## Article - Human Services

§1–101.

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

(b) "County" means a county of the State or Baltimore City.

(c) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(d) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

§1–201.

(a) Except as provided in subsection (b) of this section, a person may not disclose any information concerning an applicant for or recipient of social services, child welfare services, cash assistance, food stamps, or medical assistance that is directly or indirectly derived from the records, investigations, or communications of the State, a county, or a municipal corporation or a unit of the State, a county, or a municipal corporation or that is acquired in the course of the performance of official duties.

(b) This section does not prohibit the disclosure of information:

(1) in accordance with a court order; or

(2) to an officer or employee of any state or local government, the United States, or a fiduciary institution, if the officer or employee is entitled to the information in an official capacity and the disclosure is necessary to administer public assistance, medical assistance, social services, or child welfare services programs.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

§1–202. IN EFFECT

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article, § 1–203 of this subtitle, and this section, a person may not disclose a report or record concerning child abuse or neglect.

(b) A report or record concerning child abuse or neglect shall be disclosed:

(1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure;

(3) to the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; or

(4) on a written request, to 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 a report of child abuse or neglect, for a purpose relevant to the provision of the treatment or care;

(ii) if the record or report 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 or report concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(c) A report or record concerning child abuse or neglect:

(1) may be disclosed on request to:

(i) personnel of the Social Services Administration or a local department of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law Article or § 5–314 of this article, who are investigating a report of known or suspected child abuse or neglect or providing services to or assessing a child or family that is the subject of the report;

(ii) local or State officials responsible for the administration of child protective services, or child care, foster care, or adoption licensing, approval, or regulations, as necessary to carry out their official functions;

(iii) the State Council on Child Abuse and Neglect or its designee, the State Citizens Review Board for Children or its designee, or a child fatality review team, as necessary to carry out their official functions;

(iv) a person who is the alleged abuser or neglector, if that person is responsible for the child's welfare and provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(v) subject to the provisions of subsection (b)(4) of this section, a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care;

(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(vii) 1. the appropriate public school superintendent or the principal or equivalent employee of a nonpublic school that holds a certificate of approval from the State or is registered with the State Department of Education to carry out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:

A. a public school employee in that school system;

B. an employee of that nonpublic school;

C. an independent contractor who supervises or works directly with students in that school system or that nonpublic school; or

D. an employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system or that nonpublic school; and

2. if the report concerns suspected child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in item 1 of this item and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, the appropriate superintendent of schools;

(viii) the director of a licensed child care facility or licensed child placement agency to carry out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or was previously under the care of that facility or agency;

(ix) the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article;

(x) subject to subsection (d) of this section, a licensed practitioner of a hospital or birthing center to make discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge based on the practitioner's observation of the behavior of the child's parents or immediate family members; or

(xi) the president of a Maryland public institution of higher education, as defined in § 10–101 of the Education Article, or the Chancellor of the University System of Maryland, to carry out appropriate personnel or administrative actions following a report of child abuse committed:

1. by an employee of the institution who has on–campus contact with children; or

2. by a contractor, an employee of a contractor, or a volunteer of the institution who has on–campus contact with children; and

(2) may be disclosed by the Department of Human Resources to the operator of a child care center that is required to be licensed or to hold a letter of compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family child care provider who is required to be registered under Title 5, Subtitle 5, Part V of the Family Law Article, to determine the suitability of an individual for employment in the child care center or family child care home.

(d) Only the following information concerning child abuse and neglect may be disclosed to a practitioner of a hospital or birthing center under subsection (c)(1)(x) of this section:

(1) whether there is a prior finding of indicated child abuse or neglect by either parent; and

(2) whether there is an open investigation of child abuse or neglect pending against either parent.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

(f) (1) The Baltimore City Health Department's Office of Youth Violence Prevention shall be liable for the unauthorized release of a report or record under subsection (b) of this section.

(2) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention receives a report or record under subsection (b) of this section, the Baltimore City Health Department shall submit a report to the Department

of Human Resources detailing the purposes for which the record was used.

1–202. // EFFECTIVE SEPTEMBER 30, 2019 PER CHAPTER 474 OF 2013 //

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article, § 1–203 of this subtitle, and this section, a person may not disclose a report or record concerning child abuse or neglect.

(b) A report or record concerning child abuse or neglect shall be disclosed:

(1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure; or

(3) to the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child.

(c) A report or record concerning child abuse or neglect:

(1) may be disclosed on request to:

(i) personnel of the Social Services Administration or a local department of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law Article or § 5–314 of this article, who are investigating a report of known or suspected child abuse or neglect or providing services to or assessing a child or family that is the subject of the report;

(ii) local or State officials responsible for the administration of child protective services, or child care, foster care, or adoption licensing, approval, or regulations, as necessary to carry out their official functions;

(iii) the State Council on Child Abuse and Neglect or its designee, the State Citizens Review Board for Children or its designee, or a child fatality review team, as necessary to carry out their official functions;

(iv) a person who is the alleged abuser or neglector, if that person

is responsible for the child's welfare and provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(v) a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care;

(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(vii) 1. the appropriate public school superintendent or the principal or equivalent employee of a nonpublic school that holds a certificate of approval from the State or is registered with the State Department of Education to carry out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:

A. a public school employee in that school system;

B. an employee of that nonpublic school;

C. an independent contractor who supervises or works directly with students in that school system or that nonpublic school; or

D. an employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system or that nonpublic school; and

2. if the report concerns suspected child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in item 1 of this item and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, the appropriate superintendent of schools;

(viii) the director of a licensed child care facility or licensed child placement agency to carry out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or was previously under the care of that facility or agency;

(ix) the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article;

(x) subject to subsection (d) of this section, a licensed practitioner of a hospital or birthing center to make discharge decisions concerning a child, when

the practitioner suspects that the child may be in danger after discharge based on the practitioner's observation of the behavior of the child's parents or immediate family members; or

(xi) the president of a Maryland public institution of higher education, as defined in § 10–101 of the Education Article, or the Chancellor of the University System of Maryland, to carry out appropriate personnel or administrative actions following a report of child abuse committed:

1. by an employee of the institution who has on–campus contact with children; or

2. by a contractor, an employee of a contractor, or a volunteer of the institution who has on–campus contact with children; and

(2) may be disclosed by the Department of Human Resources to the operator of a child care center that is required to be licensed or to hold a letter of compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family child care provider who is required to be registered under Title 5, Subtitle 5, Part V of the Family Law Article, to determine the suitability of an individual for employment in the child care center or family child care home.

(d) Only the following information concerning child abuse and neglect may be disclosed to a practitioner of a hospital or birthing center under subsection (c)(1)(x) of this section:

(1) whether there is a prior finding of indicated child abuse or neglect by either parent; and

(2) whether there is an open investigation of child abuse or neglect pending against either parent.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

§1–203.

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

(2) "Local department" means the department of social services that has jurisdiction in the county:

(i) where the allegedly abused or neglected child lives; or

(ii) if different, where the abuse or neglect is alleged to have taken place.

(3) "Local director" means the director of the local department.

(4) "Medical report" means a psychological, psychiatric, therapeutic, clinical, or medical report or evaluation related to the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglector.

(5) "Secretary" means the Secretary of Human Resources.

(b) (1) Notwithstanding any other provision of law, the local director or the Secretary shall, on request, disclose information concerning child abuse or neglect in accordance with subsection (c) of this section if:

(i) the information is limited to actions or omissions of the local department, the Department of Human Resources, or an agent of the Department of Human Resources;

(ii) the child named in a report of abuse or neglect has suffered a fatality or near fatality; and

(iii) 1. the local director or the Secretary has consulted the State's Attorney's office; and

2. the State's Attorney's office has advised the local director or the Secretary that disclosure of the information would not jeopardize or prejudice a related investigation or prosecution.

(2) (i) If the local director or the Secretary does not disclose information under paragraph (1) of this subsection because the State's Attorney has advised that disclosure of the information would jeopardize or prejudice a related investigation or prosecution, the State's Attorney shall notify the local director or the Secretary within 10 days after the conclusion of the related investigation or prosecution.

(ii) Within 30 days after notification from the State's Attorney under subparagraph (i) of this paragraph, the local director or the Secretary shall disclose information in accordance with this section.

(c) Before disclosing the information:

(1) the local director or the Secretary shall consult the State's Attorney's office; and

(2) the local director and the Secretary shall consult each other.

(d) Subject to subsection (e) of this section, the local director or the Secretary shall disclose:

(1) the name of the allegedly abused or neglected child who has suffered a

fatality;

(2) the date of the report of the alleged child abuse or neglect and of any prior or subsequent reports;

(3) the findings made by the local department at the conclusion of its investigation and the disposition made by the local department based on its findings;

(4) any services provided to the alleged abuser or neglector, the allegedly abused or neglected child, and the household or family members;

(5) the number of referrals for professional services for the alleged abuser or neglector, the allegedly abused or neglected child, and the household or family members;

(6) any prior adjudication as a child in need of assistance of the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglector;

(7) the status of any case involving the child that was open at the time of the fatality or near fatality;

(8) a summary of the facts of the fatality or near fatality, including the date of the fatality or near fatality and, in the case of a fatality, the cause of death reported by the medical examiner; and

(9) any information concerning the circumstances of the alleged child abuse or neglect and the investigation of the circumstances, if the local director or the Secretary determines that the disclosure is consistent with the public interest.

(e) (1) The local director or the Secretary may not:

(i) disclose the identity of or provide an identifying description of the person who made the report;

(ii) disclose the name of a child who has suffered a near fatality, a sibling of the allegedly abused or neglected child, a parent of the allegedly abused or neglected child, an individual legally responsible for the child, the alleged abuser or neglector, or another household or family member;

(iii) except as provided in paragraph (2) of this subsection, disclose a medical report; or

(iv) except for the information described in subsection (d) of this section, disclose the file relating to the allegedly abused or neglected child.

(2) Notwithstanding Title 4, Subtitle 3 of the Health – General Article, the local director or the Secretary may disclose a medical report related to the cause of the

child's injury or death as a result of the alleged abuse or neglect.

(f) In consultation with the local directors, the Secretary shall develop a form for disclosure of the information described in subsection (d) of this section.

(g) This section does not grant a right to any person to receive the information described in subsection (d) of this section.

§1–204.

This part does not prohibit:

(1) the publication, for administrative or research purposes, of statistics or other data that is classified in a manner that prevents the identification of particular persons or cases;

(2) the Department of Human Resources from obtaining an individual's financial records from a fiduciary institution in the course of verifying the individual's eligibility for public assistance; or

(3) disclosures authorized under § 1-303 of the Financial Institutions Article.

§1–205.

The Department of Human Resources shall adopt regulations governing access to and use of confidential information that the Department or a local department of social services possesses.

§1–208.

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

(b) "Person in interest" means:

(1) a minor, if the information requested concerns treatment to which the minor has the right to consent and has consented under Title 20, Subtitle 1 of the Health - General Article;

(2) a parent, if the parental rights of the parent have not been terminated;

(3) a guardian, custodian, or representative of a minor, designated by a court, if authorized to act on behalf of or instead of a parent; or

(4) an individual authorized to act as a surrogate for a parent or guardian in accordance with the federal Individuals with Disabilities Education Act.

(c) "Public agency" means a State or local government unit or a quasi-governmental entity.

§1–209.

(a) It is the intent of the General Assembly that public agencies that serve children, youth, and families in the State exchange information with the written consent of the person in interest or another individual authorized to give consent under this subtitle.

(b) The exchange of information under subsection (a) of this section is for the purpose of:

(1) carrying out the policy established under § 8-102 of this article for children, youth, and family services;

(2) facilitating the development of a seamless system of family-focused services; and

(3) achieving a comprehensive and coordinated interagency approach to providing a continuum of care that is family- and child-oriented.

§1–210.

Notwithstanding any other State law and except as provided in § 1-211 of this subtitle, on written request, a public agency shall disclose information and records on children, youth, and families served by that agency to:

(1) another public agency that serves the same children, youth, and families;

(2) another public agency that has children or youth in a program, home, or residential facility funded or licensed by that agency; or

(3) the Governor's Office for Children.

§1–211.

(a) (1) A public agency may not disclose information or records under § 1-210 of this subtitle if:

(i) disclosure is prohibited by federal law; or

(ii) the public agency has not obtained written consent if required by § 1-212 of this subtitle.

(2) A public agency may disclose only the information and records that are identified specifically in the written request.

(b) (1) A public agency may not disclose child protective services records collected before October 1, 1993, unless the person in interest gives consent after being given an opportunity to review the records and the information to be disclosed.

(2) On request, the person in interest may review the entire child protective services record regarding the minor.

(3) A public agency may not disclose to the person in interest or a requesting public agency the identity of:

(i) a reporter of abuse or neglect; or

(ii) another person whose life or safety is likely to be endangered by the disclosure.

(c) Information and records disclosed to a public agency under this part shall remain confidential and, except as provided in § 1-212(c) of this subtitle, may not be further disclosed.

(d) Information collected by the Children's Cabinet under § 1-212 of this subtitle may not be redisclosed in any form that reveals the identity of a recipient of services.

§1–212.

(a) Except where the consent of the person in interest is not required by law, a public agency may disclose information or records under § 1-210 of this subtitle only after obtaining written consent from:

(1) the person in interest; or

(2) another individual authorized to give consent under subsection (b) of this section.

(b) (1) For the purposes of this subsection, a person in interest is considered not reasonably available if:

(i) after reasonable oral or written inquiry, the requesting public agency is unaware of the existence of a person in interest;

(ii) after reasonable inquiry, the requesting public agency cannot determine the location of a person in interest; or

(iii) after reasonable efforts by the requesting public agency to contact the person in interest, the person in interest has not responded in a timely manner, taking into account the needs of the minor for whom services are to be provided.

(2) If the person in interest is not reasonably available to give written consent, the following persons, not listed in order of priority, may consent in writing to the release of information or records regarding a minor:

(i) an adult who is acting as the parent of a minor, not including a teacher or a baby-sitter;

(ii) a court that has jurisdiction over an action affecting the parent-child relationship of which the minor is the subject; or

(iii) the Department of Health and Mental Hygiene, the Department of Juvenile Services, or a local department of social services, that has the care and custody of a minor.

(3) A person authorized to consent to the release of information or records under paragraph (2) of this subsection shall confirm in writing that the person in interest is not reasonably available.

(4) The public agency releasing the information shall include the written confirmation in the record from which the information is released.

(c) (1) This subsection applies:

(i) notwithstanding any other State law; and

(ii) if disclosure is not prohibited by federal law.

(2) Without the consent of the person in interest, a public agency may disclose to the Children's Cabinet:

(i) the name, address, date of birth, race, and sex of children receiving services; and

(ii) the types, dates, and duration of services provided to children by State and local agencies.

(3) The Children's Cabinet may use information disclosed under paragraph (2) of this subsection only for planning, budgeting, evaluation, and analysis.

§2–101.

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

(b) "Department" means the Department of Human Resources.

(c) "Secretary" means the Secretary of Human Resources.

§2–201.

There is a Department of Human Resources established as a principal department of the State government.

§2–202.

(a) (1) With the advice and consent of the Senate, the Governor shall appoint the Secretary of Human Resources.

(2) The Secretary is the head of the Department.

(b) Before taking office, the appointee shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) (1) The Secretary serves at the pleasure of the Governor and is responsible directly to the Governor.

(2) The Secretary shall advise the Governor on all matters assigned to the Department and is responsible for carrying out the Governor's policies on those matters.

(d) The Secretary is entitled to the compensation provided in the State budget.

(e) The Secretary shall have a seal.

§2–203.

(a) The Secretary is responsible for the operation of the Department and shall establish guidelines and procedures to promote the orderly and efficient administration of the Department.

(b) The Secretary may establish, reorganize, or abolish areas of responsibility in the office of the Secretary as necessary to fulfill effectively the duties assigned to the Secretary.

§2–204.

(a) With the approval of the Governor, the Secretary shall appoint three deputy secretaries.

(b) The deputy secretaries:

(1) serve at the pleasure of the Secretary; and

(2) are entitled to the compensation provided in the State budget.

(c) The deputy secretaries have the duties delegated by the Secretary.

(d) The Secretary shall designate a deputy secretary to be the acting secretary when the Secretary is absent from the State or otherwise unavailable.

§2–205.

(a) In accordance with the State budget, the Secretary may employ a staff attached to the office of the Secretary.

(b) The Secretary may designate a staff assistant to be in charge of a particular area of responsibility.

(c) (1) (i) The Secretary shall appoint each staff assistant in the office of the Secretary in charge of a particular area of responsibility and each professional consultant.

(ii) An employee specified in subparagraph (i) of this paragraph:

1. is in the executive service or management service of, or is a special appointment under, the State Personnel Management System; and

2. serves at the pleasure of the Secretary.

(2) Unless otherwise provided by law, the Secretary shall appoint and remove all other employees in the office of the Secretary in accordance with the provisions of the State Personnel and Pensions Article.

§2–206.

If the Secretary is required by law to make an appointment with the approval of the Governor to a particular office in the Department and the appointee is required to serve at the pleasure of the Secretary, the Secretary may not remove the appointee without first obtaining the Governor's approval.

§2–207.

(a) The appointment or removal of personnel by a unit in the Department is subject to the approval of the Secretary.

(b) The Secretary may delegate the power of approval established under subsection (a) of this section to the head or governing body of the unit.

§2–208.

(a) This section does not apply to a unit in the Department to the extent that the unit is authorized by law to employ its own legal adviser or counsel.

(b) The Attorney General is the legal adviser to the Department.

(c) The Attorney General shall assign to the Department the number of assistant Attorneys General that are authorized by law for the Department and its units.

(d) (1) The Attorney General shall designate one of the assistant Attorneys General assigned to the Department as counsel to the Department and may not reassign that individual without consulting with the Secretary.

(2) The counsel may have no duty other than to give the legal aid, advice, and counsel required by the Secretary or any other official of the Department, to supervise the other assistant Attorneys General assigned to the Department, and to

perform for the Department the duties that the Attorney General assigns.

(3) The counsel shall perform the duties specified in paragraph (2) of this subsection subject to the control and discretion of the Attorney General.

§2–209.

(a) The Secretary shall adopt regulations for the office of the Secretary.

(b) (1) The Secretary shall review regulations proposed by a unit in the Department.

(2) The Secretary may approve, disapprove, or revise regulations proposed by a unit in the Department.

§2–210.

The Secretary is responsible for the budget of the office of the Secretary and for the budget of each unit in the Department.

§2–211.

(a) The Secretary is responsible for planning activities of the Department.

(b) The Secretary may review and approve, disapprove, or revise the plans, proposals, and projects of units in the Department.

§2–212.

The Secretary may exercise or perform any power, duty, responsibility, or function of any unit in the Department.

§2–213.

In addition to any advisory boards established by law, the Secretary, with the approval of the Governor, may create advisory boards or use as an advisory board any existing commission established by executive order.

§2–301.

The following units are in the Department:

(1) the Child Support Enforcement Administration;

(2) the Family Investment Administration;

(3) the Social Services Administration;

(4) the Maryland Commission for Women; and

(5) any other unit that by law is declared to be part of the Department.

§2–302.

The Department shall maintain a website on which to post notices of petitions under §§ 5-316(f)(3)(ii), 5-3A-15(d)(3)(ii), and 5-3B-15(f)(3)(ii) of the Family Law Article.

§2–401.

In this subtitle, "Commission" means the Maryland Commission for Women.

§2–402.

(a) There is a Maryland Commission for Women in the Department.

(b) The Commission shall report to the Governor and the General Assembly through the Secretary.

§2–403.

(a) The Commission consists of 25 members appointed by the Governor with the advice and consent of the Senate.

(b) Of the 25 members of the Commission:

(1) 12 shall be appointed from among applicants who have been nominated and recommended for appointment by organizations located in the State whose interests relate to the status of women; and

(2) 13 shall be appointed from among applicants applying on their own behalf.

(c) To the extent practicable, in making appointments under this section, the Governor shall ensure geographic diversity among the membership of the Commission.

(d) (1) The term of a commissioner is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 2007.

(3) A commissioner may not serve more than two consecutive terms.

(4) At the end of a term, a commissioner continues to serve until a successor is appointed and qualifies.

(5) A commissioner who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) A commissioner who fails to attend at least 50% of the regularly scheduled

meetings of the Commission during any 12–month period shall be considered to have resigned.

(f) Commissioners are not entitled to receive compensation for their services.

§2–404.

(a) The Commission shall elect a chair and a vice chair from among its members.

(b) The Commission may appoint any officers that it considers necessary.

§2–405.

(a) The Secretary shall appoint an executive director of the Commission.

(b) The executive director shall be a merit employee of the Department.

(c) The executive director is entitled to the compensation provided in the State budget.

§2–406.

(a) (1) The Commission shall:

(i) stimulate and encourage study and review of the status of women in the State;

(ii) strengthen home life by directing attention to critical problems confronting women as wives, mothers, homemakers, and workers;

(iii) recommend methods of overcoming discrimination against women in public and private employment;

(iv) encourage women to become candidates for public office;

(v) promote more effective methods for enabling women to develop skills, continue education, and be retrained;

(vi) secure appropriate recognition of women's accomplishments and contributions to the State;

(vii) work to develop healthy attitudes within the framework of the Commission's responsibilities; and

(viii) inform the executive and legislative branches of government on issues concerning women, including offering testimony on these issues before legislative and administrative bodies.

(2) The Commission may:

(i) act as a clearinghouse for activities to avoid duplication of effort; and

(ii) make surveys and appoint advisory committees in fields including education, social services, labor laws and employment policies, law enforcement, health and safety, new and expanded services, legal rights, family relations, human relations, and volunteer services.

(b) Through the Secretary, the Commission shall submit an annual report including recommendations based on the Commission's studies to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(c) The Commission may not adopt regulations.

§2–407.

Each executive unit of the State shall cooperate fully with the Commission in the performance of the Commission's duties.

§2–408.

(a) (1) Subject to the approval of the Secretary, the Commission may accept for the purposes of this subtitle:

(i) federal funds granted by Congress or executive order; and

(ii) private donations from individuals, organizations, or foundations.

(2) The acceptance and use of federal funds does not commit State funds or obligate the General Assembly to continue the purposes for which the federal funds are granted.

(b) The Department shall include the Commission in its annual budget.

§3–101.

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

(b) "Department" means the Department of Human Resources.

(c) (1) "Local board" means the board of social services in a county.

(2) "Local board" includes the commission of social services in Baltimore City.

(d) "Local department" means:

(1) a local department of social services created or continued in a county

under § 3-201 of this title; or

(2) in Montgomery County, the Montgomery County government.

(e) "Local director" means the director of a local department.

(f) "Local governing authority" means:

(1) in references to executive authority:

(i) the board of county commissioners of a county that does not have a charter form of government;

(ii) the highest executive authority of a county that has a charter form of government; or

(iii) the Mayor of Baltimore City;

(2) in references to purely legislative authority:

(i) the board of county commissioners of a county that does not have a charter form of government;

(ii) the county council of a county that has a charter form of government; or

(iii) the City Council of Baltimore City;

(3) in references to combined executive and legislative authority:

(i) the board of county commissioners of a county that does not have a charter form of government;

(ii) the county council and the highest executive authority of a county that has a charter form of government; or

(iii) the Mayor and City Council of Baltimore City.

(g) "Secretary" means the Secretary of Human Resources.

§3–201.

(a) (1) This subsection does not apply in Montgomery County.

(2) The Department shall create or continue a local department in each county.

(3) A local department shall be referred to as the department of social services preceded by the name of the county.

(b) Except as provided in subsection (c) of this section, a local department shall have a local board and a local director appointed in accordance with this title.

(c) In Baltimore City, the local department shall have a commission of social services.

§3–202.

(a) Administrative costs that a local department incurs in carrying out this subtitle and Subtitle 3 of this title shall be paid with State or federal funds as the Department prescribes.

(b) This section does not prohibit a county from appropriating additional funds for administrative costs of a local department.

§3–301.

(a) In this section, "local executive authority" means:

(1) except as provided in item (2) of this subsection, the county executive of a county that has a charter form of government;

(2) the County Council of Talbot County;

(3) the county commissioners of a county that does not have a charter form of government; or

(4) the Mayor of Baltimore City.

(b) (1) In each county, the local director shall be appointed with the concurrence of the Secretary and the appropriate local executive authority or its designee.

(2) The local executive authority or its designee shall meet and consult with the local board before the appointment of the local director.

(c) A local director shall have:

(1) a master's degree in social work or a related field;

(2) at least 5 years of professional employment in social services administration or supervision; and

(3) any other qualifications and training that the Secretary requires by regulation.

(d) (1) The Secretary, the local executive authority or its designee, and the local board shall:

(i) at least annually, evaluate the local director in writing; and

(ii) jointly review their respective evaluations with the local director.

(2) In consultation with the local board, the local governing authority of each county shall establish by ordinance or resolution the process for evaluating the local director.

(3) The Secretary shall:

(i) establish by regulation the process by which the Secretary will evaluate the local directors; and

(ii) notify the local board of any significant deficiencies in the administration of the local department.

(e) (1) A local director may be removed from office with the concurrence of the Secretary and the appropriate local executive authority or its designee.

(2) The appropriate local executive authority or its designee shall meet and consult with the local board before the removal of a local director.

(f) (1) A local director shall be in the executive service or management service of the State Personnel Management System.

(2) Each deputy director and assistant director of the Baltimore City Department of Social Services shall be in the management service of the State Personnel Management System.

(3) Except as provided in § 3–403.1 of this title, the Director of the Department of Social Services in Montgomery County is a member of the Employees' Pension System.

§3–302.

(a) (1) This section does not apply in Montgomery County.

(2) Except for child support enforcement, a local director shall administer the social service and public assistance activities in the county in accordance with Title 4, Subtitle 2 and Title 5, Subtitle 2 of this article.

(b) A local director has a general administrative responsibility to the Social Services Administration and the Family Investment Administration.

(c) The responsibilities of a local director include:

(1) long-range and short-range planning for the functions and objectives of the local department;

(2) administering the operations of the local department;

(3) except as provided in § 3-301(f)(2) of this subtitle or as otherwise provided by law, appointing personnel of the local department in accordance with the State Personnel and Pensions Article;

(4) improving administrative and social work practices and procedures;

(5) submitting periodic reports and evaluations that the Social Services Administration and the Family Investment Administration require;

(6) submitting an annual report to the local board; and

(7) undertaking any other responsibilities required by the Social Services Administration, the Family Investment Administration, or applicable laws.

§3–303.

In Montgomery County, the local director shall act as the agent of the Secretary to ensure that Montgomery County complies with responsibilities under grant agreements entered into in accordance with § 3-403 of this title.

§3–401.

It is the intent of the General Assembly that:

(1) the purpose of this subtitle is to provide better integrated, more efficient, and accountable human services delivery in Montgomery County by the State and county; and

(2) implementation of this subtitle shall be cost neutral to both the State and Montgomery County.

§3–402.

(a) In Montgomery County, the Montgomery County government shall administer State social service and public assistance programs that in other counties are administered by a local department.

(b) The administration of State programs by Montgomery County is governed by State and federal regulations.

(c) (1) Montgomery County shall administer State child welfare programs in the same manner as the programs are administered in other counties.

(2) The unit of the Montgomery County government that administers the programs under paragraph (1) of this subsection is exempt from licensing requirements in the same manner as local departments in other counties.

§3–403.

(a) Subject to § 3–403.1 of this subtitle, the Secretary shall enter into a grant agreement with the Montgomery County government for the administration in Montgomery County of programs administered in other counties by local departments.

(b) The grant agreement shall:

(1) provide for payment to Montgomery County for the costs of administering State programs at State funding rates as provided in § 3-202 of this title:

(i) including salaries, overhead, general liability coverage, workers' compensation, and employee benefits; but

(ii) excluding amounts attributable to county salaries or benefits that exceed comparable State salaries or benefits;

(2) require the State to pay for State accrued leave; and

(3) utilize the same budget categories as appropriations in the State budget for local departments in other counties.

(c) (1) Notwithstanding any other law, the proportion of State and federal funds paid in fiscal year 1997 to the Montgomery County government under this section relative to the funds provided by the Secretary to all local departments may not be less than the proportion of funds disbursed in fiscal year 1996 to the Montgomery County Department of Social Services.

(2) After fiscal year 1997, the amount of the grant to the Montgomery County government shall be proportionally adjusted each year to:

(i) reflect changes in case loads, the number of children in poverty, and any other relevant cost factors the parties agree to; and

(ii) ensure that the grant is equitable in relation to the funds provided to all local departments.

§3–403.1.

(a) This section applies only to the Director of the Department of Social Services in Montgomery County who was a participant in the Montgomery County Retirement System.

(b) The Director of the Department of Social Services in Montgomery County who is transferred into the State Personnel Management System as an employee of the Social Services Administration of the Maryland Department of Human Resources, may elect to:

(1) remain as a participant in the Montgomery County Retirement System; or

(2) become an enrollee in the Employees' Pension System of the State of Maryland.

(c) (1) If the Director of the Department of Social Services in Montgomery County elects to remain as a participant in the Montgomery County Retirement System, the election remains in effect only as long as the employee remains employed by the Social Services Administration of the Maryland Department of Human Resources.

(2) If the Director of the Department of Social Services in Montgomery County transfers to another position in State service, the employee shall become an enrollee of the Employees' Pension System of the State of Maryland.

(3) (i) While the Director of the Department of Social Services in Montgomery County remains a participant in the Montgomery County Retirement System, the State central payroll bureau shall deduct from the Director's biweekly salary an employee contribution that equals the Director's salary multiplied by the required employee contribution rate as set forth in the Montgomery County Code.

(ii) The State shall pick up within the meaning of § 414(h)(2) of the Internal Revenue Code, the employee contributions deducted under subparagraph (i) of this paragraph.

