegation.

(b) Petitions alleging delinquency or violation of § 3–8A–30 of this subtitle shall be prepared and filed by the State's Attorney. A petition alleging delinquency shall be filed within 30 days after the receipt of a referral from the intake officer, unless that time is extended by the court for good cause shown. Petitions alleging that a child is in need of supervision shall be filed by the intake officer.

(c) A peace order request shall be filed by the intake officer in accordance with § 3–8A–19.1(b)(1) of this subtitle or the State's Attorney in accordance with § 3–8A–19.1(b)(2) of this subtitle.

(d) The form of petitions, peace order requests, and all other pleadings under this subtitle, and except as otherwise provided in this subtitle, the procedures to be followed by the court under this subtitle, shall be as specified in the Maryland Rules.

(e) The State's Attorney, upon assigning the reasons, may dismiss in open court a petition alleging delinquency.

(f) (1) The court shall conduct all hearings under this subtitle in an informal manner.

(2) In any proceeding in which a child is alleged to be in need of supervision or to have committed a delinquent act that would be a misdemeanor if committed by an adult or in a peace order proceeding, the court may exclude the general public from a hearing, and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult, the court shall conduct in open court any hearing or other proceeding at which the child has a right to appear.

(ii) For good cause shown, the court may exclude the general public from a hearing or other proceeding in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, the court shall announce in open court adjudications and dispositions in cases where a child is alleged to have committed a delinquent act which would be a felony if committed by an adult.

(ii) For good cause shown, the court may exclude the general public from a proceeding at which an adjudication or disposition is announced and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(5) Notwithstanding the provisions of this subsection, in a case in which the victim of an alleged delinquent act is a child, on petition of the State's Attorney, the court shall exclude the general public from the testimony of the victim during a hearing or other proceeding, including a proceeding at which an adjudication or disposition is announced, and admit during the testimony of the victim only the victim and those persons having a direct interest in the proceeding and their representatives, unless the court finds good cause to receive the testimony of the victim in open court.

(g) The court shall try cases without a jury.

(h) The court shall hear and rule on a petition seeking an order for emergency

medical treatment on an expedited basis.

§3–8A–14.

(a) A child may be taken into custody under this subtitle by any of the following methods:

(1) Pursuant to an order of the court;

(2) By a law enforcement officer pursuant to the law of arrest;

(3) By a law enforcement officer or other person authorized by the court if the officer or other person has reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary for the child's protection;

(4) By a law enforcement officer or other person authorized by the court if the officer or other person has reasonable grounds to believe that the child has run away from the child's parents, guardian, or legal custodian; or

(5) In accordance with § 3–8A–14.1 of this subtitle.

(b) If a law enforcement officer takes a child into custody, the officer shall immediately notify, or cause to be notified, the child's parents, guardian, or custodian of the action. After making every reasonable effort to give notice, the law enforcement officer shall with all reasonable speed:

(1) Release the child to the child's parents, guardian, or custodian or to any other person designated by the court, upon their written promise to bring the child before the court when requested by the court, and such security for the child's appearance as the court may reasonably require, unless the child's placement in detention or shelter care is permitted and appears required by § 3–8A–15 of this subtitle; or

(2) Deliver the child to the court or a place of detention or shelter care designated by the court.

(c) If a parent, guardian, or custodian fails to bring the child before the court when requested, the court may issue a writ of attachment directing that the child be taken into custody and brought before the court. The court may proceed against the parent, guardian, or custodian for contempt.

§3–8A–14.1.

(a) After an inquiry conducted in accordance with § 3–8A–10 of this subtitle, an intake officer may file with the court an application for an arrest warrant prepared by a law enforcement officer.

(b) An application for an arrest warrant under this section shall be:

(1) In writing;

(2) Signed and sworn to by the law enforcement officer; and

(3) Accompanied by an affidavit that sets forth the basis for there being probable cause to believe that:

(i) The child who is the subject of the warrant has committed a delinquent act; and

(ii) Unless the child who is the subject of the warrant is taken into custody, the child:

1. Is likely to leave the jurisdiction of the court;

2. May not be apprehended;

3. May cause physical injury or property damage to another; or

4. May tamper with, dispose of, or destroy evidence.

(c) An arrest warrant requested under subsection (a) of this section may only be issued by the court on a finding of probable cause and shall direct the law enforcement officer to take immediate custody of the child.

§3–8A–15.

(a) Only the court or an intake officer may authorize detention, community detention, or shelter care for a child who may be in need of supervision or delinquent.

(b) If a child is taken into custody under this subtitle, the child may be placed in detention or community detention prior to a hearing if:

(1) Such action is required to protect the child or others; or

(2) The child is likely to leave the jurisdiction of the court.

(c) A child taken into custody under this subtitle may be placed in emergency shelter care or community detention prior to a hearing if:

(1) (i) Such action is required to protect the child or person and property of others;

(ii) The child is likely to leave the jurisdiction of the court; or

(iii) There is no parent, guardian, or custodian or other person able

to provide supervision and care for the child and return the child to the court when required; and

(2) (i) 1. Continuation of the child in the child's home is contrary to the welfare of the child; and

2. Removal of the child from the child's home is reasonable under the circumstances due to an alleged emergency situation and in order to provide for the safety of the child; or

(ii) 1. Reasonable but unsuccessful efforts have been made to prevent or eliminate the need for removal from the child's home; and

2. As appropriate, reasonable efforts are being made to return the child to the child's home.

(d) (1) If the child is not released, the intake officer or the official who authorized detention, community detention, or shelter care under this section shall immediately file a petition to authorize continued detention, community detention, or shelter care.

(2) A hearing on the petition shall be held not later than the next court day, unless extended for no more than 5 days by the court upon good cause shown.

(3) Reasonable notice, oral or written, stating the time, place, and purpose of the hearing, shall be given to the child and, if they can be found, the child's parents, guardian, or custodian.

(4) Except as provided in paragraph (5) of this subsection, shelter care may not be ordered for a period of more than 30 days unless an adjudicatory or waiver hearing is held.

(5) For a child in need of supervision or a delinquent child, shelter care may be extended for an additional period of not more than 30 days if the court finds after a hearing held as part of the adjudication that continued shelter care is consistent with the circumstances stated in subsections (b) and (c) of this section.

(6) (i) An adjudicatory or waiver hearing shall be held no later than 30 days after the date a petition for detention or community detention is granted.

(ii) If a child is detained or placed in community detention after an adjudicatory hearing, a disposition hearing shall be held no later than 14 days after the adjudicatory hearing.

(iii) Detention or community detention time may be extended in increments of not more than 14 days where the petition charges the child with a delinquent act and where the court finds, after a subsequent hearing, that extended detention or community detention is necessary either:

1. For the protection of the child; or

2. For the protection of the community.

(e) (1) Detention or community detention may not be continued beyond emergency detention or community detention unless, upon an order of court after a hearing, the court has found that one or more of the circumstances stated in subsection (b) of this section exist.

(2) A court order under this paragraph shall:

(i) Contain a written determination of whether or not the criteria contained in subsection (c)(1) and (2) of this section have been met; and

(ii) Specify which of the circumstances stated in subsection (b) of this section exist.

(3) (i) If the court has not specifically prohibited community detention, the Department of Juvenile Services may release the child from detention into community detention and place the child in:

1. Shelter care; or

2. The custody of the child's parent, guardian, custodian, or other person able to provide supervision and care for the child and to return the child to court when required.

(ii) If a child who has been released by the Department of Juvenile Services or the court into community detention violates the conditions of community detention, and it is necessary to protect the child or others, an intake officer may authorize the detention of the child.

(iii) The Department of Juvenile Services shall promptly notify the court of:

1. The release of a child from detention under subparagraph (i) of this paragraph; or

2. The return to detention of a child under subparagraph (ii) of this paragraph.

(iv) 1. If a child is returned to detention under subparagraph (ii) of this paragraph, the intake officer who authorized detention shall immediately file a petition to authorize continued detention.

2. A hearing on the petition to authorize continued detention shall be held no later than the next court day, unless extended for no more than 5 days by the court on good cause shown.

3. Reasonable notice, oral or written, stating the time, place, and purpose of the hearing, shall be given to the child and, if they can be located, the child's parents, guardian, or custodian.

(f) Shelter care may only be continued beyond emergency shelter care if the court has found that:

(1) Continuation of the child in the child's home is contrary to the welfare of the child; and

(2) (i) Removal of the child from the child's home is necessary due to an alleged emergency situation and in order to provide for the safety of the child; or

(ii) Reasonable but unsuccessful efforts were made to prevent or eliminate the need for removal of the child from the home.

(3) (i) If the court continues shelter care on the basis of an alleged emergency, the court shall assess whether the absence of efforts to prevent removal was reasonable.

(ii) If the court finds that the absence of efforts to prevent removal was not reasonable, the court shall make a written determination so stating.

(4) The court shall make a determination as to whether reasonable efforts are being made to make it possible to return the child to the child's home or whether the absence of such efforts is reasonable.

(g) A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults.

(h) (1) A child alleged to be in need of supervision may not be placed in:

(i) Detention or community detention;

(ii) A State mental health facility; or

(iii) A shelter care facility that is not operating in compliance with applicable State licensing laws.

(2) Subject to paragraph (1)(iii) of this subsection, a child alleged to be in need of supervision may be placed in shelter care facilities maintained or approved by the Social Services Administration or the Department of Juvenile Services or in a private home or shelter care facility approved by the court.

(3) The Secretary of Human Resources and the Secretary of Juvenile Services together, when appropriate, with the Secretary of Health and Mental Hygiene shall jointly adopt regulations to ensure that any child placed in shelter care pursuant to a petition filed under subsection (d) of this section be provided appropriate services,

including:

(i) Health care services;

(ii) Counseling services;

(iii) Education services;

(iv) Social work services; and

(v) Drug and alcohol abuse assessment or treatment services.

(4) In addition to any other provision, the regulations shall require:

(i) The Department of Juvenile Services to develop a plan within 45 days of placement of a child in a shelter care facility to assess the child's treatment needs; and

(ii) The plan to be submitted to all parties to the petition and their counsel.

(i) The intake officer or the official who authorized detention, community detention, or shelter care under this subtitle shall immediately give written notice of the authorization for detention, community detention, or shelter care to the child's parent, guardian, or custodian and to the court. The notice shall be accompanied by a statement of the reasons for taking the child into custody and placing him in detention, community detention, or shelter care. This notice may be combined with the notice required under subsection (d) of this section.

(j) (1) If a child is alleged to have committed a delinquent act, the court or a juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, reasonable protections for the safety of the alleged victim.

(2) If a victim has requested reasonable protections for safety, the court or juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, provisions regarding no contact with the alleged victim or the alleged victim's premises or place of employment.

(k) If a child remains in a facility used for detention for the specific act for which the child has been adjudicated delinquent for more than 25 days after the court has made a disposition on a petition under § 3–8A–19 of this subtitle, the Department of Juvenile Services shall:

(1) On the first available court date after the 25th day that the child remains in a facility used for detention, appear at a hearing before the court with the child to explain the reasons for continued detention; and

(2) Every 25 days thereafter, appear at another hearing before the court with the child to explain the reasons for continued detention.

§3–8A–16.

(a) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver him to the court upon request or transfer him to the facility designated by the intake officer or the court, unless the court has waived its jurisdiction with respect to the person and he is being proceeded against as an adult.

(b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer or adult detention facility in accordance with the law governing the detention of persons charged with crime.

(c) A child may not be transported together with adults who have been charged with or convicted of a crime unless the court has waived its jurisdiction and the child is being proceeded against as an adult.

§3–8A–16.1.

(a) After a petition has been filed with the court under this subtitle, but before an adjudication, the court may order the child to undergo blood lead level testing.

(b) A copy of the results of a test performed under subsection (a) of this section shall be provided to:

(1) The child;

(2) The child's parent or guardian;

(3) The child's counsel; and

(4) The State's Attorney.

§3–8A–17.

(a) After a petition or a citation has been filed with the court under this subtitle, the court may direct the Department of Juvenile Services or another qualified agency to make a study concerning the child, the child's family, the child's environment, and other matters relevant to the disposition of the case.

(b) As part of a study under this section, the child or any parent, guardian, or custodian may be examined at a suitable place by a physician, psychiatrist, psychologist, or other professionally qualified person.

(c) The report of a study under this section is admissible as evidence at a waiver

hearing and at a disposition hearing, but not at an adjudicatory hearing. However, the attorney for each party has the right to inspect the report prior to its presentation to the court, to challenge or impeach its findings and to present appropriate evidence with respect to it.

§3–8A–17.1.

(a) (1) At any time after a petition alleging that a child has committed a delinquent act is filed with the court under this subtitle, the court on its own motion, or on motion of the child's counsel or the State's Attorney, shall stay all proceedings and order that the Department of Health and Mental Hygiene or any other qualified expert conduct an evaluation of the child's competency to proceed if the court finds that:

(i) There is probable cause to believe that the child has committed the delinquent act; and

(ii) There is reason to believe that the child may be incompetent to proceed with a waiver hearing under § 3-8A-06 of this subtitle, an adjudicatory hearing under § 3-8A-18 of this subtitle, a disposition hearing under § 3-8A-19 of this subtitle, or a violation of probation hearing.

(2) An evaluation ordered under paragraph (1) of this subsection shall be performed by a qualified expert.

(3) This subsection may not be construed to prohibit the State or the child from calling other expert witnesses to testify at a competency hearing.

(b) Any motion questioning the child's competency to proceed, and any subsequent legal pleading relating to the child's competency to proceed, shall be served on the child's counsel, the State's Attorney, the Department of Juvenile Services, and the Department of Health and Mental Hygiene.

§3–8A–17.2.

(a) The court shall set and may change the conditions under which the examination is to be conducted.

(b) On consideration of the nature of the petition, the court may require the examination to be conducted on an outpatient basis if the child was previously detained under § 3-8A-15 of this subtitle and shall require the examination to be conducted on an outpatient basis if the child was not previously detained under § 3-8A-15 of this subtitle.

(c) (1) If a child was previously detained under § 3-8A-15 of this subtitle, the court may order the child to continue to be detained beyond any period specified in § 3-8A-15 of this subtitle until the examination is completed.

(2) If the court finds it appropriate for the health or safety of the child, or

for the safety of others, the court may order confinement of the juvenile, pending the examination, in a medical facility that the Department of Health and Mental Hygiene designates as appropriate.

§3–8A–17.3.

(a) (1) The qualified expert shall examine the child and prepare a report stating whether, in the expert's opinion, the child is incompetent to proceed.

(2) In conducting the examination, the qualified expert shall review all available medical, educational, and court records concerning the child and the child's case.

(3) In determining whether the child is incompetent to proceed, the qualified expert shall consider the following factors:

(i) The child's age, maturity level, developmental stage, and decision–making abilities;

(ii) The capacity of the child to:

1. Appreciate the allegations against the child;

2. Appreciate the range and nature of allowable dispositions that may be imposed in the proceedings against the child;

3. Understand the roles of the participants and the adversary nature of the legal process;

4. Disclose to counsel facts pertinent to the proceedings at issue;

5. Display appropriate courtroom behavior; and

6. Testify relevantly; and

(iii) Any other factors that the qualified expert deems to be relevant.

(4) The written report submitted by the qualified expert shall:

(i) Identify the specific matters referred for evaluation;

(ii) Describe the procedures, techniques, and tests used in the examination and the purposes of each;

(iii) State the qualified expert's clinical observations, findings, and opinions on each factor specified in paragraph (3) of this subsection, and identify those factors, if any, on which the qualified expert could not give an opinion; and

(iv) Identify the sources of information used by the qualified expert and present the factual basis for the qualified expert's clinical findings and opinions.

(b) (1) If the qualified expert believes that the child is incompetent to proceed, the report shall describe the treatment that the qualified expert believes is necessary for the child to attain competency to proceed, and, in a separate report, shall state whether the child poses a danger to the child or to the person or property of others.

(2) In determining the treatment that is necessary for the child to attain competency to proceed, the qualified expert shall consider and report on the following:

(i) The mental illness, mental retardation, developmental immaturity, or other developmental disability causing the child to be incompetent to proceed;

(ii) The treatment or education appropriate for the mental illness, mental retardation, developmental immaturity, or other developmental disability of the child, and an explanation of each of the possible treatment or education alternatives, in order of recommendation;

(iii) The likelihood of the child attaining competency to proceed under the treatment or education recommended, an assessment of the probable duration of the treatment required to attain competency, and the probability that the child will attain competency to proceed in the foreseeable future; and

(iv) Whether the child meets the criteria for involuntary admission under Title 10, Subtitle 6, Part III of the Health – General Article.

(c) (1) All reports required under this section shall be filed with the court and served on the child's counsel, the State's Attorney, and the Department of Juvenile Services within 45 days after the court orders the examination.

(2) On good cause shown, the court may extend the time period specified in paragraph (1) of this subsection for an additional 15 days.

(3) Failure to file a complete report within the time periods specified in this subsection may not be, in and of itself, grounds for dismissal of the petition alleging delinquency.

(d) Counsel for the child may be present at an examination under this section.

§3–8A–17.4.

(a) (1) Except as provided in paragraph (2) of this subsection, within 15 days after receipt of a report of a qualified expert, the court shall hold a competency hearing.

(2) On good cause shown, the court may extend the time for holding the competency hearing for an additional 15 days.

(b) At the competency hearing, the court shall determine, by evidence presented on the record, whether the juvenile is incompetent to proceed.

(c) Findings of fact shall be based on the evaluation of the child by the qualified expert.

(d) The State shall bear the burden of proving the child's competency beyond a reasonable doubt.

§3–8A–17.5.

At a competency hearing, if the court determines that the child is competent, the court shall enter an order stating that the child is competent, lift the stay imposed under § 3-8A-17.1 of this subtitle, and proceed with the delinquency petition or violation of probation petition in accordance with the time periods specified in this subtitle and in the Maryland Rules.

§3–8A–17.6.

(a) At a competency hearing, if the court determines that the child is incompetent to proceed, but that there is a substantial probability that the child may be able to attain competency in the foreseeable future and that services are necessary to attain competency, the court may order the Department of Health and Mental Hygiene to provide competency attainment services for the child for an initial period of not more than 90 days.

(b) Any competency attainment services shall be provided in the least restrictive environment.

(c) Subject to subsection (d) of this section, the court may order a child to be placed in a facility for children if:

(1) The child is detained under § 3-8A-15 of this subtitle at the time of the competency hearing; and

(2) The court finds after a hearing on the issue that:

(i) Placement in a facility is necessary to protect the child or others, or the child is likely to leave the jurisdiction of the court; and

(ii) No less restrictive alternative placement is available that will protect the child or the community or prevent the child from leaving the jurisdiction of the court.

(d) A child may not be:

(1) Unless the child's individualized treatment plan developed under § 10-706 of the Health - General Article otherwise indicates, provided services in any

group with persons who are at least 18 years old;

(2) Placed in a detention facility; or

(3) Placed in a psychiatric hospital, except in accordance with Title 10, Subtitle 6 of the Health - General Article.

§3–8A–17.7.

(a) At a competency hearing, if the court determines that the child is incompetent to proceed, is unlikely to attain competency in the foreseeable future, has a mental disorder, as defined in § 10-620 of the Health - General Article, and is a danger to the life or safety of the child or others, the court may order a petition for emergency evaluation under § 10-622 of the Health - General Article.

(b) At a competency hearing, if the court determines that the child is incompetent to proceed, is unlikely to attain competency in the foreseeable future, and has a developmental disability, as defined in § 7-101 of the Health - General Article, the court may order the Developmental Disabilities Administration to evaluate the child within 30 days to determine the child's eligibility for services under Title 7 of the Health - General Article.

(c) At a competency hearing, if the court determines that the child is incompetent to proceed and is unlikely to attain competency in the foreseeable future, the court:

(1) May dismiss the delinquency petition or violation of probation petition; and

(2) After the expiration of the time periods for dismissal specified in § 3-8A-17.9 of this subtitle, shall dismiss the delinquency petition or violation of probation petition.

§3–8A–17.8.

(a) If the court orders the Department of Health and Mental Hygiene to provide competency attainment services under § 3-8A-17.6 of this subtitle, the Department of Health and Mental Hygiene shall file a written report with the court, with notice to counsel of the submission of the report, within 90 days after the court order, stating whether, in the opinion of the Department, the child:

(1) Has attained competency;

(2) Remains incompetent to proceed, but may be able to attain competency in the foreseeable future; or

(3) Remains incompetent to proceed, and is unlikely to attain competency in the foreseeable future.

(b) (1) The court shall hold a competency hearing in accordance with § 3-8A-17.4 of this subtitle within 15 days after the court receives the report described in subsection (a) of this section.

(2) For good cause shown, the hearing date may be continued for a reasonable period of time.

(c) (1) At the competency hearing, if the court determines that the child is competent, the court shall proceed in accordance with § 3-8A-17.5 of this subtitle.

(2) Case management and supervision of the child shall be transferred to the Department of Juvenile Services to continue proceedings under this subtitle.

(3) (i) Subject to the time periods for dismissal of the case specified in § 3-8A-17.9 of this subtitle, if the court determines that the child remains incompetent to proceed, but may be able to attain competency in the foreseeable future, the court may order that services be continued in increments of not more than 6 months.

(ii) Within 6 months after the court orders additional services under subparagraph (i) of this paragraph, the Department of Health and Mental Hygiene shall file a written report as described in subsection (a) of this section.

(iii) 1. The court shall hold a competency hearing in accordance with § 3-8A-17.4 of this subtitle within 15 days after the court receives the report described in subparagraph (ii) of this paragraph.

2. For good cause shown, the hearing date may be continued for a reasonable period of time.

(4) If the court determines that the child remains incompetent to proceed and is unlikely to attain competency in the foreseeable future, the court shall proceed in accordance with § 3-8A-17.7 of this subtitle.

§3–8A–17.9.

The court shall dismiss the delinquency petition or the violation of probation petition if the child has not attained competency within:

(1) 18 months after the date of the finding of incompetency if the child is alleged to have:

(i) Except as provided in item (2) of this section, committed an act that would be a felony if committed by an adult; or

(ii) Committed an act in violation of § 5–133, § 5–134, § 5–138, or § 5–203 of the Public Safety Article or § 4–203, § 4–204, or § 4–205 of the Criminal Law Article; or

(2) 6 months after the date of the finding of incompetency if the child is alleged to have:

(i) Committed an act other than an act specified in item (1)(ii) of this section that would be a misdemeanor if committed by an adult; or

(ii) Committed an act that would be a felony if committed by an adult over which the District Court has exclusive original jurisdiction under Title 4, Subtitle 3 of this article.

§3–8A–17.10.

(a) At any time before an adjudication under this subtitle, a hearing on a preliminary motion on another issue, including an objection to the sufficiency of the petition, may be conducted without the child being present if the child's testimony is not required.

(b) (1) Except as provided in paragraph (2) of this subsection, any statement made by the child or information elicited during a competency hearing, in connection with the determination of competency, or while services are being provided under this subtitle, and any report prepared by a qualified expert, may not be admitted in evidence in any proceeding except a proceeding relating to the child's competency to proceed.

(2) Paragraph (1) of this subsection does not apply if the counsel for the child introduces the report of the qualified expert, or any part of it, in any hearing other than a competency hearing.

§3–8A–17.11.

In any competency hearing under this subtitle, it is presumed that the child did not commit the act alleged in the petition.

§3–8A–17.12.

The secretaries of Health and Mental Hygiene, Human Resources, and Juvenile Services, and the State Superintendent of Schools shall jointly adopt regulations to carry out the provisions of this subtitle relating to competency.

§3–8A–18.

(a) The provisions of this section do not apply to a peace order request or a peace order proceeding.

(b) After a petition or citation has been filed with the court under this subtitle, and unless jurisdiction has been waived, the court shall hold an adjudicatory hearing.

(c) (1) Before a child is adjudicated delinquent, the allegations in the petition that the child has committed a delinquent act must be proved beyond a reasonable

doubt.

(2) Before a child is found to have committed the violation charged in a citation, the allegations in the citation must be proved beyond a reasonable doubt.

(d) If an adult is charged under this subtitle, the allegations must be proved beyond a reasonable doubt.

(e) In all other cases under this subtitle the allegations must be proved by a preponderance of the evidence.

§3–8A–19. IN EFFECT

(a) The provisions of this section do not apply to a peace order request or a peace order proceeding.

(b) (1) After an adjudicatory hearing the court shall hold a separate disposition hearing, unless the petition or citation is dismissed or unless such hearing is waived in writing by all of the parties.

(2) A disposition hearing may be held on the same day as the adjudicatory hearing if notice of the disposition hearing, as prescribed by the Maryland Rules, is waived on the record by all of the parties.

(c) The priorities in making a disposition are consistent with the purposes specified in § 3–8A–02 of this subtitle.

(d) (1) In making a disposition on a petition under this subtitle, the court may:

(i) Place the child on probation or under supervision in his own home or in the custody or under the guardianship of a relative or other fit person, upon terms the court deems appropriate, including community detention;

(ii) Subject to the provisions of paragraphs (2) and (3) of this subsection, commit the child to the custody or under the guardianship of the Department of Juvenile Services, the Department of Health and Mental Hygiene, or a public or licensed private agency on terms that the court considers appropriate to meet the priorities set forth in § 3–8A–02 of this subtitle, including designation of the type of facility where the child is to be accommodated, until custody or guardianship is terminated with approval of the court or as required under § 3–8A–24 of this subtitle; or

(iii) Order the child, parents, guardian, or custodian of the child to participate in rehabilitative services that are in the best interest of the child and the family.

(2) In addition to the provisions of paragraph (1) of this subsection, in making a disposition on a petition, the court may adopt a treatment service plan, as

defined in § 3–8A–20.1 of this subtitle.

(3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, a child may not be committed to the Department of Juvenile Services for out–of–home placement if the most serious offense is:

1. Possession of marijuana under § 5–601(c)(2)(ii) of the Criminal Law Article;

2. Possession or purchase of a noncontrolled substance under § 5–618 of the Criminal Law Article;

3. Disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article;

4. Malicious destruction of property under § 6–301 of the Criminal Law Article;

5. An offense involving inhalants under § 5–708 of the Criminal Law Article;

6. An offense involving prostitution under § 11–306 of the Criminal Law Article;

7. Theft under § 7–104(g)(2) or (3) of the Criminal Law Article; or

8. Trespass under § 6–402(b)(1) or § 6–403(c)(1) of the Criminal Law Article.

(ii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out–of–home placement if:

1. The child previously has been adjudicated delinquent for three or more offenses arising from separate and independent circumstances;

2. The child waives the prohibition described in subparagraph (i) of this paragraph and the court accepts the waiver as knowing, intelligent, and voluntary; or

3. The court makes a written finding in accordance with subparagraph (iii) of this paragraph.

(iii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out–of–home placement if the court makes a written finding, including the specific facts supporting the finding, that an out–of–home placement is necessary

for the welfare of the child or in the interest of public safety.

(iv) This paragraph may not be construed to prohibit the court from committing the child to another appropriate agency.

(4) A child committed under paragraph (1)(ii) of this subsection may not be accommodated in a facility that has reached budgeted capacity if a bed is available in another comparable facility in the State, unless the placement to the facility that has reached budgeted capacity has been recommended by the Department of Juvenile Services.

(5) The court shall consider any oral address made in accordance with § 11–403 of the Criminal Procedure Article or any victim impact statement, as described in § 11–402 of the Criminal Procedure Article, in determining an appropriate disposition on a petition.

(6) (i) If the court finds that a child enrolled in a public elementary or secondary school is delinquent or in need of supervision and commits the child to the custody or under the guardianship of the Department of Juvenile Services, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be delinquent or in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services.

(ii) If the court rescinds the commitment order for a child enrolled in a public elementary or secondary school, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child is no longer committed to the custody of the Department of Juvenile Services.

(iii) The notice authorized under subparagraphs (i) and (ii) of this paragraph may not include any order or pleading related to the delinquency or child in need of supervision case.

(e) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) In this paragraph, "driver's license" means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(iii) In making a disposition on a finding that the child has committed a violation of § 10–113 of the Criminal Law Article specified in a citation that involved the use of a driver's license or a document purporting to be a driver's license, the court may order the Motor Vehicle Administration to initiate an action under the Maryland

Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:

1. For a first offense, for 6 months; and

2. For a second or subsequent offense, until the child is 21 years old.

(iv) In making a disposition on a finding that the child has committed a violation under § 26–103 of the Education Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:

(i) Counsel the child or the parent or both, or order the child to participate in an alcohol or a substance abuse education or rehabilitation program that is in the best interest of the child;

(ii) Impose a civil fine of not more than $25 for the first violation and a civil fine of not more than $100 for the second and subsequent violations; or

(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) The provisions of paragraphs (1) and (2) of this subsection do not apply to a child found to have committed a violation of § 10–108 of the Criminal Law Article.

(ii) In making a disposition on a finding that the child has committed a violation of § 10–108 of the Criminal Law Article, the court may:

1. Counsel the child or the parent or both, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use that is in the best interest of the child;

2. Impose a civil fine of not more than $25 for the first violation and a civil fine of not more than $100 for a second or subsequent violation; or

3. Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation.

(4) (i) In making a disposition on a finding that the child has committed a violation of Title 4, Subtitle 5 or § 9–504 or § 9–505 of the Criminal Law Article, the court may order the Motor Vehicle Administration to initiate an action, under the Maryland Vehicle Law, to suspend the driving privilege of a child for a specified period not to exceed:

1. For a first offense, 6 months; and

2. For a second or subsequent offense, 1 year or until the person is 21 years old, whichever is longer.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If the child is at an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date of the disposition; or

2. If the child is younger than an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date the child is eligible to obtain driving privileges.

(5) (i) In making a disposition on a finding that the child has committed a violation under § 21–1128 of the Transportation Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If, on the date of the disposition, the child is at an age that makes a child eligible to obtain the privilege to drive, on the date of the disposition; or

2. If, on the date of the disposition, the child is younger than an age that makes a child eligible to obtain the privilege to drive, on the date the child is eligible to obtain driving privileges.

(f) A guardian appointed under this section has no control over the property of

the child unless he receives that express authority from the court.

(g) The court may impose reasonable court costs against a respondent, or the respondent's parent, guardian, or custodian, against whom a finding of delinquency has been entered under the provisions of this section.

(h) A child may be placed in an emergency facility on an emergency basis under Title 10, Subtitle 6, Part IV of the Health – General Article.

(i) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental hospital unless the court finds on the record based upon clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of himself or others;

(3) The child is unable or unwilling to be voluntarily admitted to such facility; and

(4) There is no less restrictive form of intervention available which is consistent with the child's condition and welfare.

(j) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental retardation facility unless the court finds on the record based upon clear and convincing evidence that:

(1) The child is mentally retarded;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in–residence care or treatment; and

(3) There is no less restrictive form of care and treatment available which is consistent with the child's welfare and safety.

(k) (1) Any commitment order issued under subsection (i) or (j) of this section shall require the Department of Health and Mental Hygiene to file progress reports with the court at intervals no greater than every 6 months during the life of the order. The Department of Health and Mental Hygiene shall provide the child's attorney of record with a copy of each report. The court shall review each report promptly and consider whether the commitment order should be modified or vacated. After the first 6 months of the commitment and at 6–month intervals thereafter upon the request of any party, the Department or facility, the court shall grant a hearing for the purpose of determining if the standards specified in subsection (i) or (j) of this section continue to be met.

(2) If, at any time after the commitment of the child to a State mental hospital under this section, the individualized treatment plan developed under § 10–706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (i) of this section continue to be met.

(3) If, at any time after the commitment of the child to a State mental retardation facility under this section, the individualized plan of habilitation developed under § 7–1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (j) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (j) of this section continue to be met.

(l) (1) When necessary to appropriately administer the commitment of the child, the Department of Juvenile Services, on approval of the Director of Behavioral Health, may transfer a child committed for residential placement from one facility to another facility that is operated, licensed, or contracted by the Department.

(2) A facility to which a child is transferred under paragraph (1) of this subsection shall be:

(i) Consistent with the type of facility designated by the court under subsection (d)(1)(ii) of this section; or

(ii) More secure than the type of facility designated by the court under subsection (d)(1)(ii) of this section.

(3) Prior to transfer, the Department shall notify:

(i) The court;

(ii) The counsel for the child;

(iii) The State's Attorney; and

(iv) The parent or guardian of the child.

(4) The court may conduct a hearing at any time for the purpose of reviewing the commitment order and the transfer of a child under this subsection.

3–8A–19. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 135 OF 2014 //

(a) The provisions of this section do not apply to a peace order request or a peace order proceeding.

(b) (1) After an adjudicatory hearing the court shall hold a separate disposition hearing, unless the petition or citation is dismissed or unless such hearing is waived in writing by all of the parties.

(2) A disposition hearing may be held on the same day as the adjudicatory hearing if notice of the disposition hearing, as prescribed by the Maryland Rules, is waived on the record by all of the parties.

(c) The priorities in making a disposition are consistent with the purposes specified in § 3–8A–02 of this subtitle.

(d) (1) In making a disposition on a petition under this subtitle, the court may:

(i) Place the child on probation or under supervision in his own home or in the custody or under the guardianship of a relative or other fit person, upon terms the court deems appropriate, including community detention;

(ii) Subject to the provisions of paragraphs (2) and (3) of this subsection, commit the child to the custody or under the guardianship of the Department of Juvenile Services, the Department of Health and Mental Hygiene, or a public or licensed private agency on terms that the court considers appropriate to meet the priorities set forth in § 3–8A–02 of this subtitle, including designation of the type of facility where the child is to be accommodated, until custody or guardianship is terminated with approval of the court or as required under § 3–8A–24 of this subtitle; or

(iii) Order the child, parents, guardian, or custodian of the child to participate in rehabilitative services that are in the best interest of the child and the family.

(2) In addition to the provisions of paragraph (1) of this subsection, in making a disposition on a petition, the court may adopt a treatment service plan, as defined in § 3–8A–20.1 of this subtitle.

(3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, a child may not be committed to the Department of Juvenile Services for out–of–home placement if the most serious offense is:

1. Possession of marijuana under § 5–601(c)(2)(ii) of the Criminal Law Article;

2. Possession or purchase of a noncontrolled substance under § 5–618 of the Criminal Law Article;

3. Disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article;

4. Malicious destruction of property under § 6–301 of the

Criminal Law Article;

5. An offense involving inhalants under § 5–708 of the Criminal Law Article;

6. An offense involving prostitution under § 11–306 of the Criminal Law Article;

7. Theft under § 7–104(g)(2) or (3) of the Criminal Law Article; or

8. Trespass under § 6–402(b)(1) or § 6–403(c)(1) of the Criminal Law Article.

(ii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out–of–home placement if:

1. The child previously has been adjudicated delinquent for three or more offenses arising from separate and independent circumstances;

2. The child waives the prohibition described in subparagraph (i) of this paragraph and the court accepts the waiver as knowing, intelligent, and voluntary; or

3. The court makes a written finding in accordance with subparagraph (iii) of this paragraph.

(iii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out–of–home placement if the court makes a written finding, including the specific facts supporting the finding, that an out–of–home placement is necessary for the welfare of the child or in the interest of public safety.

(iv) This paragraph may not be construed to prohibit the court from committing the child to another appropriate agency.

(4) A child committed under paragraph (1)(ii) of this subsection may not be accommodated in a facility that has reached budgeted capacity if a bed is available in another comparable facility in the State, unless the placement to the facility that has reached budgeted capacity has been recommended by the Department of Juvenile Services.

(5) The court shall consider any oral address made in accordance with § 11–403 of the Criminal Procedure Article or any victim impact statement, as described in § 11–402 of the Criminal Procedure Article, in determining an appropriate disposition on a petition.

(6) (i) If the court finds that a child enrolled in a public elementary or secondary school is delinquent or in need of supervision and commits the child to the custody or under the guardianship of the Department of Juvenile Services, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be delinquent or in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services.

(ii) If the court rescinds the commitment order for a child enrolled in a public elementary or secondary school, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child is no longer committed to the custody of the Department of Juvenile Services.

(iii) The notice authorized under subparagraphs (i) and (ii) of this paragraph may not include any order or pleading related to the delinquency or child in need of supervision case.

(e) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) In this paragraph, "driver's license" means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(iii) In making a disposition on a finding that the child has committed a violation of § 10–113 of the Criminal Law Article specified in a citation that involved the use of a driver's license or a document purporting to be a driver's license, the court may order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:

1. For a first offense, for 6 months; and

2. For a second or subsequent offense, until the child is 21 years old.

(iv) In making a disposition on a finding that the child has committed a violation under § 26–103 of the Education Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension

shall commence:

1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:

(i) Counsel the child or the parent or both, or order the child to participate in an alcohol or a substance abuse education or rehabilitation program that is in the best interest of the child;

(ii) Impose a civil fine of not more than $25 for the first violation and a civil fine of not more than $100 for the second and subsequent violations; or

(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) The provisions of paragraphs (1) and (2) of this subsection do not apply to a child found to have committed a violation of § 10–108 of the Criminal Law Article.

(ii) In making a disposition on a finding that the child has committed a violation of § 10–108 of the Criminal Law Article, the court may:

1. Counsel the child or the parent or both, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use that is in the best interest of the child;

2. Impose a civil fine of not more than $25 for the first violation and a civil fine of not more than $100 for a second or subsequent violation; or

3. Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation.

(4) (i) In making a disposition on a finding that the child has committed a violation of Title 4, Subtitle 5 or § 9–504 or § 9–505 of the Criminal Law Article, the court may order the Motor Vehicle Administration to initiate an action, under the Maryland Vehicle Law, to suspend the driving privilege of a child for a specified period not to exceed:

1. For a first offense, 6 months; and

2. For a second or subsequent offense, 1 year or until the person is 21 years old, whichever is longer.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If the child is at an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date of the disposition; or

2. If the child is younger than an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date the child is eligible to obtain driving privileges.

(5) (i) In making a disposition on a finding that the child has committed a violation under § 21–1128 of the Transportation Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If, on the date of the disposition, the child is at an age that makes a child eligible to obtain the privilege to drive, on the date of the disposition; or

2. If, on the date of the disposition, the child is younger than an age that makes a child eligible to obtain the privilege to drive, on the date the child is eligible to obtain driving privileges.

(f) A guardian appointed under this section has no control over the property of the child unless he receives that express authority from the court.

(g) The court may impose reasonable court costs against a respondent, or the respondent's parent, guardian, or custodian, against whom a finding of delinquency has been entered under the provisions of this section.

(h) A child may be placed in an emergency facility on an emergency basis under Title 10, Subtitle 6, Part IV of the Health – General Article.

(i) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental hospital unless the court finds on the record based upon clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of himself or others;

(3) The child is unable or unwilling to be voluntarily admitted to such facility; and

(4) There is no less restrictive form of intervention available which is consistent with the child's condition and welfare.

(j) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental retardation facility unless the court finds on the record based upon clear and convincing evidence that:

(1) The child is mentally retarded;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in–residence care or treatment; and

(3) There is no less restrictive form of care and treatment available which is consistent with the child's welfare and safety.

(k) (1) Any commitment order issued under subsection (i) or (j) of this section shall require the Department of Health and Mental Hygiene to file progress reports with the court at intervals no greater than every 6 months during the life of the order. The Department of Health and Mental Hygiene shall provide the child's attorney of record with a copy of each report. The court shall review each report promptly and consider whether the commitment order should be modified or vacated. After the first 6 months of the commitment and at 6–month intervals thereafter upon the request of any party, the Department or facility, the court shall grant a hearing for the purpose of determining if the standards specified in subsection (i) or (j) of this section continue to be met.

(2) If, at any time after the commitment of the child to a State mental hospital under this section, the individualized treatment plan developed under § 10–706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (i) of this section continue to be met.

(3) If, at any time after the commitment of the child to a State mental retardation facility under this section, the individualized plan of habilitation developed under § 7–1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (j) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (j) of this section continue to be met.

§3–8A–19.1.

(a) In this section and in §§ 3-8A-19.2, 3-8A-19.3, and 3-8A-19.4 of this subtitle, "victim" means an individual against whom an act described in subsection (b) of this section is committed or alleged to have been committed.

(b) (1) Except as provided in paragraph (2) of this subsection, after an inquiry conducted in accordance with § 3-8A-10 of this subtitle, an intake officer may file with the court a peace order request that alleges the commission of any of the following acts against a victim by the respondent, if the act occurred within 30 days before the filing of the complaint under § 3-8A-10 of this subtitle:

(i) An act that causes serious bodily harm;

(ii) An act that places the victim in fear of imminent serious bodily harm;

(iii) Assault in any degree;

(iv) Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) False imprisonment;

(vi) Harassment under § 3-803 of the Criminal Law Article;

(vii) Stalking under § 3-802 of the Criminal Law Article;

(viii) Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or

(ix) Malicious destruction of property under § 6-301 of the Criminal Law Article.

(2) After a review conducted in accordance with § 3-8A-10(c)(4)(ii) of this subtitle, the State's Attorney may file with the court a peace order request that meets the requirements of paragraph (1) of this subsection.

§3–8A–19.2.

(a) In this section, "residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.

(b) (1) If a peace order request is filed under § 3-8A-19.1(b) of this subtitle, the respondent shall have an opportunity to be heard on the question of whether the court should issue a peace order.

(2) If the court finds by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, an act specified in § 3-8A-19.1(b) of this subtitle against the victim, or if the respondent consents to the entry of a peace

order, the court may issue a peace order to protect the victim.

(c) (1) The peace order may include any or all of the following relief:

(i) Order the respondent to refrain from committing or threatening to commit an act specified in § 3-8A-19.1(b) of this subtitle against the victim;

(ii) Order the respondent to refrain from contacting, attempting to contact, or harassing the victim;

(iii) Order the respondent to refrain from entering the residence of the victim;

(iv) Order the respondent to remain away from the place of employment, school, or temporary residence of the victim; and

(v) Direct the respondent or the victim to participate in professionally supervised counseling.

(2) If the court issues an order under this section, the order shall contain only the relief that is minimally necessary to protect the victim.

(3) All relief granted in a peace order shall be effective for the period stated in the order, not to exceed 6 months.

(4) If the court issues an order under this section, the court may impose reasonable court costs against a respondent, or the respondent's parent, guardian, or custodian.

§3–8A–19.3.

(a) A copy of the peace order shall be served on the victim, the respondent, the appropriate law enforcement agency, and any other person the court determines is appropriate, in open court or, if the person is not present at the peace order hearing, by first-class mail to the person's last known address.

(b) (1) A copy of the peace order served on the respondent in accordance with subsection (a) of this section constitutes actual notice to the respondent of the contents of the peace order.

(2) Service is complete upon mailing.

§3–8A–19.4.

The court may modify or rescind the peace order during the term of the peace order after:

(1) Giving notice to the victim and the respondent; and

(2) A hearing.

§3–8A–19.5.

(a) A violation of any of the provisions of a peace order specified in § 3-8A-19.2(c)(1)(i), (ii), (iii), or (iv) of this subtitle is a delinquent act.

(b) A law enforcement officer shall take into custody a child whom the officer has probable cause to believe is in violation of a peace order in effect at the time of the violation.

§3–8A–20.

(a) Except as provided in subsection (d) of this section, a party is entitled to the assistance of counsel at every stage of any proceeding under this subtitle.

(b) (1) Except as provided in paragraph (3) of this subsection, a child may not waive the right to the assistance of counsel in a proceeding under this subtitle.

(2) A parent, guardian, or custodian of a child may not waive the child's right to the assistance of counsel.

(3) After a petition or citation has been filed with the court under this subtitle, if a child indicates a desire to waive the right to the assistance of counsel, the court may not accept the waiver unless:

(i) The child is in the presence of counsel and has consulted with counsel; and

(ii) The court determines that the waiver is knowing and voluntary.

(4) In determining whether the waiver is knowing and voluntary, the court shall consider, after appropriate questioning in open court and on the record, whether the child fully comprehends:

(i) The nature of the allegations and the proceedings, and the range of allowable dispositions;

(ii) That counsel may be of assistance in determining and presenting any defenses to the allegations of the petition, or other mitigating circumstances;

(iii) That the right to the assistance of counsel in a delinquency case, or a child in need of supervision case, includes the right to the prompt assignment of an attorney, without charge to the child if the child is financially unable to obtain private counsel;

(iv) That even if the child intends not to contest the charge or proceeding, counsel may be of substantial assistance in developing and presenting

material that could affect the disposition; and

(v) That among the child's rights at any hearing are the right to call witnesses on the child's behalf, the right to confront and cross-examine witnesses, the right to obtain witnesses by compulsory process, and the right to require proof of any charges.

(c) Compensation for the services of an attorney appointed to represent a child in an action under this subtitle may be assessed by the court against any party or against a parent of the child.

(d) (1) A party is not entitled to the assistance of counsel at a peace order proceeding.

(2) Paragraph (1) of this subsection does not affect the entitlement of a respondent to the assistance of counsel in a contempt proceeding as provided by law.

(e) (1) Unless the case is dismissed, if a child appears in court without counsel for a waiver hearing under § 3–8A–06 of this subtitle, or an adjudicatory hearing under § 3–8A–18 of this subtitle, and the child has not previously waived the right to the assistance of counsel in accordance with subsection (b) of this section, the court shall continue and the clerk shall reschedule the waiver or adjudicatory hearing.

(2) The clerk shall issue a notice of the date, time, and location of the hearing at least 10 days prior to the date of the hearing.

(3) (i) The Office of the Public Defender shall enter an appearance for the child.

(ii) After entry of its appearance, the Office of the Public Defender shall verify eligibility for continued public defender representation in accordance with § 16–210 of the Criminal Procedure Article and the Maryland Rules.

(4) The continuance of a waiver or adjudicatory hearing under this subsection may not be a basis for detaining the child under § 3–8A–15 of this subtitle.

§3–8A–20.1.

(a) (1) In this section, "treatment service plan" means a plan recommended at a disposition hearing under § 3-8A-19 of this subtitle or at a disposition review hearing under this section by the Department of Juvenile Services to the court proposing specific assistance, guidance, treatment, or rehabilitation of a child.

(2) In making a treatment service plan, a juvenile counselor shall meet with the child who is the subject of the treatment service plan and the child's parent, guardian, or legal custodian to discuss the treatment service plan.

(3) If a child's parent, guardian, or legal custodian is unable or refuses to

meet with the juvenile counselor, the treatment service plan shall indicate that the parent, guardian, or legal custodian is unable or refuses to meet, and the reason for the inability or refusal to meet, if known.

(4) At a minimum, the treatment service plan shall include:

(i) The recommended level of supervision for the child;

(ii) Specific goals for the child and family to meet, along with timelines for meeting those goals;

(iii) A statement of any condition that the child's parent, guardian, or legal custodian must change in order to alleviate any risks to the child;

(iv) A statement of the services to be provided to the child and child's family; and

(v) Any other information that may be necessary to make a disposition consistent with the child's best interests and the protection of the public interest.

(b) (1) In making a disposition on a petition under § 3-8A-19 of this subtitle, if the court adopts a treatment service plan, the Department of Juvenile Services shall ensure that implementation of the treatment service plan occurs within 25 days after the date of disposition.

(2) If a treatment service plan requires specified supervision, mentoring, mediation, monitoring, or placement, implementation of the treatment service plan is considered to have occurred when the supervision, mentoring, mediation, monitoring, or placement occurs.

(3) The Department of Juvenile Services shall certify in writing to the court within 25 days after the date of disposition whether implementation of the treatment service plan has occurred.

(c) (1) If a treatment service plan is not implemented by the Department of Juvenile Services within 25 days under subsection (b)(3) of this section, the court shall schedule, within 7 days after receipt of the certification, a disposition review hearing to be held within 30 days after receipt of the certification.

(2) The court shall give at least 7 days' notice of the date and time of the disposition review hearing to each party and to the Department of Juvenile Services.

(d) (1) The court shall hold a disposition review hearing unless the Department of Juvenile Services certifies in writing to the court prior to the hearing that implementation of the treatment service plan has occurred.

(2) At a disposition review hearing, the court may:

(i) Revise, in accordance with the provisions of § 3-8A-19 of this subtitle, the disposition previously made; and

(ii) Revise the treatment service plan previously adopted.

(e) This section may not be construed to provide entitlement to services not otherwise provided by law.

(f) The Court of Appeals may adopt rules to implement the provisions of this section.

§3–8A–21.

The court may order emergency medical, dental, or surgical treatment of a child alleged to be suffering from a condition or illness which, in the opinion of a licensed physician or dentist, as the case may be, requires immediate treatment, if the child's parent, guardian, or custodian is not available or, without good cause, refuses to consent to the treatment.

§3–8A–22.

(a) A child may not be detained at, or committed or transferred to, a correctional facility, as defined in § 1-101 of the Correctional Services Article, except in accordance with § 3-8A-16 of this subtitle.

(b) A child who is not delinquent may not be committed or transferred to a facility used for the confinement of delinquent children.

(c) Unless an individualized treatment plan developed under § 10-706 of the Health - General Article indicates otherwise:

(1) A child may not be committed or transferred to any public or private facility or institution unless the child is placed in accommodations that are separate from other persons 18 years of age or older who are confined to that facility or institution; and

(2) The child may not be treated in any group with persons who are 18 years of age or older.

§3–8A–23.

(a) (1) An adjudication of a child pursuant to this subtitle is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(2) An adjudication and disposition of a child in which the child's driving privileges have been suspended may not affect the child's driving record or result in a point assessment. The State Motor Vehicle Administration may not disclose

information concerning or relating to a suspension under this subtitle to any insurance company or person other than the child, the child's parent or guardian, the court, the child's attorney, a State's Attorney, or law enforcement agency.

(3) Subject to paragraph (4) of this subsection, an adjudication of a child as delinquent by reason of the child's violation of the State vehicle laws, including a violation involving an unlawful taking or unauthorized use of a motor vehicle under § 7–105 or § 7–203 of the Criminal Law Article or § 14–102 of the Transportation Article or driving an off–highway recreational vehicle on a highway under § 13–401(b)(2) of the Transportation Article shall be reported by the clerk of the court to the Motor Vehicle Administration, which shall assess points against the child under Title 16, Subtitle 4 of the Transportation Article, in the same manner and to the same effect as if the child had been convicted of the offense.

(4) (i) An adjudication of a child as delinquent by reason of the child's violation of § 21–902 of the Transportation Article or a finding that a child has committed a delinquent act by reason of the child's violation of § 21–902 of the Transportation Article, without an adjudication of the child as delinquent, shall be reported by the clerk of the court to the Motor Vehicle Administration which shall suspend the child's license to drive as provided in § 16–206(b) of the Transportation Article:

1. For 1 year for a first adjudication as delinquent or finding of a delinquent act for a violation of § 21–902 of the Transportation Article; and

2. For 2 years for a second or subsequent adjudication as delinquent or finding of a delinquent act for a violation of § 21–902 of the Transportation Article.

(ii) In the case of a finding, without an adjudication, that a child has violated § 21–902 of the Transportation Article, the Motor Vehicle Administration shall retain the report in accordance with § 16–117(b)(2) of the Transportation Article pertaining to records of licensees who receive a disposition of probation before judgment.

(5) (i) An adjudication of a child as delinquent by reason of the child's violation of § 13–401(b)(2), § 20–102, § 20–103, or § 21–904 of the Transportation Article or a finding that a child has committed a delinquent act by reason of the child's violation of § 13–401(b)(2), § 20–102, § 20–103, or § 21–904 of the Transportation Article, without an adjudication of the child as delinquent, shall be reported by the clerk of the court to the Motor Vehicle Administration that shall suspend the child's license to drive as provided in § 16–206(b) of the Transportation Article:

1. For 6 months for a first adjudication as delinquent or finding of a delinquent act for a violation of § 13–401(b)(2), § 20–102, § 20–103, or § 21–904 of the Transportation Article; and

2. For 1 year for a second or subsequent adjudication as delinquent or finding of a delinquent act for a violation of § 13–401(b)(2), § 20–102, § 20–103, or § 21–904 of the Transportation Article.

(ii) In the case of a finding, without an adjudication, that a child has violated § 13–401(b)(2), § 20–102, § 20–103, or § 21–904 of the Transportation Article, the Motor Vehicle Administration shall retain the report in accordance with § 16–117(b)(2) of the Transportation Article pertaining to records of licensees who receive a disposition of probation before judgment.

(b) An adjudication and disposition of a child pursuant to this subtitle are not admissible as evidence against the child:

(1) In any criminal proceeding prior to conviction;

(2) In any adjudicatory hearing on a petition alleging delinquency; or

(3) In any civil proceeding not conducted under this subtitle.

(c) Evidence given in a proceeding under this subtitle is not admissible against the child in any other proceeding in another court, except in a criminal proceeding where the child is charged with perjury and the evidence is relevant to that charge and is otherwise admissible.

(d) An adjudication or disposition of a child under this subtitle shall not disqualify the child with respect to employment in the civil service of the State or any subdivision of the State.

§3–8A–24.

(a) Except as provided in subsections (b) and (c) of this section, an order under this subtitle vesting legal custody in an individual, agency, or institution is effective for an indeterminate period of time.

(b) An order providing for custody of a child adjudicated delinquent or in need of supervision may not exceed three years from the date entered. However, the court may renew the order upon its own motion, or pursuant to a petition filed by the individual, institution, or agency having legal custody after notice and hearing as prescribed by the Maryland Rules.

(c) An order under this section is not effective after the child becomes 21 years old.

§3–8A–25.

If a child is committed under this subtitle to an individual or to a public or private agency or institution:

(1) The juvenile counselor shall visit the child at the child's placement no less than once every month, if the placement is in the State;

(2) The court may order the juvenile counselor to visit the child more frequently than required by item (1) of this section if the court deems it to be in the child's best interests; and

(3) The court may require the custodian to file periodic written progress reports, with recommendations for further supervision, treatment, or rehabilitation.

§3–8A–26.

Pursuant to the procedure provided in the Maryland Rules, the court may make an appropriate order directing, restraining, or otherwise controlling the conduct of a person who is properly before the court under this subtitle, if:

(1) The court finds that the conduct:

(i) Is or may be detrimental or harmful to a child over whom the court has jurisdiction;

(ii) Will tend to defeat the execution of an order or disposition made or to be made; or

(iii) Will assist in the rehabilitation of or is necessary for the welfare of the child; and

(2) Notice of the application or motion and its grounds has been given as prescribed by the Maryland Rules.

§3–8A–27. IN EFFECT

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Services or in the investigation and prosecution of the child by any law enforcement agency;

(ii) Access to and confidential use of the record by the Baltimore City Health Department's Office of Youth Violence Prevention:

1. If the Baltimore City Health Department's Office of Youth Violence Prevention is providing treatment or care to a child who is the subject of the

record, for a purpose relevant to the provision of the treatment or care;

2. If the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

3. If the record 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;

(iii) Access to and confidential use of the record by the Baltimore City Mayor's Office on Criminal Justice if the Baltimore City Mayor's Office on Criminal Justice is providing programs and services to a child who is the subject of the record, for a purpose relevant to the provision of the programs and services and the development of a comprehensive treatment plan;

(iv) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ; or

(v) A law enforcement agency of the State or of a political subdivision of the State from releasing to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety.

(3) (i) The Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall be liable for the unauthorized release of a police record it accesses under this subsection.

(ii) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice accesses a police record under this subsection, the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall submit a report to the court detailing the purposes for which the record was used.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in §§ 7–303 and 22–309 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court–appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) The Department of Juvenile Services may provide access to and the confidential use of the court record of a child by an agency in the District of Columbia or a state agency in Delaware, Pennsylvania, Virginia, or West Virginia, if the agency:

1. Performs the same functions in the jurisdiction of the agency as described in § 9–216(a) of the Human Services Article; and

2. Has a reciprocal agreement with the State that provides that the specific information to be shared by the State is the same type of information that will be shared by the agency.

(ii) A record that is shared under this paragraph may only provide information that is relevant to the supervision, care, and treatment of the child.

(iii) The Department of Juvenile Services shall be liable for an unauthorized release of a court record under this paragraph.

(iv) The Department of Juvenile Services shall adopt regulations to implement this paragraph.

(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, the State's Attorney, or the Maryland Division of Pretrial Detention and Services if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(6) (i) This subsection does not prohibit access to and confidential use of a court record by the Department of Human Resources for the purpose of claiming federal Title IV–E funds.

(ii) The Department of Human Resources shall be liable for the unauthorized release of a court record under this paragraph.

(7) This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Health Department's Office of Youth Violence Prevention:

(i) If the Baltimore City Health Department's Office of Youth Violence Prevention is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

(ii) If the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

(iii) If the record 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.

(8) This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Mayor's Office on Criminal Justice if the Baltimore City Mayor's Office on Criminal Justice is providing programs and services in conjunction with the Baltimore Police Department to a child who is the subject of the record, for a purpose relevant to the provision of the programs and services and the development of a comprehensive treatment plan.

(9) (i) The Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall be liable for the unauthorized release of a court record it accesses under this subsection.

(ii) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice accesses a court record under this subsection, the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall submit a report to the court detailing the purposes for which the record was used.

(c) The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good

cause shown.

(d) This section does not prohibit access to or use of any juvenile record by the Maryland Division of Parole and Probation or the Maryland Parole Commission when the Division or the Commission is carrying out any of their statutory duties either at the direction of a court of competent jurisdiction, or when the Maryland Parole Commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

(e) This section does not prohibit access to and use of any juvenile record by the Maryland Division of Correction when the Division is carrying out any of its statutory duties if: (1) the individual to whom the record pertains is committed to the custody of the Division; and (2) the record concerns an adjudication of delinquency.

(f) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services Article, this section does not prohibit access to or use of any juvenile record for criminal justice research purposes. A record used under this subsection may not contain the name of the individual to whom the record pertains, or any other identifying information which could reveal the individual's name.

(g) This section does not prohibit a victim or victim's representative who has filed a notification request form from being notified of proceedings and events involving the defendant or child as provided in this subtitle, the Criminal Procedure Article, or the Criminal Law Article.

(h) This section does not prohibit the Department of Public Safety and Correctional Services or a supervising authority, as defined in § 11–701 of the Criminal Procedure Article, from accessing or using the part of a juvenile record that identifies an offense committed by a juvenile for purposes of complying with Title 11, Subtitle 7 of the Criminal Procedure Article.

3–8A–27. // EFFECTIVE SEPTEMBER 30, 2019 PER CHAPTER 474 OF 2013 //

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Services or in the investigation and prosecution of the child by any law enforcement agency;

(ii) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment,

for the sole purpose of apprehending a child named in the writ; or

(iii) A law enforcement agency of the State or of a political subdivision of the State from releasing to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in §§ 7–303 and 22–309 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court–appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) The Department of Juvenile Services may provide access to and the confidential use of the court record of a child by an agency in the District of Columbia or a state agency in Delaware, Pennsylvania, Virginia, or West Virginia, if the agency:

1. Performs the same functions in the jurisdiction of the agency as described in § 9–216(a) of the Human Services Article; and

2. Has a reciprocal agreement with the State that provides that the specific information to be shared by the State is the same type of information that will be shared by the agency.

(ii) A record that is shared under this paragraph may only provide information that is relevant to the supervision, care, and treatment of the child.

(iii) The Department of Juvenile Services shall be liable for an

unauthorized release of a court record under this paragraph.

(iv) The Department of Juvenile Services shall adopt regulations to implement this paragraph.

(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, the State's Attorney, or the Maryland Division of Pretrial Detention and Services if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(6) (i) This subsection does not prohibit access to and confidential use of a court record by the Department of Human Resources for the purpose of claiming federal Title IV–E funds.

(ii) The Department of Human Resources shall be liable for the unauthorized release of a court record under this paragraph.

(c) The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good cause shown.

(d) This section does not prohibit access to or use of any juvenile record by the Maryland Division of Parole and Probation or the Maryland Parole Commission when the Division or the Commission is carrying out any of their statutory duties either at the direction of a court of competent jurisdiction, or when the Maryland Parole Commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

(e) This section does not prohibit access to and use of any juvenile record by the Maryland Division of Correction when the Division is carrying out any of its statutory duties if: (1) the individual to whom the record pertains is committed to the custody of the Division; and (2) the record concerns an adjudication of delinquency.

(f) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services

Article, this section does not prohibit access to or use of any juvenile record for criminal justice research purposes. A record used under this subsection may not contain the name of the individual to whom the record pertains, or any other identifying information which could reveal the individual's name.

(g) This section does not prohibit a victim or victim's representative who has filed a notification request form from being notified of proceedings and events involving the defendant or child as provided in this subtitle, the Criminal Procedure Article, or the Criminal Law Article.

(h) This section does not prohibit the Department of Public Safety and Correctional Services or a supervising authority, as defined in § 11–701 of the Criminal Procedure Article, from accessing or using the part of a juvenile record that identifies an offense committed by a juvenile for purposes of complying with Title 11, Subtitle 7 of the Criminal Procedure Article.

§3–8A–27.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Expungement" has the meaning stated in § 10–101 of the Criminal Procedure Article.

(3) "Juvenile record" means a court record and police record concerning a child alleged or adjudicated delinquent or in need of supervision or who has received a citation for a violation.

(4) "Victim" means a person against whom a delinquent act has been committed or attempted.

(b) (1) A person may file a petition for expungement of the person's juvenile record in the court in which the petition or citation was filed.

(2) The court shall have a copy of the petition for expungement served on:

(i) All listed victims in the case in which the person is seeking expungement at the address listed in the court file;

(ii) All family members of a victim listed in item (i) of this paragraph who are listed in the court file as having attended the adjudication for the case in which the person is seeking expungement; and

(iii) The State's Attorney.

(c) The court may order a juvenile record expunged if:

(1) (i) The State's Attorney enters a nolle prosequi;

(ii) The petition is dismissed;

(iii) The court, in an adjudicatory hearing, does not find that the allegations in the petition are true;

(iv) The adjudicatory hearing is not held within 2 years after a petition is filed; or

(v) The court, in a disposition hearing, finds that the person does or does not require guidance, treatment, or rehabilitation;

(2) The person has attained the age of 18 years and at least 2 years have elapsed since the last official action in the person's juvenile record;

(3) The person has not been adjudicated delinquent more than once;

(4) The person has not subsequently been convicted of any offense;

(5) No delinquency petition or criminal charge is pending against the person;

(6) The person has not been adjudicated delinquent for an offense that, if committed by an adult, would constitute:

(i) A crime of violence as defined in § 14–101 of the Criminal Law Article;

(ii) A violation of § 3–308 of the Criminal Law Article; or

(iii) A felony;

(7) The person was not required to register as a sex offender under § 11–704(c) of the Criminal Procedure Article;

(8) The person has not been adjudicated delinquent for an offense involving the use of a firearm, as defined in § 5–101 of the Public Safety Article, in the commission of a crime of violence, as defined in § 14–101 of the Criminal Law Article; and

(9) The person has fully paid any monetary restitution ordered by the court in the delinquency proceeding.

(d) The court shall consider the best interests of the person, the person's stability in the community, and the safety of the public in its consideration of the petition for expungement.

(e) (1) If no objection is filed, the court may grant the petition without a hearing.

(2) If the court finds that a petition fails on its face to meet the requirements under subsection (c) of this section, the court may deny the petition without a hearing.

(3) (i) 1. The following persons may file an objection to a petition under this section:

A. A listed victim in the case in which the person is seeking expungement;

B. A family member of a victim listed in item A of this subsubparagraph who is listed in the court file as having attended the adjudication for the case in which the person is seeking expungement; and

C. The State's Attorney.

2. Except as provided under paragraph (2) of this subsection, if a person listed in subsubparagraph 1 of this subparagraph files an objection to the petition within 30 days after the petition is served, the court shall hold a hearing.

(ii) The court may hold a hearing on its own initiative.

(iii) If, after a hearing, the court finds that the person is entitled to expungement, the court shall order the expungement of all court records and police records relating to the delinquency or child in need of supervision petition or the citation.

(iv) If, after a hearing, the court finds that the person is not entitled to expungement, the court shall deny the petition.

(f) The person who filed the petition for expungement or the State's Attorney may appeal an order granting or denying the petition.

(g) Unless an order is stayed pending an appeal, each custodian of juvenile records subject to the order of expungement shall advise, in writing, the court, the petitioner, and all parties to the petition for expungement proceeding of compliance with the order within 60 days after entry of the order.

(h) This section does not apply to:

(1) Records maintained under Title 11, Subtitle 7 of the Criminal Procedure Article; or

(2) Records maintained by a law enforcement agency for the sole purpose of collecting statistical information concerning juvenile delinquency and that do not contain any information that would reveal the identity of a person.

§3–8A–28.

The court may enter a judgment of restitution against the parent of a child, the child, or both as provided under Title 11, Subtitle 6 of the Criminal Procedure Article.

§3–8A–29.

After giving the parent a reasonable opportunity to be heard, the court may order either parent or both parents to pay a sum in the amount the court directs to cover wholly or partly the support of the child under this subtitle.

§3–8A–30.

(a) It is unlawful for an adult willfully to contribute to, encourage, cause or tend to cause any act, omission, or condition which results in a violation, renders a child delinquent or in need of supervision.

(b) A person may be convicted under this section even if the child has not been found to have committed a violation or adjudicated delinquent or in need of supervision. However, the court may expunge a delinquent adjudication from the child's record and enter it as a finding in the adult's case.

(c) An adult convicted under this section is subject to a fine of not more than $2,500 or imprisonment for not more than 3 years, or both. The court may suspend sentence and place the adult on probation subject to the terms and conditions it deems to be in the best interests of the child and the public.

§3–8A–32.

(a) In addition to any requirements relating to the appointment of counsel for children, at any time during the pendency of any action under this subtitle, where it appears to the court that the protection of the rights of a child requires independent representation, the court may, upon its own motion, or the motion of any party to the action, appoint an attorney to represent the interest of the child in that particular action. Such actions include but are not limited to those involving a child in need of supervision, delinquent child, or mentally handicapped child.

(b) The compensation for the services of the attorney under this section may be assessed against any party or parties to the action.

§3–8A–33.

(a) A law enforcement officer authorized to make arrests shall issue a citation to a child if the officer has probable cause to believe that the child is violating:

(1) § 5–601 of the Criminal Law Article involving the use or possession of less than 10 grams of marijuana;

(2) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(3) § 10–108 of the Criminal Law Article;

(4) § 10–132 of the Criminal Law Article;

(5) § 10–136 of the Criminal Law Article; or

(6) § 26–103 of the Education Article.

(b) A citation issued under this section shall be in a format prescribed by the State Court Administrator after consultation with police administrators and the Motor Vehicle Administrator. Each citation shall be signed by the issuing officer and shall contain:

(1) The name, address, and birth date of the child being charged with the violation;

(2) The name and address of the child's parent or legal guardian;

(3) The statute allegedly violated;

(4) The time, place, and date of the violation;

(5) The driver's license number of the child, if the child possesses a driver's license;

(6) The registration number of the motor vehicle, motorcycle, or other vehicle, if applicable;

(7) The signature of the child; and

(8) The penalties which may be imposed under § 3-8A-19 of this subtitle.

(c) A copy of the citation issued under this section shall be:

(1) Given to the child being charged;

(2) Retained by the officer issuing the citation;

(3) Mailed within 7 days to the child's parent or legal guardian; and

(4) Filed with the intake officer of the court having jurisdiction under this subtitle.

§3–8A–34.

The guidelines provided under § 11-1003 of the Criminal Procedure Article apply to victims and witnesses of delinquent acts.

§3–8B–01.

A court of law has jurisdiction in an action for mandamus.

§3–8B–02.

An action for a writ of mandamus shall be tried by a jury on request of either party.

§3–8C–01.

This subtitle applies only:

(1) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3–8C–02 of this subtitle; and

(2) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

§3–8C–02.

(a) (1) The Circuit Administrative Judge of the First Circuit may establish a Truancy Reduction Pilot Program in one or more of the juvenile courts in Dorchester County, Somerset County, Wicomico County, and Worcester County.

(2) The Circuit Administrative Judge of the Second Circuit may establish a Truancy Reduction Pilot Program in the juvenile courts in Kent County and Talbot County.

(3) The Circuit Administrative Judge of the Third Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Harford County.

(4) The Circuit Administrative Judge of the Seventh Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Prince George's County.

(b) After consultation with the administrative judges of the first, second, third, and seventh circuits, the Chief Judge of the Court of Appeals may accept a gift or grant to implement the pilot programs in each respective circuit.

§3–8C–03.

(a) A child who is required under § 7–301 of the Education Article to attend school may not fail to do so without lawful excuse.

(b) A violation of this section is a Code violation and is a civil offense.

(c) Adjudication of a Code violation under this section is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

§3–8C–04.

An authorized school official may file with the juvenile court a petition alleging a violation of this subtitle.

§3–8C–05.