(d) (1) Until the date that the Director of the Department of Social Services in Montgomery County leaves service in the Social Services Administration of the Maryland Department of Human Resources, the Department of Human Resources shall pay on a quarterly basis to the Montgomery County Retirement System:

(i) the amount deducted by the State central payroll bureau from the Director'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 Director's salary 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 Chief Administrative Officer of Montgomery County shall certify to the Department of Human Resources the employer and employee contribution rates for pension benefits determined for the Montgomery County Retirement 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.

(e) (1) (i) The Director of the Department of Social Services in Montgomery County covered under this section who elects to remain in the Montgomery County Retirement System may receive employee health benefits equal to those received by employees under the Montgomery County Retirement System.

(ii) If the Director elects to receive health benefits under subparagraph (i) of this paragraph, the State shall reimburse Montgomery County each month an amount equal to the State's contribution for those health benefits.

(2) (i) A retiree covered under this section who elects to remain in the Montgomery County Retirement System may receive retiree health benefits equal to those received by retirees under the Montgomery County Retirement System.

(ii) If a retiree elects to receive health benefits under subparagraph (i) of this paragraph, the State shall reimburse Montgomery County each month an amount equal to the State's contribution for those health benefits.

§3–404.

(a) The Montgomery County Department of Health and Human Services is considered to be one agency for purposes of confidentiality provisions of State law.

(b) The use and release of information concerning recipients of State social service and public assistance programs by the Montgomery County Department of Health and Human Services is governed by the confidentiality provisions of State law, including Title 1, Subtitle 2 of this article.

§3–405.

The Secretary and the County Executive of Montgomery County shall consult with each other at least every other year to ensure that the objectives of the social service and public assistance programs administered by the Montgomery County government are consistent with the objectives of the State social service and public assistance programs.

§3–406.

(a) This section is not a waiver of immunity under the Eleventh Amendment of the Constitution of the United States.

(b) (1) Except as provided in paragraph (2) of this subsection, the State shall pay any judgment awarded against Montgomery County or an employee of Montgomery County that arises out of an action commenced or prosecuted in a court of the United States relating to the administration and implementation of State programs described in this subtitle.

(2) The State may not pay a judgment awarded against an employee of Montgomery County under this section for an act or omission committed:

(i) outside the scope of employment; or

(ii) with malice.

§3–501.

(a) This section does not apply in Baltimore City.

(b) Each local department shall have a local board.

(c) A local board consists of at least 9 but no more than 13 members as provided by local law enacted by the local governing authority.

(d) (1) On July 1 of each year, each local governing authority shall designate one member of the local governing authority to serve as an ex officio member of the local board.

(2) (i) The other members of the local board shall be appointed by the local governing authority.

(ii) The local governing authority shall seek out and appoint individuals who:

1. have a high degree of interest, capacity, and objectivity; and

2. in the aggregate, give a countywide representative character to the local board.

(e) On July 1 of each year, each local board shall select a chairman.

(f) A member of a local board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) (1) (i) 1. Except as provided in subsubparagraph 2 of this subparagraph, the term of an appointed member is 3 years.

2. In Charles County, the term of an appointed member is 4 years.

(ii) A term expires on June 30 of the year of expiration.

(iii) At the end of a term, a member continues to serve until a

successor is appointed.

(iv) Once an appointed member of a local board serves two consecutive full terms, the member is ineligible for reappointment for a period of 1 year.

(2) If a vacancy occurs during the term of a member, the local governing authority shall appoint or designate a successor to serve for the remainder of the term.

(h) If a member of a local board fails to attend at least 50% of the local board's meetings during a period of twelve consecutive months:

(1) the member may be considered to have resigned; and

(2) the chairman may declare that a vacancy exists.

(i) (1) This subsection does not apply to an ex officio member of a local board.

(2) If a member of a local board is elected or appointed to political or public office:

(i) the local governing authority may consider the member to have resigned; and

(ii) the chairman shall declare that a vacancy exists.

§3–502.

The Baltimore City Social Services Commission shall be appointed in accordance with Article VII, § 58 of the Charter of Baltimore City, 1996 Edition.

§3–503.

The duties and functions of a local board include:

(1) to advise the local director as to the local application of State policies or procedures;

(2) to be well informed on local departmental activities;

(3) to communicate to the residents of the county, broad and comprehensive information as to the objectives, policies, programs, and problems of local social services and public assistance administration;

(4) to review the periodic evaluation of the local department prepared by the Department and consult with the local director as to the proper implementation of the recommendations and any recommendations made by the local board as a result of its evaluation of the local department;

(5) to review and transmit to the Secretary and the local governing authority:

(i) the annual report of the local director on the activities of the local department; and

(ii) any changes in policies or procedures the local board recommends;

(6) to review and make recommendations regarding the annual estimate of funds needed for social services and public assistance purposes in the county;

(7) (i) to consult with the local director regarding any new service that might be instituted by the local director or the local board to meet an unmet need in the county;

(ii) to approve or disapprove the local director's evaluation of the readiness of the local department to take on the new service and the propriety of the new service within the State plan; and

(iii) to present to the Department:

1. suggested new services that the local board approves, regardless of whether the recommendation originated from the local director or the local board; and

2. the recommendations of both the local director and the local board;

(8) to take active steps to secure the appropriation of local funds by the local governing authority to meet needs that are:

(i) not financed by or available through any other federal, State, or local plan, project, or program; and

(ii) not in conflict with the State plan;

(9) to meet with the Secretary periodically at the request of the Secretary or the local board;

(10) to establish and maintain effective liaison with the local governing authority;

(11) in conjunction with the Department, to serve as an advocate for social services and public assistance programs on the local, State, and federal levels;

(12) to work to identify private, State, and federal grant sources for social services and public assistance programs;

(13) in conjunction with the Department, to develop and implement an educational and public relations program for public and elected officials on the local, State, and federal level; and

(14) in conjunction with the Department and the local executive authority or its designee, to evaluate the local director and make recommendations based on the evaluation to the Secretary.

§3–601.

(a) (1) Except as provided in paragraph (2) of this subsection, the attorney to, or an attorney designated by, the local governing authority in each county or an attorney employed by the State shall institute and defend each civil action in which the local department is a party.

(2) In Cecil County, the local department may secure the services of attorneys to represent it in all legal matters affecting the local department.

(b) Actions in which the local department is a party shall be instituted in the name of the local department.

(c) (1) The court may award attorney's fees to an attorney representing a local department in an action to recover:

(i) from the estate of a recipient of any type of public assistance, the amount paid to the recipient during the recipient's lifetime; or

(ii) from a recipient of any type of public assistance, the amount paid to the recipient before the recipient receives any property or income in excess of the amount stated in the recipient's application for assistance and in excess of the recipient's need.

(2) The amount of fees awarded by the court shall be deducted from the gross amount of the recovery in the action.

(3) The net amount of the recovery shall be turned over to the local department to be divided among the State, the county, and the federal government in proportion to the amount paid by each.

(d) (1) Except as otherwise provided, an attorney who provides any other legal services on behalf of a local department shall be paid the fees the Department sets.

(2) Attorney's fees under this subsection shall be paid out of regular administrative funds.

§3–602.

(a) At least once every 3 years, the Office of the Inspector General in the

Department shall:

(1) conduct or contract for a financial and compliance audit of each local department; and

(2) prepare a written report of the audit findings.

(b) The audit shall comply with the auditing standards issued by the Institute of Internal Auditors.

(c) The written report of the audit findings shall be distributed to:

(1) the local board; and

(2) the local governing authority.

§4–101.

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

(b) "Administration" means the Social Services Administration.

(c) "Department" means the Department of Human Resources.

(d) "Executive Director" means the Executive Director of Social Services.

(e) "Local department" means:

(1) a local department of social services created or continued in a county under § 3-201 of this article; or

(2) in Montgomery County, the Montgomery County government.

(f) "Secretary" means the Secretary of Human Resources.

§4–201.

There is a Social Services Administration in the Department.

§4–202.

The Administration and the Executive Director exercise their authority, duties, and functions under any State law subject to the authority of the Secretary under any State law.

§4–203.

(a) With the approval of the Governor, the Secretary shall appoint the Executive Director.

(b) The Executive Director shall be a competent person with adequate training and practical experience in social welfare work.

(c) The Executive Director serves at the pleasure of the Secretary.

(d) The Executive Director is entitled to the compensation provided in the State budget.

§4–204.

(a) (1) The Executive Director is the administrative head of the Administration.

(2) The Executive Director shall devote the Executive Director's whole time to the duties of the office.

(b) Subject to State and federal laws governing the administration of social services, the Executive Director shall:

(1) administer and organize the Administration;

(2) supervise the social service activities of the local departments; and

(3) supervise other agencies and institutions under the supervision of the Administration.

(c) (1) The Executive Director may prescribe the number and minimum qualifications of the personnel engaged in the administration of the activities of the Administration and of the local departments that are financed wholly or partly by the Administration.

(2) (i) As provided in the State budget, the Executive Director may appoint the personnel required to properly perform the duties of the Administration.

(ii) Except as otherwise provided, appointment and removal of all paid personnel under this title are subject to the provisions of the State Personnel and Pensions Article.

(d) The Executive Director shall submit budget estimates for the Administration to the Secretary.

§4–205.

(a) (1) The Administration shall be the central coordinating and directing agency of all social service activities in the State, including:

(i) child welfare services; and

(ii) any other social service activities financed wholly or partly by the

Administration.

(2) For the purposes of these duties, child welfare services provided to a minor may continue after the minor's eighteenth birthday but not beyond the minor's twenty-first birthday.

(b) The Administration shall supervise, direct, and control the activities of the local departments that it finances wholly or partly.

(c) The Administration shall supervise all public and private institutions that have care, custody, or control of abused, abandoned, dependent, or neglected children, except:

(1) institutions under the authority of the Department of Juvenile Services; and

(2) agencies, persons, or institutions designated by the Department of Juvenile Services under § 9-217 of this article.

(d) (1) The Administration may visit any State-aided institution, organization, or agency engaged in social service or welfare activities and inspect thoroughly its management, buildings, and equipment.

(2) Visits and inspections under paragraph (1) of this subsection shall be made:

(i) at reasonably convenient hours; and

(ii) with reasonable regard to the established discipline, regulations, and customs of the institution, organization, or agency.

(e) As desirable or necessary for the purpose of this title, the Administration may designate existing agencies or organizations in the State as the Administration's agents.

(f) Before the start of each regular session of the General Assembly, the Administration shall submit a report of its activities to the Governor.

§4–206.

The Department may develop and implement an automated statewide system and related administrative procedures to achieve effectively and efficiently the purposes of this title.

§4–207.

(a) Subject to § 2-209(b) of this article, the Executive Director may adopt regulations necessary to carry out the duties imposed on the Executive Director by

law.

(b) (1) The Executive Director shall adopt regulations covering the custody, use, and preservation of the records of the Administration and the local departments concerning applicants for and recipients of social services.

(2) The use of the records of the Administration and the local departments by any other governmental unit shall be limited to the purposes for which the records are furnished.

(c) (1) All regulations or directives implemented by the Executive Director that are based on federal law, rules, regulations, or guidelines shall have the federal material:

(i) referenced in the text of the State material; or

(ii) attached permanently to the State material.

(2) The Department shall furnish to each of the local departments at least one up-to-date copy of all current federal regulations applicable to the operations of the local department.

§4–301.

(a) The Secretary shall implement a comprehensive plan to recruit, train, and retain child welfare caseworkers and casework supervisors who meet the requirements of this section.

(b) (1) The Secretary shall hire as caseworkers only human services professionals, such as:

(i) social workers licensed in accordance with Title 19 of the Health Occupations Article;

(ii) psychologists licensed in accordance with Title 18 of the Health Occupations Article;

(iii) professional counselors certified in accordance with Title 17 of the Health Occupations Article;

(iv) nurses licensed in accordance with Title 8 of the Health Occupations Article;

(v) school psychologists certified in accordance with regulations adopted under Title 6, Subtitle 7 of the Education Article; and

(vi) human service workers who:

1. have a degree in an appropriate behavioral science;

2. have completed the mandatory preservice training and competency test; and

3. are supervised by licensed social workers.

(2) The Secretary may retain permanent employees employed on or before December 31, 1998 who do not have the qualifications specified in paragraph (1) of this subsection if the Secretary finds that the employees are performing their duties satisfactorily.

(c) The Secretary shall:

(1) implement a preservice training program and competency test for newly employed caseworkers;

(2) require that all new casework staff:

(i) be hired provisionally;

(ii) except for staff described in item (4) of this subsection, complete a 40–hour preservice training program; and

(iii) pass a competency test before being granted permanent employment status;

(3) implement mandatory standards for continuing education for all caseworkers and casework supervisors that require that employees who fail to obtain the required continuing education credits be subject to disciplinary action, including demotion, suspension, and dismissal;

(4) develop and implement mandatory standards that exempt newly hired individuals who have documented and verified casework experience or hold appropriate State licensure from the 40–hour preservice training program specified in item (2)(ii) of this subsection; and

(5) require caseworkers who are exempt from the preservice training program specified in item (2)(ii) of this subsection and fail the competency test to participate in the preservice training program and to take and pass the competency test before being granted permanent employment status.

(d) (1) The Secretary may not employ human services professionals on a contractual basis as caseworkers or casework supervisors, except as required to meet an unanticipated need resulting from:

(i) a significant and unexpected increase in reports of child abuse or neglect, or both; or

(ii) a significant and unexpected increase in the foster care or kinship

care caseload, or both.

(2) A caseworker or casework supervisor contractual position may not exist longer than 1 year.

(e) Whenever the Secretary contracts with an outside entity for casework services, the Secretary shall require the contractor to comply with the employment qualifications, training curriculum, preservice and in–service training, and competency testing required under this section.

§4–302.

The Administration may:

(1) accept any federal funds or commodities;

(2) manage and dispose of any federal funds or commodities as required by federal law; and

(3) apply the federal Social Security Act or any other federal law relating to social services to the benefit of the State.

§4–303.

(a) The Administration shall make every effort to recoup overpayments made to recipients that the State is authorized to recoup under federal law.

(b) The Administration shall establish an administrative procedure, in accordance with federal law, to be followed when the Administration has reason to believe that an overpayment has been made.

§5–101.

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

(b) "Administration" means the Family Investment Administration.

(c) "Department" means the Department of Human Resources.

(d) "Executive Director" means the Executive Director of Family Investment.

(e) "Local department" means:

(1) a local department of social services created or continued in a county under § 3-201 of this article; or

(2) in Montgomery County, the Montgomery County government.

(f) "Local director" means the director of a local department.

(g) "Secretary" means the Secretary of Human Resources.

§5–201.

There is a Family Investment Administration in the Department.

§5–202.

The Administration and the Executive Director exercise their authority, duties, and functions under any State law subject to the authority of the Secretary under any State law.

§5–203.

(a) The Executive Director is the head of the Administration.

(b) With the approval of the Governor, the Secretary shall appoint the Executive Director.

(c) The Executive Director serves at the pleasure of the Secretary.

(d) The Executive Director is entitled to the compensation provided in the State budget.

§5–204.

(a) Subject to State and federal laws governing the administration of public assistance, the Executive Director shall:

(1) organize and administer the Administration;

(2) supervise the public assistance activities of the local departments; and

(3) supervise other agencies and institutions under the supervision of the Administration.

(b) (1) The Executive Director may prescribe the number and minimum qualifications of the personnel engaged in the administration of the activities of the Administration and of the local departments that are financed wholly or partly by the Administration.

(2) (i) As provided in the State budget, the Executive Director may appoint the personnel required to properly perform the duties of the Administration.

(ii) Except as otherwise provided, appointment and removal of all paid personnel under this title are subject to the provisions of the State Personnel and Pensions Article.

(c) The Executive Director shall submit budget estimates for the

Administration to the Secretary.

(d) The Executive Director shall:

(1) develop a comprehensive process to:

(i) systematically analyze cash assistance payment errors;

(ii) formulate strategies, including improvements in the eligibility determination process, to reduce the errors; and

(iii) monitor implementation of the strategies;

(2) require each local department to submit annual plans that contain measurable objectives, including objectives for participation in work activities, to meet the goals of the Family Investment Program; and

(3) monitor the success of the local departments in achieving the objectives of the plans.

§5–205.

(a) The Administration shall be the central coordinating and directing agency of all public assistance programs in the State, including:

(1) the Family Investment Program and related cash benefit programs;

(2) public assistance to adults;

(3) emergency assistance;

(4) food stamps;

(5) medical assistance eligibility determinations;

(6) the Energy Assistance Program; and

(7) any other public assistance activities financed wholly or partly by the Administration.

(b) The Administration shall supervise, direct, and control the activities of the local departments that it finances wholly or partly.

(c) (1) The Administration may visit any State-aided institution, organization, or agency engaged in public assistance activities and inspect thoroughly its management, buildings, and equipment.

(2) Visits and inspections under paragraph (1) of this subsection shall be made:

(i) at reasonably convenient hours; and

(ii) with reasonable regard for the established discipline, regulations, and customs of the institution, organization, or agency.

(d) As desirable or necessary for the purpose of this title, the Administration may designate existing agencies or organizations in the State as the Administration's agents.

(e) Before the start of each regular session of the General Assembly, the Administration shall submit a report of its activities to the Governor.

§5–206.

The Department may develop and implement an automated statewide system and related administrative procedures to achieve effectively and efficiently the purposes of this title.

§5–207.

(a) Subject to § 2-209(b) of this article, the Executive Director may adopt regulations necessary to carry out the duties imposed on the Executive Director by law.

(b) (1) The Executive Director shall adopt regulations covering the custody, use, and preservation of the records of the Administration and the local departments concerning applicants for and recipients of public assistance.

(2) The use of the records of the Administration and the local departments by any other governmental unit shall be limited to the purposes for which the records are furnished.

(c) (1) All regulations or directives implemented by the Executive Director that are based on federal law, rules, regulations, or guidelines shall have the federal material:

(i) referenced in the text of the State material; or

(ii) attached permanently to the State material.

(2) The Department shall furnish to each of the local departments at least one up-to-date copy of all current federal regulations applicable to the operations of the local department.

§5–301.

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

(b) "FIP" means the Family Investment Program.

(c) "Nonprofit organization" means a religious, charitable, or volunteer organization that is exempt from taxation under § 501(c) of the Internal Revenue Code.

(d) "Recipient" means each individual in a FIP case.

(e) "Temporary cash assistance" means the cash assistance component of the FIP that is funded wholly or partly through Title IV, Part A, of the Social Security Act.

(f) "Third party payee" means:

(1) an individual that the Department approves;

(2) a nonprofit organization;

(3) a for-profit organization; or

(4) a governmental unit, including a local department.

(g) "Transitional assistance" means assistance provided to a recipient whose temporary cash assistance has been terminated for noncompliance with FIP requirements.

(h) "Work activity" means:

(1) job search activity;

(2) subsidized employment in either the public or private sector;

(3) work experience;

(4) on-the-job training;

(5) community service;

(6) training directly related to employment; or

(7) education directly related to employment.

§5–302.

(a) There is a Family Investment Program in the Department.

(b) The primary purpose of this subtitle is to support family efforts to achieve and maintain self-sufficiency through services and financial aid geared to individual family needs.

§5–303.

The Secretary shall:

(1) implement a FIP that meets the requirements of this subtitle and federal law;

(2) supervise the administration by local departments of the FIP under this subtitle;

(3) cooperate with the federal government in matters of mutual concern pertaining to federal funding for the FIP; and

(4) adopt regulations to carry out this subtitle.

§5–304.

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

(2) "Children of current or former recipients" means minors who:

(i) are at least 14 years old; and

(ii) reside with current or former recipients of benefits.

(3) "Former recipient" means an individual who received benefits under FIP in the past 5 years.

(4) "Foster youth" means an individual who:

(i) is an adult in out–of–home care under the responsibility of the State; or

(ii) is an adult under the age of 25 years; and

(iii) was in out–of–home care under the responsibility of the State on the individual's 18th birthday.

(5) "Obligor" has the meaning stated in § 10–101 of the Family Law Article.

(b) (1) The Secretary of Budget and Management, with the assistance of the Secretary, shall develop and implement a plan for hiring current and former recipients, children of current or former recipients, foster youth, and obligors by the principal departments within the Executive Branch of State government.

(2) For each principal department, the plan shall include:

(i) the units that most easily could hire current and former

recipients, children of current or former recipients, foster youth, and obligors;

(ii) the positions most suitable for current and former recipients, children of current or former recipients, foster youth, and obligors;

(iii) a proposal for recruiting current and former recipients, children of current or former recipients, foster youth, and obligors;

(iv) job retention strategies; and

(v) a target number of current and former recipients, children of current or former recipients, foster youth, and obligors to be recruited.

(3) In consultation with the Secretary, the Secretary of Budget and Management shall report, subject to § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Appropriations Committee of the General Assembly:

(i) on or before January 1, 2010, on the development of the hiring plan for current and former recipients, children of current or former recipients, foster youth, and obligors; and

(ii) on or before November 1 of each year, on the number of recipients, children of current or former recipients, foster youth, and obligors hired and retained by the principal departments within the Executive Branch of State government.

(c) (1) Working with appropriate local government officials, the Secretary and each local director shall develop and implement a local government hiring plan under which local governments may hire current and former recipients, children of current or former recipients, foster youth, and obligors.

(2) For each jurisdiction, the local government hiring plan shall include:

(i) a list of the units that most easily could hire current and former recipients, children of current or former recipients, foster youth, and obligors;

(ii) a list of the employment positions most suitable for current and former recipients, children of current or former recipients, foster youth, and obligors;

(iii) proposals to recruit current and former recipients, children of current or former recipients, foster youth, and obligors;

(iv) employment retention strategies; and

(v) a target number of current and former recipients, children of current or former recipients, foster youth, and obligors to be recruited.

(3) Each local director shall:

(i) develop and submit the local government hiring plan in accordance with a schedule and format that the Secretary determines;

(ii) implement in a timely manner the proposals and strategies in the local government hiring plan;

(iii) achieve the target numbers in the local government hiring plan; and

(iv) develop and submit reports to the Secretary in accordance with a schedule and format that the Secretary determines.

(4) On or before November 1 of each year and in consultation with the Maryland Association of Counties, the Secretary shall report, subject to § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Appropriations Committee of the General Assembly, on:

(i) the development of the local government hiring plan; and

(ii) the number of current and former recipients, children of current or former recipients, foster youth, and obligors hired and retained by local governments.

§5–306.

In providing assistance under this subtitle, the Department may contract with:

(1) charitable organizations;

(2) private organizations;

(3) religious organizations; and

(4) institutions of higher education.

§5–307.

(a) Except as provided in subsection (b) of this section, a religious organization may participate in the FIP on the same basis as any other nongovernmental entity.

(b) An individual may not be required to accept assistance from a religious organization if acceptance would violate the individual's bona fide religious beliefs and practices.

(c) An organization funded under the FIP may not discriminate on the basis of religion, religious belief, or refusal to participate in a religious practice with respect to any individual's receipt of service under the FIP.

(d) The Department shall provide all recipients with clear and timely notice of their rights under § 104(e) of the federal Personal Responsibility and Work Opportunity

Reconciliation Act of 1996.

§5–308.

(a) (1) A family may be eligible for assistance under this subtitle only if the family includes:

(i) a minor child who resides with a custodial parent or other adult caretaker who is a relative of the child; or

(ii) a pregnant individual.

(2) Assistance shall be provided to an applicant or recipient under this subtitle only if the applicant or recipient:

(i) resides in the State at the time of application for assistance;

(ii) if applicable:

1. has applied for child support services with the appropriate local child support enforcement office at the time of application for assistance; and

2. complies with the requirements of the local child support enforcement office;

(iii) has engaged in job search activities as requested by the Department;

(iv) participates in work activity under this subtitle; and

(v) meets all other FIP requirements that the Secretary establishes by regulation.

(b) (1) An individual may not be required to meet the work activity requirement under subsection (a)(2)(iv) of this section if the individual is exempt under criteria the Secretary establishes.

(2) The criteria shall include exemptions for:

(i) adults who are required to care for a child who is a recipient under the age of 1 year; and

(ii) subject to paragraph (3) of this subsection, adults and children who are recipients and who are severely disabled.

(3) An individual's exemption because of severe disability is limited to 12 months unless:

(i) the individual applies for Supplemental Security Income; and

(ii) the application is approved, pending, or on appeal.

(c) Subject to the State budget, a legal immigrant is entitled to assistance under this subtitle if the immigrant:

(1) meets FIP eligibility requirements under this subtitle and any other requirements imposed by the State; and

(2) (i) arrived in the United States before August 22, 1996; or

(ii) arrived in the United States on or after August 22, 1996 and is not eligible for federally funded cash assistance.

§5–309.

(a) Except for an applicant or recipient who is a single child, the FIP shall include:

(1) an assessment of each applicant or recipient that considers:

(i) the reasons for applying for or continuing to rely on assistance;

(ii) an evaluation of appropriate work activities based on educational level, job skills and readiness, and interests; and

(iii) personal and family resources available to facilitate independence; and

(2) welfare avoidance grants that:

(i) meet immediate needs so that an applicant or recipient can avoid temporary cash assistance;

(ii) may be granted as the Department considers appropriate;

(iii) may not cover the same type of immediate need met by a previous welfare avoidance grant unless the Department determines that the current immediate need is a new and verified emergency;

(iv) do not exceed an amount of 3 months of temporary cash assistance, unless the Department determines there is a compelling need for an amount not exceeding 12 months; and

(v) may not duplicate periods of temporary cash assistance.

(b) Except for a recipient who is a single child, the FIP for a recipient shall include:

(1) an agreement between the Department and the recipient that:

(i) requires the recipient to cooperate with the child support enforcement agency to obtain support from a noncustodial parent;

(ii) requires the recipient to comply with reasonable requests for cooperation by case management workers in seeking and using programs and community and family resources that may be available to the recipient;

(iii) specifies the work activities in which the recipient will participate; and

(iv) specifies the supportive services that the local department will assist in providing and that are necessary for the recipient to meet the recipient's obligations under the FIP;

(2) supportive services activities, including child care, to the extent resources allow;

(3) referral, as appropriate, to family planning counseling and services that:

(i) are not offered or conducted in a manner that:

1. is coercive;

2. violates the recipient's confidentiality; or

3. violates the recipient's bona fide religious beliefs and practices; and

(ii) give preference to eligible teen parents; and

(4) temporary cash assistance, as a last resort.

(c) Except for an applicant who is a single child, the FIP for an applicant shall include a child care voucher:

(1) to the extent resources allow, if the applicant is required to participate in a work activity as a condition of eligibility; or

(2) if providing child care eliminates the applicant's need for cash assistance under the FIP.

(d) For an applicant or recipient who is a single child, the FIP shall include:

(1) referral to appropriate services; and

(2) temporary cash assistance for the recipient, as a last resort.

(e) To the extent resources allow, the FIP shall serve noncustodial parents who

need employment services to pay child support obligations.

§5–310. IN EFFECT

(a) (1) For applicants to the FIP, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 20% of that earned income.

(2) For eligible recipients who obtain unsubsidized employment, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 40% of that earned income.

(b) A recipient who has established eligibility may not lose eligibility solely because one or more wage earners in the family unit works more than 100 hours per month.

(c) Two–parent families shall be exempt from any requirement that the principal wage earner must have worked for a specified time before applying to the FIP.

(d) (1) A child who is living with the child's parent and a stepparent in a household in which the household income exceeds the State eligibility standard for assistance may receive assistance if:

(i) the requirements of § 5–308 of this subtitle are met; and

(ii) the parent and the child would be eligible for assistance, based on the income of the parent and that parent's children.

(2) The amount of assistance to be paid under paragraph (1) of this subsection shall be computed with regard to the income of the stepparent if the total income of the stepparent equals or exceeds 50% of the official poverty level, adjusted for family size, established under the federal Community Services Block Grant Act.

(e) A dependent child over the age of 17 years is eligible for inclusion in the FIP grant if:

(1) the child is a full–time student in secondary school or the equivalent; and

(2) the education program is expected to be completed in the calendar year that the child attains the age of 19 years.

5–310. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 229 OF 2002 **

(a) (1) For applicants to the FIP, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 20% of that earned income.

(2) For eligible recipients who obtain unsubsidized employment, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 35% of that earned income.

(b) A recipient who has established eligibility may not lose eligibility solely because one or more wage earners in the family unit works more than 100 hours per month.

(c) Two–parent families shall be exempt from any requirement that the principal wage earner must have worked for a specified time before applying to the FIP.

(d) (1) A child who is living with the child's parent and a stepparent in a household in which the household income exceeds the State eligibility standard for assistance may receive assistance if:

(i) the requirements of § 5–308 of this subtitle are met; and

(ii) the parent and the child would be eligible for assistance, based on the income of the parent and that parent's children.

(2) The amount of assistance to be paid under paragraph (1) of this subsection shall be computed with regard to the income of the stepparent if the total income of the stepparent equals or exceeds 50% of the official poverty level, adjusted for family size, established under the federal Community Services Block Grant Act.

(e) A dependent child over the age of 17 years is eligible for inclusion in the FIP grant if:

(1) the child is a full–time student in secondary school or the equivalent; and

(2) the education program is expected to be completed in the calendar year that the child attains the age of 19 years.

§5–310.1. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2017 PER CHAPTER 526 OF 2013 //

(a) In this section, "Pilot Program" means the Earned Income Disregard Pilot Program established under this section.

(b) There is an Earned Income Disregard Pilot Program within the FIP.

(c) (1) The Department shall select one county that has more than one district office to participate in the Pilot Program.

(2) The Department may select one rural county to participate in the Pilot

Program.

(3) The Department and the appropriate local directors shall:

(i) select and assign eligible individuals to the Pilot Program; and

(ii) inform selected participants of the assignment.

(4) To be eligible to participate in the Pilot Program an individual:

(i) may not receive temporary cash assistance between May 1, 2014, and September 30, 2014; and

(ii) shall apply and qualify for temporary cash assistance on or after October 1, 2014.

(d) Except as provided in subsection (e) of this section, the county participating in the Pilot Program shall administer the FIP in accordance with this subtitle.

(e) (1) Notwithstanding § 5–310(a) of this subtitle, for applicants to the FIP who are selected to participate in the Pilot Program, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 20% of that earned income.

(2) Notwithstanding § 5–310(a) of this subtitle, for FIP recipients who are selected to participate in the Pilot Program who obtain unsubsidized employment and work less than 25 hours a week, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 40% of that earned income.

(3) Notwithstanding § 5–310(a) of this subtitle, for FIP recipients who are selected to participate in the Pilot Program who obtain unsubsidized employment and work at least 25 hours a week, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding:

(i) 100% of that earned income for the first 3 months of employment;

(ii) 60% of that earned income for employment exceeding 3 months, but less than 10 months; and

(iii) 40% of that earned income for employment exceeding 9 months.

(f) The Department shall:

(1) collect information necessary to assess the effectiveness of the Pilot Program, including:

(i) the number of clients receiving FIP benefits after receiving benefits under the Pilot Program;

(ii) the number of clients working for an employer covered by Maryland unemployment insurance; and

(iii) whether the clients made progress in their quarterly earnings; and

(2) (i) on or before September 30, 2016, submit an interim report of its findings to the Senate Finance Committee, the House Appropriations Committee, and the Joint Committee on Welfare Reform, in accordance with § 2–1246 of the State Government Article; and

(ii) on or before September 30, 2017, submit a final report of its findings to the Senate Finance Committee, the House Appropriations Committee, and the Joint Committee on Welfare Reform, in accordance with § 2–1246 of the State Government Article.

(g) The Department shall adopt any regulations necessary to implement this section.

§5–311.

(a) All assistance granted under this subtitle is subject to periodic recertification.

(b) At any time, the Department may cancel, suspend, or revoke assistance if:

(1) the recipient's circumstances have altered sufficiently to warrant cancellation, suspension, or revocation; or

(2) the recipient has failed to comply with FIP requirements.

§5–312.

(a) This section is not intended to create an incentive for individuals to seek temporary cash assistance benefits instead of employment.

(b) A local department shall provide temporary cash assistance to an applicant or recipient only if:

(1) the applicant or recipient meets the requirements for participation in the FIP set forth in § 5–308 of this subtitle;

(2) the applicant or recipient assigns to the State all right, title, and interest in support, for the period that the family receives temporary cash assistance, from any other person that the applicant or recipient has on behalf of any intended or potential recipient for whom the applicant or recipient is applying for or receiving assistance; and

(3) in the case of an applicant or recipient who is a minor parent, the applicant or recipient lives:

(i) with a parent, legal guardian, custodian, or other adult relative who will be the payee of the minor parent;

(ii) in an adult–supervised group living arrangement that provides a protective payee and:

1. there is no available parent, legal guardian, custodian, or other adult relative with whom the minor parent can live;

2. the minor parent or child would be subject to physical or emotional harm, sexual abuse, or neglect in the home of any available adult relative; or

3. a social service worker finds that living with any available adult relative would not be in the best interest of the minor parent or child; or

(iii) independently, if a social service worker confirms that the physical safety or emotional health of the minor parent or child would otherwise be in jeopardy.

(c) A recipient who meets the requirements of the FIP is entitled to temporary cash assistance benefits.

(d) In determining the eligibility for and the amount of temporary cash assistance to be provided to an applicant or recipient who is a legal immigrant, the income and resources of the applicant or recipient shall include, for the period of time established by federal law, the income and resources of any sponsor who executed an affidavit of support in accordance with 8 U.S.C. § 1183a on behalf of the legal immigrant.

(e) (1) The Secretary shall adopt regulations that establish a schedule of reductions and terminations of temporary cash assistance for noncompliance with FIP requirements.

(2) (i) If a recipient is found to be in noncompliance with FIP requirements, a caseworker shall investigate the reasons for noncompliance.

(ii) The investigation, to the extent resources allow, shall include personal contact with the family of the recipient.

(3) The Secretary may not reduce or terminate temporary cash assistance to a family until 30 days after the day on which the first written notice of noncompliance was sent to the recipient.

(4) For noncompliance with a FIP requirement other than a work activity, temporary cash assistance shall resume on compliance with the FIP requirement.

(5) For noncompliance with a work activity, temporary cash assistance shall resume in the following manner:

(i) for the first instance of noncompliance, temporary cash assistance shall resume immediately on compliance;

(ii) for the second instance of noncompliance, temporary cash assistance shall resume after 10 days of compliance with the work activity; and

(iii) for each subsequent instance of noncompliance, temporary cash assistance shall resume after 30 days of compliance with a work activity.

(6) If temporary cash assistance is reduced or terminated under this subsection, a recipient shall retain eligibility for medical assistance and food stamps, as long as the recipient meets the medical assistance and food stamp program requirements.

(f) (1) After termination of temporary cash assistance under this section, a recipient may receive transitional assistance.

(2) If a caseworker determines that transitional assistance is appropriate, the FIP benefit that would have been paid to the recipient shall be paid instead to a third party payee on behalf of the recipient for a period of up to 3 months.

(3) The caseworker of a recipient, in conjunction with the recipient and subject to the approval of the Secretary, shall select a third party payee described in paragraph (2) of this subsection.

(4) The third party payee shall provide transitional assistance to the recipient in one or more of the following forms:

(i) counseling;

(ii) housing;

(iii) child care;

(iv) household supplies and equipment;

(v) direct assistance other than a cash payment; and

(vi) any other noncash assistance that may be necessary to assist the recipient to make the transition from welfare.

(5) A local department may pay an administrative fee to a third party payee to cover the administrative costs of the third party payee for providing the services described in paragraph (4) of this subsection.

(6) The funds provided through transitional assistance may not be used to

further sectarian religious instruction.

(7) The Secretary shall adopt regulations specifying the selection criteria for third party payees under this subsection.

(8) A recipient who has received transitional assistance may reapply for the FIP benefit and the benefit shall be furnished with reasonable promptness to all eligible individuals.

§5–313.

(a) Except as provided in subsection (b) of this section and in regulations that the Secretary adopts, a local department may not pay temporary cash assistance to:

(1) a family that includes an adult who has received more than 60 cumulative months of temporary cash assistance funded wholly or partly by federal funds; or

(2) a family that includes an adult who:

(i) has received more than 24 cumulative months of temporary cash assistance funded wholly or partly by federal funds; and

(ii) is not participating in a work activity.

(b) The Secretary shall adopt regulations that establish:

(1) standards and procedures under which a local department may exempt a family from the limitation under subsection (a)(1) of this section because of hardship; and

(2) a separate State program that:

(i) is funded entirely from State general funds that may be counted toward any federal maintenance of effort requirement;

(ii) pays temporary cash assistance to a family that is exempted under item (1) of this subsection but cannot receive federal funds because of federal limitations; and

(iii) is subject to all FIP requirements under this subtitle.

(c) The provisions of this section are subject to federal law and regulation.

§5–314.

(a) In this section, "addictions specialist" means an addictions specialist who is located on-site at a local department.

(b) (1) An addictions specialist shall assess the need of any adult or minor parent applicant or recipient for substance abuse treatment:

(i) at the initial application for temporary cash assistance; or

(ii) when considered appropriate by the FIP case manager of the local department.

(2) The addictions specialist shall screen the applicant or recipient to expose potential barriers that the applicant or recipient may have in obtaining employment such as a substance abuse problem.

(3) The addictions specialist shall inform each adult or minor parent applicant or recipient of the requirements of FIP regarding substance abuse treatment.

(4) If the applicant or recipient does not complete the screening required under paragraph (2) of this subsection, the addictions specialist shall notify the FIP case manager.

(c) (1) If the screening performed by the addictions specialist reveals that an applicant or recipient has a substance abuse problem, the addictions specialist shall:

(i) conduct, or refer for, an assessment of the applicant's or recipient's substance abuse problem and, if appropriate, determine placement for treatment and related support services;

(ii) refer the applicant or recipient for appropriate substance abuse treatment and related support services;

(iii) obtain the signature of the applicant or recipient on a form consenting to the release of confidential substance abuse treatment information;

(iv) forward the consent form to the appropriate substance abuse treatment provider; and

(v) obtain any necessary treatment information from the substance abuse treatment provider.

(2) (i) The substance abuse treatment provider shall notify the addictions specialist of the ongoing treatment status of the applicant or recipient.

(ii) The addictions specialist shall notify the FIP case manager if an applicant or recipient:

1. fails to complete the assessment required under paragraph (1)(i) of this subsection;

2. fails to sign the consent form required under paragraph

(1)(iii) of this subsection;

3. is referred for appropriate substance abuse treatment;

4. is awaiting the availability of appropriate treatment;

5. fails to enroll or maintain enrollment with an available substance treatment provider or to complete the treatment protocol;

6. is enrolled in a treatment program; or

7. successfully completes treatment.

(iii) The addictions specialist shall also notify the FIP case manager regarding the ongoing treatment status of the applicant or recipient.

(d) An adult or minor parent applicant or recipient who complies with the substance abuse treatment requirements of the FIP:

(1) shall receive a full temporary cash assistance benefit as long as the applicant or recipient meets the other temporary cash assistance eligibility requirements; and

(2) may be exempt from the work activity requirements for a period of time determined by the FIP case manager in consultation with the addictions specialist.

(e) An adult or minor parent applicant or recipient is not in compliance with FIP requirements if the FIP case manager receives notice from the addictions specialist that the applicant or recipient:

(1) fails to complete the screening or assessment required under subsections (b)(2) and (c)(1)(i) of this section;

(2) fails to sign the consent form required under subsection (c)(1)(iii) of this section; or

(3) is referred for appropriate and available substance abuse treatment by the addictions specialist but fails to enroll or to maintain active enrollment in the treatment program or complete the treatment protocol.

(f) After the FIP case manager receives a notice under subsection (e) of this section, the local department shall:

(1) send a denial notice to the adult or minor parent applicant that:

(i) states:

1. that the applicant has not met FIP requirements;

2. the specific reason why the applicant is not eligible for FIP; and

3. that if the applicant fails to fulfill the requirements on or before the 30th work day after the application for temporary cash assistance was filed, the application is denied; and

(ii) notifies the applicant of the applicant's right to appeal and the procedures for filing an appeal; and

(2) separately determine eligibility for medical assistance and food stamps.

(g) After the FIP case manager receives a notice under subsection (e) of this section, the local department shall send a notice to the adult or minor parent recipient that:

(1) identifies the recipient who is not in compliance with FIP requirements;

(2) states the specific reason why that recipient is not in compliance with FIP requirements; and

(3) states that 30 days after the date of the notice:

(i) the temporary cash assistance benefits will be reduced by that increment in cash benefits attributable to the noncompliant recipient; and

(ii) the remainder of the cash benefits for the child or children in the FIP case will be paid to a third party payee or a compliant adult recipient; and

(4) notifies the recipient of the recipient's right to appeal and the procedures for filing an appeal.

(h) (1) The local department shall reduce the temporary cash assistance benefits of an adult or minor parent recipient and pay the remainder of the cash benefits to a third party payee or a compliant adult recipient as described in subsection (g) of this section, if:

(i) the recipient fails to complete a substance use disorder screening or assessment by an addictions specialist, as required under subsections (b)(2) and (c)(1)(i) of this section; or

(ii) the required screening and assessment or the results of any follow–up diagnostic testing or treatment reveal that the recipient has a substance use disorder and the recipient refuses to enroll or maintain enrollment in available and appropriate substance use disorder treatment.

(2) The local department shall continue to make temporary cash assistance benefits payments to a third party payee or a compliant adult recipient until the local department receives notice from the addictions specialist that the recipient is actively enrolled, as defined by the Department, in the appropriate substance use disorder treatment indicated by the addictions specialist.

(i) The local department may not deny an adult or minor parent applicant's temporary cash assistance benefit or reduce an adult or minor parent recipient's temporary cash assistance benefit as described under subsections (f) and (g) of this section, if the applicant or recipient:

(1) receives the screening and assessment required under subsections (b)(2) and (c)(1)(i) of this section, and the screening and assessment or the results of any follow-up diagnostic testing or treatment reveal that the applicant or recipient is a substance abuser; and

(2) agrees to participate in appropriate substance abuse treatment, as determined by the addictions specialist, but the appropriate substance abuse treatment is not available.

(j) The denial or reduction of temporary cash assistance under this section does not affect an adult or minor parent applicant or recipient's eligibility for medical assistance and food stamps, as long as the applicant or recipient meets the medical assistance and food stamp program requirements.

§5–315.

(a) Subsections (b) and (c) of this section are not intended to create an incentive for individuals to seek temporary cash assistance benefits instead of employment.

(b) In determining a family's eligibility for the FIP, the local department shall exclude Supplemental Security Income (SSI) benefits provided to an adult or child family member.

(c) Except as limited by federal requirements, the level of temporary cash assistance, as determined by a local department, shall:

(1) be determined with due regard to the available resources, necessary expenditures, and specific conditions of a family; and

(2) be sufficient, when added to all other income and support available to the child, to provide a child with a reasonable subsistence compatible with decency and health.

(d) A recipient who obtains employment remains eligible for medical assistance for up to 12 months after the date of employment.

§5–316.

(a) (1) Except as provided in paragraph (2) of this subsection, the Governor shall provide sufficient funds in the budget to:

(i) ensure that the value of temporary cash assistance, combined with federal food stamps, is equal to at least 61% of the State minimum living level; and

(ii) maintain the FIP at the level of the fiscal year 1997 appropriation.

(2) The funds provided under this subsection may be less than the amount required under paragraph (1) of this subsection if the Governor reports to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the reasons for the reduced funding for temporary cash assistance and food stamps.

(3) This subsection does not limit the flexibility of local departments regarding the provision of services.

(b) If the Secretary determines during the fiscal year that the funds available for the FIP are insufficient to make payments in accordance with the amount of assistance otherwise established by law, the Secretary shall:

(1) provide for a uniform method of adjusting individual payments; and

(2) submit emergency regulations, in accordance with Title 10, Subtitle 1 of the State Government Article, to implement the adjustment.

(c) Effective July 1 of each year, the Department shall make available for reallocation within its budget any savings the Department anticipates from funds appropriated for the FIP during the current fiscal year as a result of:

(1) caseload reductions; or

(2) other reductions in the total amount of temporary cash assistance paid to recipients compared to the total amount of temporary cash assistance appropriated.

(d) Except as provided in subsection (e)(1) of this section, savings made available for reallocation may be used for:

(1) child care;

(2) work activities;

(3) welfare avoidance grants;

(4) drug treatment for targeted recipients;

(5) transportation;

(6) emergency funds for applicants and recipients;

(7) administration to the extent that additional administrative costs are required to effectively implement the FIP; or

(8) any other direct service to applicants or recipients that the Secretary and the local department consider appropriate to further the purposes of this subtitle.

(e) (1) Savings shall be made available for reallocation as follows:

(i) 10% of the savings to the operating costs for one or more of the following:

1. demonstration projects established under § 5-317 of this subtitle;

2. second chance homes not subject to the restrictions of § 12 of Chapter 351 of the Acts of the General Assembly of 1996; or

3. demonstration projects to empirically evaluate strategies to reduce the incidence of nonmarital births in the State;

(ii) 45% of the savings to local departments, in accordance with the savings achieved by each local department, for the purposes authorized under subsection (d) of this section; and

(iii) 45% of the savings for the purposes authorized under subsection (d) of this section.

(2) Notwithstanding § 7-302 of the State Finance and Procurement Article, any savings allocated under this subsection that remain unexpended at the end of a fiscal year may be carried over into the next fiscal year.

§5–317.

(a) (1) The Secretary shall establish demonstration projects through grants to:

(i) nonprofit organizations;

(ii) local education agencies;

(iii) local management boards;

(iv) local health departments;

(v) religious organizations; and

(vi) institutions of higher education.

(2) The entities listed in paragraph (1) of this subsection shall jointly develop proposals for demonstration projects under this section with local departments.

(3) At least one of the demonstration projects under this section shall be located in a county other than the two counties with the largest numbers of FIP recipients.

(b) (1) The Secretary shall award grants for demonstration projects under this section through a competitive bid process that includes:

(i) the issuance of a request for proposals; and

(ii) the establishment of an evaluation panel to review competing proposals and to make a recommendation to the Secretary concerning which proposals have the greatest programmatic and financial merit.

(2) (i) Not more than 50% of the funds allocated for demonstration projects under this section may be allocated to a single demonstration project.

(ii) The funds allocated for demonstration projects under this section are incentive funds over and above any transfer of FIP benefits to a third party payee.

(3) Funds allocable to demonstration projects under paragraph (2) of this subsection shall, if feasible, be used for demonstration projects in the counties that generated the savings reallocated to demonstration projects under § 5-316(e) of this subtitle.

(4) When awarding grants under paragraph (1) of this subsection, the Secretary shall give priority in funding for at least 20% of the funds allocated to demonstration projects under this section to regional proposals from two or more counties in the State.

(5) Funds allocated to demonstration projects under this section may not be used in the furtherance of sectarian religious instruction or worship.

(c) In the request for proposals issued under subsection (b)(1)(i) of this section, the Secretary shall include requirements that:

(1) applicants specify what goods or services, or both, they will provide to participants; and

(2) each demonstration project:

(i) complement the local department FIP Plan; and

(ii) address specific, unmet local needs and barriers that prevent

families from meeting the requirements of this subtitle.

(d) In addition to the demonstration projects funded under subsection (b) of this section, the Secretary shall encourage and facilitate demonstration projects that are supported through:

(1) the voluntary transfer of temporary cash assistance and food stamp benefits to the demonstration project;

(2) the transfer of administrative costs from the local department; and

(3) any nonstate funds available to the project.

§5–318.

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

(2) "Children of current or former recipients" has the meaning stated in § 5–304 of this subtitle.

(3) "Former recipient" has the meaning stated in § 5–304 of this subtitle.

(4) "Foster youth" has the meaning stated in § 5–304 of this subtitle.

(5) "Obligor" has the meaning stated in § 10–101 of the Family Law Article.

(b) (1) In cooperation with the local directors, the Secretary shall establish a job skills enhancement program to provide newly employed current and former recipients, children of current or former recipients, foster youth, and obligors with training to:

(i) enhance existing job–related skills;

(ii) gain additional or alternative job skills; or

(iii) learn interpersonal, communication, and other related skills.

(2) The job skills enhancement program shall be established in at least three counties, one of which shall be located in Western Maryland, Southern Maryland, or the Eastern Shore.

(c) The job skills enhancement program shall:

(1) target unskilled and semiskilled former and current recipients, children of current or former recipients, foster youth, and obligors who are newly employed in entry–level positions that have limited potential for advancement beyond entry–level; or

(2) target job training for former and current recipients, children of current or former recipients, foster youth, and obligors for employment in energy and environmental industries and construction, including:

(i) the energy–efficient building, construction, and retrofits industries;

(ii) the renewable electric power industry;

(iii) the energy efficient and advanced drive train vehicle industry;

(iv) the biofuels industry;

(v) the deconstruction and materials use industries;

(vi) the energy assessment industry serving the residential, commercial, or industrial sector;

(vii) the manufacturing industry that produces sustainable products using environmentally sustainable processes and materials;

(viii) the brownfields remediation industry;

(ix) the state of the art septic upgrades and sewage treatment industry;

(x) environmental restoration, including stream restoration, reforestation, invasive removal, and acid mine drainage;

(xi) state of the art storm water installation and retrofits;

(xii) agriculture conservation practices;

(xiii) the green roof industry and green roof maintenance industry; and

(xiv) sustainable landscaping.

(d) (1) Participation in the job skills enhancement program shall be voluntary.

(2) Individuals participating in the job skills enhancement program shall sign a training agreement with the local department.

(e) To be eligible to participate in the job skills enhancement program, an individual shall:

(1) (i) have been a recipient during the 36 months before beginning participation in the job skills enhancement program; or

(ii) be a former recipient, a child of a current or former recipient, a foster youth, or obligor;

(2) have been employed in entry–level employment for at least 6 months before beginning participation in the job skills enhancement program;

(3) provide employer validation or other documentation of employment status;

(4) have limited job skills; and

(5) have limited opportunity for advancement in the individual's current employment.

(f) The local department shall contract for training services to be provided under the job skills enhancement program, as provided in § 5–306 of this subtitle.

(g) (1) The local department may work with businesses to train and place current and former recipients, children of current or former recipients, foster youth, and obligors in positions that meet the requirements of paragraph (2) of this subsection.

(2) Participating businesses shall:

(i) provide employment with benefits paid to employees;

(ii) provide employment that has a defined career path;

(iii) demonstrate the active involvement and financial commitment of the business; and

(iv) provide a match with cash or in–kind contributions on at least a one–to–one basis.

(h) (1) At the discretion of the Secretary and in consultation with the local director, the job skills enhancement program shall be administered by the local department or through the State workforce investment area system under the Workforce Investment Act.

(2) The Administrator of the program under paragraph (1) of this subsection shall:

(i) manage each participant's training plan;

(ii) maintain a database of appropriate training vendors; and

(iii) compile necessary fiscal reports on the job skills enhancement program.

(i) In addition to any other funds available to fund the job skills enhancement

program, the Secretary shall attempt to access funds available to the State under the American Recovery and Reinvestment Act and any other funds designed to reduce energy use and global warming emissions that would be available for job training in the industries listed under subsection (c)(2) of this section.

§5–318.1. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2015 PER CHAPTER 367 OF 2013 //

(a) In this section, "Program" means the Couples Advancing Together Pilot Program in the Department.

(b) (1) In cooperation with the local directors and in consultation with the Commission on Responsible Fatherhood, the Secretary shall establish a Couples Advancing Together Pilot Program.

(2) The purpose of the Program is to assist 100 couples that qualify as a family eligible for the FIP to move toward stable relationships and family friendly employment, for one or both parents of a child who resides with the family, in order to improve their economic circumstances and provide support for lasting family units.

(3) The Program shall be established in at least three counties.

(c) The Program shall include, in addition to the FIP requirements for recipients under § 5–309(b) of this subtitle:

(1) implementation of policies and procedures in the local department that encourage increased participation of both parents at the beginning of the process for determining the eligibility of a family or custodial parent for FIP benefits, including temporary cash assistance, unless the Department has reason to believe either parent has a history of domestic violence;

(2) development of a local department referral process or integrated partnerships with other local or State agencies through which couples may jointly access programs and services that target economic stability, healthy relationships, and parenting; and

(3) implementation of the Program requirements under subsection (d) of this section.

(d) (1) The Program shall include a 6–week participation period during which couples receive education on, and are provided with the tools needed for, achieving success at home, in the workplace, and in society.

(2) With the assistance of subject matter experts identified by the Secretary and local directors, couples shall:

(i) develop a written family–focused career plan;

(ii) learn skills that are required to compete in the job market; and

(iii) attend couples–focused group sessions that:

1. teach skills in employment and financial literacy;

2. aid couples in achieving economic stability; and

3. build healthy relationships.

(e) To be eligible to participate in the Program, an individual must be an adult under the age of 36 years.

(f) In addition to any other funds available to fund the Program, the Secretary shall attempt to access funds from:

(1) discretionary grants available from the federal Office of Child Support Enforcement;

(2) Responsible Fatherhood and Healthy Marriage grants available from the federal Department of Health and Human Services, Office of Family Assistance; and

(3) any other funds available in the federal budget concerning fatherhood or healthy marriage initiatives.

(g) The Secretary shall report annually to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on the effectiveness of the Program, including:

(1) the number of couples participating in the Program;

(2) the number of couples successfully completing the Program;

(3) factors that affect Program participation;

(4) the number of participants who obtain employment; and

(5) for each participant who obtains employment:

(i) the type of employment obtained;

(ii) the number of hours in the participant's workweek;

(iii) the participant's hourly rate of pay; and

(iv) any benefits received by the participant.

§5–319.

(a) In this section, "demonstration site" means a site that the Secretary selects in consultation with the local director.

(b) The Secretary may establish a FIP demonstration site in not more than six jurisdictions.

(c) Notwithstanding any other law, the local director shall appoint a director of the FIP established in a demonstration site who shall report directly to the local director.

(d) Notwithstanding any other law, the Secretary has sole authority to approve demonstration site plans that will govern FIP functions in a demonstration site, including the authority to approve demonstration site plans that will:

(1) assist families that have an employable parent toward a lasting exit from temporary cash assistance;

(2) ensure that individuals and families receive appropriate benefits;

(3) reduce errors in the administration of FIP;

(4) place temporary cash assistance recipients in employment in which their earnings will likely increase; and

(5) improve the types of employment and employment retention rates of existing and former recipients.

(e) The local director shall:

(1) develop a demonstration site plan for submittal to the Secretary for approval that will detail its:

(i) programmatic structure, including any programmatic changes;

(ii) organizational structure, including any organizational changes;

(iii) pay incentive structure and criteria for the award of pay incentives;

(iv) measurable performance criteria and how these relate to the incentive structure; and

(v) target performance criteria;

(2) implement the plan as approved; and

(3) report to the Department on the progress achieved in the

demonstration site.

(f) The proper operation of the demonstration site and the achievement of the target performance criteria shall be an element of the local director's performance evaluation.

(g) The Secretary shall establish a performance incentive program to provide pay incentives for employees in a demonstration site.

(h) The Secretary's powers under this section shall be construed liberally.

§5–320.

(a) In cooperation with local directors, the Secretary shall establish a mentoring program for former recipients.

(b) (1) The mentoring program may include FIP caseworkers in local departments who volunteer to be mentors.

(2) The Department may contract with other entities under § 5-306 of this subtitle to acquire mentors for former recipients.

(c) Mentoring may include:

(1) providing assistance to resolve workplace problems;

(2) providing workplace adjustment assistance;

(3) job coaching;

(4) providing assistance to develop life skills;

(5) counseling and tutoring; and

(6) any other activities that will help former recipients through the first months that they no longer receive temporary cash assistance.

(d) To be eligible to participate in the mentoring program, an individual shall:

(1) have been a recipient in the previous 6 months;

(2) have been employed; and

(3) have a demonstrated need and desire for assistance in acquiring and maintaining the skills necessary for a lasting exit from temporary cash assistance.

(e) Program participation may not exceed 6 months.

(f) The Secretary may arrange to provide pay or other types of incentives to

employees who volunteer to mentor former recipients.

(g) The Secretary's powers under this section shall be construed liberally.

§5–321.

(a) Any assistance granted under this subtitle is subject to future amendment or repeal of this subtitle.

(b) A recipient is not entitled to compensation if the recipient's assistance is affected by amendment or repeal of this subtitle.

§5–401.

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

(b) "Applicant" means an individual who applies for assistance under this part.

(c) "Assistance" means:

(1) cash payments to a recipient; and

(2) payments necessary for supplementary services for a recipient, including:

(i) the recipient's funeral expenses as provided in § 5-415 of this subtitle; and

(ii) placement of the recipient in a suitable home or institution if:

1. the recipient lacks a legal guardian or other person legally responsible for the recipient's support; and

2. the recipient consents.

(d) "Program" means the Public Assistance to Adults Program.

(e) "Recipient" means an individual who receives, or has received, assistance under this part.

§5–402.

(a) There is a State funded Public Assistance to Adults Program in the Administration.

(b) The Program shall be:

(1) in effect in each county; and

(2) administered by the local departments in accordance with regulations that the Administration adopts.

§5–403.

(a) A resident of the State is eligible for assistance under this part if the resident:

(1) lacks sufficient income or benefits to maintain a reasonable subsistence compatible with decency and health; and

(2) (i) is eligible for or receives cash benefits under Title XVI of the federal Social Security Act; or

(ii) is aged, blind, or disabled as defined under Title XVI of the federal Social Security Act and, but for income, would receive cash benefits under that title.

(b) An applicant may not assign or transfer property to establish eligibility for assistance under this part during the 3 years before:

(1) filing an application for assistance; or

(2) receiving assistance.

§5–404.

(a) An application for assistance under this part shall be made:

(1) to the local department of the county where the applicant resides; and

(2) in the form and manner that the Administration requires.

(b) Whenever a local department receives an application for assistance under this part, the local department shall make a record of:

(1) the circumstances of the applicant;

(2) the facts supporting the application; and

(3) any other information that the Administration requires by regulation.

§5–405.

(a) (1) The local department shall determine an amount of assistance that is sufficient, when added to all other income and support available to a recipient, to provide the recipient with a reasonable subsistence compatible with decency and health.

(2) In determining the amount of assistance, the local department shall

consider the recipient's available resources and necessary expenditures and the conditions existing for the recipient.

(b) In determining the amount of assistance, the local department shall consider support from children as a potential resource and evaluate the amount of the support and its availability to the recipient, in accordance with regulations that the Administration adopts.

§5–406.

(a) The local department shall:

(1) determine:

(i) whether an applicant is eligible for assistance under this part; and

(ii) in accordance with regulations that the Administration adopts, the amount of the assistance and the date on which the assistance will begin; and

(2) notify the applicant of its decision.

(b) Assistance shall be paid to the applicant monthly or as the Administration otherwise determines.

(c) If the funds available are insufficient to make payments in accordance with the amount of assistance established to be needed, the Administration shall adopt regulations to provide for a uniform method of adjusting individual payments.

§5–407.

(a) (1) Assistance granted under this part may not be transferred or assigned.

(2) Assistance paid or payable under this part is not subject to:

(i) execution;

(ii) levy;

(iii) attachment;

(iv) garnishment;

(v) other legal process; or

(vi) the operation of any bankruptcy or insolvency law.