(a) A petition under this subtitle shall allege that a child who is required to attend school failed to attend school without lawful excuse and shall set forth in clear and simple language the facts supporting the allegation.

(b) (1) Whenever a petition is filed under this subtitle the court shall hold an adjudicatory hearing.

(2) The rules of evidence under Title 5 of the Maryland Rules shall apply at an adjudicatory hearing under this section.

(3) The allegations in a petition under this subtitle shall be proved by a preponderance of the evidence.

§3–8C–06.

(a) Unless a petition filed under this subtitle is dismissed, the court shall hold a separate disposition hearing after the adjudicatory hearing.

(b) The court shall hold a disposition hearing on the same day as the adjudicatory hearing unless, on its own motion or motion of a party, the court finds good cause to delay the disposition hearing to a later day.

(c) If the court delays a disposition hearing, it shall be held no later than 15 days after the conclusion of the adjudicatory hearing unless good cause is shown.

(d) In making a disposition on a petition filed under this subtitle, the court may order the child to:

(1) Attend school;

(2) Perform community service;

(3) Attend counseling, including family counseling;

(4) Attend substance abuse evaluation and treatment;

(5) Attend mental health evaluation and treatment; or

(6) Keep a curfew with the hours set by the court.

(e) Cases under this subtitle are eligible for family support services as provided in the Maryland Rules.

§3–8C–07.

A criminal defendant under this subtitle is subject to:

(1) Any conditions of probation authorized under § 6–220 of the Criminal Procedure Article; and

(2) Any additional condition of probation that would promote the child's attendance in school.

§3–8C–08.

(a) (1) If a petition is filed under this subtitle in a county other than the county where the child is living or domiciled, the court on its own motion, or on motion of a party, may transfer the proceedings to the county of residence or domicile at any time prior to final termination of jurisdiction.

(2) In its discretion, the court to which the case is transferred may take further action.

(b) Every document, social history, and record on file with the clerk of the court pertaining to the case shall accompany the transfer.

§3–8C–09.

Except as otherwise provided in this subtitle, the Maryland Rules govern the format of the petition and the procedures to be followed by the court and the parties under this subtitle.

§3–8C–10.

The court shall retain jurisdiction under this subtitle until every condition of the court's order is satisfied.

§3–8C–11.

A party may appeal a final judgment entered under this subtitle as provided in Title 12 of this article and in the Maryland Rules.

§3–8C–12.

On or before November 1 of each year, the Chief Judge of the Court of Appeals shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on each Truancy Reduction Pilot Program established under this subtitle.

§3–901.

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

(b) "Child" means a legitimate or an illegitimate child.

(c) "Parent" includes the mother and father of a deceased illegitimate child.

(d) "Person" includes an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(e) "Wrongful act" means an act, neglect, or default including a felonious act which would have entitled the party injured to maintain an action and recover damages if death had not ensued.

§3–902.

(a) An action may be maintained against a person whose wrongful act causes the death of another.

(b) If the death of a person was caused by a wrongful act, neglect, or default of a vessel, an action in rem may be maintained against the vessel.

(c) If a person whose wrongful act caused the death of another, dies before an action under this section is commenced, the action may be maintained against his personal representative.

§3–903.

(a) If the wrongful act occurred in another state, the District of Columbia, or a territory of the United States, a Maryland court shall apply the substantive law of that jurisdiction.

(b) Notwithstanding the fact that the wrongful act occurred in another jurisdiction, a Maryland court in which the action is pending shall apply its own rules of pleading and procedure.

§3–904.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, an action under this subtitle shall be for the benefit of the wife, husband, parent, and child of the deceased person.

(2) A parent may not be a beneficiary in a wrongful death action for the death of a child of the parent if:

(i) 1. The parent is convicted under §§ 3–303 through 3–308, § 3–323, § 3–601, or § 3–602 of the Criminal Law Article; or

2. The parent committed an act prohibited under §§ 3–303 through 3–308, § 3–323, § 3–601, or § 3–602 of the Criminal Law Article;

(ii) The other parent of the child is the victim of the crime or act described under item (i) of this paragraph; and

(iii) The other parent of the child is a child of the parent.

(3) (i) An action under this subtitle for the wrongful death of a child caused by the parent of the child allowed under the provisions of § 5–806 of this article may not be for the benefit of that parent of the deceased child.

(ii) An action under this subtitle for the wrongful death of a parent caused by a child of the parent allowed under the provisions of § 5–806 of this article may not be for the benefit of that child of the deceased parent.

(b) If there are no persons who qualify under subsection (a) of this section, an action shall be for the benefit of any person related to the deceased person by blood or marriage who was substantially dependent upon the deceased.

(c) (1) In an action under this subtitle, damages may be awarded to the beneficiaries proportioned to the injury resulting from the wrongful death.

(2) Subject to § 11–108(d)(2) of this article, the amount recovered shall be divided among the beneficiaries in shares directed by the verdict.

(d) The damages awarded under subsection (c) of this section are not limited or restricted by the "pecuniary loss" or "pecuniary benefit" rule but may include damages for mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, marital care, parental care, filial care, attention, advice, counsel, training, guidance, or education where applicable for the death of:

(1) A spouse;

(2) A minor child;

(3) A parent of a minor child; or

(4) An unmarried child who is not a minor child if:

(i) The child is 21 years old or younger; or

(ii) A parent contributed 50 percent or more of the child's support within the 12–month period immediately before the date of death of the child.

(e) For the death of a child, who is not described under subsection (d) of this section, or a parent of a child, who is not a minor child, the damages awarded under subsection (c) of this section are not limited or restricted by the "pecuniary loss" or "pecuniary benefit" rule but may include damages for mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, care, attention, advice, counsel, training, education, or guidance where applicable.

(f) Only one action under this subtitle lies in respect to the death of a person.

(g) (1) Except as provided in paragraph (2) or (3) of this subsection, an action under this subtitle shall be filed within three years after the death of the injured person.

(2) (i) In this paragraph, "occupational disease" means a disease caused by exposure to any toxic substance in the person's workplace and contracted by a person in the course of the person's employment.

(ii) If an occupational disease was a cause of a person's death, an action shall be filed:

1. Within 10 years of the time of death; or

2. Within 3 years of the date when the cause of death was discovered, whichever is the shorter.

(3) (i) This paragraph applies only to a wrongful death cause of action arising from conduct that would constitute a criminal homicide under State or federal law.

(ii) If knowledge of a cause of action or the identity of a person whose wrongful act contributed to a homicide is kept from a party by the conduct of an adverse party or an accessory or accomplice of an adverse party:

1. The cause of action shall be deemed to accrue at the time the party discovered or should have discovered by the exercise of ordinary diligence the homicide and the identity of the person who contributed to the homicide;

2. A presumption shall exist that the party should have discovered by the exercise of ordinary diligence the identity of the person who contributed to the homicide after:

A. A charging document is filed against the person alleged to have participated in the homicide; and

B. The charging document is unsealed and available to the public; and

3. An action under this subtitle shall be filed within 3 years after the date that the cause of action accrues.

(h) For the purposes of this section, a person born to parents who have not participated in a marriage ceremony with each other is considered to be the child of the mother. The person is considered to be the child of the father only if the father:

(1) Has been judicially determined to be the father in a proceeding brought under § 5–1010 of the Family Law Article or § 1–208 of the Estates and Trusts Article;

or

(2) Prior to the death of the child:

(i) Has acknowledged himself, in writing, to be the father;

(ii) Has openly and notoriously recognized the person to be his child; or

(iii) Has subsequently married the mother and has acknowledged himself, orally or in writing, to be the father.

§3–1001.

(a) There shall be provided protection and advocacy services to persons with developmental disabilities.

(b) The term "developmental disabilities" shall mean a severe, chronic disability of a person which:

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more 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

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(c) The term "protection and advocacy services" includes the pursuit of legal,

administrative, and other appropriate remedies to protect the rights of persons with developmental disabilities.

(d) Protection and advocacy services shall be provided by an entity or entities, which may include private, nonprofit corporations, with the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of persons with developmental disabilities who are receiving treatment, services, or habilitation within this State.

§3–1101.

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

(b) (1) "Expense of an emergency response, containment, cleanup, and abatement" means the reasonable costs associated with the repair or replacement of personal protective equipment:

(i) Owned by:

1. A volunteer fire company; or

2. An authorized volunteer individual who participates in an emergency response, containment, cleanup, and abatement by a volunteer fire company; and

(ii) Damaged through proper use during an emergency response, containment, cleanup, and abatement of a release of hazardous materials resulting from a traffic accident involving a motor vehicle operated by a motor carrier that is transporting hazardous materials or from a release or threatened release of hazardous materials at a fixed facility.

(2) "Expense of an emergency response, containment, cleanup, and abatement" includes the costs of replacing the chemicals that are used or damaged during an emergency response, containment, cleanup, and abatement.

(c) (1) "Fixed facility" means any installation, structure, or premises, above ground or underground, in which hazardous materials are stored with a capacity to store more than 1,000 pounds of hazardous materials.

(2) "Fixed facility" does not include a farm or any building or structure associated with a farm.

(d) (1) "Hazardous materials" means a substance or material in a quantity or form that the United States Secretary of Transportation designates may pose an unreasonable risk to health and safety of individuals or to property when transported in commerce.

(2) "Hazardous materials" includes any grouping or classification of

materials, that the United States Secretary of Transportation designates as a hazardous material, including:

(i) Explosives;

(ii) Radioactive materials;

(iii) Etiologic agents;

(iv) Flammable liquids or solids;

(v) Combustible liquids or solids;

(vi) Poisons;

(vii) Oxidizing or corrosive materials; and

(viii) Compressed gases.

(e) "Highway" has the same meaning as provided in § 11-127 of the Transportation Article.

(f) "Motor carrier" means a common carrier by motor vehicle, contract carrier by motor vehicle, and private carrier by motor vehicle that carries a hazardous material in commerce.

(g) "Person in control", with respect to a release or threatened release of hazardous materials at a fixed facility, means:

(1) The owner of the hazardous materials; and

(2) The owner or operator of the fixed facility involved in the release or threatened release of hazardous materials at the time of or immediately before the release or threatened release.

(h) "Volunteer fire company" includes a volunteer fire company, a volunteer hazardous material response team, a volunteer rescue squad, a volunteer ambulance squad, or any other volunteer organization designated by a local jurisdiction as a responder to a release or threatened release of hazardous materials.

§3–1102.

A motor carrier is responsible for the expense of an emergency response, containment, cleanup, and abatement of a spill of hazardous materials in a traffic accident by a volunteer fire department, volunteer rescue squad, volunteer ambulance company, or the individual members of the department, squad, or company if the motor carrier:

(1) Transports a hazardous material in commerce on a highway in the

State; and

(2) Is at fault and causes a traffic accident in the State that results in:

(i) A spill or discharge involving hazardous materials; and

(ii) An emergency response, containment, cleanup, and abatement by the volunteer fire department, volunteer rescue squad, or volunteer ambulance company.

§3–1102.1.

A person in control who is at fault is responsible for the expense of an emergency response, containment, cleanup, and abatement of a release or threatened release of hazardous materials at a fixed facility by a volunteer fire company, or the individual members of the volunteer fire company.

§3–1103.

(a) (1) A motor carrier that is at fault and causes a traffic accident that results in a spill or discharge of hazardous materials shall negotiate in good faith to reimburse a volunteer fire company for the expense of an emergency response, containment, cleanup, and abatement involving the hazardous materials in the traffic accident.

(2) A person in control of a fixed facility who is at fault and who is involved in a release or threatened release of hazardous materials shall negotiate in good faith to reimburse a volunteer fire company for the expense of an emergency response, containment, cleanup, and abatement involving the hazardous materials in the release or threatened release.

(b) (1) If the negotiations under subsection (a)(1) of this section do not resolve the dispute to the satisfaction of the parties, a volunteer fire company may file suit against the motor carrier in a court of competent jurisdiction in the State.

(2) If the negotiations under subsection (a)(2) of this section do not resolve the dispute to the satisfaction of the parties, a volunteer fire company may file suit against the person in control in a court of competent jurisdiction in the State.

(c) At the request of a volunteer fire company, a local jurisdiction may file suit under this subtitle on behalf of the volunteer fire company.

(d) If a volunteer fire company is awarded damages under this subtitle, the court may also award reasonable attorney's fees.

§3–1104.

(a) If a county or municipality purchased any personal protective equipment or

chemicals for the use of a volunteer fire company, volunteer rescue squad, or volunteer ambulance company, any reimbursement under this subtitle for the expense of an emergency response, containment, cleanup, and abatement shall be paid to the county or municipality that supplied the equipment or chemicals.

(b) If a volunteer fire company, volunteer rescue squad, or volunteer ambulance company purchases any personal protective equipment or chemicals for the use of the volunteer fire company, volunteer rescue squad, or volunteer ambulance company, any reimbursement under this subtitle for the expense of an emergency response, containment, cleanup, and abatement shall be paid to the volunteer fire company, volunteer rescue squad, or volunteer ambulance company that supplies the equipment or chemicals.

(c) If an individual who works for a volunteer fire company, volunteer rescue squad, or volunteer ambulance company paid for the individual's personal protective equipment, then the individual shall receive any reimbursement obtained under this subtitle.

§3–1105.

This subtitle does not affect any liability or immunity of a volunteer fire company, a volunteer rescue squad, or the personnel of a volunteer fire company or volunteer rescue squad under § 5-604 of this article.

§3–1106.

(a) In this section, "farm vehicle" has the meaning stated in § 13-911 of the Transportation Article.

(b) This subtitle does not apply to a release of hazardous materials from a farm vehicle that is involved in a traffic accident.

(c) This section does not abrogate any statutory or common law right or cause of action of a person against the owner or operator of a farm vehicle that has been involved in a traffic accident involving a release of hazardous materials.

§3–1107.

This subtitle does not abrogate any statutory or common law right or cause of action of a person against:

(1) A motor carrier that has been involved in a traffic accident involving a release of hazardous materials; or

(2) A person in control of a fixed facility involved in a release or threatened release of hazardous materials.

§3–1108.

(a) If a volunteer fire company attempts but is not able to provide for the emergency response, containment, cleanup, and abatement of a spill of hazardous materials in a traffic accident, the incident commander at the scene of the traffic accident may request assistance from any other person, partnership, firm, association, corporation, or other entity that is experienced in the emergency response, containment, cleanup, and abatement of a spill of hazardous materials in a traffic accident.

(b) Subject to a written memorandum of agreement between the Department of the Environment and the fire company, any costs incurred under subsection (a) of this section may be reimbursed from the State Hazardous Substance Control Fund under § 7-221 of the Environment Article.

(c) Any expenditure from the State Hazardous Substance Control Fund made in accordance with the provisions of this section shall be reimbursed to the Department by the person responsible for the release as provided under § 7-221 of the Environment Article.

§3–1201.

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

(b) (1) "Expense of an emergency response, containment, cleanup, and abatement" means the reasonable costs associated with the repair or replacement of personal protective equipment:

(i) Owned by:

1. A paid fire department; or

2. An authorized individual, whether paid or volunteer, who participates in an emergency response, containment, cleanup, and abatement by a paid fire department; and

(ii) Damaged through proper use during an emergency response, containment, cleanup, and abatement of a release of hazardous materials resulting from a traffic accident involving a motor vehicle operated by a motor carrier that is transporting hazardous materials or from a release or threatened release of hazardous materials at a fixed facility.

(2) "Expense of an emergency response" includes the reasonable costs of replacing the chemicals that are used or damaged during an emergency response, containment, cleanup, and abatement.

(c) (1) "Fixed facility" means any installation, structure, or premises, above ground or underground, in which hazardous materials are stored with a capacity to

store more than 1,000 pounds of hazardous materials.

(2) "Fixed facility" does not include a farm or any building or structure associated with a farm.

(d) (1) "Hazardous materials" means a substance or material in a quantity or form that the United States Secretary of Transportation designates may pose an unreasonable risk to health and safety of individuals or to property when transported in commerce.

(2) "Hazardous materials" includes any grouping or classification of materials, that the United States Secretary of Transportation designates as a hazardous material, including:

(i) Explosives;

(ii) Radioactive materials;

(iii) Etiologic agents;

(iv) Flammable liquids or solids;

(v) Combustible liquids or solids;

(vi) Poisons;

(vii) Oxidizing or corrosive materials; and

(viii) Compressed gases.

(e) "Highway" has the same meaning as provided in § 11-127 of the Transportation Article.

(f) "Motor carrier" means a common carrier by motor vehicle, contract carrier by motor vehicle, and private carrier by motor vehicle that carries a hazardous material in commerce.

(g) "Paid fire department" includes a paid fire department, a paid rescue squad, a paid emergency medical service, a paid hazardous material response team, paid law enforcement, and a local department of public works designated by a local jurisdiction as a responder to a release or threatened release of hazardous materials, or as an assistant to a responder.

(h) "Person in control", with respect to a release or threatened release of hazardous materials at a fixed facility, means:

(1) The owner of the hazardous materials; and

(2) The owner or operator of the fixed facility involved in the release or

threatened release of hazardous materials at the time of or immediately before the release or threatened release.

§3–1202.

A motor carrier is responsible for the expense of an emergency response, containment, cleanup, and abatement by a paid fire department if the motor carrier:

(1) Transports a hazardous material in commerce on a highway in the State; and

(2) Is at fault and causes a traffic accident in the State that results in:

(i) A spill or discharge of hazardous materials; and

(ii) An emergency response, containment, cleanup, and abatement by the paid fire department.

§3–1202.1.

A person in control who is at fault is responsible for the expense of an emergency response, containment, cleanup, and abatement of a release or threatened release of hazardous materials at a fixed facility by a paid fire department.

§3–1203.

(a) (1) A motor carrier that is at fault and causes a traffic accident that results in a spill or discharge of hazardous materials shall negotiate in good faith to reimburse a paid fire department for the expense of an emergency response, containment, cleanup, and abatement involving the hazardous materials in the traffic accident.

(2) A person in control of a fixed facility who is at fault and who is involved in a release or threatened release of hazardous materials shall negotiate in good faith to reimburse a paid fire department for the expense of an emergency response, containment, cleanup, and abatement involving the hazardous materials in the release or threatened release.

(b) (1) If the negotiations under subsection (a)(1) of this section do not resolve the dispute to the satisfaction of the parties, a paid fire department may file suit against the motor carrier in a court of competent jurisdiction in the State.

(2) If the negotiations under subsection (a)(2) of this section do not resolve the dispute to the satisfaction of the parties, a paid fire department may file suit against the person in control in a court of competent jurisdiction in the State.

§3–1204.

This subtitle does not affect any liability or immunity of a paid fire company, a

paid rescue squad, or the personnel of a paid fire company or paid rescue squad under § 5-604 of this article.

§3–1205.

(a) In this section, "farm vehicle" has the meaning stated in § 13-911 of the Transportation Article.

(b) This subtitle does not apply to a release of hazardous materials from a farm vehicle that is involved in a traffic accident.

(c) This section does not abrogate any statutory or common law right or cause of action of a person against the owner or operator of a farm vehicle that has been involved in a traffic accident involving a release of hazardous materials.

§3–1206.

This subtitle does not abrogate any statutory or common law right or cause of action of a person against:

(1) A motor carrier that has been involved in a traffic accident involving a release of hazardous materials; or

(2) A person in control of a fixed facility involved in a release or threatened release of hazardous materials.

§3–1207.

(a) If a paid fire company attempts but is not able to provide for the emergency response, containment, cleanup, and abatement of a spill of hazardous materials in a traffic accident, the incident commander at the scene of the traffic accident may request assistance from any other person, partnership, firm, association, corporation, or other entity that is experienced in the emergency response, containment, cleanup, and abatement of a spill of hazardous materials in a traffic accident.

(b) Subject to a written memorandum of agreement between the Department of the Environment and the fire company, any costs incurred under subsection (a) of this section may be reimbursed from the State Hazardous Substance Control Fund under § 7-221 of the Environment Article.

(c) Any expenditure from the State Hazardous Substance Control Fund made in accordance with the provisions of this section shall be reimbursed to the Department by the person responsible for the release as provided under § 7-221 of the Environment Article.

§3–1301.

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

(b) "Employee theft" means the theft of any merchandise from a mercantile establishment by an employee, agent, or contractor of the mercantile establishment.

(c) "Mercantile establishment" means any place where merchandise is displayed, held, or offered for sale, either at retail or wholesale.

(d) "Merchandise" means any goods, wares, commodity, money, or other personal property located on the premises of a mercantile establishment.

(e) "Merchant" means the owner or operator of a mercantile establishment.

(f) "Responsible person" means:

(1) Any individual, whether an adult or a minor, who commits or attempts to commit an act of shoplifting or employee theft; and

(2) The parents or legal guardians of an unemancipated minor who commits or attempts to commit an act of shoplifting or employee theft.

(g) "Shoplift" means any 1 or more of the following acts committed by a person without the consent of the merchant and with the purpose or intent of appropriating merchandise to that person's own use without payment, obtaining merchandise at less than its stated sales price, or otherwise depriving a merchant of all or any part of the value or use of merchandise:

(1) Removing any merchandise from its immediate place of display or from any other place on the premises of the mercantile establishment;

(2) Obtaining or attempting to obtain possession of any merchandise by charging that merchandise to another person without the authority of that person or by charging that merchandise to a fictitious person;

(3) Concealing any merchandise;

(4) Substituting, altering, removing, or disfiguring any label or price tag;

(5) Transferring any merchandise from a container in which that merchandise is displayed or packaged to any other container; or

(6) Disarming any alarm tag attached to any merchandise.

§3–1302.

A responsible person is civilly liable to the merchant:

(1) To restore the merchandise to the merchant or, if the merchandise is not recoverable, has been damaged, or otherwise has lost all or part of its value, to pay the merchant an amount equal to the merchant's stated sales price for the merchandise;

(2) To pay the merchant for any other actual damages sustained by the merchant, not including the loss of time or wages incurred in connection with the apprehension or prosecution of the shoplifter or employee; and

(3) Subject to the merchant's compliance with the procedures contained in § 3-1303 of this subtitle, to pay the merchant a civil penalty equal to twice the merchant's stated sales price for the merchandise, but not less than $50 nor more than $1,000.

§3–1303.

(a) If a merchant elects to seek the civil penalty available under § 3–1302(3) of this subtitle, the merchant:

(1) Shall comply with the procedures contained in this section;

(2) May not orally request or accept any payment at the time of apprehension; and

(3) May not accept any payment in cash without issuing a receipt for the payment.

(b) (1) The merchant shall cause an initial demand letter to be:

(i) Hand delivered personally to the responsible person; or

(ii) Mailed to the responsible person at that person's last known address.

(2) The initial demand letter shall:

(i) Identify the act of shoplifting or employee theft alleged to have been committed;

(ii) Specify the amount of damages sought under § 3–1302(1) and (2) of this subtitle;

(iii) Specify the amount of the civil penalty sought under § 3–1302(3) of this subtitle and explain the method of calculating that amount;

(iv) Request payment of the damages and civil penalty by cash, money order, certified check, or cashier's check;

(v) Contain a conspicuous notice advising the responsible person that payment of the damages and civil penalty does not preclude the possibility of criminal prosecution, but that the payment would not be admissible in any criminal proceeding as an admission or evidence of guilt; and

(vi) Specify the date by which the responsible person shall make the

required payment to avoid civil action, which date shall be at least 15 days after the date of hand delivery or from the postmark date, as the case may be, of the initial demand letter.

(c) (1) If payment in full is not received by the merchant on or before the date specified in the initial demand letter, the merchant shall cause a second demand letter to be mailed to the responsible person at that person's last known address.

(2) The second demand letter shall:

(i) Contain the same information, request for payment, and notice that is required by subsection (b)(2)(i) through (v) of this section for an initial demand letter;

(ii) Specify the date by which the responsible person shall make the required payment to avoid civil action, which date shall be at least 10 days from the postmark date of the second demand letter; and

(iii) Advise the responsible person that, if the required payment is not made in full on or before the date specified in the second demand letter, the responsible person will be subject to immediate institution of a civil suit for damages, penalties, court costs, and reasonable attorney's fees.

(d) The merchant shall get a certificate of mailing from the U.S. Postal Service for each initial demand letter and second demand letter mailed to a responsible person under this section.

§3–1304.

A responsible person who complies fully with an initial demand letter or a second demand letter on or before the date specified in that demand letter may not incur any further civil liability to the merchant for damages arising out of the act of shoplifting or employee theft that was the subject of the demand letter.

§3–1305.

(a) If the second demand letter is returned unclaimed to the merchant or if full payment is not otherwise received by the merchant on or before the date specified in the second demand letter, the merchant may file a civil action to recover the damages and the civil penalty provided for in § 3-1302 of this subtitle, together with court costs and reasonable attorney's fees.

(b) If the merchant prevails in a civil action brought under this subtitle, the merchant shall also be entitled to an award of court costs and reasonable attorney's fees, to be assessed without regard to the ability of the responsible person to pay.

§3–1306.

(a) Criminal prosecution for an offense of theft under § 7-104 of the Criminal Law Article is not a prerequisite to the maintenance of a civil action under this subtitle.

(b) The recovery of damages and penalties under this subtitle does not preclude criminal prosecution. However, the payment of damages and penalties under this subtitle is not admissible in any criminal proceeding as an admission of guilt or as evidence of guilt.

§3–1307.

The procedures required by § 3-1303 of this subtitle:

(1) Apply only to the extent that a merchant elects to seek recovery of the civil penalty available under § 3-1302(3) of this subtitle; and

(2) Do not otherwise limit a merchant or other person from electing to pursue any other civil remedy or cause of action for damages against any responsible person under this subtitle or otherwise as permitted by law.

§3–1308.

The District Court has exclusive original civil jurisdiction in an action under this subtitle if the damages and civil penalty claimed do not exceed $10,000, exclusive of attorney's fees.

§3–1401.

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

(b) "Injured person" means any person having a claim in tort for injury to person or property.

(c) "Joint tort-feasors" means two or more persons jointly or severally liable in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them.

§3–1402.

(a) The right of contribution exists among joint tort-feasors.

(b) A joint tort-feasor is not entitled to a money judgment for contribution until the joint tort-feasor has by payment discharged the common liability or has paid more than a pro rata share of the common liability.

(c) A joint tort-feasor who enters into a settlement with the injured person is not entitled to recover contribution from another joint tort-feasor whose liability to the injured person is not extinguished by the settlement.

§3–1403.

The recovery of a judgment by the injured person against one joint tort-feasor does not discharge the other joint tort-feasor.

§3–1404.

A release by the injured person of one joint tort-feasor, whether before or after judgment, does not discharge the other tort-feasors unless the release so provides, but it reduces the claim against the other tort-feasors in the amount of the consideration paid for the release or in any amount or proportion by which the release provides that the total claim shall be reduced, if greater than the consideration paid.

§3–1405.

A release by the injured person of one joint tort-feasor does not relieve the joint tort-feasor from liability to make contribution to another joint tort-feasor unless the release:

(1) Is given before the right of the other tort-feasor to secure a money judgment for contribution has accrued; and

(2) Provides for a reduction, to the extent of the pro rata share of the released tort-feasor, of the injured person's damages recoverable against all other tort-feasors.

§3–1406.

This subtitle does not impair any right of indemnity under existing law.

§3–1407.

This subtitle shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

§3–1408.

This subtitle may be cited as the Maryland Uniform Contribution Among Joint Tort-Feasors Act.

§3–1409.

If any provision of this subtitle or the application of this subtitle to any person or circumstances is held invalid, the invalidity may not affect other provisions or applications of the subtitle that can be given effect without the invalid provisions or application, and to this end the provisions of this subtitle are declared to be severable.

§3–1501.

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

(b) "Commissioner" means a district court commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution.

(c) "Court" means the District Court of Maryland.

(d) "Final peace order" means a peace order issued by a judge under § 3-1505 of this subtitle.

(e) "Interim peace order" means an order that a commissioner issues under this subtitle pending a hearing by a judge on a petition.

(f) "Petitioner" means an individual who files a petition under § 3-1503 of this subtitle.

(g) "Residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.

(h) "Respondent" means an individual alleged in a petition to have committed an act specified in § 3-1503(a) of this subtitle against a petitioner.

(i) "Temporary peace order" means a peace order issued by a judge under § 3-1504 of this subtitle.

§3–1502.

(a) By proceeding under this subtitle, a petitioner is not limited to or precluded from pursuing any other legal remedy.

(b) This subtitle does not apply to:

(1) A petitioner who is a person eligible for relief, as defined in § 4-501 of the Family Law Article; or

(2) A respondent who is a child at the time of the alleged commission of an act specified in § 3-1503(a) of this subtitle.

§3–1503.

(a) A petitioner may seek relief under this subtitle by filing with the court, or with a commissioner under the circumstances specified in § 3-1503.1(a) of this subtitle, a petition that alleges the commission of any of the following acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition:

(1) An act that causes serious bodily harm;

(2) An act that places the petitioner in fear of imminent serious bodily harm;

(3) Assault in any degree;

(4) Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(5) False imprisonment;

(6) Harassment under § 3-803 of the Criminal Law Article;

(7) Stalking under § 3-802 of the Criminal Law Article;

(8) Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or

(9) Malicious destruction of property under § 6-301 of the Criminal Law Article.

(b) (1) The petition shall:

(i) Be under oath and provide notice to the petitioner that an individual who knowingly provides false information in the petition is guilty of a misdemeanor and on conviction is subject to the penalties specified in subsection (d) of this section;

(ii) Subject to the provisions of subsection (c) of this section, contain the address of the petitioner; and

(iii) Include all information known to the petitioner of:

1. The nature and extent of the act specified in subsection (a) of this section for which the relief is being sought, including information known to the petitioner concerning previous harm or injury resulting from an act specified in subsection (a) of this section by the respondent;

2. Each previous and pending action between the parties in any court; and

3. The whereabouts of the respondent.

(c) If, in a proceeding under this subtitle, a petitioner alleges, and the commissioner or judge finds, that the disclosure of the address of the petitioner would risk further harm to the petitioner, that address may be stricken from the petition and omitted from all other documents filed with the commissioner or filed with, or transferred to, a court.

(d) An individual who knowingly provides false information in a petition filed under this section is guilty of a misdemeanor and on conviction is subject to a fine not

exceeding $1,000 or imprisonment not exceeding 90 days or both.

§3–1503.1.

(a) A petition under this subtitle may be filed with a commissioner when the Office of the District Court Clerk is not open for business.

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner, the commissioner may issue an interim peace order to protect the petitioner.

(c) An interim peace order:

(1) Shall contain only the relief that is minimally necessary to protect the petitioner; and

(2) May order the respondent to:

(i) Refrain from committing or threatening to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;

(ii) Refrain from contacting, attempting to contact, or harassing the petitioner;

(iii) Refrain from entering the residence of the petitioner; and

(iv) Remain away from the place of employment, school, or temporary residence of the petitioner.

(d) (1) (i) An interim peace order shall state the date, time, and location for the temporary peace order hearing and a tentative date, time, and location for a final peace order hearing.

(ii) Except as provided in subsection (g) of this section, or unless the court continues the hearing for good cause, a temporary peace order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim peace order.

(2) An interim peace order shall include in at least 10–point bold type:

(i) Notice to the respondent that:

1. The respondent must give the court written notice of each change of address;

2. If the respondent fails to appear at the temporary peace order hearing or any later hearing, the respondent may be served with any other orders or notices in the case by first–class mail at the respondent's last known address;

3. The date, time, and location of the final peace order hearing is tentative only, and subject to change; and

4. If the respondent does not attend the temporary peace order hearing, the respondent may call the Office of the Clerk of the District Court at the number provided in the order to find out the actual date, time, and location of any final peace order hearing;

(ii) A statement of all possible forms and duration of relief that a temporary peace order or final peace order may contain;

(iii) Notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary peace order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;

(iv) A warning to the respondent that violation of an interim peace order is a crime and that a law enforcement officer shall arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated any provision of the interim peace order; and

(v) The phone number of the Office of the District Court Clerk.

(e) Whenever a commissioner issues an interim peace order, the commissioner shall:

(1) Immediately forward a copy of the petition and interim peace order to the appropriate law enforcement agency for service on the respondent; and

(2) Before the hearing scheduled in the interim peace order, transfer the case file and the return of service, if any, to the Office of the District Court Clerk.

(f) A law enforcement officer shall:

(1) Immediately on receipt of a petition and interim peace order, serve them on the respondent named in the order; and

(2) Immediately after service, make a return of service to the commissioner's office or, if the Office of the District Court Clerk is open for business, to the clerk.

(g) (1) Except as otherwise provided in this subsection, an interim peace order shall be effective until the earlier of:

(i) The temporary peace order hearing under § 3–1504 of this subtitle; or

(ii) The end of the second business day the Office of the Clerk of the

District Court is open following the issuance of an interim peace order.

(2) If the court is closed on the day on which the interim peace order is due to expire, the interim peace order shall be effective until the next day on which the court is open, at which time the court shall hold a temporary peace order hearing.

(h) A decision of a commissioner to grant or deny relief under this section is not binding on, and does not affect any power granted to or duty imposed on, a judge of a circuit court or the District Court under any law, including any power to grant or deny a petition for a temporary peace order or final peace order.

(i) An individual who knowingly provides false information in a petition filed under this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both.

§3–1504.

(a) (1) If after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner, the judge may issue a temporary peace order to protect the petitioner.

(2) The temporary peace order may include any or all of the following relief:

(i) Order the respondent to refrain from committing or threatening to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;

(ii) Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner;

(iii) Order the respondent to refrain from entering the residence of the petitioner; and

(iv) Order the respondent to remain away from the place of employment, school, or temporary residence of the petitioner.

(3) If the judge issues an order under this section, the order shall contain only the relief that is minimally necessary to protect the petitioner.

(b) (1) Except as provided in paragraph (2) of this subsection, a law enforcement officer immediately shall serve the temporary peace order on the respondent.

(2) A respondent who has been served with an interim peace order under § 3-1503.1 of this subtitle shall be served with the temporary peace order in open court or, if the respondent is not present at the temporary peace order hearing, by first-class

mail at the respondent's last known address.

(c) (1) Except as otherwise provided in this subsection, the temporary peace order shall be effective for not more than 7 days after service of the order.

(2) The judge may extend the temporary peace order as needed, but not to exceed 30 days, to effectuate service of the order where necessary to provide protection or for other good cause.

(3) If the court is closed on the day on which the temporary peace order is due to expire, the temporary peace order shall be effective until the second day on which the court is open, by which time the court shall hold a final peace order hearing.

(d) The judge may proceed with a final peace order hearing instead of a temporary peace order hearing if:

(1) (i) The respondent appears at the hearing;

(ii) The respondent has been served with an interim peace order; or

(iii) The court otherwise has personal jurisdiction over the respondent; and

(2) The petitioner and the respondent expressly consent to waive the temporary peace order hearing.

§3–1505.

(a) A respondent shall have an opportunity to be heard on the question of whether the judge should issue a final peace order.

(b) (1) (i) The temporary peace order shall state the date and time of the final peace order hearing.

(ii) Except as provided in § 3–1504(c) of this subtitle, or unless continued for good cause, the final peace order hearing shall be held no later than 7 days after the temporary peace order is served on the respondent.

(2) The temporary peace order shall include notice to the respondent:

(i) In at least 10–point bold type, that if the respondent fails to appear at the final peace order hearing, the respondent may be served by first–class mail at the respondent's last known address with the final peace order and all other notices concerning the final peace order;

(ii) Specifying all the possible forms of relief under subsection (d) of this section that the final peace order may contain;

(iii) That the final peace order shall be effective for the period stated

in the order, not to exceed 6 months; and

(iv) In at least 10–point bold type, that the respondent must notify the court in writing of any change of address.

(c) (1) If the respondent appears for the final peace order hearing, has been served with an interim peace order or a temporary peace order, or the court otherwise has personal jurisdiction over the respondent, the judge:

(i) May proceed with the final peace order hearing; and

(ii) If the judge finds by a preponderance of the evidence that the respondent has committed, and is likely to commit in the future, an act specified in § 3–1503(a) of this subtitle against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner.

(2) A final peace order may be issued only to an individual who has filed a petition under § 3–1503 of this subtitle.

(3) In cases where both parties file a petition under § 3–1503 of this subtitle, the judge may issue mutual peace orders if the judge finds by a preponderance of the evidence that each party has committed, and is likely to commit in the future, an act specified in § 3–1503(a) of this subtitle against the other party.

(d) (1) The final peace order may include any or all of the following relief:

(i) Order the respondent to refrain from committing or threatening to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;

(ii) Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner;

(iii) Order the respondent to refrain from entering the residence of the petitioner;

(iv) Order the respondent to remain away from the place of employment, school, or temporary residence of the petitioner;

(v) Direct the respondent or petitioner to participate in professionally supervised counseling or, if the parties are amenable, mediation; and

(vi) Order either party to pay filing fees and costs of a proceeding under this subtitle.

(2) If the judge issues an order under this section, the order shall contain only the relief that is minimally necessary to protect the petitioner.

(e) (1) A copy of the final peace order shall be served on the petitioner, the

respondent, the appropriate law enforcement agency, and any other person the court determines is appropriate, in open court or, if the person is not present at the final peace order hearing, by first-class mail to the person's last known address.

(2) (i) A copy of the final peace order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final peace order.

(ii) Service is complete upon mailing.

(f) All relief granted in a final peace order shall be effective for the period stated in the order, not to exceed 6 months.

§3–1506.

(a) (1) A peace order may be modified or rescinded during the term of the peace order after:

(i) Giving notice to the petitioner and the respondent; and

(ii) A hearing.

(2) For good cause shown, a judge may extend the term of the peace order for 6 months beyond the period specified in § 3–1505(f) of this subtitle, after:

(i) Giving notice to the petitioner and the respondent; and

(ii) A hearing.

(3) (i) If, during the term of a final peace order, a petitioner files a motion to extend the term of the order under paragraph (2) of this subsection, the court shall hold a hearing on the motion within 30 days after the motion is filed.

(ii) If the hearing on the motion is scheduled after the original expiration date of the final peace order, the court shall extend the order and keep the terms of the order in full force and effect until the hearing on the motion.

(b) (1) If a District Court judge grants or denies relief under a petition filed under this subtitle, a respondent or a petitioner may appeal to the circuit court for the county where the District Court is located.

(2) An appeal taken under this subsection to the circuit court shall be heard de novo in the circuit court.

(3) (i) If an appeal is filed under this subsection, the District Court judgment shall remain in effect until superseded by a judgment of the circuit court.

(ii) Unless the circuit court orders otherwise, modification or enforcement of the District Court order shall be by the District Court.

§3–1507.

(a) An interim peace order, temporary peace order, and final peace order issued under this subtitle shall state that a violation of the order may result in:

(1) Criminal prosecution; and

(2) Imprisonment or fine or both.

(b) A temporary peace order and final peace order issued under this subtitle shall state that a violation of the order may result in a finding of contempt.

§3–1508.

(a) An individual who fails to comply with the relief granted in an interim peace order under § 3–1503.1 of this subtitle, a temporary peace order under § 3–1504(a)(2) of this subtitle, or a final peace order under § 3–1505(d)(1)(i), (ii), (iii), or (iv) of this subtitle is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both; and

(2) For a second or subsequent offense, a fine not exceeding $2,500 or imprisonment not exceeding 1 year or both.

(b) For the purpose of second or subsequent offender penalties provided under subsection (a)(2) of this section, a prior conviction under § 4–509 of the Family Law Article shall be considered a conviction under this section.

(c) A law enforcement officer shall arrest with or without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of an interim peace order, temporary peace order, or final peace order in effect at the time of the violation.

§3–1509.

(a) The Court of Appeals may adopt rules and forms to implement the provisions of this subtitle.

(b) (1) The Court of Appeals shall adopt a form for a petition under this subtitle.

(2) A petition form shall contain notice to a petitioner that an individual who knowingly provides false information in a petition filed under this subtitle is guilty of a misdemeanor and on conviction is subject to the penalties specified in § 3-1503(d) of this subtitle.

§3–1510.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Court record" means an official record of a court about a proceeding that the clerk of a court or other court personnel keeps.

(ii) "Court record" includes:

1. An index, a docket entry, a petition, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment; and

2. Any electronic information about a proceeding on the Web site maintained by the Maryland Judiciary.

(3) "Shield" means to remove information from public inspection in accordance with this section.

(4) "Shielding" means:

(i) With respect to a record kept in a courthouse, removing the record to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and

(ii) With respect to electronic information about a proceeding on the Web site maintained by the Maryland Judiciary, completely removing all information concerning the proceeding from the public Web site, including the names of the parties, case numbers, and any reference to the proceeding or any reference to the removal of the proceeding from the public Web site.

(5) "Victim services provider" means a nonprofit or governmental organization that has been authorized by the Governor's Office of Crime Control and Prevention to have online access to records of shielded peace orders in order to assist victims of abuse.

(b) (1) Subject to subsection (c) of this section, if a petition filed under this subtitle was denied or dismissed at the interim, temporary, or final peace order stage of a proceeding under this subtitle, the petitioner or the respondent may file a written request to shield all court records relating to the proceeding in accordance with subsection (d) of this section.

(2) Subject to subsection (c) of this section, if the respondent consented to the entry of a peace order under this subtitle, the petitioner or the respondent may file a written request to shield all court records relating to the proceeding in accordance with subsection (e) of this section.

(c) A request for shielding under this section may not be filed within 3 years after the denial or dismissal of the petition or the consent to the entry of the peace

order unless the requesting party files with the request a general waiver and release of all the party's tort claims related to the proceeding under this subtitle.

(d) (1) If a petition was denied or dismissed at the interim, temporary, or final peace order stage of a proceeding under this subtitle, on the filing of a written request for shielding under this section, the court shall schedule a hearing on the request.

(2) The court shall give notice of the hearing to the other party or the other party's counsel of record.

(3) Except as provided in paragraphs (4) and (5) of this subsection, after the hearing, the court shall order the shielding of all court records relating to the proceeding if the court finds:

(i) That the petition was denied or dismissed at the interim, temporary, or final peace order stage of the proceeding;

(ii) That a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent;

(iii) That the respondent has not been found guilty of a crime arising from an act described in § 3–1503(a) of this subtitle against the petitioner; and

(iv) That none of the following are pending at the time of the hearing:

1. An interim or temporary peace order or protective order issued against the respondent in a proceeding between the petitioner and the respondent; or

2. A criminal charge against the respondent arising from an alleged act described in § 3–1503(a) of this subtitle against the petitioner.

(4) (i) On its own motion or on the objection of the other party, the court may, for good cause, deny the shielding.

(ii) In determining whether there is good cause under subparagraph (i) of this paragraph, the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community.

(5) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

(e) (1) (i) If the respondent consented to the entry of a peace order under this subtitle, the petitioner or the respondent may file a written request for shielding at any time after the peace order expires.

(ii) On the filing of a request for shielding under this paragraph, the court shall schedule a hearing on the request.

(iii) The court shall give notice of the hearing to the other party or the other party's counsel of record.

(iv) Except as provided in subparagraph (vi) of this paragraph and subject to subparagraph (v) of this paragraph, after the hearing, the court may order the shielding of all court records relating to the proceeding if the court finds:

1. For cases in which the respondent requests shielding, that the petitioner consents to the shielding;

2. That the respondent did not violate the peace order during its term;

3. That a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent;

4. That the respondent has not been found guilty of a crime arising from an act described in § 3–1503(a) of this subtitle against the petitioner; and

5. That none of the following are pending at the time of the hearing:

A. An interim or temporary peace order or protective order issued against the respondent; or

B. A criminal charge against the respondent arising from an alleged act described in § 3–1503(a) of this subtitle.

(v) In determining whether court records should be shielded under this paragraph, the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community.

(vi) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

(2) (i) If the respondent consented to the entry of a peace order under this subtitle but the petitioner did not consent to shielding at the hearing under paragraph (1) of this subsection, the respondent may refile a written request for shielding after 1 year from the date of the hearing under paragraph (1) of this subsection.

(ii) On the filing of a request for shielding under this paragraph, the

court shall schedule a hearing on the request.

(iii) The court shall give notice of the hearing to the other party or the other party's counsel of record.

(iv) Except as provided in subparagraph (vi) of this paragraph and subject to subparagraph (v) of this paragraph, after the hearing, the court may order the shielding of all court records relating to the proceeding if the court finds:

1. A. That the petitioner consents to the shielding; or

B. That the petitioner does not consent to the shielding, but that it is unlikely that the respondent will commit an act specified in § 3–1503(a) of this subtitle against the petitioner in the future;

2. That the respondent did not violate the peace order during its term;

3. That a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent;

4. That the respondent has not been found guilty of a crime arising from an act described in § 3–1503(a) of this subtitle against the petitioner; and

5. That none of the following are pending at the time of the hearing:

A. An interim or temporary peace order or protective order issued against the respondent; or

B. A criminal charge against the respondent arising from an alleged act described in § 3–1503(a) of this subtitle.

(v) In determining whether court records should be shielded under this paragraph, the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community.

(vi) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

(f) (1) This section does not preclude the following persons from accessing a shielded record for a legitimate reason:

(i) A law enforcement officer;

(ii) An attorney who represents or has represented the petitioner or the respondent in a proceeding;

(iii) A State's Attorney;

(iv) An employee of a local department of social services; or

(v) A victim services provider.

(2) (i) A person not listed in paragraph (1) of this subsection may subpoena, or file a motion for access to, a record shielded under this section.

(ii) If the court finds that the person has a legitimate reason for access, the court may grant the person access to the shielded record under the terms and conditions that the court determines.

(iii) In ruling on a motion under this paragraph, the court shall balance the person's need for access to the record with the petitioner's or the respondent's right to privacy and the potential harm of unwarranted adverse consequences to the petitioner or the respondent that the disclosure may create.

(g) Within 60 days after entry of an order for shielding under this section, each custodian of court records that are subject to the order of shielding shall advise in writing the court and the respondent of compliance with the order.

(h) The Governor's Office of Crime Control and Prevention, in consultation with the Maryland Judiciary, may adopt regulations governing online access to shielded records by a victim services provider.

§3–1601.

In this subtitle, "controlled dangerous substance" has the meaning stated in § 5-101 of the Criminal Law Article.

§3–1602.

A person who is convicted, under §§ 5-602 through 5-609 or §§ 5-612 through 5-614 of the Criminal Law Article, of knowingly and willfully manufacturing, distributing, dispensing, bringing into, or transporting in the State a controlled dangerous substance is liable for damages in a civil action as provided in this subtitle.

§3–1603.

Instead of bringing a wrongful death action under Subtitle 9 of this title against a person described in § 3-1602 of this subtitle, a civil action for damages for the death of an individual caused by the individual's use of a controlled dangerous substance may be brought under this subtitle by a parent, legal guardian, child, spouse, or sibling of the individual.

§3–1604.

A person entitled to bring a civil action under this subtitle may seek damages from a defendant described in § 3-1602 of this subtitle if the controlled dangerous substance manufactured, distributed, dispensed, brought into, or transported in the State by the defendant was actually used by, and was the proximate cause of the death of, an individual.

§3–1605.

A law enforcement officer who acts in furtherance of an official investigation or a person who acts at the direction or in cooperation with a law enforcement officer in an official investigation is not liable under this subtitle.

§3–1606.

A person entitled to bring a civil action under this subtitle may recover any or all of the following:

(1) Economic damages and any other pecuniary loss sustained by the plaintiff that was proximately caused by the death of an individual from the individual's unlawful use of a controlled dangerous substance; and

(2) Noneconomic damages, including pain and suffering, emotional distress, mental anguish, loss of enjoyment, loss of companionship, services and consortium, and other nonpecuniary loss sustained by the plaintiff that was proximately caused by the death of an individual from the individual's unlawful use of a controlled dangerous substance.

§3–1607.

A defendant in an action under this subtitle may not raise a defense of assumption of risk or contributory negligence based on the use of a controlled dangerous substance by the deceased individual.

§3–1701.

(a) (1) In this subtitle the following words have the meanings indicated.

(2) "Casualty insurance" has the meaning stated in § 1–101 of the Insurance Article.

(3) "Commercial insurance" has the meaning stated in § 27–601 of the Insurance Article.

(4) "Good faith" means an informed judgment based on honesty and diligence supported by evidence the insurer knew or should have known at the time the insurer made a decision on a claim.

(5) "Insurer" has the meaning stated in § 1–101 of the Insurance Article.

(6) "Property insurance" has the meaning stated in § 1–101 of the Insurance Article.

(b) This subtitle applies only to first–party claims under property and casualty insurance policies issued, sold, or delivered in the State.

(c) (1) Except as provided in paragraph (2) of this subsection, a party may not file an action under this subtitle before the date of a final decision under § 27–1001 of the Insurance Article.

(2) Paragraph (1) of this subsection does not apply to an action:

(i) Within the small claim jurisdiction of the District Court under § 4–405 of this article;

(ii) If the insured and the insurer agree to waive the requirement under paragraph (1) of this subsection; or

(iii) Under a commercial insurance policy on a claim with respect to which the applicable limit of liability exceeds $1,000,000.

(d) This section applies only in a civil action:

(1) (i) To determine the coverage that exists under the insurer's insurance policy; or

(ii) To determine the extent to which the insured is entitled to receive payment from the insurer for a covered loss;

(2) That alleges that the insurer failed to act in good faith; and

(3) That seeks, in addition to the actual damages under the policy, to recover expenses and litigation costs, and interest on those expenses or costs, under subsection (e) of this section.

(e) Notwithstanding any other provision of law, if the trier of fact in an action under this section finds in favor of the insured and finds that the insurer failed to act in good faith, the insured may recover from the insurer:

(1) Actual damages, which actual damages may not exceed the limits of the applicable policy;

(2) Expenses and litigation costs incurred by the insured in an action under this section or under § 27–1001 of the Insurance Article or both, including reasonable attorney's fees; and

(3) Interest on all actual damages, expenses, and litigation costs incurred

by the insured, computed:

(i) At the rate allowed under § 11–107(a) of this article; and

(ii) From the date on which the insured's claim would have been paid if the insurer acted in good faith.

(f) An insurer may not be found to have failed to act in good faith under this section solely on the basis of delay in determining coverage or the extent of payment to which the insured is entitled if the insurer acted within the time period specified by statute or regulation for investigation of a claim by an insurer.

(g) The amount of attorney's fees recovered from an insurer under subsection (e) of this section may not exceed one–third of the actual damages recovered.

(h) The clerk of the court shall file a copy of the verdict or any other final disposition of an action under this section with the Maryland Insurance Administration.

(i) This section does not limit the right of any person to maintain a civil action for damages or other remedies otherwise available under any other provision of law.

(j) If a party to the proceeding elects to have the case tried by a jury in accordance with the Maryland Rules, the case shall be tried by a jury.

§3–1801.

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

(b) "Mediation" means a process in which parties work with one or more impartial mediators who assist the parties in reaching a voluntary agreement for the resolution of a dispute or issues that are part of a dispute.

(c) (1) "Mediation communication" means a communication, whether by speech, writing, or conduct, made as part of a mediation.

(2) "Mediation communication" includes a communication made for the purpose of considering, initiating, continuing, reconvening, or evaluating a mediation or a mediator.

(d) "Mediator" means an individual who:

(1) Assists parties in reaching their own voluntary agreement for the resolution of a dispute; and

(2) Adheres to the Maryland Standard of Conduct for Mediators.

(e) "Party" means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.

§3–1802.

(a) Except as provided in subsection (b) of this section, this subtitle applies to a mediation in which:

(1) The parties are required to mediate by law;

(2) The parties are referred to mediation by an administrative agency or arbitrator; or

(3) The mediator states in writing to any and all parties to the mediation and persons with whom the mediator has engaged in mediation communications that:

(i) The mediation communications will remain confidential in accordance with this subtitle; and

(ii) The mediator has read and, consistent with State law, will abide by the Maryland Standards of Conduct for Mediators during the mediation.

(b) This subtitle does not apply to a mediation:

(1) To which Title 17 of the Maryland Rules applies;

(2) Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;

(3) Relating to a dispute that is pending under, or is part of the processes established by, a collective bargaining agreement unless the dispute has been filed with an administrative agency or court;

(4) Relating to an action to enforce an agreement to arbitrate under common law, the Federal Arbitration Act, the Maryland Uniform Arbitration Act under Subtitle 2 of this title, or the Maryland International Commercial Arbitration Act under Subtitle 2B of this title;

(5) Relating to an action to foreclose a lien against an owner–occupied residential property subject to foreclosure mediation conducted by the Office of Administrative Hearings under Maryland Rule 14–209.1;

(6) Arising from a referral of a matter to a master, examiner, auditor, or parenting coordinator under Maryland Rules 2–541, 2–542, 2–543, or 9–205.2; or

(7) Conducted by a judge who might make a ruling on a case based on the dispute.

(c) The parties and the mediator, by a written and signed agreement made in advance of the mediation, may agree to exclude all or part of the mediation communications from the application of this subtitle.

§3–1803.

(a) Except as provided in § 3–1804 of this subtitle, a mediator or any person present or otherwise participating in a mediation at the request of a mediator:

(1) Shall maintain the confidentiality of all mediation communications; and

(2) May not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding.

(b) Except as provided in § 3–1804 of this subtitle:

(1) A party to a mediation and any person present or otherwise participating in the mediation at the request of a party may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding; and

(2) The parties may enter into a written agreement to maintain the confidentiality of all mediation communications and may require any person present or otherwise participating in the mediation at the request of a party to maintain the confidentiality of all mediation communications.

§3–1804.

(a) A document signed by the parties that records points of agreement expressed by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential unless the parties agree otherwise in writing.

(b) In addition to any other disclosure required by law, a mediator, a party, or a person who was present or who otherwise participated in a mediation at the request of the mediator or a party may disclose mediation communications:

(1) To a potential victim or to the appropriate law enforcement authority to the extent that the mediator, party, or person reasonably believes the disclosure is necessary to prevent bodily harm or death to the potential victim;

(2) To the extent necessary to assert or defend against allegations of mediator misconduct or negligence;

(3) To the extent necessary to assert or defend against allegations of professional misconduct or malpractice by a party or any person who was present or who otherwise participated in the mediation at the request of a party, except that a mediator may not be compelled to participate in a proceeding arising out of the disclosure; or

(4) To the extent necessary to assert or defend against a claim or defense that, because of fraud, duress, or misrepresentation, a contract arising out of a

mediation should be rescinded or damages should be awarded.

(c) A court may order mediation communications to be disclosed only to the extent that the court determines that the disclosure is necessary to prevent an injustice or harm to the public interest that is of sufficient magnitude in the particular case to outweigh the integrity of mediation proceedings.

§3–1805.

Mediation communications that are confidential under this subtitle are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

§3–1806.

This subtitle may be cited as the Maryland Mediation Confidentiality Act.

§3–1901.

(a) (1) In an action against an owner of a dog for damages for personal injury or death caused by the dog, evidence that the dog caused the personal injury or death creates a rebuttable presumption that the owner knew or should have known that the dog had vicious or dangerous propensities.

(2) Notwithstanding any other law or rule, in a jury trial, the judge may not rule as a matter of law that the presumption has been rebutted before the jury returns a verdict.

(b) In an action against a person other than an owner of a dog for damages for personal injury or death caused by the dog, the common law of liability relating to attacks by dogs against humans that existed on April 1, 2012, is retained as to the person without regard to the breed or heritage of the dog.

(c) The owner of a dog is liable for any injury, death, or loss to person or property that is caused by the dog, while the dog is running at large, unless the injury, death, or loss was caused to the body or property of a person who was:

(1) Committing or attempting to commit a trespass or other criminal offense on the property of the owner;

(2) Committing or attempting to commit a criminal offense against any person; or

(3) Teasing, tormenting, abusing, or provoking the dog.

(d) This section does not affect:

(1) Any other common law or statutory cause of action; or

(2) Any other common law or statutory defense or immunity.

§3–2001.

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

(b) "Collaborative law communication" means a statement, whether oral or in a record or verbal or nonverbal, that:

(1) Is made to conduct, participate in, continue, or reconvene a collaborative law process; and

(2) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(c) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(d) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

(1) Sign a collaborative law participation agreement; and

(2) Are represented by collaborative lawyers.

(e) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(f) (1) "Collaborative matter" means a dispute, a transaction, a claim, a problem, or an issue for resolution described in a collaborative law participation agreement.

(2) "Collaborative matter" includes a dispute, a claim, and an issue in a proceeding.

(g) "Nonparty participant" means a person other than a party and the party's collaborative lawyer that participates in a collaborative law process.

(h) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(i) "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(j) "Person eligible for relief" includes:

(1) The current or former spouse of a respondent;

(2) A cohabitant of a respondent;

(3) A person related to a respondent by blood, marriage, or adoption;

(4) A parent, stepparent, child, or stepchild of a respondent or person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of a petition for relief under Title 4, Subtitle 5 of the Family Law Article;

(5) A vulnerable adult; and

(6) A person who has a child in common with the respondent.

(k) "Proceeding" means:

(1) A judicial, an administrative, an arbitral, or any other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences, and discovery; or

(2) A legislative hearing or similar process.

(l) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or any other medium and is retrievable in perceivable form.

(n) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(o) "Sign" means, with present intent to authenticate or adopt a record, to:

(1) Execute or adopt a tangible symbol; or

(2) Attach to or logically associate with the record an electronic symbol, sound, or process.

(p) "Tribunal" means:

(1) A court, an arbitrator, an administrative agency, or any other body acting in an adjudicative capacity that, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or

(2) A legislative body conducting a hearing or similar process.

§3–2002.

(a) A collaborative law participation agreement shall:

(1) Be in a record;

(2) Be signed by the parties;

(3) State the parties' intention to resolve a collaborative matter through a collaborative law process under this subtitle;

(4) Describe the nature and scope of the matter;

(5) Identify the collaborative lawyer who represents each party in the process; and

(6) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(b) The parties may agree to include in a collaborative law participation agreement additional provisions consistent with this subtitle.

§3–2003.

(a) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(b) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(c) A collaborative law process is concluded by:

(1) A resolution of a collaborative matter as evidenced by a signed record;

(2) A resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or

(3) A termination of the process.

(d) A collaborative law process terminates:

(1) When a party gives notice to other parties in a record that the process is ended;

(2) When a party:

(i) Begins a proceeding related to a collaborative matter without the agreement of all parties; or

(ii) In a pending proceeding related to the matter:

1. Initiates a pleading, a motion, an order to show cause, or a request for a conference with the tribunal;

2. Requests that the proceeding be put on the tribunal's calendar; or

3. Takes similar action requiring notice to be sent to the parties; or

(3) Except as otherwise provided in subsection (g) of this section, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(e) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(f) A party may terminate a collaborative law process with or without cause.

(g) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues if, within 30 days after the date that the notice of discharge or withdrawal of a collaborative lawyer required by subsection (e) of this section is sent to the parties:

(1) The unrepresented party engages a successor collaborative lawyer; and

(2) In a signed record:

(i) The parties consent to continue the process by reaffirming the collaborative law participation agreement;

(ii) The agreement is amended to identify the successor collaborative lawyer; and

(iii) The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

(h) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part of the collaborative matter as evidenced by a signed record.

(i) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

§3–2004.

During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a person eligible for relief.

§3–2005.

A tribunal may approve an agreement resulting from a collaborative law process.

§3–2006.

(a) Except as provided by law other than this subtitle, during the collaborative law process a party shall:

(1) On the request of another party, make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery; and

(2) Update promptly previously disclosed information that has materially changed.

(b) Parties may define the scope of disclosure during the collaborative law process.

§3–2007.

This subtitle does not affect:

(1) The professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

(2) The obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or an adult under State law.

§3–2008.

A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by State law other than in this subtitle.

§3–2009.

(a) Subject to §§ 3–2011 and 3–2012 of this subtitle, a collaborative law communication is privileged under subsection (b) of this section, is not subject to discovery, and is not admissible in evidence.

(b) In a proceeding, the following privileges apply:

(1) A party may refuse to disclose and may prevent any other person from disclosing a collaborative law communication; and

(2) A nonparty participant may refuse to disclose and may prevent any other person from disclosing a collaborative law communication of the nonparty participant.

(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

§3–2010.

(a) A privilege under § 3–2009 of this subtitle may be waived in a record or orally during a proceeding if it is expressly waived by each party and, in the case of the privilege of a nonparty participant, the privilege is also expressly waived by the nonparty participant.

(b) A person that makes a disclosure or representation about a collaborative law communication that prejudices another person in a proceeding may not assert a privilege under § 3–2009 of this subtitle, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

§3–2011.

(a) There is no privilege under § 3–2009 of this subtitle for a collaborative law communication that is:

(1) Available to the public under Title 10, Subtitle 6 of the State Government Article or made during a session of a collaborative law process that is open or is required by law to be open to the public;

(2) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(3) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(4) In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(b) The privileges under § 3–2009 of this subtitle for a collaborative law communication do not apply to the extent that a communication is sought or offered to prove or disprove:

(1) A claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

(2) Abuse, neglect, abandonment, or exploitation of a child or an adult, unless the department of social services for the county in which the child or adult resides is a party to or otherwise participates in the process.

(c) There is no privilege under § 3–2009 of this subtitle if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence

substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

(1) A court proceeding involving a felony or misdemeanor; or

(2) A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(d) If a collaborative law communication is subject to an exception under subsection (b) or (c) of this section, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(e) Disclosure or admission of evidence excepted from the privilege under subsection (b) or (c) of this section does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(f) (1) The privileges under § 3–2009 of this subtitle do not apply if the parties agree in advance in a signed record or, if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged.

(2) This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

§3–2012.

(a) Notwithstanding the failure of an agreement to meet the requirements of § 3–2002 of this subtitle, a tribunal may find that the parties intended to enter into a collaborative law participation agreement if the parties:

(1) Signed a record indicating an intention to enter into a collaborative law participation agreement; and

(2) Reasonably believed they were participating in a collaborative law process.

(b) If a tribunal makes the findings specified in subsection (a) of this section and the interests of justice require, the tribunal may:

(1) Enforce an agreement evidenced by a record resulting from the process in which the parties participated; and

(2) Apply the privileges under § 3–2009 of this subtitle.

§3–2013.

In applying and construing this uniform act, consideration shall be given to the

need to promote uniformity of the law with respect to its subject matter among states that enact it.

§3–2014.

This subtitle modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C.A. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C.A. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C.A. § 7003(b).

§3–2015.

This subtitle may be cited as the Maryland Uniform Collaborative Law Act.

§4–101.

(a) In this title the following terms have the meanings indicated.

(b) "Criminal case" means a criminal case within the jurisdiction of the District Court and includes a case charging a violation of motor vehicle or traffic laws and a case charging a violation of a law, rule, or regulation if a fine or imprisonment may be imposed.

§4–201.

The jurisdiction of the District Court extends to every case which arises within the State or is subject to the State's judicial power, and which is within the limitations imposed by this title or elsewhere by law. Exercise of this jurisdiction is subject to the restrictions of venue established by law.

§4–202.

A District Court has the following authority provided in the Health - General Article:

(1) Under Title 8 of that article, the authority to commit an individual for detoxification or for observation, evaluation, or treatment of alcoholism;

(2) Under Title 8 of that article, the authority to commit an individual for observation, evaluation, or treatment of drug abuse;

(3) Under Title 10 of that article, the authority to order emergency evaluation of an individual for a mental disorder; and

(4) Under Title 12 of that article, authority as to the competency or sanity of a criminal defendant.

§4–301.

(a) Except as provided in §§ 3–803 and 3–8A–03 of this article and 4–302 of this subtitle, the District Court has exclusive original jurisdiction in a criminal case in which a person at least 16 years old or a corporation is charged with violation of the vehicle laws, or the State Boat Act, or regulations adopted pursuant to the vehicle laws or State Boat Act.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(1) Commission of a common–law or statutory misdemeanor regardless of the amount of money or value of the property involved;

(2) Violation of § 7–104, § 7–105, § 7–107, or § 7–108 of the Criminal Law Article, whether a felony or a misdemeanor;

(3) Violation of a county, municipal, or other ordinance, if the violation is not a felony;

(4) Criminal violation of a State, county, or municipal rule or regulation, if the violation is not a felony;

(5) Doing or omitting to do any act made punishable by a fine, imprisonment, or other penalty as provided by the particular law, ordinance, rule, or regulation defining the violation if the violation is not a felony;

(6) Violation of § 8–103 of the Criminal Law Article, whether a felony or a misdemeanor;

(7) Violation of §§ 8–203 through 8–209 of the Criminal Law Article, whether a felony or misdemeanor;

(8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article, whether a felony or misdemeanor;

(9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a felony or a misdemeanor;

(10) Violation of § 9–1106 of the Labor and Employment Article;

(11) Violation of § 8–301 of the Criminal Law Article, whether a felony or misdemeanor;

(12) Violation of § 2–209 of the Criminal Law Article;

(13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;

(14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

(15) Violation of §§ 10–604 through 10–608 of the Criminal Law Article, whether a felony or misdemeanor;

(16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article, whether a felony or misdemeanor;

(17) Violation of § 20–102 of the Transportation Article, whether a felony or misdemeanor;

(18) Violation of § 8–801 of the Criminal Law Article;

(19) Violation of § 8–604 of the Criminal Law Article;

(20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;

(21) Violation of §§ 16–801 through 16–804 of the Election Law Article;

(22) Violation of § 3–203(c) of the Criminal Law Article;

(23) Violation of § 11–208 of the Criminal Law Article as a second or subsequent offense;

(24) Violation of § 11–721 of the Criminal Procedure Article as a second or subsequent offense; or

(25) Violation of § 11–303(b) of the Criminal Law Article.

§4–302.

(a) Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), and (25) of this subtitle, the District Court does not have jurisdiction to try a criminal case charging the commission of a felony.

(b) Except as provided in § 4-303 of this subtitle, the District Court does not have criminal jurisdiction to try a case in which a juvenile court has exclusive original jurisdiction.

(c) The jurisdiction of the District Court is concurrent with that of the juvenile court in any criminal case arising under the compulsory public school attendance laws of this State.

(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case:

(i) In which the penalty may be confinement for 3 years or more or a fine of $2,500 or more; or

(ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), and (25) of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a circuit court does not have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article.

(ii) A circuit court does have jurisdiction to try a case charging a violation of § 5–601 or § 5–620 of the Criminal Law Article if the defendant:

1. Properly demands a jury trial;

2. Appeals as provided by law from a final judgment entered in the District Court; or

3. Is charged with another offense arising out of the same circumstances that is within a circuit court's jurisdiction.

(e) (1) The District Court is deprived of jurisdiction if a defendant is entitled to and demands a jury trial at any time prior to trial in the District Court.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, unless the penalty for the offense with which the defendant is charged permits imprisonment for a period in excess of 90 days, a defendant is not entitled to a jury trial in a criminal case.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, the presiding judge of the District Court may deny a defendant a jury trial if:

1. The prosecutor recommends in open court that the judge not impose a penalty of imprisonment for a period in excess of 90 days, regardless of the permissible statutory or common law maximum;

2. The judge agrees not to impose a penalty of imprisonment for a period in excess of 90 days; and

3. The judge agrees not to increase the defendant's bond if an appeal is noted.

(iii) The State may not demand a jury trial.

(f) (1) Except as provided in Title 4, Subtitle 5 of the Family Law Article, the District Court does not have jurisdiction of an offense otherwise within the District Court's jurisdiction if a person is charged:

(i) With another offense arising out of the same circumstances but

not within the District Court's jurisdiction; or

(ii) In the circuit court with an offense arising out of the same circumstances and within the concurrent jurisdictions of the District Court and the circuit court described under subsection (d) of this section.

(2) In the cases described under paragraph (1) of this subsection, the circuit court for the county has exclusive original jurisdiction over all the offenses.

§4–303.

The District Court has jurisdiction over a person who is brought before a court sitting as a juvenile court if:

(1) The juvenile court waives jurisdiction or the person elects to be tried according to the regular criminal procedure; and

(2) The offense charged is within the jurisdiction conferred by § 4-301 of this subtitle.

§4–304.

The District Court has jurisdiction to conduct a preliminary hearing in a felony case to determine if the defendant should be held for action of the grand jury or if charged by information, for trial in the appropriate court.