(b) (1) The local department shall reconsider all assistance granted under this part as frequently as the regulations of the Administration require.

(2) The amount of assistance may be changed or assistance may be canceled if, after any further investigation the local department considers necessary or the Administration requires, the local department or the Administration finds that the recipient's circumstances have altered sufficiently to warrant the change or cancellation.

(c) (1) A recipient shall notify the local department immediately if, while receiving assistance, the recipient receives property or income in excess of the amount stated in the application for assistance.

(2) After an investigation, depending on the circumstances, the local department may:

(i) cancel the assistance; or

(ii) change the amount of assistance.

(3) Assistance paid before the recipient received the property or income that exceeds the recipient's need may be recovered by the local department as a debt due.

(4) The net amount recovered shall be divided between the State and county in proportion to the amount of assistance paid by each.

(d) (1) When a recipient dies:

(i) the total amount of assistance paid under this part shall be allowed as a claim against the estate; and

(ii) the net amount recovered shall be divided between the State and county in proportion to the amount of assistance paid by each.

(2) The claim may not be enforced against real estate occupied by the recipient's surviving spouse or dependents.

§5–408.

(a) An applicant or recipient may appeal to the Administration if the local department:

(1) does not act on an application within a reasonable time;

(2) denies an application wholly or partly; or

(3) modifies or cancels a grant of assistance.

(b) (1) The appeal shall be filed in the manner and form that the Administration requires.

(2) The Administration shall give the applicant or recipient reasonable notice and an opportunity for a hearing on the appeal.

(c) (1) On its own motion, the Administration may:

(i) review any decision of a local department; and

(ii) consider an application on which the local department has not made a decision within a reasonable time.

(2) The Administration:

(i) may make any additional investigation it considers necessary; and

(ii) shall make any decision on the granting of assistance and the amount of assistance it considers justified in accordance with this part.

(3) On request, the Administration shall give an applicant or recipient affected by a decision made under paragraph (2) of this subsection reasonable notice and an opportunity for a hearing.

(d) (1) A decision of the Administration under this section is final and binding on the local department.

(2) The local department shall comply with a decision of the Administration under this section.

§5–409.

The Administration shall:

(1) supervise the administration of the Program under this part by the local departments;

(2) adopt regulations necessary or desirable to carry out this part, including regulations to:

(i) establish eligibility requirements and any other requirements not set forth in this part; and

(ii) establish standards for the amount of assistance a recipient may receive under this part;

(3) prescribe the form of and supply to the local departments any forms the Administration considers necessary and desirable; and

(4) take any other action necessary or desirable to carry out this part.

§5–410.

Each local department shall:

(1) administer this part in its county in accordance with the regulations the Administration adopts; and

(2) report to the Administration as the Administration directs.

§5–411.

(a) Except in connection with a criminal proceeding brought under this part, a person may not charge or receive a fee from an applicant, recipient, or any other person:

(1) with respect to an application under this part; or

(2) to represent an applicant or recipient in any proceeding under this part.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

§5–412.

(a) Any assistance granted under this part is subject to future repeal or amendment of this part.

(b) A recipient is not entitled to compensation if the recipient's assistance is affected by repeal or amendment of this part.

§5–415.

(a) (1) A local department may pay the reasonable funeral expenses of a decedent who was a:

(i) recipient of public assistance, including temporary cash assistance or public assistance to adults; or

(ii) State resident receiving Supplemental Security Income under Title XVI of the Social Security Act.

(2) The funeral expenses paid by the local department may not exceed $900.

(b) A local department may not pay funeral expenses under this section unless:

(1) each person legally responsible for the support of the decedent is unable to pay the expenses; and

(2) other resources, including available death benefits of the estate, are insufficient to pay the expenses.

(c) Payments provided in accordance with this section shall be charged to State funds.

§5–501.

(a) The Department may implement a food stamp program in accordance with the federal Food Stamp Act.

(b) The State shall bear the nonfederal portion of the administrative costs of the food stamp program for each county.

(c) Each local department shall administer the food stamp program:

(1) under the supervision and control of the Department; and

(2) in accordance with the regulations of the Department and federal law.

§5–502.

Except as provided in § 5-503 of this subtitle, if any provision of this subtitle conflicts with any federal law, the federal law shall prevail.

§5–503.

Subject to the State budget, the Department shall provide food stamp benefits to a legal immigrant who:

(1) is a minor;

(2) is ineligible for federally funded food stamp benefits because of immigration status;

(3) meets all other food stamp program eligibility requirements; and

(4) meets any other requirements of the State.

§5–504.

(a) A person may not sell or purchase food stamp program benefits unless otherwise authorized by law.

(b) A person may not knowingly buy or sell merchandise that has been purchased with food stamp program benefits.

(c) If the value of the money or goods involved is $1,000 or more, a person who violates this section is guilty of a felony and on conviction:

(1) is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both; and

(2) shall make full restitution of the money or goods unlawfully received or perform community service, as determined by the court.

(d) If the value of the money or goods involved is less than $1,000, a person who violates this section is guilty of a misdemeanor and on conviction:

(1) is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both; and

(2) shall make full restitution of the money or goods unlawfully received or perform community service, as determined by the court.

§5–5A–01.

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

(b) "Energy emergency" means a lack of fuel or the imminent discontinuation of energy services supplied by a fuel vendor or utility vendor that will endanger health, safety, or welfare.

(c) "Fuel vendor" means a person that distributes, transports, produces, or offers for sale coal products, fuel oil, kerosene, bottled gas, propane, or wood for fuel use or consumption in the State.

(d) "Office" means the Office of Home Energy Programs.

(e) "Program" means the Energy Assistance Program.

(f) "Utility vendor" means a person that distributes, transports, or produces natural gas or electricity for use or consumption in the State.

§5–5A–02.

There is an Office of Home Energy Programs in the Administration.

§5–5A–03.

The purpose of the Office is to carry out this subtitle.

§5–5A–04.

(a) The Office may employ a staff.

(b) Except as otherwise provided by law, the employees of the Office are subject to the State Personnel and Pensions Article.

§5–5A–05.

The Office exercises its authority, duties, and functions under any State law subject to the authority of the Secretary under any State law.

§5–5A–06.

(a) (1) The Office shall maintain liaison with:

(i) the United States Department of Health and Human Services;

(ii) local government units concerned with energy programs;

(iii) citizens' groups;

(iv) utility vendors and major fuel vendors in the State; and

(v) any other state, federal, and local units.

(2) The Office shall:

(i) consult with and advise the local entities described in paragraph (1) of this subsection regarding their energy assistance programs;

(ii) work at all levels of government to carry out this subtitle; and

(iii) consult with all utility vendors and major fuel vendors in the State when developing and implementing the Program.

(b) The Office shall:

(1) collect and assemble information relating to energy assistance available from other units of the State and federal governments;

(2) disseminate information to further energy assistance;

(3) identify all utility vendors and major fuel vendors in the State and attempt to obtain their voluntary cooperation with the Program;

(4) establish and maintain a State information service that utilizes a toll–free telephone number to provide the public with information about the Program and the location of the nearest local energy assistance office; and

(5) establish a mechanism for monitoring the effectiveness of the Program to determine whether eligible households are aware of and have access to a local energy assistance office.

(c) (1) Consistent with this subtitle and other applicable laws, the Office may enter into contracts or assume any other function necessary to carry out this subtitle.

(2) The Office may enter into contracts for any study or research activity that is necessary and proper.

§5–5A–07.

(a) (1) The Office shall:

(i) carry out an energy emergency crisis intervention program to prevent low–income households, including the near poor, the elderly, households with children, and those on fixed incomes from experiencing danger to health or survival as a result of an energy emergency;

(ii) establish intake procedures for those experiencing an energy emergency;

(iii) establish guidelines for the income and program eligibility of applicants; and

(iv) identify local public or private agencies to administer the crisis intervention program.

(2) (i) The Office shall make payments to fuel vendors and utility vendors that have provided service to persons qualifying for the crisis intervention program.

(ii) The amount of assistance shall be based on need.

(b) (1) The Office shall carry out one or more fuel and utility assistance programs to make payments on behalf of qualified households to defray fuel and utility costs.

(2) The Office shall determine program and income eligibility guidelines.

(3) The amount of assistance shall be based on need.

§5–5A–08.

This subtitle may be cited as the "Energy Assistance Program Act".

§5–601.

(a) In this section, "resident" means an individual who resides in this State on the date the individual applies for public assistance.

(b) Subject to § 5-314 of this title and as authorized under 21 U.S.C. § 862a(d)(1), the State removes itself from the application of § 115 of the federal Personal Responsibility and Work Opportunity Act of 1996 to allow the Department to provide temporary cash assistance and food stamps to a resident who has been convicted of a felony involving the possession, use, or distribution of a controlled

dangerous substance.

(c) (1) Notwithstanding subsection (b) of this section, if a resident applying for temporary cash assistance or food stamps has been convicted of a felony involving the possession, use, or distribution of a controlled dangerous substance after August 22, 1996, the resident is subject to testing for substance abuse, as provided by the Department, and to treatment as required under § 5-314 of this title for 2 years, beginning on the date of application, to the extent authorized under federal law.

(2) Notwithstanding subsection (b) of this section, if a resident receiving temporary cash assistance or food stamps is found to be in violation of §§ 5-602 through 5-609, § 5-612, or § 5-613 of the Criminal Law Article, or 21 U.S.C. § 841, the resident is:

(i) ineligible for temporary cash assistance or food stamps for 1 year after the date of the conviction; and

(ii) subject to testing for substance abuse, as provided by the Department, and to treatment as required under § 5-314 of this title, for 2 years beginning on the later of:

1. the date the individual is released from incarceration;

2. the date the individual completes any term of probation; or

3. the date the individual completes any term of parole or mandatory supervision.

(3) An applicant or recipient who fails to comply with the testing required under this subsection or the treatment required under § 5-314 of this title or who tests positive for the abuse of controlled dangerous substances is subject to the sanctions provided under § 5-314 of this title.

(4) In consultation with the Department of Health and Mental Hygiene, the Secretary shall adopt regulations to establish the testing methods and procedures, consistent with § 5-314 of this title, to be required by the Department under this subsection, including the intervals of testing and methods required.

§5–602.

Notwithstanding any other provision of law, the Administration, a local department, or any other unit may not decrease the monetary amount of assistance received by any recipient of public assistance before the implementation of a system of flat grant payments, solely as a result of the implementation of the system.

§5–603.

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

(2) "Delinquent tenant" means a tenant of public housing who is 30 or more days delinquent in paying the tenant's full monthly rent to a public housing authority.

(3) "Public housing" means a dwelling unit owned, leased, or managed by a public housing authority.

(4) "Public housing authority" means a public corporation created under Division II of the Housing and Community Development Article or the public corporation's designee.

(b) If a recipient of temporary cash assistance is a delinquent tenant, the Administration, at the request of the public housing authority, shall:

(1) deduct the amount of the tenant's rent from the tenant's monthly assistance payments each month;

(2) pay the amount deducted from the tenant's monthly assistance payments to the public housing authority or the public housing authority's authorized agent; and

(3) forward the remaining amount of the monthly assistance payments to the tenant.

(c) (1) If a court establishes an escrow account under § 8-211 of the Real Property Article or a parallel provision of public local law for a tenancy covered under subsection (b) of this section, the public housing authority shall notify the Administration of the court action.

(2) On notice under paragraph (1) of this subsection or on certification by an attorney of record representing the delinquent tenant in the court action that an order has been issued to establish an escrow account, the Administration shall pay rent to the court as long as the order is in effect.

(3) Any notice under paragraphs (1) and (2) of this subsection shall include a list of all addresses covered by the court action.

(4) The public housing authority shall notify the Administration when the court action has been resolved.

§5–604.

(a) The Department may request and obtain from a fiduciary institution doing business in the State any financial records that the Department determines are necessary to verify or confirm an individual's eligibility or ineligibility for public assistance.

(b) (1) (i) The Department shall adopt regulations governing procedures

for requesting, obtaining, and examining financial records that the Department determines are necessary to verify or confirm an individual's eligibility or ineligibility for public assistance.

(ii) The regulations shall include reimbursement schedules necessary to compensate fiduciary institutions for complying with this section.

(2) The Secretary shall notify a fiduciary institution of the officers or employees of the Department who are authorized to request and receive financial records from the fiduciary institution.

(3) An individual authorized to receive information under this section may not disclose any personally identifiable information obtained or maintained under this section.

§5–605.

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

(2) "Public assistance" means any assistance described in § 8-503 of the Criminal Law Article.

(3) "Fraud" has the meaning stated in § 8-501 of the Criminal Law Article.

(b) Each applicant for or recipient of public assistance shall:

(1) read or have read to the individual a statement of the conduct that constitutes fraud; and

(2) sign the statement to acknowledge that the individual understands that the penalties for fraud under § 8-503 of the Criminal Law Article are:

(i) imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both; and

(ii) restitution.

§5–606.

The local department shall place a duplicate photo identification print in the case file of a public assistance recipient whenever a photo identification card is issued to the recipient.

§5–607.

(a) The Administration shall make every effort to recoup overpayments made to recipients that the State is authorized to recoup under federal law.

(b) The Administration shall establish an administrative procedure, in

accordance with federal law, to be followed when the Administration has reason to believe that an overpayment has been made.

§5–608.

The Administration may:

(1) accept any federal funds or commodities;

(2) manage and dispose of any federal funds or commodities as required by federal law; and

(3) apply the federal Social Security Act or any other federal law relating to public assistance to the benefit of the State.

§6–101.

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

(b) "Department" means the Department of Human Resources.

(c) "Secretary" means the Secretary of Human Resources.

§6–401.

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

(b) "Applicant" means an entity that applies for a grant under this part.

(c) "Distribution organization" means a nonprofit entity that distributes food or equipment to emergency food organizations.

(d) (1) "Emergency food organization" means a nonprofit entity that provides emergency food services.

(2) "Emergency food organization" includes an organization that operates:

(i) a soup kitchen; or

(ii) a food pantry.

(e) "Program" means the Statewide Nutrition-Assistance Equipment Program.

§6–402.

There is a Statewide Nutrition-Assistance Equipment Program administered by the Department.

§6–403.

The purpose of the Program is to provide funding to distribution organizations to enable the distribution organizations and emergency food organizations to obtain necessary equipment.

§6–404.

In addition to any other responsibilities for administering the Program, the responsibilities of the Department include:

(1) designing and implementing an ongoing outreach and publicity campaign to achieve the widest possible dissemination of information about the Program to:

(i) potential applicants; and

(ii) nutrition advocacy groups in the State;

(2) receiving and reviewing applications for funding; and

(3) allocating funds for approved applications in accordance with this part.

§6–405.

(a) When reviewing and awarding grants under this part, the Department shall consider:

(1) the equitable distribution of funds across all geographical regions of the State;

(2) the adequacy of existing distribution organizations in the region served or intended to be served by the applicant;

(3) the estimated population to be served by the applicant;

(4) the applicant's level of experience in operating a distribution organization; and

(5) the amount of funding and other resources available to the applicant.

(b) (1) The Department may not release funds to a grantee under this part until the grantee establishes that the grantee has obtained matching resources or a commitment for matching resources that equals at least 50% of the grant amount.

(2) The matching resources may be in the form of cash or an in-kind equivalent acceptable to the Department.

§6–406.

The Department shall report annually to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the activities of the Program, including:

(1) financial reports;

(2) distribution of funds;

(3) community participation; and

(4) the overall effectiveness of the Program in fulfilling its stated purpose.

§6–409.

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

(b) "Administering agency" means an entity that the Department approves in accordance with § 6-414 of this subtitle to administer the Program at the county level.

(c) (1) "Emergency food provider" means a nonprofit organization or an organization operated by a local government that provides food at no charge to needy individuals.

(2) "Emergency food provider" includes:

(i) a soup kitchen; and

(ii) a food pantry.

(d) "Program" means the Maryland Emergency Food Program.

§6–410.

Subject to the State budget, there is a Maryland Emergency Food Program in the Department.

§6–411.

(a) The purposes of the Program are to:

(1) provide funding to assist emergency food providers in purchasing food for needy individuals;

(2) encourage needy individuals to become self-sufficient; and

(3) distribute information on the State's earned income tax credit established under § 10-704 of the Tax - General Article.

(b) When feasible and cost effective, food purchased under the Program shall be produced, grown, and harvested in the State.

§6–412.

(a) The Department shall manage the Program.

(b) Each administering agency shall:

(1) provide emergency food providers with information about the Program, including Program guidelines and fund availability;

(2) accept and process requests for funding assistance from emergency food providers; and

(3) allocate funding to emergency food providers based on the procedures approved in the administering agency's grant application under § 6-413 of this subtitle.

(c) An emergency food provider that receives a Program grant shall:

(1) use the grant to purchase food for distribution to needy individuals;

(2) as a condition of distributing food, provide to needy individuals information, developed in collaboration with the Department, that encourages self-sufficiency consistent with the goals of the Family Investment Program established under Title 5, Subtitle 3 of this article;

(3) distribute information on the State's earned income tax credit established under § 10-704 of the Tax - General Article; and

(4) submit a report to the Department and the administering agency detailing how the grant was used and how many units of service were provided.

§6–413.

(a) (1) No more than 5% of the Program's budget may be used to cover administrative costs of the Program.

(2) All remaining funding shall be allocated for food purchase only.

(3) Program funds may not be used for equipment or other capital expenditures.

(b) The Department shall:

(1) adopt a formula and qualifications for allocating Program funds to the counties based on county-wide statistics for:

(i) the number of families living in poverty;

(ii) the unemployment rate; and

(iii) the number of families receiving food stamps;

(2) submit annually to the State Advisory Council on Hunger a report detailing:

(i) the total appropriations for the Program for the current and prior fiscal years, including the amount allocated for administrative costs, the amount allocated to each administering agency, and the amount allocated to emergency food providers in each county; and

(ii) how many units of service were provided in each county; and

(3) notify each county through the administering agency of the availability of Program funds under item (1) of this subsection.

(c) (1) Each administering agency shall apply to the Department for a Program grant.

(2) The application shall include the procedures that the administering agency will use to:

(i) notify emergency food providers of the availability of Program grants;

(ii) approve emergency food providers as recipients of Program grants; and

(iii) allocate Program grants among approved emergency food providers.

(d) Before an administering agency may receive a Program grant, the Department must approve the application.

§6–414.

(a) The Department shall adopt regulations to govern the selection and approval of an administering agency for each county.

(b) The regulations adopted under this section shall include:

(1) criteria to ensure that the selected administering agency has adequate internal controls over cash receipts, materials, supplies, and inventories; and

(2) a definition of "units of service" that shall be used to track Program utilization.

§6–417.

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

(b) "Continuum of Care" means a regional or local planning body that coordinates housing and services funding for homeless families and individuals.

(c) "Council" means the Interagency Council on Homelessness.

§6–418.

There is an Interagency Council on Homelessness.

§6–419.

(a) The Council consists of the following members:

(1) the Secretary of Aging, or the Secretary's designee;

(2) the Secretary of Budget and Management, or the Secretary's designee;

(3) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Secretary, or the Secretary's designee;

(6) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(7) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(8) the State Superintendent of Schools, or the State Superintendent's designee;

(9) the Secretary of Transportation, or the Secretary's designee;

(10) the Secretary of Veterans Affairs, or the Secretary's designee;

(11) the Secretary of Juvenile Services, or the Secretary's designee; and

(12) the following members, appointed by the Governor:

(i) one representative of the Governor's Office for Children;

(ii) three representatives of local Continuums of Care;

(iii) six representatives from diverse geographical regions of the State engaged in homeless advocacy with a focus on housing, employment, and access to healthcare; and

(iv) one community representative who has personally experienced homelessness.

(b) The Governor may remove a member for incompetence or misconduct.

§6–420.

(a) From among its members, the Council shall elect a chair.

(b) After the election of the first chair, a candidate for chair must be a member of the Council who attended at least a majority of the Council's meetings during the year immediately preceding the election.

(c) The term of the chair is 2 years.

(d) The chair may not serve consecutive terms.

§6–421.

(a) A majority of the members then serving on the Council is a quorum.

(b) The Council shall determine the times and places of its meetings.

(c) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§6–422.

The Department shall provide staff for the Council.

§6–423.

The Council shall:

(1) coordinate State policy and working relationships among State, local, and nonprofit agencies concerning efforts to remedy and prevent homelessness;

(2) coordinate data sharing between local Continuums of Care;

(3) coordinate outreach to each Continuum of Care to develop joint strategies that impact State and federal funding efforts to remedy and prevent

homelessness;

(4) determine comprehensive and effective collaborative strategies and best practices for remediation and prevention of homelessness in the State, in particular addressing the differing needs of the State's geographic areas;

(5) review and analyze the need for and availability of affordable and accessible housing resources to address the needs of homeless individuals throughout the State;

(6) recommend changes necessary to alleviate or prevent homelessness, including making recommendations annually to the General Assembly, in accordance with § 2–1246 of the State Government Article, and appropriate State agencies and organizations regarding effective policies, effective distribution of resources, and access to available services and programs;

(7) identify supportive services for special populations, including veterans, youth, families, and individuals with behavioral health problems;

(8) disseminate information and educate the public about the prevalence and causes of and responses to homelessness; and

(9) solicit input from the advocacy community, the business community, the faith community, and consumers regarding policy and program development.

§6–424.

The Department shall adopt regulations to govern the development, implementation, and evaluation of policies and programs to make homelessness rare and, if it occurs, of brief duration.

§6–430.

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

(b) "Client" means a woman who is in need of housing and is not eligible for other available housing services.

(c) "Program" means the Homeless Women - Crisis Shelter Home Program.

§6–431.

The General Assembly finds and declares that:

(1) an increasing number of women in the State are homeless;

(2) homeless women have been ignored by State units;

(3) current State-operated programs do not adequately address the

problem; and

(4) as a result, there is a lack of quality emergency public or private housing available for homeless women.

§6–432.

(a) There is a Homeless Women - Crisis Shelter Home Program in the Department.

(b) The purpose of the Program is to provide crisis shelter homes, meals, and counseling to clients.

(c) At least one crisis shelter home shall be located in a major population center of the State to facilitate the use of the shelter by clients living in the region surrounding the shelter.

§6–433.

The Department of Health and Mental Hygiene may not use a shelter home as part of its discharge service plan.

§6–434.

(a) A shelter home:

(1) shall provide clients with a temporary residence of not more than 12 continuous weeks and necessary counseling to link clients to appropriate community services to stabilize the clients' living conditions;

(2) shall accept, from the police and other referral sources in the community, clients for temporary shelter;

(3) shall conform to applicable State and local fire codes, health codes, and zoning ordinances; and

(4) is subject to the regulations adopted by the Department.

(b) The Department shall:

(1) establish standards of care and admission policies for shelter homes;

(2) monitor the operation of the shelter homes; and

(3) annually evaluate the effectiveness of the shelter homes.

(c) The Department may contract with private nonprofit organizations to operate the Program.

§6–435.

Clients shall have cooperative responsibility for housekeeping duties in a shelter home.

§6–436.

The Department of Health and Mental Hygiene shall:

(1) give a client evaluated by a shelter home priority access, as appropriate, to an institution that the Department of Health and Mental Hygiene supervises; and

(2) supply appropriate mental health services to the client.

§6–437.

Housing may not be provided under this part to an applicant for housing who is not a resident of the State at the time the application is made.

§6–438.

(a) Funds to operate the Program shall be as provided in the State budget.

(b) The Secretary shall adopt regulations that set fees for services provided by the Program.

§6–501.

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

(b) (1) "Community services" means household and personal services provided for an elderly individual under the direction and supervision of an appropriate social services or health agency.

(2) "Community services" includes assistance with:

(i) meal preparation and planning;

(ii) home-delivered meal services;

(iii) dressing;

(iv) shopping;

(v) visits to health, recreational, and shopping facilities;

(vi) transportation and personal escort services;

(vii) light housekeeping; and

(viii) personal medical and nursing care related to the provision of community services.

(c) "Elderly individual" means an individual at least 65 years old and the individual's spouse, regardless of the spouse's age.

§6–502.

(a) It is the policy of the State that elderly individuals in the State should have access to a comprehensive range of community services to enable them to remain in their own homes or other independent living arrangements consistent with their desires, abilities, and safety.

(b) It is the intent of the General Assembly that the community services provided under this subtitle shall be available to all elderly individuals, but that those elderly individuals who are financially able to do so shall pay all or a portion of the costs of the community services.

§6–503.

With the advice, cooperation, and assistance of the Department of Aging and the Department of Health and Mental Hygiene, the Department shall administer a system of community services to serve as an effective alternative to inappropriate institutional care for elderly individuals.

§6–504.

To carry out the system of community services required under this part, the Department or its designee shall:

(1) adopt regulations, including standards and means for reimbursement from elderly individuals financially able to pay for all or part of the services provided;

(2) monitor continuously the effectiveness of the system and perform evaluative research through the Department of Aging;

(3) contract, where feasible and desirable, with governmental units, private nonprofit organizations, and volunteer groups to provide community services and group nutritional dining services;

(4) provide funds to train individuals to perform community services and for administrative costs of the system; and

(5) use, to the extent available, grants from federal, State, and other public or private sources to fund the system.

§6–505.

(a) To the extent possible, the Department shall train and utilize elderly individuals to perform community services.

(b) Elderly individuals compensated for performing community services are not subject to the State Personnel Management System or any merit system of a political subdivision.

(c) The Department has sole authority for determining all conditions of employment and rates of compensation.

§6–508.

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

(b) "CARE Program" means the Certified Adult Residential Environment Program.

(c) (1) "Individual with a disability" means an adult who requires a supportive housing arrangement to reside in the community because of a physical, medical, or mental disability.

(2) "Individual with a disability" does not include an adult whose disability is so severe or complex as to require specialized professional intervention as part of the supportive housing arrangement.

(d) "Supportive housing arrangement" means a housing arrangement that provides an individual with room, board, and assistance with the activities of daily living.

§6–509.

(a) The General Assembly finds and declares that:

(1) an increasing number of adults in the State are unable, because of disability, to reside in the community without a supportive housing arrangement;

(2) many of these adults are therefore homeless, unnecessarily institutionalized, or residing in substandard housing; and

(3) current State-operated programs do not adequately address this problem.

(b) It is the policy of the State to encourage the development of affordable housing for adults who are unable to avail themselves of existing housing because of disability.

§6–510.

(a) There is a CARE Program in the Department.

(b) The purpose of the CARE Program is to provide housing and related services for individuals with disabilities.

§6–511.

In accordance with the State budget, the CARE Program shall provide for:

(1) the development of CARE housing;

(2) case management to individuals with disabilities residing in CARE housing; and

(3) supportive services for individuals with disabilities residing in CARE housing.

§6–512.

(a) The Department of Human Resources, the Department of Education, the Department of Health and Mental Hygiene, and the Department of Aging shall provide appropriate ancillary services to individuals with disabilities in the CARE Program subject to programmatic eligibility and priority criteria and budgetary resources.

(b) The Secretary of Human Resources, the Secretary of Health and Mental Hygiene, the Secretary of Aging, and the State Superintendent of Schools shall:

(1) coordinate departmental programs to ensure that the services needed by individuals with disabilities residing in CARE housing are provided in an integrated and cost-effective manner; and

(2) prepare and enter into a written memorandum of agreement that specifies the services to be provided by each departmental program and the integration and timing of the delivery of the services.

(c) The Department may adopt regulations to carry out the CARE Program.

§6–513.

(a) Eligibility for services under the CARE Program does not preclude eligibility for other services.

(b) The CARE Program may not serve an individual with a disability who is not a resident of the State when the application for service is made.

§6–601.

In this subtitle, "Commission" means the Commission on Responsible Fatherhood.

§6–602.

(a) There is a Commission on Responsible Fatherhood.

(b) The Commission:

(1) is independent; but

(2) is located in the Department for budgetary and administrative purposes only.

§6–603.

The purposes of the Commission are to:

(1) raise awareness of the problems created when a child is raised without the presence of a responsible father;

(2) identify obstacles that impede or prevent the involvement of responsible fathers in the lives of their children; and

(3) identify strategies that encourage responsible fatherhood.

§6–604.

(a) The Commission consists of the following 18 members appointed by the Governor:

(1) the Secretary of Budget and Management;

(2) the Secretary of Health and Mental Hygiene;

(3) the Secretary of Human Resources;

(4) the Secretary of Labor, Licensing, and Regulation;

(5) the State Superintendent of Schools;

(6) the Executive Director of the Governor's Office for Children;

(7) one judge assigned to the family division of a circuit court nominated by the Chief Judge of the Court of Appeals;

(8) one member of the Senate of Maryland nominated by the President of the Senate;

(9) one member of the House of Delegates nominated by the Speaker of the House;

(10) three individuals with extensive programmatic or academic experience with noncustodial fathers and their children;

(11) three individuals with an interest or expertise in matters pertaining to noncustodial fathers and their children, including representatives of community, parent, or religious groups or organizations;

(12) two representatives of local government in areas with a significant number of noncustodial fathers; and

(13) one noncustodial father.

(b) (1) The term of a member appointed under subsection (a)(10), (11), or (12) of this section is 3 years.

(2) The term of the member appointed under subsection (a)(13) of this section is 2 years.

(3) The terms of members appointed under subsection (a)(10), (11), (12), and (13) of this section shall be staggered as required by the terms in effect for those members on October 1, 2007.

(4) A member who is appointed to a position with a fixed term after the term has begun shall serve only for the rest of the term and until a successor is appointed and qualifies.

(5) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(c) A member appointed under subsection (a)(1) through (6) of this section may designate in writing an alternate to represent the member and exercise the member's power to vote.

§6–605.

From among the members of the Commission, the Governor shall designate a chair for a 2-year term.

§6–606.

(a) A majority of the members then serving on the Commission is a quorum.

(b) The Commission shall determine the times and places of its meetings.

(c) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§6–607.

The Commission shall determine any necessary operating procedures, including establishing subcommittees or work groups utilizing the expertise of persons who are not members of the Commission.

§6–608.

(a) (1) Subject to the approval of the Governor, the Commission shall hire a staff director as provided in the State budget.

(2) Subject to the advice and consent of the chair of the Commission, the staff director shall hire additional staff as provided in the State budget to perform the duties that the Commission considers appropriate.

(b) The staff is responsible to the Secretary solely for routine administrative purposes.

(c) Members of the Commission may designate staff from their respective units to assist the Commission.

§6–609.

(a) The Commission shall:

(1) conduct a thorough examination of the extent and implications of the absence of responsible fathers from families;

(2) strongly advocate to ensure the development of a coordinated and comprehensive approach to the social, educational, economic, health, and legal problems of responsible fatherhood;

(3) promote interdepartmental and public and private policy and program collaboration and coordination;

(4) collect data and perform analyses on efforts to increase responsible fatherhood;

(5) promote the development of statewide policies to address the issues preventing fathers from participating in raising their children;

(6) monitor statewide progress towards reducing the number of noncustodial fathers;

(7) promote and encourage wide community input, communication, and education regarding responsible fatherhood; and

(8) advise local public and private agencies seeking to mobilize local efforts to promote responsible fatherhood.

(b) To carry out its duties under subsection (a)(1) of this section, the Commission shall:

(1) hold hearings at which persons, organizations, and agencies with an interest in responsible fatherhood may present their views;

(2) conduct meetings, discussions, and examinations as necessary to gather information on the laws and services relating to responsible fatherhood in this and other states;

(3) identify and examine the limitations and problems associated with existing laws, programs, and services relating to responsible fatherhood; and

(4) examine the financing and delivery of services relating to responsible fatherhood.

(c) (1) In cooperation with appropriate State and local units and in accordance with State and federal law, the Commission shall foster plans to enhance the coordination of federal- and State-funded programs and services regarding responsible fatherhood.

(2) The Commission shall develop a coordinated comprehensive statewide plan, including estimates of necessary public and private funding, for:

(i) increasing the participation of fathers in raising their children; and

(ii) improving services to noncustodial fathers.

(3) In accordance with the statewide plan, the Commission shall recommend to the Governor distribution of community incentive grants concerning responsible fatherhood from funds provided in the State budget for this purpose or from grants or private donations, giving priority to innovative projects that:

(i) promote the establishment of a coordinated network of services for noncustodial fathers; and

(ii) demonstrate a high level of commitment to the project by making available nonstate funds, personnel, and facilities.

§6–610.

The Commission may not operate any programs or provide any direct services.

§6–701.

In this subtitle, "Program" means the Citizenship Promotion Program.

§6–702.

There is a Citizenship Promotion Program in the Department.

§6–703.

The purposes of the Program are:

(1) to encourage and assist eligible foreign-born residents to become naturalized citizens of the United States and active participants in the civic life of Maryland;

(2) to increase the number and proportion of eligible foreign-born residents who become citizens of the United States; and

(3) to encourage foreign-born residents who become citizens to be involved in our democratic institutions.

§6–704.

In accordance with the State budget, the Program shall:

(1) encourage eligible residents to learn English;

(2) encourage eligible residents to become naturalized citizens of the United States;

(3) inform eligible residents about the rights and responsibilities of citizens, the process of naturalization, and the availability of citizenship services;

(4) make available or increase the availability of instruction in:

(i) English as a second language;

(ii) United States history; and

(iii) citizenship preparation;

(5) make available or increase the availability of assistance in completing applications for naturalization;

(6) establish an effective connection to nonpartisan voter registration efforts;

(7) encourage the involvement of new citizens in democratic institutions; and

(8) work with federal, State, and local units of government and organizations to respond to the need for citizenship services in the State.

§6–705.

Funding for the Program shall be as provided in the State budget, not exceeding $100,000 each year.

§6–706.

The Department shall adopt regulations and policies to carry out the Program.

§6–707.

All executive units of the State shall cooperate with the Department to implement the regulations and policies of the Program.

§6–708.

Each year the Department shall submit a report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly regarding the status and effectiveness of the Program.

§7–101.

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

(b) "Board" means the Interagency Disabilities Board.

(c) "Commission" means the Maryland Commission on Disabilities.

(d) "Department" means the Department of Disabilities.

(e) "Disability" has the meaning stated in the federal Americans with Disabilities Act of 1990, 42 U.S.C. § 12102.

(f) "Secretary" means the Secretary of Disabilities.

(g) "Unit of State government" means a department, agency, office, commission, council, or other unit in the Executive Branch of the State government.

§7–104.

There is a Department of Disabilities, established as a principal department of State government.

§7–105.

(a) (1) With the advice and consent of the Senate, the Governor shall appoint the Secretary of Disabilities.

(2) The Secretary is the head of the Department.

(b) The Secretary shall:

(1) have extensive experience and knowledge of disability laws, legislation, and regulations, and programs for individuals with disabilities;

(2) at a minimum, hold a bachelor's degree; and

(3) be an individual with a disability or appoint a deputy secretary who is an individual with a disability.

(c) Before taking office, the appointee shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) (1) The Secretary serves at the pleasure of the Governor and is responsible directly to the Governor.

(2) The Secretary shall advise the Governor on all matters assigned to the Department and is responsible for carrying out the Governor's policies on those matters.

(e) The Secretary is entitled to the compensation provided in the State budget.

§7–106.

(a) The Secretary is responsible for the operation of the Department and shall establish guidelines and procedures to promote the orderly and efficient operation of the Department.

(b) The Secretary may establish, reorganize, or abolish areas of responsibility in the Department as necessary to fulfill the duties assigned to the Secretary.

§7–107.

(a) With the approval of the Governor, the Secretary shall appoint a deputy secretary.

(b) The deputy secretary shall be an individual with a disability, if the Secretary is not an individual with a disability.

(c) The deputy secretary:

(1) serves at the pleasure of the Secretary; and

(2) is entitled to the compensation provided in the State budget.

(d) The deputy secretary has the duties provided by law or delegated by the Secretary.

§7–108.

(a) In accordance with the State budget, the Secretary may employ a staff.

(b) Unless otherwise provided by law, the Secretary shall appoint and remove all staff in accordance with the provisions of the State Personnel and Pensions Article.

(c) The Secretary may review any personnel action taken by any unit in the Department.

§7–109.

(a) The Attorney General is the legal adviser to the Department.

(b) The Attorney General shall assign to the Department the number of assistant Attorneys General authorized by law to be assigned to the Department.

(c) (1) The Attorney General shall designate one of the assistant Attorneys General assigned to the Department as counsel to the Department and may not reassign that individual without consulting with the Secretary.

(2) The counsel to the Department shall have only the following duties:

(i) to give the legal aid, advice, and counsel required by the Secretary and any other official of the Department;

(ii) to supervise the other assistant Attorneys General assigned to the Department; and

(iii) to perform for the Department the duties that the Attorney General assigns.

(3) The counsel shall perform the duties under paragraph (2) of this subsection subject to the control and supervision of the Attorney General.

§7–110.

(a) The Secretary shall adopt regulations for the Department and its units.

(b) The Secretary may adopt regulations necessary to carry out the provisions

of law that are within the jurisdiction of the Secretary.

§7–113.

(a) The Secretary is responsible for the budget of the Department.

(b) Except as otherwise provided by law, the Secretary shall pay all money collected by the Department under this subtitle into the General Fund of the State.

(c) (1) (i) Before publication in the Maryland Register, the Secretary shall review new or proposed changes to regulations submitted by a unit of State government that relate to the provision of resources and services to individuals with disabilities.

(ii) The regulations shall include an assessment that describes the impact of the proposed regulations on individuals with disabilities.

(2) Before implementation, the Secretary shall review new or proposed changes to policies, programs, or services submitted by a unit of State government that relate to the provision of resources and services to individuals with disabilities.

(d) (1) The Secretary shall review, coordinate, and concur with any application for federal aid, waivers, or grants that is:

(i) specific to services for individuals with disabilities; and

(ii) submitted by or through any unit of State government.

(2) Except as otherwise prohibited by law, the Secretary may apply for, receive, and use grants–in–aid, funds, or services from the federal government or any of its units, or any public or private source made available to the Department for use in carrying out the powers and duties of the Secretary or the Department.

(e) (1) The Secretary shall review the State Disabilities Plan developed by the Board in accordance with § 7–132 of this subtitle.

(2) The Secretary may approve the State Disabilities Plan or amend the Plan if the Secretary determines that the Plan developed by the Board is not in accordance with § 7–132 of this subtitle.

(3) The Secretary shall request that the Board revise the State Disabilities Plan at least once every 4 years.

(4) The Secretary shall adopt regulations to implement the State Disabilities Plan as approved or as amended in accordance with paragraph (2) of this subsection.

(f) The Secretary shall submit an annual analysis of the State's progress in implementing the State Disabilities Plan and related performance objectives to the

Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on or before October 1 of each year.

(g) The Secretary may create citizens' advisory bodies that the Secretary considers necessary for the effective operation of the Department.

§7–114.

(a) (1) The Department is the principal unit of State government responsible for developing, maintaining, revising, and enforcing statewide disability policies and standards throughout the units of State government.

(2) In this capacity, the Department shall:

(i) serve as the principal advisor to the Governor on the means and methods available to:

1. implement and fund support to individuals with disabilities in accordance with the State Disabilities Plan;

2. modify or consolidate support to individuals with disabilities; and

3. collaborate with federal, regional, and local units of government to enhance the effectiveness of the provision and funding of support to individuals with disabilities;

(ii) annually recommend projects to the Department of Budget and Management for inclusion in the capital budget to promote access to State-owned facilities for individuals with disabilities;

(iii) assist units of State government to identify federal, State, local, and private funds available to the State for programs and services for individuals with disabilities; and

(iv) provide technical assistance to local jurisdictions in planning and implementing collaborative strategies consistent with the State Disabilities Plan.

(b) The Department shall oversee and administer the following programs and units:

(1) constituent services and ombudsmen programs;

(2) the Assistive Technology Guaranteed Loan Program under Subtitle 6 of this title; and

(3) the Office of Personal Assistance Services, including the Attendant Care Program under Subtitle 4 of this title.

§7–115.

Unless the disclosure of information is otherwise prohibited by law, each unit of State government shall provide to the Secretary:

(1) at the request of the Secretary, information regarding current programs and services for individuals with disabilities; and

(2) information regarding new or proposed programs and services for individuals with disabilities.

§7–116.

(a) (1) On or before July 1 of each year, each unit of State government shall develop a unit plan to implement the State Disabilities Plan as approved or amended by the Secretary under § 7-113(e) of this subtitle.

(2) The unit plan shall contain an implementation schedule and measurable strategic performance objectives.

(3) The Secretary may request amendments to a unit plan if the Secretary determines that the unit plan does not comply with the State Disabilities Plan.

(b) On or before July 1 of each year, each unit of State government shall provide the Department with an evaluation of the unit's performance in accordance with the unit's plan developed under subsection (a) of this section.

(c) The evaluation required under subsection (b) of this section shall:

(1) assess the unit's performance against the strategic performance objectives established under subsection (a)(2) of this section; and

(2) identify and measure:

(i) consumer satisfaction;

(ii) gaps in services;

(iii) numbers of individuals waiting for services; and

(iv) progress made on achieving performance objectives.

(d) The Secretary may provide technical assistance to any unit of State government to meet the requirements of this section.

(e) The Secretary may waive the requirements of this section for any unit of State government.

§7–119.

There is a Maryland Commission on Disabilities.

§7–120.

(a) The Commission consists of:

(1) the following members, appointed by the Governor:

(i) one individual with a physical disability;

(ii) one individual who has experienced mental illness;

(iii) two individuals with a developmental disability, including one with an intellectual disability;

(iv) one individual who is blind;

(v) one individual who is deaf or hard of hearing;

(vi) one parent or foster parent of a child with a disability;

(vii) four members of the general public who have disabilities;

(viii) three representatives from statewide disability advocacy organizations;

(ix) one representative from the home health care industry;

(x) one representative from a statewide organization of providers of services and support for individuals with disabilities;

(xi) one representative from the Alliance of Local Commissions on Disability; and

(xii) two representatives from the Board, one of whom shall be selected by the Secretary and one of whom shall be the Secretary of Budget and Management or the designee of the Secretary of Budget and Management;

(2) one representative from the Senate of Maryland, appointed by the President of the Senate; and

(3) one representative from the Maryland House of Delegates, appointed by the Speaker of the House.

(b) In making the appointments required under subsection (a)(1) of this section, the Governor shall appoint members from among:

(1) the geographic regions of the State; and

(2) diverse backgrounds.

(c) A majority of the members shall be individuals with disabilities.

(d) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for the members of the Commission on October 1, 2007.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve more than two consecutive 3–year terms.

(e) A member who fails to attend at least 50% of the regularly scheduled meetings of the Commission during any 12–month period shall be considered to have resigned.

§7–121.

From among the members of the Commission, the Governor shall designate a chair for a 2-year term.

§7–122.

(a) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) if the Secretary approves, is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(b) The Department shall provide staff to the Commission as necessary.

§7–123.

Members of the Commission shall:

(1) advise the Department in carrying out its duties;

(2) meet at least twice a year in meetings open to the public; and

(3) serve on one or more subcommittees established by the Secretary to provide guidance to the Department on matters affecting individuals with disabilities,

including public policy, outreach, and personal assistance services.

§7–124.

Notwithstanding any other provision of law, a subcommittee of the Commission created in accordance with § 7-123 of this subtitle shall be considered a public body under § 10-502(h) of the State Government Article.

§7–127.

(a) There is an Interagency Disabilities Board convened by the Governor.

(b) The purpose of the Board is to develop the State Disabilities Plan.

§7–128.

The Board consists of the following members:

(1) the Secretary of Disabilities;

(2) the Secretary of Aging, or the Secretary's designee;

(3) the Secretary of Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(6) the Secretary of Housing and Community Development, or the Secretary's designee;

(7) the Secretary of Human Resources, or the Secretary's designee;

(8) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(9) the Secretary of Planning, or the Secretary's designee;

(10) the State Superintendent of Schools, or the Superintendent's designee;

(11) the Secretary of Transportation, or the Secretary's designee;

(12) the Executive Director of the Governor's Office for Children, or the Executive Director's designee;

(13) the Director of the Governor's Office of the Deaf and Hard of Hearing, or the Director's designee; and

(14) representatives from any other unit of State government that the Governor designates.

§7–129.

(a) The Secretary is the chair of the Board.

(b) The chair shall direct the work of the Board.

(c) The chair may establish subcommittees of the Board to carry out the duties established under this part.

§7–130.

The Department shall provide staff to the Board as necessary.

§7–131.

The Board shall:

(1) provide ongoing examination of the structure and organization of the State's system of services and support to individuals with disabilities to ensure equal access to support services and resources by individuals with disabilities;

(2) facilitate the development of performance objectives that will result in a comprehensive, effective, efficient, and integrated service delivery system for individuals with disabilities;

(3) develop an interagency funding approach to maximize efficiencies and streamline access to services and support for individuals with disabilities;

(4) formulate policies on legislative issues and, under the direction of the Governor, communicate the policies to the General Assembly; and

(5) develop the State Disabilities Plan.

§7–132.

(a) The State Disabilities Plan shall provide for the coordination of support services that:

(1) ensure compliance with the federal Americans with Disabilities Act and other relevant federal and State provisions intended to protect the civil rights of individuals with disabilities;

(2) are necessary for individuals with disabilities to achieve maximum participation in the mainstream of the community in the most integrated setting possible; and

(3) address, on a statewide basis, the improvement of:

(i) the capacity of communities to support individuals with disabilities with personal attendant care and other long-term care options that are self-directed;

(ii) the availability of accessible, integrated, and affordable housing options;

(iii) reliable transportation options;

(iv) employment and training options, including self-employment and noncongregant competitive opportunities available in an integrated environment in which there are individuals with and without disabilities;

(v) somatic and mental health options;

(vi) accessible and universally designed technology;

(vii) support services for children, youth, and their families to enable them to achieve successful learning; and

(viii) family support services, including respite care.

(b) The State Disabilities Plan shall assess the provision of and resources for support services for individuals with disabilities.

§7–201.

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

(b) "Department" means the Department of Human Resources.

(c) "Respite care" means short-term care:

(1) of an individual with a developmental or functional disability described under § 7-202 of this subtitle; and

(2) that is provided either within or outside the individual's home to give temporary relief to the individual or the individual's family.

§7–202.

(a) An individual has a functional disability if the individual has a severe, chronic disability that:

(1) is attributable to a mental or physical impairment or a combination of mental and physical impairments, including a head injury;

(2) is likely to continue indefinitely;

(3) results in substantial functional limitations in at least three of the following areas of major life activity:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency; and

(4) reflects the individual's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are:

(i) lifelong or of extended duration; and

(ii) individually planned and coordinated.

(b) An individual has a developmental disability if the individual has a functional disability that is manifested before the individual attains the age of 22 years.

§7–203.

(a) (1) There is a Respite Care Program in the Department.

(2) The purpose of the Program is to provide respite care services in the State.

(b) The Department shall provide respite care services through:

(1) local departments of social services; or

(2) contracts with private nonprofit community-based providers.

§7–204.

Subject to the State budget, within a fiscal year an individual may receive:

(1) on an hourly basis, up to 24 hours of respite care provided in periods of less than 10 hours in any 24-hour period; and

(2) on a daily basis, up to 14 days of respite care provided in periods of 10 or more hours in any 24-hour period.

§7–205.

The Department shall adopt regulations governing respite care services, including:

(1) mandatory standards; and

(2) sliding fee schedules.

§7–301.

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

(b) "Council" means the Maryland Caregivers Support Coordinating Council.

(c) "Department" means the Department of Human Resources.

§7–302.

(a) There is a Maryland Caregivers Support Coordinating Council in the Department.

(b) The purpose of the Council is to coordinate statewide planning, development, and implementation of family caregiver support services.

§7–303.

(a) (1) The Council consists of the following members appointed by the Governor:

(i) two representatives from the Department of Human Resources;

(ii) three representatives from the Department of Health and Mental Hygiene;

(iii) one representative from the Department of Aging;

(iv) one representative from an area agency on aging;

(v) one representative from the Department of Disabilities;

(vi) one representative from the Maryland Respite Care Coalition;

(vii) two consumers of respite care services;

(viii) three family caregivers; and

(ix) three representatives of organizations that provide or have interest or expertise in respite care services.

(2) In appointing members to the Council, to the extent possible, the Governor shall consider groups representing individuals with:

(i) Alzheimer's disease and related disorders;

(ii) developmental disabilities;

(iii) physical disabilities;

(iv) chronic illnesses;

(v) mental or emotional conditions that require supervision; and

(vi) vulnerability to abuse or neglect.

(b) The term of a member of the Council is 3 years.

(c) The Governor shall appoint a chair of the Council from among the members.

§7–304.

(a) (1) The Department shall provide staff for the Council.

(2) An individual from the Department shall serve as executive director of the Council.

(b) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§7–305.

(a) The Council shall:

(1) solicit and gather concerns of caregivers by:

(i) conducting surveys;

(ii) holding public hearings;

(iii) establishing a telephone hotline for public access; and

(iv) other appropriate means;

(2) develop and distribute to interested parties a handbook of current respite care and other family caregiver services available in the State;

(3) review successful respite care programs in other states;

(4) develop a model family caregiver support program that incorporates best practices from existing programs in this and other states;

(5) coordinate activities of existing and proposed family caregiver support services among State and local units;

(6) research available funding sources and explore possibilities for additional funds; and

(7) identify unmet needs and priorities for additional funds.

(b) The Council shall report annually on its activities to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly.

§7–401.

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

(b) "Attendant care services" means any of the following services for an eligible individual, which are certified as necessary by an attending physician or by a registered nurse:

(1) dressing;

(2) preparing food and assisting with eating;

(3) bathing and personal hygiene;

(4) assisting with routine bodily functions, including bowel and urinary care;

(5) moving into, out of, or turning in bed;

(6) laundering and other clothing care; and

(7) cleaning house and performing other services of daily care, including shopping and transportation, that the Department and the eligible individual request.

(c) "Department" means the Department of Disabilities.

(d) "Eligible individual" means an individual who:

(1) is at least 18 years old and under the age of 65 years at the time of the initial eligibility determination; and

(2) has a severe chronic or permanent physical disability that precludes or significantly impairs the individual's independent performance of essential activities of daily living, self–care, or mobility.

(e) "Financial assistance" means a payment the Department makes to an eligible individual for attendant care services.

(f) "Program" means the Attendant Care Program.

(g) "Secretary" means the Secretary of Disabilities.

§7–402.

(a) (1) There is an Attendant Care Program in the Department.

(2) The purpose of the Program is to provide financial assistance to eligible individuals for attendant care services.

(b) The Department shall provide financial assistance in accordance with a sliding payment scale that the Department establishes by regulation for each category of eligible individuals described in § 7–404(a) of this subtitle.

§7–403.

(a) The Secretary shall designate an individual from the Department to serve as director of the Program.

(b) The Secretary shall provide appropriate support services to the Program as provided in the State budget.

§7–404.

(a) (1) The Department shall ensure that at any given time at least 50% of the eligible individuals receiving financial assistance under the Program are:

(i) gainfully employed;

(ii) actively seeking employment; or

(iii) attending an institution of postsecondary or higher education, as defined in § 10–101 of the Education Article.

(2) The remainder of the eligible individuals receiving financial assistance under the Program shall be individuals who:

(i) reside in a nursing facility or similar institution licensed to provide chronic or intermediate care and who will be deinstitutionalized as a result of the Program; or

(ii) are certified by an attending physician or certified nurse practitioner as being at risk of placement in a nursing facility or similar institution licensed to provide chronic or intermediate care if attendant care services are not received in the community.

(b) (1) Subject to the availability of funds, the Secretary may waive the proportional requirement of subsection (a)(1) of this section in the event there is a waiting list of eligible individuals described in subsection(a)(2) of this section.

(2) The Secretary may adopt regulations to establish priorities and procedures for a waiting list of eligible individuals.

(3) An eligible individual receiving financial assistance may not be removed from the Program to achieve the proportional requirement under subsection (a)(1) of this section.

(c) Financial assistance provided under the Program may not duplicate any other State or federal assistance for attendant care services that an eligible individual receives.

(d) The Department shall limit participation in the Program to the number of eligible individuals who can be served with the funds appropriated for the Program in the State budget.

(e) Each year, the Department shall review the eligibility of each individual receiving financial assistance.

§7–405.

(a) The Program shall be funded as provided in the State budget.

(b) The Department may:

(1) administer the Program directly; or

(2) enter into a contract with a private organization to administer and operate the Program.

§7–406.

(a) The Department shall administer this subtitle.

(b) The Department shall adopt regulations for the operation of the Program.

§7–601.

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

(b) (1) "Assistive technology" means any item, equipment, or device that is

designed to enable an individual with a disability to become more independent or a more productive member of the community with an improved quality of life.

(2) "Assistive technology" includes wheelchairs, motorized scooters, Braille equipment, voice simulation systems, scanners, assistive listening devices, telecommunications devices for the deaf, augmentative communication systems, environmental control systems, computers and adaptive peripherals, building modifications for accessibility, motor vehicles, and vehicle modifications.

(c) "Board" means the Board of Directors of the Program.

(d) "Department" means the Department of Disabilities.

(e) "Fund" means the Assistive Technology Loan Fund.

(f) "Program" means the Assistive Technology Loan Program.

(g) "Secretary" means the Secretary of Disabilities.

§7–602.

There is an Assistive Technology Loan Program in the Department.

§7–603.

The purpose of the Program is to provide assistance for the purchase of assistive technology.

§7–604.

There is a Board of Directors of the Program.

§7–605.

(a) The Board consists of:

(1) the Secretary of Information Technology or the Secretary's designee;

(2) a representative from the Department of Health and Mental Hygiene, Developmental Disabilities Administration, appointed by the Secretary of Health and Mental Hygiene;

(3) a representative of the State Department of Education Division of Rehabilitation Services, appointed by the State Superintendent of Schools; and

(4) eight members of the public appointed by the Governor with the advice and consent of the Senate.

(b) Of the eight members of the public appointed by the Governor:

(1) four shall have significant experience in finance, accounting, investment management, or consumer lending; and

(2) four shall have disabilities or assist individuals with disabilities, at least one of whom shall be a member of the Maryland Commission on Disabilities.

(c) (1) The term of a member appointed by the Governor is 4 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(4) A member appointed by the Governor may not serve more than two terms.

§7–606.

From among its members, the Board annually shall elect a chair.

§7–607.

(a) Six members of the Board are a quorum.

(b) The Board shall meet at least quarterly or more often as necessary to carry out its duties efficiently.

(c) A member:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(d) Except as provided in subsection (c) of this section, a member may not financially benefit directly or indirectly from the activities of the Fund.

(e) The Department shall provide staff to the Board.

§7–608.

Subject to §§ 7-609(a) and 7-610 of this subtitle, the Board may provide a guarantee of a loan or a subsidy of loan interest for a loan to an individual for the purchase of assistive technology.

§7–609.

(a) To apply for a guarantee of a loan or a subsidy of loan interest, an applicant

shall submit to the Board an application on the form that the Secretary provides.

(b) The Board shall review the applications for guarantees of loans and subsidies of loan interest and approve or deny them based on information provided to or obtained by the Board.

§7–610.

(a) The Board may enter into an agreement with an applicant to guarantee a loan or provide a subsidy for loan interest to the applicant only if the applicant demonstrates:

(1) that the loan to be guaranteed or the subsidy of loan interest will be used to acquire assistive technology;

(2) the ability to repay the loan;

(3) creditworthiness; and

(4) the inability to qualify for a loan from a lending institution without a loan guarantee or a subsidy of loan interest.

(b) The Board may elect to provide the borrower with an interest rate equivalent to the guaranteed rate by either guaranteeing the loan or subsidizing the interest rate if:

(1) a participating lending institution approves a loan without the requirement of a guarantee; and

(2) the interest rate is higher than the interest rate otherwise available for a guaranteed loan.

§7–611.

(a) Except as provided in this subtitle, the Board and lender jointly shall determine the amount and terms of the guarantee of the loan or the subsidy of loan interest.

(b) The total aggregate amount of a loan guarantee may be up to 100% of the loan.

(c) The total aggregate amount of the loan guarantees to be provided from the Fund in any given year shall be set annually by the Board in accordance with the requirements of the banks underwriting the loans at any given time.

§7–612.

If a borrower violates any provision of a loan guarantee or subsidy agreement or ceases to meet the requirements of this subtitle, on reasonable notice to the borrower,

the Board may:

(1) withhold from the borrower further loan guarantees or subsidies until the borrower complies with the agreement or requirements; and

(2) exercise any other remedy that the loan guarantee or subsidy agreement provides.

§7–613.

(a) There is an Assistive Technology Loan Fund in the Department.

(b) The purpose of the Fund is to provide guarantees of loans and subsidies of loan interest for the purchase of assistive technology.

(c) (1) The Board shall administer the Fund.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(d) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(e) Any investment earnings of the Fund shall be paid into the Fund.

(f) If, at any time, the balance of the Fund exceeds the amount that the Board considers necessary to meet its obligations, on resolution of the Board, the excess shall revert to the General Fund.

§7–614.

(a) The Fund consists of:

(1) premiums and fees charged for the guarantees of loans or the subsidies of loan interest;

(2) income from investment earnings;

(3) proceeds from the sale, disposition, lease, or rental of collateral relating to the guarantees of loans or subsidies of loan interest;

(4) money appropriated by the State to the Fund; and

(5) any other money made available to the Fund.

(b) The Fund shall be used to pay:

(1) guaranty payments required by loan defaults;

(2) subsidies of loan interest;

(3) expenses for administrative, legal, actuarial, technical assistance, and other services; and

(4) any other expenses and disbursements that the Board authorizes for administering the Fund and financing the guarantees of loans and the subsidies of loan interest for the purchase of assistive technology.

§7–615.

Each year, the Treasurer shall report to the Board and the Secretary on:

(1) the status of the money invested under this subtitle;

(2) the market value of the assets in the Fund as of the date of the report; and

(3) the interest received from investments during the period that the report covers.

§7–616.

On or before January 1 of each year, the Board, through the Secretary, shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, on the number, amount, and use of loans and subsidies for which the Program has provided guarantees of loans and subsidies of loan interest under this subtitle.

§7–701.

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

(b) "Blind" means:

(1) a visual acuity not exceeding 20/200 in the better eye with corrective lenses; or

(2) a visual field of which the widest diameter subtends an angle of not more than 20 degrees.

(c) "Deaf" means a permanent hearing loss:

(1) that necessitates the use of amplification devices to hear oral communication; or

(2) for which amplification devices are ineffective.

(d) "Disability" has the meaning stated in the federal Americans with

Disabilities Act of 1990, 42 U.S.C. § 12102.

(e) "Housing accommodations" means real property, or a portion of real property, that is:

(1) offered for compensation; and

(2) used or occupied, or intended to be used or occupied, as the residence or lodging of at least one individual.

(f) "Mobility impaired" means an inability to carry objects or to move or travel without the use of an assistive device or service animal.

(g) "Service animal" means a guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including:

(1) guiding individuals with impaired vision;

(2) alerting individuals with impaired hearing to an intruder or sounds;

(3) providing minimal protection or rescue work;

(4) pulling a wheelchair;

(5) fetching dropped items; or

(6) detecting the onset of a seizure.

(h) "Service animal trainer" means a person who trains or raises service animals for individuals with disabilities, whether the person is a professional or volunteer.