§4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(1) An action in contract or tort, if the debt or damages claimed do not exceed $30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(2) An action of replevin, regardless of the value of the thing in controversy;

(3) A matter of attachment before judgment, if the sum claimed does not exceed $30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(4) An action involving landlord and tenant, distraint, or wrongful detainer, regardless of the amount involved;

(5) A grantee suit brought under § 14–109 of the Real Property Article;

(6) A petition for injunction relating to the use, disposition, encumbrances, or preservation of property that is:

(i) Claimed in a replevin action, until seizure under the writ; or

(ii) Sought to be levied upon in an action of distress, until levy and any removal;

(7) A petition of injunction filed by:

(i) A tenant in an action under § 8–211 of the Real Property Article or a local rent escrow law; or

(ii) A person who brings an action under § 14–120, § 14–125.1, or § 14–125.2 of the Real Property Article;

(8) A petition filed by a county or municipality, including Baltimore City, for enforcement of local health, housing, fire, building, electric, licenses and permits, plumbing, animal control, consumer protection, and zoning codes for which equitable relief is provided;

(9) Proceedings under Title 12 or Title 13 of the Criminal Procedure Article for the forfeiture or return of moneys involved in a gambling or controlled dangerous substances seizure where the amount involved, excluding any interest and attorney's fees, if attorney's fees are recoverable by law or contract, does not exceed $20,000;

(10) A proceeding for adjudication of:

(i) A municipal infraction as described in § 6–102 of the Local Government Article;

(ii) A Commission infraction as defined in § 17–208 of the Land Use Article;

(iii) A Washington Suburban Sanitary Commission infraction under § 29–102 of the Public Utilities Article, concerning rules and regulations governing publicly owned watershed property;

(iv) A Washington Suburban Sanitary Commission infraction under § 29–101 of the Public Utilities Article, concerning Washington Suburban Sanitary Commission regulations governing:

1. Erosion and sediment control for utility construction;

2. Plumbing, gas fitting, and sewer cleaning;

3. Required permits for utility construction; and

4. The Washington Suburban Sanitary Commission Pretreatment Program;

(v) A zoning violation for which a civil penalty has been provided in

accordance with Title 11, Subtitle 2 or § 20–526(c) of the Land Use Article;

(vi) A violation of an ordinance enacted:

1. By a charter county for which a civil penalty is provided under § 10–202 of the Local Government Article;

2. By the Mayor and City Council of Baltimore for which a civil penalty is provided by ordinance; or

3. By a code county for which a civil citation is issued under Title 11, Subtitle 3 of the Local Government Article;

(vii) A citation for a Code violation issued under § 10–119 of the Criminal Law Article;

(viii) A civil infraction relating to a violation of the campaign finance laws under § 13–604 of the Election Law Article;

(ix) A violation of an ordinance or regulation enacted by a county without home rule, under authority granted under the Local Government Article, or any provision of the Code of Public Local Laws for that county, for which a civil penalty is provided;

(x) A civil infraction that is authorized by law to be prosecuted by a sanitary commission;

(xi) A subdivision violation for which a civil penalty has been provided in accordance with § 9–1607 of the Land Use Article;

(xii) A violation under Title 10, Subtitle 1, Part III of the Criminal Law Article; or

(xiii) A civil infraction relating to the storage or distribution of tobacco products under Title 1, Subtitle 12 of the Local Government Article;

(11) A proceeding for adjudication of a civil penalty for any violation under § 5–1001 of the Environment Article, § 15–113, § 15–113.1, § 21–1122, or § 21–1414 of the Transportation Article, or § 14–304 of the Public Safety Article, or any rule or regulation issued pursuant to those sections;

(12) A proceeding to enforce a civil penalty assessed by the Maryland Division of Labor and Industry under Title 5 of the Labor and Employment Article where the amount involved does not exceed $20,000;

(13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, § 21–706.1, § 21–809, § 21–810, or § 24–111.3 of the Transportation Article or § 10–112 of the Criminal Law Article;

(14) A proceeding for a temporary peace order or a final peace order under Title 3, Subtitle 15 of this article;

(15) A proceeding for condemnation and immediate possession of and title to abandoned, blighted, distressed, and deteriorated property under authority granted in the Code of Public Local Laws of a county, including Baltimore City, where the estimated value of the property does not exceed $25,000;

(16) A proceeding for a replacement motor vehicle under § 14–1502(c)(1)(i) of the Commercial Law Article;

(17) An action for damages for a dishonored check or other instrument under Title 15, Subtitle 8 of the Commercial Law Article, regardless of the amount in controversy; and

(18) A civil action for an injunction or for a civil penalty for a violation of § 8–605(f) of the Transportation Article.

§4–402.

(a) Except as provided in §§ 4–401 and 4–404 of this subtitle, the District Court does not have equity jurisdiction.

(b) Except as provided in § 4–401 of this subtitle, the District Court does not have jurisdiction to decide the ownership of real property or of an interest in real property.

(c) The District Court does not have jurisdiction to render a declaratory judgment.

(d) (1) (i) Except in a case under paragraph (2), (4), (5), or (6) of § 4–401 of this subtitle, the plaintiff may elect to file suit in the District Court or in a trial court of general jurisdiction, if the amount in controversy exceeds $5,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract.

(ii) In the case of a class action, the separate claims of the proposed members of the class may be aggregated to meet the minimum amount in controversy required under subparagraph (i) of this paragraph.

(2) In a case under § 4–401(7) or (8) of this subtitle, the plaintiff may elect to file a petition for injunctive relief either in the District Court or the circuit court.

(3) In a case under § 4–401(16) of this subtitle, the plaintiff may elect to file a claim for a replacement motor vehicle in either the District Court or the circuit court.

(e) (1) In a civil action in which the amount in controversy does not exceed

$15,000, exclusive of attorney's fees if attorney's fees are recoverable by law or contract, a party may not demand a jury trial pursuant to the Maryland Rules.

(2) Except in a replevin action, if a party is entitled to and files a timely demand, in accordance with the Maryland Rules, for a jury trial, jurisdiction is transferred forthwith and the record of the proceeding shall be transmitted to the appropriate court. In a replevin action, if a party is entitled to and files a timely demand for a jury trial, the District Court may conduct a hearing on the show–cause order prior to issuing the writ, enforce an injunction issued by it in the action, and issue, renew, and receive returns upon the writ of replevin. The action shall be transmitted to the appropriate court only after the writ has been returned, stating that the property sought has been seized or eloigned, and the time for filing a notice of intention to defend has expired.

(f) If the amount in controversy in an action for damages for a dishonored check or other instrument under § 4–401(17) of this subtitle exceeds $25,000, the defendant is entitled to transfer the action from the District Court to an appropriate circuit court by filing a timely demand as prescribed under the Maryland Rules.

§4–404.

The District Court has concurrent jurisdiction with the circuit court over proceedings under Title 4, Subtitle 5 of the Family Law Article and has the powers of a court in equity in those proceedings.

§4–405.

The District Court has exclusive jurisdiction over a small claim action, which, for purposes of this section, means a civil action for money in which the amount claimed does not exceed $5,000 exclusive of interest, costs, and attorney's fees, if attorney's fees are recoverable by law or contract; and landlord tenant action under §§ 8-401 and 8-402 of the Real Property Article, in which the amount of rent claimed does not exceed $5,000 exclusive of interest and costs.

§5–101.

A civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced.

§5–102.

(a) An action on one of the following specialties shall be filed within 12 years after the cause of action accrues, or within 12 years from the date of the death of the last to die of the principal debtor or creditor, whichever is sooner:

(1) Promissory note or other instrument under seal;

(2) Bond except a public officer's bond;

(3) Judgment;

(4) Recognizance;

(5) Contract under seal; or

(6) Any other specialty.

(b) A payment of principal or interest on a specialty suspends the operation of this section as to the specialty for three years after the date of payment.

(c) This section does not apply to:

(1) A specialty taken for the use of the State; or

(2) A deed of trust, mortgage, or promissory note that has been signed under seal and secures or is secured by owner–occupied residential property, as defined in § 7–105.1 of the Real Property Article.

§5–103.

(a) Within 20 years from the date the cause of action accrues, a person shall:

(1) File an action for recovery of possession of a corporeal freehold or leasehold estate in land; or

(2) Enter on the land.

(b) (1) This section does not affect the common-law doctrine of prescription as it applies to the creation of incorporeal interests in land by adverse use.

(2) This section does not affect the periods of limitations set forth in § 6-103 or § 8-107 of the Real Property Article.

§5–104.

(a) An action on a public officer's bond shall be filed within five years from the date of the bond.

(b) The State may sue on a public officer's bond, for its own use, at any time.

§5–105.

An action for assault, libel, or slander shall be filed within one year from the date it accrues.

§5–106.

(a) Except as provided by this section, § 1–303 of the Environment Article, and § 8–1815 of the Natural Resources Article, a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed.

(b) Notwithstanding § 9–103(a)(3) of the Correctional Services Article or any other provision of the Code, if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary or that a person is subject to this subsection:

(1) The State may institute a prosecution for the misdemeanor at any time; and

(2) For purposes of the Maryland Constitution, the person:

(i) Shall be deemed to have committed a misdemeanor whose punishment is confinement in the penitentiary; and

(ii) May reserve a point or question for in banc review as provided under Article IV, § 22 of the Maryland Constitution.

(c) A prosecution under the vehicle code shall be instituted within 2 years after the offense was committed if the charge is:

(1) Unlawfully using a driver's license; or

(2) Fraudulently using a false or fictitious name when applying for a driver's license.

(d) A prosecution for Sabbath breaking or drunkenness shall be instituted within 30 days after the offense was committed.

(e) In Allegany County, a prosecution for selling alcoholic beverages to a person under the legal age for drinking such alcoholic beverages or for selling alcoholic beverages after hours shall be instituted within 30 days after the offense was committed.

(f) A prosecution for the commission of or the attempt to commit a misdemeanor constituting: (1) a criminal offense under the Maryland Public Ethics Law; or (2) criminal malfeasance, misfeasance, or nonfeasance in office committed by an officer of the State, or of an agency of the State, or of a political subdivision of the State, or of a bicounty or multicounty agency in the State shall be instituted within 2 years after the offense was committed.

(g) A prosecution for conspiracy to commit any of the offenses enumerated in subsection (f) of this section shall be instituted within 2 years after the offense was committed.

(h) A prosecution: (1) for the commission of or for the attempt to commit a misdemeanor constituting a criminal offense under the State election laws; or (2) to impose a civil fine for an offense arising under § 13–604 of the Election Law Article shall be instituted within 3 years after the offense was committed.

(i) A petition by the State Ethics Commission to seek a civil fine under § 5–902(b) of the General Provisions Article may not be initiated unless the complaint is filed by the Commission within 3 years from the time the conduct ended.

(j) A prosecution for a welfare offense under §§ 8–501 through 8–504 of the Criminal Law Article shall be instituted within 3 years after the offense was committed.

(k) A prosecution for a misdemeanor offense under Title 8, Subtitle 5, Part II of the Criminal Law Article shall be instituted within 3 years after the offense was committed.

(l) A prosecution for an offense arising under the Tax – General Article with respect to the sales and use, admissions and amusement, financial institution franchise, income, or motor fuel tax shall be instituted within 3 years after the date on which the offense was committed.

(m) A prosecution for the offense of failure to secure workers' compensation insurance in accordance with Title 9, Subtitle 4 of the Labor and Employment Article shall be instituted within 1 year after the State Workers' Compensation Commission finds, by order, that the employer was uninsured or, pursuant to the authority contained in § 9–1003 of the Labor and Employment Article, within 1 year after the Uninsured Employers' Fund makes payment under § 9–1003 of the Labor and Employment Article, as directed by the Commission.

(n) Except as provided in subsection (g) of this section, the statute of limitations for the prosecution of the crime of conspiracy is the statute of limitations for the prosecution of the substantive crime that is the subject of the conspiracy.

(o) A prosecution for an offense under Title 2, Subtitle 5 or § 2–209 of the Criminal Law Article or § 20–102 of the Transportation Article shall be instituted within 3 years after the offense was committed.

(p) A prosecution for an offense of discrimination on the basis of sex in paying wages under §§ 3–301 through 3–308 of the Labor and Employment Article shall be instituted within 3 years after the performance of the act on which the prosecution is based.

(q) A prosecution for an offense under § 5–362, § 5–3A–45, or § 5–3B–32 of the Family Law Article as to unlawfully charging or receiving compensation in connection with adoption shall be instituted within 3 years after the offense was committed.

(r) A prosecution for an offense under § 14–601 of the Health Occupations Article of practicing, attempting to practice, or offering to practice medicine without a

license shall be instituted within 3 years after the offense was committed.

(s) A prosecution for an offense under the Maryland Charitable Solicitations Act (Title 6 of the Business Regulation Article) shall be instituted within 3 years after the offense was committed.

(t) A prosecution for an offense under § 5–140, § 5–141, or § 5–143 of the Public Safety Article, relating to straw sales of regulated firearms to prohibited persons or minors and to illegal sales, rentals, transfers, possession, or receipt of regulated firearms, shall be instituted within 3 years after the offense was committed.

(u) A prosecution for a violation of the fish and fisheries provisions of Title 4 of the Natural Resources Article or the wildlife provisions of Title 10 of the Natural Resources Article shall be instituted within 2 years after commission of the offense.

(v) A prosecution under § 7–302 of the Criminal Law Article relating to computer crimes shall be instituted within 3 years after the offense was committed.

(w) A prosecution for an offense under § 3–605 of the Criminal Law Article relating to abuse or neglect of a vulnerable adult shall be instituted within 2 years after the offense was committed.

(x) A prosecution for a misdemeanor offense under Title 1A, Title 9, or Title 17 of the Health Occupations Article shall be instituted within 3 years after the offense was committed.

(y) A prosecution for a misdemeanor offense under the Insurance Article shall be instituted within 3 years after the offense was committed.

(z) A prosecution for a misdemeanor offense under § 3–308(c) or, if the victim was a minor at the time of the offense, § 3–308(b)(1) of the Criminal Law Article shall be instituted within 3 years after the offense was committed.

(aa) (1) This subsection applies in Anne Arundel County to an offense that:

(i) Occurs in the Chesapeake Bay Critical Area, as defined in § 8–1807 of the Natural Resources Article; and

(ii) Is a violation of a local law that relates to environmental protection or natural resource conservation, including a local law regulating:

1. Grading;

2. Sediment control;

3. Stormwater management;

4. Zoning;

5. Construction; or

6. Health and public safety.

(2) A prosecution for an offense described in paragraph (1) of this subsection shall be instituted within 3 years after the commission of the offense.

(bb) A prosecution for a misdemeanor offense under § 11–208 of the Criminal Law Article shall be instituted within 2 years after the offense was committed.

(cc) A prosecution for a misdemeanor offense under Title 8, Subtitle 7 or § 8–6B–23 of the Health Occupations Article shall be instituted within 3 years after the offense was committed.

(dd) The statute of limitations for the prosecution of an offense under § 4–204 of the Criminal Law Article relating to the use of a firearm in the commission of a crime of violence or felony is the same as the statute of limitations for the underlying crime.

(ee) (1) This subsection applies in Talbot County to an offense that:

(i) Occurs in the Chesapeake Bay Critical Area, as defined in § 8–1807 of the Natural Resources Article; and

(ii) Is a violation of a local law that relates to environmental protection or natural resource conservation, including a local law regulating:

1. Grading;

2. Sediment control;

3. Stormwater management;

4. Zoning;

5. Construction; or

6. Health and public safety.

(2) A criminal prosecution or a suit for a civil penalty for an offense described in paragraph (1) of this subsection shall be instituted within 3 years after the local authorities in fact knew or reasonably should have known of the violation.

§5–107.

Except as provided in § 5–106 of this subtitle, § 1–303 of the Environment Article, and § 8–1815 of the Natural Resources Article, a prosecution or suit for a fine, penalty, or forfeiture shall be instituted within one year after the offense was committed.

§5–108.

(a) Except as provided by this section, no cause of action for damages accrues and a person may not seek contribution or indemnity for damages incurred when wrongful death, personal injury, or injury to real or personal property resulting from the defective and unsafe condition of an improvement to real property occurs more than 20 years after the date the entire improvement first becomes available for its intended use.

(b) Except as provided by this section, a cause of action for damages does not accrue and a person may not seek contribution or indemnity from any architect, professional engineer, or contractor for damages incurred when wrongful death, personal injury, or injury to real or personal property, resulting from the defective and unsafe condition of an improvement to real property, occurs more than 10 years after the date the entire improvement first became available for its intended use.

(c) Upon accrual of a cause of action referred to in subsections (a) and (b) of this section, an action shall be filed within 3 years.

(d) (1) In this subsection, "supplier" means any individual or entity whose principal business is the supply, distribution, installation, sale, or resale of any product that causes asbestos-related disease.

(2) This section does not apply if:

(i) The defendant was in actual possession and control of the property as owner, tenant, or otherwise when the injury occurred;

(ii) In a cause of action against a manufacturer or supplier for damages for personal injury or death caused by asbestos or a product that contains asbestos, the injury or death results from exposure to asbestos dust or fibers which are shed or emitted prior to or in the course of the affixation, application, or installation of the asbestos or the product that contains asbestos to an improvement to real property;

(iii) In other causes of action for damages for personal injury or death caused by asbestos or a product that contains asbestos, the defendant is a manufacturer of a product that contains asbestos; or

(iv) In a cause of action for damages for injury to real property that results from a defective and unsafe condition of an improvement to real property:

1. The defendant is a manufacturer of a product that contains asbestos;

2. The damages to an improvement to real property are caused by asbestos or a product that contains asbestos;

3. The improvement first became available for its intended use

after July 1, 1953;

4. The improvement:

A. Is owned by a governmental entity and used for a public purpose; or

B. Is a public or private institution of elementary, secondary, or higher education; and

5. The complaint is filed by July 1, 1993.

(e) A cause of action for an injury described in this section accrues when the injury or damage occurs.

§5–109.

(a) An action for damages for an injury arising out of the rendering of or failure to render professional services by a health care provider, as defined in § 3-2A-01 of this article, shall be filed within the earlier of:

(1) Five years of the time the injury was committed; or

(2) Three years of the date the injury was discovered.

(b) Except as provided in subsection (c) of this section, if the claimant was under the age of 11 years at the time the injury was committed, the time limitations prescribed in subsection (a) of this section shall commence when the claimant reaches the age of 11 years.

(c) (1) The provisions of subsection (b) of this section may not be applied to an action for damages for an injury:

(i) To the reproductive system of the claimant; or

(ii) Caused by a foreign object negligently left in the claimant's body.

(2) In an action for damages for an injury described in this subsection, if the claimant was under the age of 16 years at the time the injury was committed, the time limitations prescribed in subsection (a) of this section shall commence when the claimant reaches the age of 16 years.

(d) For the purposes of this section, the filing of a claim with the Health Care Alternative Dispute Resolution Office in accordance with § 3-2A-04 of this article shall be deemed the filing of an action.

(e) The provisions of § 5-201 of this title that relate to a cause of action of a minor may not be construed as limiting the application of subsection (b) or (c) of this section.

(f) Nothing contained in this section may be construed as limiting the application of the provisions of:

(1) § 5-201 of this title that relate to a cause of action of a mental incompetent; or

(2) § 5-203 of this title.

§5–110.

An action to enforce any criminal or civil liability created under Title 4 of the General Provisions Article may be brought within two years from the date on which the cause of action arises, except that if the defendant has materially and willfully misrepresented any information required under those sections to be disclosed to a person and the information so misrepresented is material to the establishment of liability of the defendant to the person under those sections, the action may be brought at any time within two years after discovery by the person of the misrepresentation.

§5–111.

A proceeding to hold a person in contempt of court for the person's default in payment of periodic child or spousal support under the terms of a court order shall be commenced within 3 years of the date each installment of support became due and remained unpaid.

§5–112.

No cause of action for damages accrues and a person may not seek contribution or indemnity for damages incurred for an error in a survey of land unless an action for damages is brought within 10 years of the survey, or within 3 years after the discovery of the error, whichever occurs first.

§5–113.

(a) In this section, "occupational disease" means a disease caused by exposure to any toxic substance in a place of employment and contracted during the course of employment.

(b) An action for damages arising out of an occupational disease shall be filed within 3 years of the discovery of facts from which it was known or reasonably should have been known that an occupational disease was the proximate cause of death, but in any event not later than 10 years from the date of death.

(c) As used in subsection (b) of this section, "proximate cause" means that the occupational disease was a substantial contributing cause of the death of the plaintiff's decedent.

§5–114.

(a) (1) In this section the following words have the meanings indicated.

(2) "Building permit" or "permit" includes a site plan and other documentation submitted in support of an application for a building permit and providing the basis for the issuance of the building permit.

(3) "Governmental entity" includes:

(i) The State;

(ii) A local government; and

(iii) An officer, office, department, agency, board, commission, or other unit of State or local government.

(4) "Highway" means any way or thoroughfare, whether or not the way or thoroughfare has been dedicated to the public or a dedication has been accepted.

(5) "Local government" means:

(i) A charter county as defined in § 1–101 of the Local Government Article;

(ii) A code county as defined in § 1–101 of the Local Government Article;

(iii) A board of county commissioners;

(iv) Baltimore City;

(v) A municipality as defined in § 1–101 of the Local Government Article;

(vi) A special taxing district; or

(vii) Any other political subdivision.

(6) (i) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(ii) "Person" does not include a governmental entity.

(7) "Property line" means the line marking the boundary between 2 separate lots or parcels of property.

(8) "Setback line" means the distance from a curb or shoulder of a highway,

edge of a sidewalk, or property line beyond which any portion of a building or structure may not extend.

(9) "Setback line restriction" means a setback line established by:

(i) A law, ordinance, or regulation, including a building or zoning law, ordinance, or regulation; or

(ii) An instrument, however denominated.

(b) (1) A person may not initiate an action or proceeding arising out of a failure of a building or structure to comply with a setback line restriction more than 3 years after the date on which the violation first occurred.

(2) A governmental entity may not initiate an action or proceeding arising out of a failure of a building or structure to comply with a setback line restriction more than 3 years after the date on which the violation first occurred if the building or structure was constructed or reconstructed:

(i) In compliance with an otherwise valid building permit, except that the building permit wrongfully permitted the building or structure to violate a setback line restriction; or

(ii) Under a valid building permit, and the building or structure failed to comply with a setback line restriction accurately reflected in the permit.

(3) For purposes of paragraph (2)(i) of this subsection and notwithstanding any other provision of State or local law to the contrary, a building permit that was otherwise validly issued, except that the permit wrongfully permitted the building or structure to violate a setback line restriction, shall be considered a valid building permit.

(4) For purposes of paragraph (2) of this subsection, the date on which the violation first occurred shall be deemed to be the date on which the final building inspection was approved.

(c) Notwithstanding any provision to the contrary in a deed or other written instrument, a failure to comply with a setback line restriction may not cause a forfeiture or reversion of title.

(d) This section may not be construed to abrogate or affect the defense of laches or any other defense that a person may have to an action or proceeding for a violation of a setback line restriction.

§5–115.

(a) (1) In this section the following words have the meanings indicated.

(2) "Foreign jurisdiction" means a state, other than this State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a foreign country.

(3) (i) "Manufacturer" means a designer, assembler, fabricator, constructor, compounder, producer, or processor of a product or its component parts.

(ii) "Manufacturer" includes an individual or entity not otherwise a manufacturer that imports a product or otherwise holds itself out as a manufacturer.

(4) "Product" means a tangible article, including attachments, accessories, and component parts, and accompanying labels, warnings, instructions, and packaging.

(5) "Seller" means a wholesaler, distributor, retailer, or other individual or entity other than a manufacturer that is regularly engaged in the selling of a product whether the sale is for resale by the purchaser or is for sale to or consumption by the ultimate consumer.

(b) If a cause of action against a manufacturer or seller of a product for personal injury allegedly caused by a defective product arose in a foreign jurisdiction and by the laws of that jurisdiction the cause of action may not be maintained by reason of a lapse of time, an action may not be maintained in this State, except in favor of one who is a resident of this State.

(c) This section may not be applied to a cause of action:

(1) That was precluded, for any period of time, from being filed before July 1, 1991 by operation of law or a court order; or

(2) For wrongful death described under Title 3, Subtitle 9 of this article.

§5–116.

(a) An action for damages for an injury or death caused by the effects of a breast implant or breast implant materials shall be filed within the later of:

(1) 180 days after the date of completion of any opt-out period in a class action in which the claimant is a member of the class, including an opt-out period provided for in a settlement agreement;

(2) 180 days after the completion of any nonbinding mediation in a class action in which the claimant is a member of the class; or

(3) A period of limitations that would otherwise apply.

(b) This section does not apply to an action for medical injuries subject to the provisions of Title 3, Subtitle 2A of this article.

§5–117.

(a) In this section, "sexual abuse" has the meaning stated in § 5-701 of the Family Law Article.

(b) An action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor shall be filed within 7 years of the date that the victim attains the age of majority.

§5–118.

For the purposes of this subtitle, the filing of a complaint with the Maryland Insurance Administration in accordance with § 27–1001 of the Insurance Article shall be deemed the filing of an action under § 3–1701 of this article.

§5–119.

(a) (1) This section does not apply to a voluntary dismissal of a civil action or claim by the party who commenced the action or claim.

(2) This section applies only to a civil action or claim that is dismissed once for failure to file a report in accordance with § 3–2A–04(b)(3) of this article.

(b) If a civil action or claim is commenced by a party within the applicable period of limitations and is dismissed without prejudice, the party may commence a new civil action or claim for the same cause against the same party or parties on or before the later of:

(1) The expiration of the applicable period of limitations;

(2) 60 days from the date of the dismissal; or

(3) August 1, 2007, if the action or claim was dismissed on or after November 17, 2006, but before June 1, 2007.

§5–201.

(a) When a cause of action subject to a limitation under Subtitle 1 of this title or Title 3, Subtitle 9 of this article accrues in favor of a minor or mental incompetent, that person shall file his action within the lesser of three years or the applicable period of limitations after the date the disability is removed.

(b) This section does not apply if the statute of limitations has more than three years to run when the disability is removed.

(c) Imprisonment, absence from the State, or marriage are not disabilities which extend the statute of limitations.

§5–202.

If a debtor files a petition in insolvency which is later dismissed, the time between the filing and the dismissal is not included in determining whether a claim against the debtor is barred by the statute of limitations.

§5–203.

If the knowledge of a cause of action is kept from a party by the fraud of an adverse party, the cause of action shall be deemed to accrue at the time when the party discovered, or by the exercise of ordinary diligence should have discovered the fraud.

§5–203.1.

(a) This section applies only to a survival cause of action arising from conduct that constitutes a criminal homicide under State or federal law.

(b) If knowledge of a cause of action concerning a homicide or the identity of a person who contributed to the homicide is kept from a party by the conduct of an adverse party or an accessory or accomplice of an adverse party:

(1) The cause of action shall be deemed to accrue at the time the party discovered or should have discovered by the exercise of ordinary diligence the homicide and the identity of the person who contributed to the homicide; and

(2) A presumption shall exist that the party should have discovered by the exercise of ordinary diligence the identity of the person who contributed to the homicide after:

(i) A charging document is filed against the person alleged to have participated in the homicide; and

(ii) The charging document is unsealed and available to the public.

§5–204.

A foreign corporation or foreign limited partnership required by law to qualify or register to do business in the State or a person claiming under the foreign corporation or foreign limited partnership, may not benefit from any statute of limitations in an action at law or suit in equity:

(1) Arising out of a contract made or liability incurred by the foreign corporation or foreign limited partnership while doing business without having qualified or registered; or

(2) Instituted while the foreign corporation or foreign limited partnership is doing intrastate or interstate or foreign business in the State without having qualified or registered.

§5–205.

(a) A person who absents himself from the State or removes from county to county after contracting a debt, so that his creditor may be uncertain of finding the person or his property, may not have the benefit of any limitation contained in this title, but this subsection does not prohibit a person from removing himself or his family from one county to another for reasons of convenience nor does it deprive any person leaving the State for the time limited in this subsection of the benefits of any statute of limitations if he leaves sufficient and known effects for the payment of his just debts in the hands of some person who will assume the payment of them to his creditors.

(b) A person who is absent from the State when a cause of action accrues against him may not benefit from a statute of limitation if the plaintiff files the action within the normal limitations period after the defendant returns to the State.

§5–301.

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

(b) "Actual malice" means ill will or improper motivation.

(c) (1) "Employee" means any person who was employed by a local government at the time of the act or omission giving rise to potential liability against that person.

(2) "Employee" includes:

(i) Any employee, either within or without a classified service or merit system;

(ii) An appointed or elected official; or

(iii) A volunteer who, at the request of the local government, and under its control and direction, was providing services or performing duties.

(d) "Local government" means:

(1) A charter county as defined in § 1–101 of the Local Government Article;

(2) A code county as defined in § 1–101 of the Local Government Article;

(3) A board of county commissioners;

(4) Baltimore City;

(5) A municipality as defined in § 1–101 of the Local Government Article;

(6) The Maryland–National Capital Park and Planning Commission;

(7) The Washington Suburban Sanitary Commission;

(8) The Northeast Maryland Waste Disposal Authority;

(9) A community college or board of trustees for a community college established or operating under Title 16 of the Education Article, not including Baltimore City Community College;

(10) A county public library or board of trustees of a county public library established or operating under Title 23, Subtitle 4 of the Education Article;

(11) The Enoch Pratt Free Library or Board of Trustees of the Enoch Pratt Free Library;

(12) The Washington County Free Library or the Board of Trustees of the Washington County Free Library;

(13) A special taxing district;

(14) A nonprofit community service corporation incorporated under State law that is authorized to collect charges or assessments;

(15) Housing authorities created under Division II of the Housing and Community Development Article;

(16) A sanitary district, sanitary commission, metropolitan commission, or other sewer or water authority established or operating under public local law or public general law;

(17) The Baltimore Metropolitan Council;

(18) The Howard County Economic Development Authority;

(19) The Howard County Mental Health Authority;

(20) A commercial district management authority established by a county or municipal corporation if provided under local law;

(21) The Baltimore City Police Department;

(22) A regional library resource center or a cooperative library corporation established under Title 23, Subtitle 2 of the Education Article;

(23) Lexington Market, Inc., in Baltimore City;

(24) The Baltimore Public Markets Corporation, in Baltimore City;

(25) The nonprofit corporation serving as the local public transportation authority for Carroll County pursuant to a contract or memorandum of understanding

with Carroll County (Carroll County Senior Overland Service, Inc., t/a Carroll Area Transit System);

(26) The nonprofit corporation serving as the animal control and licensing authority for Carroll County pursuant to a contract or memorandum of understanding with Carroll County (the Humane Society of Carroll County, Inc.);

(27) Garrett County Municipalities, Inc., in Garrett County;

(28) The nonprofit corporation serving as the local public transportation authority for Garrett County pursuant to a contract or memorandum of understanding with Garrett County (Garrett County Community Action Committee, Inc.); and

(29) The nonprofit corporation serving as the industrial development authority of Carroll County established under Title 12, Subtitle 1 of the Economic Development Article.

§5–302.

(a) Each local government shall provide for its employees a legal defense in any action that alleges damages resulting from tortious acts or omissions committed by an employee within the scope of employment with the local government.

(b) (1) Except as provided in paragraph (2) of this subsection, a person may not execute against an employee on a judgment rendered for tortious acts or omissions committed by the employee within the scope of employment with a local government.

(2) (i) An employee shall be fully liable for all damages awarded in an action in which it is found that the employee acted with actual malice.

(ii) In such circumstances the judgment may be executed against the employee and the local government may seek indemnification for any sums it is required to pay under § 5-303(b)(1) of this subtitle.

(c) If the injury sustained is compensable under the Maryland Workers' Compensation Act, an employee may not sue a fellow employee for tortious acts or omissions committed within the scope of employment.

(d) (1) The rights and immunities granted to an employee are contingent on the employee's cooperation in the defense of any action.

(2) If the employee does not cooperate, the employee forfeits any and all rights and immunities accruing to the employee under subsection (b) of this section.

§5–303.

(a) (1) Subject to paragraph (2) of this subsection, the liability of a local government may not exceed $200,000 per an individual claim, and $500,000 per total

claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising under subsection (b) of this section and indemnification under subsection (c) of this section.

(2) The limits on liability provided under paragraph (1) of this subsection do not include interest accrued on a judgment.

(b) (1) Except as provided in subsection (c) of this section, a local government shall be liable for any judgment against its employee for damages resulting from tortious acts or omissions committed by the employee within the scope of employment with the local government.

(2) A local government may not assert governmental or sovereign immunity to avoid the duty to defend or indemnify an employee established in this subsection.

(c) (1) A local government may not be liable for punitive damages.

(2) (i) Subject to subsection (a) of this section and except as provided in subparagraph (ii) of this paragraph, a local government may indemnify an employee for a judgment for punitive damages entered against the employee.

(ii) A local government may not indemnify a law enforcement officer for a judgment for punitive damages if the law enforcement officer has been found guilty under § 3-108 of the Public Safety Article as a result of the act or omission giving rise to the judgment, if the act or omission would constitute a felony under the laws of this State.

(3) A local government may not enter into an agreement that requires indemnification for an act or omission of an employee that may result in liability for punitive damages.

(d) Notwithstanding the provisions of subsection (b) of this section, this subtitle does not waive any common law or statutory defense or immunity in existence as of June 30, 1987, and possessed by an employee of a local government.

(e) A local government may assert on its own behalf any common law or statutory defense or immunity in existence as of June 30, 1987, and possessed by its employee for whose tortious act or omission the claim against the local government is premised and a local government may only be held liable to the extent that a judgment could have been rendered against such an employee under this subtitle.

(f) (1) Lexington Market, Inc., in Baltimore City, and its employees, may not raise as a defense a limitation on liability described under § 5–406 of this title.

(2) Baltimore Public Markets Corporation, in Baltimore City, and its employees, may not raise as a defense a limitation on liability described under § 5–406 of this title.

§5–304.

(a) This section does not apply to an action against a nonprofit corporation described in § 5–301(d)(23), (24), (25), (26), (28), or (29) of this subtitle or its employees.

(b) (1) Except as provided in subsections (a) and (d) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 180 days after the injury.

(2) The notice shall be in writing and shall state the time, place, and cause of the injury.

(c) (1) The notice required under this section shall be given in person or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, by the claimant or the representative of the claimant.

(2) Except as otherwise provided, if the defendant local government is a county, the notice required under this section shall be given to the county commissioners or county council of the defendant local government.

(3) If the defendant local government is:

(i) Baltimore City, the notice shall be given to the City Solicitor;

(ii) Howard County or Montgomery County, the notice shall be given to the County Executive; and

(iii) Anne Arundel County, Baltimore County, Harford County, or Prince George's County, the notice shall be given to the county solicitor or county attorney.

(4) For any other local government, the notice shall be given to the corporate authorities of the defendant local government.

(d) Notwithstanding the other provisions of this section, unless the defendant can affirmatively show that its defense has been prejudiced by lack of required notice, upon motion and for good cause shown the court may entertain the suit even though the required notice was not given.

§5–401.

(a) (1) A covenant, promise, agreement, or understanding in, or in connection with or collateral to, a contract or agreement relating to architectural, engineering, inspecting, or surveying services, or the construction, alteration, repair, or maintenance of a building, structure, appurtenance or appliance, including moving, demolition, and excavating connected with those services or that work, purporting to indemnify the promisee against liability for damages arising out of bodily injury to any person or

damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, or the agents or employees of the promisee or indemnitee, is against public policy and is void and unenforceable.

(2) This subsection does not affect the validity of any insurance contract, workers' compensation, any general indemnity agreement required by a surety as a condition of execution of a bond for a construction or other contract, or any other agreement issued by an insurer.

(b) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Motor carrier" has the meaning stated in § 11–134.2 of the Transportation Article.

(iii) 1. "Motor carrier transportation contract" means a contract, agreement, or understanding concerning:

A. The transportation of property for compensation or hire by a motor carrier;

B. The entrance on property by a motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or

C. A service incidental to an activity described in item A or B of this subsubparagraph, including storage of property.

2. "Motor carrier transportation contract" does not include:

A. The Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as amended by the Intermodal Interchange Executive Committee; or

B. Other agreements providing for the interchange, use, or possession of intermodal chassis, containers, or other intermodal equipment.

(iv) "Promisee" includes an agent, employee, servant, or independent contractor who is directly responsible to the promisee, other than a motor carrier that is a party to a motor carrier transportation contract with the promisee, and an agent, employee, servant, or independent contractor directly responsible to that motor carrier.

(2) Notwithstanding any other provision of law, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the promisee against liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against public policy and is void and unenforceable.

§5–401.1.

(a) (1) A release of the claim of an injured individual for damages resulting from a tort, signed by the injured individual within 30 days of the infliction of the injuries without the assistance or guidance of an attorney at law, and any power of attorney to or contract of employment with an attorney at law, with reference to recovery of damages for the tort, signed by the individual within 30 days after the infliction of the injuries, shall be voidable at the option of the injured individual within 60 days after the day on which the individual signed the document.

(2) (i) Notice that a release is voided under this subsection by the injured individual shall be:

1. In writing; and

2. Accompanied by the return of any money paid to the injured individual as a result of the signing of the release.

(ii) The release is void from the date that the notice is mailed.

(b) A person whose interest is or may become adverse to an injured individual who is confined to a hospital or sanitarium as a patient may not, within 15 days from the date of the occurrence causing the patient's injury:

(1) Negotiate or attempt to negotiate a settlement with the patient;

(2) Obtain or attempt to obtain a general release of liability from the patient; or

(3) Obtain or attempt to obtain any statement, either written or oral from the patient, for use in negotiating a settlement or obtaining a release.

(c) Any settlement agreement entered into or any general release of liability made by any individual who is confined in a hospital or sanitarium after the individual incurs a personal injury may not be used in evidence in any court action relating to the injury and may not be used for any purpose in any legal action in connection with the injury if the settlement agreement or release is obtained contrary to the provisions of subsection (b) of this section.

(d) A release executed by an individual who has sustained personal injuries does not discharge a subsequent tort–feasor:

(1) Who is not a party to the release; and

(2) (i) Whose responsibility for the individual's injuries is unknown at the time of execution of the release; or

(ii) Who is not specifically identified in the release.

§5–402.

(a) A merchant or an agent or employee of the merchant who detains or causes the arrest of any person shall not be held civilly liable for detention, slander, malicious prosecution, false imprisonment, or false arrest of the person detained or arrested, whether the detention or arrest takes place by the merchant or by his agent or employee, if in detaining or in causing the arrest of the person, the merchant or the agent or employee of the merchant had, at the time of the detention or arrest, probable cause to believe that the person committed the crime of "theft," as prohibited by § 7-104 of the Criminal Law Article, of property of the merchant from the premises of the merchant.

(b) An owner or lessee of a motion picture theater or an agent or employee of the owner or lessee who detains or causes the arrest of any person may not be held civilly liable for detention, defamation, malicious prosecution, false imprisonment, or false arrest of the person detained or arrested, if in detaining or causing the arrest of the person, the owner, lessee, agent, or employee had, at the time of the detention or arrest, probable cause to believe that the person committed in the motion picture theater a violation of § 7-308(e) of the Criminal Law Article.

§5–403.

(a) (1) In this section the following words have the meanings indicated.

(2) "Agricultural operation" means an operation for the processing of agricultural crops or on–farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised, or cultivated by the farmer.

(3) (i) "Commercial fishing or seafood operation" means an operation for the harvesting, storage, processing, marketing, sale, purchase, trade, or transport of any seafood product.

(ii) "Commercial fishing or seafood operation" includes the delivery, storage, and maintenance of equipment and supplies and charter boat fishing and related arrival and departure activities, equipment, and supplies.

(4) Notwithstanding § 5–101 of the Natural Resources Article, "silvicultural operation" means implementation of forestry practices, including the establishment, composition, growth, and harvesting of trees.

(b) (1) This section does not:

(i) Prohibit a federal, State, or local government from enforcing health, environmental, zoning, or any other applicable law;

(ii) Relieve any agricultural, silvicultural, or commercial fishing or seafood operation from the responsibility of complying with the terms of any applicable

federal, State, and local permit required for the operation;

(iii) Relieve any agricultural, silvicultural, or commercial fishing or seafood operator from the responsibility to comply with any federal, State, or local health, environmental, and zoning requirement; or

(iv) Relieve any agricultural, silvicultural, or commercial fishing or seafood operation from liability for conducting an agricultural or a commercial fishing or seafood operation in a negligent manner.

(2) This section does not apply to:

(i) Any agricultural operation that is operating without a fully and demonstrably implemented nutrient management plan for nitrogen and phosphorus if otherwise required by law; or

(ii) Any commercial fishing or seafood operation that is not in compliance with applicable federal, State, and local laws.

(c) If an agricultural, a silvicultural, or a commercial fishing or seafood operation has been under way for a period of 1 year or more and if the operation is in compliance with applicable federal, State, and local health, environmental, zoning, and permit requirements relating to any nuisance claim and is not conducted in a negligent manner:

(1) The operation, including any sight, noise, odors, dust, or insects resulting from the operation, may not be deemed to be a public or private nuisance; and

(2) A private action may not be sustained on the grounds that the operation interferes or has interfered with the use or enjoyment of other property, whether public or private.

(d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a person who is engaged in an agricultural, a silvicultural, or a commercial fishing or seafood operation.

(2) This section does not affect, and may not be construed as affecting, any defenses available at common law to a defendant who is engaged in an agricultural, a silvicultural, or a commercial fishing or seafood operation and subject to an action for nuisance.

(e) (1) This subsection does not apply to an action brought by a government agency.

(2) If a local agency is authorized to hear a nuisance complaint against an agricultural or a commercial fishing or seafood operation, a person may not bring a nuisance action against an agricultural or a commercial fishing or seafood operation in

any court until:

(i) The person has filed a complaint with the local agency; and

(ii) The local agency has made a decision or recommendation on the complaint.

(3) A decision of a local agency on a nuisance complaint against a commercial fishing or seafood operation may be appealed to a circuit court in accordance with Title 7, Chapter 200 of the Maryland Rules.

(4) If there is no local agency authorized to hear a nuisance complaint against an agricultural operation, a person may not bring a nuisance action against an agricultural operation in any court until:

(i) The person has referred a complaint to the State Agricultural Mediation Program in the Department of Agriculture under Title 1, Subtitle 1A of the Agriculture Article; and

(ii) The Department certifies that mediation has been concluded.

§5–403.1.

(a) In this section, "sport shooting range" means an area designed and used for trapshooting, skeetshooting, or other target shooting.

(b) This section applies only to private nuisance actions and does not apply to public nuisance actions.

(c) If there has been no shooting activity at a sport shooting range for a period of 3 consecutive years, the date of resumption of shooting activity is considered the date of the establishment of a sport shooting range for purposes of this section.

(d) (1) Except as provided in paragraph (2) of this subsection, a person may not bring a civil nuisance action for noise against a person who owns, operates, or uses a sport shooting range located within the vicinity of the property of the person bringing the action if the sport shooting range was established as of the date the person acquired the property.

(2) This section may not be construed to limit a nuisance action against a sport shooting range established on or after June 1, 1997.

§5–404.

(a) (1) In this section the following words have the meanings indicated.

(2) "Agent of a charitable organization" means a person who:

(i) Is or was a director, officer, or employee of a charitable

organization; or

(ii) On a volunteer basis, is or was providing services or performing duties on behalf of a charitable organization.

(3) "Charitable organization" means an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(4) "Farmer" means a person, including a corporation, who engages in an activity conducted solely or primarily for the production of a farm product.

(5) "Farm product" has the meaning stated in § 10-601 of the Agriculture Article.

(6) "Glean" means:

(i) To harvest or collect farm products from the fields of a farmer who grants access to the fields without charging a fee; and

(ii) To distribute the farm products to needy individuals, including unemployed and low-income individuals.

(b) Except as provided in subsection (c) of this section, a farmer is not personally liable for damages in a civil action brought against the farmer for injury to a person or property by a charitable organization or an agent of a charitable organization that the farmer permitted to glean on the farmer's property.

(c) This section does not limit any liability that otherwise exists for willful or malicious failure to guard or warn against any dangerous condition, use, structure, or activity.

§5–405.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Manufacturer" means a designer, assembler, fabricator, constructor, compounder, producer, or processor of any product or its component parts.

(ii) "Manufacturer" includes an entity not otherwise a manufacturer that imports a product or otherwise holds itself out as a manufacturer.

(3) "Product" means any tangible article, including attachments, accessories and component parts, and accompanying labels, warnings, instructions, and packaging.

(4) "Sealed container" means a box, container, package, wrapping, encasement, or housing of any nature that covers a product so that it would be

unreasonable to expect a seller to detect or discover the existence of a dangerous or defective condition in the product. A product shall be deemed to be in a sealed container if the product, by its nature and design, is encased or sold in any other manner making it unreasonable to expect a seller to detect or discover the existence of a dangerous or defective condition.

(5) (i) "Seller" means a wholesaler, distributor, retailer, or other individual or entity other than a manufacturer that is regularly engaged in the selling of a product whether the sale is for resale by the purchaser or is for use or consumption by the ultimate consumer.

(ii) "Seller" includes a lessor or bailor regularly engaged in the business of the lease or bailment of the product.

(b) It shall be a defense to an action against a seller of a product for property damage or personal injury allegedly caused by the defective design or manufacture of a product if the seller establishes that:

(1) The product was acquired and then sold or leased by the seller in a sealed container or in an unaltered form;

(2) The seller had no knowledge of the defect;

(3) The seller in the performance of the duties he performed or while the product was in his possession could not have discovered the defect while exercising reasonable care;

(4) The seller did not manufacture, produce, design, or designate the specifications for the product which conduct was the proximate and substantial cause of the claimant's injury; and

(5) The seller did not alter, modify, assemble, or mishandle the product while in the seller's possession in a manner which was the proximate and substantial cause of the claimant's injury.

(c) The defense provided in subsection (b) of this section is not available if:

(1) The manufacturer is not subject to service of process under the laws of this State or the Maryland Rules;

(2) The manufacturer has been judicially declared insolvent in that the manufacturer is unable to pay its debts as they become due in the ordinary course of business;

(3) The court determines by clear and convincing evidence that the claimant would be unable to enforce a judgment against the product manufacturer;

(4) The claimant is unable to identify the manufacturer;

(5) The manufacturer is otherwise immune from suit; or

(6) The seller made any express warranties, the breach of which were the proximate and substantial cause of the claimant's injury.

(d) (1) Except in an action based on an expressed indemnity agreement, if the seller shows by unrebutted facts that he has satisfied subsection (b) of this section and that subsection (c) of this section does not apply, summary judgment shall be entered in his favor as to the original or third party actions.

(2) Notwithstanding the granting of a motion for summary judgment pursuant to paragraph (1) of this subsection, the seller will thereafter continue to be treated as though he were still a party for all purposes of discovery including the uses thereof.

(3) On a subsequent showing of the occurrence of any condition described in subsection (c) of this section or that one or more of the conditions of subsection (b) of this section did not exist, during the pending litigation, the actions dismissed by summary judgment pursuant to paragraph (1) of this subsection shall be reinstated and are not barred by the passage of time.

§5–406.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Agent of an association or organization" means a director, officer, trustee, employee, or volunteer of an association or organization who provides services or performs duties on behalf of the association or organization.

(ii) "Agent of an association or organization" does not include an independent contractor who provides services or performs duties on behalf of the association or organization on a contractual basis.

(3) "Association or organization" means:

(i) An athletic club;

(ii) A charitable organization;

(iii) A civic league or organization;

(iv) A community association;

(v) A cooperative housing corporation as that term is defined under § 5-6B-01 of the Corporations and Associations Article;

(vi) A council of unit owners of a condominium as that term is defined in § 11-101 of the Real Property Article; or

(vii) A homeowners' association.

(4) "Athletic club" means a club organized and operated exclusively for recreational purposes that is exempt from taxation under § 501(c)(7) of the Internal Revenue Code.

(5) "Charitable organization" means an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(6) "Civic league or organization" means an organization, operated exclusively for the promotion of social welfare, that is exempt from taxation under § 501(c)(4) of the Internal Revenue Code.

(7) "Community association" means a nonprofit association, corporation, or other organization that registers with the Secretary of State under § 7-108 of the State Government Article and:

(i) 1. Is composed of at least 25% of the adult residents of a local community that:

A. Consists of at least 40 households; and

B. Is defined by specific geographic boundaries in the bylaws or charter of the organization;

2. At least annually, requires the payment of dues;

3. Promotes social welfare and general civic improvement; and

4. In the case of a corporation, is in good standing;

(ii) 1. Is composed of at least 100 adult residents, but less than 25% of the adult residents of a local community that:

A. Consists of at least 40 households; and

B. Is defined by specific geographic boundaries in the bylaws or charter of the organization;

2. Was organized on or before January 1, 2000, and has been in continuous operation since that date; and

3. Meets the requirements of item (i)2, 3, and 4 of this paragraph; or

(iii) 1. Is composed of more than one of the organizations described in item (i) or item (ii) of this paragraph; and

2. Each of those organizations meets the requirements of item (i) or item (ii) of this paragraph.

(8) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer on behalf of an association or organization, and that are reimbursed to the volunteer or otherwise paid.

(9) "Homeowners' association" means a nonprofit association, corporation, or other organization comprised of property owners in a subdivision or group of subdivisions whose purpose is to represent the mutual interests of the property owners regarding the construction, protection, and maintenance of the commonly owned or used property and improvements.

(10) "Suit" means any civil action, except any health care malpractice action, brought against an agent of an association or organization or against the association or organization by virtue of the agent's act or omission in providing services or performing duties on behalf of the association or organization.

(11) "Volunteer" means an officer, director, trustee, or other person who provides services or performs duties on behalf of an association or organization without receiving compensation.

(b) Except as provided in subsection (d) of this section, an agent of an association or organization is not personally liable for damages in any suit if:

(1) The association or organization maintains insurance covering liability incurred by the association or organization or its agents, or both, as a result of the acts or omissions of its agents in providing services or performing duties on behalf of the association or organization;

(2) The terms of the insurance policy under which the insurance is maintained provide coverage for the act or omission which is the subject matter of the suit and no meritorious basis exists for the denial of the coverage by the insurance carrier; and

(3) The insurance has:

(i) A limit of coverage of not less than:

1. $200,000 per individual claim, and $500,000 per total claims that arise from the same occurrence; or

2. $750,000 per policy year, and $500,000 per total claims that arise from the same occurrence; and

(ii) 1. If the insurance has a deductible, a deductible amount not greater than $10,000 per occurrence; or

2. If there is coinsurance, a rate of coinsurance not greater than 20 percent.

(c) In suits to which the provisions of subsection (b) of this section apply, the plaintiff may recover damages from the association or organization only to the extent of the applicable limit of insurance coverage including any amount for which the association or organization is responsible as a result of any deductible or coinsurance provisions of such insurance coverage.

(d) An agent of an association or organization shall be liable for damages in any suit in which it is found that the agent acted with malice or gross negligence, to the extent that the judgment for damages exceeds the limits on liability under subsection (c) of this section.

(e) The provisions of this section do not apply to suits brought by the Attorney General upon referral by the Secretary of State in which willful violations of Title 6 of the Business Regulation Article are alleged and proven.

(f) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against an association or organization or an agent of an association or organization.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provision of the Code or available at common law, to which an association or organization or an agent of an association or organization may be entitled.

(g) This section may be cited as the Maryland Associations, Organizations, and Agents Act.

§5–407.

(a) (1) In this section the following words have the meanings indicated.

(2) "Association or organization" means:

(i) A business league;

(ii) A charitable organization;

(iii) A civic league;

(iv) A club;

(v) A labor, agricultural, or horticultural organization; or

(vi) A local association of employees.

(3) "Business league" means a league, chamber of commerce, real estate

board, or board of trade that is exempt from taxation under § 501(c)(6) of the Internal Revenue Code.

(4) "Charitable organization" means an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(5) "Civic league" means an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(4) of the Internal Revenue Code.

(6) "Club" means an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(7) of the Internal Revenue Code.

(7) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer on behalf of an association or organization, and that are reimbursed to the volunteer or otherwise paid.

(8) "Labor, agricultural, or horticultural organization" means an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(5) of the Internal Revenue Code.

(9) "Local association of employees" means an association of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, that is exempt from taxation under § 501(c)(4) of the Internal Revenue Code.

(10) "Suit" means a civil action, including a health care malpractice action filed with the Health Care Alternative Dispute Resolution Office, brought against a volunteer of an association or organization or against the association or organization by virtue of the volunteer's act or omission in providing services or performing duties on behalf of the association or organization.

(11) (i) "Volunteer" means an officer, director, trustee, or other person who provides services or performs duties for an association or organization without receiving compensation.

(ii) In a health care malpractice action, "volunteer" does not include a provider of health care services or an employee who performs duties on behalf of a charitable organization.

(b) A volunteer is not liable in damages beyond the limits of any personal insurance the volunteer may have in any suit that arises from an act or omission of an officer, director, employee, trustee, or another volunteer of the association or organization for which the volunteer performs services, unless:

(1) The volunteer knew or should have known of an act or omission of a particular officer, director, employee, trustee, or another volunteer, and the volunteer authorizes, approves, or otherwise actively participates in that act or omission; or

(2) After an act or omission of a particular officer, director, employee, trustee, or another volunteer, the volunteer, with full knowledge of that act or omission, ratifies it.

(c) A volunteer is not liable in damages beyond the limits of any personal insurance the volunteer may have in any suit that arises from the volunteer's act or omission in connection with any services provided or duties performed by the volunteer on behalf of the association or organization, unless an act or omission of the volunteer constitutes gross negligence, reckless, willful, or wanton misconduct, or intentionally tortious conduct.

(d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a volunteer.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provision of the Code or available at common law, to which a volunteer may be entitled.

(e) The provisions of this section do not apply to suits brought by the Attorney General upon referral by the Secretary of State in which willful violations of Title 6, Subtitles 3, 4, 5, and 6 of the Business Regulation Article are alleged and proven.

(f) This section may be cited as the Maryland Volunteer Service Act.

§5–408.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Credit agreement" means a covenant, promise, undertaking, commitment, or other agreement by a financial institution to:

1. Lend money;

2. Forbear from repayment of money, goods, or things in action;

3. Forbear from collecting or exercising any right to collect a debt; or

4. Otherwise extend credit.

(ii) "Credit agreement" includes agreeing to take or to not take certain actions by a financial institution in connection with an existing or prospective credit agreement.

(3) "Financial institution" means:

(i) A bank;

(ii) A trust company;

(iii) A savings bank;

(iv) A savings and loan association; or

(v) An affiliate or subsidiary of a bank, trust company, savings bank, or savings and loan association.

(b) A credit agreement is not enforceable by way of action or defense unless it:

(1) Is in writing;

(2) Expresses consideration;

(3) Sets forth the relevant terms and conditions of the agreement; and

(4) Is signed by the person against whom its enforcement is sought.

(c) (1) This section applies only to commercial transactions.

(2) This section does not apply to:

(i) Credit agreements made primarily for personal, family, or household purposes; or

(ii) Credit extended by means of, or in connection with, a credit or charge card.

§5–409.

In the absence of fraud no insurance company or person who furnishes information on its behalf is liable for damages in a civil action for any oral or written statement made or any other action taken that is necessary to supply information required under § 9-605 of the Public Safety Article.

§5–410.

(a) Except as provided in subsection (b) of this section, no claim of any nature whatsoever that is directly related to the receivership of an insurer shall arise against, and no liability shall be imposed upon, the Insurance Commissioner, deputy commissioner, special deputy commissioner, or any person or entity acting as a receiver of an insurer, including surety, in rehabilitation, liquidation, or conservation as a result of a court order issued on or after January 1, 1985 for any statement made or actions taken or not taken in the good faith exercise of their powers under law.

(b) The immunity described under subsection (a) of this section may not extend to acts or omissions that are malicious or grossly negligent.

(c) The immunity described under subsection (a) of this section extends to agents and employees of the receiver.

§5–411.

(a) There may not be any liability on the part of or cause of action of any nature against an Association member, the Joint Insurance Association or its agents or employees, the Board of Directors, or the Insurance Commissioner or the Commissioner's representatives for any action taken by them in the performance of their powers and duties under Title 25, Subtitle 4 of the Insurance Article, except:

(1) To the extent that it is proven that any of the entities or individuals specified in this subsection actually received an improper benefit or profit in money, property, or services, for the amount of the benefit or profit in money, property, or services actually received;

(2) To the extent that a judgment or other final adjudication adverse to any of the entities or individuals specified in this section is entered in a proceeding based on a finding in the proceeding that the entity's or individual's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding; or

(3) To the extent that any act of an entity or individual specified in this section was committed in bad faith.

(b) There may not be any liability on the part of or cause of action of any nature against an Association member, the Joint Insurance Association, the governing committee of the Joint Insurance Association, their agents or employees, or the Insurance Commissioner or the Commissioner's authorized representatives for any failure to discover defects in the property inspected or for any statements made in any reports and communications concerning the insurability of the property, or in the findings required by the provisions of Title 25, Subtitle 4 of the Insurance Article or the hearings conducted in connection therewith.

§5–412.

There shall be no liability on the part of and no cause of action of any nature shall arise against a member insurer, the Property and Casualty Insurance Guaranty Corporation or its agents or employees, the Board of Directors, or the Insurance Commissioner or the Commissioner's representatives for any action taken by them in the performance of their powers and duties under Title 9, Subtitle 3 of the Insurance Article.

§5–413.

(a) Except for the payment of assessments as provided under Title 9, Subtitle 4 of the Insurance Article, there shall be no liability on the part of and no cause of action of any nature shall arise against a member insurer or its agents or employees, the Life and Health Insurance Guaranty Corporation or its agents or employees, members of the Board of Directors, or the Insurance Commissioner or representatives of the Commissioner for any action or omission taken by them in the performance of their powers and duties under Title 9, Subtitle 4 of the Insurance Article.

(b) The immunity provided under this section shall apply to the participation in any organization that consists of one or more other State associations or corporations that have purposes similar to the Life and Health Insurance Guaranty Corporation, and to any such organization and its agents or employees.

§5–414.

An association or organization participating or interested in a labor dispute, as those terms are defined under the Labor and Employment Article, or an officer or member of the association or organization, may not be held responsible or liable in a civil action at law or suit in equity, or in any criminal prosecution, for the unlawful acts of individual officers, members, or agents, except on proof by the weight of evidence and without the aid of any presumptions of law or fact, both of:

(1) The doing of the unlawful acts by persons who are officers, members, or agents of the association or organization; and

(2) Actual participation in, actual authorization of, or ratification of, the unlawful acts after actual knowledge of the unlawful acts by the association or organization.

§5–415.

A transportation company or common carrier is not liable for damages for refusing to deliver a colony, as defined under § 5-501 of the Agriculture Article, not accompanied by the documents required under Title 5, Subtitle 5 of the Agriculture Article.

§5–416.

A member of a lawyer counseling committee, defined under § 10-502 of the Business Occupations and Professions Article, who acts in good faith and within the scope of the jurisdiction of the committee is not civilly liable or subject to a disciplinary proceeding for:

(1) An action as a member of the committee; or

(2) Giving information to, participating in, or contributing to the functioning of the committee.

§5–417.

A person who performs the duties of that person in accordance with the standard provided under § 2-405.1 of the Corporations and Associations Article has no liability by reason of being or having been a director of a corporation.

§5–418.

(a) The charter, as defined under § 1-101 of the Corporations and Associations Article, of a Maryland corporation may include any provision expanding or limiting the liability of its directors and officers to the corporation or its stockholders for money damages, but may not include any provision that restricts or limits the liability of its directors or officers to the corporation or its stockholders:

(1) To the extent that it is proved that the person actually received an improper benefit or profit in money, property, or services for the amount of the benefit or profit in money, property, or services actually received;

(2) To the extent that a judgment or other final adjudication adverse to the person is entered in a proceeding based on a finding in the proceeding that the person's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding; or

(3) With respect to any action described in subsection (b) of this section.

(b) This section does not apply to an action brought by or on behalf of a State governmental entity, receiver, conservator, or depositor against a director or officer of:

(1) A banking institution as defined in § 1-101 of the Financial Institutions Article;

(2) A credit union as described in § 6-301 of the Financial Institutions Article;

(3) A savings and loan association as defined in § 8-101 of the Financial Institutions Article; or

(4) A subsidiary of a banking institution, credit union, or savings and loan association described in this subsection.

(c) This section may not be construed to affect the liability of a person in any capacity other than the person's capacity as a director or officer.

§5–419.

(a) Subject to the provisions of subsection (b) of this section, a shareholder or trustee of a real estate investment, defined under Title 8, Subtitle 1 of the Corporations and Associations Article, is not personally liable for the obligations of the real estate

investment trust.

(b) If a trustee otherwise would be liable, the provisions of subsection (a) of this section do not relieve the trustee from any liability to the trust or its security holders for any act that constitutes:

(1) Bad faith;

(2) Willful misfeasance;

(3) Gross negligence; or

(4) Reckless disregard of the trustee's duties.

(c) (1) Except as provided in paragraph (2) of this subsection, the declaration of trust of a real estate investment trust may include any provision expanding or limiting the liability of its trustees and officers to the trust or its shareholders for money damages.

(2) The declaration of trust of a real estate investment trust may not include any provision that restricts or limits the liability of its trustees or officers to the trust or its shareholders:

(i) To the extent that it is proved that the person actually received an improper benefit or profit in money, property, or services, for the amount of the benefit or profit in money, property, or services actually received; or

(ii) To the extent that a judgment or other final adjudication adverse to the person is entered in a proceeding based on a finding in the proceeding that the person's action or failure to act was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding.

(3) This subsection may not be construed to affect the liability of a person in any capacity other than the person's capacity as a trustee or officer of a real estate investment trust.

§5–420.

(a) In this section, "partnership" has the meaning stated in § 9A-101 of the Corporations and Associations Article.

(b) A person who is admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before the person's admission as though the person had been a partner when the obligations were incurred, except that this liability shall be satisfied only out of the property of the partnership.

§5–421.

(a) (1) In this section the following words have the meanings indicated.

(2) "Assignment" has the meaning stated in Title 15, Subtitle 3 of the Estates and Trusts Article.

(3) "Corporation" has the meaning stated in Title 15, Subtitle 3 of the Estates and Trusts Article.

(4) "Fiduciary" has the meaning stated in Title 15, Subtitle 3 of the Estates and Trusts Article.

(5) "Person" has the meaning stated in Title 15, Subtitle 3 of the Estates and Trusts Article.

(6) "Transfer" has the meaning stated in Title 15, Subtitle 3 of the Estates and Trusts Article.

(7) "Transfer agent" has the meaning stated in Title 15, Subtitle 3 of the Estates and Trusts Article.

(b) A person who participates in the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary, including a person who guarantees the signature of the fiduciary, is not liable for participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves a breach unless it is shown that the person acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary or that the transaction was otherwise in breach of duty.

(c) If a corporation or transfer agent makes a transfer under an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent, by reason of this section or Title 15, Subtitle 3 of the Estates and Trusts Article, incurs no liability.

§5–422.

(a) In this section, "governing body" has the meaning stated in § 14-118 of the Real Property Article.

(b) Subject to the provisions of subsection (c) of this section, a person sustaining an injury as a result of the tortious act of an officer or director of a governing body while the officer or director is acting within the scope of the officer's or director's duties may recover only in an action brought against the governing body for the actual damages sustained.

(c) In a proceeding against a governing body, a director or officer of a governing body may not be held personally liable for injuries sustained by a party if the director

or officer:

(1) Acted within the scope of the director's or officer's duties;

(2) Acted in good faith; and

(3) Did not act in a reckless, wanton, or grossly negligent manner.

(d) (1) Except as provided in paragraph (2) of this subsection, a claimant shall name only the governing body as a party defendant.

(2) An officer or director of a governing body may be named individually only when the governing body for which the officer or director was acting cannot be determined at the time an action is instituted under this section.

(3) If an officer or director is named as an individual defendant under this section, the governing body for which the officer or director was acting shall be substituted as the party defendant when its identity reasonably can be determined.

§5–423.

(a) An employer acting in good faith may not be held liable for disclosing any information about the job performance or the reason for termination of employment of an employee or former employee of the employer:

(1) To a prospective employer of the employee or former employee at the request of the prospective employer, the employee, or former employee; or

(2) If requested or required by a federal, State, or industry regulatory authority or if the information is disclosed in a report, filing, or other document required by law, rule, order, or regulation of the regulatory authority.

(b) An employer who discloses information under subsection (a) of this section shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the employer:

(1) Acted with actual malice toward the employee or former employee; or

(2) Intentionally or recklessly disclosed false information about the employee or former employee.

§5–424.

A licensed veterinary practitioner is immune from any civil liability that results from:

(1) The actions of a licensed acupuncturist that practices in accordance with § 2-301(g)(11) of the Agriculture Article;

(2) The actions of a person that:

(i) Is licensed, certified, or otherwise authorized to practice a health occupation under the Health Occupations Article; and

(ii) Is authorized to practice the health occupation on an animal in accordance with § 2-304 of the Agriculture Article; or

(3) A report in good faith of suspected animal cruelty to a local law enforcement or county animal control agency under § 2-304(f) of the Agriculture Article.

§5–425.

(a) (1) In this section the following words have the meanings indicated.

(2) "Building inspection official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(3) "Fire official" means any appointed or elected local official with overall executive responsibility to coordinate fire, rescue, or emergency medical services in the jurisdiction in which a fire, emergency, disaster, or catastrophic event has occurred.

(4) "Law enforcement official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(5) "Public official" means any federal, State, or locally elected official with overall executive responsibility in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(6) "Public safety official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate public safety in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(b) A professional engineer is not personally liable in damages beyond the limits of any applicable insurance or self-insurance for any personal injury, wrongful death, property damage, or other loss caused by an act, error, or omission of the professional engineer while practicing engineering with regard to any structure, building, piping, or other engineered system, either publicly or privately owned, if:

(1) The act, error, or omission was not wanton, willful, intentionally tortious, or grossly negligent; and

(2) The practice of engineering was performed:

(i) Voluntarily and without compensation;

(ii) At the scene of a declared national, State, or local emergency caused by a major earthquake, hurricane, tornado, fire, explosion, collapse, or similar disaster or catastrophic event; and

(iii) At the request of a public official, law enforcement official, public safety official, fire official, or building inspection official, acting in an official capacity.

(c) The immunity provided by this section applies only to the voluntary practice of engineering performed while a declared state of emergency is in effect.

(d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a professional engineer.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provisions of the Code or available at common law, to which a professional engineer may be entitled.

§5–426.

(a) (1) In this section the following words have the meanings indicated.

(2) "Building inspection official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(3) "Fire official" means any appointed or elected local official with overall executive responsibility to coordinate fire, rescue, or emergency medical services in the jurisdiction in which a fire, emergency, disaster, or catastrophic event has occurred.

(4) "Law enforcement official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(5) "Public official" means any federal, State, or locally elected official with overall executive responsibility in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(6) "Public safety official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate public safety in the jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

(b) A licensed architect is not personally liable in damages beyond the limits of any applicable insurance or self-insurance for any personal injury, wrongful death, property damage, or other loss caused by an act, error, or omission of the

licensed architect while practicing architecture with regard to any structure or other architectural design, either publicly or privately owned, if:

(1) The act, error, or omission was not wanton, willful, intentionally tortious, or grossly negligent; and

(2) The practice of architecture was performed:

(i) Voluntarily and without compensation;

(ii) At the scene of a declared national, State, or local emergency caused by a major earthquake, hurricane, tornado, fire, explosion, collapse, or similar disaster or catastrophic event; and

(iii) At the request of a public official, law enforcement official, public safety official, fire official, or building inspection official, acting in an official capacity.

(c) The immunity provided by this section applies only to the voluntary practice of architecture performed while a declared state of emergency is in effect.

(d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a licensed architect.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provisions of the Code or available at common law, to which a licensed architect may be entitled.

§5–501.

A civil or criminal action may not be brought against a city or town councilman, county commissioner, county councilman, or similar official by whatever name known, for words spoken at a meeting of the council or board of commissioners or at a meeting of a committee or subcommittee thereof.

§5–502.

In addition to the provisions contained in this subtitle, provisions governing the immunity of the State, of its units, and of State personnel are found in Title 12 of the State Government Article.

§5–503.

In Montgomery County, the following individuals are not liable to any person for advice or help given in the course of employment in connection with the preparation of a complaint:

(1) A clerk of any court or an employee of a clerk;

(2) The Sheriff or a deputy sheriff; or

(3) An employee of the register of wills.

§5–504.

The Department of Liquor Control for Montgomery County shall be:

(1) Immune from all suits for damages; and

(2) Subject to suit only for the enforcement of contracts made by the Department of Liquor Control for Montgomery County.

§5–505.

The Tri-County Council for Southern Maryland is immune from being sued.

§5–506.

The Tri-County Council for Western Maryland is immune from being sued.

§5–507.

(a) (1) An official of a municipal corporation, while acting in a discretionary capacity, without malice, and within the scope of the official's employment or authority shall be immune as an official or individual from any civil liability for the performance of the action.

(2) An official of a municipal corporation is not immune from liability for negligence or any other tort arising from the operation of a motor vehicle except as to any claim for damages in excess of the limits of any applicable policy of motor vehicle liability insurance.