§7–702.

(a) It is the policy of the State to encourage and enable blind, visually impaired, deaf, and hard of hearing individuals to participate fully in the social and economic life of the State and to be employed.

(b) It is the policy of the State that blind, visually impaired, deaf, and hard of hearing individuals shall be employed by the State, political subdivisions of the State, public schools, and other employers supported wholly or partly by public funds on the same terms and conditions as individuals without those disabilities, unless an individual's disability prevents doing the work required.

(c) Deaf and hard of hearing individuals in the State are recognized as a cultural minority with specialized communication needs.

(d) (1) In this subsection, "American Sign Language" means a visual-spatial method of communication that is a distinct language involving the hands, arms, facial

markers, and body movements to communicate with others, including the conveyance of thoughts, words, emotions, and grammatical information.

(2) American Sign Language is recognized as a language system designed to meet the specialized communication needs of deaf and hard of hearing individuals.

§7–703.

(a) In this section, "Board" means the Board of Trustees of Blind Industries and Services of Maryland.

(b) There is a Board of Trustees that is a body corporate under the name of "Blind Industries and Services of Maryland".

(c) (1) The Board consists of 11 trustees appointed by the Governor with the advice and consent of the Senate.

(2) Of the 11 trustees, at least 4 trustees shall be blind.

(d) (1) From among its members, the Board shall elect a chair and a treasurer.

(2) The Board may elect another member to serve as chair if it is inconvenient or impossible for the regularly elected chair to serve.

(e) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2007.

(f) (1) The Governor shall fill a vacancy on the Board by appointment with the advice and consent of the Senate.

(2) A member who is appointed after a term begins shall serve only for the rest of the term and until a successor is appointed and qualifies.

(g) A trustee is entitled to:

(1) per diem compensation for each Board or committee meeting attended in accordance with the State budget; and

(2) reimbursement for expenses incurred in the performance of the trustee's duties under the Standard State Travel Regulations, as provided in the State budget.

(h) The Board shall:

(1) maintain in Baltimore City a training and employment center for blind individuals;

(2) operate the Blind Industries and Services of Maryland for the labor and manufactures of all blind adult residents of the State who give satisfactory evidence of character and ability to do the work required;

(3) use the profits arising from the operation of the Blind Industries and Services of Maryland to further its mission;

(4) acquire suitable quarters in the State;

(5) keep proper records of its funds and accounts; and

(6) report annually to the Governor, and subject to § 2-1246 of the State Government Article, the General Assembly, and the chair of the Joint Audit Committee on the condition and operations of the Blind Industries and Services of Maryland, including a thorough discussion of its programs and the participation of the blind community in these programs.

(i) The Board may:

(1) apply that portion of the endowment fund and annual income that the Board considers expedient to establish training and employment centers in any part of the State and to open a store for the sale of articles manufactured by blind individuals;

(2) extend the benefits of the training and employment centers and the store to blind adults of the State who do not reside in institutions on any terms and under any regulations that the Board prescribes;

(3) generally supervise and control the training and employment centers;

(4) acquire and hold real, personal, and mixed property;

(5) sue and be sued;

(6) make, use, and alter a seal;

(7) appoint a corporate secretary and other necessary employees and set their compensation; and

(8) establish, maintain, direct, and supervise each matter concerning the Blind Industries and Services of Maryland, including the purchase of any machinery and materials that the Board considers suitable and necessary and the barter or exchange of articles or manufactures entrusted to the Board for disposal.

(j) The Board shall be audited annually.

§7–704.

(a) Individuals with disabilities, the parents of a minor child with a disability, and service animal trainers who are accompanied by an animal being trained or raised

as a service animal have the same right as individuals without disabilities to the full and free use of the roads, sidewalks, public buildings, public facilities, and other public places.

(b) (1) Individuals with disabilities, the parents of a minor child with a disability, and service animal trainers who are accompanied by an animal being trained or raised as a service animal are entitled to full and equal rights and privileges with respect to common carriers and other public conveyances or modes of transportation, places of public accommodations, and other places to which the general public is invited, subject only to any conditions and limitations of general application established by law.

(2) The failure of a blind or visually impaired pedestrian to carry a cane predominantly white or metallic in color, with or without a red tip, or an individual with a disability or a parent of a minor child with a disability to use a service animal wearing an orange license tag or orange collar and on a leash, or to use a service animal in a place, accommodation, or conveyance listed in paragraph (1) of this subsection does not constitute contributory negligence per se.

(c) (1) This subsection does not apply to any accommodations or single family residence in which the occupants offer for compensation not more than one room.

(2) An individual with a disability, a parent of a minor child with a disability, or a service animal trainer who is accompanied by an animal being trained or raised as a service animal is entitled to the same access as other members of the general public to housing accommodations in the State, subject to any conditions and limitations of general application established by law.

(3) An individual with a disability, a parent of a minor child with a disability, or a service animal trainer who has, obtains, or may wish to obtain a service animal or an animal to be trained or raised as a service animal is entitled to full and equal access to housing accommodations.

(4) An individual with a disability, a parent of a minor child with a disability, or a service animal trainer who is accompanied by a service animal or an animal being trained or raised as a service animal may not be required to pay extra compensation for the service animal, but the individual may be liable for damages to the premises or facilities that the service animal causes.

§7–705.

(a) The following individuals have all the same rights and privileges conferred by law on other individuals:

(1) a blind or visually impaired pedestrian using a service animal and not carrying a cane predominantly white or metallic in color, with or without a red tip;

(2) an individual with a disability and a parent of a minor child with a

disability using a service animal not wearing an orange license tag or orange collar and on a leash;

(3) an individual with a disability and a parent of a minor child with a disability using a service animal in a place, accommodation, or conveyance listed in § 7–704(b) of this subtitle; and

(4) a service animal trainer who is accompanied by an animal that is being trained as a service animal.

(b) This section does not require a physical modification of any place or vehicle in order to admit an individual with a disability or any other individual authorized under this subtitle to use a service animal who is accompanied by a service animal.

(c) (1) Except as provided in paragraph (2) of this subsection, a service animal trainer may be accompanied by an animal that is being trained as a service animal in any place where an individual with a disability or a parent of a minor child with a disability has the right to be accompanied by a service animal.

(2) An animal being trained as a service animal and accompanied by a service animal trainer may be excluded from a place described in paragraph (1) of this subsection if admitting the animal would create a clear danger of a disturbance or physical harm to an individual in the place.

(d) (1) An individual with a disability or a parent of a minor child with a disability who is accompanied by a service animal specially trained for that purpose in a place, accommodation, or conveyance listed in § 7–704(b) of this subtitle may not be required to pay extra compensation for the service animal, but the individual may be liable for any damages to the premises or facilities caused by the service animal.

(2) A service animal trainer who is accompanied by an animal that is being trained as a service animal may not be required to pay extra compensation for the animal, but the service animal trainer organization that certifies the service animal may be liable for any personal injuries or damages to the premises or facilities caused by the service animal.

(e) (1) (i) A person may not deny or interfere with the admittance of a service animal that accompanies an individual with a disability or a parent of a minor child with a disability in violation of this section.

(ii) A person who violates subparagraph (i) of this paragraph is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 for each offense.

(2) (i) A person may not deny or interfere with the admittance of an animal being trained as a service animal that accompanies a service animal trainer.

(ii) Subject to subsection (c)(2) of this section, a person who violates

subparagraph (i) of this paragraph is subject to a fine not exceeding $25 for each offense.

§7–706.

(a) This subtitle does not affect § 21-511 of the Transportation Article as to the right-of-way of a blind, deaf, or hard of hearing pedestrian crossing a highway.

(b) This subtitle does not require a person who rents or leases housing accommodations to modify the person's property or provide a higher degree of care for a blind or visually impaired individual than for an individual without those disabilities.

§7–707.

(a) (1) A person may not deny or interfere with admittance to or enjoyment of a public place, accommodation, or conveyance described in § 7–704 of this subtitle or otherwise interfere with the rights of a blind, visually impaired, deaf, or hard of hearing individual under this subtitle.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 for each offense.

(b) In addition to any other remedy provided under the Code for a violation of this subtitle, a person may maintain a civil action for injunctive relief against another person who denies or interferes with admittance to or enjoyment of a public place, accommodation, or conveyance described in § 7–704 of this subtitle or otherwise interferes with the rights of a blind, visually impaired, deaf, or hard of hearing individual under this subtitle.

§7–708.

Any organization or agency that requires a professional training program for the following individuals shall include a segment concerning the rights of individuals with disabilities who are accompanied by service animals:

(1) first responders;

(2) emergency shelter operators; and

(3) 9–1–1 operators.

§7–709.

The Governor shall take suitable public notice of each October 15 as White Cane Safety Day by issuing a proclamation that:

(1) comments on the significance of the white cane;

(2) calls on the public to observe the White Cane Law under §§ 7–704

through 7–707 of this subtitle and to take precautions necessary for the safety of blind and visually impaired individuals;

(3) reminds the public of the policies with respect to blind and visually impaired individuals and urges cooperation with the policies;

(4) emphasizes the need for awareness of the presence of blind and visually impaired individuals in the community and the need to keep roads, sidewalks, public accommodations, public buildings, public facilities, other public places, and other places to which the public is invited safe and functional for those individuals; and

(5) offers assistance to blind and visually impaired individuals on appropriate occasions.

§8–101.

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

(b) "Agencies of the Children's Cabinet" includes:

(1) the Department of Budget and Management;

(2) the Department of Disabilities;

(3) the Department of Health and Mental Hygiene;

(4) the Department of Human Resources;

(5) the Department of Juvenile Services; and

(6) the State Department of Education.

(c) (1) "Child in need of out–of–state placement" means a child who is recommended by a public agency for out–of–home placement outside of the State.

(2) "Child in need of out–of–state placement" does not include a child:

(i) placed in foster care, as defined in § 5–501 of the Family Law Article; or

(ii) who is in a hospital for 30 continuous days or less.

(d) "Child with intensive needs" means a child who has behavioral, educational, developmental, or mental health needs that cannot be met through available public agency resources because:

(1) the child's needs exceed the resources of a single public agency; or

(2) there is no legally mandated funding source to meet the child's needs.

(e) "Core service agency" means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health services as provided under Title 10, Subtitle 12 of the Health – General Article.

(f) "Council" means the State Coordinating Council for Children.

(g) "Evidence–based" means meeting the criteria for an evidence–based early childhood home visiting service delivery model as defined by the federal Department of Health and Human Services.

(h) "Executive Director" means the Executive Director of the Governor's Office for Children.

(i) (1) "Family" means an eligible child's natural, adoptive, or foster parents.

(2) "Family" includes:

(i) a guardian;

(ii) a person acting as a parent of a child; and

(iii) a relative or stepparent with whom a child lives.

(j) (1) "Home visiting program" means a program or initiative that:

(i) contains home visiting as a primary service delivery strategy;

(ii) offers services on a voluntary basis to pregnant women, expectant fathers, and parents and caregivers of children from birth to kindergarten entry; and

(iii) targets participant outcomes that may include:

1. improved maternal and child health;

2. prevention of child injuries, child abuse or maltreatment, and reduction of emergency department visits;

3. improvements in school readiness and achievement;

4. reduction in crime or domestic violence;

5. improvements in family economic self–sufficiency;

6. improvements in the coordination of and referrals to other community resources and supports; or

7. improvements in parenting skills related to child development.

(2) "Home visiting program" includes those program models identified in the Home Visiting Evidence of Effectiveness project of the federal Department of Health and Human Services.

(3) "Home visiting program" does not include:

(i) programs with few or infrequent visits;

(ii) programs in which home visiting is supplemental to other services; or

(iii) in–home services delivered through provisions of an individualized family service plan or an individualized education program under Part C or Part B of the federal Individuals with Disabilities Education Act.

(k) "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

(l) "Local management board" means an entity established or designated by a county under Subtitle 3 of this title to ensure the implementation of a local, interagency service delivery system for children, youth, and families.

(m) "Office" means the Governor's Office for Children.

(n) "Promising" means a home visiting program or practice that:

(1) does not yet meet the standard for evidence–based practices; and

(2) meets the criteria of a promising approach as defined by the federal Department of Health and Human Services.

(o) "Public agency" means a State or local government unit or a quasi–governmental entity.

(p) (1) "Residential child care program" means an entity that provides 24–hour per day care for children within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.

(2) "Residential child care program" includes a program:

(i) licensed by:

1. the Department of Health and Mental Hygiene;

2. the Department of Human Resources; or

3. the Department of Juvenile Services; and

(ii) that is subject to the licensing regulations of the members of the Children's Cabinet governing the operations of residential child care programs.

§8–102.

(a) It is the policy of the State to promote a stable, safe, and healthy environment for children and families that provides access to necessary services and supports in the least restrictive, most appropriate, and most effective environment possible, thereby increasing self–sufficiency and family preservation.

(b) This policy shall be achieved through a comprehensive and coordinated interagency approach that:

(1) is family–driven, child–guided, home– and community–based, culturally and linguistically competent, individualized, and effective;

(2) provides a continuum of care, opportunities, and supports that emphasize prevention, early intervention, and community–based services, as well as natural supports;

(3) gives priority to children and families most at risk; and

(4) engages and empowers families and children so that, to the extent possible, they will be well–represented in every facet of the child–family serving system and partners in their own care planning.

§8–201.

There is an Advisory Council to the Children's Cabinet.

§8–202.

The purpose of the Advisory Council is to make recommendations to the Children's Cabinet on:

(1) methods for meeting the policy and program goals of the State for integrated children and family programs;

(2) coordinating State programs with programs operated by local governments, local management boards, and private groups;

(3) building capacity to serve youths in their communities and at home;

(4) reducing reliance on institutions as the primary mode of intervention for at-risk youth offenders;

(5) promoting positive outcomes for youths;

(6) funding practices that prevent juvenile crimes and delinquency; and

(7) reducing disproportionate minority confinement.

§8–301.

(a) Each county shall establish and maintain a local management board to ensure the implementation of a local interagency service delivery system for children, youth, and families.

(b) A county may designate as the local management board:

(1) a quasi-public nonprofit corporation that is not an instrumentality of the county government; or

(2) a public agency that is an instrumentality of the county government.

§8–302.

A local management board may be composed of:

(1) public and private community representatives who share the responsibility for implementing a community–based, interagency, family–focused service delivery system for children, youth, and families;

(2) a senior representative or department head of the:

(i) local health department;

(ii) local office of the Department of Juvenile Services;

(iii) core service agency;

(iv) local school system; and

(v) local department of social services;

(3) family members or family advocates; and

(4) youth or youth advocates.

§8–303.

A local management board shall:

(1) strengthen the decision-making capacity at the local level;

(2) design and implement strategies that achieve clearly defined results for children, youth, and families as articulated in a local 5-year strategic plan for children, youth, and families;

(3) maintain standards of accountability for locally agreed upon results for children, youth, and families;

(4) influence the allocation of resources across systems as necessary to accomplish the desired results;

(5) build local partnerships to coordinate children, youth, and family services within the county to eliminate fragmentation and duplication of services; and

(6) create an effective system of services, supports, and opportunities that improve outcomes for all children, youth, and families.

§8–304.

The members of the Children's Cabinet shall adopt regulations that:

(1) specify the roles and responsibilities of local management boards;

(2) establish minimum standards for the composition of local management boards;

(3) establish fiscal and program accountability in the implementation of community partnership agreements and the use of other State resources by local management boards;

(4) establish procedures to ensure the confidentiality of information shared by local management board members and employees in accordance with State and federal law; and

(5) generally relate to the operation of local management boards.

§8–305.

On or before October 1 of each year, the Maryland Association of Local Management Board Directors shall, in accordance with § 2-1246 of the State Government Article, submit to the Senate Finance Committee, the House Committee on Ways and Means, and the Joint Committee on Children, Youth, and Families, a report summarizing, with respect to the programs implemented under § 8-505(d) of this title:

(1) each local management board's activities;

(2) the amount of money spent on the programs; and

(3) the effectiveness of the programs.

§8–401.

There is a State Coordinating Council for Children in the Office.

§8–402.

(a) The Council consists of the following members:

(1) the Executive Director of the Governor's Office for Children, or the Executive Director's designee;

(2) the Secretary of Juvenile Services, or the Secretary's designee;

(3) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(4) the Secretary of Human Resources, or the Secretary's designee; and

(5) the State Superintendent of Schools, or the Superintendent's designee.

(b) The Secretary of Budget and Management, or the Secretary's designee, shall serve as a nonvoting ex officio Council member.

(c) The Secretary of Disabilities, or the Secretary's designee, shall serve as a nonvoting ex officio Council member.

(d) The Children's Cabinet shall designate up to three individuals to serve on the Council on a rotating basis to represent each of the following stakeholder groups:

(1) family members or family advocates; and

(2) youth or youth advocates.

§8–403.

(a) (1) The office of chair of the Council shall rotate annually among the members of the Council appointed under § 8–402(a) of this subtitle, in the order listed in that subsection.

(2) The term of the chair is 1 year.

(b) The Office shall provide staff support for the Council.

§8–404.

The Council shall address the population of children who are in out–of–state placements or are recommended for out–of–state placements, including:

(1) reviewing recommendations for State funding of the individual placement of a child in need of out–of–state placement;

(2) coordinating the monitoring of out–of–state residential facilities for children as required by statute;

(3) tracking the types, costs, and effectiveness of services required to meet the needs of children who are recommended for out–of–state placements;

(4) providing training and technical assistance to local agency and community partners;

(5) making recommendations to the appropriate secretary on the development of regulations to carry out this subtitle; and

(6) performing other related activities that the Children's Cabinet identifies.

§8–405.

There is a local care team in each county.

§8–406.

(a) Each local care team shall include:

(1) at least one representative from:

(i) the Department of Juvenile Services;

(ii) the Developmental Disabilities Administration;

(iii) the Behavioral Health Administration;

(iv) if determined to be appropriate by the Behavioral Health Administration, the local core service agency;

(v) the local school system;

(vi) the local health department;

(vii) the local department of social services; and

(viii) the local management board;

(2) a parent, parent advocate, or both, appointed by the chair of the local care team in consultation with the child advocacy community; and

(3) a nonvoting representative of the local office of the division of rehabilitative services to represent individuals who are 16 years old and older.

(b) Each local care team shall establish the terms of its members.

(c) Each local care team shall select its chair from among its members for a designated term of office.

(d) Each local care team:

(1) shall determine which of its members will have responsibility for its administrative functions; and

(2) if two or more members will share the responsibility, shall determine the rotation of the administrative functions.

(e) Subject to the availability of funds, a parent or parent advocate who is a member of a local care team may receive:

(1) the compensation provided in the State or local budget; and

(2) reimbursement for expenses, in accordance with the Standard State Travel Regulations.

§8–407.

A local care team shall:

(1) be a forum for:

(i) families of children with intensive needs to receive assistance with the identification of individual needs and potential resources to meet identified needs; and

(ii) interagency discussions and problem solving for individual child and family needs and systemic needs;

(2) refer children and families to:

(i) care management entities when appropriate; and

(ii) available local and community resources;

(3) provide training and technical assistance to local agency and community partners;

(4) identify and share resource development needs and communicate with the care management entity, local core service agencies, provider networks, local management boards, and other local care teams in surrounding jurisdictions; and

(5) discuss a request for a voluntary placement agreement for a child with a developmental disability or a mental illness under § 5–525 of the Family Law Article.

§8–408.

(a) A parent or guardian of a child and the child's attorney may attend any meeting of the Council or the local care team at which the child's care is discussed.

(b) At least 10 days before the meeting, the Council or local care team shall notify each parent or guardian of the child and the child's attorney of the date, time, and location of any meeting the Council or the local care team plans to hold to discuss the child's out–of–state placement.

(c) The Council or the local care team shall notify each parent or guardian of the child and the child's attorney in writing of:

(1) any decision the Council or local care team makes concerning the child's out–of–state placement; and

(2) the right of the parent, guardian, or attorney to appeal a decision made by the Council or the local care team concerning the child's out–of–state placement.

§8–501.

In this subtitle, "Fund" means the Children's Cabinet Fund.

§8–502.

There is a Children's Cabinet Fund.

§8–503.

(a) The Fund:

(1) consists of money appropriated, transferred, credited, or paid into the Fund from any source; and

(2) includes money for out-of-home care and services to prevent out-of-home placements.

(b) At the end of each fiscal year any unspent money in the Fund shall revert to the General Fund.

§8–504.

Expenditures from the Fund shall be made:

(1) in accordance with the State Finance and Procurement Article; and

(2) to reflect the priorities, policies, and procedures that the Children's Cabinet adopts.

§8–505.

(a) A local management board shall apply for money from the Fund in accordance with procedures established by the Children's Cabinet.

(b) In connection with an application for money under subsection (a) of this section, a local management board shall develop and submit a community partnership agreement that:

(1) reflects coordination with:

(i) the State's 3-year plan for children, youth, and families; and

(ii) any local government plan for services for children, youth, and families, including the local substance abuse plan developed in accordance with Title 8, Subtitle 10 of the Health - General Article; and

(2) addresses the priorities and strategies of the county for meeting the identified needs of children and families as articulated in the local management board's 5-year strategic plan regarding:

(i) youth development;

(ii) prevention services;

(iii) crisis and early intervention;

(iv) services for children at risk of out-of-home placement or returning from out-of-home placement; and

(v) out-of-home placement and treatment.

(c) The Children's Cabinet may disburse money to a local management board subject to the terms, conditions, performance measures, or outcome evaluations that the Children's Cabinet considers necessary.

(d) The local management board shall use the money to implement:

(1) a local interagency services delivery system for children, youth, and families in accordance with the community partnership agreement; and

(2) any terms, conditions, and performance measures that the Children's Cabinet requires.

§8–506.

(a) The State shall fund only evidence–based and promising home visiting programs for improving parent and child outcomes, as provided in the State budget.

(b) Not less than 75% of the State funding for home visiting programs shall be made available to evidence–based home visiting programs.

§8–507.

(a) (1) The Governor's Office for Children and the agencies of the Children's Cabinet, with input from local management boards, local home visiting programs, and the Early Childhood Advisory Council, shall require the recipients of State funding for home visiting programs to submit reports to the Governor's Office for Children on a regular basis.

(2) Home visiting program reports shall include, at a minimum:

(i) a verifiable accounting of the State funds spent;

(ii) the number and demographic characteristics of the individuals served; and

(iii) the outcomes achieved by the home visiting programs.

(b) The Governor's Office for Children and the agencies of the Children's Cabinet shall develop a standardized reporting mechanism for the purpose of collecting information about and monitoring the effectiveness of State–funded home visiting programs.

(c) On or before December 1, 2013, and at least every 2 years thereafter, the Governor's Office for Children and the agencies of the Children's Cabinet shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee, the House Ways and Means Committee, and the Joint Committee on Children, Youth, and Families on the implementation and outcomes of State–funded home visiting programs.

§8–508.

The State Department of Education is the fiscal agent for the Fund.

§8–601.

In this subtitle, "at-risk youth prevention and diversion program" means services provided to school-aged youth and their families to prevent or divert youth from entering the juvenile justice system and to help make them ready for adulthood by age 21.

§8–602.

An at-risk youth prevention and diversion program may be:

(1) (i) community-based;

(ii) school-based;

(iii) neighborhood-based; or

(iv) faith-based; and

(2) nonresidential.

§8–603.

(a) At-risk youth prevention and diversion programs shall be coordinated, monitored, and supported by local management boards.

(b) A local management board shall:

(1) develop a request for funds based on the recommendations of the local planning group convened in accordance with § 8-605(b) of this subtitle;

(2) award funds to local agencies or organizations to provide direct services;

(3) monitor and evaluate at-risk youth prevention and diversion program performance;

(4) provide technical assistance to at-risk youth prevention and diversion programs as needed;

(5) promote cost-effectiveness strategies;

(6) measure at-risk youth prevention and diversion program outcomes; and

(7) provide fiscal and program reports to the Office.

(c) As part of the prevention element of the 3-year plan developed by the Children's Cabinet establishing priorities and strategies for the coordinated delivery of services for children and families, the local management board shall:

(1) assess the adequacy, availability, and accessibility of current community-based services that:

(i) prevent and divert entry and reentry into the juvenile system;

(ii) provide alternatives to incarceration and institutionalization;

(iii) prevent and divert criminal behavior; and

(iv) increase personal responsibility and self-sufficiency;

(2) identify unserved neighborhoods or communities with critical needs and significant numbers of at-risk or delinquent youth; and

(3) recommend programs that can be established or enhanced to address

the unmet needs of youth and their families.

§8–604.

(a) A local management board shall apply to the Office for funding for an at-risk youth prevention and diversion program.

(b) The application shall demonstrate that the local management board has convened a local planning group consisting of parents, youth, and representatives of public and private agencies that have knowledge of and experience working with at-risk youth and families.

§8–701.

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

(b) "Agency" means:

(1) the Department of Health and Mental Hygiene;

(2) the Department of Human Resources; or

(3) the Department of Juvenile Services.

(c) "Certified program administrator" means an individual who is:

(1) certified by the State Board for Certification of Residential Child Care Program Professionals under Title 20 of the Health Occupations Article; and

(2) responsible for the day–to–day management and operation of a residential child care program and for assuring the care, treatment, safety, and protection of the children in the residential child care program.

(d) "Plan" means the State Resource Plan for Residential Child Care Programs.

(e) "Provider" means a for profit or not for profit entity licensed by an agency to operate a residential child care program.

(f) Except as provided in § 8–707 of this subtitle, "residential child care program" does not include sites licensed by the Developmental Disabilities Administration.

§8–702.

It is the intent of the General Assembly to:

(1) improve the quality of care provided by residential child care programs;

(2) provide the same quality of care to all children placed in residential

child care programs; and

(3) develop a system that expands services provided by residential child care programs to counties that are underserved.

§8–703.

(a) There is a State Resource Plan for Residential Child Care Programs.

(b) The purpose of the Plan is to enhance access to services provided by residential child care programs.

(c) On or before July 1 of each year, the Office shall develop the Plan in consultation with the agencies, providers, counties, child advocates, consumers, and any other State unit, entity, or person that the Office identifies as having relevant information or that is interested in the development of the Plan.

(d) The Plan shall:

(1) provide a framework for the Office and the agencies to procure residential child care program services that meet the needs identified in the Plan;

(2) provide the following information on residential child care programs:

(i) the county where each program is operated;

(ii) the provider for each program;

(iii) the actual capacity and utilization rate for each program;

(iv) the ages of the children in each program;

(v) the county where each child in a program lived at the time the child entered out-of-home placement;

(vi) the services children require and a description of how those services are being provided;

(vii) the agency that placed children in each program; and

(viii) any other information the Office or the agencies, providers, or counties consider relevant;

(3) identify the types of services needed in residential child care programs and the estimated number of children requiring those services in each county;

(4) identify the counties where the services identified in item (3) of this subsection are insufficiently supplied;

(5) establish an incentive fund for residential child care program development in the counties identified in item (4) of this subsection; and

(6) identify the reasons children are placed in residential child care programs outside of the counties where the children lived at the time they entered out-of-home placement in accordance with § 5-525 of the Family Law Article.

(e) On or before January 1 of each year, the Office shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee on the Plan's findings and recommendations.

§8–703.1.

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

(2) "Licensing agency" means:

(i) the Department of Human Resources; and

(ii) the Department of Juvenile Services.

(3) "Statement of need" means an official certification of public need for the location and establishment of a residential child care program in a county issued by a licensing agency under this section.

(b) The licensing agencies shall adopt regulations governing the issuance of statements of need.

(c) In developing the regulations required under subsection (b) of this section, a licensing agency shall:

(1) consider the specialized mental, physical, and behavioral health and developmental needs of children in the county or region affected by the statement of need; and

(2) consult with stakeholders in the county or region affected by the statement of need, including:

(i) State and local child–serving agencies;

(ii) providers of residential and community–based services for children; and

(iii) children, parents, and foster parents.

(d) An application may not be submitted to the office and a license may not be granted by a licensing agency for a residential child care program until a licensing agency issues a statement of need for a residential child care program in a county.

(e) (1) Except as provided in paragraph (2) of this subsection, in addition to the statement of need required under subsection (d) of this section, a statement of need is required before:

(i) an existing or previously licensed residential child care program is relocated to another site;

(ii) the physical site of a residential child care program is expanded; or

(iii) the number of placements in a residential child care program is increased.

(2) A statement of need is not required before an existing licensed residential child care program is relocated to another site on a temporary basis if:

(i) the site of the existing licensed residential child care program is in a state of disrepair that necessitates rehabilitation for the health, safety, and well–being of the residents;

(ii) the temporary site meets the requirements of the residential child care program's license;

(iii) the temporary site is located:

1. within the same jurisdiction as the site undergoing rehabilitation; or

2. within 10 miles of the site undergoing rehabilitation; and

(iv) the rehabilitation of the existing site:

1. will be completed within 180 days; or

2. if not completed within 180 days, will be completed within a period of time determined by the licensing agency, on request of the licensee, not to exceed an additional 180 days.

(f) A licensing agency shall publish notice of the issuance of a statement of need in the Maryland Register.

(g) A licensing agency may not delegate its authority to issue a statement of need.