(b) (1) Subject to paragraph (2) of this subsection, a municipal corporation shall provide a defense for an official of the municipal corporation for any act arising within the scope of the official's employment or authority.

(2) A municipal corporation shall only provide a defense for an official of the municipal corporation for negligence or any other tort arising from the operation of a motor vehicle as to any claim for damages in excess of the limits of any applicable policy of motor vehicle liability insurance.

§5–508.

An officer or director of a public drainage association or public watershed association, while acting in a discretionary capacity, without malice, and within the scope of the officer's or director's employment or authority is immune as an official or individual from civil liability for any act or omission.

§5–509.

(a) In this section, "official" includes a member of the governing body of a special taxing district.

(b) This section applies to a special taxing district that:

(1) Is a unit of government responsible for an area situated solely within a single county;

(2) Has a governing body elected independently of the county government;

(3) Is financed with revenues secured wholly or partly from special taxes or assessments imposed on real property situated in the district;

(4) Performs municipal services for the residents of the district; and

(5) Was not created for a limited or special purpose.

(c) (1) Subject to paragraph (2) of this subsection, an official of a special taxing district, while acting in a discretionary capacity, without malice, and within the scope of the official's authority, is immune in an official or individual capacity from civil liability for any act or omission.

(2) An official of a special taxing district is not immune from liability for negligence or any other tort that arises from the operation of a motor vehicle except as to any claim for damages in excess of the limits of any applicable policy of motor vehicle liability insurance.

(d) (1) Subject to paragraph (2) of this subsection, a special taxing district shall provide a defense for an official of the special taxing district for any act or omission that is without malice and that arises within the scope of the official's authority.

(2) A special taxing district shall provide only a defense for an official of the special taxing district for negligence or any other tort that arises from the operation of a motor vehicle as to any claim for damages in excess of the limits of any applicable policy of motor vehicle liability insurance.

(e) A special taxing district may spend revenues for the purposes specified in this section.

§5–512.

(a) The Maryland-National Capital Park and Planning Commission may raise the defense of partial governmental immunity for any liability exposure:

(1) In excess of insurance limits;

(2) If punitive damages are sought; or

(3) For any other liability exposure not covered by insurance.

(b) Nothing in this section may be construed to be a waiver of the Maryland-National Capital Park and Planning Commission's total governmental immunity.

(c) This section is intended to include all claims pending on June 1, 1978, provided that an insurance policy to cover such liability was in effect at the time the claim accrued.

§5–513.

An action or proceeding may not be prosecuted or maintained against a member of a military court described under Title 13, Subtitle 8 of the Public Safety Article, or an officer or person acting under its authority, or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of a fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court.

§5–514.

Any member of the Financial Review Committee in the Department of Aging acting in good faith and within the scope of the member's duties is immune from civil liability as a result of those acts.

§5–515.

Any member of the Guardianship Advisory Board in the Department of Aging acting in good faith and within the scope of the member's duties is immune from civil liability as a result of those acts.

§5–516.

A county that merely purchases insurance for a lessee or owner of an amusement ride or amusement attraction, under Title 3 of the Business Regulation Article, is immune from liability for personal injury to individuals arising out of the use of the amusement ride or attraction.

§5–517.

(a) A member or employee of a board of supervisors for a soil conservation district is immune from suit in courts of the State and from liability in tort for a tortious act or omission:

(1) That is within the scope of the public duties of the member or employee;

(2) That is made without malice or gross negligence; and

(3) For which the soil conservation district has consented to suit under subsection (b) of this section, even if damages exceed the limits of that consent.

(b) (1) The exclusive remedy for a tortious act or omission, for which a member or employee of a board of supervisors for a soil conservation district is immune from suit or liability under subsection (a) of this section, is a suit brought against the appropriate soil conservation district.

(2) The soil conservation district may not assert the defense of governmental immunity in any suit brought under this section.

(c) The State Insurance Program administered under Title 12 of the State Government Article for purposes of providing coverage under the Maryland Tort Claims Act shall:

(1) Govern the limits of liability in any suit brought under this section; and

(2) Provide funds for the payment of any settlement or judgment entered against the soil conservation district in a suit brought under this section.

§5–518.

(a) (1) In this section the following words have the meanings indicated.

(2) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer for a county board of education, and that are reimbursed to the volunteer or otherwise paid.

(3) "County board employee" means:

(i) Any employee whose compensation is paid in whole or in part by a county board of education; or

(ii) A student teacher.

(4) "County board member" means a duly elected or appointed member of a county board of education.

(5) "Volunteer" means an individual who, at the request of the county board and under its control and direction, provides services or performs duties for the county board without compensation.

(b) A county board of education, described under Title 4, Subtitle 1 of the Education Article, may raise the defense of sovereign immunity to any amount claimed above the limit of its insurance policy or, if self-insured or a member of a pool described under § 4-105(c)(1)(ii) of the Education Article, above $100,000.

(c) A county board of education may not raise the defense of sovereign immunity to any claim of $100,000 or less.

(d) (1) The county board shall be joined as a party to an action against a county board employee, county board member, or volunteer that alleges damages resulting from a tortious act or omission committed by the employee in the scope of employment, by the county board member within the scope of the member's authority, or by the volunteer within the scope of the volunteer's services or duties.

(2) The issue of whether the county board employee acted within the scope of employment may be litigated separately.

(3) The issue of whether the county board member acted within the scope of the member's authority may be litigated separately.

(4) The issue of whether the volunteer acted within the scope of the volunteer's services or duties may be litigated separately.

(e) A county board employee acting within the scope of employment, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board under subsection (b) of this section, including damages that exceed the limitation on the county board's liability.

(f) (1) A county board member, acting within the scope of the member's authority, without malice and gross negligence, is not personally liable for damages resulting from a tortious act or omission for which a limitation of liability is provided for the county board under subsection (b) of this section, including damages that exceed the limitation on the county board's liability.

(2) In addition to the immunity provided under paragraph (1) of this subsection, a county board member is immune as an individual from civil liability for any act or omission if the member is acting:

(i) Within the scope of the member's authority;

(ii) Without malice; and

(iii) In a discretionary capacity.

(g) (1) The provisions of this subsection apply only to a volunteer.

(2) A volunteer who acts within the scope of the volunteer's services or duties is not personally liable for damages resulting from a tortious act or omission beyond the limits of any personal insurance the volunteer may have unless:

(i) The damages were the result of the volunteer's negligent operation of a motor vehicle; or

(ii) The damages were the result of the volunteer's willful, wanton, malicious, reckless, or grossly negligent act or omission.

(3) The limitations on liability contained in this subsection may not be construed or applied to affect any immunities from civil liability or defenses established by any other provision of the Code or available at common law to which the volunteer may be entitled.

(h) Except as provided in subsection (e), (f), or (g) of this section, a judgment in tort for damages against a county board employee acting within the scope of employment, a county board member acting within the scope of the member's authority, or a volunteer acting within the scope of the volunteer's services or duties shall be levied against the county board only and may not be executed against the county board employee, the county board member, or the volunteer personally.

§5–519.

Section 16-107 of the Education Article does not prevent a board of community colleges trustees, described under Title 16, Subtitle 1 of the Education Article, on its own behalf, from raising the defense of sovereign immunity to any amount of a claim in excess of the limit of an insurance policy or in excess of $100,000 in the case of self-insurance.

§5–520.

(a) Notwithstanding any other provision of law, and except as otherwise expressly provided in this section, the State of Maryland Deposit Insurance Fund Corporation shall retain and may raise the defense of sovereign immunity in any action.

(b) Obligations arising out of a written contract executed by the State of Maryland Deposit Insurance Fund on or after May 18, 1985 may be enforced in accordance with Title 12, Subtitle 2 of the State Government Article.

§5–521.

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Business and Economic Development.

(3) "Eligible business" has the meaning stated in § 5–451 of the Economic Development Article.

(4) "Lender" has the meaning stated in § 5–451 of the Economic Development Article.

(b) The Department and the State are not liable to any lender for payment of

the principal or interest on a loan to an eligible business in accordance with § 5–451 of the Economic Development Article.

§5–522.

(a) Immunity of the State is not waived under § 12-104 of the State Government Article for:

(1) Punitive damages;

(2) Interest before judgment;

(3) A claim that arises from the combatant activities of the State Militia during a state of emergency;

(4) Any tortious act or omission of State personnel that:

(i) Is not within the scope of the public duties of the State personnel; or

(ii) Is made with malice or gross negligence;

(5) A claim by an individual arising from a single incident or occurrence that exceeds $200,000; or

(6) A cause of action that law specifically prohibits.

(b) State personnel, as defined in § 12-101 of the State Government Article, are immune from suit in courts of the State and from liability in tort for a tortious act or omission that is within the scope of the public duties of the State personnel and is made without malice or gross negligence, and for which the State or its units have waived immunity under Title 12, Subtitle 1 of the State Government Article, even if the damages exceed the limits of that waiver.

(c) The scope of public duties of State personnel shall include, but not be limited to:

(1) Any authorized use of a State-owned vehicle by State personnel, including, but not limited to, commuting to and from the place of employment; and

(2) Services to third parties performed by State personnel, as defined by § 12-101 of the State Government Article, in the course of participation in an approved clinical training or academic program.

(d) In a contract action under Title 12, Subtitle 2 of the State Government Article, the State and its officers and units are not liable for punitive damages.

§5–523.

(a) In this section, "Comptroller" means the Comptroller of the State.

(b) If, in good faith and with reasonable grounds, the Comptroller or a peace officer of the State seizes contraband property or a conveyance used to transport contraband property under § 13-835 of the Tax - General Article, the Comptroller or peace officer is not civilly or criminally liable for the seizure.

§5–524.

An owner or lessee of any motor vehicle registered under Title 13 of the Transportation Article may not raise the defense of sovereign or governmental immunity, to the extent of benefits provided by the security accepted by the Motor Vehicle Administration under § 17-103 of the Transportation Article, in any judicial proceeding in which the plaintiff claims that personal injury, property damage, or death was caused by the negligent use of the motor vehicle while in government service or performing a task of benefit to the government.

§5–525.

(a) (1) In this section, "constituent service" includes intervention for individuals or entities that have requests of, or grievances against, any public or private entity or individual.

(2) "Constituent service" does not include:

(i) The operation of a motor vehicle or other conveyance; or

(ii) An act or omission that constitutes a criminal offense.

(b) A member of a state legislature, including a member of the General Assembly of Maryland, who, in good faith, provides a constituent service is not civilly liable for any act or omission related to the constituent service and within the scope of the public duties of the member.

(c) This section does not supersede or constitute a waiver of a member's constitutional, statutory, or common law privileges or immunities.

§5–526.

(a) A member of a state legislature, including a member of the General Assembly of Maryland, who makes a communication on behalf of a constituent is not civilly liable for defamation unless the communication is false and made with knowledge of or in reckless disregard of its falsity.

(b) This section does not supersede or constitute a waiver of a member's constitutional, statutory, or common law privileges or immunities.

§5–5A–01.

(a) Except as otherwise provided by State law, a municipal corporation and its officers and units may not raise the defense of sovereign immunity in a court of the State in a contract action based on a written contract executed on behalf of the municipal corporation or its units by an official or employee acting within the scope of the official's or employee's authority.

(b) In a contract action described in subsection (a) of this section, a municipal corporation and its officers and units are not liable for punitive damages.

(c) A claim is barred unless the claimant files suit within the later of 1 year after:

(1) The date on which the claim arose; or

(2) The date of completion of the contract that gave rise to the claim.

(d) The governing body of a municipal corporation shall make available adequate money to satisfy any final judgment, after any right of appeal is exhausted, against the municipal corporation or its officers or units in a contract action under this section.

(e) (1) A municipal corporation may require, in connection with a construction contract to which the municipal corporation is a party, that a dispute regarding the terms of or performance under the contract be subject to a final, binding determination by:

(i) A neutral person selected by, or under a procedure established by, the highest executive authority of the municipal corporation; or

(ii) If the other party to the dispute does not accept as neutral the person selected under item (i) of this paragraph, an arbitration panel composed of:

1. One member designated by the highest executive authority of the municipal corporation;

2. One member designated by the other party to the dispute; and

3. One member to be selected by mutual agreement of the two designated members from lists submitted by the parties to the dispute.

(2) Except as provided in paragraph (3) of this subsection, a municipal corporation may not require, in connection with a construction contract to which the municipal corporation is a party, that a dispute involving at least $10,000 regarding the terms of or performance under the contract be subject to a final, binding determination made by an officer or official body of the municipal corporation.

(3) A municipal corporation may require, in connection with a construction contract to which the municipal corporation is a party, that questions of fact arising from a dispute involving at least $10,000 regarding the terms of or performance under the contract be subject to a determination by an officer or official body of the municipal corporation if the decision of the officer or official body is subject to judicial review on the record.

§5–5A–02.

(a) Except as otherwise provided by State law, a county and its officers and units may not raise the defense of sovereign immunity in a court of the State in a contract action based on a written contract executed on behalf of the county or its units by an official or employee acting within the scope of the official's or employee's authority.

(b) In a contract action described in subsection (a) of this section, a county and its officers and units are not liable for punitive damages.

(c) A claim is barred unless the claimant files suit within the later of 1 year after:

(1) The date on which the claim arose; or

(2) The date of completion of the contract that gave rise to the claim.

(d) The governing body of a county shall make available adequate money to satisfy any final judgment, after any right of appeal is exhausted, against the county or its officers or units in a contract action under this section.

(e) (1) A county may require, in connection with a construction contract to which the county is a party, that a dispute regarding the terms of or performance under the contract be subject to a final, binding determination by:

(i) A neutral person selected by, or under a procedure established by, the highest executive authority of the county; or

(ii) If the other party to the dispute does not accept as neutral the person selected under item (i) of this paragraph, an arbitration panel composed of:

1. One member designated by the highest executive authority of the county;

2. One member designated by the other party to the dispute; and

3. One member to be selected by mutual agreement of the two designated members from lists submitted by the parties to the dispute.

(2) Except as provided in paragraph (3) of this subsection, a county may

not require, in connection with a construction contract to which the county is a party, that a dispute involving at least $10,000 regarding the terms of or performance under the contract be subject to a final, binding determination made by an officer or official body of the county.

(3) A county may require, in connection with a construction contract to which the county is a party, that questions of fact arising from a dispute involving at least $10,000 regarding the terms of or performance under the contract be subject to a determination by an officer or official body of the county if the decision of the officer or official body is subject to judicial review on the record.

§5–601.

(a) In this section, "the Maryland Institute for Emergency Medical Services Systems" means the agency described in § 13-503 of the Education Article.

(b) No action may be brought against a person, firm, or corporation who furnishes confidential records, reports, statements, notes, or other information to one of the following agencies or their authorized agents, for purposes of research and study:

(1) The Medical and Chirurgical Faculty or its allied committees;

(2) An "in-hospital" staff committee;

(3) A nationally organized medical society or research group;

(4) The State Department of Health and Mental Hygiene; or

(5) The Maryland Institute for Emergency Medical Services Systems.

§5–602.

(a) In this section, "emergency management and civil defense" and "emergency" have the meanings stated in the State Emergency Management and Civil Defense Act.

(b) No action for damages may be brought against a person, firm, or corporation who allows premises which he owns, controls, or occupies to be used, free of charge, for one of the following purposes:

(1) Sheltering persons during an attack or raid by an enemy;

(2) Stocking of food, water, medical supplies, equipment, or other materials to be used in the event of an attack upon the United States; or

(3) Sheltering persons during an emergency.

(c) This section applies only to injuries to person or property incurred on or adjacent to the premises:

(1) During an actual or practice attack or raid;

(2) While supplies and materials are being moved or stored;

(3) During an emergency; or

(4) During inspections or visits connected with emergency management and civil defense.

§5–603.

(a) A person described in subsection (b) of this section is not civilly liable for any act or omission in giving any assistance or medical care, if:

(1) The act or omission is not one of gross negligence;

(2) The assistance or medical care is provided without fee or other compensation; and

(3) The assistance or medical care is provided:

(i) At the scene of an emergency;

(ii) In transit to a medical facility; or

(iii) Through communications with personnel providing emergency assistance.

(b) Subsection (a) of this section applies to the following:

(1) An individual who is licensed by this State to provide medical care;

(2) A member of any State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency, the National Ski Patrol System, or a corporate fire department responding to a call outside of its corporate premises, if the member:

(i) Has completed an American Red Cross course in advanced first aid and has a current card showing that status;

(ii) Has completed an equivalent of an American Red Cross course in advanced first aid, as determined by the Secretary of Health and Mental Hygiene; or

(iii) Is certified or licensed by this State as an emergency medical services provider;

(3) A volunteer fire department or ambulance and rescue squad whose members have immunity; and

(4) A corporation when its fire department personnel are immune under paragraph (2) of this subsection.

(c) An individual who is not covered otherwise by this section is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency, if:

(1) The assistance or aid is provided in a reasonably prudent manner;

(2) The assistance or aid is provided without fee or other compensation; and

(3) The individual relinquishes care of the victim when someone who is licensed or certified by this State to provide medical care or services becomes available to take responsibility.

§5–604.

(a) Notwithstanding any other provision of law, except for any willful or grossly negligent act, a fire company or rescue company, and the personnel of a fire company or rescue company, are immune from civil liability for any act or omission in the course of performing their duties.

(b) (1) The immunity granted by this section is waived with respect to actions to recover damages for the negligent operation of a motor vehicle to the following extent:

(i) For a self-insured fire company or rescue company, liability shall extend up to the minimum insurance limits imposed by § 17-103 of the Transportation Article; and

(ii) For a fire company or rescue company insured by an insurer authorized to issue insurance policies in this State, liability shall extend up to the maximum limit of any basic vehicle liability insurance policy it has in effect, exclusive of excess liability coverage.

(2) The immunity granted by this section is not waived and may be raised as a defense as to any amount of damages claimed above the limits in this subsection and as to any other action for damages not involving the negligent operation of a motor vehicle.

§5–605.

(a) A law enforcement officer acting outside the officer's jurisdiction but in the State, is not civilly liable, except to the extent that he would be if acting in his own jurisdiction, for any act or omission in preventing or attempting to prevent a crime, or in effectuating an arrest, in order to protect life or property if:

(1) The action is not grossly negligent; and

(2) The action is taken at the scene of the crime or attempted crime.

(b) A law enforcement officer sued for acting under subsection (a) of this section shall be defended in any civil action by the law enforcement officer's employer as if the incident had occurred in the officer's jurisdiction.

(c) A law enforcement officer who is injured in taking action under subsection (a) of this section is entitled to workers' compensation, disability, death benefits, life insurance and all other benefits to the same extent as if the injury had been sustained in the officer's jurisdiction.

§5–606.

(a) (1) In this section the following words have the meanings indicated.

(2) "Charitable organization" means:

(i) An organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, except licensed hospitals; or

(ii) A medical society that is exempt from taxation under § 501(c)(6) of the Internal Revenue Code.

(3) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer or physician in connection with the services provided or the duties performed by the volunteer or physician on behalf of a charitable organization, and that are reimbursed to the volunteer or physician or otherwise paid.

(4) "Health care provider" has the meaning stated in § 3-2A-01 of this article.

(5) "Physician" means any physician licensed to practice medicine in the State.

(6) "Suit" means any civil action, including any health care malpractice action filed with the Health Care Alternative Dispute Resolution Office, brought against a volunteer or physician or a charitable organization by virtue of the volunteer's or physician's act or omission in providing services or performing duties on behalf of the charitable organization.

(7) "Volunteer" means an officer, director, trustee, or other person who provides services or performs duties on behalf of a charitable organization without receiving compensation.

(b) (1) A volunteer who is a health care provider or physician who renders health care services voluntarily and without compensation to any person seeking health care at or through a charitable organization is not liable, for any amount in excess of

any applicable limit of insurance coverage, in any suit for civil damages for any act or omission resulting from the rendering of such services unless the act or omission constitutes:

(i) Willful or wanton misconduct;

(ii) Gross negligence; or

(iii) Intentionally tortious conduct.

(2) A volunteer who is a health care provider or physician who renders health care services voluntarily and without compensation to any person seeking health care through a charitable organization chartered to provide health care services to homeless or indigent individuals is not liable, for any amount in excess of any applicable limit of insurance coverage, in any suit for civil damages for any act or omission resulting from the rendering of such services unless the act or omission constitutes:

(i) Willful or wanton misconduct;

(ii) Gross negligence; or

(iii) Intentionally tortious conduct.

(c) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a physician or volunteer who is a health care provider.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provision of the Code or available at common law, to which a volunteer who is a health care provider or physician may be entitled.

§5–607.

(a) (1) In this section the following words have the meanings indicated.

(2) "Compensation" does not include:

(i) Actual and necessary expenses that are incurred by a physician or volunteer in connection with the services provided or duties performed by the physician or volunteer for a sports program, and that are reimbursed to the physician or otherwise paid; or

(ii) The listing without cost to the physician of the physician's name or without cost to the volunteer of the volunteer's name in a school or event publication.

(3) "Physician" means any physician, including a doctor of osteopathy, who

is licensed to practice medicine in the State.

(4) "Sports program" means a program or portion of a program of an institution of higher education or of a public or nonpublic school that is organized for intramural or interschool recreational purposes with activities that include basketball, baseball, football, soccer, track, or any other competitive sports.

(5) "Volunteer" means an officer, director, trustee, or other person who provides services or performs duties on behalf of a sports program without receiving compensation.

(b) A physician who voluntarily and without compensation provides services or performs duties as a physician for a sports program, whether or not the services are provided or the duties are performed at the request of the school's or institution's administration or a county board of education, is not liable for any damages for any act or omission resulting from the providing of the services or the performing of the duties unless the act or omission constitutes:

(1) Willful or wanton misconduct;

(2) Gross negligence; or

(3) Intentionally tortious conduct.

(c) This section shall apply only to:

(1) Treatment at the site of the sports program;

(2) Treatment at any practice or training for the sports program; and

(3) Treatment administered during transportation to or from the sports program, practice, or training.

(d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a physician or volunteer.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provision of the Code or available at common law to which a volunteer or physician may be entitled.

§5–608.

An individual is not civilly liable for any act or omission while providing support to the emergency medical system by giving care, equipment, facilities, or consultation, if:

(1) The individual is a member or employee of any federal, State, county, or city government, hospital, emergency medical service council, or agency that operates

as a nonprofit group;

(2) The act or omission is not one of gross negligence; and

(3) The service is provided without fee to the emergency victim.

§5–609.

(a) (1) In this section the following words have the meanings indicated.

(2) "Administrator" means an administrator of a facility as defined in § 10–101 of the Health – General Article.

(3) "Mental health care provider" means:

(i) A mental health care provider licensed under the Health Occupations Article; and

(ii) Any facility, corporation, partnership, association, or other entity that provides treatment or services to individuals who have mental disorders.

(b) A cause of action or disciplinary action may not arise against any mental health care provider or administrator for failing to predict, warn of, or take precautions to provide protection from a patient's violent behavior unless the mental health care provider or administrator knew of the patient's propensity for violence and the patient indicated to the mental health care provider or administrator, by speech, conduct, or writing, of the patient's intention to inflict imminent physical injury upon a specified victim or group of victims.

(c) (1) The duty to take the actions under paragraph (2) of this subsection arises only under the limited circumstances described under subsection (b) of this section.

(2) The duty described under this section is deemed to have been discharged if the mental health care provider or administrator makes reasonable and timely efforts to:

(i) Seek civil commitment of the patient;

(ii) Formulate a diagnostic impression and establish and undertake a documented treatment plan calculated to eliminate the possibility that the patient will carry out the threat; or

(iii) Inform the appropriate law enforcement agency and, if feasible, the specified victim or victims of:

1. The nature of the threat;

2. The identity of the patient making the threat; and

3. The identity of the specified victim or victims.

(d) No cause of action or disciplinary action may arise under any patient confidentiality act against a mental health care provider or administrator for confidences disclosed or not disclosed in good faith to third parties in an effort to discharge a duty arising under this section according to the provisions of subsection (c) of this section.

§5–610.

A law enforcement officer who responds to a request under § 4-502 of the Family Law Article for assistance by an individual who alleges to have been a victim of spousal assault shall be immune from civil liability in complying with the request if the law enforcement officer acts in good faith and in a reasonable manner.

§5–610.1.

A law enforcement officer enforcing an out-of-state order for protection from domestic violence in accordance with § 4-508.1 of the Family Law Article shall be immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner.

§5–611.

A federal law enforcement officer who exercises the powers set forth under § 2-104 of the Criminal Procedure Article has the same legal status and immunity from suit as a State Police officer.

§5–612.

The police officers and other officers, agents, and employees of any county or municipal corporation, when acting under the authority of § 2-105 of the Criminal Procedure Article or other lawful authority, beyond the territorial limits of the county or municipal corporation within the State shall have all the immunities from liability enjoyed by them while performing their respective duties within the territorial limits of the county or municipal corporation.

§5–613.

Unless a subdivision or municipality requests the appointment of an individual as a special policeman and the request is granted as provided in Title 3, Subtitle 3 of the Public Safety Article, the State and any subdivision or municipality of the State may not be liable or accountable in any way for any act or omission by an individual appointed as a special policeman under Title 3, Subtitle 3 of the Public Safety Article.

§5–614.

A person licensed by the State to provide veterinary care or a student of

veterinary medicine who works under the responsible direct supervision of a veterinary practitioner as defined by § 2–301(c) of the Agriculture Article who, for no fee or compensation, renders veterinary aid, care, or assistance in an emergency situation in which the owner or custodian of the animal is not available to grant permission, is not liable for any civil damages as the result of any professional act or omission by the person not amounting to gross negligence.

§5–615.

In the absence of an affirmative showing of malice or bad faith, each arbitrator or individual conducting alternative dispute resolution in a health care malpractice claim or action under Title 3, Subtitle 2A of this article from the time of acceptance of appointment has immunity from suit for any act or decision made during tenure and within the scope of designated authority.

§5–617.

(a) In this section, "discharge" includes leakage, seepage, or other release of a hazardous substance or material.

(b) Except as provided in subsections (c) and (d) of this section, a person who is called on for assistance in an emergency is not subject to any civil liability or penalty as a result of assistance or advice rendered in:

(1) Mitigating the effects of an actual or threatened discharge of a hazardous substance or material;

(2) Preventing a discharge of a hazardous substance or material;

(3) Cleaning up a discharge of a hazardous substance or material; or

(4) Attempting any of the acts in this subsection.

(c) The immunity provided in subsection (b) of this section does not apply to a person:

(1) Whose act or omission was the original cause of an actual or threatened discharge in whole or in part, and who would otherwise be liable for the act or omission; or

(2) Who received compensation other than reimbursement for out-of-pocket expenses for rendering the assistance or advice.

(d) Notwithstanding subsection (b) of this section, a person is liable for damages caused by that person's gross negligence or reckless, wanton, or intentional misconduct.

§5–618.

(a) Any person who files a petition, participates in the making of a good faith report, or participates in an investigation or in a judicial proceeding resulting from the filing of a petition or the making of a good faith report, under § 13-705 or § 13-709 of the Estates and Trusts Article or Title 14, Subtitle 3 of the Family Law Article, shall in so doing be immune from any civil liability or criminal penalty that might otherwise be incurred or imposed as a result thereof.

(b) A law enforcement officer is not civilly or criminally liable for transporting an adult to an appropriate medical facility under § 13-709 of the Estates and Trusts Article if the officer acts:

(1) In a reasonably prudent manner; and

(2) Within the scope of the officer's employment.

§5–619.

(a) The following persons or agencies shall be immune from civil or criminal liability in connection with the conducting of a criminal background investigation under Title 5, Subtitle 5, Part VI of the Family Law Article or a criminal history records check under Title 19, Subtitle 18 of the Health – General Article:

(1) An employer that in good faith relies on a criminal background investigation or criminal history records check to deny or terminate an individual's employment or participation in a facility;

(2) A State or local agency that in good faith relies on a criminal background investigation or criminal history records check of an employer to grant, deny, suspend, or revoke licensure, registration, approval, or certification of a facility;

(3) A local department of social services that in good faith relies on a criminal background investigation to make a decision concerning the placement of a child committed to it, including a decision to remove a child from a particular facility or home; and

(4) A State or local agency that in good faith participates in the making of a criminal background investigation or criminal history records check of an employee or employer.

(b) The failure of an employer to require a criminal background investigation of an individual when not required under Title 5, Subtitle 5, Part VI of the Family Law Article or a criminal history records check when not required under Title 19, Subtitle 18 of the Health – General Article may not give rise to civil or criminal liability on the part of the employer for failure to conduct a criminal background investigation.

§5–620.

Any person who in good faith makes or participates in making a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of the Family Law Article or participates in an investigation or a resulting judicial proceeding is immune from any civil liability or criminal penalty that would otherwise result from making or participating in a report of abuse or neglect or participating in an investigation or a resulting judicial proceeding.

§5–621.

(a) A physician who examines or treats a child under § 5-712 of the Family Law Article is immune from any civil liability that may result from the failure to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child.

(b) The immunity described under subsection (a) of this section extends to:

(1) Any health care institution with which the physician is affiliated or to which the child is brought; and

(2) Any individual working under the control or supervision of the physician or under the control or supervision of the health care institution.

§5–622.

Any person who in good faith makes or participates in making a report under Title 14, Subtitle 3 of the Family Law Article or participates in an investigation or a judicial proceeding resulting from a report under Title 14, Subtitle 3 of the Family Law Article is immune from any civil liability that would otherwise result.

§5–623.

(a) (1) In this section the following words have the meanings indicated.

(2) "Admission" has the meaning stated in § 10-101 of the Health - General Article.

(3) "Facility" has the meaning stated in § 10-101 of the Health - General Article.

(b) A person who in good faith and with reasonable grounds applies for involuntary admission of an individual is not civilly or criminally liable for making the application under Title 10, Subtitle 6, Part III of the Health - General Article.

(c) A facility or veterans' administration hospital that, in good faith and with reasonable grounds, acts in compliance with the provisions of Title 10, Subtitle 6, Part III of the Health - General Article is not civilly or criminally liable for that action.

(d) An agent or employee of a facility or veterans' administration hospital who, in good faith and with reasonable grounds, acts in compliance with the provisions of Title 10, Subtitle 6, Part III of the Health - General Article is not civilly or criminally liable for that action.

§5–624.

(a) (1) In this section the following words have the meanings indicated.

(2) "Emergency evaluee" has the meaning stated in § 10-620 of the Health - General Article.

(3) "Emergency facility" has the meaning stated in § 10-620 of the Health - General Article.

(4) "Peace officer" has the meaning stated in § 10-620 of the Health - General Article.

(b) Any petitioner who, in good faith and with reasonable grounds, submits or completes a petition under Title 10, Subtitle 6, Part IV of the Health - General Article is not civilly or criminally liable for submitting or completing the petition.

(c) Any peace officer who, in good faith and with reasonable grounds, acts as a custodian of an emergency evaluee is not civilly or criminally liable for acting as a custodian.

(d) An emergency facility that, in good faith and with reasonable grounds, acts in compliance with the provisions of Title 10, Subtitle 6, Part IV of the Health - General Article is not civilly or criminally liable for that action.

(e) An agent or employee of an emergency facility who, in good faith and with reasonable grounds, acts in compliance with the provisions of Title 10, Subtitle 6, Part IV of the Health - General Article is not civilly or criminally liable for that action.

§5–625.

(a) A person who acts in good faith is not civilly liable for:

(1) Making a report under § 7-1005 of the Health - General Article;

(2) Participating in an investigation arising out of a report under § 7-1005 of the Health - General Article; or

(3) Participating in a judicial proceeding arising out of a report under § 7-1005 of the Health - General Article.

(b) This section does not grant any immunity for an abuser who makes a report or participates in the investigation or proceeding.

§5–626.

(a) A person who acts in good faith is not civilly liable for:

(1) Making a report under § 10-705 of the Health - General Article;

(2) Participating in an investigation arising out of a report under § 10-705 of the Health - General Article; or

(3) Participating in a judicial proceeding arising out of a report under § 10-705 of the Health - General Article.

(b) This section does not grant any immunity for an abuser who makes a report or participates in the investigation or proceeding.

§5–627.

A member of a clinical review panel under § 10-708 of the Health - General Article who acts in good faith and within the panel's duties is immune from civil liability as a result of those acts.

§5–628.

(a) A member of an appointed committee of any professional organization whose members provide health care under the Maryland Medical Assistance Program or an appointed member of a committee of a medical staff of a licensed hospital who acts without malice is not civilly liable for any functions that the member undertakes or performs in the system of review under § 15-106 of the Health - General Article.

(b) This section does not affect the immunity of an officer or employee of a State agency.

§5–629.

(a) In this section, "Secretary" means the Secretary of Health and Mental Hygiene.

(b) Except as provided in subsection (d) of this section, a person lawfully administering a drug or vaccine is not liable for any adverse effect that arises from the use of the drug or vaccine if the drug or vaccine:

(1) Is administered to immunize an individual against a disease; or

(2) Is approved by the United States Food and Drug Administration for the purpose for which the drug or vaccine is administered.

(c) Except as provided in subsection (d) of this section, if the Secretary or a designee of the Secretary finds that a proposed immunization project would conform to good medical and public health practice and gives written approval for the project to

be administered in the State, a physician, nurse, or other person participating in the project is not liable for any adverse effect that arises from the use of a drug or vaccine in the project.

(d) This section does not exempt:

(1) A person from liability for gross negligence;

(2) A drug manufacturer from the duty to use ordinary care in preparing and handling a drug or vaccine; or

(3) A person from liability that arises out of the improper or illegal administration of a drug or vaccine.

§5–630.

A legally authorized person who obtains, processes, stores, distributes, or uses whole human blood, tissue, organs, or bones or any substance derived from human blood, tissue, organs, or bones for injection, transfusion, or transplantation into an individual for any purpose is performing a service and is not subjected to:

(1) Strict liability in tort;

(2) The implied warranty of merchantability; or

(3) The implied warranty of fitness.

§5–631.

(a) A person who acts in good faith is not civilly liable for:

(1) Making a report under § 19-347 of the Health - General Article;

(2) Participating in an investigation arising out of a report under § 19-347 of the Health - General Article;

(3) Participating in a judicial proceeding arising out of a report under § 19-347 of the Health - General Article; or

(4) Participating in transferring, suspending, or terminating the employment of any individual who is believed to have abused or aided in abusing a resident under § 19-347 of the Health - General Article.

(b) This section does not grant any immunity for an abuser who makes a report or participates in the investigation or proceeding.

§5–632.

(a) (1) In this section the following words have the meanings indicated.

(2) "Hospital" has the meaning stated in § 19-301 of the Health - General Article.

(3) "Related institution" has the meaning stated in § 19-301 of the Health - General Article.

(b) Except as provided in subsection (c) of this section, a hospital or related institution is not immune from liability for negligence or any other tort on the grounds that the hospital or related institution is a charitable institution.

(c) A hospital or related institution that is a charitable institution and is insured against this liability in an amount of not less than $100,000 is not liable for damages in excess of the limits of that insurance.

§5–633.

(a) For purposes of this section, an "immediate threat" exists if any meat, seafood, poultry, vegetable, fruit, or any other perishable substance that is intended for consumption as food:

(1) Contains any filthy, decomposed, or putrid substance;

(2) Is poisonous or otherwise would be injurious to health if consumed; or

(3) Is otherwise unsafe.

(b) (1) The Secretary of Health and Mental Hygiene shall be liable under § 21-254 of the Health - General Article only if the owner can prove by a preponderance of evidence that, at the time of the action taken against the substance, the substance did not pose an immediate threat.

(2) Any liability under § 21-254 of the Health - General Article shall be limited to the market value of the substance as of the time the action was taken against the substance.

(c) The right of action created by § 21-254 of the Health - General Article lies only against the Secretary of Health and Mental Hygiene in the Secretary's official capacity, and the Secretary shall have no personal liability for the payment of any judgment that is entered in any action brought under § 21-254 of the Health - General Article.

(d) Under § 21-254 of the Health - General Article, the State waives its sovereign immunity to the extent of the right of action that is expressly created, but in no further or other respect.

§5–634.

(a) In this section, "person" has the meaning stated in § 21-322 of the Health -

General Article.

(b) The limitation on liability provided for in subsection (c) of this section does not apply to any person who:

(1) Donates food to a nonprofit corporation, organization, or association that sells or offers for sale any donated food;

(2) Prepares donated food for use or distribution by a nonprofit corporation, organization, or association that sells or offers for sale any donated food; or

(3) Serves donated food distributed by a nonprofit corporation, organization, or association that sells or offers for sale any donated food.

(c) Unless the act or omission amounts to gross negligence or willful and wanton misconduct, a person is not civilly liable for any act or omission that affects the nature, age, condition, or packaging of the donated food if the person in good faith:

(1) Donates food for use or distribution by a nonprofit corporation, organization, or association;

(2) Prepares donated food for use or distribution by a nonprofit corporation, organization, or association;

(3) Serves donated food distributed by a nonprofit corporation, organization, or association; or

(4) Dispenses donated food distributed by a nonprofit corporation, organization, or association.

§5–635.

(a) In this section, "customer" means an individual who is lawfully on the premises of a retail establishment.

(b) A retail establishment and any employee of a retail establishment are not civilly liable for any act or omission in allowing a customer, including a customer who has an eligible medical condition, as defined in § 24–209 of the Health – General Article, to use a toilet facility that is not a public toilet facility, if the act or omission:

(1) Is not willful or grossly negligent;

(2) Occurs in an area of the retail establishment that is not accessible to the public; and

(3) Results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

(c) Notwithstanding any provision of this section, an employee toilet facility is not to be considered a public restroom.

§5–636.

(a) (1) In this section the following words have the meanings indicated.

(2) "Chiropractor" has the meaning stated in § 3-101 of the Health Occupations Article.

(3) "License" has the meaning stated in § 3-101 of the Health Occupations Article.

(4) "Licensed chiropractor" has the meaning stated in § 3-101 of the Health Occupations Article.

(b) A licensed chiropractor is not civilly liable for reviewing the fees or charges for services of another licensed chiropractor in this or any other state if:

(1) The records are received by the chiropractor from an insurance company solely for the purpose of evaluating whether excessive treatment or service was furnished; and

(2) The chiropractor acts:

(i) In good faith; and

(ii) Within the scope of the chiropractor's license.

§5–637.

(a) In this section, "medical review committee" has the meaning stated in § 1-401 of the Health Occupations Article.

(b) A person who acts in good faith and within the scope of the jurisdiction of a medical review committee is not civilly liable for any action as a member of the medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.

§5–637.1.

(a) In this section, "local domestic violence fatality review team" is a team established in accordance with Title 4, Subtitle 7 of the Family Law Article.

(b) A person who acts in good faith and within the scope of the jurisdiction of a local domestic violence fatality review team is not civilly liable for any action as a member of the local domestic violence fatality review team or for giving information to, participating in, or contributing to the function of the local domestic violence fatality review team.

§5–637.2.

(a) In this section, "local team" means a multidisciplinary and multiagency drug overdose fatality review team established under Title 5, Subtitle 9 of the Health – General Article.

(b) A person who acts in good faith and within the scope of the jurisdiction of a local team is not civilly liable for any action as a member of the local team or for giving information to, participating in, or contributing to the function of the local team.

§5–638.

(a) (1) In this section the following words have the meanings indicated.

(2) "Alternative health care system" has the meaning stated in § 1-401 of the Health Occupations Article.

(3) "Hospital" has the meaning stated in § 19-301 of the Health - General Article.

(4) "Physician" has the meaning stated in § 14-101 of the Health Occupations Article.

(5) "Related institution" has the meaning stated in § 14-101 of the Health Occupations Article.

(b) A person described in § 14-502(b) of the Health Occupations Article is not civilly liable for giving information to any hospital, hospital medical staff, related institution, or health care facility, alternative health system, professional society, medical school, or professional licensing board, if the person:

(1) Gives the information in good faith and with the intention of aiding in the evaluation of the qualifications, fitness, or character of a physician; and

(2) Does not represent as true any matter that the person does not reasonably believe to be true.

§5–639.

(a) (1) In this section the following words have the meanings indicated.

(2) "Emergency service" has the meaning stated in § 19-103 of the Transportation Article.

(3) "Emergency vehicle" has the meaning stated in § 11-118 of the Transportation Article.

(b) (1) An operator of an emergency vehicle, who is authorized to operate the emergency vehicle by its owner or lessee, is immune from suit in the operator's

individual capacity for damages resulting from a negligent act or omission while operating the emergency vehicle in the performance of emergency service.

(2) This subsection does not provide immunity from suit to an operator for a malicious act or omission or for gross negligence of the operator.

(c) (1) An owner or lessee of an emergency vehicle, including a political subdivision, is liable to the extent provided in subsection (d) of this section for any damages caused by a negligent act or omission of an authorized operator while operating the emergency vehicle in the performance of emergency service.

(2) This subsection does not subject an owner or lessee to liability for the operator's malicious act or omission or for the operator's gross negligence.

(3) A political subdivision may not raise the defense of governmental immunity in an action against it under this section.

(d) Liability under this section for self-insured jurisdictions is limited to the amount of the minimum benefits that a vehicle liability insurance policy must provide under § 17-103 of the Transportation Article, except that an owner or lessee may be liable in an amount up to the maximum limit of any basic vehicle liability insurance policy it has in effect exclusive of excess liability coverage.

(e) A judgment under this section against the owner or lessee of an emergency vehicle constitutes a complete bar to any action or judgment deriving from the same occurrence against the operator of the emergency vehicle.

§5–640.

(a) (1) In this section the following words have the meanings indicated.

(2) "Child passenger safety technician" means an individual who holds a current certification as a child passenger safety technician or technician instructor by the National Highway Traffic Safety Administration of the United States Department of Transportation, the American Automobile Association, or other entity designated by the National Highway Traffic Safety Administration.

(3) "Child safety seat" has the meaning stated in § 22-412.2 of the Transportation Article.

(4) "Sponsoring organization" means a person that:

(i) Employs a child passenger safety technician;

(ii) Offers or arranges free child safety seat checkup events or fitting station programs for the general public; or

(iii) Owns property on which a free child safety seat checkup event or

fitting station program for the general public takes place.

(b) A child passenger safety technician or sponsoring organization is not civilly liable for an act or omission that occurs solely in the inspection, installation, or adjustment of a child safety seat in a motor vehicle, or in giving advice or assistance regarding the installation or adjustment of a child safety seat, if:

(1) The child passenger safety technician acts in good faith and within the scope of the training for which the technician is currently certified;

(2) The act or omission does not constitute gross negligence or willful or wanton misconduct;

(3) The inspection, installation, or adjustment of the child safety seat, or the advice or assistance, is provided without fee or charge to the owner or operator of the motor vehicle; and

(4) The inspection, installation, or adjustment of the child safety seat is not provided in conjunction with the for profit sale of the child safety seat.

§5–641.

(a) (1) A person who leaves an unharmed newborn with a responsible adult within 10 days after the birth of the newborn, as determined within a reasonable degree of medical certainty, and does not express an intent to return for the newborn shall be immune from civil liability or criminal prosecution for the act.

(2) If the person leaving a newborn under this subsection is not the mother of the newborn, the person shall have the approval of the mother to do so.

(b) (1) A person with whom a newborn is left under the circumstances described in subsection (a) of this section as soon as reasonably possible shall take the newborn to a hospital or other facility designated by the Secretary of Human Resources by regulation.

(2) A hospital or other designated facility that accepts a newborn under this subsection shall notify the local department of social services within 24 hours after accepting the newborn.

(c) A responsible adult and a hospital or other designated facility that accepts a newborn under this section and an employee or agent of the hospital or facility shall be immune from civil liability or criminal prosecution for good faith actions taken related to the acceptance of or medical treatment or care of the newborn unless injury to the newborn was caused by gross negligence or willful or wanton misconduct.

(d) The Secretary of Human Resources shall adopt regulations to implement the provisions of this section.

§5–701.

There shall be no liability on the part of and no cause of action of any nature shall arise against an insurer reporting under § 4-401 of the Insurance Article or its agents or employees, the Board of Physicians or its representatives, or any appropriate licensing board for health care providers for any action taken by them under § 4-401 of the Insurance Article.

§5–702.

(a) In this section, "Board" means the State Board of Environmental Health Specialists.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–703.

(a) In this section, "Board" means the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech–Language Pathologists in the Department of Health and Mental Hygiene.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–704.

(a) In this section, "Board" means the State Board of Chiropractic and Massage Therapy Examiners.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–705.

(a) In this section, "Board" means the State Board of Dental Examiners.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–706.

(a) In this section, "Committee" means the Electrology Practice Committee.

(b) A person who acts in good faith and within the scope of the jurisdiction of

the Committee is not civilly liable for giving information to the Committee or otherwise participating in its activities.

§5–707.

(a) In this section, "Board" means the Maryland State Board of Morticians and Funeral Directors.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–708.

(a) In this section, "Board" means the State Board of Nursing.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–709.

(a) (1) In this section the following words have the meanings indicated.

(2) "Board" means the State Board of Nursing.

(3) "Licensed practical nurse" has the meaning stated in § 8-101 of the Health Occupations Article.

(4) "Registered nurse" has the meaning stated in § 8-101 of the Health Occupations Article.

(b) An individual who acts without malice is not civilly liable for making a report as required by § 8-505 of the Health Occupations Article.

§5–710.

(a) In this section, "Board" means the State Board of Examiners of Nursing Home Administrators.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–711.

(a) In this section, "Board" means the State Board of Occupational Therapy Practice.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–712.

(a) In this section, "Board" means the State Board of Examiners in Optometry.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–713.

(a) In this section, "Board" means the State Board of Pharmacy.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–714.

(a) In this section, "Board" means the State Board of Physical Therapy Examiners.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–715.

(a) (1) In this section the following words have the meanings indicated.

(2) "Board" means the State Board of Physicians.

(3) "Faculty" means the Medical and Chirurgical Faculty of the State of Maryland.

(b) A person who acts without malice and is a member of the Board or a legally authorized agent of the Board, is not civilly liable for investigating, prosecuting, participating in a hearing under § 14-405 of the Health Occupations Article, or otherwise acting on an allegation of a ground for Board action made to the Board or the Faculty.

(c) A person who acts without malice is not civilly liable for making an allegation of a ground for Board action to the Board or Faculty.

(d) Any person who acts in good faith is not civilly liable for giving any of the information required under § 14-413 or § 14-414 of the Health Occupations Article.

§5–716.

(a) In this section, "Board" means the State Board of Podiatric Medical Examiners.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–717.

(a) In this section, "Board" means the State Board of Examiners of Psychologists.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–718.

(a) In this section, "Board" means the State Board of Social Work Examiners in the Department of Health and Mental Hygiene.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–719.

(a) In this section, "Board" means the State Board of Dietetic Practice.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–720.

A person who acts in good faith and within the scope of the duties and responsibilities provided to the Office of Cemetery Oversight under Title 5 of the Business Regulation Article is not civilly liable for giving information to the Director of the Office of Cemetery Oversight.

§5–721.

(a) In this section, "Board" means the State Board of Veterinary Medical Examiners.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating

in its activities.

§5–722.

(a) In this section, "Board" means the State Board of Professional Counselors and Therapists.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–723.

(a) In this section, "Board" means the State Board for Certification of Residential Child Care Program Professionals.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–724.

(a) In this section, "Board" means the State Board of Acupuncture.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

§5–801.

The provisions governing actions for breach of promise to marry and for alienation of affections are found in Title 3 of the Family Law Article.

§5–802.

(a) (1) In this section the following words have the meanings indicated.

(2) "Athletic official" means an individual who officiates, referees, or umpires an interscholastic, intercollegiate, or any other amateur athletic contest conducted by a nonprofit or governmental body.

(3) (i) "Community recreation program" means an athletic, fitness, or recreation activity:

1. Organized for pleasure, recreation, or other nonprofit purposes;

2. That has substantially all of its activities conducted for pleasure, recreation, or other nonprofit purposes; and

3. That does not have any part of the net earnings benefiting any private shareholder.

(ii) "Community recreation program" does not include a public or private educational institution's athletic program.

(4) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer on behalf of a community recreation program, and that are reimbursed to the volunteer or otherwise paid.

(5) "Volunteer" means a person who provides services or performs duties as an athletic coach, manager, official, program leader, or assistant for a community recreation program without receiving compensation.

(b) Except as provided in subsection (c) of this section, a volunteer is not personally liable for damages in any civil action brought against the volunteer by virtue of the volunteer's act or omission in providing services or performing duties on behalf of a community recreation program.

(c) A volunteer is personally liable for damages in any civil action brought against the volunteer in which it is found that:

(1) The damages were the result of the volunteer's negligent operation of a motor vehicle;

(2) The damages were the result of the volunteer's willful, wanton, or grossly negligent act or omission; or

(3) The damages were the result of the volunteer's negligence in permitting an unsupervised competition, practice, or activity.

(d) (1) Except as provided in paragraph (2) of this subsection, an athletic official is not personally liable in damages in any civil action brought against the athletic official by a player, a participant, or a spectator by virtue of the athletic official's act or omission arising out of the athletic official's duties and services performed while acting in the capacity of athletic official.

(2) An athletic official is personally liable for damages in any civil action brought against the athletic official in which it is found that the damages were the result of the athletic official's willful, wanton, or grossly negligent act or omission.

(e) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against an athletic official or a volunteer.

(2) This section does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by any other provision of the Code or available at common law, to which an athletic official or volunteer may be

entitled.

§5–803.

(a) (1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

(i) Making a report required by law, if the individual acts on reasonable grounds;

(ii) Participating in a judicial proceeding that results from the individual's report; and

(iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:

1. Under the influence of alcoholic beverages or a controlled dangerous substance;

2. In possession of alcoholic beverages or a controlled dangerous substance; or

3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

(2) Paragraph (1)(iii) of this subsection is effective only to the extent that its provisions do not conflict with federal or State confidentiality laws and regulations.

(b) A county superintendent or any employee of a county school system who presents or enters findings of fact, recommendations, or reports or who participates in an employee dismissal, disciplinary, administrative, or judicial proceeding relating to a school system employee that results from these actions is immune from any civil liability if the action is:

(1) In the performance of duties;

(2) Within the scope of employment; and

(3) Without malice.

§5–804.

(a) (1) In this section the following words have the meanings indicated.

(2) "Cave" has the meaning stated in § 5-1401 of the Natural Resources

Article.

(3) "Commercial cave" has the meaning stated in § 5-1401 of the Natural Resources Article.

(4) "Owner" has the meaning stated in § 5-1401 of the Natural Resources Article.

(5) "Person" has the meaning stated in § 5-1401 of the Natural Resources Article.

(b) An owner of a cave or the owner's authorized agents acting within the scope of their authority are not liable for injuries sustained by any person using the cave for a recreational or scientific purpose if the prior consent of the owner has been obtained and if no charge has been made for the use of the cave.

(c) An owner of a commercial cave is not liable for an injury sustained by a spectator who has paid to view the cave unless:

(1) The injury is sustained as a result of the owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires, or other modifications; and

(2) The negligence is the proximate cause of the injury.

§5–805.

(a) (1) In this section the following words have the meanings indicated.

(2) "Agent" means an officer, director, trustee, employee, or volunteer of a provider, but does not mean an offender or participant.

(3) "Offender" means a person assigned or ordered to perform community service:

(i) By a court under Title 8, Subtitle 7 of the Correctional Services Article or § 3–8A–19 of this article; or

(ii) By an intake officer under § 3–8A–10 of this article.

(4) "Participant" means an individual who is engaged in a community service work activity under the Family Investment Program established under Title 5, Subtitle 3 of the Human Services Article.

(5) "Private provider" means an organization that:

(i) Is exempt from taxation under § 501(c) of the Internal Revenue Code; and

(ii) 1. Is approved by a community service program administrator for participation in a community service program as described in Title 8, Subtitle 7 of the Correctional Services Article;

2. Provides work projects for juveniles assigned or ordered to perform community service under § 3–8A–10 or § 3–8A–19 of this article; or

3. Is approved by the Department of Human Resources as a community service work activity provider under Title 5, Subtitle 3 of the Human Services Article.

(6) "Public provider" means a unit of State or local government that is subject to Title 12, Subtitle 1 of the State Government Article (Maryland Tort Claims Act) or Subtitle 3 of this title (Local Government Tort Claims Act) and that:

(i) Refers an offender to or provides a work project to which an offender is ordered or assigned to work; or

(ii) Refers a participant to or provides a work project to which a participant is assigned to work.

(b) (1) A private provider shall be liable up to the limits of the liability insurance coverage required under paragraph (3) of this subsection or any applicable insurance coverage, whichever is greater, for the negligent acts or omissions of:

(i) The private provider or its agents in providing projects or services to, or performing duties for or on behalf of, a community service program; and

(ii) An offender or participant in the course of participating in a work project the private provider has provided for a community service program.

(2) A private provider shall not be liable for the conduct of an offender or participant unless the offender's or participant's conduct was:

(i) In the course of the offender's or participant's participation in a project which the private provider has provided for a community service program; and

(ii) Within the scope of the duties which the offender or participant was assigned or ordered to perform.

(3) A private provider shall maintain liability insurance in at least the amounts specified in § 5–406(b)(3) of this title.

(c) (1) Except as provided in paragraph (2) of this subsection, a participant is not personally liable for damages in any civil action brought against the participant by virtue of the participant's act or omission in community service work if the private provider maintains the liability insurance required under subsection (b)(3) of this section.

(2) A participant is liable for damages in a civil action brought against the participant in which it is found that the damages were the result of the participant's willful, wanton, or grossly negligent act or omission.

(d) A public provider and its agents shall be liable for the negligent acts or omissions of the public provider and its agents in providing projects or services to, or performing duties for or on behalf of, a community service program to the extent permitted by the provisions of the Maryland Tort Claims Act or the Local Government Tort Claims Act.

(e) This section does not affect and may not be construed as affecting:

(1) The liability of an offender;

(2) Any immunities from civil liability or any defense established by any other provision of the Code or at common law;

(3) Any limitation on damages established by law to which a provider or its agents otherwise may be entitled; or

(4) The liability of a provider or its agents for an act or omission of the provider or its agents that constitutes gross negligence, reckless or wanton misconduct, or intentionally tortious conduct.

(f) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a provider or its agents.

§5–806.

(a) This section applies to:

(1) An action by an unemancipated child against a parent of the child; and

(2) An action by a parent against an unemancipated child of the parent.

(b) The right of action by a parent or the estate of a parent against a child of the parent, or by a child or the estate of a child against a parent of the child, for wrongful death, personal injury, or property damage arising out of the operation of a motor vehicle, as defined in Title 11 of the Transportation Article, may not be restricted by the doctrine of parent-child immunity or by any insurance policy provisions, up to the limits of motor vehicle liability coverage or uninsured motor vehicle coverage.

§5–807.

(a) In this section, "SLAPP suit" means a strategic lawsuit against public participation.

(b) A lawsuit is a SLAPP suit if it is:

(1) Brought in bad faith against a party who has communicated with a federal, State, or local government body or the public at large to report on, comment on, rule on, challenge, oppose, or in any other way exercise rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body or any issue of public concern;

(2) Materially related to the defendant's communication; and

(3) Intended to inhibit or inhibits the exercise of rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights.

(c) A defendant in a SLAPP suit is not civilly liable for communicating with a federal, State, or local government body or the public at large, if the defendant, without constitutional malice, reports on, comments on, rules on, challenges, opposes, or in any other way exercises rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body or any issue of public concern.

(d) A defendant in an alleged SLAPP suit may move to:

(1) Dismiss the alleged SLAPP suit, in which case the court shall hold a hearing on the motion to dismiss as soon as practicable; or

(2) Stay all court proceedings until the matter about which the defendant communicated to the government body or the public at large is resolved.

(e) This section:

(1) Is applicable to SLAPP suits notwithstanding any other law or rule; and

(2) Does not diminish any equitable or legal right or remedy otherwise available to a defendant in a SLAPP suit.

§5–808.

(a) In this section, "person" does not include a governmental entity.

(b) A person is not liable for damages for a personal injury or death of an individual who enters the person's dwelling or place of business if:

(1) The person reasonably believes that force or deadly force is necessary to repel an attack by the individual; and

(2) The amount and nature of the force used by the person is reasonable under the circumstances.

(c) Subsection (b) of this section does not apply to a person who is convicted of a crime of violence under § 14–101 of the Criminal Law Article, assault in the second degree, or reckless endangerment arising out of the circumstances described in subsection (b) of this section.

(d) The court may award costs and reasonable attorney's fees to a defendant who prevails in a defense under this section.

(e) This section does not limit or abrogate any immunity from civil liability or defense available to a person under any other provision of the Code or at common law.

§5–901.

Unless a contract or agreement upon which an action is brought, or some memorandum or note of it, is in writing and signed by the party to be charged or another person lawfully authorized by that party, an action may not be brought:

(1) To charge a defendant on any special promise to answer for the debt, default, or miscarriage of another person;

(2) To charge any person on any agreement made on consideration of marriage; or

(3) On any agreement that is not to be performed within 1 year from the making of the agreement.

§5–1001.

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

(b) (1) "Administrative remedy" means any procedure for review of a prisoner's complaint or grievance, including judicial review, if available, that is provided by the Department, the Division of Correction, or any county or other municipality or political subdivision, and results in a written determination or disposition.

(2) "Administrative remedy" includes a proceeding under Title 10, Subtitle 2 of the State Government Article or Title 10, Subtitle 2 of the Correctional Services Article.

(c) (1) "Civil action" means a legal action seeking money damages, injunctive relief, declaratory relief, or any appeal filed in any court in the State that relates to or involves a prisoner's conditions of confinement.

(2) "Civil action" includes:

(i) An appeal of an administrative remedy to any court;

(ii) A petition for mandamus against the prisoner's custodian, its officers or employees, or any official or employee of the Department;

(iii) Any tort claim against a custodian, the custodian's officers or employees, or any employee or official of the Department;

(iv) Any action alleging a violation of civil rights against a custodian, the custodian's officers and employees, or any official or employee of the Department; or

(v) Any appeal, application for leave to appeal, or petition for certiorari.

(3) "Civil action" does not include a postconviction petition or petition for habeas corpus relief.

(d) "Conditions of confinement" means any circumstance, situation or event that involves a prisoner's custody, transportation, incarceration, or supervision.

(e) "Custodian" means the institution or agency that has custody of the prisoner.

(f) "Department" means the Department of Public Safety and Correctional Services.

(g) (1) "Prisoner" means a person who is in the custody of the Department or a local detention center.

(2) "Prisoner" includes pretrial detainees.

§5–1002.

(a) (1) (i) Except as provided in subsection (c) of this section, a prisoner who maintains a civil action shall pay all or a portion of the applicable filing fee, as determined by the court.

(ii) Unless a waiver is granted under subsection (c) of this section, a fee determined by the court under subparagraph (i) of this paragraph shall be at least 25 percent of the entire filing fee otherwise required for a civil action.

(2) The court may:

(i) Authorize any fee to be paid over a specific period of time; and

(ii) Establish a payment schedule.

(3) Until any applicable filing fee is paid, service of the complaint shall be withheld, discovery may not commence, and other proceedings may not be convened.

(b) In establishing the amount of the filing fee to be paid under subsection (a)

of this section, the court shall consider, based on information in the complaint and provided by the prisoner:

(1) The seriousness of the claim;

(2) The likelihood of success;

(3) The urgency of consideration;

(4) The amount of funds available in any institutional account and any account outside of the institution;

(5) The employment status of the prisoner in the institution and income from the employment;

(6) Any financial obligations of the prisoner; and

(7) The length of time that is likely to pass before the filing fee that is imposed is able to be paid.

(c) A court may waive payment of the entire required filing fee for a civil action filed by a prisoner only on a written showing under oath by the prisoner that:

(1) The prisoner is indigent;

(2) The issue presented is of serious concern;

(3) Delay in the consideration of the issues presented will prejudice the consideration of the claim;

(4) The prisoner is not likely to accumulate sufficient funds to pay the required filing fee within a reasonable period of time; and

(5) The prisoner possesses a reasonable likelihood of success on the merits of the claim.

(d) If a prisoner prevails in an action, the filing fee that is paid by the prisoner shall be reimbursed to the prisoner by the defendant through costs awarded by the court.

§5–1003.

(a) (1) A prisoner may not maintain a civil action until the prisoner has fully exhausted all administrative remedies for resolving the complaint or grievance.

(2) Except as provided in paragraph (3) of this subsection, an administrative remedy is exhausted when the prisoner has pursued to completion all appropriate proceedings for appeal of the administrative disposition, including any available proceedings for judicial review.

(3) Judicial review following administrative consideration shall be the exclusive judicial remedy for any grievance or complaint within the scope of the administrative process, unless the prisoner's complaint or grievance was found to be meritorious and monetary damages were not available through the administrative remedy available to the prisoner.

(b) (1) When a prisoner files a civil action, the prisoner shall attach to the initial complaint proof that administrative remedies have been exhausted.

(2) The attachment shall include proof:

(i) That the prisoner has filed a complaint or grievance with the appropriate agency;

(ii) Of the administrative disposition of the complaint or grievance; and

(iii) That the prisoner has appealed the administrative disposition to the appropriate authority, including proof of judicial review, if available.

(3) On receipt of a prisoner's initial complaint that does not have attached to it proof that the prisoner has fully exhausted the administrative remedies available, the court shall dismiss the case without prejudice and grant the prisoner reasonable leave to amend the complaint and to provide the proof necessary to demonstrate that the prisoner has fully exhausted the administrative remedies.

(c) A court shall dismiss a civil action if the prisoner filing the action has not completely exhausted the administrative remedies.

§5–1004.

(a) Prior to service of process of the prisoner's civil action, the court shall review the prisoner's initial complaint and identify any cognizable claims.

(b) After reviewing the prisoner's complaint, the court may dismiss the civil action, or any portion thereof, with or without prejudice, if it finds that the civil action:

(1) Is frivolous, malicious, or fails to state a claim for which relief can be granted;

(2) Seeks monetary damages from a defendant who is immune from such relief; or

(3) Is barred under § 5-1003(a) of this subtitle.

(c) An order of dismissal under subsection (b)(1) or (2) of this section may be issued without first requiring proof of exhaustion.

§5–1005.

(a) A court may include in its final order or judgment in any civil action a finding that the action was frivolous.

(b) A finding under subsection (a) of this section shall be reflected in the docket entries of the case.

(c) (1) A prisoner who has filed three or more civil actions that have been declared to be frivolous by a court of this State or a federal court for a case originating in this State may not file any further civil actions without leave of court.

(2) If a prisoner has filed three or more civil actions that have been declared to be frivolous by a court of this State or a federal court for a case originating in this State, a court may place the prisoner's remaining and future civil actions on an inactive case list and permit the prisoner to pursue only one civil action at a time, regardless of jurisdiction.

§5–1006.

(a) (1) Any compensatory or punitive damages awarded to a prisoner in connection with a civil action shall be paid directly to satisfy any outstanding judgment of restitution or child support order pending against the prisoner.

(2) If there are multiple judgments of restitution or child support orders pending against the prisoner, any compensatory damages shall be distributed against those judgments or orders on a pro rata basis.

(3) (i) The State, the Department, and the Division of Correction may not be liable for any failure to credit an award as provided in this section.

(ii) The State, the Department, the Division of Correction, and any county or municipality, through any authorized employee or official, may reclaim any money erroneously credited to a prisoner without judicial action in order to comply with this section.

(b) If a prisoner is awarded compensatory or punitive damages for a civil action, the prisoner's custodian shall notify, in writing, the victim or victims of the crime for which the prisoner is incarcerated and the recipient or recipients of any child support obligation for which the prisoner is responsible.

§5–1007.

Notwithstanding any other provision of law, in a civil action filed by a prisoner that is an appeal on the record, the court is not required to hold a hearing if it determines that a hearing is not necessary for the disposition of the matter.

§5–1101.

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

(b) "Discounted present value" means the fair present value of future payments, as determined by discounting payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(c) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser:

(1) Who is engaged by a payee to render advice concerning the legal, tax, and financial implications of a transfer of structured settlement payment rights;

(2) Who is not affiliated with or compensated by the transferee of the transfer; and

(3) Whose compensation is not affected by whether a transfer occurs.

(d) "Interested parties" means the payee, each beneficiary designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under a structured settlement.

(e) "Payee" means an individual who receives damage payments that are not subject to income taxation under a structured settlement and proposes to make a transfer of payment rights.

(f) "Responsible administrative authority" means a government authority vested with exclusive jurisdiction over the settled claim resolved by a structured settlement.

(g) (1) "Structured settlement" means an arrangement for periodic payment of damages for personal injury established by a settlement or judgment in resolution of a tort claim.

(2) "Structured settlement" does not include an arrangement for periodic payment of damages for personal injury established by a judgment by confession.

(h) "Structured settlement agreement" means an agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(i) "Structured settlement obligor" means a party who has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement.

(j) "Structured settlement payment rights" means the rights to receive periodic

payments, including lump-sum payments under a structured settlement, whether from the settlement obligor or the annuity issuer, if:

(1) An interested party is domiciled in this State;

(2) The structured settlement agreement was approved by a court or responsible administrative authority in this State; or

(3) The settled claim was pending before a court of this State when the parties entered into the structured settlement agreement.

(k) "Terms of the structured settlement" includes the terms of the structured settlement agreement, the annuity contract, a qualified assignment, and an order or approval of a court or responsible administrative authority authorizing or approving a structured settlement.

(l) "Transfer" means a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration.

(m) "Transfer agreement" means the agreement providing for the transfer of structured settlement payment rights from a payee to a transferee.

§5–1102.

(a) A direct or indirect transfer of structured settlement payment rights to a transferee is effective as provided in this subtitle.

(b) A structured settlement obligor or annuity issuer may not make any payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer is authorized in an order of a court based on a finding that:

(1) The transfer is necessary, reasonable, or appropriate;

(2) The transfer is not expected to subject the payee, the payee's dependents, or both, to undue or unreasonable financial hardship in the future;

(3) The payee received independent professional advice regarding the legal, tax, and financial implications of the transfer; and

(4) The transferee disclosed to the payee the discounted present value.

§5–1103.

(a) The circuit court that has jurisdiction over an interested party or the circuit court for the county in which the original claim occurred shall have nonexclusive jurisdiction over an application for a transfer of structured settlement payment rights under § 5-1102 of this subtitle.

(b) A transferee shall file with the court and serve on the interested parties at

least 20 days before the hearing on the application, a notice of the proposed transfer and an application for its authorization, including:

(1) A copy of the transferee's application;

(2) A copy of the transfer agreement; and

(3) Notification:

(i) Of the time and place of the hearing; and

(ii) That each interested party is entitled to support, oppose, or otherwise respond to the transferee's application, in person or by counsel, by submitting written comments to the court or by participating in the hearing.

§5–1104.

If a transfer of structure settlement payment rights has been authorized under this subtitle, neither the annuity issuer nor the structured settlement obligor shall have any liability to the payee or to any other party for any payment made to the transferee in accordance with the authorization.

§5–1105.

(a) The provisions of this subtitle may not be waived.

(b) Nothing contained in this subtitle may be construed to authorize a transfer of structured settlement payment rights in contravention of applicable law or to give effect to a transfer of structured settlement payment rights that is invalid under applicable law.

§6–101.

(a) (1) For purposes of personal jurisdiction, venue, and service of process, the following terms have the meanings indicated.

(2) "County" includes any federal enclave, reservation, or land within the geographical limits of the county.

(3) "Resident" includes a person residing on a federal enclave, reservation, or land in the State or a county.

(4) "State" includes any federal enclave, reservation, or land within the geographical limits of the State.

(b) It is the intention of the General Assembly to extend the personal jurisdiction and venue of courts of the State and the power to serve process of those courts to any person on federal enclaves, reservations, or lands within the State to the fullest extent permitted by the Constitution and laws of the United States.

(c) The jurisdiction of the United States over land acquired by it shall continue only so long as the United States owns, leases, or occupies the land.

§6–102.

(a) A court may exercise personal jurisdiction as to any cause of action over a person domiciled in, served with process in, organized under the laws of, or who maintains his principal place of business in the State.

(b) This section does not limit any other basis of personal jurisdiction of a court of the State.

§6–103.

(a) If jurisdiction over a person is based solely upon this section, he may be sued only on a cause of action arising from any act enumerated in this section.

(b) A court may exercise personal jurisdiction over a person, who directly or by an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply goods, food, services, or manufactured products in the State;

(3) Causes tortious injury in the State by an act or omission in the State;

(4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from goods, food, services, or manufactured products used or consumed in the State;

(5) Has an interest in, uses, or possesses real property in the State; or

(6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation, or agreement located, executed, or to be performed within the State at the time the contract is made, unless the parties otherwise provide in writing.

(c) (1) (i) In this subsection the following terms have the meanings indicated.

(ii) "Computer information" has the meaning stated in § 22-102 of the Commercial Law Article.

(iii) "Computer program" has the meaning stated in § 22-102 of the Commercial Law Article.

(2) The provisions of this section apply to computer information and

computer programs in the same manner as they apply to goods and services.

§6–103.1.

A court may exercise personal jurisdiction over a nonresident defendant in any civil proceeding arising out of the marital relationship or involving a demand for child support, spousal support, or counsel fees if the plaintiff resides in this State at the time suit is filed and the nonresident defendant has been personally served with process in accordance with the Maryland Rules and:

(1) This State was the matrimonial domicile of the parties immediately before their separation; or

(2) The obligation to pay child support, spousal support, or counsel fees arose under the laws of this State or under an agreement executed by one of the parties in this State.

§6–103.2.

A court may exercise personal jurisdiction over a nonresident defendant alleged to be the father in a paternity proceeding if:

(1) The mother resides in this State at the time the suit is filed;

(2) The nonresident alleged father personally has been served with process in accordance with the Maryland Rules; and

(3) The act of conception is alleged to have occurred in this State.

§6–103.3.

(a) In this section, "defamation" includes invasion of privacy by false facts.

(b) A court may exercise personal jurisdiction, to the fullest extent permitted by the United States Constitution, over any person who obtains a judgment in a defamation proceeding outside the United States against any person who is a resident of this State or has assets in this State for the purpose of providing declaratory relief with respect to that person's liability for the judgment or determining whether the judgment may not be recognized under § 10–704 of this article if the Maryland resident or person who has assets in this State may have to take actions in Maryland to comply with the foreign defamation judgment.

§6–104.

(a) If a court finds that in the interest of substantial justice an action should be heard in another forum, the court may stay or dismiss the action in whole or in part on any conditions it considers just.

(b) (1) When actions involving at least one of the same parties, with the same subject matter, issues, and defenses arising out of the same circumstances, are instituted in the District Court and a circuit court of the State, the party who filed the action in the District Court may file a motion in that court to remove the action to the circuit court for consolidation with the action pending in circuit court.

(2) If the motion is granted, the court shall forward all pleadings to the circuit court.

(3) An action removed to the circuit court and consolidated with an action in that court under the provisions of this section shall proceed in the circuit court, without regard to the amount in controversy, as if originally instituted in the circuit court.

§6–201.

(a) Subject to the provisions of §§ 6–202 and 6–203 of this subtitle and unless otherwise provided by law, a civil action shall be brought in a county where the defendant resides, carries on a regular business, is employed, or habitually engages in a vocation. In addition, a corporation also may be sued where it maintains its principal offices in the State.

(b) If there is more than one defendant, and there is no single venue applicable to all defendants, under subsection (a) of this section, all may be sued in a county in which any one of them could be sued, or in the county where the cause of action arose.

§6–202.

In addition to the venue provided in § 6-201 or § 6-203, the following actions may be brought in the indicated county:

(1) Divorce -- Where the plaintiff resides;

(2) Annulment -- Where the plaintiff resides or where the marriage ceremony was performed;

(3) Action against a corporation which has no principal place of business in the State -- Where the plaintiff resides;

(4) Replevin or detinue -- Where the property sought to be recovered is located;

(5) Action relating to custody, guardianship, maintenance, or support of a child -- Where the father, alleged father, or mother of the child resides, or where the child resides;

(6) Suit on a bond against a corporate surety -- Where the bond is filed, or where the contract is to be performed;

(7) Action for possession of real property -- Where a portion of the land upon which the action is based is located;

(8) Tort action based on negligence -- Where the cause of action arose;

(9) Attachment on original process -- Where the property is located or where the garnishee resides;

(10) Nondelivery or injury of goods against master or captain of a vessel -- Where the goods are received on board the vessel or where delivery is to be made under the contract;

(11) Action for damages against a nonresident individual -- Any county in the State;

(12) Action against a person who absconds from a county or leaves the State before the statute of limitations has run -- Where the defendant is found;

(13) In a local action in which the defendant cannot be found in the county where the subject matter of the action is located -- In any county in which the venue is proper under § 6-201.

§6–203.

(a) The general rule of § 6-201 of this subtitle does not apply to actions enumerated in this section.

(b) (1) The venue of the following actions is in the county where all or any portion of the subject matter of the action is located:

(i) Partition of real estate;

(ii) Enforcement of a charge or lien on land;

(iii) Eminent domain;

(iv) Trespass to land; and

(v) Waste.

(2) If the property lies in more than one county, the court where proceedings are first brought has jurisdiction over the entire property.

(c) The venue of an action to recover damages against a railroad company for injury to livestock is the county where the injury occurred.

(d) The venue of an action for guardianship under Title 5, Subtitle 3 of the Family Law Article is in the county where the court has jurisdiction over the child in need of assistance case under Title 3, Subtitle 8 of this article.

(e) (1) Except as provided in paragraphs (2) and (3) of this subsection, the venue for a proceeding for adoption of an individual who is physically within this State or subject to the jurisdiction of an equity court is in a county where:

(i) The petitioner is domiciled;

(ii) The petitioner has resided for at least 90 days next preceding the filing of the petition;

(iii) A licensed child placement agency having legal or physical custody of the individual is located;

(iv) The individual is domiciled, if the individual is related to the petitioner by blood or marriage or is an adult; or

(v) An equity court has continuing jurisdiction over the custody of the individual.

(2) The venue in an adoption of an individual under Title 5, Subtitle 3, Part III of the Family Law Article is in the court with jurisdiction over the individual under Title 3, Subtitle 8 of this article.

(3) The venue in an adoption of an individual under Title 5, Subtitle 3, Part IV of the Family Law Article is in the court where the individual's guardianship case is pending.

§6–301.

In addition to any method allowed by law, service of process may be made in accordance with the Maryland Rules.

§6–302.

(a) The process of a court or administrative office or agency of the State or local government may be served on a Sunday or holiday.

(b) A writ of distraint, or for eviction or possession may not be served on Sunday.

§6–303.

(a) If a person resists service of civil process by threats, violence, or superior force, or by preventing the officer serving the process from entering the premises so that the officer cannot serve the process without force or personal risk, the officer shall leave a copy of the process:

(1) With a responsible person at the premises; or if that is not possible

(2) Posted as near the premises as practicable.

(b) Service under this section is as effective as actual personal service.

§6–304.

If the exercise of personal jurisdiction is authorized by this title, the defendant may be served with process where he is found, whether within or outside of the State.

§6–305.

(a) A nonresident person who is within the State for the purpose of testifying in or prosecuting or defending an action may not be served with process.

(b) A nonresident person passing through this State to or from another state in response to a summons to testify may not be served with process. This subsection does not apply to process arising from acts done by the person after his entry into this State.

§6–306.

Process may be served on an insurance, surety, or bonding company by serving it on an accredited agent or on one of the persons described in the Maryland Rules.

§6–307.

When process is served on the Department of Assessments and Taxation in accordance with the Maryland Rules, the Director shall record the date and time of the service, and shall forward a copy of the process and notice of the service to the defendant at his mailing address, if known, or to his principal place of business.

§6–308.

In a suit against the Police Department of Baltimore City, process may be served on the Police Department of Baltimore City in the same manner as service is made on an agency of the State as provided in Maryland Rule 2-124.

§6–309.

(a) Designated employees of the Department of Public Safety and Correctional Services may serve a criminal summons, warrant, or charging document.

(b) The authority of an individual designated to serve criminal process under this section shall be limited to the service of process within institutions operated by the Department of Public Safety and Correctional Services.

(c) The Secretary of Public Safety and Correctional Services shall ensure that an employee designated to serve criminal process has received adequate training.

(d) This section may not be construed to limit the authority of any employee of the Department of Public Safety and Correctional Services to serve civil process as provided in the Maryland Rules.

§6–310.

(a) In this section, "administrator" includes the sheriff, director, superintendent, warden, or other officer in charge of a local detention center.

(b) The administrator may designate employees of the local detention center to serve a criminal summons, warrant, or charging document.

(c) The authority of an individual designated to serve criminal process under this section shall be limited to the service of process within the local detention center.

(d) The administrator shall ensure that an employee designated to serve criminal process has received adequate training.

(e) This section may not be construed to limit the authority of any employee of the local detention center to serve civil process as provided in the Maryland Rules.

§6–311.

(a) In this section, "person" has the meaning stated in Rule 1–202 of the Maryland Rules.

(b) (1) This section applies to an action against a person who had applicable insurance coverage under an insurance policy or self–insurance plan at the time the alleged liability that is the subject of the action was incurred.

(2) Subject to paragraph (1) of this subsection, this section applies to a person who is a defendant subject to a complaint, counterclaim, cross–claim, or third–party complaint.

(c) (1) Subject to subsections (d) and (e) of this section, on written request of a plaintiff to the action, an insurer or a person that has a self–insurance plan shall provide to the plaintiff the defendant's last known home and business addresses if known.

(2) An insurer or a person that has a self–insurance plan, and their employees and agents, may not be civilly or criminally liable for the disclosure of information required under this subsection.

(d) Subsection (c)(1) of this section applies only if the plaintiff files a certification that states that the defendant:

(1) Had applicable insurance coverage at the time the alleged liability was incurred; and

(2) Is evading service of process or the whereabouts of the defendant are unknown to the plaintiff.

(e) A plaintiff shall file a certification described under subsection (d) of this section with the clerk of the court in which the case is filed and serve the certification on the insurer or the person that has the self–insurance plan, as provided in the Maryland Rules.

(f) A defendant who is subject to the provisions of this section is deemed to have consented to the disclosure of the information described in this section.

§6–312.

(a) In this section, "person" has the meaning stated in Rule 1-202 of the Maryland Rules.

(b) This section applies to a person who is a defendant subject to a complaint, counterclaim, cross-claim, or third-party complaint.

(c) (1) Notwithstanding any other provision of law, a party may effect service by delivering a copy of the summons and the complaint to a defendant personally or by leaving copies of the summons and complaint at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion residing at the dwelling house or place of abode or by delivering a copy of the summons and the complaint to an agent authorized by appointment or law to receive service of process.

(2) Any service under this subsection is as effective as actual personal service.

(3) The method of service provided in this subsection is in addition to and not exclusive of any other means of service that may be provided by statute or rule for obtaining jurisdiction of a defendant.

(d) This section does not affect any defense, including noncooperation, available to an insurer or a person who has a self-insurance plan under the terms of the applicable insurance or self-insurance plan.

(e) A defendant who is subject to the provisions of this section is deemed to have consented to service of process as described in this section.

§6–313.

(a) (1) In this section the following words have the meanings indicated.

(2) "Motor vehicle" has the meaning stated in § 11–135 of the Transportation Article.

(3) "Nonresident" has the meaning stated in § 11–139 of the Transportation Article.

(4) "Nonresident's privilege to drive" has the meaning stated in § 11–140

of the Transportation Article.

(b) By exercising a nonresident's privilege to drive a motor vehicle in the State, a nonresident irrevocably appoints the Motor Vehicle Administration as agent to receive a subpoena, a summons, or other process that is:

(1) Issued in an action that is related to an accident or collision involving a motor vehicle driven by the nonresident driver and in which the nonresident driver is named as a party; and

(2) Directed to the nonresident driver.

(c) Service of process is sufficient service on a nonresident driver if:

(1) Service is made by the personal delivery and leaving of a copy of the process, with a certification of the last known address of the nonresident driver, with the Motor Vehicle Administration;

(2) A fee for service of process is paid to the Motor Vehicle Administration;

(3) The Motor Vehicle Administration sends a copy of the process by certified mail, return receipt requested, to the nonresident driver at the nonresident driver's last known address; and

(4) The Motor Vehicle Administration files an affidavit of compliance with the provisions of this section with the clerk of the court in which the action is pending.

(d) The Motor Vehicle Administration shall provide a copy of the affidavit of compliance to the party seeking service.

(e) The party seeking service shall send by certified mail, return receipt requested, a copy of the affidavit of compliance to the motor vehicle insurer of the nonresident driver.

(f) (1) The Motor Vehicle Administration shall keep a record of all process served under this section that shows the date and hour of service on the Administration by the party seeking service.

(2) When the certified return receipt is returned to the Motor Vehicle Administration, the Administration shall:

(i) Deliver it to the party seeking service; and

(ii) Keep a record of the date of its receipt and the date of its delivery to the party seeking service.

(g) The Motor Vehicle Administration is authorized to establish and collect a reasonable fee to recover the Administration's costs under this section.

(h) The Motor Vehicle Administration shall report to the General Assembly on or before January 1 of each year, in accordance with § 2–1246 of the State Government Article, the following information for the preceding calendar year:

(1) The total number of subpoenas, summonses, and other service of process issued in accordance with the provisions of this section;

(2) The number of instances in which the Motor Vehicle Administration failed to reach the individual being served and the reasons that those attempts failed;

(3) A breakdown of all direct and indirect costs incurred by the Motor Vehicle Administration in carrying out the requirements of this section; and

(4) The total fees collected by the Motor Vehicle Administration from persons requesting service of process under this section.

§6–401.

(a) Except as provided in subsection (b) of this section, a cause of action at law, whether real, personal, or mixed, survives the death of either party.

(b) A cause of action for slander abates upon the death of either party unless an appeal has been taken from a judgment entered in favor of the plaintiff.

(c) A right of action in equity survives the death of either party if the court can grant effective relief in spite of the death.

§6–402.

(a) (1) In this section the following words have the meanings indicated.

(2) "Proceeding" includes:

(i) An arbitration proceeding;

(ii) Any part of an action; and

(iii) Any part of an appellate proceeding.

(3) "Session" includes an extraordinary session.

(b) Subject to subsection (d) of this section, if a member or desk officer of the General Assembly is an attorney of record in a proceeding, the proceeding shall be continued from 5 days before the legislative session convenes until at least 10 days after it is adjourned.

(c) If a member of the Legislative Policy Committee or of any committee or subcommittee thereof or a committee or subcommittee of the State legislature functioning during the legislative interim is an attorney of record in a proceeding,

the proceeding shall be continued while the committee or subcommittee is holding a meeting.

(d) If a brief, a memorandum of law, or another document is required to be filed in a proceeding continued under this section:

(1) The proceeding shall be continued for a time sufficient to allow it to be prepared and filed; and

(2) Any time prescribed by the Maryland Rules, by rule or order of court, or by any statute applicable to the filing of the document shall begin to run 10 days after the General Assembly adjourns.

(e) The attorney may waive the benefit of this section.

(f) The attorney may exercise any right under this section after filing a motion or letter with the appropriate court or administrative agency without the attorney personally appearing.

(g) This section applies to a proceeding in a federal, State, or local court or administrative agency.

§6–403.

(a) In a civil action in the District Court, if the amount in controversy is $2,500 or less, there shall be no formal pleadings.

(b) If the amount in controversy exceeds $2,500 the forms and pleadings are as provided by Title 3, Chapter 300 of the Maryland Rules.

§6–404.

(a) Except as provided in this section, a case transferred from the District Court to a circuit court for trial shall be deemed to have originated in the circuit court and the parties are entitled to removal as provided by rule or law.

(b) This section does not apply to an appeal from a final judgment of the District Court.

§6–405.

(a) Any action, including one in the name of the State, brought by a next friend for the benefit of a minor may be settled by the next friend.

(b) If the next friend is not a parent or person in loco parentis of the child, the settlement is not effective unless approved by the parent or other person responsible for the child.

(c) If both parents are dead, and there is no person responsible for the care and

custody of the child, the settlement is not effective unless approved by the court in which the suit was brought. Approval may be granted only on the written application by the next friend, under oath, stating the facts of the case, and why the settlement is in the best interest of the child.

§6–406.

(a) An unincorporated association, joint stock company, or other group which has a recognized group name may sue or be sued in the group name on any cause of action affecting the common property, rights, and liabilities of the group.

(b) An action under this section:

(1) Has the same force and effect with respect to the common property, rights, and liabilities of the group as if all members of the group were joined; and

(2) Does not abate because of any change of membership in the group or its dissolution.

§6–406.1.

(a) A creditor of a person engaged in a mercantile, trading, or manufacturing business as an agent or doing business or trading under any designation, title, or name other than the person's own name who fails to file the certificate required under § 1-406 of the Corporations and Associations Article, may bring an action in a court of competent jurisdiction against the person or the name, title, or designation under which the business is conducted and service on the person shall be valid.

(b) All the assets used in or owned by the person's business are subject to seizure and sale under execution in satisfaction of the judgment.

§6–407.

(a) Except as provided in subsection (b) of this section, the appearance of an attorney-at-law in any case before a court in the State terminates automatically on the expiration of an appeal period during which no party enters an appeal from a final judgment.

(b) On the motion of the court that has jurisdiction over a case or on the motion of a party, the court may suspend the termination of appearance under subsection (a) of this section.

§6–408.

For a period of 30 days after the entry of a judgment, or thereafter pursuant to motion filed within that period, the court has revisory power and control over the judgment. After the expiration of that period the court has revisory power and control over the judgment only in case of fraud, mistake, irregularity, or failure of an employee

of the court or of the clerk's office to perform a duty required by statute or rule.

§6–409.

In any court proceeding, an attorney entering his appearance on behalf of a client may be granted a continuance if:

(1) The entry of appearance is made in good faith and not for purposes of delay;

(2) The case has not been continued previously an unreasonable number of times; and

(3) At the time his appearance is entered he is the attorney of record in another court proceeding which previously had been scheduled for a time which will cause a conflict with the case in which the appearance is being entered.

§6–410.

(a) (1) In this section the following words have the meanings indicated.

(2) "Custodian" has the meaning stated in § 4–101(c) of the General Provisions Article.

(3) "Public record" has the meaning stated in § 4–101(h) of the General Provisions Article.

(b) If the custodian of public records is not known and cannot be ascertained after a reasonable effort by a party in a legal proceeding, the party may request a court to issue a subpoena for the custodian of public records to be served on:

(1) A resident agent designated under § 1–1301 of the Local Government Article for service on a local entity;

(2) A resident agent designated under § 6–109 of the State Government Article for service on a State agency that is not represented by the Attorney General; or

(3) The Attorney General or an individual designated by the Attorney General as provided under the Maryland Rules for service on a State agency that is represented by the Attorney General.

(c) Service of a subpoena under this section is equivalent to personal service on a custodian of public records.

(d) The Court of Appeals may adopt rules to implement the provisions of this section.

§6–411.

(a) An individual arrested for failure to appear in court to show cause why the individual should not be found in contempt for failure to answer interrogatories or to appear for an examination in aid of enforcement of a money judgment shall be taken immediately:

(1) If the court is in session, before the court that issued the order that resulted in the arrest; or

(2) If the court is not in session, before a judicial officer of the District Court for a determination of appropriate conditions of release to ensure the individual's appearance at the next session of the court that issued the order that resulted in the arrest.

(b) If a judicial officer determines that the individual should be released on other than personal recognizance without any additional conditions, the judicial officer shall impose on the individual the least onerous condition or combination of conditions that will reasonably ensure the appearance of the individual as required.

§7–101.

In this subtitle, "costs" means any cost other than counsel fees necessary for prosecution of an appeal, application for leave to appeal, or filing a petition for writ of certiorari including but not limited to clerk's fees, the cost of preparing a transcript of the testimony, the cost of preparing and transmitting the record, and the cost of the briefs, appendices, and printed record extract.

§7–102.

The State Court Administrator shall determine the amount of fees to be charged by the Clerk of the Court of Appeals and the Clerk of the Court of Special Appeals, with the approval of the Board of Public Works.

§7–104.

(a) (1) Costs shall be allowed to or awarded against the State or one of its agencies or political subdivisions which is a party to an appeal from an executive, administrative, or judicial decision, in the same manner as costs are allowed to or awarded against a private litigant.

(2) The State, its agency, or the political subdivision shall pay the costs awarded against it.

(b) When notified by the Attorney General, the political subdivision in which a criminal case originated shall pay immediately the costs incurred by the State.

(c) If a defendant against whom costs are assessed in a criminal appeal fails

to pay the costs to the political subdivision in which the case originated, the State's Attorney for that political subdivision shall take the necessary steps to recover them.

§7–201.

(a) Except for an appeal from the State Workers' Compensation Commission or an appeal, by an individual claiming benefits, from a decision of the Board of Appeals of the Department of Labor, Licensing, and Regulation, no case may be docketed and no writ of attachment, fieri facias, or execution on judgment may be issued unless the plaintiff or appellant pays the required fee.

(b) The circuit court shall pass an order waiving the payment in advance if:

(1) Upon petition for waiver, it is satisfied that the petitioner is unable by reason of his poverty to make the payment; and

(2) The petitioner's attorney, if any, certifies that the suit, appeal, or writ is meritorious.

§7–202. IN EFFECT

(a) (1) (i) The State Court Administrator shall determine the amount of all court costs and charges for the circuit courts of the counties with the approval of the Board of Public Works.

(ii) The fees and charges shall be uniform throughout the State.

(2) The Comptroller of the State shall require clerks of court to collect all fees required to be collected by law.

(b) The clerk may not charge the State, any county, municipality, or Baltimore City any fee provided by this subtitle, unless the State, county, municipality, or Baltimore City first gives its consent.

(c) The clerk is entitled to a reasonable fee for performing any other service that is not enumerated in this subtitle or in §§ 3–601 through 3–603 of the Real Property Article.

(d) The State Court Administrator, as part of the Administrator's determination of the amount of court costs and charges in civil cases, shall assess a surcharge that:

(1) May not be more than $55 per case; and

(2) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(e) The State Court Administrator shall:

(1) Assess a $100 fee for the special admission of an out–of–state attorney

under § 10–215 of the Business Occupations and Professions Article; and

(2) Pay $75 of the fee to the Janet L. Hoffman Loan Assistance Repayment Program established under § 18–1502 of the Education Article.

(f) If a party in a proceeding feels aggrieved by any fee permitted under this subtitle or by §§ 3–601 through 3–603 of the Real Property Article, the party may request a judge of that circuit court to determine the reasonableness of the fee.

7–202. // EFFECTIVE JUNE 30, 2018 PER CHAPTERS 71 AND 72 OF 2013 //

(a) (1) The State Court Administrator shall determine the amount of all court costs and charges for the circuit courts of the counties with the approval of the Board of Public Works. The fees and charges shall be uniform throughout the State.

(2) The Comptroller of the State shall require clerks of court to collect all fees required to be collected by law.

(b) The clerk may not charge the State, any county, municipality, or Baltimore City any fee provided by this subtitle, unless the State, county, municipality, or Baltimore City first gives its consent.

(c) The clerk is entitled to a reasonable fee for performing any other service that is not enumerated in this subtitle or in §§ 3–601 through 3–603 of the Real Property Article.

(d) The State Court Administrator, as part of the Administrator's determination of the amount of court costs and charges in civil cases, shall assess a surcharge that:

(1) May not be more than $25 per case; and

(2) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(e) The State Court Administrator shall:

(1) Assess a $100 fee for the special admission of an out–of–state attorney under § 10–215 of the Business Occupations and Professions Article; and

(2) Pay $75 of the fee to the Janet L. Hoffman Loan Assistance Repayment Program established under § 18–1502 of the Education Article.

(f) If a party in a proceeding feels aggrieved by any fee permitted under this subtitle or by §§ 3–601 through 3–603 of the Real Property Article, the party may request a judge of that circuit court to determine the reasonableness of the fee.

§7–203.

(a) In this section, the term "not guilty" does not include a finding of probation

before judgment under § 6-220 of the Criminal Procedure Article.

(b) (1) The clerk of the circuit court may not charge a county or Baltimore City with fees or costs of a criminal proceeding, regardless of whether the fee or cost was imposed or allowed by statute or common law.

(2) The clerk of a circuit court may not charge a defendant with the costs of a criminal proceeding in which the defendant is found not guilty.

§7–204.

(a) (1) Except in Montgomery County and except as provided in paragraph (2) of this subsection for Baltimore County, in paragraph (3) of this subsection for St. Mary's County, in paragraph (4) of this subsection for Baltimore City, in paragraph (5) of this subsection for Harford County, and in paragraph (6) of this subsection for Carroll County, the clerk of each circuit court shall:

(i) Collect, in advance, a $10 fee for docketing the appearance of counsel when bringing or defending a civil action in the court;

(ii) Charge as costs a $10 fee for docketing the appearance of counsel when prosecuting or defending a criminal action in the court; and

(iii) Collect, in advance, a $10 fee for docketing the appearance of counsel when bringing or defending a case in the Court of Appeals.

(2) The Clerk of the Circuit Court for Baltimore County shall:

(i) Collect, in advance, the following fee for docketing the appearance of counsel when bringing or defending a civil action:

1. A $20 fee for an action, including the collection of money due on mortgage, in a court of equity; and

2. A $10 fee for an action at law in a court of original jurisdiction;

(ii) Charge as costs the following fee for docketing the appearance of counsel when bringing or defending a criminal action:

1. If the punishment for the offense charged is death or confinement in the State penitentiary, a $20 fee; and

2. For any other criminal action, a $10 fee; and

(iii) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a case in the Court of Appeals.

(3) The Clerk of the Circuit Court for St. Mary's County shall collect, in

advance, a $10 fee for docketing the appearance of counsel when bringing or defending a civil action in the court.

(4) The Clerk of the Circuit Court for Baltimore City shall:

(i) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a civil action in the court;

(ii) Charge as costs the following fee for docketing the appearance of counsel when bringing or defending a criminal action:

1. If the punishment for the offense charged is death or confinement in the State penitentiary, a $20 fee; and

2. For any other criminal action, a $10 fee; and

(iii) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a case in the Court of Appeals.

(5) The Clerk of the Circuit Court for Harford County shall:

(i) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a civil action in the court;

(ii) Charge as costs a $20 fee for docketing the appearance of counsel when prosecuting or defending a criminal action in the court; and

(iii) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a case in the Court of Appeals.

(6) The Clerk of the Circuit Court for Carroll County shall:

(i) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a civil action in the court;

(ii) Charge as costs a $20 fee for docketing the appearance of counsel when prosecuting or defending a criminal action in the court; and

(iii) Collect, in advance, a $20 fee for docketing the appearance of counsel when bringing or defending a case in the Court of Appeals.

(b) (1) The Clerk of the Circuit Court for Allegany County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the Allegany County Law Library Fund.

(2) The Fund shall be used only for the general use of the Circuit Court Law Library for the acquisition of books and other publications, library equipment, and for other necessary expenses, as determined by the County Administrative Judge.

(c) (1) The Clerk of the Circuit Court for Anne Arundel County shall transmit to the county all appearance fees collected by the Clerk under this section to be used for the general purposes of the court library and assignment office and for the maintenance and improvement of the court's facilities, equipment, and programs. These purposes include, but are not limited to, the necessary expenses for books, legal publications, library equipment, and the services of the library and other personnel.

(2) Expenditures for the library are not to be limited to this fund if the same should be deemed insufficient by the County Administrative Judge.

(d) (1) The Clerk of the Circuit Court for Baltimore City shall transmit on a monthly basis all appearance fees collected by the Clerk under this section to the Library Company of the Baltimore Bar to be used for the general purposes of the bar library.

(2) The Library Company shall file an annual financial report with the Director of the Administrative Office of the Circuit Court for Baltimore City and with the Director of Finance of Baltimore City.

(3) Baltimore City and court employees may use the library in connection with official duties without charge.

(e) The Clerk of the Circuit Court for Baltimore County shall transmit to the county all appearance fees collected by the Clerk under this section to be used for the general purposes of the court library of the county. These purposes include the necessary expenses for books and library equipment and the services of the librarian.

(f) (1) The Clerk of the Circuit Court for Calvert County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the Calvert County Law Library Fund.

(2) The Fund shall be used only for the acquisition of books and other publications, library equipment, and other necessary expenses, as determined by the County Administrative Judge.

(g) (1) The Clerk of the Circuit Court for Caroline County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the Law Library Fund.

(2) The Fund shall be used only for the law library of Caroline County upon recommendation of the Caroline County Bar Association.

(h) The Clerk of the Circuit Court for Carroll County shall retain all appearance fees collected by the Clerk under this section for the general use of the court library of the county, including expenses for books and library equipment.

(i) The Clerk of the Circuit Court for Cecil County shall retain all appearance fees collected by the Clerk under this section for the general use of the court library

of the county, including expenses for books and library equipment, and for other charitable and educational purposes authorized under § 7-507 of this title or other applicable law.

(j) (1) The Clerk of the Circuit Court for Charles County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the Charles County Law Library Fund.

(2) The Fund shall be used only for the general use of the Circuit Court Law Library for the acquisition of books and other publications, library equipment, and for other necessary expenses, as determined by the County Administrative Judge.

(k) The Clerk of the Circuit Court for Dorchester County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as "the Court and Bar Library Account". The Account shall be for the general use of the Court Library and for the maintenance and improvement of the court's facilities and equipment, subject to the approval of the resident circuit court judge.

(l) (1) The Clerk of the Circuit Court for Frederick County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the Frederick County Law Library Fund.

(2) The Fund shall be used only for the general use of the Circuit Court Law Library for the acquisition of books and other publications, library equipment, and for other necessary expenses, as determined by the County Administrative Judge.

(m) (1) The Clerk of the Circuit Court for Garrett County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the Garrett County Law Library Fund.

(2) The Fund shall be used only for the acquisition of books and other publications, library equipment, and for other necessary expenses, as determined by the County Administrative Judge.

(n) The Clerk of the Circuit Court for Harford County shall retain all appearance fees collected by the Clerk under this section for the general use of the court library of the county, including the necessary expenses for books and library equipment and the cost for the services of a librarian.

(o) The Clerk of the Circuit Court for Howard County shall deposit all appearance fees collected by the Clerk pursuant to this section into a special account to be known and designated as "the Law Library Fund". The Fund shall be used for the general purposes of the court library of the county, including the necessary expenses for books and library equipment.

(p) (1) The Clerk of the Circuit Court for Kent County shall deposit all appearance fees collected by the Clerk under this section into a special account known as the "Kent County Bar Library" Account.

(2) These fees, together with other funds, shall be disbursed:

(i) If approved or considered necessary by the Administrative Judge of the Circuit Court for Kent County;

(ii) For the acquisition and maintenance of legal publications; or

(iii) For the compensation of the librarian of the Kent County Bar Library in the amount established in the Second Judicial Circuit Order, relating to the appointment and compensation of the law librarian of the Second Judicial Circuit Courts.

(q) (1) The Clerk of the Circuit Court for Prince George's County shall transmit to the county all appearance fees collected by the Clerk under this section to be used for the general purposes of the court library and assignment office and for the maintenance and improvement of the court's facilities, equipment, and programs. These purposes include, but are not limited to, the necessary expenses for books, legal publications, library equipment, and the services of the library and other personnel.

(2) Expenditures for the library are not limited to this fund if the same should be deemed insufficient by the County Administrative Judge.

(r) (1) The Clerk of the Circuit Court for Queen Anne's County shall distribute all appearance fees collected by the Clerk under this section to the Queen Anne's County Bar Association.

(2) The Queen Anne's County Bar Association shall retain the fees in a separate Law Library Fund.

(3) The Queen Anne's County Bar Association, with the approval of the County Administrative Judge, may make distributions from the Law Library Fund for the purchase and maintenance of legal publications and equipment for the county law library.

(4) All property acquired under this section shall be used and maintained as part of the county law library.

(r–1) (1) The Clerk of the Circuit Court for St. Mary's County shall transmit to the county each month all appearance fees collected by the Clerk under this section.

(2) The county shall maintain the appearance fees in a special account to be known as the St. Mary's County Law Library Fund.

(3) The Fund shall be used only for the general use of the Circuit Court Law Library for the acquisition of books and other publications, library equipment, and for other necessary expenses, as determined by the County Administrative Judge.

(s) The Clerk of the Circuit Court for Somerset County shall deposit monthly

all appearance fees collected by the Clerk under this section into a special account to be known as "the Court and Bar Library Account". The Account shall be for the general use of the court library and for the maintenance and improvement of the court's facilities and equipment, subject to the approval of the resident circuit court judge.

(t) The Clerk of the Circuit Court for Talbot County shall transmit on a monthly basis all appearance fees collected by the Clerk under this section to the County Bar Library Fund to be used for the general purposes of the bar library.

(u) (1) The Clerk of the Circuit Court for Washington County shall deposit monthly all appearance fees collected under this section into a special account to be known as the Washington County Court Library Fund.

(2) The Fund shall be used only for the general use of the county court library including books, library equipment, librarian services, and other necessary expenses as determined by the County Administrative Judge.

(v) (1) The Clerk of the Circuit Court for Wicomico County shall deposit not less than monthly all appearance fees collected by the Clerk under this section into a special account to be known as the "Court and Bar Library Account".

(2) The Account shall be for the general use of the court library and for the maintenance and improvement of the court's facilities and equipment.

(3) Funds in the Account shall be disbursed on the approval of the County Administrative Judge.

(w) The Clerk of the Circuit Court for Worcester County shall deposit monthly all appearance fees collected by the Clerk under this section into a special account to be known as the "Court and Bar Library Account". The Account shall be for the general use of the court library and for the maintenance and improvement of the court's facilities and equipment, and together with other funds in the Account, shall be disbursed upon the approval of the County Administrative Judge.

§7–205.

(a) The county from which a case is removed shall pay the costs and expenses in the county to which the case is removed.

(b) (1) The clerk of the court to which a case is removed shall keep an accurate account of the costs and expenses, and certify the account to both counties.

(2) The account shall contain names and addresses of the persons to whom the costs or expenses are due, and the amount due.

(3) The returns of the certified accounts shall accompany the case when it is returned.

(c) The county where the case is tried shall initially pay the costs and expenses due to its residents in the same manner as if the case originated in that county.

§7–206.

(a) If a criminal or traffic case is appealed from the District Court to a circuit court, the fine and costs collected in the District Court, including costs collected under Maryland Rule 7-103, shall be forwarded to the circuit court for disposition in accordance with this section.

(b) If the appeal in a criminal or traffic case is disposed of other than by acquittal, nolle prosequi, or stet, a fine imposed by the circuit court and the circuit court costs, including the sum paid under Maryland Rule 7-103(c), shall be disposed of in the same manner as are fines and costs in a criminal case heard by the circuit court in the exercise of its original jurisdiction. The District Court costs shall be returned to the District Court.

(c) In a civil case, the court costs shall be disposed of in the same manner as are other costs in a civil case heard by the circuit court in the exercise of its original jurisdiction.

§7–207.

All fines paid to the clerk of the court for the purgation of contempt of a court of equity shall be paid by the clerk at the end of every six months to the county where the offense occurred.

§7–208.

If any person gives a check to the clerk to pay for any charge or for any other purpose and the check is not honored by the bank on which it is drawn, the clerk may impose a service charge of $10 against the party drawing the check. This charge shall be in addition to any other penalty prescribed by law.

§7–301. IN EFFECT

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of the Transportation Article in which costs are imposed, and cases under § 10–112 of the Criminal Law Article in which costs are imposed:

(i) Are $22.50; and

(ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant's right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(2) In an uncontested case under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of the Transportation Article, an uncontested case under § 10–112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are $2.00, which costs shall be paid to and retained by the political subdivision or municipality.

(3) (i) In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the court costs are $2.00.

(ii) The fine and the costs under this paragraph shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

(b) (1) The court costs in a criminal case in which costs are imposed are $22.50.

(2) The costs shall be in addition to any costs imposed in a criminal case under the Criminal Injuries Compensation Act.

(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation.

(2) The Chief Judge of the District Court shall assess a surcharge that:

(i) May not be more than:

1. $8 per summary ejectment case; and

2. $18 per case for all other civil cases; and

(ii) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) (i) In addition to the surcharge assessed under paragraph (2) of this subsection, the Chief Judge of the District Court shall assess a surcharge that may not be more than $10 per case for the following cases filed in Baltimore City:

1. Summary ejectment;

2. Tenant holding over;

3. Breach of lease; and

4. Warrant of restitution.

(ii) The revenue generated from the surcharge on filing fees collected by the District Court in Baltimore City under subparagraph (i) of this paragraph shall

be:

1. Remitted quarterly to the Baltimore City Director of Finance; and

2. Used to fund the enhancement of sheriff benefits and the increase in sheriff personnel to enhance the service of domestic violence orders.

(4) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

(d) When a person pays court costs or a fine with a check in any motor vehicle, criminal, or civil case in the District Court, and the check is returned to the court by the financial institution on which it is drawn because of insufficient funds in the account, or because the account has been closed or never existed, then the court may impose additional costs of $10 against the party issuing the check. These costs shall be in addition to any other penalty now prescribed by law.

(e) The Comptroller shall annually pay from the court costs collected by the District Court under subsections (a) and (b)(1) of this section:

(1) $500,000 into the Criminal Injuries Compensation Fund established under § 11–819 of the Criminal Procedure Article; and

(2) $125,000 into the Victim and Witness Protection and Relocation Fund established under § 11–905 of the Criminal Procedure Article.

(f) (1) This subsection does not apply to a traffic case under § 21–202.1, § 21–809, § 21–810, or § 21–1414 of the Transportation Article or to a parking or impounding case.

(2) In a traffic case under subsection (a)(1) of this section the court shall add a $7.50 surcharge to any fine imposed by the court.

(3) (i) The Comptroller annually shall credit the surcharges collected under this subsection as provided in this paragraph.

(ii) An amount annually as set forth in the State budget shall be distributed for the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program as established in § 18–603 of the Education Article.

(iii) An amount annually as set forth in the State budget shall be distributed to the Maryland State Firemen's Association for the Widows' and Orphans' Fund.

(iv) After the distribution under subparagraphs (ii) and (iii) of this paragraph, $200,000 shall be distributed to the Maryland State Firemen's Association.

(v) After the distribution under subparagraphs (ii), (iii), and (iv) of this paragraph and until a total of $20,000,000 has been distributed to the Volunteer Company Assistance Fund since the establishment of the surcharge under this subsection, the remainder shall be credited to the Volunteer Company Assistance Fund to be used in accordance with the provisions of Title 8, Subtitle 2 of the Public Safety Article.

(vi) After a total of $20,000,000 has been distributed to the Volunteer Company Assistance Fund, 100% of the remainder shall be credited to the Maryland Emergency Medical System Operations Fund established under § 13–955 of the Transportation Article.

(vii) On or before September 1 of each year until $20,000,000 has been distributed to the Volunteer Company Assistance Fund, the State Court Administrator shall submit a report to the Senate Budget and Taxation Committee and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on the amount of revenue distributed to the Volunteer Company Assistance Fund under this paragraph.

7–301. ** TAKES EFFECT OCTOBER 1, 2015 PER CHAPTER 503 OF 2013 **

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of the Transportation Article in which costs are imposed, and cases under § 10–112 of the Criminal Law Article in which costs are imposed:

(i) Are $22.50; and

(ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant's right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(2) In an uncontested case under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of the Transportation Article, an uncontested case under § 10–112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are $2.00, which costs shall be paid to and retained by the political subdivision or municipality.

(3) (i) In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the court costs are $2.00.

(ii) The fine and the costs under this paragraph shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

(b) (1) The court costs in a criminal case in which costs are imposed are $22.50.

(2) The costs shall be in addition to any costs imposed in a criminal case under the Criminal Injuries Compensation Act.

(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation.

(2) The Chief Judge of the District Court shall assess a surcharge that:

(i) May not be more than:

1. $8 per summary ejectment case; and

2. $18 per case for all other civil cases; and

(ii) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) (i) In addition to the surcharge assessed under paragraph (2) of this subsection, the Chief Judge of the District Court shall assess a surcharge that may not be more than $10 per case for the following cases filed in Baltimore City:

1. Summary ejectment;

2. Tenant holding over;

3. Breach of lease; and

4. Warrant of restitution.

(ii) The revenue generated from the surcharge on filing fees collected by the District Court in Baltimore City under subparagraph (i) of this paragraph shall be:

1. Remitted quarterly to the Baltimore City Director of Finance; and

2. Used to fund the enhancement of sheriff benefits and the increase in sheriff personnel to enhance the service of domestic violence orders.

(4) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

(d) When a person pays court costs or a fine with a check in any motor vehicle, criminal, or civil case in the District Court, and the check is returned to the court by the financial institution on which it is drawn because of insufficient funds in the account, or because the account has been closed or never existed, then the court may

impose additional costs of $10 against the party issuing the check. These costs shall be in addition to any other penalty now prescribed by law.

(e) The Comptroller shall annually pay from the court costs collected by the District Court under subsections (a) and (b)(1) of this section:

(1) $500,000 into the Criminal Injuries Compensation Fund established under § 11–819 of the Criminal Procedure Article; and

(2) $125,000 into the Victim and Witness Protection and Relocation Fund established under § 11–905 of the Criminal Procedure Article.

(f) (1) This subsection does not apply to a traffic case under § 21–202.1, § 21–809, § 21–810, or § 21–1414 of the Transportation Article or to a parking or impounding case.

(2) In a traffic case under subsection (a)(1) of this section the court shall add a $7.50 surcharge to any fine imposed by the court.

(3) (i) The Comptroller annually shall credit the surcharges collected under this subsection as provided in this paragraph.

(ii) An amount annually as set forth in the State budget shall be distributed for the Charles W. Riley Firefighter and Ambulance and Rescue Squad Member Scholarship as established in § 18–603.1 of the Education Article.

(iii) An amount annually as set forth in the State budget shall be distributed to the Maryland State Firemen's Association for the Widows' and Orphans' Fund.

(iv) After the distribution under subparagraphs (ii) and (iii) of this paragraph, $200,000 shall be distributed to the Maryland State Firemen's Association.

(v) After the distribution under subparagraphs (ii), (iii), and (iv) of this paragraph and until a total of $20,000,000 has been distributed to the Volunteer Company Assistance Fund since the establishment of the surcharge under this subsection, the remainder shall be credited to the Volunteer Company Assistance Fund to be used in accordance with the provisions of Title 8, Subtitle 2 of the Public Safety Article.

(vi) After a total of $20,000,000 has been distributed to the Volunteer Company Assistance Fund, 100% of the remainder shall be credited to the Maryland Emergency Medical System Operations Fund established under § 13–955 of the Transportation Article.

(vii) On or before September 1 of each year until $20,000,000 has been distributed to the Volunteer Company Assistance Fund, the State Court Administrator shall submit a report to the Senate Budget and Taxation Committee and the House

Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on the amount of revenue distributed to the Volunteer Company Assistance Fund under this paragraph.

7–301. // EFFECTIVE JUNE 30, 2018 PER CHAPTERS 71 AND 72 OF 2013 //

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of the Transportation Article in which costs are imposed, and cases under § 10–112 of the Criminal Law Article in which costs are imposed:

(i) Are $22.50; and

(ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant's right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(2) In an uncontested case under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of the Transportation Article, an uncontested case under § 10–112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are $2.00, which costs shall be paid to and retained by the political subdivision or municipality.

(3) (i) In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the court costs are $2.00.

(ii) The fine and the costs under this paragraph shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

(b) (1) The court costs in a criminal case in which costs are imposed are $22.50.

(2) The costs shall be in addition to any costs imposed in a criminal case under the Criminal Injuries Compensation Act.

(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation.

(2) The Chief Judge of the District Court shall assess a surcharge that:

(i) May not be more than:

1. $5 per summary ejectment case; and

2. $10 per case for all other civil cases; and

(ii) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) (i) In addition to the surcharge assessed under paragraph (2) of this subsection, the Chief Judge of the District Court shall assess a surcharge that may not be more than $10 per case for the following cases filed in Baltimore City:

1. Summary ejectment;

2. Tenant holding over;

3. Breach of lease; and

4. Warrant of restitution.

(ii) The revenue generated from the surcharge on filing fees collected by the District Court in Baltimore City under subparagraph (i) of this paragraph shall be:

1. Remitted quarterly to the Baltimore City Director of Finance; and

2. Used to fund the enhancement of sheriff benefits and the increase in sheriff personnel to enhance the service of domestic violence orders.

(4) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

(d) When a person pays court costs or a fine with a check in any motor vehicle, criminal, or civil case in the District Court, and the check is returned to the court by the financial institution on which it is drawn because of insufficient funds in the account, or because the account has been closed or never existed, then the court may impose additional costs of $10 against the party issuing the check. These costs shall be in addition to any other penalty now prescribed by law.

(e) The Comptroller shall annually pay from the court costs collected by the District Court under subsections (a) and (b)(1) of this section:

(1) $500,000 into the Criminal Injuries Compensation Fund established under § 11–819 of the Criminal Procedure Article; and

(2) $125,000 into the Victim and Witness Protection and Relocation Fund established under § 11–905 of the Criminal Procedure Article.

(f) (1) This subsection does not apply to a traffic case under § 21–202.1, § 21–809, § 21–810, or § 21–1414 of the Transportation Article or to a parking or

impounding case.

(2) In a traffic case under subsection (a)(1) of this section the court shall add a $7.50 surcharge to any fine imposed by the court.

(3) (i) The Comptroller annually shall credit the surcharges collected under this subsection as provided in this paragraph.

(ii) An amount annually as set forth in the State budget shall be distributed for the Charles W. Riley Firefighter and Ambulance and Rescue Squad Member Scholarship as established in § 18–603.1 of the Education Article.

(iii) An amount annually as set forth in the State budget shall be distributed to the Maryland State Firemen's Association for the Widows' and Orphans' Fund.

(iv) After the distribution under subparagraphs (ii) and (iii) of this paragraph, $200,000 shall be distributed to the Maryland State Firemen's Association.

(v) After the distribution under subparagraphs (ii), (iii), and (iv) of this paragraph and until a total of $20,000,000 has been distributed to the Volunteer Company Assistance Fund since the establishment of the surcharge under this subsection, the remainder shall be credited to the Volunteer Company Assistance Fund to be used in accordance with the provisions of Title 8, Subtitle 2 of the Public Safety Article.

(vi) After a total of $20,000,000 has been distributed to the Volunteer Company Assistance Fund, 100% of the remainder shall be credited to the Maryland Emergency Medical System Operations Fund established under § 13–955 of the Transportation Article.

(vii) On or before September 1 of each year until $20,000,000 has been distributed to the Volunteer Company Assistance Fund, the State Court Administrator shall submit a report to the Senate Budget and Taxation Committee and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on the amount of revenue distributed to the Volunteer Company Assistance Fund under this paragraph.

§7–302.

(a) Except as provided in subsections (b) through (g) of this section, the clerks of the District Court shall:

(1) Collect costs, fines, forfeitures, or penalties imposed by the court; and

(2) Remit them to the State under a system agreed upon by the Chief Judge of the District Court and the Comptroller.

(b) If a parking or impounding fine, penalty, or forfeiture, or a fine, penalty, or forfeiture relating to violation of housing, building, fire, health, or sanitation codes, or a Mass Transit Fare Payment Statute, or a fine or penalty relating to failure to pay the prescribed toll at an Authority highway, as defined in § 21–1401 of the Transportation Article, is collected by the District Court pursuant to a local ordinance, law, or regulation of a political subdivision or municipality, or pursuant to a regulation of an agency of State government authorized to regulate parking of motor vehicles, or pursuant to a statute pertaining to the payment of mass transit fares, or pursuant to a statute pertaining to the failure to pay tolls, it shall be remitted to the respective local government, or to the State agency.

(c) Every agency of State government, political subdivision or municipality which has enacted or which shall enact an ordinance, law, or regulation controlling the parking of motor vehicles, or providing for the impounding of motor vehicles, or pertaining to the failure to pay tolls shall provide that fines, penalties or forfeitures for the violation of said ordinances, laws, or regulations shall be paid directly to the State agency, political subdivision or municipality, and not to the District Court, in uncontested cases.

(d) Every ordinance, law, or regulation controlling the parking of motor vehicles or providing for impounding such vehicles or pertaining to the failure to pay tolls shall provide that the person receiving a citation may elect to stand trial for said offense by notifying the State agency, political subdivision or municipality of his intention of standing trial, which notice shall be given at least five (5) days prior to the date of payment as set forth in the citation. Upon receipt of the notice of such intention to stand trial, the political subdivision or municipality shall forward to the District Court in said political subdivision or municipality, and the State agency shall forward to the District Court having venue, a copy of the citation and a copy of the notice from the person who received the citation indicating his intention to stand trial. Upon receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures to be adopted by the Chief Judge of the District Court. All parking or impounding fines, penalties or forfeitures or failure to pay toll penalties collected through the District Court pursuant to a parking or impounding or toll collection ordinance, law, or regulation enacted by a State agency, political subdivision or municipality shall be remitted to the respective local government or State agency.

(e) (1) A citation issued pursuant to § 21–202.1, § 21–706.1, § 21–809, § 21–810, or § 24–111.3 of the Transportation Article shall provide that the person receiving the citation may elect to stand trial by notifying the issuing agency of the person's intention to stand trial at least 5 days prior to the date of payment as set forth in the citation. On receipt of the notice to stand trial, the agency shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person's intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.

(2) A citation issued as the result of a vehicle height monitoring system, a traffic control signal monitoring system, or a speed monitoring system, including a work zone speed control system, controlled by a political subdivision or a school bus monitoring camera shall provide that, in an uncontested case, the penalty shall be paid directly to that political subdivision. A citation issued as the result of a traffic control signal monitoring system or a work zone speed control system controlled by a State agency, or as a result of a vehicle height monitoring system, a traffic control signal monitoring system, a speed monitoring system, or a school bus monitoring camera in a case contested in District Court, shall provide that the penalty shall be paid directly to the District Court.

(3) Civil penalties resulting from citations issued using a vehicle height monitoring system, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera that are collected by the District Court shall be collected in accordance with subsection (a) of this section and distributed in accordance with § 12–118 of the Transportation Article.

(4) (i) From the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems or school bus monitoring cameras, a political subdivision:

1. May recover the costs of implementing and administering the speed monitoring systems or school bus monitoring cameras; and

2. Subject to subparagraph (ii) of this paragraph, may spend any remaining balance solely for public safety purposes, including pedestrian safety programs.

(ii) 1. For any fiscal year, if the balance remaining from the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems, after the costs of implementing and administering the systems are recovered in accordance with subparagraph (i)1 of this paragraph, is greater than 10% of the total revenues of the political subdivision for the fiscal year, the political subdivision shall remit any funds that exceed 10% of the total revenues to the Comptroller.

2. The Comptroller shall deposit any money remitted under this subparagraph to the General Fund of the State.

(5) From the fines collected by Baltimore City as a result of violations enforced by vehicle height monitoring systems, Baltimore City may:

(i) Recover the costs of implementing and administering the vehicle height monitoring systems; and

(ii) Spend the remaining balance solely on roadway improvements.

(f) (1) A citation issued under § 10–112 of the Criminal Law Article shall provide that the person receiving the citation may elect to stand trial by notifying the

Baltimore City Department of Public Works of the person's intention to stand trial at least 5 days prior to the date of payment as set forth in the citation. On receipt of the notice to stand trial, the Baltimore City Department of Public Works shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person's intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.

(2) A citation issued as a result of the use of a surveillance system shall provide that, in an uncontested case, the penalty shall be paid directly to Baltimore City.

(3) Civil penalties collected by the District Court resulting from citations issued as a result of the use of a surveillance system shall be collected in accordance with subsection (a) of this section and distributed to Baltimore City.

(g) (1) A civil penalty collected by the District Court resulting from citations issued under § 5–601(c)(2)(ii) of the Criminal Law Article shall be remitted to the Department of Health and Mental Hygiene.

(2) The Department of Health and Mental Hygiene may use money received under this subsection only for the purpose of funding drug treatment and education programs.

§7–401.

(a) For examination of a judgment debtor by a standing commissioner or examiner, the clerk of a court shall collect in advance from the plaintiff the following fees:

(1) If a judgment or decree does not exceed $200 -- $5;

(2) If a judgment or decree exceeds $200, but does not exceed $1,000 -- $10;

(3) If a judgment or decree exceeds $1,000 -- $15.

(b) The plaintiff shall initially pay stenographic fees in supplementary proceedings. The fees shall be taxed as costs.

(c) All costs in supplementary proceedings shall be taxed to the defendant.

§7–402.

(a) Except as provided in subsections (b), (e), and (f) of this section, a sheriff shall collect the following fees:

(1) $5 for service of summary ejectment papers.

(2) $40 for service of a paper not including an execution or attachment.

(3) $40 for service including an execution or attachment by taking into custody a person or seizing real or personal property.

(4) $40 for service of process papers arising out of administrative agency proceedings where the party requesting the service is a nongovernmental entity.

(5) For the sale following the execution or attachment of personal property: Three percent of the first $5,000; two percent of the second $5,000; and one percent of any amount in excess of $10,000. The sheriff shall collect a minimum of $15 and a maximum of $500 under the provisions of this paragraph.

(6) For the sale following the execution or attachment of real property: One and one–half percent of the first $5,000; one percent of the second $5,000; and one–half of one percent of any amount in excess of $10,000. The sheriff shall collect a minimum of $1.50 and a maximum of $250 under the provisions of this paragraph.

(7) $60 for service of a paper originating from a foreign court.

(b) (1) For service including an execution or attachment by taking into custody a person or seizing real or personal property, a sheriff may collect the amount specified in a cooperative agreement with the Child Support Enforcement Administration under § 10–111 of the Family Law Article.

(2) As part of the costs awarded to a party under § 12–103 of the Family Law Article, a court may not award an amount greater than the amount specified in subsection (a) of this section for the cost of service including an execution or attachment by taking into custody a person or seizing real or personal property.

(c) (1) If the sheriff incurs expenses for the purpose of conserving or protecting the seized property, the sheriff shall be reimbursed for the expense.

(2) If the Sheriff of Washington County incurs expenses for seizing property, the Sheriff shall be reimbursed by the judgment debtor for reasonable expenses.

(d) (1) Except as provided in paragraph (2) of this subsection, if the sheriff is unable to serve a paper, 50% of the fee shall be refunded to the party requesting the service.

(2) If the sheriff is unable to serve summary ejectment papers, the full fee shall be refunded to the party requesting the service.

(e) A sheriff may not collect a fee for the service of:

(1) A paper from a housing authority created under Division II of the Housing and Community Development Article; or

(2) A summons for a law enforcement officer to appear as a witness in a criminal case.

(f) (1) In addition to the fees specified in subsection (a) of this section and except as provided in subsections (b) and (e) of this section, the Baltimore City Sheriff shall collect a surcharge that may not be more than:

(i) $60 for service of a writ of execution; and

(ii) $40 for service of a paper originating from a foreign court.

(2) The revenue generated from the surcharge on filing fees for the sheriff services under paragraph (1) of this subsection shall fund the enhancement of sheriff benefits and the increase in sheriff personnel to enhance the service of domestic violence orders.

§7–403.

A court may not require the Commissioner of Labor and Industry to pay filing fees or other costs in connection with an action under Title 3, Subtitle 5 of the Labor and Employment Article.

§7–404.

If the service of process by a private process server is accomplished, a judge of the District Court or a circuit court may impose costs for the service of process in an amount not to exceed the fees authorized for the service of process by a sheriff under § 7-402 of this subtitle.

§7–405.

The District Court or a circuit court in a criminal case may not waive any court costs imposed under § 7-409 of this subtitle unless the defendant establishes indigency as provided in the Maryland Rules.

§7–406.

(a) In this section, "armed forces" means the armed forces of the United States.

(b) A clerk of court shall provide without charge:

(1) A copy of any paper or record in the clerk's office that is requested by a former armed forces member, in person, or by the United States government, if the copy is to be used in connection with a claim of the member against the United States government;

(2) A copy of a marriage record of a former armed forces member that is requested by the member; and

(3) A copy of a marriage record of a former armed forces member or of a surviving spouse or child of the member that is requested, if the copy is to be used in connection with a claim for a dependent or beneficiary of the member.

§7–409.

(a) (1) In this section the following words have the meanings indicated.

(2) "Crime" means an act committed by a person in the State that is:

(i) A crime under Title 1, Subtitle 3, Title 3, Subtitle 7, or § 4–123.1 of the Agriculture Article;

(ii) A crime under Title 19, Subtitle 2 or Subtitle 3 of the Business Regulation Article;

(iii) A crime under Title 14, Subtitle 29, § 11–810, or § 14–1317 of the Commercial Law Article;

(iv) A crime under § 3–218, § 3–305(c)(2), § 3–409(a) or (c), § 3–803(b), § 3–807(i), § 3–808(d), § 3–811(c), § 8–801, § 8–802, § 9–602(e), § 11–702(d)(8), § 11–703(e)(5)(iii), § 11–708(d)(7)(ii), § 11–711(h)(2), § 11–712(c)(6)(ii), § 11–715(g)(2), § 11–716(h)(2), § 11–723(b)(8), or § 11–726 of the Correctional Services Article;

(v) A crime under the Criminal Law Article other than Title 8, Subtitle 2, Part II or § 10–614;

(vi) A crime under the Criminal Procedure Article;

(vii) A crime under Title 5, Subtitle 10A of the Environment Article;

(viii) A crime under § 5–503 of the Family Law Article;

(ix) A crime under Title 12, Subtitle 9 of the Financial Institutions Article;

(x) A crime under Title 20, Subtitle 7 or § 21–259.1 of the Health – General Article;

(xi) A crime under § 8–713.1, § 8–724.1, § 8–725.5, § 8–725.6, § 8–726.1, § 8–738.1, § 8–740.1, or § 10–411(b), as it relates to Harford County, or (d), as it relates to Anne Arundel County or Caroline County, of the Natural Resources Article;

(xii) A crime under Title 3, Subtitle 1 or Subtitle 5, Title 5, Subtitle 1, Subtitle 2, Subtitle 3, or Subtitle 4, § 6–602, § 7–402, or § 12–701 of the Public Safety Article;

(xiii) A crime under § 14–127 of the Real Property Article;

(xiv) A violation of the Transportation Article that is punishable by imprisonment;

(xv) A crime under Article 2B, Title 22 or § 18–104 of the Code;

(xvi) A crime under § 13–118(d), § 13–120(d), § 13–121(g), § 13–123(e), § 13–124(d), § 13–129(g), § 13–131(c), or § 13–133(d) of the Local Government Article;

(xvii) A crime under Chapter 110–1 of the Code of Public Local Laws of Caroline County;

(xviii) A crime under § 4–103 of the Code of Public Local Laws of Carroll County;

(xix) A crime under § 8A–1 of the Code of Public Local Laws of Talbot County; or

(xx) A crime at common law.

(3) "Offense" means a violation of the Transportation Article that is not punishable by imprisonment.

(b) In addition to any other costs required by law, a circuit court shall impose on a defendant convicted of a crime an additional cost of $45 in the case.

(c) In addition to any other costs required by law, the District Court shall impose on a defendant convicted of a crime an additional cost of $35 in the case.

(d) In addition to any other costs required by law, a court shall impose on a defendant convicted of an offense an additional cost of $3 in the case, including cases in which the defendant elects to waive the right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(e) (1) All money collected under this section shall be paid to the Comptroller of the State.

(2) The Comptroller shall deposit $22.50 from each fee collected under subsection (b) of this section from a circuit court and $12.50 from each fee collected under subsection (c) of this section from the District Court into the State Victims of Crime Fund established under § 11–916 of the Criminal Procedure Article.

(3) The Comptroller shall deposit $2.50 from each fee collected under subsections (b) and (c) of this section into the Victim and Witness Protection and Relocation Fund established under § 11–905 of the Criminal Procedure Article.

(4) The Comptroller shall deposit all other moneys collected under subsections (b) and (c) of this section into the Criminal Injuries Compensation Fund established under § 11–819 of the Criminal Procedure Article.

(f) (1) From the first $500,000 in fees collected under subsection (d) of this section in each fiscal year, the Comptroller shall deposit one–half of each fee into the State Victims of Crime Fund and one–half of each fee into the Criminal Injuries Compensation Fund.

(2) For fees collected under subsection (d) of this section in excess of $500,000 in each fiscal year, the Comptroller shall deposit the entire fee into the Criminal Injuries Compensation Fund.

(g) A political subdivision may not be held liable under any condition for the payment of sums under this section.

§7–501.

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

(b) "Costs" means the cost of prosecuting a person for a crime.

(c) (1) "Crime" means any act or omission for which a statute or ordinance imposes a fine or imprisonment.

(2) "Crime" does not include a municipal infraction under Title 6 of the Local Government Article.

(d) (1) "Fine" means the monetary penalty prescribed by a statute or ordinance for a crime.

(2) "Fine" does not include costs.

§7–502.

A person who is found guilty of a crime shall be liable for the costs of the person's prosecution.

§7–503.

(a) When a court imposes a fine, the court may order the defendant to pay the fine:

(1) When the court imposes sentence; or

(2) In specified installments at designated intervals.

(b) (1) If a fine is payable in installments, the court may order that the payments be made to a probation agency or officer.

(2) The probation agency or officer shall report to the court a failure to comply with the order.

(c) If a court sentences a defendant to probation, the court may make payment of a fine a condition of the sentence.

§7–504.

(a) A defendant who is unable to pay a fine ordered by a court may apply to the court for a reduction of the fine.

(b) If a defendant fails or is unable to pay a fine as ordered by a court, the court may investigate the reasons for the failure or inability to pay the fine, including the defendant's financial and family situation and whether nonpayment of the fine is contumacious or is due to indigence.

(c) After an investigation that a court considers necessary as to the reasons for the failure or inability to pay a fine, the court:

(1) May order that the individual be committed to a correctional facility;

(2) May reduce the fine to an amount that the court determines the defendant is able to pay; or

(3) Subject to subsection (d) of this section, may direct that the individual be imprisoned until payment of:

(i) The fine; or

(ii) Part of the fine that is undischarged after a pro rata credit for time served instead of payment.

(d) (1) Subject to the limitations in this subsection, the court shall determine the period of imprisonment for default in payment of a fine.

(2) The period of imprisonment may not exceed:

(i) 1 day for each $10 of the fine; and

(ii) If the fine was imposed for a crime subject to punishment by imprisonment, one-third of the maximum term authorized by the statute or ordinance under which the individual was convicted, or 90 days, whichever is less; or

(iii) If the fine was imposed for a crime that is not subject to punishment by imprisonment, absent default in payment of a fine, 15 days.

(3) The period of imprisonment, when added to the original sentence, may not exceed the maximum term of imprisonment allowed for the crime.

(4) Each period of imprisonment imposed because of nonpayment of two or more fines shall run concurrently unless the court specifies that the periods of imprisonment shall run consecutively.

§7–505.

(a) Unpaid and undischarged fines and unpaid costs may be levied, executed on, and collected in the same manner as judgments in civil cases.

(b) Costs are not part of the penalty, and a defendant may not be imprisoned under this subtitle for failure to pay costs.

§7–506.

(a) Except as provided in § 7-302 of this title, in § 7-507 of this subtitle, or, as otherwise provided by law, fines, penalties, and forfeitures that are recovered shall be paid to the county in which the crime occurred.

(b) No portion of any fine, penalty, or forfeiture may be paid to an informer.

§7–507.

(a) (1) This section does not apply to Anne Arundel, Howard, and Somerset counties.

(2) This section does not apply to fines imposed in gambling cases in Baltimore County.

(b) Except as provided in subsection (c) of this section, the fines imposed by and recognizances forfeited to each circuit court shall be distributed as follows:

(1) 50% to the clerk of the circuit court, to be used under the direction of the judges of the circuit court to augment the court library; and

(2) 5% to the clerk of the circuit court as a commission.

(c) (1) In Calvert County, if the County Administrative Circuit Court Judge determines that the amount under subsection (b)(1) of this section exceeds the needs of the library, excess amounts may be used for other needs of the Circuit Court for Calvert County if the Judge provides the County Commissioners with an annual report documenting how the excess amount is used.

(2) In Carroll County, in addition to the amount under subsection (b) of this section, the County Commissioners shall appropriate and pay to the Clerk of the Circuit Court for Carroll County $1,800, plus any additional amount that the County Commissioners determine, for library support and maintenance, including books and library equipment, to be used under the direction of the judges of the Circuit Court for Carroll County.

(3) In Cecil County:

(i) In any year in which the amount provided to the court library

under subsection (b) of this section and the attorney appearance fees under § 7-204 of this title:

1. Is less than $10,000, the County Commissioners shall pay to the clerk of the court the amount necessary to bring the total to $10,000, plus any amount the County Commissioners determine is reasonable for the library maintenance, to be used under the direction of the judges of the Circuit Court for Cecil County; or

2. Exceeds the amount necessary for library maintenance, the Cecil County Bar and Library Association, Inc., may transfer the excess money to the Cecil County Bar Foundation, Inc., to be used for charitable and educational purposes in accordance with the bylaws of the Foundation; and

(ii) All amounts paid under this section shall be used under the direction of the judges of the Circuit Court for Cecil County in consultation with the Law Library Committee of the Cecil County Bar and Library Association, Inc.

(4) In Charles County, in any year in which the amount under subsection (b) of this section is less than $3,000, the County Commissioners shall pay to the Clerk of the Circuit Court for Charles County the amount necessary to bring the total to $3,000, plus any amount the County Commissioners determine is reasonable for library maintenance, to be used under the direction of the judges of the Circuit Court for Charles County, who reside in the county.

(5) In Harford County, the local governing body shall appropriate and pay to the Clerk of the Circuit Court for Harford County, to be used under the direction of the judges of the court:

(i) The amount under subsection (b) of this section; and

(ii) Any amount the local governing body determines is appropriate, but not less than $1,500, for library support and maintenance, including books, library equipment, and the services of a librarian.

(6) (i) In St. Mary's County, the Clerk of the Circuit Court for St. Mary's County shall transmit monthly the amount under subsection (b)(1) of this section to a special account known as the St. Mary's County Law Library Fund maintained by the county.

(ii) As determined by the County Administrative Judge, the St. Mary's County Law Library Fund may only be used for the general purposes of the court library, including to acquire books, other publications, and library equipment, and for other necessary expenses.

(7) In Worcester County, in addition to the amount under subsection (b) of this section, the County Commissioners shall appropriate and pay to the Clerk of the Circuit Court for Worcester County $2,000 and any additional amount that the

Commissioners set for library support and maintenance to be used under the direction of the judges of the Circuit Court for Worcester County.

§7–508.

A municipal corporation of this State may use the following language in concluding an indictment for violation of an ordinance: "against the peace, government, and dignity of the State".

§8–101.

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

(b) (1) "Jury commissioner" means an individual who is designated under a jury plan to manage jury selection and service.

(2) "Jury commissioner" includes an acting jury commissioner who is designated in accordance with a jury plan.

(c) "Jury plan" means a plan that the circuit court for a county adopts under this title to govern jury selection and service for the county.

(d) "Prospective juror" means an individual whose name is selected from a source pool but who has not yet been screened for disqualification, excusal, or exemption.

(e) "Qualified juror" means an individual who, after selection as a prospective juror, is not disqualified, excused, or exempted.

(f) "Source pool" means a pool from which the name of each prospective juror is to be selected as provided under a jury plan.

§8–102.

(a) Each adult citizen of this State has:

(1) The opportunity for jury service; and

(2) When summoned for jury service, the duty to serve.

(b) A citizen may not be excluded from jury service due to color, disability, economic status, national origin, race, religion, or sex.

(c) Recommendations, if any, for jury service may not be accepted.

(d) Volunteers for jury service shall be refused.

§8–103.

(a) Notwithstanding § 8-102 of this subtitle, an individual qualifies for jury service for a county only if the individual:

(1) Is an adult as of the day selected as a prospective juror;

(2) Is a citizen of the United States; and

(3) Resides in the county as of the day sworn as a juror.

(b) Notwithstanding subsection (a) of this section and subject to the federal Americans with Disabilities Act, an individual is not qualified for jury service if the individual:

(1) Cannot comprehend spoken English or speak English;

(2) Cannot comprehend written English, read English, or write English proficiently enough to complete a juror qualification form satisfactorily;

(3) Has a disability that, as documented by a health care provider's certification, prevents the individual from providing satisfactory jury service;

(4) Has been convicted, in a federal or State court of record, of a crime punishable by imprisonment exceeding 6 months and received a sentence of imprisonment for more than 6 months; or

(5) Has a charge pending, in a federal or State court of record, for a crime punishable by imprisonment exceeding 6 months.

(c) An individual qualifies for jury service notwithstanding a disqualifying conviction under subsection (b)(4) of this section if the individual is pardoned.

§8–104.

Each jury for a county shall be selected at random from a fair cross section of the adult citizens of this State who reside in the county.

§8–105.

(a) A custodian, as defined in § 4–101(c) of the General Provisions Article, may allow access to information about prospective, qualified, and sworn jurors only in accordance with rules that the Court of Appeals adopts.

(b) The rules shall provide for access to, and copying of, information needed for a challenge under § 8-408 or § 8-409 of this title.

(c) The rules shall provide for disclosure of information to the State Board of Elections as to individuals who have died, have moved, or are not citizens of the United

States.