§8–704. IN EFFECT

A contract awarded or renewed between an agency and a provider for a residential child care program shall:

(1) require the provider to fulfill the licensing requirements under §§ 5–507 through 5–509 of the Family Law Article or §§ 9–235 through 9–237 of this article;

(2) include the following provisions:

(i) a description of the services the provider is required to provide;

(ii) an explanation from the provider of how the program will further the objectives of the Plan under § 8–703(b) of this subtitle; and

(iii) any other provision the contracting agency considers necessary;

(3) require the provider to report to the contracting agency in writing within 24 hours after a critical incident, as defined in regulation, involving a child in the provider's care;

(4) include a plan for the residential child care program's interaction with the surrounding community, including a mechanism for responding to complaints;

(5) require the provider to report to the contracting agency community complaints that the residential child care program receives and the resolution of each complaint within 10 days after the complaint is received;

(6) require that the residential child care program provide health care services under § 5–533 of the Family Law Article;

(7) require the provider to maintain health care records during the placement of a child in the residential child care program, including:

(i) health insurance information;

(ii) powers of attorney, if applicable;

(iii) a history of primary and preventive care and any arrangements made for continuing care;

(iv) a history of the health care provided for behavioral, mental, or substance abuse disorders and any arrangements made for continuing care; and

(v) documentation of doctor and dentist visits;

(8) require the provider to comply with § 7–309 of the Education Article;

(9) require an annual financial disclosure, including:

(i) a certified financial audit of revenues and expenditures prepared by a licensed accountant;

(ii) a certified financial audit prepared by a licensed accountant that compares actual revenues and expenditures to the budget submitted to the interagency rates committee for the purpose of determining the program's rate; and

(iii) a statement identifying any interest that the provider or an employee of the provider has with a business or entity that accounts for 5% or more of the program's expenditures;

(10) require the provider and the employees of the provider who have direct contact with children in the residential child care program to be at least 21 years of age; and

(11) require the residential child care program to have a certified program administrator as required under § 20–301 of the Health Occupations Article.

8–704. ** TAKES EFFECT OCTOBER 1, 2015 PER CHAPTERS 312 AND 313 OF 2012 **

A contract awarded or renewed between an agency and a provider for a residential child care program shall:

(1) require the provider to fulfill the licensing requirements under §§ 5–507 through 5–509 of the Family Law Article or §§ 9–235 through 9–237 of this article;

(2) include the following provisions:

(i) a description of the services the provider is required to provide;

(ii) an explanation from the provider of how the program will further the objectives of the Plan under § 8–703(b) of this subtitle; and

(iii) any other provision the contracting agency considers necessary;

(3) require the provider to report to the contracting agency in writing within 24 hours after a critical incident, as defined in regulation, involving a child in the provider's care;

(4) include a plan for the residential child care program's interaction with the surrounding community, including a mechanism for responding to complaints;

(5) require the provider to report to the contracting agency community complaints that the residential child care program receives and the resolution of each complaint within 10 days after the complaint is received;

(6) require that the residential child care program provide health care services under § 5–533 of the Family Law Article;

(7) require the provider to maintain health care records during the placement of a child in the residential child care program, including:

(i) health insurance information;

(ii) powers of attorney, if applicable;

(iii) a history of primary and preventive care and any arrangements made for continuing care;

(iv) a history of the health care provided for behavioral, mental, or substance abuse disorders and any arrangements made for continuing care; and

(v) documentation of doctor and dentist visits;

(8) require the provider to comply with § 7–309 of the Education Article;

(9) require an annual financial disclosure, including:

(i) a certified financial audit of revenues and expenditures prepared by a licensed accountant;

(ii) a certified financial audit prepared by a licensed accountant that compares actual revenues and expenditures to the budget submitted to the interagency rates committee for the purpose of determining the program's rate; and

(iii) a statement identifying any interest that the provider or an employee of the provider has with a business or entity that accounts for 5% or more of the program's expenditures;

(10) require the residential child care program to have certified residential child and youth care practitioners, as required under § 20–301 of the Health Occupations Article; and

(11) require the residential child care program to have a certified program administrator as required under § 20–301 of the Health Occupations Article.

§8–705.

The Office shall provide a sample contract that includes an example of the provisions required under § 8-704 of this subtitle to each potential provider interested in becoming licensed to operate a residential child care program.

§8–706.

The members of the Children's Cabinet shall adopt regulations to carry out this part.

§8–707.

(a) In this section, "residential child care program" includes sites licensed by the Developmental Disabilities Administration.

(b) A contract awarded or renewed between an agency and a provider shall require the provider to:

(1) post conspicuously a "Residents' Bill of Rights" in the facility of the provider stating that a resident has a right:

(i) to be treated with fairness, dignity, and respect;

(ii) to receive appropriate and reasonable adult guidance, support, and supervision, consistent with the resident's age and level of development;

(iii) not to be abused, mistreated, threatened, harassed, or subjected to corporal punishment or to other unusual or extreme methods of discipline;

(iv) to have the resident's opinion heard and to be included, to the greatest extent possible and consistent with the resident's age and level of development, when major decisions, including regular case planning meetings, are being made affecting the resident's life;

(v) to reasonable and clinically appropriate visitation, mail, and telephone communication with relatives, friends, attorneys, social workers, therapists, and guardians ad litem;

(vi) to have the resident's relatives and designated representatives, who are authorized in writing by the contracting agency, to communicate with the facility of the provider, ask questions of the facility of the provider, and have questions answered promptly by the facility of the provider;

(vii) to language translation and interpretation services, if necessary;

(viii) not to be discriminated against on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business; and

(ix) to an appropriate education, including educational supports such as homework assistance, summer enrichment opportunities, and employment skills training;

(2) develop and, on placement, provide to residents and their parents or legal guardians a handbook of the policies of the provider and the contracting agency as they relate to:

(i) the mission of the program;

(ii) placement and discharge;

(iii) daily routines;

(iv) treatment strategies;

(v) disciplinary practices;

(vi) visiting hours;

(vii) communication procedures with residents;

(viii) grievance procedures;

(ix) health care access;

(x) religious exercise access;

(xi) emergency telephone contact information;

(xii) family involvement;

(xiii) attorney access;

(xiv) community integration;

(xv) education;

(xvi) medical and dental care;

(xvii) recreation;

(xviii) life skills training;

(xix) clothing;

(xx) personal funds;

(xxi) food and nutrition;

(xxii) day care;

(xxiii) personal belongings;

(xxiv) extracurricular activities; and

(xxv) therapy; and

(3) document in each child's case file receipt and review by the child and the parent or guardian of the child of the handbook required to be provided under item (2) of this subsection.

(c) Nothing in this section precludes a contracting agency or provider from providing additional rights to a resident.

§8–709.

In this part, "licensing agency":

(1) means the agency designated by the Office as responsible for licensing a residential child care program; and

(2) includes the Department of Health and Mental Hygiene, the Department of Human Resources, and the Department of Juvenile Services.

§8–710.

(a) A person may not operate a residential child care program in the State without a license.

(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 for each day of operation.

§8–711.

A licensing agency may deny a license to:

(1) a corporation or entity that has had a license revoked by a licensing agency within the previous 10 years; or

(2) a corporation or entity that has a corporate officer who has served as a corporate officer for a corporation or entity that has had a license revoked by a licensing agency within the previous 10 years.

§8–712.

(a) Unless a program administrator or an employee of a residential child care program is required to be present, a licensing agency shall conduct unannounced inspections of residential child care programs.

(b) The unannounced inspections required under subsection (a) of this section shall include inspections conducted during nonbusiness hours.

§8–801.

In this subtitle, "licensing agency":

(1) means the agency designated by the Office as responsible for licensing a residential child care program; and

(2) includes the Department of Health and Mental Hygiene, the Department of Human Resources, and the Department of Juvenile Services.

§8–802.

This subtitle applies to a corporation that is an applicant for or has been granted a license to operate a residential child care program in the State.

§8–803.

Except as provided in § 8-807 of this subtitle and in addition to the standards set forth in COMAR 14.31.06 and 14.31.07, a corporation shall meet the requirements established in this subtitle as a condition of licensure.

§8–804.

A corporation shall demonstrate to the licensing agency the capability to provide for and arrange for the provision of all applicable services proposed in the license application by submitting, at a minimum, the following documents to the licensing agency:

(1) a business plan that clearly demonstrates the ability of the residential child care program operated by the corporation to provide services in accordance with State regulations and funding requirements;

(2) a summary of the corporation's demonstrated experience in the field of human services, in accordance with standards developed by the Office;

(3) prior licensing reports issued within the previous 10 years concerning the corporation or any in-State or out-of-state entities associated with the corporation or the residential child care program, including deficiency reports and compliance records on which the State may make reasoned decisions about the qualifications of the corporation or the residential child care program; and

(4) a written quality assurance plan, approved by the licensing agency, to address how the corporation will ensure the health and safety of the individuals served by the residential child care program and the quality of services provided to individuals by the residential child care program.

§8–805.

(a) (1) A corporation shall have a board of directors that consists of at least five individuals with an interest in or knowledge of the needs of children and their families.

(2) Of the members of the board of directors:

(i) at least one shall be a resident of the State;

(ii) at least one shall have demonstrated experience in or knowledge of the field of human services; and

(iii) at least one shall have demonstrated knowledge in the fields of accounting, business, or financial management.

(3) (i) An employee, or an immediate family member of an employee, of a corporation or residential child care program may not serve on the corporation's board of directors.

(ii) A person who is compensated by a corporation for providing goods or services may not serve on the corporation's board of directors.

(b) A corporation shall have a chief financial officer.

§8–806.

A corporation shall adopt written bylaws that require the corporation's board of directors to be responsible for:

(1) overseeing the management and operation of the residential child care program operated by the corporation;

(2) ensuring that the residential child care program operates in compliance with all applicable laws and regulations;

(3) approving the residential child care program's mission statement, long-term goals, policies, procedures, and annual budget;

(4) defining and prohibiting circumstances that would create a financial or personal conflict of interest for members of the board of directors, corporate officers, employees, agents, assigns, and volunteers;

(5) ensuring that the residential child care program responds to all requests from the licensing agency in a timely manner;

(6) approving the residential child care program's service plan and ensuring that services are provided in accordance with the plan;

(7) if the corporation is a nonprofit corporation, reviewing annually whether the corporation is satisfying its charitable mission;

(8) ensuring that the corporation has liability insurance;

(9) requiring that members of the board of directors have training in their

responsibilities regarding the governance of the residential child care program; and

(10) establishing committees or member assignments to periodically review as warranted, but not less than annually:

(i) compensation of officers and staff of the corporation and the residential child care program;

(ii) quality of services provided to clients, including all incidents harming or potentially harming clients;

(iii) financial problems and concerns relating to the residential child care program;

(iv) performance of key staff;

(v) nominations of new members of the board of directors; and

(vi) potential conflicts of interest.

§8–807.

The members of the Children's Cabinet shall adopt regulations to authorize a waiver from some or all of the requirements of this subtitle for corporations that can demonstrate that their bylaws and policies are substantially similar to those required under this subtitle.

§8–901.

In this subtitle, "nonprofit organization" means:

(1) a bona fide religious organization, no part of the earnings of which inures to the benefit of any individual or is used for any purpose other than the maintenance and operation of a residential child care program, the purchase of equipment to be used in a residential child care program, or the expansion of a residential child care program; or

(2) an organization:

(i) that is chartered as a nonprofit corporation and classified by the Internal Revenue Service as nonprofit; and

(ii) no part of the earnings of which inures to the benefit of any individual or is used for any purpose other than the maintenance and operation of a residential child care program, the purchase of equipment to be used in a residential child care program, or the expansion of a residential child care program.

§8–902.

(a) There is a Residential Child Care Capital Grant Program.

(b) On the recommendation of the Executive Director, the Board of Public Works may make grants to counties, municipal corporations, and nonprofit organizations for:

(1) the conversion of public buildings or parts of public buildings to residential child care programs;

(2) the acquisition of existing buildings or parts of buildings for use as residential child care programs;

(3) the renovation of residential child care programs;

(4) the purchase of capital equipment for residential child care programs; or

(5) the planning, design, and construction of residential child care programs.

§8–903.

(a) A county, municipal corporation, or nonprofit organization sponsoring a project involving work specified in § 8-902 of this subtitle may apply to the Executive Director for a State grant to be applied toward the cost of that project.

(b) An application for a grant shall include:

(1) project plans for the work to be carried out;

(2) a statement listing the personnel employed or to be employed at the residential child care program, including all compensation for personnel services and all other expenses paid or to be paid to the personnel;

(3) all other expenses incurred or to be incurred in operating the residential child care program; and

(4) a statement describing how the residential child care program will provide services in an underserved geographic area of the State, as identified by the Office.

(c) An applicant may amend the project plans submitted with its application during or after the grant application process if the amendments are:

(1) intended to meet the changing needs of the residential child care program or its residents; and

(2) approved by the Executive Director.

(d) On approval of a project and the project plans, the Executive Director shall:

(1) promptly report the application to the Board of Public Works; and

(2) recommend that the Board make funds available as provided in this subtitle.

(e) The amount of the State grant recommended to the Board of Public Works for a project shall be determined after consideration of:

(1) all eligible projects;

(2) the total of unallocated State funds available at the time the grant recommendation is made to the Board of Public Works; and

(3) the priorities established by the Office regarding geographic areas of the State identified as underserved by residential child care programs.

§8–904.

(a) Beginning in fiscal year 2008 and in each fiscal year thereafter, the Governor may include an appropriation for the Residential Child Care Capital Grant Program in the State capital budget to be distributed and managed in accordance with this subtitle.

(b) (1) The Board of Public Works shall:

(i) make allocations from funds available for the Residential Child Care Capital Grant Program in accordance with this subtitle; and

(ii) certify the allocations to the Comptroller and the Treasurer.

(2) After the Board certifies the allocations, the Treasurer shall make payments to or on behalf of the applicant, when needed, for an approved project.

(3) The Board of Public Works may adopt regulations to implement this subsection.

§8–905.

(a) A State grant may be used only for the purposes listed under § 8-902 of this subtitle and approved by the Executive Director under § 8-903 of this subtitle.

(b) (1) Any federal or other grant that is received for an eligible project shall be applied first to the cost of the project.

(2) A State grant may not exceed 50% of the cost of eligible work remaining unpaid after all federal grants have been applied.

(3) For purposes of this subtitle, community development block grant

funds shall be considered as local matching funds and may not be considered as federal grant funds.

(c) (1) A State grant may not be used:

(i) to further sectarian religious instruction;

(ii) in connection with the design, acquisition, or construction of any building to be used as a place of sectarian religious worship or instruction; or

(iii) in connection with any program or department of divinity for any religious denomination.

(2) On the request of the Board of Public Works, the applicant shall submit evidence satisfactory to the Board that a grant is not being used for a purpose prohibited under this subsection or under applicable federal law.

§8–906.

(a) Before the State makes any funds available for an approved project, the Office shall cause a notice of the State's right of recovery to be recorded in the land records of the county in which the property is located.

(b) The recording of the notice:

(1) does not create a lien against the property; but

(2) constitutes notice to any potential transferee, transferor, creditor, or any other interested party of the possibility that the State may obtain a lien under this subtitle.

§8–907.

(a) The State may recover grant funds paid under this subtitle if, within 30 years after completion of a project, the property for which funds have been paid:

(1) is sold or transferred to a person that:

(i) would not qualify as an applicant under this subtitle; or

(ii) is not approved as a transferee by the Board of Public Works; or

(2) ceases to be a residential child care program.

(b) The State may recover from the:

(1) transferor;

(2) transferee; or

(3) owner of a property that has ceased to be a residential child care program.

(c) The State may recover the sum of:

(1) an amount that equals the value of the project property at the time of the recovery multiplied by a fraction:

(i) the numerator of which is the amount of the State funds for the project; and

(ii) the denominator of which is the total eligible cost of the project; and

(2) all costs and reasonable attorneys' fees incurred in the recovery proceedings.

(d) The Board of Public Works may waive the State's right of recovery under this subtitle for good cause.

§8–908.

(a) (1) The Secretary of the Board of Public Works may file a civil complaint under this subtitle in the circuit court for the county in which the property is located, against the owner of the property and any other interested parties, including any transferor.

(2) The complaint shall be filed with:

(i) affidavits stating facts on which the allegations of default are based; and

(ii) a detailed justification of the amount claimed.

(b) (1) If the court determines from the State's initial filing that a default described in § 8-907(a) of this subtitle has occurred, the court shall authorize a temporary lien on the property pending full determination of the State's claim.

(2) The temporary lien shall be in the amount of the State's claim, plus any additional amount estimated to be necessary to cover the costs and reasonable attorneys' fees incurred by the State, or another amount that the court determines to be reasonable.

(c) (1) A temporary lien shall take effect:

(i) on the date of the court order authorizing the lien, if the Secretary of the Board of Public Works records a notice of temporary lien in the land records of the county in which the property is located within 10 days after the date of the court

order; or

(ii) on the date a notice of temporary lien is recorded.

(2) While the temporary lien is in effect, the owner or any person who acquired an interest in the property after the State first made funds available in connection with the property may not, without the prior written consent of the State:

(i) take any action that would affect the title to the property; or

(ii) institute any proceedings to enforce a security interest or other similar rights in the property.

(d) (1) The owner of the property or any other interested party may obtain release of a temporary lien at any time by filing with the court a bond securing the payment in full of the State's claim and any additional amount necessary to cover the costs and reasonable attorneys' fees incurred by the State.

(2) The owner or other interested party may cause the release to be recorded in the land records.

§8–909.

(a) Proceedings to determine the State's right to recover and the amount of its recovery under this subtitle shall have priority over other civil proceedings in the circuit courts.

(b) (1) At the conclusion of full adversary proceedings on the issue of default and of any disputes over the amount of the State's recovery, if the court finds that a default described in § 8-907(a) of this subtitle has occurred, the court shall issue a final judgment for the amount it finds to be recoverable by the State.

(2) All parties involved in the default, including the owner of the property, shall be held jointly and severally liable to the State for the amount of the judgment.

(3) If the court finds that a default described in § 8-907(a) of this subtitle has not occurred or if the full amount of the court's judgment is paid to the State within 30 days after the court's final order, any temporary lien shall be released immediately and the Secretary of the Board of Public Works shall cause the release to be recorded in the land records.

(4) (i) If the amount of the final judgment remains unpaid after 30 days following the court's final order, the final judgment shall constitute a lien on the property.

(ii) Except as the State may otherwise provide by a written subordination agreement, the lien is superior to the lien or other interest of a mortgagee, pledgee, purchaser, or judgment creditor whose interest became perfected

against third persons after the State first made funds available under this subtitle.

(c) (1) A lien takes effect on the later of:

(i) the 31st day after the court's final order if the Secretary of the Board of Public Works records a notice of lien in the land records of the county in which the property is located on or before the 41st day after the final order; or

(ii) the date a notice of lien is recorded.

(2) (i) When a lien takes effect, any temporary lien is automatically and fully released.

(ii) The recorded notice of a lien constitutes notice of the release of a temporary lien.

(d) A lien imposed under this section may be enforced and foreclosed in accordance with the Maryland Rules, except that the State or any agent appointed by the State to sell the property does not need to file a bond.

(e) (1) The owner or any other interested party may obtain release of a lien at any time by paying to the State the full amount of the judgment entered by the circuit court, together with interest from the date of judgment.

(2) On payment in full, the Secretary of the Board of Public Works shall cause a release to be recorded in the land records.

§8–910.

All funds recovered under this subtitle shall be deposited in the annuity bond fund and applied to the debt service requirements of the State.

§8–911.

The Office shall adopt regulations to implement this subtitle.

§8–1001.

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

(b) (1) "Cooperating department" means a unit of the State government responsible for out–of–home placement of children.

(2) "Cooperating department" includes:

(i) the Department of Juvenile Services; and

(ii) the Department of Human Resources.

(c) "Direct care staff" means staff assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills of children in a residential child care program.

(d) "Out–of–home placement" means:

(1) the removal of a child from the child's family; and

(2) the placement of the child by a cooperating department or court in a public or private residential child care program, a residential program operated by or under contract with the Department of Juvenile Services, a foster care home approved by a local department of social services, or a treatment foster care home for more than 30 days.

(e) "System for outcomes evaluation" means an objective and standardized method of measuring the effectiveness of the programs described in subsection (d)(2) of this section.

§8–1002. IN EFFECT

Except for provisions relating to direct care staff under § 8–1003 of this subtitle, this subtitle does not apply to:

(1) a shelter care facility or residential respite program licensed by the Department of Human Resources; or

(2) a detention center or shelter care facility operated by or under contract with the Department of Juvenile Services.

8–1002. ** TAKES EFFECT OCTOBER 1, 2015 PER CHAPTERS 312 AND 313 OF 2012 **

This subtitle does not apply to:

(1) a shelter care facility or residential respite program licensed by the Department of Human Resources; or

(2) a detention center or shelter care facility operated by or under contract with the Department of Juvenile Services.

§8–1003. IN EFFECT

** IN EFFECT UNTIL OCTOBER 1, 2015 PER CHAPTERS 312 AND 313 OF 2012**

The Department of Juvenile Services, the Department of Human Resources, the Department of Health and Mental Hygiene, and the Governor's Office for Children shall jointly adopt regulations requiring each member of a direct care staff to:

(1) be at least 21 years old; and

(2) complete a training program that is approved by the agency that licensed the residential child care program.

§8–1004.

(a) On or before July 1, 2008, the Office and the cooperating departments shall develop, coordinate, and implement a system for outcomes evaluation.

(b) The system for outcomes evaluation shall be used to:

(1) monitor the care, supervision, education, and treatment provided by State–operated and State–supported programs described in § 8–1001(d)(2) of this subtitle so that successful services can be expanded and services that do not produce positive results can be identified;

(2) establish an evaluation system for program performance, including measures of safety, quality, and effectiveness; and

(3) complete an assessment of the capacity of the programs described in § 8–1001(d)(2) of this subtitle in the State that identifies programs in each community to serve the needs of a family that resides in the community.

(c) The system for outcomes evaluation shall use standardized measures of function to evaluate the child's:

(1) protection from harm while in out–of–home placement;

(2) stability of living environment;

(3) family situation and efforts to treat and counsel the family unit;

(4) educational and vocational development;

(5) job skills and employment readiness;

(6) legal and appropriate use of drugs and alcohol;

(7) progress in learning positive, nonaggressive behavioral habits; and

(8) delinquency status.

(d) The system for outcomes evaluation shall ensure that collection and use of data in the system maintains confidentiality of information on the children from the cooperating departments.

(e) The system for outcomes evaluation shall ensure that a cooperating department shall:

(1) facilitate the participation of programs described in § 8–1001(d)(2) of this subtitle operated by the cooperating department or private agencies with which the cooperating department has a contract for the placement of children in out–of–home care; and

(2) include in the cooperating department's contract with a private program provisions requiring the program to collect and report to the cooperating department:

(i) child–specific demographic information; and

(ii) data necessary to evaluate changes in functioning of the child as provided in subsection (c) of this section.

(f) When reporting demographic information and data under subsection (e) of this section, a cooperating department:

(1) may not disclose personal identifiers; and

(2) shall ensure the confidentiality of the information about the children under its responsibility.

(g) On or before October 1 of each year, the Office, in coordination with the cooperating departments, shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the progress of implementing the system for outcomes evaluation.

§8–1101.

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

(b) "Advisory Board" means the Advisory Board on After–School and Summer Opportunity Programs.

(c) "After–school and summer opportunity programs" means enrichment programs for school age children that take place:

(1) before school starts each day and after school ends each day;

(2) on weekends;

(3) on holidays;

(4) during vacations; and

(5) during summer break.

(d) "Executive Committee" means the Executive Committee of the Advisory Board.

(e) (1) "Fund" means the Maryland After–School and Summer Opportunity Fund.

(2) "Fund" does not include:

(i) money provided under the Purchase of Child Care Program administered by the State Department of Education; or

(ii) money provided under the Children's Cabinet Interagency Fund administered by the Office.

(f) "Nonprofit organization" means an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(g) "Program" means the Maryland After–School and Summer Opportunity Fund Program.

(h) (1) "Technical assistance" means assistance in the identification and implementation of effective practices for after–school and summer programs.

(2) "Technical assistance" includes assistance in compliance with the Maryland Out of School Time Programs' Quality Standards Framework.

§8–1102.

(a) There is a Maryland After–School and Summer Opportunity Fund Program.

(b) There is a Maryland After–School and Summer Opportunity Fund in the Program.

(c) The Executive Committee, in consultation with the Advisory Board, shall administer the Program.

(d) The Executive Committee shall use the Maryland Out of School Time Programs' Quality Standards Framework to monitor and assess after–school and summer programs that participate in the Program.

(e) The Maryland Out of School Time Programs' Quality Standards Framework does not supersede applicable child care center licensing regulations.

§8–1103.

(a) There is an Advisory Board on After–School and Summer Opportunity programs in the Program.

(b) The Advisory Board shall consist of the following individuals:

(1) the Governor or the Governor's designee;

(2) the President of the Senate of Maryland or the President's designee;

(3) the Speaker of the House of Delegates of Maryland or the Speaker's designee;

(4) the State Superintendent of Schools or the Superintendent's designee;

(5) the Secretaries of Health and Mental Hygiene, Juvenile Services, and Human Resources or their designees;

(6) the Special Secretary of the Governor's Office for Children or the Special Secretary's designee;

(7) one representative of the Office of Crime Control and Prevention designated by the Governor; and

(8) seventeen individuals serving 2–year terms, to be appointed by the Governor, as follows:

(i) two members who represent the children's advocacy community;

(ii) two members of the after–school provider community who represent providers not included in item (vii) of this item;

(iii) two members who are parents of students enrolled in the State in kindergarten through grade 12;

(iv) two members who are students enrolled in the State in grades 6 through 12;

(v) one teacher who is working in a school in the State;

(vi) one member who represents the statewide network of child care resource and referral centers;

(vii) one member who represents the statewide alliance of licensed school age child care providers;

(viii) one member of a local management board;

(ix) one member of a local board of education;

(x) one member who is a professional in the field of recreation and parks that delivers after–school and summer programs;

(xi) one member who represents the concerns of disabled children;

(xii) one member who represents the Office of Child Care in the State Department of Education; and

(xiii) one member who represents the Department of Disabilities.

(c) (1) There is an Executive Committee of the Advisory Board.

(2) The Executive Committee consists of the following individuals:

(i) the Governor or the Governor's designee;

(ii) the Secretary of Human Resources or the Secretary's designee;

(iii) the State Superintendent of Schools or the Superintendent's designee;

(iv) the Secretary of Juvenile Services or the Secretary's designee;

(v) the Secretary of Health and Mental Hygiene or the Secretary's designee; and

(vi) the Special Secretary of the Governor's Office for Children or the Special Secretary's designee.

(d) (1) The Governor shall serve as the chair of the Advisory Board and of the Executive Committee.

(2) The Governor may designate the Lieutenant Governor or one of the secretaries serving on the Advisory Committee and the Executive Committee to act as chair in the Governor's absence.

(e) The Advisory Board shall develop a strategy to provide technical assistance through the Maryland Out of School Time Network.

§8–1104.

(a) The Office shall administer the Fund as directed by the Executive Committee.

(b) (1) Prior to final action by the Executive Committee, the Advisory Board shall review and make recommendations on:

(i) Program standards;

(ii) requests for proposals; and

(iii) criteria for awarding grants.

(2) A member of the Advisory Board may not vote on or make any recommendation to the Executive Committee if the member has a financial interest that may be substantially affected by that recommendation.

(c) (1) On or before December 15 of each year, the Executive Committee, in consultation with the Advisory Board, shall review and update the comprehensive plan of after–school and summer opportunity programs as described in paragraph (2) of this subsection.

(2) The comprehensive plan shall address at least the following issues:

(i) integration of public and private funding sources;

(ii) maximization of federal funding opportunities;

(iii) consideration of the special needs of disabled children, including needed services, supports, and appropriate provider training;

(iv) promotion of the use of school buildings and local public transportation resources for after–school and summer opportunity programs;

(v) where needed, technical assistance for compliance with the Maryland Out of School Time Programs' Quality Standards Framework;

(vi) promotion of continued expansion of high quality after–school and summer opportunity programs in the State; and

(vii) integration of any plans developed by local jurisdictions.

(d) (1) Each fiscal year, in consultation with the Advisory Board and subject to the availability of money in the Fund, the Executive Committee shall issue a request for proposals under the State procurement law soliciting bids for a grant from the Fund.

(2) Subject to subsection (b)(2) of this section, the Executive Committee may award a grant from the Fund to an applicant only after consultation with the Advisory Board and upon a favorable vote of a majority of the members of the Executive Committee.

(3) In any fiscal year, the total grants awarded to applicants operating within a particular county or Baltimore City may not exceed 15% of the total grants awarded in that fiscal year.

(4) Only nonprofit organizations are eligible to receive a grant.

(5) The Executive Committee must identify and ensure that a responsible nonprofit organization will administer any grant awarded from the Fund.

(e) (1) In selecting a nonprofit organization to administer a grant from the Fund, the Executive Committee shall select the responsive and responsible bidder whose application best incorporates features that will have a positive measurable impact on one or more of the conditions of well–being for Maryland children and youth identified by the Maryland Out of School Time Programs' Quality Standards

Framework.

(2) The Executive Committee shall ensure funds are granted to nonprofit organizations in all geographic areas of the State as equitably as possible.

(f) The Executive Committee may award a planning grant from the Fund to assist nonprofit organizations in a county to prepare an application for a grant for the next fiscal year.

(g) The Executive Committee may award a capacity building grant from the Fund to assist nonprofit organizations to increase staff capacity, training, and sustainability of the Programs.

§8–1105.

Subject to § 2–1246 of the State Government Article, the Executive Committee shall report by December 31 of each year to the General Assembly on the implementation of the Program, including an evaluation of the effectiveness of the after–school and summer opportunity programs funded by grants under the Program.

§8–1106.

(a) The Executive Committee shall adopt regulations to carry out the provisions of this subtitle.

(b) The Executive Committee shall annually review regulations.

§8–1107.

This subtitle may be cited as the Maryland After–School and Summer Opportunity Fund Act.

§9–101.

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

(b) "Department" means the Department of Juvenile Services.

(c) "Secretary" means the Secretary of Juvenile Services.