(d) The rules shall provide for disclosure of information to the State Motor Vehicle Administration as needed to correct data that the Administration provides.

§8–106.

(a) Nothing in this title restricts the inherent authority of a trial judge with regard to jurors.

(b) Except as to a constitutional question, nothing in this title constitutes a ground for postconviction relief under Title 7 of the Criminal Procedure Article.

(c) Nothing in this title bars a circuit court from using a single procedure for qualification and summonsing as its jury plan authorizes.

§8–201.

Each circuit court shall have a written plan for jury selection and service in accordance with the requirements of this title.

§8–202.

The Court of Appeals may adopt rules to govern the provisions and implementation of jury plans.

§8–203.

(a) (1) A circuit court may propose to the Court of Appeals a change to the circuit court's jury plan at any time, by filing the proposal with the Court of Appeals.

(2) Within 60 days after a circuit court files a proposal under this subsection, the Court of Appeals shall approve or disapprove the proposal.

(3) A proposal approved under this subsection is effective:

(i) 61 days after a circuit court files the proposal; or

(ii) Any earlier date that the Court of Appeals sets.

(b) (1) If the Court of Appeals orders a circuit court to change its jury plan, the circuit court shall do so.

(2) A change that the Court of Appeals orders is effective:

(i) On the day the Court sets; but

(ii) Not later than 90 days after the date of approval of the circuit court's change.

§8–204.

(a) Each jury plan shall designate a jury judge.

(b) The jury judge for a circuit court shall be:

(1) The county administrative judge of the circuit court; or

(2) Another of the circuit court judges whom the county administrative judge designates.

§8–205.

(a) Each jury plan shall designate a jury commissioner.

(b) The jury commissioner for a circuit court shall be:

(1) The clerk of the circuit court; or

(2) Another individual designated in the manner set forth in the jury plan.

(c) A jury plan may designate, or allow a jury judge to designate, an individual to serve as acting jury commissioner if the jury commissioner is temporarily unavailable or unable to perform duties.

(d) The jury commissioner for a circuit court shall manage jury selection and service, under the control and supervision of the jury judge for the circuit court.

(e) A jury commissioner, other than a clerk, is entitled to the compensation set by law.

§8–206.

(a) Each jury plan shall provide for a source pool solely from which the names of prospective jurors are to be selected.

(b) (1) The source pool under the jury plan for a county shall include the names of all of the adults on:

(i) A statewide voter registration list no older than that used in the most recent general election as to residents of the county;

(ii) A list of holders of driver's licenses issued by the Motor Vehicle Administration to residents of the county; and

(iii) A list of holders of identification cards issued by the Motor Vehicle Administration to residents of the county.

(2) The source pool under the jury plan for a county may include any other

list of residents of the county that the jury plan authorizes.

(c) (1) Each jury plan shall detail procedures by which a jury commissioner is to have names selected from the most recent source pool.

(2) Procedures under this subsection shall be designed to ensure each jury is selected in accordance with the requirements of this title.

§8–207.

(a) Each jury plan shall set intervals for creation of a prospective juror pool and a qualified juror pool.

(b) (1) Each jury plan shall set a minimum number of names to be selected from the source pool as prospective jurors.

(2) The minimum number shall be:

(i) At least 150; and

(ii) Except as provided in paragraph (3) of this subsection, at least 0.5% of the total number of names in the source pool.

(3) If the minimum percentage under paragraph (2)(ii) of this subsection would be cumbersome and unnecessary, a jury plan may set a smaller number.

(4) A jury judge for a county may order its jury commissioner to have additional names selected from the county's source pool as the judge considers necessary.

§8–208.

Each jury plan shall set the method by which summonses for jury service are to be served.

§8–209.

Each jury plan shall set the method by which the names of qualified jurors are to be allocated between grand and trial juries.

§8–210.

Each jury plan shall detail changes of information as to prospective, qualified, and sworn jurors about which a jury commissioner is to inform a jury judge.

§8–211.

Each jury plan shall set the method by which a foreperson is to be chosen for a grand jury from among its members.

§8–212.

The jury plan for a county may state any question, in addition to those required under § 8–302(a) of this title, to be included on the county's juror qualification form, consistent with the interest of the sound administration of justice and not inconsistent with this title and other law.

§8–213.

The jury plan of a circuit court may provide for an agreement between the circuit court and the Administrative Office of the Courts or a person, for the Administrative Office or person to:

(1) Provide the circuit court with names selected in the number that the jury plan sets;

(2) Have juror questionnaire forms sent as the jury plan requires;

(3) Have summonses sent as the jury plan requires; or

(4) Provide any other service as to jury selection and service.

§8–214.

A jury plan may set a single procedure for qualification and summonsing for jury service.

§8–215.

The jury plan for a county may enable its jury commissioner, subject to criteria set forth in the jury plan and under the overall supervision of the county's jury judge, to:

(1) Disqualify prospective or qualified jurors for specific reasons stated in this title;

(2) Excuse prospective or qualified jurors for specific reasons stated in this title;

(3) Exempt prospective or qualified jurors for specific reasons stated in this title; or

(4) Reschedule jury service by prospective or qualified jurors for specific reasons stated in this title.

§8–216.

A jury plan may provide that, notwithstanding the limit on frequency of trial jury service in § 8–310(c)(2) of this title, an individual who serves on a jury for fewer than 5

days in a 3–year period may be summoned for jury service after 1 year.

§8–217.

A jury plan may create a program for donation of State per diems and county supplements by prospective, qualified, or sworn jurors.

§8–301.

(a) At each interval set in a jury plan for a county, its jury commissioner shall have names selected from the source pool in the number that the jury commissioner decides will satisfy the needs for jury service for the interval.

(b) Names selected under this section constitute a prospective juror pool.

§8–302.

(a) In accordance with an agreement, if any, under § 8–213 of this title, a juror qualification form in substantially the following form shall be provided to each prospective juror:

Juror Qualification Form

Name:

Resident address:

Telephone: (home) _____ (work) _____ (cellular) _____

Age: _____ Date of Birth:_____

If you are over 70 years of age, do you wish to be exempted from jury services? _____Yes _____No

U.S. Citizen? _____Yes _____No

Able to comprehend, read, speak, and write English? _____Yes _____No

Highest level of education completed:
___ high school ___ college ___ graduate school ___ other

Occupation of prospective juror: _____

Name of employer: _____

Occupation of spouse, if any: _____

Disability preventing satisfactory jury service? _____Yes _____No

Do you want an accommodation under the federal Americans with Disabilities Act? _____Yes _____No

Pending charge for a crime punishable by imprisonment exceeding 6 months? _____Yes _____No

Conviction of crime punishable by imprisonment exceeding 6 months and received a sentence of imprisonment for more than 6 months and not legally pardoned? _____Yes _____No

Date of Conviction _____

_____ Elected official of the federal Legislative Branch, as defined in 2 U.S.C. § 30a.

_____ Active duty member of armed forces exempted in accordance with 10 U.S.C. § 982.

_____ Member of Maryland's organized militia exempted in accordance with Public Safety Article § 13–218.

Prior jury service within 3 preceding years: _____

Form completed by me _____ Another (name) _____ and, if another, why?

Under the penalties of perjury, the responses are true to the best of my knowledge

Signed:_____
Prospective Juror

Individual completing form for prospective juror:

This form must be completed, signed, and returned to the jury commissioner within 10 days after receipt. Documentation for excusal due to disability, exemption based on armed forces or militia service, pardons, and/or prior jury service must be attached.

(b) A juror qualification form for a county may include other questions as the county's jury plan requires.

§8–303.

Whenever it seems to a jury commissioner that there is an ambiguity, error, or omission in a person's juror qualification form, the jury commissioner shall return the form to the person, with instructions to make each needed addition and other change, acknowledge all of the changes, and return the form to the jury commissioner within 10 days after receipt.

§8–304.

(a) Whenever a person fails to return a completed juror qualification form as instructed, a jury commissioner may summons the person to appear before the jury commissioner or jury judge.

(b) Whenever a person appears under this section, a jury commissioner or jury judge:

(1) May require the person to complete, sign, and acknowledge a juror qualification form in the presence of the jury commissioner; and

(2) If, at that time, it seems to the jury commissioner or jury judge to be warranted, may question the person but only as to responses to questions in the form and grounds for disqualification, excusal, exemption, or rescheduling.

§8–305.

Whenever a person appears for jury service, a jury commissioner or jury judge:

(1) May require the person to complete, sign, and acknowledge a juror qualification form in the presence of the jury commissioner; and

(2) If, at that time, it seems to the jury commissioner or jury judge to be warranted, may question the person but only as to responses to questions in the form and grounds for disqualification, excusal, exemption, or rescheduling.

§8–306.

An individual is exempt from jury service only if the individual:

(1) Is at least 70 years old and asks the jury commissioner, in writing, for an exemption;

(2) Is an elected official of the federal Legislative Branch, as defined in 2 U.S.C. § 30a;

(3) Is an active duty member of the armed forces exempted in accordance with 10 U.S.C. § 982; or

(4) Is a member of the organized militia exempted in accordance with § 13-218 of the Public Safety Article.

§8–309.

An individual who is not disqualified, excused, or exempted under Part I of this subtitle is a qualified juror.

§8–310.

(a) (1) At each interval set in a jury plan for a county, its jury commissioner shall have names of qualified jurors selected in the number that the jury commissioner decides will satisfy the needs for jury service during the interval.

(2) Subject to § 8-421 of this title, a jury commissioner shall have enough names selected to allow parties to make peremptory challenges as allowed under this title or otherwise provided in the Maryland Rules.

(b) Names selected under this section constitute a qualified juror pool.

(c) (1) Subject to paragraph (2) of this subsection, a jury commissioner shall allocate names from the qualified juror pool to grand and trial juries as the jury plan provides.

(2) Except as needed to complete service in a particular case or as otherwise provided in a jury plan, an individual may not be required, in any 3–year period, to serve or attend court for jury service more than once.

§8–311.

At the request of a trial judge, a jury commissioner may distribute to qualified jurors a questionnaire with regard to any matter, including a conviction or pending civil jury trial that may be a basis for disqualification as a juror in a particular case.

§8–314.

(a) A jury commissioner shall document each addition or other change to information provided under this subtitle and each decision with regard to disqualification, exemption, or excusal from, or rescheduling of, jury service.

(b) The jury commissioner of a county shall inform its jury judge of changes to information as provided in the county's jury plan.

(c) The jury commissioner of a county shall keep each record that the jury commissioner has used in connection with the jury service in accordance with the records retention and disposal schedule of the county.

§8–401.

(a) Whenever a grand or trial jury is needed, a jury commissioner shall:

(1) Summons qualified jurors in the number needed; and

(2) Have the summons served as the jury plan requires.

(b) A jury commissioner shall address mail to an individual's usual business or resident address.

(c) A summons sent to an individual with a juror qualification form shall instruct the individual to report for jury service unless a jury commissioner instructs otherwise.

§8–402.

(a) Subject to the requirements of this section, a jury judge or, if a county's jury plan allows, its jury commissioner may disqualify, excuse, or exempt an individual who is summoned for jury service or reschedule jury service.

(b) An individual may be disqualified only on the basis of information provided on a juror questionnaire or during an interview or other competent evidence.

(c) (1) To be excused, an individual shall show, on a juror questionnaire, during an interview, or by other competent evidence, that extreme inconvenience, public necessity, or undue hardship requires excusal.

(2) An individual may be excused:

(i) Only for the period that the jury judge or jury commissioner considers necessary; and

(ii) Not more than twice unless the jury judge finds that the individual has shown an extraordinary circumstance that requires an additional excuse.

(3) When the period set under this subsection expires, a jury commissioner again shall summon the individual for jury service.

§8–403.

An individual may not be required to serve simultaneously:

(1) On more than 1 grand jury; or

(2) As both a grand and trial juror.

§8–404.

(a) Notwithstanding § 8–103(a) of this title, a trial judge may strike an individual who is party in a civil case while the individual is entitled to a jury trial in the county.

(b) (1) Whenever more individuals than are needed to impanel a jury have been summoned, an individual may be excused but only in accordance with rule or other law.

(2) An individual who is summoned for jury service may be struck from a particular jury only:

(i) In accordance with rule or other law, by a party on peremptory challenge;

(ii) For good cause shown, by a trial judge on a challenge by a party; or

(iii) Subject to paragraph (3) of this subsection, by a trial judge who finds that:

1. The individual may be unable to render impartial jury service;

2. The individual's service likely would disrupt the proceeding; or

3. The individual's service may threaten the secrecy of a proceeding or otherwise affect the integrity of the jury deliberations adversely.

(3) A trial judge may not strike an individual under paragraph (2)(iii)3 of this subsection, unless the judge states on the record:

(i) Each reason for the strike; and

(ii) A finding that the strike is warranted and not inconsistent with §§ 8–102(a) and (b) and 8–104 of this title.

(4) An individual struck under this subsection may serve on another jury for which the basis for the strike is irrelevant.

§8–405.

A trial judge may:

(1) Excuse a sworn juror temporarily; and

(2) Order the sworn juror to return:

(i) On a specific day; or

(ii) On a date and at a time that the trial judge or jury commissioner directs.

§8–408.

(a) This section sets forth the exclusive procedure by which a party in a civil case may challenge a jury on the ground that the jury was not summoned or otherwise selected in compliance with this title.

(b) (1) Before examination begins in a civil case or, for good cause shown, after

a jury is sworn but before it receives evidence, a party may move to stay the case on the ground of substantial failure to comply with a provision of this title in selecting the trial jury.

(2) A motion under this section shall contain a sworn statement of facts that, if true, would constitute a substantial failure to comply with this title.

(c) On a showing that a party needs access to a record to prepare for a hearing on a motion pending under this section, a trial judge may allow the party to inspect and copy the record as needed to prepare.

(d) A movant who files a motion in accordance with this section is entitled to present relevant evidence in support of the motion, including:

(1) The testimony of the jury commissioner; and

(2) Relevant records, whether or not public, that the jury commissioner used.

(e) (1) If a trial judge finds a substantial failure to comply with § 8-102(b) of this title in selecting a trial jury, the trial judge shall stay the case pending selection of a trial jury in compliance with this title.

(2) If a trial judge finds a substantial failure to comply with a provision other than § 8-102(b) of this title in selecting a trial jury and the failure is likely to be prejudicial to the movant, the trial judge shall stay the proceeding pending selection of a trial jury in compliance with this title.

§8–409.

(a) This section sets forth the exclusive procedure by which a party in a criminal case may challenge a jury on the ground that the jury was not summoned or otherwise selected in compliance with this title.

(b) (1) Before examination begins in a criminal case or, for good cause shown, after a jury is sworn but before it receives evidence, a party may move to dismiss a charging document or stay the case on the ground of substantial failure to comply with a provision of this title in selecting the grand or trial jury.

(2) A motion under this section shall contain a sworn statement of facts that, if true, would constitute a substantial failure to comply with this title.

(c) On a showing that a party needs access to a record to prepare for a hearing on a motion pending under this section, a trial judge may allow the party to inspect and copy a record as needed to prepare.

(d) A movant who files a motion in accordance with this section is entitled to present relevant evidence in support of the motion, including:

(1) The testimony of the jury commissioner; and

(2) Relevant records, whether or not public, that the jury commissioner used.

(e) (1) If a trial judge finds a substantial failure to comply with § 8-102(b) of this title in selecting a grand jury, the judge shall:

(i) Stay the case pending selection of a grand jury in compliance with this title; or

(ii) Dismiss the charging document.

(2) If a trial judge finds a substantial failure to comply with a provision other than § 8-102(b) of this title in selecting a grand jury and finds the failure likely to be prejudicial to the movant, the judge shall:

(i) Stay the case pending selection of a grand jury in compliance with this title; or

(ii) Dismiss the charging document.

(f) (1) If a trial judge finds a substantial failure to comply with § 8-102(b) of this title in selecting a trial jury, the trial judge shall stay the case pending selection of a trial jury in compliance with this title.

(2) If a trial judge finds a substantial failure to comply with a provision other than § 8-102(b) of this title in selecting a trial jury and the failure is likely to be prejudicial to the movant, the trial judge shall stay the proceeding pending selection of a trial jury in compliance with this title.

§8–412.

(a) When sworn, a grand jury shall consist of 23 grand jurors plus additional alternate grand jurors as provided in the Maryland Rules.

(b) The failure of a grand juror to serve for the entire period of service does not invalidate the grand jury or any of its actions.

§8–413.

In addition to any grand jury that a jury plan for a county requires for a set period, on petition of a State's Attorney, the county administrative judge may summons one or more grand juries.

§8–414.

(a) A court reporter whom a jury judge orders under § 2-503 of this article to record testimony before a grand jury may be present at its sessions.

(b) An interpreter whom a jury judge approves may be present at a grand jury session as needed to provide services as an interpreter.

(c) (1) This subsection applies only to a grand jury for Baltimore City.

(2) The State's Attorney for Baltimore City or an assistant State's Attorney for Baltimore City:

(i) At the request of a grand jury, may attend any of its sessions; but

(ii) May not be present when the grand jury votes on an indictment or presentment.

§8–415.

(a) Each grand juror shall take an oath in substantially the following form:

"I (swear/affirm) to act diligently and according to my best understanding with regard to all matters before the grand jury; except as lawfully ordered by this court or as expressly authorized by law, not to disclose willfully any evidence given before the grand jury, anything that I or another grand juror says, or my or any other grand juror's vote as to a matter before the grand jury; and not to act or refuse to act on any matter before the grand jury due to affection, malice, or other emotion or due to reward or hope or promise of reward."

(b) Each bailiff assigned to a grand jury shall take a written oath in substantially the following form:

"I (swear/affirm) to carry out my duties as bailiff to the grand jury to the best of my ability and knowledge; to deliver immediately and without alteration all papers and other things that the grand jury sends to this court; and not to disclose willfully any evidence given before the grand jury, anything that a grand juror says, or any grand juror's vote as to a matter before the grand jury, except as lawfully ordered by this court or as expressly authorized by law."

(c) Each grand jury clerk shall take a written oath in substantially the following form:

"I (swear/affirm) not to disclose willfully any evidence given before the grand jury, anything that a grand juror says, or any grand juror's vote as to a matter before the grand jury, except as lawfully ordered by this court or as expressly authorized by law."

(d) Each court reporter ordered to record testimony before a grand jury shall take a written oath in substantially the following form:

"I (swear/affirm) not to disclose willfully any evidence given before the grand jury, anything that a grand juror says, or any grand juror's vote as to a matter before the grand jury, except as lawfully ordered by this court or as expressly authorized by law;

and not allow any governmental unit other than (the State's Attorney/other prosecutor) or person to see or have a copy of all or any part of the transcript except on a written order of this court passed after hearing the (State's Attorney/other prosecutor)."

(e) Each interpreter in a grand jury proceeding shall take an oath in substantially the following form:

"I (swear/affirm) to interpret accurately, completely, and impartially and, except as lawfully ordered by this court or as expressly authorized by law, not to disclose knowingly any information obtained while serving in this grand jury proceeding."

§8–416.

(a) A court reporter ordered to take testimony given before a grand jury shall take and transcribe the testimony.

(b) (1) A court reporter shall provide, as requested, a transcript of testimony given before a grand jury for a county to the grand jury and State's Attorney for the county.

(2) Each transcript of testimony given before a grand jury for a county shall be kept in the custody of the State's Attorney for the county.

(3) Unless the circuit court for a county orders otherwise after hearing the State's Attorney for the county, neither the original nor a copy of the transcript of testimony given before a grand jury may be taken from the office of the State's Attorney for the county, other than for use of the grand jury or for production in court.

(4) On written order of the circuit court for a county, granted on written motion of the State's Attorney for the county, the State's Attorney may have the notes as to, and transcript of, grand jury testimony destroyed.

(c) Except on written order of the circuit court for a county after hearing the State's Attorney for the county:

(1) A record of testimony given before a grand jury is for the exclusive use and benefit of the grand jury and the State's Attorney; and

(2) A court reporter may not:

(i) Allow any other governmental unit or person to read or have a copy of all or any part of the record; or

(ii) Disclose wholly or partly the character of the contents of the record to any other governmental unit or person.

§8–417.

(a) This section applies only to a grand jury for Baltimore City.

(b) In addition to any other duty imposed by law, each grand jury shall carry out an investigation if a judge of the circuit court directs.

(c) At the end of the period for which a grand jury sits, the grand jury shall submit to the jury commissioner of the circuit court a report on each of its investigations and recommendations.

§8–420.

(a) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to a sentence of life imprisonment, excluding a common law offense for which no specific statutory penalty is provided.

(2) Each defendant is allowed 20 peremptory challenges.

(3) The State is allowed 10 peremptory challenges for each defendant.

(b) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to a sentence of at least 20 years, excluding a case subject to subsection (a) of this section or a common law offense for which no specific statutory penalty is provided.

(2) Each defendant is allowed 10 peremptory challenges.

(3) The State is allowed five peremptory challenges for each defendant.

(c) In every other criminal trial, each party is allowed four peremptory challenges.

§8–421.

(a) In a civil case in which a jury trial is allowed, the jury shall consist of six jurors.

(b) If the parties in a civil case agree, a trial judge may dispense with selecting an array of at least 14 qualified jurors.

(c) If the parties in a criminal case agree, a trial judge may dispense with selecting an array of at least 20 qualified jurors.

§8–422.

At any time before or after submission of a case to a jury, a trial judge may allow the jury to separate or be sequestered.

§8–425.

In this Part V of this subtitle, "per diem" means the amount to be paid for all of the time from midnight through a 24-hour period for which a circuit court requires a prospective, qualified, or sworn juror to be in attendance at or in proximity to the circuit court.

§8–426.

(a) Subject to subsection (b) of this section, an individual is entitled, for each day that an individual is required to be in attendance at or proximity to a circuit court for a county for jury service, to:

(1) A State per diem of $15; and

(2) The supplement, if any, authorized by the county.

(b) A trial juror is entitled:

(1) For the first 5 days of jury service in one trial, to a State per diem of $15; and

(2) For each day of jury service in one trial in excess of 5 days, a State per diem of $50.

§8–427.

(a) (1) Subject to paragraph (2) of this subsection, the government of each county may set, by ordinance, an amount to supplement the State per diem and, for each fiscal year.

(2) Unless, by ordinance, a county government increases or decreases the supplement, the amount shall be enough to keep a total State per diem and county supplement equal to the county per diem as of June 30, 2001.

(b) The government of each county shall levy and appropriate for each fiscal year the amount needed to pay the State per diem, pending reimbursement by the Administrative Office of the Courts, and the county supplement, if any.

§8–428.

The State budget for the Judicial Branch for each fiscal year shall include an appropriation to the Administrative Office of the Courts in the amount needed for the State per diem during the year.

§8–429.

The jury commissioner of a circuit court shall issue to each prospective, qualified, and sworn juror a signed certificate that documents the number of days that the juror

has been required to be in attendance at or proximity to the circuit court for jury service.

§8–430.

Prospective, qualified, or sworn jurors may donate their per diem and supplement in accordance with a program that the jury plan authorizes.

§8–501.

(a) An employer may not deprive an individual of employment or coerce, intimidate, or threaten to discharge an individual because the individual:

(1) Loses employment time in responding to a summons under this title or attending, or being in proximity to, a circuit court for jury service under this title; or

(2) Exercises a right to refrain from work under subsection (b) of this section.

(b) An employer may not require an individual who is summoned and appears for jury service for 4 or more hours, including traveling time, to work an employment shift that begins:

(1) On or after 5 p.m. on the day of the individual's appearance for jury service; or

(2) Before 3 a.m. on the day following the individual's appearance for jury service.

(c) A person who violates any provision of this section is subject to a fine not exceeding $1,000.

§8–502.

(a) An employer may not require an employee to use the employee's annual, sick, or vacation leave to respond to a summons under this title for jury service.

(b) A person who violates any provision of this section is subject to a fine not exceeding $1,000.

§8–503.

(a) A person who is summoned for jury service under this title may not fail to return a completed juror qualification form.

(b) A jury judge may order a person who violates any provision of this section to appear and show cause for each violation.

(c) A person who fails to show good cause for a violation of this section is subject to a fine not exceeding $1,000 or imprisonment not exceeding 30 days or both.

§8–504.

(a) A person may not fail to appear for jury service as summoned under this title.

(b) A jury judge may order a person who violates any provision of this section to appear and show cause for each violation.

(c) A person who fails to show good cause for a violation of this section is subject to a fine not exceeding $1,000 or imprisonment not exceeding 60 days or both.

§8–505.

(a) A person who is summoned for jury service under this title may not fail to complete jury service as directed.

(b) A jury judge may order a person who violates any provision of this section to appear and show cause for each violation.

(c) A person who fails to show good cause for a violation of this section is subject to a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both.

§8–506.

(a) A person may not willfully misrepresent a material fact on a juror qualification form for the purpose of avoiding or obtaining service as a juror under this title.

(b) A person who violates any provision of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 30 days or both.

§8–507.

(a) A person may not disclose any content of a grand jury proceeding.

(b) A person who violates any provision of this section is guilty of a misdemeanor and, on conviction, subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(c) This section does not prevent:

(1) A grand jury from submitting a report as required by law; or

(2) Any other governmental unit or person making a disclosure authorized by law.

§9–101.

Unless otherwise provided in this subtitle:

(1) A person shall not be excluded from testifying in a proceeding because of incapacity from crime or interest in the matter in question; and

(2) Litigants and their spouses are competent and compellable to give evidence.

§9–103.

In a criminal trial, the age of a child may not be the reason for precluding a child from testifying.

§9–104.

A person convicted of perjury may not testify.

§9–105.

One spouse is not competent to disclose any confidential communication between the spouses occurring during their marriage.

§9–106.

(a) The spouse of a person on trial for a crime may not be compelled to testify as an adverse witness unless the charge involves:

(1) The abuse of a child under 18; or

(2) Assault in any degree in which the spouse is a victim if:

(i) The person on trial was previously charged with assault in any degree or assault and battery of the spouse;

(ii) The spouse was sworn to testify at the previous trial; and

(iii) The spouse refused to testify at the previous trial on the basis of the provisions of this section.

(b) (1) If the spouse of a person on trial for assault in any degree in which the spouse was a victim is sworn to testify at the trial and refuses to testify on the basis of the provisions of this section, the clerk of the court shall make and maintain a record of that refusal, including the name of the spouse refusing to testify.

(2) When an expungement order is presented to the clerk of the court in a case involving a charge of assault in any degree, the clerk shall check the record to determine whether the defendant's spouse refused to testify on the basis of the

provisions of this section.

(3) If the record shows such refusal, the clerk shall make and maintain a separate record of the refusal, including the defendant's name, the spouse's name, the case file number, a copy of the charging document, and the date of the trial in which the spouse refused to testify.

(4) The separate record specified under paragraph (3) of this subsection:

(i) Is not subject to expungement under Title 10, Subtitle 1 of the Criminal Procedure Article; and

(ii) Shall be available only to the court, a State's Attorney's office, and an attorney for the defendant.

§9–107.

A person may not be compelled to testify in violation of his privilege against self-incrimination. The failure of a defendant to testify in a criminal proceeding on this basis does not create any presumption against him.

§9–108.

A person may not be compelled to testify in violation of the attorney-client privilege.

§9–109.

(a) (1) "Authorized representative" means a person authorized by the patient to assert the privilege granted by this section and until permitted by the patient to make disclosure, the person whose communications are privileged.

(2) "Licensed psychologist" means a person who is licensed to practice psychology under the laws of Maryland.

(3) "Patient" means a person who communicates or receives services regarding the diagnosis or treatment of his mental or emotional disorder from a psychiatrist, licensed psychologist, or any other person participating directly or vitally with either in rendering those services in consultation with or under direct supervision of a psychiatrist or psychologist.

(4) "Psychiatrist" means a person licensed to practice medicine who devotes a substantial proportion of his time to the practice of psychiatry.

(b) Unless otherwise provided, in all judicial, legislative, or administrative proceedings, a patient or the patient's authorized representative has a privilege to refuse to disclose, and to prevent a witness from disclosing:

(1) Communications relating to diagnosis or treatment of the patient; or

(2) Any information that by its nature would show the existence of a medical record of the diagnosis or treatment.

(c) If a patient is incompetent to assert or waive this privilege, a guardian shall be appointed and shall act for the patient. A previously appointed guardian has the same authority.

(d) There is no privilege if:

(1) A disclosure is necessary for the purposes of placing the patient in a facility for mental illness;

(2) A judge finds that the patient, after being informed there will be no privilege, makes communications in the course of an examination ordered by the court and the issue at trial involves his mental or emotional disorder;

(3) In a civil or criminal proceeding:

(i) The patient introduces his mental condition as an element of his claim or defense; or

(ii) After the patient's death, his mental condition is introduced by any party claiming or defending through or as a beneficiary of the patient;

(4) The patient, an authorized representative of the patient, or the personal representative of the patient makes a claim against the psychiatrist or licensed psychologist for malpractice;

(5) Related to civil or criminal proceedings under defective delinquency proceedings;

(6) The patient expressly consents to waive the privilege, or in the case of death or disability, his personal or authorized representative waives the privilege for purpose of making claim or bringing suit on a policy of insurance on life, health, or physical condition;

(7) In a criminal proceeding against a patient or former patient alleging that the patient or former patient has harassed or threatened or committed another criminal act against the psychiatrist or licensed psychologist, the disclosure is necessary to prove the charge; or

(8) In a peace order proceeding under Title 3, Subtitle 15 of this article in which the psychiatrist or licensed psychologist is a petitioner and a patient or former patient is a respondent, the disclosure is necessary to obtain relief.

§9–109.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Client" means an individual who communicates to or receives services from a psychiatric–mental health nursing specialist or a professional counselor regarding the diagnosis or treatment of the individual's mental or emotional disorder.

(3) "Professional counselor" means an individual who is certified, licensed, or exempted from licensure as a counselor under Title 17 of the Health Occupations Article.

(4) "Psychiatric–mental health nursing specialist" means a registered nurse who:

(i) Has a master's degree in psychiatric–mental health nursing;

(ii) Has a baccalaureate degree in nursing and a master's degree in a mental health field; or

(iii) Is certified as a clinical specialist in psychiatric and mental health nursing by the American Nurses' Association or by a body approved by the Board of Nursing.

(b) Unless otherwise provided, in any judicial, legislative, or administrative proceeding, a client or a client's authorized representative has a privilege to refuse to disclose, and to prevent a witness from disclosing, communications relating to:

(1) Diagnosis or treatment of the client; or

(2) Any information that by its nature would show a medical record of the diagnosis or treatment exists.

(c) (1) If a client is incompetent to assert or waive this privilege, a guardian shall be appointed and shall act for the client.

(2) A guardian appointed before the proceeding has the authority to act for the client.

(d) There is no privilege if:

(1) A disclosure is necessary for the purpose of placing the client in a facility for mental illness;

(2) A judge finds that the client, after being informed that there will be no privilege, makes communications in the course of an examination ordered by the court and the issue at trial involves the client's mental or emotional disorder;

(3) In a civil or criminal proceeding:

(i) The client introduces the client's mental condition as an element of the claim or defense; or

(ii) After the client's death, the client's mental condition is introduced by any party claiming or defending through or as a beneficiary of the client;

(4) The client, the authorized representative of the client, or the personal representative of the client makes a claim against the psychiatric–mental health nursing specialist or the professional counselor for malpractice;

(5) The client expressly consents to waive the privilege or, in the case of death or disability, the client's personal representative waives the privilege for the purpose of making a claim or bringing suit on a policy of insurance on life, health, or physical condition;

(6) In a criminal proceeding against a client or former client alleging that the client or former client has harassed or threatened or committed another criminal act against the psychiatric–mental health nursing specialist or the professional counselor, the disclosure is necessary to prove the charge; or

(7) In a peace order proceeding under Title 3, Subtitle 15 of this article in which the psychiatric–mental health nursing specialist or professional counselor is a petitioner and a client or former client is a respondent, the disclosure is necessary to obtain relief.

(e) There is no privilege in:

(1) Any administrative or judicial nondelinquent juvenile proceeding;

(2) Any guardianship and adoption proceeding initiated by a child placement agency;

(3) Any guardianship and protective services proceeding concerning a disabled person; or

(4) Any criminal or delinquency proceeding in which there is a charge of child abuse or neglect or that arises out of an investigation of suspected child abuse or neglect.

§9–110.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Firm" means a proprietorship, partnership, or professional corporation engaged in the practice of public accountancy.

(ii) "Firm" includes an employee of the firm.

(3) (i) "Licensed certified public accountant" has the meaning stated in § 2–101(i) of the Business Occupations and Professions Article.

(ii) "Licensed certified public accountant" includes an employee of the licensed certified public accountant.

(4) "Permit" has the meaning stated in § 2–101(k) of the Business Occupations and Professions Article.

(5) "Practice of certified public accountancy" has the meaning stated for "practice certified public accountancy" in § 2–101(m) of the Business Occupations and Professions Article.

(6) (i) "Practice of public accountancy" means the performance or the offering to perform by a licensed certified public accountant or a firm, while holding out to the public, services for a client or a potential client that involve:

1. The use of accounting or auditing skills, including the issuance of reports on financial statements;

2. Financial management, advice, or consultation; or

3. The preparation of tax returns or the furnishing of advice about tax matters.

(ii) "Practice of public accountancy" includes the practice of certified public accountancy.

(7) "Quality review" means an independent appraisal, review, or study of the professional work of a licensed certified public accountant or firm in the practice of public accountancy that is made by a licensed certified public accountant or firm that is not affiliated with the licensed certified public accountant or firm undergoing a quality review.

(b) Except as provided in subsections (c) and (d) of this section or unless expressly permitted by a client or the personal representative or successor in interest of the client, a licensed certified public accountant or firm may not disclose:

(1) The contents of any communication made to the licensed certified public accountant or firm by a client who employs the licensed certified public accountant or firm to audit, examine, or report on any account, book, record, or statement of the client;

(2) Any information that the licensed certified public accountant or firm, in rendering professional service, derives from:

(i) A client who employs the licensed certified public accountant or firm; or

(ii) The material of the client.

(c) (1) A licensed certified public accountant or firm may disclose any data to another certified public accountant or firm that conducts a quality review.

(2) The disclosure permitted by paragraph (1) of this subsection:

(i) Does not waive the privilege required by subsection (b) of this section; and

(ii) Subjects a licensed certified public accountant or firm that conducts a quality review to the same duty of confidentiality applicable to the licensed certified public accountant or firm undergoing the quality review.

(d) The privilege against disclosure required by subsection (b) of this section does not affect:

(1) The bankruptcy laws;

(2) The criminal laws of the State; or

(3) A regulatory proceeding by the State Board of Public Accountancy under §§ 2–317 and 2–412 of the Business Occupations and Professions Article.

§9–111.

A minister of the gospel, clergyman, or priest of an established church of any denomination may not be compelled to testify on any matter in relation to any confession or communication made to him in confidence by a person seeking his spiritual advice or consolation.

§9–112.

(a) In this section, "news media" means:

(1) Newspapers;

(2) Magazines;

(3) Journals;

(4) Press associations;

(5) News agencies;

(6) Wire services;

(7) Radio;

(8) Television; and

(9) Any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.

(b) The provisions of this section apply to any person who is, or has been:

(1) Employed by the news media in any news gathering or news disseminating capacity;

(2) An independent contractor of the news media acting within the scope of a contract in any news gathering or news disseminating capacity; or

(3) Enrolled as a student in an institution of postsecondary education and engaged in any news gathering or news disseminating capacity recognized by the institution as a scholastic activity or in conjunction with an activity sponsored, funded, managed, or supervised by school staff or faculty.

(c) Except as provided in subsection (d) of this section, any judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas may not compel any person described in subsection (b) of this section to disclose:

(1) The source of any news or information procured by the person while employed by the news media or while enrolled as a student, whether or not the source has been promised confidentiality; or

(2) Any news or information procured by the person while employed by the news media or while acting as an independent contractor of the news media, in the course of pursuing a professional activity, or any news or information procured by the person while enrolled as a student, in the course of pursuing a scholastic activity or in conjunction with an activity sponsored, funded, managed, or supervised by school staff or faculty, for communication to the public but which is not so communicated, in whole or in part, including:

(i) Notes;

(ii) Outtakes;

(iii) Photographs or photographic negatives;

(iv) Video and sound tapes;

(v) Film; and

(vi) Other data, irrespective of its nature, not itself disseminated in any manner to the public.

(d) (1) A court may compel disclosure of news or information, if the court finds that the party seeking news or information protected under subsection (c)(2) of this section has established by clear and convincing evidence that:

(i) The news or information is relevant to a significant legal issue before any judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas;

(ii) The news or information could not, with due diligence, be obtained by any alternate means; and

(iii) There is an overriding public interest in disclosure.

(2) A court may not compel disclosure under this subsection of the source of any news or information protected under subsection (c)(1) of this section.

(e) If any person described in subsection (b) of this section disseminates a source of any news or information, or any portion of the news or information procured while pursuing an activity described in subsection (b) of this section, the protection from compelled disclosure under this section is not waived by the person.

§9–113.

In a civil case, a party or an officer, director, or managing agent of a corporation, partnership, or association may be called by the adverse party and interrogated as on cross-examination.

§9–114.

(a) (1) If a party, a witness, or a victim or victim's representative, as defined in § 11–104(a) of the Criminal Procedure Article, is deaf or cannot readily understand or communicate the spoken English language, any party or a victim or victim's representative may apply to the court for the appointment of a qualified interpreter to assist that person.

(2) On receiving the application under paragraph (1) of this subsection, the court shall appoint a qualified interpreter to assist that person.

(3) The court shall maintain a directory of interpreters for manual communication or oral interpretation to assist deaf persons or persons who cannot readily understand or communicate the spoken English language.

(b) Any interpreter appointed pursuant to this section shall be allowed compensation the court deems reasonable. It is discretionary with the court, in accordance with the provisions of the federal Americans with Disabilities Act, to tax, as part of the costs of the case, amounts paid to an interpreter for services and expenses. Otherwise the amount shall be paid by the county where the proceedings were initiated.

§9–115.

Where character evidence is otherwise relevant to the proceeding, no person offered as a character witness who has an adequate basis for forming an opinion as to another person's character shall hereafter be excluded from giving evidence based on personal opinion to prove character, either in person or by deposition, in any suit, action or proceeding, civil or criminal, in any court or before any judge, or jury of the State.

§9–116.

A party to a proceeding by or against a personal representative, heir, devisee, distributee, or legatee as such, in which a judgment or decree may be rendered for or against them, or by or against an incompetent person, may not testify concerning any transaction with or statement made by the dead or incompetent person, personally or through an agent since dead, unless called to testify by the opposite party, or unless the testimony of the dead or incompetent person has been given already in evidence in the same proceeding concerning the same transaction or statement.

§9–117.

It is not competent, in any case, for any party to the cause who has been examined therein as a witness, to corroborate his testimony when impeached by proof of his own declaration or statement made to third persons out of the presence and hearing of the adverse party.

§9–118.

(a) The oath for a person testifying before the grand jury shall be administered in one of the ways specified in this section.

(b) It may be administered in the presence of the grand jury by its foreperson or another member appointed by the foreperson.

(c) It may be administered by the clerk or deputy clerk of court in the presence of the presiding judge or judges in open court.

(d) It may be administered by the clerk or deputy clerk of court in the presence of the presiding judge or judges, in the court house, but not in open court.

§9–119.

(a) A person testifying in a supplementary or discovery proceeding in aid of a judgment or execution is not excused from answering a question because the answer may tend to connect him with the commission of fraud.

(b) An answer may not be used as evidence against the person in a criminal proceeding based upon the fraud.

§9–120.

Notwithstanding any other provision of law, a psychologist licensed under the "Maryland Psychologists Act" and qualified as an expert witness may testify on ultimate issues, including insanity, competency to stand trial, and matters within the scope of that psychologist's special knowledge, in any case in any court or in any administrative hearing.

§9–121.

(a) (1) In this section the following words have the meanings indicated.

(2) "Client" means a person who communicates to or receives services from a licensed certified social worker regarding his mental or emotional condition, or from any other person participating directly or vitally with a licensed certified social worker in rendering those services, in consultation with or under direct supervision of a licensed certified social worker.

(3) "Licensed certified social worker" means any person licensed as a certified social worker under Title 19 of the Health Occupations Article.

(4) "Witness" means a licensed certified social worker or any other person participating directly or vitally with a licensed certified social worker in rendering services to a client, in consultation with or under direct supervision of a licensed certified social worker.

(b) Unless otherwise provided, in all judicial or administrative proceedings, a client has a privilege to refuse to disclose, and to prevent a witness from disclosing, communications made while the client was receiving counseling or any information that by its nature would show that such counseling occurred.

(c) If a client is incompetent to assert or waive this privilege, a guardian shall be appointed and shall act for the client. A previously appointed guardian has the same authority.

(d) There is no privilege if:

(1) A disclosure is necessary for the purpose of placing the client in a facility for mental illness;

(2) A judge finds that the client, after being informed there will be no privilege, makes communications in the course of an examination ordered by the court;

(3) In a civil or criminal proceeding:

(i) The client introduces the client's mental condition as an element of the claim or defense; or

(ii) After the client's death, the client's mental condition is introduced by any party claiming or defending through or as a beneficiary of the client;

(4) The client or the personal representative of the client makes a claim against the licensed certified social worker for malpractice;

(5) The client expressly consents to waive the privilege, or in the case of death or disability, the client's personal representative waives the privilege for purpose of making a claim or bringing suit on a policy of insurance on life, health, or physical condition;

(6) In a criminal proceeding against a client or former client alleging that the client or former client has harassed or threatened or committed another criminal act against the licensed certified social worker, the disclosure is necessary to prove the charge; or

(7) In a peace order proceeding under Title 3, Subtitle 15 of this article in which the licensed certified social worker is a petitioner and a client or former client is a respondent, the disclosure is necessary to obtain relief.

(e) There is no privilege in:

(1) Any administrative or judicial nondelinquent juvenile proceeding;

(2) Any guardianship and adoption proceeding initiated by a child placement agency;

(3) Any guardianship and protective services proceeding concerning disabled persons; or

(4) Any criminal or delinquency proceeding in which there is a charge of child abuse or neglect or which arises out of an investigation of suspected child abuse or neglect.

§9–122.

(a) A member of the General Assembly may not be subpoenaed to testify in a civil or administrative action, proceeding, or deposition, other than one in which the member is a named private party, during any regular or special session, and for 10 days before and after each session.

(b) This section does not constitute a waiver of a member's constitutional or common law privileges.

§9–123.

(a) (1) In this section the following words have the meanings indicated.

(2) "Other information" includes any book, paper, document, record, recording, or other material.

(3) "Prosecutor" means:

(i) The State's Attorney for a county;

(ii) A Deputy State's Attorney;

(iii) The Attorney General of the State;

(iv) A Deputy Attorney General or designated Assistant Attorney General; or

(v) The State Prosecutor or Deputy State Prosecutor.

(b) (1) If a witness refuses, on the basis of the privilege against self–incrimination, to testify or provide other information in a criminal prosecution or a proceeding before a grand jury of the State, and the court issues an order to testify or provide other information under subsection (c) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self–incrimination.

(2) No testimony or other information compelled under the order, and no information directly or indirectly derived from the testimony or other information, may be used against the witness in any criminal case, except in a prosecution for perjury, obstruction of justice, or otherwise failing to comply with the order.

(c) (1) If an individual has been, or may be, called to testify or provide other information in a criminal prosecution or a proceeding before a grand jury of the State, the court in which the proceeding is or may be held shall issue, on the request of the prosecutor made in accordance with subsection (d) of this section, an order requiring the individual to give testimony or provide other information which the individual has refused to give or provide on the basis of the individual's privilege against self–incrimination.

(2) The order shall have the effect provided under subsection (b) of this section.

(d) If a prosecutor seeks to compel an individual to testify or provide other information, the prosecutor shall request, by written motion, the court to issue an order under subsection (c) of this section when the prosecutor determines that:

(1) The testimony or other information from the individual may be necessary to the public interest; and

(2) The individual has refused or is likely to refuse to testify or provide other information on the basis of the individual's privilege against self–incrimination.

(e) If a witness refuses to comply with an order issued under subsection (c) of this section, on written motion of the prosecutor and on admission into evidence of the transcript of the refusal, if the refusal was before a grand jury, the court shall treat the refusal as a direct contempt, notwithstanding any law to the contrary, and proceed in accordance with Title 15, Chapter 200 of the Maryland Rules.

§9–124.

(a) (1) In this section the following words have the meanings indicated.

(2) "Employee" means an individual represented by a labor organization regardless of whether the individual is a member of the labor organization.

(3) "Labor organization" means an organization that represents or seeks to represent workers for the purposes of collective bargaining.

(b) (1) Except as provided in subsection (c) or (d) of this section, a labor organization or an agent of a labor organization may not be compelled to disclose any communication or information the labor organization or agent received or acquired in confidence from an employee while the labor organization or agent was acting in a representative capacity concerning an employee grievance.

(2) Paragraph (1) of this subsection does not apply to a criminal proceeding.

(3) An employee's privilege under this subsection applies only to the extent that:

(i) A communication or information is germane to a grievance of the employee; and

(ii) The grievance of the employee is a subject matter of an investigation, a grievance proceeding, or a civil court, administrative, arbitration, or other civil proceeding.

(4) An employee's privilege under this subsection continues after termination of:

(i) The employee's employment; or

(ii) The representative relationship of the labor organization or its agent with the employee.

(5) An employee's privilege under this subsection protects the communication or information received or acquired by the labor organization or its agent, but does not protect the employee from being compelled to disclose, to the extent provided by law, the facts underlying the communication or information.

(c) A labor organization or its agent shall disclose to the employer as soon as possible a communication or information described in subsection (b)(1) of this section to the extent the labor organization or its agent reasonably believes necessary to prevent certain death or substantial bodily harm.

(d) A labor organization or its agent may disclose a communication or information described in subsection (b) of this section:

(1) To the extent the labor organization or its agent reasonably believes necessary to:

(i) Prevent the employee from committing a crime, fraud, or any act in violation of a collective bargaining agreement or contractual agreement that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the employee has used or is using the services of the labor organization or its agent;

(ii) Prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the employee's commission of a crime, fraud, or any act in violation of a collective bargaining agreement or contractual agreement in furtherance of which the employee has used the services of the labor organization or its agent;

(iii) Secure legal advice about the compliance of the labor organization or its agent with a court order or other law or the terms of a collective bargaining agreement or contractual agreement;

(iv) Establish a claim or defense on behalf of the labor organization or its agent in a controversy between the employee and the labor organization or its agent, to establish a defense to a criminal charge or civil claim against the labor organization or its agent based on conduct in which the employee was involved, or to respond to allegations in any proceeding concerning the performance of professional duties by the labor organization or its agent on behalf of the employee; or

(v) Comply with a court order or other law or the terms of a collective bargaining agreement or contractual agreement;

(2) To the extent the communication or information constitutes an admission that the employee has committed a crime;

(3) In any court, administrative, arbitration, or other proceeding against:

(i) The agent of the labor organization in the agent's personal or official representative capacity; or

(ii) The labor organization, any affiliated or subordinate body of the labor organization, or any agent of the labor organization or its affiliated or subordinate body;

(4) If the labor organization has obtained the written or oral consent of the employee;

(5) If the employee is deceased or has been adjudicated incompetent by a court of competent jurisdiction and the labor organization has obtained the written or oral consent of the personal representative of the employee's estate or of the employee's guardian;

(6) When required by court order; or

(7) To the extent that the employee waives the confidentiality of the communication or information.

(e) An adverse inference may not be drawn based on the refusal of a labor organization or an agent of a labor organization to disclose a communication or any information under subsection (d)(3) of this section.

(f) In the event of a conflict between the application of this section and any federal or State labor law, the provisions of the federal or State law shall control.

§9–201.

(a) A judge may issue a summons for the attendance of a party, witnesses, or for the production of evidence in a case before the court. No judge may issue a blank summons.

(b) If a witness is summoned to attend a court and without sufficient excuse neglects to appear, he may be attached and fined an amount not exceeding $300. He is liable to answer the party for whom he was summoned in an action upon the case for the damage sustained for failure to appear to testify according to the summons.

§9–203.

(a) In any criminal proceeding in which a warrant is issued for the purpose of requiring the attendance of a person as a material witness for the State, the witness must be taken promptly before a District Court commissioner before he is committed to jail.

(b) If the commissioner determines, after a hearing, that the person brought before him should be held as a witness for the State, he shall set a reasonable bond for the appearance of the witness in the criminal proceedings when required.

(c) If the witness is unable to post the bond set by the commissioner he shall be committed to jail until he posts the bond.

(d) Upon the commitment to jail of a witness, the commissioner shall notify immediately the State's Attorney of the county where the witness is being held. The sheriff, warden, or other custodian of the jail in which the witness is held shall also

notify immediately the State's Attorney.

(e) Unless the State's Attorney makes application in writing prior to the expiration of seven calendar days from the date of commitment of the witness to a judge of the circuit court of the county where the witness is committed for authority to continue to hold the witness, the sheriff, warden, or other custodian of the jail shall immediately upon the expiration of seven days release the witness.

(f) The filing of a petition for authority to continue to hold a witness longer than seven days may be granted by a judge, only upon the conditions and in accordance with the procedure provided by the Maryland Rules.

(g) The State's Attorney may order the release of the witness from custody at any time before or after the expiration of seven days by placing an endorsement to that effect on the commitment or warrant.

(h) A confined witness shall be paid $10 per day for each day confined in addition to the witness fees payable pursuant to § 9-202. Payment shall be made by the county in which the prosecution of the case is carried on.

§9–204.

The court that issued an execution on a forfeited recognizance for a witness who failed to appear may discharge the witness from execution upon motion showing good and sufficient cause for the failure.

§9–205.

(a) An employer may not deprive an employee of the employee's job solely because of job time lost by the employee as a result of:

(1) The employee's response to a subpoena requiring the employee to appear as a witness in any civil or criminal proceeding, including discovery proceedings; or

(2) The employee's attendance at a proceeding that the employee has a right to attend under § 11-102 or § 11-302 of the Criminal Procedure Article, or under § 3-8A-13 of this article.

(b) An employer that violates subsection (a) of this section may be fined not more than $1,000.

§9–301.

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

(b) "State" means any state or territory of the United States and the District of Columbia.

(c) "Summons" means a subpoena, order, or other notice requiring the appearance of a witness.

(d) "Witness" means a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal prosecution or proceeding.

§9–302.

(a) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in the State certifies under the seal of the court that there is a criminal prosecution pending in the court, or that a grand jury investigation has commenced or is about to commence, that a person being within the State is a material witness in the prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of the certificate to any judge of a court of record, in the county in which the person is, the judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) If at the hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, and of any other state through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In the hearing the certificate shall be prima facie evidence of all the facts stated therein.

(c) If a certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith brought before him for a hearing; and the judge at the hearing being satisfied of the desirability of the custody and delivery, for which determination the certificate shall be prima facie proof of a desirability may, in lieu of issuing a subpoena or summons, order that a witness be forthwith taken into custody and delivered to an officer of the requesting state, provided, however, that the witness may be admitted to bail in the amount as may be fixed by the judge upon condition that the witness will appear at the time and place specified in the subpoena or summons served upon him.

(d) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and $5 for each day, that he is required to travel and attend as a witness, fails without

good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

§9–303.

(a) If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. A certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State, unless the witness shall be admitted to bail by the appropriate authority, upon condition that the witness will appear at the time and place specified in the subpoena or summons served upon him. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(b) If the witness is summoned to attend and testify in this State he shall be tendered the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending, and $5 for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If the witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

§9–304.

(a) If a person comes into this State in obedience to a summons directing him to attend and testify in this State he shall not while in this State pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

(b) If a person passes through this State while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

§9–305.

This subtitle shall be so interpreted and construed as to effectuate its general

purpose to make uniform the law of the states which enact it.

§9–306.

This subtitle may be cited as the Maryland Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings.

§9–401.

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

(b) "Foreign jurisdiction" means a state other than this State.

(c) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(d) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(e) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(f) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(1) Attend and give testimony at a deposition;

(2) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(3) Permit inspection of premises under the control of the person.

§9–402.

(a) (1) To request issuance of a subpoena under this section, a party shall submit a foreign subpoena to a clerk of the circuit court for the county in which discovery is sought to be conducted in this State.

(2) A request for the issuance of a subpoena under this subtitle does not constitute an appearance in the courts of this State.

(b) When a party submits a foreign subpoena to a clerk of court in this State, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(c) A subpoena under subsection (b) of this section shall:

(1) Incorporate the terms used in the foreign subpoena; and

(2) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

§9–403.

A subpoena issued by a clerk of court under § 9–402 of this subtitle shall be served in compliance with Maryland Rule 2–510.

§9–404.

Title 2, Chapter 400 of the Maryland Rules and Maryland Rule 2–510 apply to subpoenas issued under § 9–402 of this subtitle.

§9–405.

An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under § 9–402 of this subtitle shall comply with the rules and statutes of this State and be submitted to the circuit court for the county in which discovery is to be conducted.

§9–406.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§9–407.

This subtitle may be cited as the Maryland Uniform Interstate Depositions and Discovery Act.

§10–101.

(a) "Business" includes business, profession, and occupation of every kind.

(b) A writing or record made in the regular course of business as a memorandum or record of an act, transaction, occurrence, or event is admissible to prove the act, transaction, occurrence, or event.

(c) The practice of the business must be to make such written records of its acts at the time they are done or within a reasonable time afterwards.

(d) The lack of personal knowledge of the maker of the written notice may be shown to affect the weight of the evidence but not its admissibility.

§10–102.

(a) If a business, institution, member of a profession or calling, or a department or agency of government, in the regular course of business or activity has kept or recorded a memorandum, writing, entry, print, representation, or a combination of them, of an act, transaction, occurrence, or event, and in the regular course of business has caused any or all of them to be recorded, copied, or reproduced by a photographic, photostatic, microfilm, microcard, miniature photographic, optical imaging, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. The reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in a judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of the reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original.

(b) This section shall be interpreted and construed to effectuate its general purpose of making uniform the law of those states which enact it.

(c) This section may be cited as the Maryland Uniform Photographic Copies of Business and Public Records as Evidence Act.

§10–103.

(a) In this section the following words have the meanings indicated:

(1) "Duplicate" means a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic rerecording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

(2) (i) "Original" of a writing means the writing itself or any counterpart intended to have the same effect by a person executing or issuing it.

(ii) "Original" of a photograph includes the negative or any print therefrom.

(iii) "Original" includes, if data is stored in a computer or similar device, any printout or other output readable by sight that reflects the data accurately.

(3) "Photographs" include still photographs, X–ray films, video tapes, and motion pictures.

(4) "Writing" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic

impulse, mechanical or electronic recording, or other form of data compilation.

(b) A duplicate is admissible in evidence to the same extent as an original unless:

(1) A genuine question is raised as to the authenticity of the original; or

(2) Under the circumstances, it would be unfair to admit the duplicate in lieu of the original.

§10–104.

(a) (1) In this section the following terms have the meanings indicated.

(2) "Health care provider" means:

(i) A health care provider, as defined in § 3-2A-01 of this article;

(ii) An ambulatory surgical facility;

(iii) An inpatient facility that is organized primarily in the rehabilitation of disabled persons, through an integrated program of medical and other service provided under competent professional supervision;

(iv) A home health agency, as defined in § 19-401 of the Health - General Article;

(v) Any health institution, service, or program for which a certificate of need is required under Title 19 of the Health - General Article; or

(vi) A person who is:

1. Substantially similar to a health care provider described in items (i) through (v) of this paragraph; and

2. Regulated by another state to provide health care services.

(3) "State" means a state of the United States or the District of Columbia.

(b) (1) The provisions of this section apply only to a claim for:

(i) Damages for personal injury;

(ii) Medical, hospital, or disability benefits under §§ 19-505 and 19-506 of the Insurance Article;

(iii) First party motor vehicle benefits under §§ 19-509 and 19-510 of the Insurance Article; and

(iv) First party health insurance benefits.

(2) This section does not apply to an action for damages filed under Title 3, Subtitle 2A of this article.

(3) Subject to the provisions of paragraphs (1) and (2) of this subsection, the provisions of this section apply to a proceeding in:

(i) The District Court; or

(ii) A circuit court if the amount in controversy in the action in the circuit court does not exceed the amount specified in § 4-401 of this article for that type of action.

(c) (1) A writing or record of a health care provider described in this section is admissible under this section if:

(i) The writing or record is offered in the trial of a civil action in the District Court or a circuit court;

(ii) At least 60 days, except as provided in paragraph (2) of this subsection, before the beginning of the trial, the party who intends to introduce the writing or record:

1. Serves notice of the party's intent to introduce the writing or record without the support of a health care provider's testimony, a list that identifies each writing or record, and a copy of the writing or record on all other parties as provided under Maryland Rule 1-321; and

2. Files notice of service and the list that identifies each writing or record with the court; and

(iii) The writing or record is otherwise admissible.

(2) A party who receives a notice under paragraph (1) of this subsection and intends to introduce another writing or record of a health care provider without a health care provider's testimony shall:

(i) Serve a notice of intent, a list that identifies each writing or record, and a copy of the writing or record at least 30 days before the beginning of the trial; and

(ii) File notice of service and the list that identifies each writing or record with the court.

(3) The list required under paragraphs (1) and (2) of this subsection shall include:

(i) The name of the health care provider for each writing or record; and

(ii) The date of each writing or record of the health care provider or each date of treatment by the health care provider.

(d) (1) A writing or record of a health care provider made to document a medical, dental, or other health condition, a health care provider's opinion, or the providing of health care is admissible without the support of the testimony of a health care provider as the maker or the custodian of the writing or record as evidence of the existence of a medical, dental, or health condition, the opinion, and the necessity and the providing of health care.

(2) A finder of fact may attach whatever weight to a writing or record that the finder of fact deems appropriate.

(e) (1) A written statement or bill for health care expenses is admissible without the support of the testimony of a health care provider as the maker or the custodian of the statement or bill as evidence of the amount, fairness, and reasonableness of the charges for the services or materials provided.

(2) A finder of fact may attach whatever weight to a writing or record that the finder of fact deems appropriate.

(f) Nothing contained in this section may be construed to limit the right of a party to:

(1) Request a summons to compel the attendance of a witness;

(2) Examine a witness who appears at trial; or

(3) Engage in discovery as provided under the Maryland Rules.

§10–105.

(a) The provisions of this section apply to a civil action in:

(1) The District Court; or

(2) A circuit court if the amount in controversy in the action in the circuit court does not exceed the amount specified in § 4-401 of this article for that type of action.

(b) (1) (i) Subject to the provisions of this section, a paid bill for goods or services is admissible without the testimony of the provider of the goods or services as evidence of the authenticity of the bill for goods or services provided and the fairness and reasonableness of the charges of the provider of the goods or services.

(ii) A finder of fact may attach whatever weight to a paid bill that the finder of fact deems appropriate.

(2) The bill shall be admitted on testimony, by the party or any other person with personal knowledge:

(i) Identifying the original bill or an authenticated copy; and

(ii) 1. Identifying the provider of the goods or services;

2. Explaining the circumstances surrounding the receipt of the bill;

3. Describing the goods or services provided;

4. Stating that the goods or services were provided in connection with the event giving rise to the action; and

5. Stating that the bill was paid.

(c) (1) Subsection (b) of this section applies only if, at least 60 days before the beginning of the trial, the party who intends to introduce the bill:

(i) Serves notice of the party's intent to introduce the bill without the support of the testimony of the provider of the goods or services that were billed, a list that identifies each bill, and a copy of the bill on all other parties as provided under Maryland Rule 1-321; and

(ii) Files notice of service and the list that identifies each bill with the court.

(2) The list required under paragraph (1) of this subsection shall include:

(i) The name of the provider of the goods and services for each bill; and

(ii) The date of each bill of the provider of the goods and services.

(d) Nothing contained in this section may be construed to:

(1) Apply to proof of the existence of a medical, dental, or other health condition, the opinion of a health care provider, or the necessity and the providing of medical, dental, or other health care;

(2) Limit the provisions of § 10-104 of this subtitle concerning the admissibility of a medical, dental, hospital, or other health care writing or record; or

(3) Limit the right of a party to:

(i) Request a summons to compel the attendance of a witness;

(ii) Examine a witness who appears at trial; or

(iii) Engage in discovery as provided under the Maryland Rules.

§10–201.

(a) (1) The 1957 Edition of the Annotated Code of Maryland, prepared and published by the Editorial Staff of The Michie Company, Charlottesville, Virginia, is adopted and made evidence of the Public General Laws of the State of Maryland as contained in the Code of Public General Laws of Maryland of 1888, as amended, modified and changed from time to time, through and including the regular session of the General Assembly of Maryland held in 1957. It shall be considered as the evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

(2) A replacement volume to the Annotated Code of the Public General Laws of Maryland (1957 Edition), prepared and published by the Editorial Staff of The Michie Company, Charlottesville, Virginia, is adopted and made evidence of the Public General Laws in the volume at the time of publication. It shall be considered as evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

(3) Any pocket or other supplement to a volume of the Annotated Code of the Public General Laws of Maryland (1957 Edition or subsequent replacement volume), prepared and published by the Editorial Staff of The Michie Company, Charlottesville, Virginia, is adopted and made evidence of changes in the Public General Laws which are supplementary or in addition to the laws in the main volume. It shall be considered as evidence of the law in all the courts of the State and by all public offices and officers of the State and its political subdivisions.

(b) (1) The 2002 Edition of West's Annotated Code of Maryland, prepared and published by the editorial staff of West, Eagan, Minnesota, is adopted and made evidence of the Public General Laws of Maryland as contained in the Code of Public General Laws of Maryland of 1888, as amended, modified, and changed from time to time, through and including the regular session of the General Assembly of Maryland held in 2001. It shall be considered as the evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

(2) A replacement volume to West's Annotated Code of Maryland (2002 Edition), prepared and published by the editorial staff of West, Eagan, Minnesota, is adopted and made evidence of the Public General Laws in the volume at the time of publication. It shall be considered as evidence of the law in all the courts of the State and by all public offices and officers of the State and its political subdivisions.

(3) Any pocket or other supplement to a volume of West's Annotated Code of Maryland (2002 Edition or subsequent replacement volume), prepared and

published by the editorial staff of West, Eagan, Minnesota, is adopted and made evidence of changes in the Public General Laws which are supplementary or in addition to the laws in the main volume. It shall be considered as evidence of the law in all the courts of the State and by all public offices and officers of the State and its political subdivisions.

(c) The Code of Public General Laws, as compiled, updated, and maintained by the Department of Legislative Services in accordance with § 2-1243(c) of the State Government Article, is adopted and made evidence of the Public General Laws of Maryland as contained in the Code of Public General Laws of Maryland of 1888, as amended, modified, and changed from time to time, through and including the most recently completed regular session of the General Assembly. It shall be considered as the evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

§10–201.1.

(a) The Public Local Laws of Maryland - Compilation of Municipal Charters that is prepared and published by the Department of Legislative Services is adopted and made evidence of the portion of the Public Local Laws of the State of Maryland that contains the charters of all the municipal corporations in the State. It shall be considered as evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

(b) A replacement edition of the Public Local Laws of Maryland - Compilation of Municipal Charters that is prepared and published by the Department of Legislative Services is adopted and made evidence of the portion of the Public Local Laws of the State of Maryland that contains the charters of all the municipal corporations in the State at the time of publication. It shall be considered as evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

(c) Any supplemental page to the Public Local Laws of Maryland - Compilation of Municipal Charters that is prepared and published by the Department of Legislative Services is adopted and made evidence of the portion of the Public Local Laws of the State of Maryland that contains the charters of all the municipal corporations in the State which are supplementary or in addition to the laws in the compilation. It shall be considered as evidence of the law in all courts of the State and by all public offices and officers of the State and its political subdivisions.

§10–202.

(a) Printed books or pamphlets purporting on their face to be the session or other statutes of the United States, any of the United States or its territories, or of a foreign jurisdiction, and to have been printed and published by the authority of a state, territory, or foreign jurisdiction or proved to be commonly recognized in its courts, shall be received in the courts of the State as prima facie evidence of the statutes.

(b) This section shall be so interpreted and construed to effectuate its general purposes to make uniform the law of those states which enact it.

(c) This section may be cited as the Maryland Uniform Proof of Statutes Act.

§10–203.

(a) (1) The public laws, ordinances, regulations, and resolutions approved and enacted by a county or municipal corporation of the State, the Mayor and City Council of Baltimore, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission, shall be judicially noticed or read in evidence from the printed volumes or from a true copy of an amendment published by the authority of the county or municipal corporation.

(2) The contents of the Maryland Register and the Code of Maryland Regulations shall be judicially noticed from the official text of those publications.

(b) The private laws and resolutions published by the authority of the State may be read in evidence from the printed statute book.

§10–204.

(a) A copy of a public record, book, paper, or proceeding of any agency of the government of the United States, the District of Columbia, any territory or possession of the United States, or of any state or of any of its political subdivisions or of an agency of any political subdivision shall be received in evidence in any court if certified as a true copy by the custodian of the record, book, paper, or proceeding, and if otherwise admissible.

(b) Except as otherwise provided by law, a custodian of a public record in the State or other person authorized to make a certification under this section shall, upon request, provide a certified copy of the public record to a party to a judicial proceeding or the party's attorney.

(c) A certification under this section shall include:

(1) The signature and title of the custodian or other person authorized to make the certification;

(2) The official seal, if any, of the office; and

(3) A statement certifying that the copy is a true copy of the public record.

(d) A custodian or other person authorized to make a certification under this section may charge a reasonable fee for providing a certified copy of a public record in accordance with this section.

§10–205.

(a) In this section, "the Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13-503 of the Education Article.

(b) Records, reports, statements, notes, or information assembled or obtained by the State Department of Health and Mental Hygiene, the Maryland Commission to Study Problems of Drug Addiction, the Medical and Chirurgical Faculty or its allied medical societies, the Maryland Institute for Emergency Medical Services Systems, an in-hospital staff committee, or a national organized medical society or research group that are declared confidential by § 4-102 of the Health - General Article or § 14-506 of the Health Occupations Article, are not admissible in evidence in any proceeding.

(c) An employee or agent of any of the organizations listed in subsection (b) of this section may not be compelled to divulge any such record, report, statement, note, or information in this connection.

§10–206.

When a clerk of any court has replaced worn and dilapidated records in his office, and certified the new records as accurate copies of the old ones, the new records are substituted for and become the records of the court in lieu of the old records. The certified and substituted new records are admissible evidence to the same extent the old ones were.

§10–207.

Printed copies of schedules, classifications, and tariffs of rates, fares, and charges, and supplements to schedules, classifications, and tariffs, filed with the Interstate Commerce Commission, which show an Interstate Commerce Commission number, which may be stated in abbreviated form, as I.C.C. No. ...., and an effective date, are presumed to be correct copies of the original schedules, classifications, tariffs, and supplements on file with the Interstate Commerce Commission and shall be received as evidence, without certification, in any court to prove the schedules, classifications, tariffs, and supplements.

§10–208.

A written finding of presumed death made by the Secretary of Defense or other officer or employee of the United States authorized by federal law to make a finding of presumed death or a duly certified copy of the finding shall be received in any court, office, or other place in the State as evidence of:

(1) The death of the individual disclosed in the finding as dead; and

(2) The date, circumstances, and place of the individual's death or disappearance.

§10–209.

An official written report or record or duly certified copy of an official written report or record that an individual is missing, missing in action, interned in a neutral country, or is beleaguered, besieged or captured by an enemy or is dead or is alive, made by any of the persons referred to in § 10-208 of this subtitle shall be received in any court, office, or other place in the State as evidence of the facts stated in the report or record.

§10–210.

(a) For the purpose of §§ 10-208 and 10-209 of this subtitle, any finding, report, or record, or duly certified copy of a finding, report, or record, purporting to have been signed by an officer or employee of the United States described in §§ 10-208 and 10-209 of this subtitle, shall be presumed to have been signed and issued by the officer or employee in accordance with law, and the person signing same shall be presumed to have acted within the scope of the person's authority.

(b) If a copy purports to have been certified by a person authorized by law to certify the copy, the certified copy shall be evidence of the person's authority so to certify.

§10–301.

The speed of a motor vehicle may be proved by evidence of a test made upon it with a device designed to measure and indicate the speed of a moving object by means of radio-micro waves.

§10–301.1.

(a) In §§ 10-302 through 10-309 of this subtitle, the following words have the meanings indicated.

(b) "Specimen of blood" and "1 specimen of blood" have the meaning stated in § 16-205.1 of the Transportation Article.

(c) "Test" has the meaning stated in § 16-205.1 of the Transportation Article.

§10–302.

In a prosecution for a violation of a law concerning a person who is driving or attempting to drive a vehicle in violation of § 16-113, § 16-813, or § 21-902 of the Transportation Article, or in violation of Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article, a test of the person's breath or blood may be administered for the purpose of determining alcohol concentration and a test or tests of 1 specimen of the person's blood may be administered for the purpose of determining the drug or controlled dangerous substance content of the person's blood.

§10–303.

(a) (1) A specimen of breath or 1 specimen of blood may be taken for the purpose of a test for determining alcohol concentration.

(2) For the purpose of a test for determining alcohol concentration, the specimen of breath or blood shall be taken within 2 hours after the person accused is apprehended.

(b) (1) Only 1 specimen of blood may be taken for the purpose of a test or tests for determining the drug or controlled dangerous substance content of the person's blood.

(2) For the purpose of a test or tests for determining drug or controlled dangerous substance content of the person's blood, the specimen of blood shall be taken within 4 hours after the person accused is apprehended.

§10–304.

(a) (1) In this section the following words have the meanings indicated.

(2) "Qualified medical person" means any person permitted by law to withdraw blood from humans.

(3) "Qualified person" means a person who has received training in the use of the equipment in a training program approved by the toxicologist under the Postmortem Examiners Commission and who is either a police officer, a police employee, an employee of the office of the Chief Medical Examiner, or a person authorized by the toxicologist under the Postmortem Examiners Commission.

(b) (1) The test of breath shall be administered by a qualified person with equipment approved by the toxicologist under the Postmortem Examiners Commission at the direction of a police officer.

(2) The officer arresting the individual may not administer the test of breath.

(c) (1) (i) The blood shall be obtained by a qualified medical person using equipment approved by the toxicologist under the Postmortem Examiners Commission acting at the request of a police officer.

(ii) A certified statement by the qualified medical person who obtained the blood shall be prima facie evidence of that person's qualifications and that the blood was obtained in compliance with this section.

(iii) 1. A certified statement that complies with the requirements of this paragraph is admissible as substantive evidence without the presence or testimony of the qualified medical person who obtained the blood.

2. If the State decides to offer the certified statement without the testimony of the qualified medical person, the State shall, at least 30 days before trial, notify the defendant or the defendant's attorney in writing of the State's intention and deliver to the defendant or the defendant's attorney a copy of the certified statement to be offered.

3. If the District Court is deprived of jurisdiction under circumstances in which a defendant is entitled to and demands a jury trial, or appeals from the District Court to a circuit court, the State is not required to file a second notice.

(iv) 1. If the defendant desires the qualified medical person to be present and testify at trial, the defendant shall notify the court and the State in writing no later than 20 days before trial.

2. If the District Court is deprived of jurisdiction under circumstances in which a defendant is entitled to and demands a jury trial, or appeals from the District Court to a circuit court, the defendant shall notify the circuit court and the State in writing no later than 20 days before trial.

3. If the timely and proper notice required under this subparagraph is provided by the defendant, the certified statement is inadmissible without the testimony of the qualified medical person.

4. Failure to give the timely and proper notice constitutes a waiver of the defendant's right to the presence and testimony of the qualified medical person.

(2) The test of blood shall be conducted by a qualified person using equipment approved by the toxicologist under the Postmortem Examiners Commission in a laboratory approved by the toxicologist.

(d) (1) For the purpose of establishing that the test of breath or blood was administered with equipment approved by the toxicologist under the Postmortem Examiners Commission, a statement signed by the toxicologist certifying that the equipment used in the test has been approved by him shall be prima facie evidence of the approval, and the statement is admissible in evidence without the necessity of the toxicologist personally appearing in court.

(2) (i) If a defendant desires the toxicologist to be present and testify at trial as a witness, the defendant shall file a request for a subpoena for the toxicologist at least 20 days before the trial in the appropriate court.

(ii) If the District Court is deprived of jurisdiction under circumstances in which a defendant is entitled to and demands a jury trial, or appeals from the District Court to the circuit court, another subpoena must be filed at least 20 days before the trial in the circuit court.

(iii) If a trial date is postponed for any reason beyond 30 days from the trial date for which the subpoena was issued, the defendant shall file a new subpoena for the toxicologist.

(iv) In addition to the requirements of Maryland Rules 4-265 and 4-266, the subpoena shall contain the name, address, and telephone number of the defendant or the defendant's attorney.

(3) A subpoena for the toxicologist may be quashed if a defendant fails to comply with the requirements of this subsection.

(4) A motion to quash a defendant's subpoena may be filed by any party or by the Attorney General.

(e) The person tested is permitted to have a physician of the person's own choosing administer tests in addition to the one administered at the direction of the police officer, and in the event no test is offered or requested by the police officer, the person may request, and the officer shall have administered, one or more of the tests provided for in this section.

(f) Nothing in this section precludes the right to introduce any other competent evidence bearing upon the date of the certificate or change in the equipment since the date of the certificate.

§10–305.

(a) The type of test administered to the defendant to determine alcohol concentration shall be the test of breath except that the type of test administered shall be:

(1) A test of blood if:

(i) The defendant is unconscious or otherwise incapable of refusing to take a test to determine alcohol concentration;

(ii) Injuries to the defendant require removal of the defendant to a medical facility;

(iii) The equipment for administering the test of breath is not available; or

(iv) The defendant is required to submit to a test of one specimen of blood under § 16-205.1(c)(1)(ii) of the Transportation Article; or

(2) Both a test of the person's breath and a test of one specimen of the person's blood if the defendant is required to submit to both a test of the person's breath and a test of one specimen of the person's blood under § 16-205.1(c)(1)(iii) of the Transportation Article.

(b) The type of specimen obtained from the defendant for the purpose of a test or tests to determine drug or controlled dangerous substance content shall be a blood specimen.

(c) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of test refusal shall be deemed not to have withdrawn consent.

§10–306.

(a) (1) (i) Subject to the provisions of paragraph (2) of this subsection, in any criminal trial in which a violation of § 16-113, § 16-813, or § 21-902 of the Transportation Article, or a violation of Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article is charged or is an issue, a copy of a report of the results of a test of breath or blood to determine alcohol concentration signed by the technician or analyst who performed the test, is admissible as substantive evidence without the presence or testimony of the technician or analyst who performed the test.

(ii) Subject to the provisions of § 10-308(b) of this subtitle and paragraph (2) of this subsection, in any criminal trial in which a violation of § 21-902 of the Transportation Article or a violation of Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article is charged, a copy of a report of the results of a test or tests of blood to determine drug or controlled dangerous substance content signed by the technician or analyst who performed the test, is admissible as substantive evidence without the presence or testimony of the technician or analyst who performed the test.

(2) To be admissible under paragraph (1) of this subsection, the report shall:

(i) Identify the technician or analyst as a "qualified person", as defined in § 10-304 of this subtitle;

(ii) State that the test was performed with equipment approved by the toxicologist under the Postmortem Examiners Commission at the direction of a police officer; and

(iii) State that the result of the test is as stated in the report.

(b) (1) (i) Test results which comply with the requirements of subsection (a) of this section are admissible as substantive evidence without the presence or testimony of the technician or analyst who administered the test.

(ii) However, if the State decides to offer the test results without the testimony of the technician or analyst, it shall, at least 30 days before trial, notify the defendant or his attorney in writing of its intention and deliver to the defendant or his attorney a copy of the test results to be offered.

(iii) If the District Court is deprived of jurisdiction under circumstances in which a defendant is entitled to and demands a jury trial, or

appeals from the District Court to the circuit court, the State is not required to file a second notice.

(2) (i) If the defendant desires the technician or analyst to be present and testify at trial, the defendant shall notify the court and the State in writing no later than 20 days before trial.

(ii) If the District Court is deprived of jurisdiction under circumstances in which a defendant is entitled to and demands a jury trial, or appeals from the District Court to a circuit court, the defendant shall notify the circuit court and the State in writing no later than 20 days before trial.

(iii) If the timely and proper notice required under this paragraph is provided by the defendant, the test results are inadmissible without the testimony of the technician or analyst.

(3) Failure to give timely and proper notice constitutes a waiver of the defendant's right to the presence and testimony of the technician or analyst.

§10–307.

(a) (1) In any criminal, juvenile, or civil proceeding in which a person is alleged to have committed an act that would constitute a violation of Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article, or with driving or attempting to drive a vehicle in violation of § 16-113, § 16-813, or § 21-902 of the Transportation Article, the amount of alcohol in the person's breath or blood shown by analysis as provided in this subtitle is admissible in evidence and has the effect set forth in subsections (b) through (g) of this section.

(2) Alcohol concentration as used in this section shall be measured by:

(i) Grams of alcohol per 100 milliliters of blood; or

(ii) Grams of alcohol per 210 liters of breath.

(3) If the amount of alcohol in the person's blood shown by analysis as provided in this subtitle is measured by milligrams of alcohol per deciliters of blood or milligrams of alcohol per 100 milliliters of blood, a court or an administrative law judge, as the case may be, shall convert the measurement into grams of alcohol per 100 milliliters of blood by dividing the measurement by 1000.

(b) If at the time of testing a person has an alcohol concentration of 0.05 or less, as determined by an analysis of the person's blood or breath, it shall be presumed that the person was not under the influence of alcohol and that the person was not driving while impaired by alcohol.

(c) If at the time of testing a person has an alcohol concentration of more than 0.05 but less than 0.07, as determined by an analysis of the person's blood or breath,

this fact may not give rise to any presumption that the person was or was not under the influence of alcohol or that the person was or was not driving while impaired by alcohol, but this fact may be considered with other competent evidence in determining whether the person was or was not driving while under the influence of alcohol or driving while impaired by alcohol.

(d) If at the time of testing a person has an alcohol concentration of at least 0.07 but less than 0.08, as determined by an analysis of the person's blood or breath, it shall be prima facie evidence that the person was driving while impaired by alcohol.

(e) If at the time of testing a person has an alcohol concentration of 0.02 or more, as determined by an analysis of the person's blood or breath, it shall be prima facie evidence that the person was driving with alcohol in the person's blood.

(f) If at the time of testing a person has an alcohol concentration of 0.02 or more, as determined by an analysis of the person's blood or breath, it shall be prima facie evidence that the person was driving in violation of an alcohol restriction under § 16-113 of the Transportation Article.

(g) If at the time of testing a person has an alcohol concentration of 0.08 or more, as determined by an analysis of the person's blood or breath, the person shall be considered under the influence of alcohol per se as defined in § 11-174.1 of the Transportation Article.

§10–308.

(a) The evidence of the analysis does not limit the introduction of other evidence bearing upon whether the defendant was under the influence of alcohol or whether the defendant was driving while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely, or while impaired by a controlled dangerous substance.

(b) The results of a test or tests to determine the drug or controlled dangerous substance content of a person's blood:

(1) Are admissible as evidence in a criminal trial only in a prosecution for a violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article and only if other admissible evidence is introduced that creates an inference that the person was:

(i) Driving or attempting to drive while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, or while impaired by a controlled dangerous substance; or

(ii) Operating or attempting to operate a vessel while the person was so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not operate a vessel safely, or while impaired

by a controlled dangerous substance; and

(2) Are not admissible in a prosecution other than a prosecution for a violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article.

§10–309.

(a) (1) (i) Except as provided in § 16–205.1(c) of the Transportation Article or § 8–738.1 of the Natural Resources Article, a person may not be compelled to submit to a test or tests provided for in this subtitle.

(ii) Evidence of a test or analysis provided for in this subtitle is not admissible in a prosecution for a violation of § 16–113 or § 21–902 of the Transportation Article, § 8–738 of the Natural Resources Article, or Title 2, Subtitle 5, § 2–209, or § 3–211 of the Criminal Law Article if obtained contrary to the provisions of this subtitle.

(2) The fact of refusal to submit is admissible in evidence at the trial.

(b) This section does not limit the provisions of the vehicle laws regarding the consequences of refusal to submit to a test or tests.

(c) Nothing in this section precludes or limits the admissibility of evidence of a test or analysis to determine the alcohol concentration of a person's blood or breath in any prosecution other than for a violation of § 16-113 or § 21-902 of the Transportation Article, § 8-738 of the Natural Resources Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article.

(d) Nothing in this section precludes or limits admissibility of evidence of a test or analysis to determine the alcohol concentration of a person's blood or breath which is obtained as provided in § 16–205.1(c) of the Transportation Article or § 8–738.1 of the Natural Resources Article.

§10–310.

A photograph, microphotograph, videotape, or other recorded image of the license plate of a motor vehicle produced by an electronic toll collection video-monitoring system is admissible in a proceeding to collect a toll or other charge of the Maryland Transportation Authority, to impose civil liability or to collect civil penalties imposed under § 21-1414 of the Transportation Article, or to impose criminal liability under § 21-1413 of the Transportation Article for a failure to pay a toll or charge.

§10–311.

(a) A recorded image of a motor vehicle produced by a traffic control signal monitoring system in accordance with § 21–202.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21–202(h) of the Transportation Article without authentication.

(b) A recorded image of a motor vehicle produced by a speed monitoring system in accordance with § 21–809 or § 21–810 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of Title 21, Subtitle 8 of the Transportation Article without authentication.

(c) A recorded image of a motor vehicle produced by a school bus monitoring camera in accordance with § 21–706.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21–706 of the Transportation Article without authentication.

(d) A recorded image of a motor vehicle produced by a vehicle height monitoring system in accordance with § 24–111.3 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of a State or local law restricting the presence of certain vehicles during certain times without authentication.

(e) In any other judicial proceeding, a recorded image produced by a vehicle height monitoring system, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera is admissible as otherwise provided by law.

§10–312.

(a) Subject to subsection (b) of this section, in a prosecution for a diesel emissions standard violation under Title 23, Subtitle 4 of the Transportation Article, emissions test results from emissions test equipment as described in § 23-402 of the Transportation Article are admissible at trial in any court with jurisdiction over the proceeding in the State.

(b) If at the time of testing, a diesel vehicle fails to meet the emissions standard established under Title 23, Subtitle 4 of the Transportation Article, the failure to meet the established emissions standard shall be prima facie evidence that the operator of the diesel vehicle violated the provisions of Title 23, Subtitle 4 of the Transportation Article.

§10–401.

As used in this subtitle the following terms have the meanings indicated:

(1) "Aggrieved person" means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed.

(2) "Aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

(3) "Communications common carrier" means any person engaged as a common carrier for hire in the transmission of wire or electronic communications.

(4) "Contents", when used with respect to any wire, oral, or electronic communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purport, or meaning of that communication.

(5) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

1. Any wire or oral communication;

2. Any communication made through a tone–only paging device; or

3. Any communication from a tracking device.

(6) "Electronic communication service" means any service that provides to users of the service the ability to send or receive wire or electronic communications.

(7) "Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of electronic communications.

(8) "Electronic, mechanical, or other device" means any device or electronic communication other than:

(i) Any telephone or telegraph instrument, equipment or other facility for the transmission of electronic communications, or any component thereof, (a) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by the subscriber or user for connection to the facilities of the service and used in the ordinary course of its business; or (b) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties; or

(ii) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(9) "Electronic storage" means:

(i) Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission of the communication; and

(ii) Any storage of a wire or electronic communication by

an electronic communication service for purposes of backup protection of the communication.

(10) "Intercept" means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

(11) "Investigative or law enforcement officer" means any officer of this State or a political subdivision of this State, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this subtitle, any sworn law enforcement officer of the federal government or of any other state or a political subdivision of another state, working with and under the direction of an investigative or law enforcement officer of this State or a political subdivision of this State, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses.

(12) "Judge of competent jurisdiction" means a judge of any circuit court within the State having jurisdiction over the offense under investigation.

(13) (i) "Oral communication" means any conversation or words spoken to or by any person in private conversation.

(ii) "Oral communication" does not include any electronic communication.

(14) "Person" means any employee or agent of this State or a political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation.

(15) "Readily accessible to the general public" means, with respect to a radio communication, that the communication is not:

(i) Scrambled or encrypted;

(ii) Transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of the communication; or

(iii) Except for tone–only paging device communications, transmitted over frequencies reserved for private use and licensed for private use under federal or State law.

(16) "Telephone solicitation theft" means conduct of a person that:

(i) Constitutes the offense of theft or attempted theft; and

(ii) Involves the use of a telephone to solicit the payment of money.

(17) "User" means any person or entity that:

(i) Uses an electronic communication service; and

(ii) Is duly authorized by the provider of the service to engage in that use.

(18) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of a connection in a switching station) furnished or operated by any person licensed to engage in providing or operating such facilities for the transmission of communications.

§10–402.

(a) Except as otherwise specifically provided in this subtitle it is unlawful for any person to:

(1) Willfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(2) Willfully disclose, or endeavor to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle; or

(3) Willfully use, or endeavor to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle.

(b) Any person who violates subsection (a) of this section is guilty of a felony and is subject to imprisonment for not more than 5 years or a fine of not more than $10,000, or both.

(c) (1) (i) It is lawful under this subtitle for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communications service to the public may not utilize service observing or random monitoring except for mechanical or service quality control checks.

(ii) 1. It is lawful under this subtitle for a provider of wire or electronic communication service, its officers, employees, and agents, landlords, custodians or other persons to provide information, facilities, or technical assistance

to persons authorized by federal or State law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, if the provider, its officers, employees, or agents, landlord, custodian, or other specified person has been provided with a court order signed by the authorizing judge directing the provision of information, facilities, or technical assistance.

2. The order shall set forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specify the information, facilities, or technical assistance required. A provider of wire or electronic communication service, its officers, employees, or agents, or landlord, custodian, or other specified person may not disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the judge who granted the order, if appropriate, or the State's Attorney of the county where the device was used. Any such disclosure shall render the person liable for compensatory damages. No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order under this subtitle.

(2) (i) This paragraph applies to an interception in which:

1. The investigative or law enforcement officer or other person is a party to the communication; or

2. One of the parties to the communication has given prior consent to the interception.

(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:

A. Murder;

B. Kidnapping;

C. Rape;

D. A sexual offense in the first or second degree;

E. Child abuse in the first or second degree;

F. Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

G. Gambling;

H. Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

I. A felony under Title 6, Subtitle 1 of the Criminal Law Article;

J. Bribery;

K. Extortion;

L. Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

M. A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

N. An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

O. A human trafficking offense under § 11–303 of the Criminal Law Article;

P. Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

Q. An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

R. Sexual abuse of a minor under § 3–602 of the Criminal Law Article;

S. A theft scheme or continuing course of conduct under § 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of at least $10,000;

T. Abuse or neglect of a vulnerable adult under § 3–604 or § 3–605 of the Criminal Law Article;

U. An offense relating to Medicaid fraud under §§ 8–509 through 8–515 of the Criminal Law Article; or

V. A conspiracy or solicitation to commit an offense listed in items A through U of this item; or

2. If:

A. A person has created a barricade situation; and

B. Probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.

(3) It is lawful under this subtitle for a person to intercept a wire, oral, or electronic communication where the person is a party to the communication and where all of the parties to the communication have given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of this State.

(4) (i) It is lawful under this subtitle for a law enforcement officer in the course of the officer's regular duty to intercept an oral communication if:

1. The law enforcement officer initially lawfully detained a vehicle during a criminal investigation or for a traffic violation;

2. The law enforcement officer is a party to the oral communication;

3. The law enforcement officer has been identified as a law enforcement officer to the other parties to the oral communication prior to any interception;

4. The law enforcement officer informs all other parties to the communication of the interception at the beginning of the communication; and

5. The oral interception is being made as part of a video tape recording.

(ii) If all of the requirements of subparagraph (i) of this paragraph are met, an interception is lawful even if a person becomes a party to the communication following:

1. The identification required under subparagraph (i)3 of this paragraph; or

2. The informing of the parties required under subparagraph (i)4 of this paragraph.

(5) It is lawful under this subtitle for an officer, employee, or agent of a governmental emergency communications center to intercept a wire, oral, or electronic communication where the officer, agent, or employee is a party to a conversation concerning an emergency.

(6) (i) It is lawful under this subtitle for law enforcement personnel to utilize body wires to intercept oral communications in the course of a criminal investigation if there is reasonable cause to believe that a law enforcement officer's safety may be in jeopardy.

(ii) Communications intercepted under this paragraph may not be recorded, and may not be used against the defendant in a criminal proceeding.

(7) It is lawful under this subtitle for a person:

(i) To intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general public;

(ii) To intercept any radio communication that is transmitted:

1. By any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

2. By any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

3. By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

4. By any marine or aeronautical communications system;

(iii) To intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of the interference; or

(iv) For other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of the system, if the communication is not scrambled or encrypted.

(8) It is lawful under this subtitle:

(i) To use a pen register or trap and trace device as defined under § 10–4B–01 of this title; or

(ii) For a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful, or abusive use of the service.

(9) It is lawful under this subtitle for a person to intercept a wire or electronic communication in the course of a law enforcement investigation of possible telephone solicitation theft if:

(i) The person is an investigative or law enforcement officer or is acting under the direction of an investigative or law enforcement officer; and

(ii) The person is a party to the communication and participates in the communication through the use of a telephone instrument.

(10) It is lawful under this subtitle for a person to intercept a wire, oral, or electronic communication in the course of a law enforcement investigation in order to provide evidence of the commission of vehicle theft if:

(i) The person is an investigative or law enforcement officer or is acting under the direction of an investigative or law enforcement officer; and

(ii) The device through which the interception is made has been placed within a vehicle by or at the direction of law enforcement personnel under circumstances in which it is thought that vehicle theft may occur.

(d) (1) Except as provided in paragraph (2) of this subsection, a person or entity providing an electronic communication service to the public may not intentionally divulge the contents of any communication (other than one to the person or entity providing the service, or an agent of the person or entity) while in transmission on that service to any person or entity other than an addressee or intended recipient of the communication or an agent of the addressee or intended recipient.

(2) A person or entity providing electronic communication service to the public may divulge the contents of a communication:

(i) As otherwise authorized by federal or State law;

(ii) To a person employed or authorized, or whose facilities are used, to forward the communication to its destination; or

(iii) That were inadvertently obtained by the service provider and that appear to pertain to the commission of a crime, if the divulgence is made to a law enforcement agency.

(e) (1) Except as provided in paragraph (2) of this subsection or in subsection (f) of this section, a person who violates subsection (d) of this section is subject to a fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

(2) If an offense is a first offense under paragraph (1) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense occurred is a radio communication that is not scrambled or encrypted, and:

(i) The communication is not the radio portion of a cellular

telephone communication, a public land mobile radio service communication, or a paging service communication, the offender is subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both; or

(ii) The communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication, the offender is subject to a fine of not more than $500.

(3) Unless the conduct is for the purpose of direct or indirect commercial advantage or private financial gain, conduct which would otherwise be an offense under this subsection is not an offense under this subsection if the conduct consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted:

(i) To a broadcasting station for purposes of retransmission to the general public; or

(ii) As an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls.

(f) (1) A person who engages in conduct in violation of this subtitle is subject to suit by the federal government or by the State in a court of competent jurisdiction, if the communication is:

(i) A private satellite video communication that is not scrambled or encrypted and the conduct in violation of this subtitle is the private viewing of that communication, and is not for a tortious or illegal purpose, or for purposes of direct or indirect commercial advantage, or private commercial gain; or

(ii) A radio communication that is transmitted on frequencies allocated under Subpart D of Part 74 of the Rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this subtitle is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain.

(2) (i) The State is entitled to appropriate injunctive relief in an action under this subsection if the violation is the person's first offense under subsection (e)(1) of this section and the person has not been found liable in a prior civil action under § 10–410 of this subtitle.

(ii) In an action under this subsection, if the violation is a second or subsequent offense under subsection (e)(1) of this section or if the person has been found liable in a prior civil action under § 10–410 of this subtitle, the person is subject to a mandatory civil fine of not less than $500.

(3) The court may use any means within its authority to enforce an injunction issued under paragraph (2)(i) of this subsection, and shall impose a civil fine of not less than $500 for each violation of an injunction issued under paragraph

(2)(i) of this subsection.

§10–403.

(a) Except as otherwise specifically provided in this subtitle, any person who manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, is guilty of a felony and is subject to imprisonment for not more than five years or a fine of not more than $10,000, or both.

(b) It is lawful under this section for:

(1) A provider of wire or electronic communication service or an officer, agent, or employee of, or a person under contract with, a service provider, in the normal course of the business of providing that wire or electronic communication service to manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(2) A person under contract with the United States, a state, a political subdivision of a state, or the District of Columbia, in the normal course of the activities of the United States, a state, a political subdivision thereof, or the District of Columbia, to manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(3) An officer, agent, or employee of the United States in the normal course of his lawful activities to manufacture, assemble, possess or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications. However, any sale made under the authority of this paragraph may only be for the purpose of disposing of obsolete or surplus devices.

(4) An officer, agent, or employee of a law enforcement agency of this State or a political subdivision of this State in the normal course of his lawful activities to manufacture, assemble, possess or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, provided, however, that the particular officer, agent, or employee is specifically authorized by the chief administrator of the employer law enforcement agency to manufacture, assemble or possess the device for a particular law enforcement purpose and the device is registered in accordance with § 10-411 of this subtitle. However, any sale made under the authority of this paragraph may only

be for the purpose of disposing of obsolete or surplus devices.

§10–404.

Any electronic, mechanical, or other device used, manufactured, assembled, possessed, or sold, in violation of § 10-402 or § 10-403 of this subtitle may be seized and forfeited to the Department of State Police.

§10–405.

(a) Except as provided in subsection (b) of this section, whenever any wire, oral, or electronic communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or a political subdivision thereof if the disclosure of that information would be in violation of this subtitle.

(b) If any wire, oral, or electronic communication is intercepted in any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia in accordance with the law of that jurisdiction, but that would be in violation of this subtitle if the interception was made in this State, the contents of the communication and evidence derived from the communication may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or any political subdivision of this State if:

(1) At least one of the parties to the communication was outside the State during the communication;

(2) The interception was not made as part of or in furtherance of an investigation conducted by or on behalf of law enforcement officials of this State; and

(3) All parties to the communication were co–conspirators in a crime of violence as defined in § 14–101 of the Criminal Law Article.

§10–406.

(a) The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

(1) Murder;

(2) Kidnapping;

(3) Rape;

(4) A sexual offense in the first or second degree;

(5) Child abuse in the first or second degree;

(6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

(7) Gambling;

(8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

(9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;

(10) Bribery;

(11) Extortion;

(12) Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

(13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

(14) An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

(15) A human trafficking offense under § 11–303 of the Criminal Law Article;

(16) Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

(17) An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

(18) Sexual abuse of a minor under § 3–602 of the Criminal Law Article;

(19) A theft scheme or continuing course of conduct under § 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of at least $10,000;

(20) Abuse or neglect of a vulnerable adult under § 3–604 or § 3–605 of the Criminal Law Article;

(21) An offense relating to Medicaid fraud under §§ 8–509 through 8–515 of the Criminal Law Article; or

(22) A conspiracy or solicitation to commit an offense listed in items (1) through (21) of this subsection.

(b) No application or order shall be required if the interception is lawful under the provisions of § 10-402(c) of this subtitle.

§10–407.

(a) Any investigative or law enforcement officer who, by any means authorized by this subtitle, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose the contents to another investigative or law enforcement officer of any state, or any political subdivision of a state, the United States, or any territory, protectorate, or possession of the United States, including the District of Columbia, to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Any investigative or law enforcement officer who, by any means authorized by this subtitle, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom or an investigative or law enforcement officer of any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia who obtains such knowledge by lawful disclosure may use the contents to the extent that the use is appropriate to the proper performance of his official duties.

(c) (1) Any person who has received, by any means authorized by this subtitle, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom intercepted in accordance with the provisions of this subtitle, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States including the District of Columbia.

(2) Any person who has received any information concerning a wire, oral, or electronic communication intercepted in any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia in accordance with the law of that jurisdiction, but that would be in violation of this subtitle if the interception was made in this State, or evidence derived from the communication, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of this State if:

(i) At least one of the parties to the communication was outside the State during the communication;

(ii) The interception was not made as part of or in furtherance of an

investigation conducted by or on behalf of law enforcement officials of this State; and

(iii) All parties to the communication were co-conspirators in a crime of violence as defined in § 14-101 of the Criminal Law Article.

(d) An otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this subtitle, does not lose its privileged character.

(e) When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (a) and (b) of this section. The contents and any evidence derived therefrom may be used under subsection (c) of this section when authorized or approved by a judge of competent jurisdiction where the judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this subtitle. The application shall be made as soon as practicable.

(f) Any investigative or law enforcement officer of any state or political subdivision of a state, the United States, or any territory, protectorate, or possession of the United States, including the District of Columbia, who has lawfully received any information concerning a wire, oral, or electronic communication or evidence lawfully derived therefrom, which would have been lawful for a law enforcement officer of this State pursuant to § 10-402(c)(2) of this subtitle to receive, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of this State or any political subdivision of this State.

§10–408.

(a) (1) Each application for an order authorizing the interception of a wire, oral, or electronic communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make the application. Each application shall include the following information:

(i) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(ii) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including:

1. Details as to the particular offense that has been, is being, or is about to be committed;

2. Except as provided in paragraph (2) of this subsection, a

particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

3. A particular description of the type of communications sought to be intercepted; and

4. The identity of the person, if known, committing the offense and whose communications are to be intercepted;

(iii) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(iv) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe additional communications of the same type will occur thereafter;

(v) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept wire, oral, or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each application; and

(vi) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain the results.

(2) (i) In the case of an application authorizing the interception of an oral communication, a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted is not required if the application:

1. Is by an investigative or law enforcement officer;

2. Is approved by the Attorney General, the State Prosecutor, or a State's Attorney;

3. Contains a full and complete statement as to why specification of the nature and location of the facilities from which or the place where the communication is to be intercepted is not practical; and

4. Identifies the individual committing the offense and whose communications are to be intercepted.

(ii) In the case of an application authorizing the interception of a wire

or electronic communication, a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted is not required if the application:

1. Is by an investigative or law enforcement officer;

2. Is approved by the Attorney General, the State Prosecutor, or a State's Attorney;

3. Identifies the individual believed to be committing the offense and whose communications are to be intercepted;

4. Makes a showing that there is probable cause to believe that the individual's actions could have the effect of thwarting interception from a specified facility; and

5. Specifies that interception will be limited to any period of time when the investigative or law enforcement officer has a reasonable, articulable belief that the individual identified in the application will be proximate to the communication device and will be using the communication device through which the communication will be transmitted.

(b) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(c) (1) Upon the application the judge may enter an ex parte order, as requested or as modified, authorizing interception of wire, oral, or electronic communications within the territorial jurisdiction permitted under paragraphs (2) and (3) of this subsection, if the judge determines on the basis of the facts submitted by the applicant that:

(i) There is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in § 10-406 of this subtitle;

(ii) There is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

(iii) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(iv) There is probable cause for belief:

1. That the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by this person in accordance with subsection (a)(1) of this section; or

2. That the actions of the individual whose communications are to be intercepted could have the effect of thwarting an interception from a specified facility in accordance with subsection (a)(2) of this section.

(2) Except as provided in paragraphs (3) and (4) of this subsection, an ex parte order issued under paragraph (1) of this subsection may authorize the interception of wire, oral, or electronic communications only within the territorial jurisdiction of the court in which the application was filed.

(3) If an application for an ex parte order is made by the Attorney General, the State Prosecutor, or a State's Attorney, an order issued under paragraph (1) of this subsection may authorize the interception of communications received or sent by a communication device anywhere within the State so as to permit the interception of the communications regardless of whether the communication device is physically located within the jurisdiction of the court in which the application was filed at the time of the interception. The application must allege that the offense being investigated may transpire in the jurisdiction of the court in which the application is filed.

(4) In accordance with this subsection, a judge of competent jurisdiction may authorize continued interception within the State, both within and outside the judge's jurisdiction, if the original interception occurred within the judge's jurisdiction.

(d) (1) Each order authorizing the interception of any wire, oral, or electronic communication shall specify:

(i) The identity of the person, if known or required under subsection (a)(2) of this section, whose communications are to be intercepted;

(ii) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, if known;

(iii) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(iv) The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(v) The period of time during which the interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

(2) An order authorizing the interception of a wire, oral, or electronic communication, upon request of the applicant, shall direct that a provider of wire or electronic communication service, landlord, custodian or other person furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. Any provider of wire or electronic

communication service, landlord, custodian or other person furnishing the facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing facilities or assistance.

(e) (1) An order entered under this section may not authorize the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days. The 30-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or 10 days after the order is entered.

(2) Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (a) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than 30 days.

(3) Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this subtitle, and must terminate upon attainment of the authorized objective, or in any event in 30 days.

(4) In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after the interception. An interception under this subtitle may be conducted in whole or in part by federal, State, or local government personnel, or by an individual operating under a contract with the State or a political subdivision of the State, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(f) Whenever an order authorizing interception is entered pursuant to this subtitle, the order shall require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. The reports shall be made at the intervals the judge requires.

(g) (1) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this subtitle, if possible, shall be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in the way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They may not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate

recordings may be made for use or disclosure pursuant to the provisions of subsections (a) and (b) of § 10–407 of this subtitle for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom under subsection (c) of § 10–407 of this subtitle.

(2) Applications made and orders granted under this subtitle shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. The applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for 10 years.

(3) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(4) Within a reasonable time, but not later than 90 days after the termination of the period of an order or extension of an order, the issuing judge shall cause to be served on the persons named in the order, and on the other parties to intercepted communications as the judge may determine in the judge's discretion is in the interest of justice, an inventory which shall include notice of:

(i) The fact of the entry of the order;

(ii) The date of the entry and the period of authorized interception; and

(iii) The fact that during the period wire, oral, or electronic communications were or were not intercepted.

(5) The judge, upon the filing of a motion, shall make available to the person or the person's counsel for inspection portions of the intercepted communications, applications, and orders pertaining to that person and the alleged crime.

(6) On an ex parte showing of good cause to the judge, the serving of the inventory required by this subsection may be postponed. The periods of postponement may not be longer than the authorizing judge deems necessary to achieve the purposes for which they were granted and in no event for longer than 30 days. No more than three periods of postponement may be granted. Any order issued extending the time in which the inventory notice is to be served must be under seal of the court and treated in the same manner as the order authorizing interception.

(h) The contents of any intercepted wire, oral, or electronic communication or evidence derived therefrom may not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in the courts of this State unless each party, not less than 10 days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception

was authorized. Where no application or order is required under the provisions of this subtitle, each party, not less than 10 days before the trial, hearing, or proceeding, shall be furnished with information concerning when, where and how the interception took place and why no application or order was required. This 10-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information 10 days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

(i) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this State or a political subdivision thereof, may move to suppress the contents of any intercepted wire, oral, or electronic communication, or evidence derived therefrom, on the grounds that:

(i) The communication was unlawfully intercepted;

(ii) The order of authorization under which it was intercepted is insufficient on its face, or was not obtained or issued in strict compliance with this subtitle; or

(iii) The interception was not made in conformity with the order of authorization.

(2) This motion shall be made in accordance with the Maryland Rules. If the motion is granted, the contents of the intercepted wire, oral, or electronic communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this subtitle. The judge, upon the filing of the motion by the aggrieved person, in his discretion may make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(3) In addition to any other right to appeal, the State shall have the right to appeal from the denial of an application for an order of approval, if the prosecuting attorney shall certify to the judge or other official denying the application that the appeal is not taken for purposes of delay. The appeal shall be taken within 30 days after the date the order was entered and shall be diligently prosecuted.

§10–409.

(a) Within 30 days after the expiration of the total period of an order, including each extension entered under § 10-408 of this subtitle, or within 30 days after denial of an application for an order or extension, the judge who passed the order or denied the application shall report to the Administrative Office of the Courts:

(1) The fact that an order or extension was applied for;

(2) The kind of order or extension applied for;

(3) The fact that the order or extension was granted as applied for, was modified, or was denied;

(4) The period of interceptions authorized by the order and the number and duration of any extensions of the order;

(5) The offense specified in the order or application or extension of an order;

(6) The identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

(7) The nature of the facilities from which or the place where communications were to be intercepted.

(b) In January of each year, the Attorney General, the State Prosecutor, and the State's Attorneys shall report to the Administrative Office of the Courts:

(1) The information required by subsection (a) of this section with respect to each application for an order or extension made during the preceding calendar year;

(2) A general description of the interceptions made under the order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, and (iv) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(3) The number of arrests resulting from interceptions made under the order or extension and the offenses for which arrests were made;

(4) The number of trials resulting from the interceptions;

(5) The number of motions to suppress made with respect to the interceptions and the number granted or denied;

(6) The number of convictions resulting from the interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(7) The information required by paragraphs (2) through (6) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

(c) Subject to § 2-1246 of the State Government Article, in February of each year, the State Court Administrator shall transmit to the General Assembly a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire or oral communications and the number of orders and extensions granted or denied during the preceding calendar year. The

report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (a) and (b) of this section. The State Court Administrator is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (a) and (b) of this section.

§10–410.

(a) Any person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of this subtitle shall have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use the communications, and be entitled to recover from any person:

(1) Actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

(2) Punitive damages; and

(3) A reasonable attorney's fee and other litigation costs reasonably incurred.

(b) A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this subtitle or under any other law.

§10–411.

(a) Law enforcement agencies in the State shall register with the Department of State Police all electronic, mechanical or other devices whose design renders them primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications which are owned by them or possessed by or in the control of the agency, their employees or agents. All such devices shall be registered within ten days from the date on which the devices came into the possession or control of the agency, their employees or agents.

(b) Information to be furnished with such registration shall include the name and address of the agency as well as a detailed description of each device registered and further information as the State Court Administrator may require.

(c) A serial number shall be issued for each device registered pursuant to this section, which number shall be affixed or indicated on the device in question.

§10–412.

Any person who breaks and enters, enters under false pretenses, or trespasses, upon any premises with the intent to place, adjust or remove wiretapping or electronic surveillance or eavesdropping equipment without a court order is guilty of a felony and upon conviction may be imprisoned for not more than ten years.

§10–413.

(a) The Secretary of State Police or the commander of the law enforcement agency of any political subdivision of this State may designate one or more law enforcement officers as a hostage and barricade communications specialist.

(b) Each telephone company providing service to Maryland residents shall designate one or more individuals to provide liaison with law enforcement agencies for the purposes of this section.

(c) The supervising law enforcement officer, who has jurisdiction in any situation in which there is probable cause to believe that the criminal enterprise of hostage holding is occurring or that a person has barricaded himself within a structure and poses an immediate threat of physical injury to others, may order a telephone company, or a telephone company employee, officer, or director, or a hostage and barricade communications specialist to interrupt, reroute, divert, or otherwise control any telephone communications service involved in the hostage or barricade situation for the purpose of preventing telephone communication by a hostage holder or barricaded person with any person other than a law enforcement officer or a person authorized by the officer.

(d) A hostage and barricade communications specialist shall be ordered to act under subsection (c) of this section only if the telephone company providing service in the area has been contacted and requested to act under subsection (c) and the telephone company:

(1) Declines to respond to the officer's request because of a threat of physical injury to its employees; or

(2) Indicates when contacted that it will be unable to respond appropriately to the officer's request within a reasonable time from the receipt of the request.

(e) The supervising law enforcement officer may give an order under subsection (c) of this section only after that supervising law enforcement officer has given written representation or oral representation of the hostage or barricade situation to the telephone company providing service to the area in which it is occurring. If an order is given on the basis of an oral representation, the oral representation shall be followed by a written confirmation of that representation within 48 hours of the order.

(f) Good faith reliance on an order by a supervising law enforcement officer who has the real or apparent authority to issue an order under this section shall constitute a complete defense to any action against a telephone company or a telephone company employee, officer, or director that arises out of attempts by the telephone company or the employee, officer, or director of the telephone company to comply with such an order.

(g) For the purposes of this section, "supervising law enforcement officer" means an officer:

(1) Having a rank at least equivalent to a lieutenant of the Department of State Police or higher; or

(2) In charge of one of the following:

(i) A State or county law enforcement agency;

(ii) A Department of State Police barracks; or

(iii) A district or region within a county or Baltimore City.

§10–414.

(a) A person who has knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under this subtitle to intercept wire, oral, or electronic communications, may not give notice or attempt to give notice of an authorized interception or pending application for authorization for interception to any other person in order to obstruct, impede or prevent such interception.

(b) A person who violates the provisions of subsection (a) of this section is guilty of a felony and, upon conviction, is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years, or both.

§10–4A–01.

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

(b) The following words have the meanings stated in § 10–401 of this title:

(1) Aggrieved person;

(2) Aural transfer;

(3) Communications common carrier;

(4) Contents;

(5) Electronic communication;

(6) Electronic communication service;

(7) Electronic communications system;

(8) Electronic, mechanical, or other device;

(9) Electronic storage;

(10) Intercept;

(11) Investigative or law enforcement officer;

(12) Judge of competent jurisdiction;

(13) Oral communication;

(14) Person;

(15) Readily accessible to the general public;

(16) User; and

(17) Wire communication.

(c) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

§10–4A–02.

(a) Except as provided in subsection (c) of this section, a person may not obtain, alter, or prevent authorized access to a wire or electronic communication while it is in electronic storage in an electronic communications system by:

(1) Intentionally accessing without authorization a facility through which an electronic communication service is provided; or

(2) Intentionally exceeding an authorization to access a facility through which an electronic communication service is provided.

(b) A person who violates the provisions of subsection (a) of this section is subject to the following penalties:

(1) If the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain:

(i) For a first offense, a fine of not more than $250,000 or imprisonment for not more than 1 year, or both; and

(ii) For a second or subsequent offense, a fine of not more than $250,000 or imprisonment for not more than 2 years, or both; or

(2) In any other case, a fine of not more than $5,000 or imprisonment for not more than 6 months, or both.

(c) Subsection (a) of this section does not apply to conduct authorized:

(1) By the person or entity providing a wire or electronic communications service;

(2) By a user of a wire or electronic communications service with respect to a communication of or intended for that user; or

(3) Under the provisions of this subtitle.

§10–4A–03.

(a) (1) Except as provided in subsection (b) of this section, a person or entity providing an electronic communication service to the public may not knowingly divulge to any other person or entity the contents of a communication while the communication is in electronic storage by that service.

(2) Except as provided in subsection (b) of this section, a person or entity providing remote computing service to the public may not knowingly divulge to any other person or entity the contents of any communication which is carried or maintained on that service:

(i) On behalf of, and received by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of the service; and

(ii) Solely for the purpose of providing storage or computer processing services to a subscriber or customer, if the provider is not authorized to access the contents of any communications for purposes of providing any services other than storage or computer processing.

(b) A person or entity may divulge the contents of a communication:

(1) To an addressee or intended recipient of the communication or an agent of the addressee or intended recipient;

(2) If authorized under the provisions of this subtitle;

(3) With the lawful consent of the originator or an addressee or intended recipient of the communication, or the subscriber in the case of remote computing service;

(4) To a person employed or authorized or whose facilities are used to forward the communication to its destination;

(5) If necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

(6) To a law enforcement agency, if the contents:

(i) Were inadvertently obtained by the service provider; and

(ii) Appear to pertain to the commission of a crime.

§10–4A–04.

(a) An investigative or law enforcement officer may require a provider of wire or electronic communication service to disclose the contents of wire or electronic communication that is in electronic storage in a wire or electronic communications system only in accordance with a search warrant issued by a court of competent jurisdiction.

(b) (1) (i) In this subsection, "record or other information" includes name, address, local and long distance telephone connection records, or records of session times and durations, length of service (including start date) and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service, including any credit card or bank account number.

(ii) "Record or other information" does not include the contents of communications to which subsection (a) of this section applies.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a provider of electronic communications service or remote computing service may disclose a record or other information pertaining to a subscriber to or a customer of the service to any person other than an investigative or law enforcement officer.

(ii) A provider of electronic communications service or remote computing service shall disclose a record or other information pertaining to a subscriber to or a customer of the service to an investigative or law enforcement officer only if the officer:

1. Uses a subpoena issued by a court of competent jurisdiction, a State grand jury subpoena, or a subpoena authorized under § 15–108 of the Criminal Procedure Article;

2. Obtains a warrant from a court of competent jurisdiction;

3. Obtains a court order requiring the disclosure under subsection (c) of this section; or

4. Has the consent of the subscriber or customer to the disclosure.

(3) An investigative or law enforcement officer receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

(c) (1) A court of competent jurisdiction may issue an order requiring disclosure under subsection (b) of this section only if the investigative or law enforcement officer shows that there is reason to believe the records or other information sought are relevant to a legitimate law enforcement inquiry.

(2) A court issuing an order under this section may quash or modify the order, on a motion made promptly by the service provider, if the information or records requested are unusually voluminous in nature or if compliance with the order otherwise would cause an undue burden on the provider.

(d) Nothing in this subtitle may be construed as creating a cause of action against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this subtitle.

§10–4A–05.

(a) (1) A subpoena or court order issued under § 10-4A-04 of this subtitle may include a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of the subpoena or court order, the service provider shall create a backup copy as soon as practicable consistent with the provider's regular business practices and shall confirm to the governmental entity that the backup copy has been made. The service provider shall create a backup copy under this subsection within 24 hours after the day on which the service provider receives the subpoena or court order.

(2) Except as provided in § 10-4A-06 of this subtitle, the investigative or law enforcement officer shall give notice to the subscriber or customer within 3 days after the day on which the governmental entity receives confirmation that a backup copy has been made under paragraph (1) of this subsection.

(3) The service provider may not destroy the backup copy until the later of:

(i) The delivery of the information; or

(ii) The resolution of any proceedings, including appeals of any proceedings, concerning a subpoena or court order issued under § 10-4A-04 of this subtitle.

(4) The service provider shall release the backup copy to the requesting investigative or law enforcement officer no sooner than 14 days after the day on which the officer gives notice to the subscriber or customer, if the service provider:

(i) Has not received notice from the subscriber or customer that the subscriber or customer has challenged the officer's request; and

(ii) Has not initiated proceedings to challenge the officer's request.

(5) (i) An investigative or law enforcement officer may seek to require the creation of a backup copy under subsection (a)(1) of this section if, in the officer's

sole discretion, the officer determines that there is reason to believe that notification to the subscriber or customer under § 10-4A-04 of this subtitle of the existence of the subpoena or court order may result in destruction of or tampering with evidence.

(ii) A determination under subparagraph (i) of this paragraph is not subject to challenge by the subscriber or customer or service provider.

(b) (1) Within 14 days after a subscriber or customer receives notice from an investigative or law enforcement officer under subsection (a)(2) of this section, the subscriber or customer may file a motion to quash the subpoena or vacate the court order. The subscriber or customer shall serve a copy of the motion on the investigative or law enforcement officer and give written notice of the challenge to the service provider. A motion to vacate a court order shall be filed in the court that issued the order. A motion to quash a subpoena shall be filed in the appropriate court. A motion or application under this subsection shall contain an affidavit or sworn statement stating:

(i) That the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for the applicant have been sought; and

(ii) The applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

(2) The applicant shall serve a copy of the motion or application on the investigative or law enforcement officer in accordance with the Maryland Rules.

(3) (i) If the court finds that the applicant has complied with paragraphs (1) and (2) of this subsection, the court shall order the investigative or law enforcement officer to file a sworn response, which may be filed in camera if the investigative or law enforcement officer includes in the response the reasons which make an in camera review appropriate.

(ii) If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct additional proceedings as it deems appropriate.

(iii) All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the investigative or law enforcement officer's response.

(4) (i) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the investigative or law enforcement officer are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, the court shall deny the motion or application and order the subpoena or court order to be enforced.

(ii) If the court finds that the applicant is the subscriber or customer for whom the communications sought by the investigative or law enforcement officer are maintained, and that there is no reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this subtitle, the court shall order the subpoena to be quashed or the court order to be vacated.

(5) A court order denying a motion or application under this subsection is not a final order and no interlocutory appeal may be taken by the customer.

§10–4A–06.

(a) (1) In this section the following words have the meanings indicated.

(2) "Adverse result" means:

(i) Endangering the life or physical safety of an individual;

(ii) Flight from prosecution;

(iii) Destruction of or tampering with evidence;

(iv) Intimidation of potential witnesses; or

(v) Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(3) "Supervisory official" means:

(i) The Secretary or Deputy Secretary of State Police;

(ii) The chief of police, deputy chief of police, or equivalent official of a law enforcement agency of any political subdivision of the State;

(iii) The Attorney General of the State or a Deputy Attorney General;

(iv) The State Prosecutor or Deputy State Prosecutor; or

(v) A State's Attorney or Deputy State's Attorney.

(b) An investigative or law enforcement officer acting under § 10–4A–04 of this subtitle may:

(1) If a court order is sought, include in the application a request for an order delaying the notification required under § 10–4A–05 of this subtitle for a period not to exceed 90 days, which the court shall grant, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result; or

(2) If a subpoena issued by a court of competent jurisdiction or a grand jury subpoena is obtained, delay the notification required under § 10–4A–05 of this subtitle for a period not to exceed 90 days, upon the execution of a written certification to a court of competent jurisdiction by a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result.

(c) The investigative or law enforcement officer shall maintain a true copy of a certification executed under subsection (b)(2) of this section.

(d) Extensions of a delay in notification may be granted by the court upon application or by certification by a supervisory official under subsection (b) of this section. An extension may not exceed 90 days.

(e) Upon expiration of the period of a delay of notification under subsection (b) or (d) of this section, the investigative or law enforcement officer shall serve upon, or deliver by registered or first–class mail, to the customer or subscriber a copy of the process or request together with a notice that:

(1) States with reasonable specificity the nature of the law enforcement inquiry; and

(2) Informs the customer or subscriber:

(i) That information maintained for the customer or subscriber by the service provider named in the process or request was supplied to or requested by that investigative or law enforcement officer and the date on which the information was supplied or the request was made;

(ii) That notification of the customer or subscriber was delayed;

(iii) Of the identity of the investigative or law enforcement officer or court that made the certification or determination authorizing the delay; and

(iv) Of the statutory authority for the delay.

(f) If notice to the subscriber is not required under § 10–4A–04(b)(1) of this subtitle or if notice is delayed under subsection (b) or (d) of this section, an investigative or law enforcement officer acting under § 10–4A–04 of this subtitle may apply to a court for an order requiring a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter an order under this subsection if the court determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will have an adverse result.

§10–4A–07.

(a) Except as otherwise provided in subsection (c) of this section, an

investigative or law enforcement officer obtaining the contents of communications, records, or other information under § 10-4A-03, § 10-4A-04, or § 10-4A-05 of this subtitle shall pay to the person or entity assembling or providing the information a fee for reimbursement for costs that are reasonably necessary and that have been directly incurred in searching for, assembling, reproducing, or otherwise providing the information. Reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which the information may be stored.

(b) The amount of the fee authorized under subsection (a) of this section shall be mutually agreed upon by the investigative or law enforcement officer and the person or entity providing the information, or, in the absence of agreement, shall be determined by the court which issued the order for production of the information or the court in which a criminal prosecution relating to the information would be brought, if no court order was issued for production of the information.

(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under § 10-4A-04 of this subtitle. The court may, however, order a payment described in subsection (a) of this section if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

§10–4A–08.

(a) Except as provided in § 10–4A–04(d) of this subtitle, a provider of electronic communication service, subscriber, or customer aggrieved by a knowing or intentional violation of this subtitle may recover appropriate relief in a civil action against the person or entity that engaged in the violation.

(b) In a civil action under this section, appropriate relief includes:

(1) Appropriate preliminary and other equitable or declaratory relief;

(2) Damages under subsection (c) of this section; and

(3) A reasonable attorney's fee and other litigation costs reasonably incurred.

(c) The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than $1,000.

(d) A good faith reliance on any of the following is a complete defense to any civil or criminal action brought under this subtitle or any other State law:

(1) A court warrant or order, a grand jury subpoena, a legislative

authorization, or a statutory authorization; or

(2) A good faith determination that § 10–402(d) of this title permitted the conduct that is the subject of the action.

(e) A civil action under this section shall be filed within 2 years after the day on which the claimant first discovered or had a reasonable opportunity to discover the violation.

§10–4B–01.

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

(b) "Court of competent jurisdiction" means any circuit court having jurisdiction over the crime being investigated regardless of the location of the instrument or process from which a wire or electronic communication is transmitted or received.

(c) (1) "Pen register" means a device or process that records and decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted.

(2) "Pen register" does not include any device or process used:

(i) By a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by the provider or any device used by a provider or customer of a wire communication service for cost accounting or other similar purposes in the ordinary course of its business; or

(ii) To obtain the content of a communication.

(d) (1) "Trap and trace device" means a device or process that captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication.

(2) "Trap and trace device" does not include a device or process used to obtain the content of a communication.

(e) "Wire communication", "electronic communication", and "electronic communication service" have the meanings stated in § 10-401 of this title.

§10–4B–02.

(a) Except as provided in subsection (b) of this section, a person may not install or use a pen register or a trap and trace device without first obtaining a court order under § 10-4B-04 of this subtitle.

(b) Subsection (a) of this section does not apply to the use of a pen register or a trap and trace device by a provider of wire or electronic communication service:

(1) Relating to the operation, maintenance, and testing of a wire or electronic service or to the protection of the rights or property of the provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

(2) To record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful, or abusive use of service, or with the consent of the user of that service.

(c) A person who violates subsection (a) of this section, upon conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year, or both.

§10–4B–03.

(a) An investigative or law enforcement officer may make application for an order or an extension of an order under § 10-4B-04 of this subtitle authorizing or approving the installation and use of a pen register or a trap and trace device, in writing, under oath or equivalent affirmation, to a court of competent jurisdiction of this State.

(b) An application under subsection (a) of this section shall include:

(1) The identity of the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

(2) A statement under oath by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

§10–4B–04.

(a) (1) Upon an application made under § 10-4B-03 of this subtitle, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the information likely to be obtained by the installation and use is relevant to an ongoing criminal investigation.

(2) On service, an order issued under paragraph (1) of this subsection shall apply to any person providing wire or electronic communication service whose assistance may facilitate the execution of the order.

(b) An order issued under this section shall:

(1) Specify the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;

(2) Specify the identity, if known, of the person who is the subject of the criminal investigation;

(3) Specify the attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied, and, in the case of a trap and trace device, the geographic limits of the trap and trace order;

(4) Contain a description of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

(5) Direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under § 10-4B-05 of this subtitle.

(c) (1) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 60 days.

(2) Extensions of an order issued under this section may be granted upon a new application for an order under § 10-4B-03 of this subtitle and upon the judicial finding required under subsection (a) of this section. An extension may not exceed 60 days.

(d) An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that:

(1) The order be sealed until further order of the court; and

(2) The person owning or leasing the line to which the pen register or a trap and trace device is attached or applied, or who is obligated by the order to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

§10–4B–05.

(a) Upon the request of an investigative or law enforcement officer of a law enforcement agency authorized to install and use a pen register under this subtitle, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish the investigative or law enforcement officer with all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person ordered by the court accords the party with respect to whom the installation and

use is to take place, if such assistance is directed by a court order under § 10-4B-04(b)(5) of this subtitle.

(b) Upon the request of an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this subtitle, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install the device on the appropriate line and shall furnish the investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person ordered by the court accords the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by a court order under § 10-4B-04(b)(5) of this subtitle. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

(c) A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance under this section shall be compensated for reasonable expenses incurred in providing the facilities and assistance.

(d) Nothing in this subtitle may be construed as creating a cause of action against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under §§ 10-4B-02 through 10-4B-05 of this subtitle.

(e) A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under §§ 10-4B-02 through 10-4B-05 of this subtitle or under any other law.

§10–501.

Every court of this State shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States, and of every other jurisdiction having a system of law based on the common law of England.

§10–502.

The court may inform itself of those laws in the manner it deems proper, and the court may call upon counsel to aid it in obtaining appropriate information.

§10–503.

The determination of the laws shall be made by the court and not by the jury, and shall be reviewable. The court shall grant instructions to the jury, applying foreign law to the facts of the case as if the foreign law were domestic law. In nonjury proceedings the court shall apply foreign law to the facts of the case, as would be proper if foreign

law were domestic law.

§10–504.

A party may also present to the trial court any admissible evidence of foreign laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken of it, reasonable notice shall be given to the adverse parties either in the pleadings or by other written notice.

§10–505.

The law of a jurisdiction other than those referred to in § 10-501 of this subtitle shall be an issue for the court, but shall not be subject to the provisions concerning judicial notice.

§10–506.

This subtitle shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states which enact it.

§10–507.

This subtitle may be cited as the Maryland Uniform Judicial Notice of Foreign Law Act.

§10–601.

A debt of record entered in a court located in the United States or in a foreign country may be proved by an official transcript of all of the record under the seal of the custodian and the court or office where the record was made.

§10–701.

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

(b) "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money. It does not mean a judgment for taxes, fine, or penalty, or a judgment for support in matrimonial or family matters.

(c) "Foreign state" means any governmental unit other than the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands.

§10–702.

This subtitle applies to a foreign judgment that is final, conclusive, and enforceable where rendered even though an appeal is pending or it is subject to appeal.

§10–703.

Except as provided in § 10–704 of this subtitle, a foreign judgment meeting the requirements of § 10–702 of this subtitle is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

§10–704.

(a) A foreign judgment is not conclusive if:

(1) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) The foreign court did not have personal jurisdiction over the defendant;

(3) The foreign court did not have jurisdiction over the subject matter; or

(4) The judgment was obtained by fraud.

(b) A foreign judgment need not be recognized if:

(1) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(2) The cause of action on which the judgment is based is repugnant to the public policy of the State;

(3) The judgment conflicts with another final and conclusive judgment;

(4) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute was to be settled out of court; or

(5) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

(c) (1) In this subsection, "defamation" includes invasion of privacy by false facts.

(2) A foreign judgment against any person who is a resident of this State or who has assets in this State may not be recognized if:

(i) The cause of action resulted in a defamation judgment obtained in a jurisdiction outside the United States, unless the court before which the matter is brought in this State first determines that the defamation law as applied in the foreign jurisdiction provides for at least as much protection for freedom of speech and the press as is provided by both the United States Constitution and the Maryland Constitution;

or

(ii) The cause of action resulted in a defamation judgment entered against the provider of an interactive computer service, as defined in 47 U.S.C. § 230, unless the court before which the matter is brought in this State determines that the judgment is consistent with 47 U.S.C. § 230.

§10–705.

(a) The foreign judgment may not be refused recognition for lack of personal jurisdiction if:

(1) The defendant was served personally in the foreign state;

(2) The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) The defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate has its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;

(5) The defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign state; or

(6) The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of such operation.

(b) The court may recognize other bases of jurisdiction.

§10–706.

If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

§10–707.

This subtitle does not prevent the recognition of a foreign judgment in situations not covered by this subtitle.

§10–708.

This subtitle shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

§10–709.

This subtitle may be cited as the Maryland Uniform Foreign Money-Judgments Recognition Act.

§10–801.

Where title to property or its devolution depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this subtitle.

§10–802.

Where two or more beneficiaries are designated to take successively because of survivorship under another person's disposition of property and there is not sufficient evidence that these beneficiaries have died other than simultaneously, the property disposed of shall be divided into as many equal portions as there are successive beneficiaries, and these portions shall be distributed to those who would have taken in the event that each designated beneficiary had survived.

§10–803.

Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died other than simultaneously, the property held shall be distributed one half as if one had survived and one half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property distributed shall be in the proportion that one bears to the whole number of joint tenants.

§10–804.

Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died other than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

§10–805.

This subtitle shall not apply in the case of wills, living trusts, deeds, or contracts of insurance where provision has been made for distribution of property different from the provisions of this subtitle.

§10–806.

This subtitle shall be construed and interpreted to effectuate its general purpose to make uniform the law in those states which enact it.

§10–807.

This subtitle may be cited as the Maryland Uniform Simultaneous Death Act.

§10–901.

(a) During the trial of a criminal case in which the defendant is charged with a felonious violation of Title 5 of the Criminal Law Article or with the commission of a crime of violence as defined in § 14–101 of the Criminal Law Article, a statement as defined in Maryland Rule 5–801(a) is not excluded by the hearsay rule if the statement is offered against a party that has engaged in, directed, or conspired to commit wrongdoing that was intended to and did procure the unavailability of the declarant of the statement, as defined in Maryland Rule 5–804.

(b) Subject to subsection (c) of this section, before admitting a statement under this section, the court shall hold a hearing outside the presence of the jury at which:

(1) The Maryland Rules of Evidence are strictly applied; and

(2) The court finds by clear and convincing evidence that the party against whom the statement is offered engaged in, directed, or conspired to commit the wrongdoing that procured the unavailability of the declarant.

(c) A statement may not be admitted under this section unless:

(1) The statement was:

(i) Given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

(ii) Reduced to writing and signed by the declarant; or

(iii) Recorded in substantially verbatim fashion by stenographic or electronic means contemporaneously with the making of the statement; and

(2) As soon as is practicable after the proponent of the statement learns that the declarant will be unavailable, the proponent notifies the adverse party of:

(i) The intention to offer the statement;

(ii) The particulars of the statement; and

(iii) The identity of the witness through whom the statement will be offered.

§10–902.

There is no presumption that an offense committed by a wife in the presence of her husband is committed under the coercion of the husband.

§10–903.

Evidence is not admissible in a civil proceeding to prove that any party failed to testify in a criminal proceeding involving the same subject matter.

§10–904.

In a civil or criminal case in which a person is charged with commission of a crime or act, evidence is admissible by the defendant to show that another person has been convicted of committing the same crime or act.

§10–905.

(a) Evidence is admissible to prove the interest of a witness in any proceeding, or the fact of his conviction of an infamous crime. Evidence of conviction is not admissible if an appeal is pending, or the time for an appeal has not expired, or the conviction has been reversed, and there has been no retrial or reconviction.

(b) The certificate, under the seal of the clerk of the court, of the court in which the conviction occurred is sufficient evidence of the conviction.

§10–906.

(a) Except as provided in subsection (b) of this section evidence is admissible in any proceeding to prove the execution of a written instrument attested by one or more subscribing witnesses in the same manner as the instrument might be proved had it not been attested. Evidence of a disputed writing is admissible and may be submitted to the trier of the facts for its determination as to genuineness.

(b) The provisions of this section do not apply to the proof of the execution of a last will and testament or codicil.

§10–907.

If an action is brought to charge a person on a special promise to be answerable for the debt, default, or miscarriage of another person, it is not necessary to show that the consideration for the promise is in writing.

§10–908.

(a) If a plat is authenticated, it may be considered as evidence.

(b) In an action of trespass quare clausum fregit involving the location of minerals underground, if the location cannot be measured on plats because of earth

falls or other reasons, the trespass may be proved by other evidence.

(c) A plat or certificate of survey may be amended at bar where the location does not correspond with the variation. In the sound discretion of the court, objects may be placed on a plat by a witness who was not sworn on the survey.

§10–909.

(a) Patented land is not required to be stated by the patented name in a declaration in an action at law. It may be described by abuttals, course and distance, or a name by which it was acquired. The description shall be certain enough to identify the land.

(b) When title of patented land is questioned, a party is not required to prove that the land was patented. A patent shall be presumed in favor of the party showing a title otherwise good.

(c) Acts of exclusive user and ownership are admissible to prove possession. Actual evidence of enclosure is not necessary for this proof.

§10–910.

In an action on behalf of an infant to recover for death, personal injury, or property damage the negligence of the parent or custodian of the infant may not be imputed to the infant.

§10–911.

In any legal proceeding of any nature, the quantities and qualities of noise may be proved by evidence of tests made with any instrument designed and constructed to measure and indicate or record the presence of sound, including such devices commonly called sound level meters and frequency analyzers.

§10–912.

(a) A confession may not be excluded from evidence solely because the defendant was not taken before a judicial officer after arrest within any time period specified by Title 4 of the Maryland Rules.

(b) Failure to strictly comply with the provisions of Title 4 of the Maryland Rules pertaining to taking a defendant before a judicial officer after arrest is only one factor, among others, to be considered by the court in deciding the voluntariness and admissibility of a confession.

§10–913.

(a) In any action for punitive damages for personal injury, evidence of the defendant's financial means is not admissible until there has been a finding of liability

and that punitive damages are supportable under the facts.

(b) A claim filed with the Health Care Alternative Dispute Resolution Office in accordance with § 3-2A-04 of this article shall be considered an action for purposes of this section.

§10–914.

(a) A laboratory test, performed by a laboratory certified by the Department of Health and Mental Hygiene and approved by the Division of Parole and Probation of the Department of Public Safety and Correctional Services, indicating that the defendant has used a controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or alcohol in violation of a condition of the defendant's probation or work release, is sufficiently reliable to justify revocation of the defendant's probation or work release, without an expert witness from the laboratory testifying in court to support the contents of a report of the laboratory test.

(b) A report of a laboratory test described under this section shall:

(1) Identify the chemist or analyst who performed the laboratory test as an individual qualified, under standards approved by the Department of Health and Mental Hygiene, to perform the laboratory test;

(2) Be signed by the chemist or analyst who performed the laboratory test; and

(3) Contain a statement that:

(i) The material delivered to the chemist or analyst who performed the laboratory test was properly tested under procedures and equipment approved by the Department of Health and Mental Hygiene;

(ii) The procedures of the laboratory test are reliable; and

(iii) The laboratory test indicates that the defendant used a controlled dangerous substance or alcohol.

(c) A report of a laboratory test is prima facie evidence of the results of the laboratory test.

(d) Nothing in this section precludes the right of any party to introduce any evidence that supports or contradicts the evidence contained in or the presumptions raised by the report of the laboratory test described under subsection (b) of this section.

(e) Subject to the provisions of subsection (f) of this section, if a laboratory report or statement is admitted in evidence, the chemist or analyst who performed the laboratory test is subject to cross-examination by any party to the proceeding.

(f) (1) On written demand of a defendant filed in the proceeding at least 5 days before the hearing to revoke a defendant's probation or work release, the prosecution shall require the presence of the chemist or analyst who performed the test or any individual in the chain of custody or control as a prosecution witness.

(2) The provisions of subsections (a), (b), and (c) of this section concerning prima facie evidence do not apply to the testimony of a witness whose presence is required under this subsection.

(3) Subsections (a), (b), and (c) of this section apply in a proceeding to revoke a defendant's probation or work release only when a copy of the report of the laboratory test or the statement to be introduced is mailed, delivered, or made available to counsel for the defendant or to the defendant personally when the defendant is not represented by counsel, at least 10 days prior to the introduction of the report of the laboratory test or the statement at the hearing.

§10–915.

(a) (1) In this section the following words have the meanings indicated.

(2) "Deoxyribonucleic acid (DNA)" means the molecules in all cellular forms that contain genetic information in a chemical structure of each individual.

(3) "DNA profile" means an analysis of genetic loci that have been validated according to standards established by:

(i) The Technical Working Group on DNA Analysis Methods (TWGDAM); or

(ii) The DNA Advisory Board of the Federal Bureau of Investigation.

(b) A statement from the testing laboratory setting forth that the analysis of genetic loci has been validated by standards established by TWGDAM or the DNA Advisory Board is sufficient to admit a DNA profile under this section.

(c) In any criminal proceeding, the evidence of a DNA profile is admissible to prove or disprove the identity of any person, if the party seeking to introduce the evidence of a DNA profile:

(1) Notifies in writing the other party or parties by mail at least 45 days before any criminal proceeding; and

(2) Provides, if applicable and requested in writing, the other party or parties at least 30 days before any criminal proceeding with:

(i) First generation film copy or suitable reproductions of autoradiographs, dot blots, slot blots, silver stained gels, test strips, control strips, and any other results generated in the course of the analysis;

(ii) Copies of laboratory notes generated in connection with the analysis, including chain of custody documents, sizing and hybridization information, statistical calculations, and worksheets;

(iii) Laboratory protocols and procedures utilized in the analysis;

(iv) The identification of each genetic locus analyzed; and

(v) A statement setting forth the genotype data and the profile frequencies for the databases utilized.

(d) If a party is unable to provide the information required under subsection (c) of this section at least 30 days prior to the criminal proceedings, the court may grant a continuance to permit such timely disclosures.

(e) Except as to the issue of admissibility under this section, subsection (c) of this section does not preclude discovery under the Maryland Rules relating to discovery, upon a showing of scientific relevance to a material issue regarding the DNA profile.

§10–916.

(a) (1) In this section the following words have the meanings indicated.

(2) "Battered Spouse Syndrome" means the psychological condition of a victim of repeated physical and psychological abuse by a spouse, former spouse, cohabitant, or former cohabitant which is also recognized in the medical and scientific community as the "Battered Woman's Syndrome".

(3) "Defendant" means an individual charged with:

(i) First degree murder, second degree murder, manslaughter, or attempt to commit any of these crimes; or

(ii) Assault in the first degree.

(b) Notwithstanding evidence that the defendant was the first aggressor, used excessive force, or failed to retreat at the time of the alleged offense, when the defendant raises the issue that the defendant was, at the time of the alleged offense, suffering from the Battered Spouse Syndrome as a result of the past course of conduct of the individual who is the victim of the crime for which the defendant has been charged, the court may admit for the purpose of explaining the defendant's motive or state of mind, or both, at the time of the commission of the alleged offense:

(1) Evidence of repeated physical and psychological abuse of the defendant perpetrated by an individual who is the victim of a crime for which the defendant has been charged; and

(2) Expert testimony on the Battered Spouse Syndrome.

§10–917.

A written statement of expenses or a bill shall be taken as prima facie evidence at a restitution hearing as provided under § 11-615 of the Criminal Procedure Article.

§10–918.

(a) Subject to subsections (b) and (c) of this section, a party who is otherwise entitled to sue and recover upon or under any promissory note, bill of exchange, bill of lading, warehouse or storage receipt, or other negotiable instrument, is not precluded from recovering by reason of the party's inability to produce the instrument in evidence at the trial or surrender the instrument to the defendant.

(b) The absence of an instrument described in subsection (a) of this section must be sufficiently accounted for under the rules of evidence to allow the introduction of secondary proof of the contents of the instrument at the trial.

(c) (1) A judgment may not be entered for the plaintiff in a suit described in subsection (a) of this section until a sufficient bond has been filed in the suit by the plaintiff.

(2) The bond shall provide for the penalty and surety approved by the court, and conditioned on holding the defendant harmless on satisfaction of the judgment by the defendant as if the missing instrument were then produced and surrendered to the defendant.

§10–919.

(a) After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of a decedent:

(1) Is admissible in a civil proceeding in which the common law Slayer's Rule is raised as an issue; and

(2) Conclusively establishes that the convicted individual feloniously and intentionally killed the decedent.

(b) This section may not be construed to prohibit a trier of fact, in the absence of a criminal conviction, from determining by a preponderance of the evidence in a civil proceeding that a killing was felonious and intentional.

§10–920.

(a) In this section, "health care provider" has the meaning stated in § 3-2A-01 of this article.

(b) (1) Except as provided in paragraph (2) of this subsection, in a proceeding

subject to Title 3, Subtitle 2A of this article or a civil action against a health care provider, an expression of regret or apology made by or on behalf of the health care provider, including an expression of regret or apology made in writing, orally, or by conduct, is inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(2) An admission of liability or fault that is part of or in addition to a communication made under paragraph (1) of this subsection is admissible as evidence of an admission of liability or as evidence of an admission against interest in an action described under paragraph (1) of this subsection.

§10–921.

(a) In an action against an insurer or the Maryland Automobile Insurance Fund under a policy providing uninsured motor vehicle liability coverage, the person asserting the uninsured status of a motor vehicle shall have the burden to prove that status.

(b) For a motor vehicle registered in the State on the date of the occurrence out of which the cause of action arose, the burden of proof shall be deemed satisfied when the person asserting the uninsured status of the motor vehicle introduces:

(1) A certified copy of the official record of the Motor Vehicle Administration for that motor vehicle indicating the absence of a record that the motor vehicle was covered by the security required by § 17-104 of the Transportation Article on the date of the occurrence out of which the cause of action arose; or

(2) A denial of coverage based on the absence of an in-force policy of insurance covering the vehicle on the date of the occurrence out of which the cause of action arose by the insurer that has been identified as the insurer of the motor vehicle:

(i) By the Motor Vehicle Administration;

(ii) In writing, if any, by the driver or owner of the motor vehicle; and

(iii) In a report, if any, prepared by an officer of a federal, state, county, or municipal law enforcement agency who investigated the occurrence out of which the cause of action arose.

(c) For a motor vehicle registered outside the State on the date of the occurrence out of which the cause of action arose, the burden of proof shall be deemed satisfied when the person asserting the uninsured status of the motor vehicle introduces:

(1) A certified copy of the official records of the governmental unit, if any, that maintains records of insurance coverage for motor vehicles registered in that state indicating the absence of a record that the motor vehicle was covered by insurance on the date of the occurrence out of which the cause of action arose; or

(2) A denial of coverage based on the absence of an in-force policy of insurance covering the vehicle on the date of the occurrence out of which the cause of action arose by the insurer that has been identified as the insurer of the vehicle:

(i) By the governmental unit, if any, that maintains records of whether motor vehicles in the state are insured;

(ii) In writing, if any, by the driver or owner of the motor vehicle; and

(iii) In a report, if any, prepared by an officer of a federal, state, county, or municipal law enforcement agency who investigated the occurrence out of which the cause of action arose.

(d) If a person satisfies the burden of proof under subsection (b) or (c) of this section, the finder of fact shall find the motor vehicle at issue to be uninsured, unless an adverse party establishes by a preponderance of the evidence that the motor vehicle or the driver of the motor vehicle was covered by a valid, enforceable motor vehicle liability insurance policy, bond, or security that provides coverage for the occurrence out of which the cause of action arose.

§10–922.

A statement made during the course of an initial appearance of a defendant before a District Court commissioner in accordance with Maryland Rule 4–213 may not be used as evidence against the defendant in a criminal proceeding or juvenile proceeding.

§10–1001.

For the purpose of establishing that physical evidence in a criminal or civil proceeding constitutes a particular controlled dangerous substance under Title 5 of the Criminal Law Article, a report signed by the chemist or analyst who performed the test or tests as to its nature is prima facie evidence that the material delivered to the chemist or analyst was properly tested under procedures approved by the Department of Health and Mental Hygiene, that those procedures are legally reliable, that the material was delivered to the chemist or analyst by the officer or person stated in the report, and that the material was or contained the substance therein stated, without the necessity of the chemist or analyst personally appearing in court, provided the report identifies the chemist or analyst as an individual certified by the Department of Health and Mental Hygiene, the Department of State Police, the Baltimore City Police Department, or any county police department employing analysts of controlled dangerous substances, as qualified under standards approved by the Department of Health and Mental Hygiene to analyze those substances, states that the chemist or analyst made an analysis of the material under procedures approved by that department, and also states that the substance, in the opinion of the chemist or analyst, is or contains the particular controlled dangerous substance specified. Nothing in this section precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in or the presumptions

raised by the report.

§10–1002.

(a) In this part:

(1) "Chain of custody" means:

(i) The seizing officer;

(ii) The packaging officer, if the packaging officer is not also the seizing officer; and

(iii) The chemist or other person who actually touched the substance and not merely the outer sealed package in which the substance was placed by the law enforcement agency before or during the analysis of the substance; and

(2) "Chain of custody" does not include a person who handled the substance in any form after analysis of the substance.

(b) (1) For the purpose of establishing, in a criminal or civil proceeding, the chain of physical custody or control of evidence consisting of or containing a substance tested or analyzed to determine whether it is a controlled dangerous substance under Title 5 of the Criminal Law Article, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.

(2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received.

(3) The statement may be placed on the same document as the report provided for in § 10-1001 of this part.

(4) Nothing in this section precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in or the presumption raised by the statement.

§10–1003.

(a) (1) In a criminal proceeding, the prosecution shall, upon written demand of a defendant filed in the proceedings at least 5 days prior to a trial in the proceeding, require the presence of the chemist, analyst, or any person in the chain of custody as a prosecution witness.

(2) The provisions of §§ 10-1001 and 10-1002 of this part concerning prima

facie evidence do not apply to the testimony of that witness.

(3) The provisions of §§ 10-1001 and 10-1002 of this part are applicable in a criminal proceeding only when a copy of the report or statement to be introduced is mailed, delivered, or made available to counsel for the defendant or to the defendant personally when the defendant is not represented by counsel, at least 10 days prior to the introduction of the report or statement at trial.

(b) Nothing contained in this part shall prevent the defendant from summoning a witness mentioned in this part as a witness for the defense.

§10–1004.

(a) (1) In this section the following words have the meanings indicated.

(2) "Medical examiner's case" has the meaning stated in § 5–301(c) of the Health – General Article.

(3) "Mortician" has the meaning stated in § 7–101(s) of the Health Occupations Article.

(b) (1) In a criminal proceeding for a death which is a medical examiner's case, the chain of physical custody and control may be established by a signed statement by the mortician, or the mortician's agent, servant, or employee, who transported the body to the medical examiner's office, without the necessity of the personal appearance in court by the person who signed the statement.

(2) The statement shall contain:

(i) A description of the initial condition of the body when it was taken into custody by the mortician or the mortician's agent, servant, or employee;

(ii) A statement that the body was delivered to the medical examiner on a certain date on or about a certain time; and

(iii) A statement that the body was in essentially the same condition when delivered to the medical examiner as when it was taken into custody.

(3) A statement is prima facie evidence of the facts stated.

(c) (1) If the State intends to offer the statement without the testimony of the mortician, or the mortician's agent, servant, or employee, the State shall, at least 25 days before trial, give the defendant or the defendant's attorney notice of its intention and deliver a copy of the statement.

(2) If the defendant desires that the mortician or the mortician's agent, servant, or employee, be present and testify at trial, the defendant shall notify the State at least 15 days before trial. If a timely notice is given, the statement is inadmissible

without the testimony of the mortician, or the mortician's agent, servant, or employee.

(d) Nothing in this section precludes the right of a party to introduce any evidence supporting or contradicting the evidence contained in the statement.

§10–1101.

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

(b) "Beneficiary" means an individual who may bring an action for wrongful death under Title 3, Subtitle 9 of this article.

(c) "Claimant" means:

(1) A person who alleges damages as a result of a vehicle accident or an attorney who represents the person; or

(2) A personal representative of the estate of a decedent who died as a result of a vehicle accident or an attorney who represents the personal representative of the estate of the decedent.

(d) "Insurer" includes a property and casualty insurer, a self–insurance plan, or any person required to provide indemnification for a claim for wrongful death, personal injury, or property damage.

(e) "Vehicle" has the meaning stated in § 11–176 of the Transportation Article.

§10–1102.

After a claimant files a written tort claim concerning a vehicle accident and provides the documentation described in § 10–1103 or § 10–1104 of this subtitle to an insurer, the claimant may obtain from the insurer documentation of the applicable limits of coverage in any insurance agreement under which the insurer may be liable to:

(1) Satisfy all or part of the claim; or

(2) Indemnify or reimburse for payments made to satisfy the claim.

§10–1103.

(a) This section does not apply to a claim described under § 10–1104 of this subtitle.

(b) A claimant may obtain the documentation described in § 10–1102 of this subtitle if the claimant provides in writing to the insurer:

(1) The date of the vehicle accident;

(2) The name and last known address of the alleged tortfeasor;

(3) A copy of the vehicle accident report, if available;

(4) The insurer's claim number, if available;

(5) The claimant's health care bills and documentation of the claimant's loss of income, if any, resulting from the vehicle accident; and

(6) The records of health care treatment for the claimant's injuries caused by the vehicle accident.

(c) If the amount of the health care bills and loss of income documented by the claimant under this section is at least $12,500, the insurer shall disclose in writing the applicable limits of coverage in each written agreement under which the insurer may be liable.

§10–1104.

(a) This section applies to a claim by the estate of an individual or a beneficiary of the individual resulting from the death of the individual in a vehicle accident.

(b) A claimant may obtain the documentation described in § 10–1102 of this subtitle if the claimant provides in writing to the insurer:

(1) The date of the vehicle accident;

(2) The name and last known address of the alleged tortfeasor;

(3) A copy of the vehicle accident report, if available;

(4) The insurer's claim number, if available;

(5) A copy of the decedent's death certificate issued in the State or another jurisdiction;

(6) A copy of the letters of administration issued to appoint the personal representative of the decedent's estate in the State or a substantially similar document issued by another jurisdiction;

(7) The name of each beneficiary of the decedent, if known;

(8) The relationship to the decedent of each known beneficiary of the decedent;

(9) The amount of economic damages, if any, claimed by each known beneficiary of the decedent, including any amount claimed based on future loss of earnings of the decedent;

(10) The health care bills for health care treatment, if any, of the decedent resulting from the vehicle accident;

(11) The records of health care treatment for injuries to the decedent caused by the vehicle accident; and

(12) Documentation of the decedent's past loss of income, if any, resulting from the vehicle accident.

§10–1105.

(a) An insurer shall provide in writing the documentation described under § 10–1102 of this subtitle within 30 days after the date of a request in accordance with § 10–1103 or § 10–1104 of this subtitle, regardless of whether the insurer contests the applicability of coverage to a claim.

(b) An insurer, and the employees and agents of an insurer, may not be civilly or criminally liable for the disclosure of documentation required under this subtitle.

(c) Disclosure of the documentation under this subtitle does not constitute:

(1) An admission that a claim is subject to the applicable agreement between the insurer and the alleged tortfeasor; or

(2) A waiver of any term or condition of the applicable agreement between the insurer and the alleged tortfeasor or any right of the insurer, including any potential defense concerning coverage or liability.

(d) Documentation disclosed under this subtitle is not admissible as evidence at trial by reason of its disclosure under this subtitle.

§11–101.

Except as otherwise provided by law, a money judgment, penalty, fine, or forfeiture rendered or imposed by any court of the State shall be expressed in dollars and cents.

§11–102.

(a) A judgment against less than all partners or persons jointly liable on a contract, agreement, instrument, or any other obligation does not extinguish or merge the cause of action against any other partner or person jointly liable but not bound by the judgment.

(b) If the debt is not completely satisfied, any partner or person jointly liable but not bound by the judgment may be sued as if his original liability had been joint and several.

§11–103.

In a contract action brought against alleged joint debtors:

(1) The plaintiff need not prove their joint liability as alleged in order to maintain the action;

(2) The plaintiff may recover as in actions in tort against one or more of the defendants who are shown by the evidence to be indebted to the plaintiff; and

(3) Judgment shall be entered in the plaintiff's favor against one or more of the defendants as fully as if the defendant or defendants against whom the plaintiff fails to establish a claim had not been joined in the suit.

§11–104.

(a) In an action of detinue a plaintiff may recover the personal property and damages for the wrongful detention of the property. The judgment or verdict, if jury trial is elected, shall separately specify the value of the property and damages.

(b) If the judgment is rendered for the return of the property, the plaintiff may enforce the judgment by a writ of capias in withernam unless the court for good cause shows orders otherwise or the plaintiff agrees on the record to accept the value of the property in lieu of its return.

§11–105.

In any cause of action affecting the common property, rights, and liabilities of an unincorporated association, joint stock company, or other group which has a recognized group name, a money judgment against the group is enforceable only against the assets of the group as an entity, but not against the assets of any member.

§11–106.

(a) A money judgment entered in an action arising from a contract for the loan of money shall carry interest at the rate charged in the contract on any balance remaining unpaid until the date of maturity of the contract as originally scheduled. However, the rate of interest shall be on the unpaid principal of the money borrowed. The provisions of this section do not apply to any loan secured by a mortgage or deed of trust. The provisions of this section do not apply when the contractual rate of interest for a student loan of money is less than the prevailing legal rate of interest allowable on the judgment, as set forth in § 11-107 of this subtitle, unless the agreement for the loan of money expressly provides otherwise.

(b) In this section, "student loan" means any loan or advance of funds, money, or credit to an individual by an institution of higher learning or a lender to defray, in part or in full, educational or educational related expenses. It includes national defense, national direct, health professional, and nursing student loans.

§11–107.

(a) Except as provided in § 11-106 of this subtitle, the legal rate of interest on a judgment shall be at the rate of 10 percent per annum on the amount of judgment.

(b) The legal rate of interest on a money judgment for rent of residential premises shall be at the rate of 6 percent per annum on the amount of the judgment.

(c) The legal rate of interest on a money judgment for delinquent real or personal property taxes shall be the greater of:

(1) The sum of the rates fixed under §§ 14-603 and 14-702 of the Tax - Property Article for interest and penalties; or

(2) At the rate of 10 percent per annum.

§11–108.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Noneconomic damages" means:

1. In an action for personal injury, pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury; and

2. In an action for wrongful death, mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, care, marital care, parental care, filial care, attention, advice, counsel, training, guidance, or education, or other noneconomic damages authorized under Title 3, Subtitle 9 of this article.

(ii) "Noneconomic damages" does not include punitive damages.

(3) "Primary claimant" means a claimant in an action for the death of a person described under § 3-904(d) of this article.

(4) "Secondary claimant" means a claimant in an action for the death of a person described under § 3-904(e) of this article.

(b) (1) In any action for damages for personal injury in which the cause of action arises on or after July 1, 1986, an award for noneconomic damages may not exceed $350,000.

(2) (i) Except as provided in paragraph (3)(ii) of this subsection, in any action for damages for personal injury or wrongful death in which the cause of action arises on or after October 1, 1994, an award for noneconomic damages may not exceed $500,000.

(ii) The limitation on noneconomic damages provided under subparagraph (i) of this paragraph shall increase by $15,000 on October 1 of each year beginning on October 1, 1995. The increased amount shall apply to causes of action arising between October 1 of that year and September 30 of the following year, inclusive.

(3) (i) The limitation established under paragraph (2) of this subsection shall apply in a personal injury action to each direct victim of tortious conduct and all persons who claim injury by or through that victim.

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under paragraph (2) of this subsection, regardless of the number of claimants or beneficiaries who share in the award.

(c) An award by the health claims arbitration panel in accordance with § 3-2A-05 of this article for damages in which the cause of action arose before January 1, 2005, shall be considered an award for purposes of this section.

(d) (1) In a jury trial, the jury may not be informed of the limitation established under subsection (b) of this section.

(2) (i) If the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b) of this section, the court shall reduce the amount to conform to the limitation.

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, if the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b)(3)(ii) of this section, the court shall:

1. If the amount of noneconomic damages for the primary claimants equals or exceeds the limitation under subsection (b)(3)(ii) of this section:

A. Reduce each individual award of a primary claimant proportionately to the total award of all of the primary claimants so that the total award to all claimants or beneficiaries conforms to the limitation; and

B. Reduce each award, if any, to a secondary claimant to zero dollars; or

2. If the amount of noneconomic damages for the primary claimants does not exceed the limitation under subsection (b)(3)(ii) of this section or if there is no award to a primary claimant:

A. Enter an award to the primary claimant, if any, as directed by the verdict; and

B. Reduce each individual award of a secondary claimant proportionately to the total award of all of the secondary claimants so that the total award to all claimants or beneficiaries conforms to the limitation.

(e) The provisions of this section do not apply to a verdict under Title 3, Subtitle 2A of this article for damages in which the cause of action arises on or after January 1, 2005.

§11–109.

(a) (1) In this section, "economic damages" means loss of earnings and medical expenses.

(2) "Economic damages" does not include punitive damages.

(b) As part of the verdict in any action for damages for personal injury in which the cause of action arises on or after July 1, 1986 or for wrongful death in which the cause of action arises on or after October 1, 1994, the trier of fact shall itemize the award to reflect the monetary amount intended for:

(1) Past medical expenses;

(2) Future medical expenses;

(3) Past loss of earnings;

(4) Future loss of earnings;

(5) Noneconomic damages; and

(6) Other damages.

(c) (1) The court or the health claims arbitration panel may order that all or part of the future economic damages portion of the award be paid in the form of annuities or other appropriate financial instruments, or that it be paid in periodic or other payments consistent with the needs of the plaintiff, funded in full by the defendant or the defendant's insurer and equal when paid to the amount of the future economic damages award.

(2) In the event that the court or panel shall order that the award for future economic damages be paid in a form other than a lump sum, the court or panel shall order that the defendant or the defendant's insurer provide adequate security for the payment of all future economic damages.

(3) The court or panel may appoint a conservator under this subsection for the plaintiff, upon such terms as the court or panel may impose, who shall have the full and final authority to resolve any dispute between the plaintiff and the defendant or the defendant's insurer regarding the need or cost of expenses for the plaintiff's medical,

surgical, custodial, or other care or treatment.

(d) If the plaintiff under this section dies before the final periodic payment of an award is made, the unpaid balance of the award for future loss of earnings shall revert to the estate of the plaintiff and the unpaid balance of the award for future medical expenses shall revert to the defendant or to the defendant's insurer if the insurer provided the funds for the future damages award.

§11–110.

(a) (1) In this section the following words have the meanings indicated.

(2) "Compensatory damages" means:

(i) In the case of the death of a pet, the fair market value of the pet before death and the reasonable and necessary cost of veterinary care; and

(ii) In the case of an injury to a pet, the reasonable and necessary cost of veterinary care.

(3) (i) "Pet" means a domesticated animal.

(ii) "Pet" does not include livestock.

(b) (1) A person who tortiously causes an injury to or death of a pet while acting individually or through an animal under the person's direction or control is liable to the owner of the pet for compensatory damages.

(2) The damages awarded under paragraph (1) of this subsection may not exceed $7,500.

§11–111.

(a) If a court orders that a deed of any kind shall be executed, it may appoint a trustee to execute the deed.

(b) Until the trustee executes a deed, the decree:

(1) If passed in the county where the land lies, has the same effect as an executed deed; and

(2) If passed in another county, has the same effect as an executed deed if recorded in the county where the land lies within 6 months after the date of the decree.

§11–112.

(a) In this section, "payor" has the same meaning stated in § 19-132 of the Health - General Article.

(b) (1) Except as provided in paragraph (2) of this subsection, this section applies to any right of subrogation under a contract or applicable law for payment of health care benefits or services for an injured person paid or payable by a payor or under any system of self-insurance or indemnification for health care expenses, if the amount of the subrogee's claim as determined under subsection (c) of this section is voluntarily paid by the injured person from the injured person's recovery in a claim for personal injury.

(2) This section does not apply to a voluntary reduction of a subrogation claim by a payor that exceeds the reduction of the subrogation claim described in subsection (c) of this section.

(c) (1) Unless a subrogee files a petition to intervene in the personal injury action and is independently represented by counsel, in a subrogation claim arising out of a claim for personal injury, the amount permitted to be recovered by a payor for health care benefits or services paid or payable on behalf of the injured person shall be reduced by the amount that is determined by:

(i) Subject to paragraph (2) of this subsection, dividing the amount of the total recovery in the claim for personal injury into the total amount of the attorney's fees incurred by the injured person for services rendered in connection with the injured person's claim; and

(ii) Multiplying the result under subparagraph (i) of this paragraph by the amount of the payor's subrogation claim.

(2) The percentage under paragraph (1)(i) of this subsection may not exceed one-third.

(d) A payor has no obligation to advise an injured person or an attorney for the injured person of the injured person's right to a reduction of the subrogation claim described in subsection (c) of this section.

(e) On written request by a payor, an injured person or an attorney for the injured person who demands a reduction of the subrogation claim described in subsection (c) of this section shall provide the payor with a certification by the injured person that states the amount of the attorney's fees incurred by the injured person for services rendered in connection with the injured person's claim.

§11–201.

If an action is brought for the penalty of any bond, bill, covenant, or contract with penalty, the judgment shall be for the amount due.

§11–202.

(a) In the absence of fraud, negligence, or willful trespass, the measure of damages for the wrongful working and abstracting of another's minerals is the value

to the person from whose property they were taken at the time of the taking of the minerals in their native state, before severance.

(b) If the minerals were abstracted furtively or in bad faith the measure of damages is the value of the minerals ready for market without allowance for labor and expenses.

§11–203.

(a) In an action on the bond of the clerk of a court or register of wills, the measure of damages is the sum the clerk or register charged for the services he has not performed.

(b) If a person sustains special damages because the clerk or register fails to perform the services requested, the person shall be compensated for the special damages in addition to the clerk's fees.

§11–301.

(a) In an action for bodily injury arising from the operation of a motor vehicle in which a money judgment is entered in favor of the plaintiff, the court may assess interest against the defendant at the rate of not more than 10 percent per annum on the amount of judgment from a time not earlier than the time the action was filed if it finds that the defendant caused unnecessary delay in having the action ready or set for trial.

(b) For the purposes of this section, a delay caused by the defendant's insurer or counsel is deemed an unnecessary delay caused by the defendant.

§11–401.

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

(b) "Court" means a court of law or a court of equity and includes the United States District Court for the District of Maryland, the United States Bankruptcy Court for the District of Maryland, the Court of Appeals, the Court of Special Appeals, and the District Court of Maryland.

(c) (1) "Money judgment" means a judgment determining that a specified amount of money is immediately payable to the judgment creditor.

(2) "Money judgment" does not include a judgment mandating the payment of money.

§11–402.

(a) In this section, "land" means real property or any interest in or appurtenant to real property.

(b) If indexed and recorded as prescribed by the Maryland Rules, a money judgment of a court constitutes a lien to the amount and from the date of the judgment on the judgment debtor's interest in land located in the county in which the judgment was rendered except a lease from year to year or for a term of not more than five years and not renewable.

(c) If indexed and recorded as prescribed by the Maryland Rules, a money judgment constitutes a lien on the judgment debtor's interest in land located in a county other than the county in which the judgment was originally entered, except a lease from year to year or for a term not more than five years and not renewable.

(d) Promptly after the entry of an order of satisfaction or the filing of a written statement by a judgment creditor with the clerk of the court that a judgment of a court has been satisfied, the clerk of the court shall make an entry of the word "satisfied" on the horizontal line in the judgment record where the lien is indexed.

§11–403.

A writ of execution on a money judgment does not become a lien on the personal property of the defendant until an actual levy is made. The lien extends only to the property included in the levy.

§11–501.

A sheriff or constable to whom any writ of execution is directed may seize and sell the legal or equitable interest of the defendant named in the writ in real or personal property. The sheriff or constable shall execute the writ, conduct the sale, and distribute the proceeds pursuant to rules adopted by the Court of Appeals.

§11–502.

(a) A sheriff shall give notice of the time, place, and terms of the sale of any property under execution before the property can be sold.

(b) In the case of a sale of an interest in property, the notice shall be posted on the courthouse door or on a bulletin board in the immediate vicinity of the door of the courthouse and printed in a newspaper, published in the county where the property is located at least:

(1) Ten days before the sale of personal property; or

(2) 20 days before the sale of real property.

(c) If the sheriff gives notice by publication in a newspaper, he may recover the costs of publication from the defendant. If the defendant is unable to pay the costs, the sheriff may recover the costs of publication from the plaintiff.

§11–503.

(a) Except in Harford County, if a sheriff is required to sell real or personal property as part of his official duties, he may employ an auctioneer of his choice and charge the costs of the sale to the debtor.

(b) If the Sheriff of Harford County employs an auctioneer, the debtor is primarily liable, but if the proceeds of the sale are insufficient to cover the costs, the creditor is liable for the balance of the costs.

§11–504.

(a) (1) In this section the following terms have the meanings indicated.

(2) "Value" means fair market value as of the date upon which the execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are exempt from execution on a judgment:

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed $5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

(2) Except as provided in subsection (i) of this section, money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred.

(3) Professionally prescribed health aids for the debtor or any dependent of the debtor.

(4) The debtor's interest, not to exceed $1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for the personal, family, or household use of the debtor or any dependent of the debtor.

(5) Cash or property of any kind equivalent in value to $6,000 is exempt, if within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects to exempt cash or selected items of property in an amount not to exceed a cumulative value of $6,000.

(6) Money payable or paid in accordance with an agreement or court order for child support.

(7) Money payable or paid in accordance with an agreement or court

order for alimony to the same extent that wages are exempt from attachment under § 15–601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

(8) The debtor's beneficial interest in any trust property that is immune from the claims of the debtor's creditors under § 14.5–511 of the Estates and Trusts Article.

(9) With respect to claims by a separate creditor of a husband or wife, trust property that is immune from the claims of the separate creditors of the husband or wife under § 14.5–511 of the Estates and Trusts Article.

(c) (1) In order to determine whether the property listed in subsection (b)(4) and (5) of this section is subject to execution, the sheriff shall appraise the property at the time of levy. The sheriff shall return the appraisal with the writ.

(2) An appraisal made by the sheriff under this subsection is subject to review by the court on motion of the debtor.

(3) Procedures will be as prescribed by rules issued by the Court of Appeals.

(d) The debtor may not waive, by cognovit note or otherwise, the provisions of subsections (b) and (h) of this section.

(e) The exemptions in this section do not apply to wage attachments.

(f) (1) (i) In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled "Bankruptcy", any individual debtor domiciled in this State may exempt the debtor's aggregate interest in:

1. Personal property, up to $5,000; and

2. Subject to subparagraph (ii) of this paragraph:

A. Owner–occupied residential real property, including a condominium unit or a manufactured home that has been converted to real property in accordance with § 8B–201 of the Real Property Article; or

B. A cooperative housing corporation that owns property that the debtor occupies as a residence.

(ii) The exemption allowed under subparagraph (i)2 of this paragraph may not exceed the amount under 11 U.S.C. § 522(d)(1), adjusted in accordance with 11 U.S.C. § 104, subject to the provisions of paragraphs (2) and (3) of this subsection.

(2) An individual may not claim the exemption under paragraph (1)(i)2 of

this subsection on a particular property if:

(i) The individual has claimed successfully the exemption on the property within 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this subsection is claimed; or

(ii) The individual's spouse, child, child's spouse, parent, sibling, grandparent, or grandchild has claimed successfully the exemption on the property within 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this subsection is claimed.

(3) The exemption under paragraph (1)(i)2 of this subsection may not be claimed by both a husband and wife in the same bankruptcy proceeding.

(g) In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code.

(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this section and any other provisions of law, any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt from any and all claims of the creditors of the beneficiary or participant, other than claims by the Department of Health and Mental Hygiene.

(2) Paragraph (1) of this subsection does not apply to:

(i) An alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

(ii) A retirement plan, qualified under § 401(a) of the United States Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement account qualified under § 408 of the United States Internal Revenue Code of 1986, as amended; or

(iii) The assets of a bankruptcy case filed before January 1, 1988.

(3) The interest of an alternate payee in a plan described under paragraph (1) of this subsection shall be exempt from any and all claims of any creditor of the alternate payee, except claims by the Department of Health and Mental Hygiene.

(4) If a contribution to a retirement plan described under paragraph (1) of this subsection exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed under the applicable provisions of the United States Internal Revenue Code of 1986, as amended, the portion of that contribution that exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution

allowed, and any accrued earnings on such a portion, are not exempt under paragraph (1) of this subsection.

(i) (1) In this subsection, "net recovery" means the sum of money to be distributed to the debtor after deduction of attorney's fees, expenses, medical bills, and satisfaction of any liens or subrogation claims arising out of the claims for personal injury, including those arising under:

(i) The Medicare Secondary Payer Act, 42 U.S.C. § 1395y;

(ii) A program of the Department of Health and Mental Hygiene for which a right of subrogation exists under §§ 15–120 and 15–121.1 of the Health – General Article;

(iii) An employee benefit plan subject to the federal Employee Retirement Income Security Act of 1974; or

(iv) A health insurance contract.

(2) Twenty–five percent of the net recovery by the debtor on a claim for personal injury is subject to execution on a judgment for a child support arrearage.

§11–505.

In addition to any other requirement under the Maryland Rules, before the court may ratify a sheriff's sale of real property under levy pursuant to a writ of execution, the judgment creditor who requested the issuance of the writ shall provide to the court a copy of the public assessment record for the real property kept by the supervisor of assessments in accordance with § 2-211 of the Tax - Property Article.

§11–506.

(a) If the defendant has waived his exemptions, the court shall enter the waiver on the docket and on the writ, but failure to make the entry does not affect the validity of the waiver.

(b) The court may strike out or invalidate a waiver for sufficient reasons.

§11–507.

The provisions of this subtitle relative to exemptions do not impair a:

(1) Vendor's purchase money lien on land;

(2) Mechanics' lien;

(3) Tax lien;

(4) Mortgage; deed of trust; or other security interest.

§11–508.

(a) If the appraiser determines that the defendant's property cannot be divided to satisfy a judgment without loss to the defendant, the sheriff shall sell the property. After the sale, the defendant is entitled to $100 from the proceeds of sale.

(b) The sheriff may not sell the property if the proceeds of sale would be less than $100.

(c) This section applies only when a single parcel of land or single item of personal property is levied on.

§11–509.

If a sheriff sells any interest of the defendant in any property, he shall convey it to the purchaser upon payment of the purchase price.

§11–510.

(a) If a sheriff states in his return that he seized property of the defendant which remains unsold, or that the defendant has satisfied the judgment mentioned in the process in whole or in part, the court, on motion of the plaintiff, may order the sheriff to bring the money into court or show cause for the failure to do so.

(b) If the sheriff fails to bring into court the amount of the judgment due the plaintiff, the court may enter judgment against the sheriff in the amount of the claim, if the court is satisfied that the sheriff received the debt from the defendant and that his return is false.

(c) A remedy granted under this section does not prejudice the plaintiff's right to proceed against the sheriff's bond.

§11–511.

(a) If a dispute exists as to the distribution of the proceeds of a sheriff's sale, the sheriff may file one or more returns.

(b) The court may ratify one of the returns, or may direct the sheriff to file further returns.

(c) The ratification of a return under this section is a final order.

§11–512.

If a sheriff is prevented by an injunction from selling personal property taken in execution, the court may order the return of the property taken to the party from whom it was taken, and the sheriff is not answerable to the plaintiff for failure to sell the property.

§11–513.

(a) If a recognizance taken for the appearance of a person to answer or testify is forfeited, the State's Attorney may order a writ of execution to be issued for the sum due on the recognizance.

(b) If a writ of execution is issued against a person who failed to answer or testify, on the return of the execution he may file any plea to the execution which would be good and sufficient to a scire facias if a scire facias had issued on the recognizance.

(c) If the plea is determined in favor of the person who filed the plea, he shall be discharged from the forfeiture. However, he may not be discharged from the execution before a hearing on the plea unless he:

(1) Pays or satisfies the execution;

(2) Gives a bond payable to the State; or

(3) Enters into a recognizance in court with security in double amount of the forfeiture and costs due on the execution with condition to appear and plead in discharge of the execution, and abide by and fulfill the judgment on the recognizance.

§11–601.

(a) Except as provided by subsection (b) of this section, if a judgment of condemnation is executed against a garnishee or the garnishee pays the judgment, he may plead the execution or payment in bar in an action brought against him by the defendant even though the judgment is later reversed or set aside.

(b) The garnishee may not plead the execution or payment if at the time of execution or payment the judgment or its execution is stayed by order of court.

§11–602.

A sheriff may not levy by way of execution against a garnishee more than the amount the plaintiff makes appear to be the value of the property and credits attached in the hands of the garnishee, but in no event may the levied assets exceed the plaintiff's debt and costs including the cost incurred to the plaintiff by the garnishee's contest of the garnishment.

§11–603.

(a) (1) Except as provided in paragraph (2) of this subsection, a garnishment against property held jointly by husband and wife, in a bank, trust company, credit union, savings bank, or savings and loan association or any of their affiliates or subsidiaries is not valid unless both owners of the property are judgment debtors.

(2) Paragraph (1) of this subsection does not apply unless the property is

held in an account that was established as a joint account prior to the date of entry of judgment giving rise to the garnishment.

(b) (1) A garnishment against property held in a bank, trust company, credit union, savings bank, or savings and loan association, or any of their affiliates or subsidiaries, by one person in trust for that person and another person or persons, is not valid unless all of the persons are judgment debtors.

(2) A garnishment against property held in a bank, trust company, credit union, savings bank, or savings and loan association, or any of their affiliates or subsidiaries, by one or more persons in trust for another person or persons, is not valid unless all of the persons are judgment debtors.

(3) A garnishment against property held in a bank, trust company, credit union, savings bank, or savings and loan association, or any of their affiliates or subsidiaries, to be payable on the death of one or more persons to another person or persons, is not valid unless all of the persons are judgment debtors.

(c) (1) Notwithstanding subsections (a) and (b) of this section and regardless of the relationship between or among the persons, if property held in an account in the name of 2 or more persons at a bank, trust company, credit union, savings bank, or savings and loan association or any of their affiliates or subsidiaries is garnished, and fewer than all of the persons named on the account are the judgment debtors, the garnishee may answer the writ of garnishment by stating:

(i) That the property is held in an account at the garnishee in the name of 2 or more persons, 1 or more of whom but fewer than all of whom, are judgment debtors; and

(ii) The amount held in the account at the time the writ of garnishment was served on the garnishee.

(2) If the garnishee answers as described in paragraph (1) of this subsection, the garnishee shall hold the lesser of the amount of the judgment or the amount in the account subject to an entry of a court order releasing the property held by the garnishee or a final judgment in the garnishment proceeding.

(3) If the garnishee answers and holds property as provided under paragraphs (1) and (2) of this subsection, the garnishee may not be held liable to the judgment creditor or to any person named on the account for wrongful dishonor or for any other claim relating to the garnishment.

§11–701.

The District Court has the same power to enforce, renew, revise, stay, set aside, or control its judgments, decrees and writs as any other court of record in the State.

§11–702.

A judge of the District Court may not issue a blank execution on a judgment.

§11–703.

A judgment of the District Court shall be entered within three days of rendition.

§11–801.

In this subtitle, "foreign judgment" means a judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this State.

§11–802.

(a) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, a copy of any foreign judgment authenticated in accordance with an act of Congress or statutes of this State may be filed in the office of the clerk of a circuit court.

(ii) If the face amount of the judgment is $2,500 or less, the copy shall be filed with the clerk of the District Court.

(iii) If the face amount of the judgment is not more than a jurisdictional amount described in § 4-401 of this article, but more than $2,500, the copy may be filed either with the clerk of the District Court or in the office of the clerk of a circuit court.

(2) The clerk shall treat the foreign judgment in the same manner as a judgment of the court in which the foreign judgment is filed.

(b) A filed foreign judgment has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, staying, enforcing, or satisfying as a judgment of the court in which it is filed.

§11–803.

(a) At the time a foreign judgment is filed, the judgment creditor or the judgment creditor's attorney shall file with the clerk of the court an affidavit showing the name and last known post office address of the judgment debtor and the judgment creditor.

(b) (1) The clerk promptly shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall note the mailing in the docket.

(2) The notice must include the name and post office address of the

judgment creditor and if the judgment creditor has an attorney in this State, the attorney's name and address.

(3) The judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk.

(4) If proof of mailing by the judgment creditor has been filed, lack of mailing notice of filing by the clerk does not affect the enforcement proceedings.

§11–804.

(a) The court shall stay enforcement of the foreign judgment until an appeal is concluded, the time for appeal expires, or a stay of execution expires or is vacated if the judgment debtor:

(1) Shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted; and

(2) Proves that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the court any ground on which enforcement of a judgment of the court of this State would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, and require the same security for satisfaction of the judgment that is required in this State.

§11–805.

(a) (1) A person filing a foreign judgment shall pay $25 to the clerk of the court.

(2) Fees for other enforcement proceedings shall be as otherwise provided by law for judgments of the courts of this State.

(b) The judgment creditor retains the right to bring an action to enforce a judgment instead of proceeding under this subtitle.

§11–806.

This subtitle shall be interpreted and construed to achieve its general purpose to make the law of those states which enact it uniform.

§11–807.

This subtitle may be cited as the "Uniform Enforcement of Foreign Judgments Act".

§12–101.

(a) In this title the following terms have the meanings indicated.

(b) "Appellate court" means any court which reviews a final judgment of another court, and includes any court authorized to enter judgment following a de novo trial on appeal of a case or proceeding previously tried in another court.

(c) "Appellate jurisdiction" means the jurisdiction exercised by an appellate court.

(d) "Circuit court" means the circuit court for a county.

(e) "Criminal action", "criminal case", "criminal cause", or "criminal proceeding" includes a case charging violation of motor vehicle or traffic laws and a case charging violation of a rule or regulation if a criminal penalty may be incurred.

(f) "Final judgment" means a judgment, decree, sentence, order, determination, decision, or other action by a court, including an orphans' court, from which an appeal, application for leave to appeal, or petition for certiorari may be taken.

§12–201.

Except as provided in § 12-202 of this subtitle, in any case or proceeding pending in or decided by the Court of Special Appeals upon appeal from a circuit court or an orphans' court or the Maryland Tax Court, any party, including the State, may file in the Court of Appeals a petition for certiorari to review the case or proceeding. The petition may be filed either before or after the Court of Special Appeals has rendered a decision, but not later than the time prescribed by the Maryland Rules. In a case or proceeding described in this section, the Court of Appeals also may issue the writ of certiorari on its own motion.

§12–202.

A review by way of certiorari may not be granted by the Court of Appeals in a case or proceeding in which the Court of Special Appeals has denied or granted:

(1) Leave to prosecute an appeal in a post conviction proceeding;

(2) Leave to appeal from a refusal to issue a writ of habeas corpus sought for the purpose of determining the right to bail or the appropriate amount of bail;

(3) Leave to appeal in an inmate grievance commission proceeding;

(4) Leave to appeal from a final judgment entered following a plea of guilty in a circuit court; or

(5) Leave to appeal from an order of a circuit court revoking probation.

§12–203.

If the Court of Appeals finds that review of the case described in § 12-201 of this subtitle is desirable and in the public interest, the Court of Appeals shall require by writ of certiorari that the case be certified to it for review and determination. The writ may issue before or after the Court of Special Appeals has rendered a decision. The Court of Appeals may by rule provide for the number of its judges who must concur to grant the writ of certiorari in any case, but that number may not exceed three. Reasons for the denial of the writ shall be in writing.

§12–301.

Except as provided in § 12-302 of this subtitle, a party may appeal from a final judgment entered in a civil or criminal case by a circuit court. The right of appeal exists from a final judgment entered by a court in the exercise of original, special, limited, statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by law. In a criminal case, the defendant may appeal even though imposition or execution of sentence has been suspended. In a civil case, a plaintiff who has accepted a remittitur may cross-appeal from the final judgment.

§12–302.

(a) Unless a right to appeal is expressly granted by law, § 12–301 of this subtitle does not permit an appeal from a final judgment of a court entered or made in the exercise of appellate jurisdiction in reviewing the decision of the District Court, an administrative agency, or a local legislative body.

(b) Section 12–301 of this subtitle does not apply to appeals in contempt cases, which are governed by § 12–304 of this subtitle and § 12–402 of this title.

(c) (1) In a criminal case, the State may appeal as provided in this subsection.

(2) The State may appeal from a final judgment granting a motion to dismiss or quashing or dismissing any indictment, information, presentment, or inquisition.

(3) The State may appeal from a final judgment if the State alleges that the trial judge:

(i) Failed to impose the sentence specifically mandated by the Code; or

(ii) Imposed or modified a sentence in violation of the Maryland Rules.

(4) (i) In a case involving a crime of violence as defined in § 14–101 of the Criminal Law Article, and in cases under §§ 5–602 through 5–609 and §§ 5–612 through 5–614 of the Criminal Law Article, the State may appeal from a decision of a

trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the Constitution of the United States, the Maryland Constitution, or the Maryland Declaration of Rights.

(ii) The appeal shall be made before jeopardy attaches to the defendant. However, in all cases the appeal shall be taken no more than 15 days after the decision has been rendered and shall be diligently prosecuted.

(iii) Before taking the appeal, the State shall certify to the court that the appeal is not taken for purposes of delay and that the evidence excluded or the property required to be returned is substantial proof of a material fact in the proceeding. The appeal shall be heard and the decision rendered within 120 days of the time that the record on appeal is filed in the appellate court. Otherwise, the decision of the trial court shall be final.

(iv) Except in a homicide case, if the State appeals on the basis of this paragraph, and if on final appeal the decision of the trial court is affirmed, the charges against the defendant shall be dismissed in the case from which the appeal was taken. In that case, the State may not prosecute the defendant on those specific charges or on any other related charges arising out of the same incident.

(v) 1. Except as provided in subsubparagraph 2 of this subparagraph, pending the prosecution and determination of an appeal taken under this paragraph or paragraph (2) of this subsection, the defendant shall be released on personal recognizance bail. If the defendant fails to appear as required by the terms of the recognizance bail, the trial court shall subject the defendant to the penalties provided in § 5–211 of the Criminal Procedure Article.

2. A. Pending the prosecution and determination of an appeal taken under this paragraph or paragraph (2) of this subsection, in a case in which the defendant is charged with a crime of violence, as defined in § 14–101 of the Criminal Law Article, the court may release the defendant on any terms and conditions that the court considers appropriate or may order the defendant remanded to custody pending the outcome of the appeal.

B. The determination and enforcement of any terms and conditions of release shall be in accordance with the provisions of Title 5 of the Criminal Procedure Article.

(vi) If the State loses the appeal, the jurisdiction shall pay all the costs related to the appeal, including reasonable attorney's fees incurred by the defendant as a result of the appeal.

(d) Section 12–301 of this subtitle does not permit an appeal from the decision of the judges of a circuit court sitting in banc pursuant to Article IV, § 22 of the Maryland Constitution, if the party seeking to appeal is the party who moved to have the point or question reserved for consideration of the court in banc.

(e) (1) In this subsection, "conditional plea of guilty" means a guilty plea with which the defendant preserves in writing any pretrial issues that the defendant intends to appeal.

(2) Except as provided in paragraph (3) of this subsection, § 12–301 of this subtitle does not permit an appeal from a final judgment entered following a plea of guilty in a circuit court. Review of such a judgment shall be sought by application for leave to appeal.

(3) An appeal from a final judgment entered following a conditional plea of guilty may be taken in accordance with the Maryland Rules.

(f) Section 12–301 of this subtitle does not permit an appeal from the order of a sentence review panel of a circuit court under Title 8 of the Criminal Procedure Article, unless the panel increases the sentence.

(g) Section 12–301 of this subtitle does not permit an appeal from an order of a circuit court revoking probation. Review of an order of a circuit court revoking probation shall be sought by application for leave to appeal.

§12–303.

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

(1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

(2) An order granting or denying a motion to quash a writ of attachment; and

(3) An order:

(i) Granting or dissolving an injunction, but if the appeal is from an order granting an injunction, only if the appellant has first filed his answer in the cause;

(ii) Refusing to dissolve an injunction, but only if the appellant has first filed his answer in the cause;

(iii) Refusing to grant an injunction; and the right of appeal is not prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on behalf of any opposing party, nor by the taking of depositions in reference to the allegations of the bill of complaint to be read on the hearing of the application for an injunction;

(iv) Appointing a receiver but only if the appellant has first filed his

answer in the cause;

(v) For the sale, conveyance, or delivery of real or personal property or the payment of money, or the refusal to rescind or discharge such an order, unless the delivery or payment is directed to be made to a receiver appointed by the court;

(vi) Determining a question of right between the parties and directing an account to be stated on the principle of such determination;

(vii) Requiring bond from a person to whom the distribution or delivery of property is directed, or withholding distribution or delivery and ordering the retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver, or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of the Maryland Rules;

(viii) Deciding any question in an insolvency proceeding brought under Title 15, Subtitle 1 of the Commercial Law Article;

(ix) Granting a petition to stay arbitration pursuant to § 3-208 of this article;

(x) Depriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order; and

(xi) Denying immunity asserted under § 5-525 or § 5-526 of this article.

§12–304.

(a) Any person may appeal from any order or judgment passed to preserve the power or vindicate the dignity of the court and adjudging him in contempt of court, including an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action.

(b) This section does not apply to an adjudication of contempt for violation of an interlocutory order for the payment of alimony.

§12–305.

The Court of Appeals shall require by writ of certiorari that a decision be certified to it for review and determination in any case in which a circuit court has rendered a final judgment on appeal from the District Court or has rendered a final judgment on appeal from an administrative decision under Title 16 of the Transportation Article if it appears to the Court of Appeals, upon petition of a party that:

(1) Review is necessary to secure uniformity of decision, as where the same statute has been construed differently by two or more judges; or

(2) There are other special circumstances rendering it desirable and in the public interest that the decision be reviewed.

§12–306.

The purpose of §§ 12-307 and 12-308 of this subtitle is to allocate appellate jurisdiction between the Court of Appeals and the Court of Special Appeals. Except as expressly provided in those sections, nothing in them creates or abrogates a right to appeal or otherwise invoke appellate jurisdiction granted by the laws of the State.

§12–307.

The Court of Appeals has:

(1) Jurisdiction to review a case or proceeding pending in or decided by the Court of Special Appeals in accordance with Subtitle 2 of this title;

(2) Jurisdiction to review a case or proceeding decided by a circuit court, in accordance with § 12–305 of this subtitle; and

(3) Exclusive appellate jurisdiction with respect to a question of law certified to it under the Uniform Certification of Questions of Law Act.

§12–308.

Except as provided in § 12-307 of this subtitle, the Court of Special Appeals has exclusive initial appellate jurisdiction over any reviewable judgment, decree, order or other action of a circuit court, and an orphans' court.

§12–309.

(a) A petition for judicial review of a final decision by the State Board of Contract Appeals in an appeal from the award of a video lottery operation license by the Video Lottery Facility Location Commission may be heard in the circuit court of any county in which venue would be appropriate under § 6–201 of this article.

(b) Except for cases that the court considers to require a higher priority, a proceeding under this section, including any subsequent appellate judicial review, shall:

(1) Take precedence on the court's docket;

(2) Be heard at the earliest practicable date; and

(3) Be expedited in every way.

(c) Notwithstanding any other provision of law, a party to a proceeding under this section may appeal the decision of the circuit court only by a petition to the Court of Appeals for the issuance of a writ of certiorari.

§12–401.

(a) A party in a civil case may appeal from a final judgment entered in the District Court.

(b) In a criminal case:

(1) The State may appeal from a final judgment entered in the District Court:

(i) If the State alleges that the trial judge failed to impose the sentence specifically mandated by the Code; or

(ii) Granting a motion to dismiss, or quashing or dismissing a charging document.

(2) The defendant may appeal even from a final judgment entered in the District Court though imposition or execution of sentence has been suspended.

(c) Notwithstanding any other provision of law, an appeal taken under subsection (b)(1)(ii) of this section shall be:

(1) To the circuit court solely for the purpose of reviewing the judgment of the District Court; and

(2) Heard on the record made in the District Court.

(d) (1) A defendant who has been found guilty of a municipal infraction, as described in § 6–102 of the Local Government Article or a Code violation under § 10–119 of the Criminal Law Article, may appeal from the final judgment entered in the District Court.

(2) The costs and procedures for taking the appeal shall be as provided for appeals from criminal cases in the District Court.

(3) Except, however, as provided in subsection (f) of this section, the appellate court shall docket and hear the appeal as a civil appeal from the District Court.

(e) (1) Except as provided in paragraph (2) of this subsection, an appeal shall be taken by filing an order for appeal with the clerk of the District Court within 30 days from the date of the final judgment from which appealed.

(2) If the final judgment was entered in a case filed under § 8–332, § 8–401, § 8–402, § 14–109, or § 14–120 of the Real Property Article, the order for appeal shall be filed within the time prescribed by the particular section.

(f) In a civil case in which the amount in controversy exceeds $5,000 exclusive of

interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract, in any matter arising under § 4–401(7)(ii) of this article, and in any case in which the parties so agree, an appeal shall be heard on the record made in the District Court. In every other case, including a criminal case in which sentence has been imposed or suspended following a plea of nolo contendere or guilty, and an appeal in a municipal infraction or Code violation case, an appeal shall be tried de novo.

(g) In a criminal appeal that is tried de novo:

(1) There is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for that offense; and

(2) On the filing of a notice of appeal, the circuit court may stay a sentence of imprisonment imposed by the District Court and release the defendant pending trial in the circuit court.

§12–402.

Any person may appeal from any order or judgment passed to preserve the power or vindicate the dignity of the court and adjudging him in contempt of court. This includes an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action.

§12–403.

(a) An appeal from the District Court sitting in one of the counties shall be taken to the circuit court for the county in which judgment was entered.

(b) An appeal from the District Court sitting in Baltimore City shall be taken to the Circuit Court for Baltimore City.

§12–404.

If a judgment of the District Court imposing a fine or penalty for violation of a law or ordinance is affirmed on appeal, the appellate court may commit the defendant or appellant in case of nonpayment of the fine or penalty, in accordance with law.

§12–501.

(a) A party may appeal to the Court of Special Appeals from a final judgment of an orphans' court.

(b) However, if the final judgment was given or made in a summary proceeding, and on the testimony of witnesses, an appeal is not allowed under this section unless the party desiring to appeal immediately gives notice of the party's intention to appeal and requests that the testimony be reduced to writing.

(c) In such case the testimony shall be reduced to writing at the cost of the party requesting it.

§12–502.

(a) (1) (i) Instead of a direct appeal to the Court of Special Appeals pursuant to § 12-501 of this subtitle, a party may appeal to the circuit court for the county from a final judgment of an orphans' court.

(ii) The appeal shall be heard de novo by the circuit court.

(iii) The de novo appeal shall be treated as if it were a new proceeding and as if there had never been a prior hearing or judgment by the orphans' court.

(iv) The circuit court shall give judgment according to the equity of the matter.

(2) This subsection does not apply to Harford County or Montgomery County.

(b) (1) An appeal pursuant to this section shall be taken by filing an order for appeal with the register of wills within 30 days after the date of the final judgment from which the appeal is taken.

(2) Within 30 days thereafter the register of wills shall transmit all pleadings and orders of the proceedings to the court to which the appeal is taken, unless the orphans' court from which the appeal is taken extends the time for transmitting these pleadings and orders.

§12–601.

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

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(c) "Tribe" means a tribe, band, or village of Native Americans which is recognized by federal law or formally acknowledged by a state.

§12–602.

The Court of Appeals or the Court of Special Appeals of this State, on the motion of a party to pending litigation or its own motion, may certify a question of law to the highest court of another state or of a tribe if:

(1) The pending litigation involves a question to be decided under the law of the other jurisdiction;

(2) The answer to the question may be determinative of an issue in the pending litigation; and

(3) The question is one for which an answer is not provided by a controlling appellate decision, constitutional provision, or statute of the other jurisdiction.

§12–603.

The Court of Appeals of this State may answer a question of law certified to it by a court of the United States or by an appellate court of another state or of a tribe, if the answer may be determinative of an issue in pending litigation in the certifying court and there is no controlling appellate decision, constitutional provision, or statute of this State.

§12–604.

The Court of Appeals of this State may reformulate a question of law certified to it.

§12–605.

(a) The court certifying a question of law to the Court of Appeals of this State shall issue a certification order and forward it to the Court of Appeals of this State.

(b) Before responding to a certified question, the Court of Appeals of this State may require the certifying court to deliver all or part of its record to the Court of Appeals of this State.

§12–606.

(a) A certification order shall contain:

(1) The question of law to be answered;

(2) The facts relevant to the question, showing fully the nature of the controversy out of which the question arose;

(3) A statement acknowledging that the Court of Appeals of this State, acting as the receiving court, may reformulate the question; and

(4) The names and addresses of counsel of record and parties appearing without counsel.

(b) If the parties cannot agree upon a statement of facts, the certifying court shall determine the relevant facts and state them as a part of its certification order.

§12–607.

The Court of Appeals of this State, acting as a receiving court, shall notify the

certifying court of acceptance or rejection of the question and, in accordance with notions of comity and fairness, respond to an accepted certified question as soon as practicable.

§12–608.

(a) After the Court of Appeals of this State has accepted a certified question, proceedings are governed by the Maryland Rules.

(b) Procedures for certification from this State to a receiving court are those provided in the rules and statutes of the receiving forum.

§12–609.

The Court of Appeals of this State shall state in a written opinion the law answering the certified question and send a copy of the opinion to the certifying court, counsel of record, and parties appearing without counsel.

§12–610.

Fees and costs are the same as in civil appeals docketed before the Court of Appeals of this State and shall be equally divided between the parties unless otherwise ordered by the certifying court.

§12–611.

If any provision of this subtitle or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subtitle which can be given effect without the invalid provision or application, and to this end the provisions of this subtitle are severable.

§12–612.

This subtitle shall be applied and construed to effectuate its general purpose to make uniform law with respect to the subject of the subtitle among states enacting it.

§12–613.

This subtitle may be cited as the Maryland Uniform Certification of Questions of Law Act.

§12–701.

(a) (1) An appeal from an orphans' court or a circuit court stays all proceedings in the orphans' court concerning the issue appealed.

(2) An appeal from an orphans' court or a circuit court does not stay any proceedings in the orphans' court that do not concern the issue appealed, if the orphans' court can provide for conforming to the decision of the appellate court.

(3) (i) An appeal from a final order of an orphans' court or a circuit court removing a personal representative does not stay an order appointing a successor personal representative or special administrator.

(ii) If an appeal is filed from the final order of an orphans' court or a circuit court removing a personal representative and the court appointed a successor personal representative, the successor personal representative shall have the powers of a special administrator.

(b) An appeal from a judgment of a juvenile court with respect to a child neither stays the judgment nor discharges the child from the custody of a person, institution, or agency to whose care the juvenile court has committed the child. The appellate court may authorize a stay, on application and hearing, if it finds that suitable provision is made for the care and custody of the child.

§12–702.

(a) If an appellate court remands a criminal case to a lower court in order that the lower court may pronounce the proper judgment or sentence, the lower court shall deduct from the term of the new sentence the time served by the defendant under the previous sentence from the date of his conviction. If the previous sentence was a statutory maximum sentence, the lower court also shall give credit for any period of incarceration prior to the previous sentence, if the incarceration was related to the offense for which the sentence was imposed.

(b) If an appellate court remands a criminal case to a lower court in order that the lower court may pronounce the proper judgment or sentence, or conduct a new trial, and if there is a conviction following this new trial, the lower court may impose any sentence authorized by law to be imposed as punishment for the offense. However, it may not impose a sentence more severe than the sentence previously imposed for the offense unless:

(1) The reasons for the increased sentence affirmatively appear;

(2) The reasons are based upon additional objective information concerning identifiable conduct on the part of the defendant; and

(3) The factual data upon which the increased sentence is based appears as part of the record.

(c) If a defendant who appeals from a conviction in the District Court is convicted after a trial de novo on appeal, the appellate court may impose a more severe sentence than that imposed in the District Court, but if the case is one in which the defendant was denied a jury trial under § 4-302(e)(2) of this article, the sentence may not be for more than 90 days except under the conditions prescribed in subsection (b) of this section. Except as provided above, the appellate court may impose any sentence authorized by law to be imposed as punishment for the offense.

§13–101.

(a) There is an Administrative Office of the Courts, headed by the State Court Administrator. The Administrator is appointed by and holds office during the pleasure of the Chief Judge of the Court of Appeals of Maryland. The Administrator shall have the compensation provided in the State budget. The Administrative Office of the Courts shall have a seal in the form the Chief Judge of the Court of Appeals approves. The courts of the State shall take judicial notice of the seal.

(b) Subject to the approval of the Chief Judge of the Court of Appeals, the Administrator may appoint employees necessary to carry out his duties. The persons appointed shall have the compensation provided in the State budget.

(c) Neither the Administrator nor any employee of the Administrative Office of the Courts may engage directly or indirectly in the practice of law.

(d) The State Court Administrator, under the supervision and direction of the Chief Judge of the Court of Appeals of Maryland, shall:

(1) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(2) Make recommendations to the Chief Judge relating to assignment of judges to courts in need of assistance and carry out the directions of the Chief Judge as to assignment of judges;

(3) Collect and compile statistical and other data, make reports of the business transacted by the courts, and transmit this information to the Chief Judge in order that action may be taken in respect to it;

(4) Prepare and submit budget estimates of State appropriations necessary for maintenance and operation of the judicial system and make recommendations in respect to it;

(5) Draw any requisition for payment of State money appropriated for maintenance and operation of the judicial system;

(6) Collect statistical and other data and make reports relating to expenditure of State and local public money for maintenance and operation of the judicial system and the offices connected to it;

(7) Obtain reports in accordance with law or rules the Court of Appeals or the Chief Judge adopts on cases and other judicial business in which action is delayed beyond periods of time specified by law or rules of court, and report the information to the Chief Judge;

(8) Formulate and submit to the Chief Judge recommendations for improvement of the judicial system;

(9) Make and publish an annual report of the affairs of the Administrator's Office;

(10) Design a citation form for citations to be issued under § 3-8A-33 of this article and citations to be issued to a minor under § 10-119 of the Criminal Law Article; and

(11) Perform other duties the Chief Judge assigns.

(e) The Administrative Office of the Courts shall:

(1) Keep a current list of alcoholism education or treatment programs that the Department of Health and Mental Hygiene approves for use under § 6-219(c) or § 6-220(c) of the Criminal Procedure Article; and

(2) Notify promptly the appropriate judges whenever the Department of Health and Mental Hygiene approves a new alcoholism education or treatment program or withdraws approval for a program.

(f) Every judge, clerk of court, and any other State or local officer shall comply with any request approved by the Chief Judge of the Court of Appeals and made by the Administrator or any of his assistants for information and statistical data bearing on the state of the dockets of the courts, the business transacted by them, and the expenditure of public money for maintenance and operation of the judicial system.

§13–102.

(a) In each county of the seventh judicial circuit, there may be a court administrator. The court administrator shall be appointed by the county administrative judge after consultation with the circuit administrative judge and shall hold office at the pleasure of the county administrative judge. The court administrator shall devote time and attention to the tasks, duties, and responsibilities that the county administrative judge prescribes.

(b) The court administrator, with the approval of the county administrative judge, shall appoint employees necessary to enable the administrator to perform the duties assigned to the position. Each county government shall provide compensation for the employees, together with expenses for the proper performance of assigned duties of the court administrator and employees appointed under this section.

(c) The court administrator may not engage directly or indirectly in the practice of law.

§13–201.

There is a position of State Reporter. The judges of the Court of Appeals shall appoint the State Reporter for a term of four years unless the judges remove him sooner. He is eligible for reappointment.

§13–202.

The State Reporter shall have the salary provided in the State budget.

§13–203.

The State Reporter, under the supervision of the Court of Appeals, shall prepare for publication reports of cases decided in the Court of Appeals of Maryland and in the Court of Special Appeals of Maryland and designated for publication by the respective courts. The clerk of each appellate court shall deliver to the Reporter accurate copies of the opinions designated for publication by his court. The opinion in each case shall be published within six months of the decision in the case. The Reporter, in the usual manner of authors, shall superintend the proofreading, correction, and publication of the reports and secure copyright for the State of Maryland as its property. The Reporter shall have the sum for clerical assistance provided in the State budget.

§13–204.

(a) The State Reporter, under the direction and supervision of the Court of Appeals, shall let the necessary contracts for publishing the Maryland Reports, containing opinions of the Court of Appeals, and the Maryland Appellate Reports, containing opinions of the Court of Special Appeals. The contracts may be awarded on the terms and conditions the State Reporter deems necessary.

(b) The publisher shall deliver to the State Reporter copies of the Maryland Reports and Maryland Appellate Reports, including advance reports, in the number and with the binding specified in the contracts.

(c) The State Reporter shall have the Maryland Reports and Maryland Appellate Reports distributed as appropriate and may deliver any excess copies to the State Law Library.

§13–301.

To aid in the exercise of its rulemaking powers, the Court of Appeals may appoint a standing committee of lawyers, judges, and other persons competent in judicial practice, procedure or administration. A committee member shall serve without compensation, but shall be reimbursed for traveling and other expenses incurred on committee business.

§13–302.

The Court of Appeals may employ necessary assistants for the committee and fix their salaries.

§13–303.

The State Court Administrator shall pay the assistants' salaries as well as the

traveling and other expenses of the committee, including printing and other costs from the appropriate budget allocation.

§13–401.

The Commission on Judicial Disabilities established pursuant to Article IV, § 4A of the Maryland Constitution, may administer oaths and affirmations, subpoena any witness, compel his attendance, take evidence and require the production of any book, paper, correspondence, memorandum, contract, agreement, other record, or tangible thing which the Commission finds relevant or material to an inquiry or proceeding before it. An oath or affirmation may be administered, and a subpoena issued by, any member of the Commission.

§13–402.

In case of contumacy by any person, or refusal to obey a subpoena issued to any person by the Commission, the Commission may invoke the aid of the circuit court for the county where the person resides or carries on business or is found. The court may issue an order requiring the person to appear before the Commission, and there to produce records, if so ordered. Failure to obey an order of the court may be punished by the court as a contempt. Process in any case may be served wherever the person is found.

§13–403.

The Commission may grant to any person immunity from prosecution, or from any penalty or forfeiture, for or on account of any transaction, matter or thing concerning which that person testifies or produces evidence, documentary or otherwise.

§13–501.

The State Law Library shall be part of the Judiciary Department and shall operate under the supervision of a library committee to be appointed as provided in this subtitle.

§13–502.

(a) The library committee consists of three or more persons appointed to serve without compensation by a majority of the judges of the Court of Appeals.

(b) Vacancies in the library committee shall be filled by a majority of the judges of the Court of Appeals.

§13–503.

The library committee may:

(1) Appoint a Director to be compensated as provided in the State budget;

(2) Make rules and regulations for the conduct and operation of the State Law Library; and

(3) Direct the Director to purchase from time to time books, maps, and periodicals for the use of the State Law Library.

§13–504.

The Director of the State Law Library may:

(1) Appoint employees, with the approval of the library committee, to assist in the performance of the duties of the Director. Employees shall be compensated as provided in the budget;

(2) Not allow any book, map, or documents to be removed from the State Law Library, except by the executive and legislative departments, other State agencies located in Annapolis, members of the General Assembly, and judges of the Court of Appeals and Court of Special Appeals, or on interlibrary loan to other libraries;

(3) Accept excess copies of the Maryland Reports and Maryland Appellate Reports from the State Reporter;

(4) With the approval of the library committee, sell or exchange, from time to time, books from the State Law Library, including the Maryland Reports, Maryland Appellate Reports, codes, maps, and periodicals. The proceeds of the sales, after deducting the expenses, shall be paid over to the State Treasurer within 30 days after receipt. However, a book, map, or periodical may not be sold if its sale would break a set;

(5) Report in writing to the library committee as often as required by the committee upon the operations of the State Law Library; and

(6) Perform other duties assigned by law to the Director.

§13–601.

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

(b) "Administrator" means the State Court Administrator.

(c) "Fund" means the Circuit Court Real Property Records Improvement Fund.

(d) "Recordable instrument" means:

(1) A deed, as defined in § 1–101 of the Real Property Article; and

(2) Any other instrument affecting property that may be recorded under § 3–102 of the Real Property Article.

§13–602.

(a) (1) There is a Circuit Court Real Property Records Improvement Fund.

(2) There is an oversight committee composed of one representative from each of the following:

(i) The Administrative Office of the Courts;

(ii) The Maryland State Archives;

(iii) The Circuit Court Clerks' Association;

(iv) The Maryland Land Title Association; and

(v) The Maryland State Bar Association.

(3) The Fund shall be managed and supervised by the State Court Administrator, with advice from the oversight committee.

(4) The State Treasurer shall hold, and the State Comptroller shall account for, the Fund.

(b) (1) The Fund shall be invested and reinvested in the same manner as other State funds.

(2) Investment earnings of the Fund shall be paid into the Fund.

§13–603.

(a) The Fund consists of:

(1) Surcharges collected under § 13–604 of this subtitle; and

(2) Revenues from copies made on equipment bought through the Fund.

(b) The Fund is a nonlapsing revolving fund which is not subject to § 7–302 of the State Finance and Procurement Article.

(c) The Fund shall be used to pay:

(1) The operating expenses of the land records offices of the clerks of the circuit courts and to repair, replace, improve, modernize, and update office equipment and equipment related services in the land records office of the clerk of the circuit court for each county, as the Administrator considers appropriate, with advice from the oversight committee; and

(2) For major information technology development projects of the Judiciary Department, as the Administrator considers appropriate.

(d) Expenditures under this section shall only be made pursuant to an appropriation approved by the General Assembly in the annual State budget prior to the expenditure or obligation of funds.

(e) The Fund shall be subject to an audit by the Office of Legislative Audits as provided for in § 2–1220 of the State Government Article.

(f) Disbursements from the Fund shall supplement and may not be a substitute for any funds designated in the State budget for office equipment and services in the land records office of the clerk of the circuit court for each county.

§13–604.

(a) (1) Except as provided in paragraph (2) of this subsection, the Administrator shall establish a surcharge of $20 for each type of recordable instrument to be recorded among the land records and the financing statement records.

(2) For recordable instruments executed on or after July 1, 2011, but before July 1, 2015, the surcharge established under this subsection shall be $40 for each type of recordable instrument to be recorded among the land records and the financing statement records.

(b) The surcharge shall be collected by the office of the clerk of the circuit court for each county.

(c) The surcharge may not be charged to an entity that is exempt from the payment of fees under § 3–603 of the Real Property Article.

(d) Receipts from the surcharge shall be placed in the Fund and used by the Administrator for the purposes of the Fund.

§13–605.

The State Treasurer shall report to the Administrator annually:

(1) The status of the money invested under this subtitle; and

(2) The interest received from investments for the Fund during the period covered by the report.

§13–606.

The Administrator shall adopt rules necessary to carry out the purposes of this subtitle.