(d) "State Advisory Board" means the State Advisory Board for Juvenile Services.

§9–201.

There is a Department of Juvenile Services established as a principal department of State government.

§9–202.

(a) (1) With the advice and consent of the Senate, the Governor shall appoint the Secretary of Juvenile Services.

(2) The Secretary is the head of the Department.

(b) Before taking office, the appointee shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) (1) The Secretary serves at the pleasure of the Governor and is responsible directly to the Governor.

(2) The Secretary shall advise the Governor on all matters assigned to the Department and is responsible for carrying out the Governor's policies on those matters.

(d) The Secretary is entitled to the compensation provided in the State budget.

(e) The Secretary shall have a seal.

§9–203.

(a) The Secretary is responsible for the operation of the Department and shall establish guidelines and procedures to promote the orderly and efficient administration of the Department.

(b) The Secretary may establish, reorganize, or abolish areas of responsibility in the Department as necessary to fulfill the duties assigned to the Secretary.

§9–204.

(a) The Secretary shall carry out and enforce this title, the regulations of the Department, and any other provision of law that relates to the Secretary or the Department.

(b) (1) The Secretary may adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary.

(2) The Secretary shall review and may revise the regulations of:

(i) each unit in the Department that is authorized by law to adopt regulations; and

(ii) the Department.

(c) The Secretary is responsible for the budget of the Department and for the budget of each unit in the Department.

(d) The Secretary may create any advisory council that the Secretary considers

necessary and assign appropriate functions to it.

(e) (1) The Secretary is responsible for the coordination and direction of all planning that the office of the Secretary initiates.

(2) The Secretary shall keep fully apprised of plans, proposals, and projects of each unit in the Department and, except as expressly provided otherwise, may approve, disapprove, or modify any of them.

(f) (1) The Secretary shall develop a State Comprehensive Juvenile Services 3-Year Plan.

(2) The Plan shall:

(i) include an inventory of all in-day treatment programs and residential care programs and an accounting of the residence of all clients;

(ii) include an inventory of nonresidential treatment programs;

(iii) specify the needs of the various areas of services for clients, including alcohol and drug abuse rehabilitation services;

(iv) specify the needs of clients, including predelinquent diversion services programs;

(v) establish priorities for the different services needed;

(vi) set standards for the quality of residential services and outreach services;

(vii) include a program dedicated to reducing recidivism rates of clients;

(viii) include programs dedicated to diverting children from the juvenile justice system; and

(ix) include any other matters that the Secretary considers appropriate.

(3) The Plan shall be revised for each fiscal year and submitted, subject to § 2-1246 of the State Government Article, to the General Assembly by February 1 of each year.

(g) (1) The Secretary is responsible for the development, implementation, and maintenance of a comprehensive client information system, including an individual current record on each child, that is integrated in and accessible to the various units of the Department.

(2) The Secretary shall undertake efforts to link the system to the

Department of Health and Mental Hygiene and the Department of Human Resources for the purpose of allowing the exchange of information on clients served by each department.

(3) Each employee using the information shall protect the confidentiality of client records.

(h) (1) Except as otherwise expressly provided by law, the Secretary may transfer, by regulation or written directive, any function, staff, or funds from any unit in the Department to the office of the Secretary or another unit in the Department.

(2) Any staff transferred to the office of the Secretary shall be provided space, equipment, and services by the unit from which the staff was transferred, unless the Secretary orders removal to another location for the proper and efficient functioning of that office.

(i) (1) On or before January 1 of each year, the Secretary shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the recidivism rates of children committed to the Department for placement in residential care.

(2) The report shall include:

(i) recidivism rates for all children committed to the Department for placement in residential care;

(ii) recidivism rates by region for all children committed to the Department for placement in residential care; and

(iii) recidivism rates for each residential care program in which a child committed to the Department is placed.

(3) The report shall include data from the prior 3 fiscal years.

(4) The report shall include recidivism rates that are calculated for 1 year and 3 year time frames.

§9–205.

Each unit in the Department shall report to the Secretary as provided in the regulations or written directives that the Secretary adopts.

§9–206.

(a) With the approval of the Governor, the Secretary may appoint two deputy secretaries as necessary.

(b) The deputy secretaries:

(1) serve at the pleasure of the Secretary; and

(2) are entitled to the compensation provided in the State budget.

(c) The deputy secretaries have the duties provided by law or delegated by the Secretary.

(d) The Secretary shall designate a deputy secretary to be the Acting Secretary when the Secretary is absent from the State or otherwise unavailable.

§9–207.

(a) In accordance with the State budget, the Secretary may employ a staff and retain consultants.

(b) (1) (i) The Secretary shall appoint:

1. any assistant secretary;

2. any director of an institution;

3. the superintendent of the youth centers; and

4. the managing director, deputy director, and director of detention at the Baltimore City Juvenile Justice Center.

(ii) An employee of the Department specified in subparagraph (i) of this paragraph:

1. is in the executive service or management service of the State Personnel Management System; and

2. serves at the pleasure of the Secretary.

(2) Each teacher who does not hold a certificate under Title 6, Subtitle 1 of the Education Article, principal, director of education, and supervisor of vocational education who is employed by an institution managed by the Department is in the management service of, or is a special appointment in, the State Personnel Management System.

(3) Unless otherwise provided by law, the Secretary shall appoint and remove all staff in accordance with the State Personnel and Pensions Article.

(c) (1) Unless the Secretary grants express permission, an employee of the Department who is subject to subsection (b)(1) of this section may not engage in other employment while employed by the Department.

(2) The Secretary may not unreasonably withhold express permission to engage in other employment.

(3) If the Secretary grants permission to engage in other employment, the employee shall disclose to the Secretary the source and amount of all income earned from that other employment.

(d) (1) The appointment or removal of staff of a unit in the Department is subject to the approval of the Secretary.

(2) The Secretary may delegate the power of approval established under paragraph (1) of this subsection to the head of the unit.

(e) The Department shall:

(1) adopt a code of conduct for staff of the Department; and

(2) require each private agency under contract with the Department to adopt a code of conduct for its staff that is in substantial compliance with the code of conduct for staff of the Department.

§9–208.

In cooperation with the Secretary of Budget and Management, the Secretary shall:

(1) set minimum salaries, qualifications, and standards of training and experience for the positions in the Department; and

(2) for employees who desire training in addition to in-service training and whose service records show merit, provide:

(i) educational subsidies, scholarships, and stipends; and

(ii) institutes, conferences, and classes.

§9–209.

(a) (1) On or before the first day of employment with the Department, the Department shall apply to the Criminal Justice Information System Central Repository in the Department of Public Safety and Correctional Services for a federal and State criminal history records check for each employee of the Department.

(2) The Criminal Justice Information System Central Repository shall provide the requested information in accordance with Title 10, Subtitle 2 of the Criminal Procedure Article.

(3) If criminal history record information is reported to the Criminal Justice Information System Central Repository after the date of the criminal history records check, the Criminal Justice Information System Central Repository shall provide to the Department and the employee a revised printed statement of the employee's criminal history record information.

(b) As part of the application for a criminal history records check, the Department shall submit to the Criminal Justice Information System Central Repository:

(1) a complete set of the employee's legible fingerprints taken on standard fingerprint cards;

(2) the mandatory processing fee required by the Federal Bureau of Investigation for a federal criminal history records check; and

(3) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

§9–210.

(a) The Attorney General is the legal adviser to the Department.

(b) The Attorney General shall assign to the Department the number of assistant Attorneys General that are authorized by law for the Department and, as provided in the State budget, any additional assistant Attorneys General necessary to give effective legal advice and counsel.

(c) (1) The Attorney General shall designate one of the assistant Attorneys General as counsel to the Department.

(2) The counsel to the Department may have no duty other than to give the legal aid, advice, and counsel required by the Secretary and any other official of the Department, to supervise the other assistant Attorneys General assigned to the Department, and to perform for the Department the duties that the Attorney General assigns.

(3) The counsel shall perform the duties specified in paragraph (2) of this subsection subject to the control and supervision of the Attorney General.

(4) After the Attorney General designates the counsel to the Department, the Attorney General may not reassign the counsel without consulting the Secretary.

§9–211.

There is a State Advisory Board for Juvenile Services in the Department.

§9–212.

(a) The State Advisory Board consists of the following 19 members appointed by the Governor:

(1) one representative of the Department;

(2) one representative of the State Department of Education;

(3) one representative of the Department of Health and Mental Hygiene;

(4) one representative of the Department of State Police;

(5) one representative of the Social Services Administration of the Department of Human Resources;

(6) one representative of a private child welfare agency;

(7) one representative of a youth services bureau;

(8) three representatives of the State judiciary;

(9) one representative of the General Assembly recommended by the President of the Senate;

(10) one representative of the General Assembly recommended by the Speaker of the House; and

(11) seven members of the general public.

(b) Of the seven members from the general public:

(1) three shall be chosen on the basis of their interest in and experience with minors and juvenile problems;

(2) three shall:

(i) at the time of appointment to a first term, be at least 16 years old and under the age of 25 years; and

(ii) include at least one individual who has been under the jurisdiction of the Department.

(c) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the State Advisory Board on October 1, 2007.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member who serves two consecutive full 3-year terms may not be reappointed for 3 years after completion of those terms.

§9–213.

(a) From among the members of the State Advisory Board, the Governor shall appoint a chair.

(b) (1) From among the members of the State Advisory Board, the chair shall appoint a secretary.

(2) The secretary shall keep full and accurate minutes of each State Advisory Board meeting.

§9–214.

(a) The State Advisory Board shall meet regularly at least six times a year on the call of its chair.

(b) A member of the State Advisory Board:

(1) may not receive compensation as a member of the State Advisory Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) A member of the State Advisory Board may not have a direct or indirect interest in any contract for building, repairing, equipping, or providing materials or supplies to the Department or have any other financial interest in a contract with the Department.

§9–215.

In addition to its other duties specified in this title, the State Advisory Board shall:

(1) consult with and advise the Secretary on:

(i) each aspect of the juvenile services program in the State;

(ii) the educational programs and services of the Department; and

(iii) programs designed to divert children from the juvenile justice system;

(2) recommend to the Secretary policies and programs to improve juvenile services in the State;

(3) participate in interpreting for the public the objectives of the Department; and

(4) participate in planning the development and use of available resources to meet the needs of the Department.

§9–216.

(a) The Department is the central administrative department for:

(1) juvenile intake, detention authorization, community detention, investigation, probation, protective supervision, predelinquent diversion services, and aftercare services; and

(2) the State juvenile diagnostic, training, detention, and rehabilitation institutions.

(b) The Department shall:

(1) develop programs for predelinquent children whose behavior tends to lead to contact with law enforcement agencies;

(2) promote predelinquent programs, including greater utilization of youth services bureaus under § 9–234 of this subtitle, that provide services to divert children from the juvenile justice system;

(3) collaborate with local governments to encourage the use of predelinquent programs provided by youth services bureaus under § 9–234 of this subtitle in response to identified community needs; and

(4) provide technical assistance to local governments and youth services bureaus under § 9–234 of this subtitle to identify alternative funding sources for predelinquent programs.

§9–217.

The Department may:

(1) designate any public or private agency or organization in the State as its agent for the purposes of this title; and

(2) spend funds to aid that agent or to buy services from it or, if adequate services are not available in the State, to buy services from an agency or organization outside the State.

§9–218.

(a) (1) The Secretary may apply for, receive, and spend federal funds available for use in carrying out the powers and duties of the Secretary or the Department.

(2) The Department may:

(i) accept, manage, and dispose of federal funds and commodities; and

(ii) take advantage of any available federal program or grant or other public or private assistance that accomplishes or furthers the objectives of this title.

(b) (1) With the approval of the Secretary of Budget and Management, the Department shall accept, on behalf of the State, a conditional or unconditional gift or grant.

(2) The Department shall pay all funds collected under paragraph (1) of this subsection into a special fund of the State Treasury and use the special fund to carry out the provisions of this title.

(c) Except as provided in subsection (b) of this section or otherwise provided by law, the Secretary shall pay all money collected by the Department under this title into the General Fund of the State.

§9–219. IN EFFECT

(a) (1) In this section, "confidential research record" means a record, report, statement, note, or other information that:

(i) is assembled or obtained for research or study by the Department or the Secretary; and

(ii) names or otherwise identifies a person.

(2) "Confidential research record" includes a record that was transferred to the custody of the Department by a predecessor agency.

(b) Each confidential research record shall remain in the custody and control of the Department.

(c) A confidential research record may be used only for the research and study for which it was assembled or obtained.

(d) A person may not disclose a confidential research record to any person who is not engaged in the research or study for which it was assembled or obtained.

(e) This section does not apply to or restrict the use or publication of any statistics, information, or other material that summarizes or refers to confidential records in the aggregate, without disclosing the identity of any person who is the subject of a confidential record.

(f) (1) Notwithstanding the provisions of this section, the Department shall disclose to the Baltimore City Health Department's Office of Youth Violence Prevention, on a written request:

(i) a confidential research record concerning a child to whom the Baltimore City Health Department's Office of Youth Violence Prevention is providing treatment or care, for a purpose relevant to the provision of the treatment or care;

(ii) a confidential research record concerning a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

(iii) a confidential research record concerning a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(2) (i) The Baltimore City Health Department's Office of Youth Violence Prevention shall keep confidential any information provided under paragraph (1) of this subsection.

(ii) The Baltimore City Health Department's Office of Youth Violence Prevention shall be liable for the unauthorized release of information provided under paragraph (1) of this subsection.

(3) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention receives a confidential research record under paragraph (1) of this subsection, the Baltimore City Health Department's Office of Youth Violence Prevention shall submit a report to the Department detailing the purposes for which the confidential record was used.

9–219. // EFFECTIVE SEPTEMBER 30, 2019 PER CHAPTER 474 OF 2013 //

(a) (1) In this section, "confidential research record" means a record, report, statement, note, or other information that:

(i) is assembled or obtained for research or study by the Department or the Secretary; and

(ii) names or otherwise identifies a person.

(2) "Confidential research record" includes a record that was transferred to the custody of the Department by a predecessor agency.

(b) Each confidential research record shall remain in the custody and control of the Department.

(c) A confidential research record may be used only for the research and study for which it was assembled or obtained.

(d) A person may not disclose a confidential research record to any person who is not engaged in the research or study for which it was assembled or obtained.

(e) This section does not apply to or restrict the use or publication of any statistics, information, or other material that summarizes or refers to confidential records in the aggregate, without disclosing the identity of any person who is the subject of a confidential record.

§9–220.

The Department shall have a unit for research and development that shall:

(1) compile accurate statistics and reliable information on all aspects of the juvenile program of the State;

(2) monitor current developments in the field of juvenile services;

(3) assess existing programs and activities, including youth services bureaus;

(4) help develop new or improved means, including greater utilization of youth services bureaus under § 9-233 of this subtitle, to prevent juvenile offenses and control and treat juvenile offenders;

(5) if necessary, initiate studies to help the Secretary in general planning and program development for the Department; and

(6) for these and related purposes, use research and information available from all sources.

§9–221.

(a) To carry out the objectives of this title, the following State units shall cooperate fully with the Department:

(1) the State Department of Education;

(2) the Department of General Services;

(3) the Department of Health and Mental Hygiene;

(4) the Department of Human Resources;

(5) the Department of Labor, Licensing, and Regulation;

(6) the Department of Public Safety and Correctional Services; and

(7) each other agency needed to accomplish these objectives.

(b) (1) The Department shall cooperate with the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article by:

(i) providing the Unit with access to all facilities, reports, and records relating to a child on request;

(ii) allowing the juvenile justice monitors to conduct interviews with staff, children, and any other individuals on request; and

(iii) submitting corrective action plans and incident reports to the Unit in response to findings and recommendations made by the juvenile justice monitors regarding a facility.

(2) (i) The Department shall respond to requests for information from a juvenile justice monitor concerning a facility within 30 days after the date of the request.

(ii) If the Department does not respond to a request for information, the monitor may conduct a reasonable investigation relating to the original request for information.

(c) The Department shall cooperate with the State Department of Education to establish educational programs as required under Title 22, Subtitle 3 of the Education Article.

§9–222.

(a) Title 3, Subtitle 8A of the Courts Article governs detention, adjudication, disposition, and place and period of commitment of children in need of supervision and delinquent children.

(b) The Department shall be subject to State finance and procurement laws under the State Finance and Procurement Article.

§9–223.

It is the policy of the State that the Department comply with the provisions of §§ 3-802 and 3-8A-02 of the Courts Article.

§9–226.

(a) The Department may establish and operate the facilities that are necessary to properly diagnose, care for, train, educate, and rehabilitate children who need these services.

(b) The facilities described in subsection (a) of this section include:

(1) the Alfred D. Noyes Children's Center;

(2) the Baltimore City Juvenile Justice Center;

(3) the Charles H. Hickey, Jr. School;

(4) the Cheltenham Youth Facility;

(5) the J. DeWeese Carter Center;

(6) the Lower Eastern Shore Children's Center;

(7) the Thomas J. S. Waxter Children's Center;

(8) the Victor Cullen Center;

(9) the Western Maryland Children's Center; and

(10) the youth centers.

§9–227.

(a) Each facility described in § 9-226 of this subtitle shall operate under the control and general management of the Department.

(b) The Department shall:

(1) subject to Title 3, Subtitles 8 and 8A of the Courts Article, adopt regulations that set:

(i) policies for detention authorization, community detention, admission, transfer, discharge, and aftercare supervision; and

(ii) standards of care, including provisions to administer any early, periodic screening diagnosis and treatment program that the Department approves for establishment under 42 U.S.C., § 1396d(a)(4)(B) and to treat appropriately any condition that the screening reveals;

(2) adopt regulations applicable to residential facilities it operates that:

(i) prohibit the use of locked door seclusion and restraints as punishment and describe the circumstances under which locked door seclusion and restraints may be used; and

(ii) prohibit abuse of a child; and

(3) adopt regulations that require each State residential program to provide:

(i) medical and mental health assessment services;

(ii) alcohol abuse and drug abuse assessment services;

(iii) either alcohol abuse and drug abuse referral services or an alcohol abuse and drug abuse treatment program that has been certified in accordance with

the requirements of Title 8 of the Health – General Article; and

(iv) a safe, humane, and caring environment.

(c) (1) The Department shall adopt a policy to govern disciplinary actions and grievances in its facilities.

(2) The policy shall:

(i) require preparation of a written report of any disciplinary action taken against a child or of any grievance made by or on behalf of a child;

(ii) require that each written report be forwarded to and reviewed by the administrative head of the facility; and

(iii) require the Department to forward in a timely manner all reports of disciplinary actions, grievances, and grievance dispositions from each facility to the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article.

(d) In each facility, the Department shall develop special programs that are designed to meet the particular needs of its residents.

(e) Subject to Title 3, Subtitles 8 and 8A of the Courts Article, the Department shall order any necessary changes in the policy, conduct, or management of a State residential program to provide adequate care for the children and adequate services to the courts.

§9–228.

Before the Department requests a bond issue from the General Assembly to build or renovate a facility, the Department shall consult on the proposed construction or renovation plans with the governing body of:

(1) the county where the facility is to be built or renovated; and

(2) each county to be served by the facility.

§9–229.

(a) The Department shall operate and manage the Baltimore City Juvenile Justice Center as a centralized regional juvenile intake, assessment, court, and detention facility for Baltimore City.

(b) The Baltimore City Juvenile Justice Center shall include:

(1) the Department;

(2) the Juvenile Division of the Circuit Court for Baltimore City;

(3) an office of the State's Attorney for Baltimore City;

(4) an office of the Baltimore City Department of Social Services;

(5) Baltimore City police services; and

(6) courthouse security services of the Sheriff of Baltimore City.

(c) If a child who is delinquent or is alleged to have committed a delinquent act is taken into custody by a law enforcement officer and brought to the Baltimore City Juvenile Justice Center, the Department, in conjunction with Baltimore City police services, shall:

(1) for purposes of positive identification, obtain photographs and fingerprints and submit them to:

(i) the Criminal Justice Information System Central Repository; and

(ii) any other automated juvenile justice information system or repository approved by the Secretary;

(2) conduct a criminal and juvenile history records check; and

(3) conduct an automated search for outstanding warrants and writs of attachment.

(d) (1) After the processing of fingerprints, the Criminal Justice Information System Central Repository shall provide to the Department, in accordance with State and federal law, information concerning children taken into custody under subsection (c) of this section.

(2) Information concerning a child disseminated from the Criminal Justice Information System Central Repository is a police record under § 10-101(h) of the Criminal Procedure Article and may not be redisseminated except in accordance with § 3-8A-27(a) of the Courts Article.

(e) Subject to the authority of the Secretary:

(1) the managing director of the Baltimore City Juvenile Justice Center is its chief administrator; and

(2) the director of detention of the Baltimore City Juvenile Justice Center is its administrator of juvenile detention.

§9–230.

(a) With the consent of the State Advisory Board, the Secretary may establish an advisory board for one or more facilities.

(b) Each board shall consist of individuals that the Secretary and the State Advisory Board consider to be helpful in matters that relate to the effective operation and improvement of the facility.

(c) A representative of the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article shall be available to attend meetings of each advisory board.

§9–231.

(a) The Department may place children in group homes and institutions operated by nonprofit or for-profit entities to provide for their care, diagnosis, training, education, and rehabilitation.

(b) (1) The Department shall reimburse the entities described in subsection (a) of this section for the cost of the services at appropriate monthly rates that the Department determines, as provided in the State budget.

(2) The Department may establish different reimbursement rates for homes and institutions that provide intermediate services and homes and institutions that provide full services.

(c) The Department may not place a child in a group home or other residential facility that is not operating in compliance with applicable State licensing laws.

§9–232.

The Department shall establish a program to help homes for runaway youths.

§9–233.

(a) In this section, "youth services bureau" means a community-based entity that is operated:

(1) to provide community-oriented delinquency prevention, youth suicide prevention, drug and alcohol abuse prevention, and youth development;

(2) to ameliorate conditions that contribute to delinquency, youth suicide, drug and alcohol abuse, and family disruption; and

(3) to function as an advocate of youth needs.

(b) (1) The Department shall adopt regulations that set eligibility guidelines for State funding of youth services bureaus under this section.

(2) The regulations shall require that each youth services bureau that receives State funding:

(i) provide, at convenient hours:

1. individual, family, or group counseling;

2. referral and information services;

3. crisis intervention, including intervention relating to youth suicide prevention;

4. alcohol and drug abuse assessment and referral services by staff who have received substance abuse assessment and referral training from the Office of Education and Training for Addiction Services (OETAS) in the Department of Health and Mental Hygiene or from any other entity that the Secretary determines to be qualified to provide substance abuse assessment and referral training;

5. informal counseling; and

6. in accordance with the needs of the community and subject to the availability of funds:

A. tutoring;

B. alternative leisure activities;

C. employment assistance;

D. community education, including training and information relating to youth suicide prevention;

E. aftercare services; and

F. other specialized services;

(ii) subject to subsection (c)(2) of this section, provide the services described in item (i) of this paragraph free of charge or at a rate that its board of directors establishes, in consultation with the Department, that is based on the client's family income; and

(iii) dispose of all information and records on each individual receiving services from the youth services bureau 5 years after services to the individual terminate.

(c) (1) A youth services bureau may retain any fees charged under subsection (b)(2)(ii) of this section.

(2) The fees authorized under subsection (b)(2)(ii) of this section do not apply to youth referred to a youth services bureau by court order.

(d) (1) The Department shall:

(i) monitor the operations of each youth services bureau that

receives State funding;

(ii) evaluate annually the effectiveness of each youth services bureau; and

(iii) discontinue funding a youth services bureau that is ineffective or that, for 2 years, fails to meet the eligibility guidelines for State funding.

(2) The Department shall review and approve or disapprove an application for State funding of a youth services bureau or proposed youth services bureau.

(e) (1) (i) The State and the local government shall jointly fund an eligible youth services bureau.

(ii) The State shall provide 75% of the funding for an eligible youth services bureau, as provided in the State budget.

(2) At the times that the Department specifies, each eligible youth services bureau shall submit a proposed annual budget to the Department for review and approval.

(3) The proposed budget of the Department shall list the eligible youth services bureaus and estimate the amount of State funds to be allocated to each.

(4) (i) The local governing body that provides the matching funds for an eligible youth services bureau may choose to have the State funds for the youth services bureau paid directly to its private sponsor or to the local governing body.

(ii) Before the State funds are paid, the fiscal officer of the local government shall certify in writing the source of the matching funds provided by the local government.

§9–234.

(a) The General Assembly intends that:

(1) all children whose care is the responsibility of the State shall have similar protection for their health, their safety, and the quality of their care; and

(2) the regulations of State units that are charged with child care shall be comparable.

(b) The Department shall adopt regulations to carry out §§ 9-235 and 9-236 of this subtitle.

(c) A child care home or child care institution may not be required to obtain a license from more than one State unit.

(d) A State unit authorized to license child care homes or child care institutions

may make a cooperative licensing arrangement with another State unit.

§9–235.

(a) Except as provided in subsection (b) of this section, a person shall be licensed by the Department as a child care home before the person may exercise care, custody, or control over a child who is alleged to be or is adjudicated delinquent or in need of supervision.

(b) This section does not apply to:

(1) a parent of the child;

(2) an individual related to the child by blood or marriage within 4 degrees of consanguinity under the civil law rule;

(3) a guardian of the child;

(4) a person who exercises temporary custody or control over the child at the request of a parent or guardian of the child and who is not required otherwise to be licensed;

(5) a person who has the care, custody, or control of the child through placement by a parent or grandparent of the child in contemplation of adoption, if the requirements of § 5-507(b)(2) and (c) of the Family Law Article are met;

(6) an institution that has a child care institution license under this subtitle or § 5-509 of the Family Law Article;

(7) an institution operated by a unit of the State or a political subdivision; or

(8) a foster care provider with whom the child is placed by:

(i) a licensed child placement agency;

(ii) a local department of social services;

(iii) the Secretary of Health and Mental Hygiene;

(iv) the Department; or

(v) a court of competent jurisdiction.

§9–236.

(a) Except as otherwise provided in subsection (b) of this section, a person shall be licensed by the Department as a child care institution before the person may operate an institution for the care, custody, or control of a child alleged to be or adjudicated

delinquent or in need of supervision.

(b) This section does not apply to:

(1) an institution or facility operated by a unit of the State or a political subdivision; or

(2) a child care home that has a license under this subtitle or § 5-508 of the Family Law Article.

§9–237.

(a) The Department shall adopt regulations that set standards for juvenile detention facilities operated by the Department and by private agencies under contract with the Department.

(b) The standards shall reflect the following central purposes of juvenile detention:

(1) to protect the public;

(2) to provide a safe, humane, and caring environment for children; and

(3) to provide access to required services for children.

(c) The standards shall include provisions establishing:

(1) a policy that eliminates the unnecessary use of detention and that prioritizes diversion and appropriate nonsecure alternatives;

(2) criteria for the placement of a child in a particular juvenile detention facility;

(3) population limits for each juvenile detention facility that may not be exceeded except in emergency circumstances;

(4) a requirement that staffing ratios and levels of services be maintained during emergencies;

(5) specifications for the architectural structure of a juvenile detention facility;

(6) staff qualifications and training, including training in recognizing and reporting child abuse and neglect;

(7) the ratio of staff to children in a juvenile detention facility;

(8) the rights of children in a juvenile detention facility, including the right to privacy, visitors, telephone use, and mail delivery;

(9) prohibitions against the use of excessive force against a child;

(10) internal auditing and monitoring of programs and facilities in the juvenile services system; and

(11) prohibitions against the use of physical restraints on an individual known to be in the third trimester of pregnancy or during labor, delivery, or postpartum recovery, including during all transports, unless a facility superintendent or the facility superintendent's designee determines that a physical restraint is necessary to protect the individual from harming herself or others or to prevent the individual's escape from custody.

(d) The standards shall be consistent with this title and Title 3, Subtitle 8A of the Courts Article.

§9–238.1.

(a) The Department shall serve children in the juvenile services system with programming that:

(1) ensures the safety of the community and the children served;

(2) holds delinquent children accountable to victims and communities;

(3) assists children to develop competencies to become successful members of society;

(4) delivers services on a regional basis through at least four operational regions;

(5) (i) ensures that each committed facility owned by the Department serves no more than 48 children at one time; and

(ii) ensures that each committed facility licensed by the Department serves no more than 48 children at one time, unless the Secretary finds good cause for a committed facility licensed by the Department to serve more than 48 children at one time; and

(6) uses detention and committed facilities that are operationally separate from each other and that do not share common program space, including dining halls and educational or recreational facilities.

(b) A region shall:

(1) include at least one secure facility used solely for children pending court disposition and children awaiting placement after disposition;

(2) except for specialized services as provided in subsection (c) of this

section, include a number of committed facilities estimated to be necessary to diagnose, care for, train, educate, and properly rehabilitate every child from the region in the custody of the Department; and

(3) include a nonpublic facility only if the Department determines that the facility:

(i) has provided or will efficiently and effectively provide adequate care for the children placed in the facility; and

(ii) has demonstrated or will demonstrate a record of success based on standards promulgated by the Department.

(c) The Department may place a child into a committed facility outside the child's region if a determination is made by the Department that specialized services for the child require the placement in the best interests of the child.

§9–239.

By regulation, the Department shall set standards for nonsecure alternatives for the placement of a child committed under § 3-8A-19 of the Courts Article.

§9–240.

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

(2) "Step-down aftercare" means:

(i) a network of programs that provide education and rehabilitation; and

(ii) services and treatment to ease the transition of children from the custody of the Department to their homes and communities.

(3) "Step-down aftercare plan" means an individualized plan for each child in step-down aftercare that proposes specific assistance, guidance, treatment, services, and supervision that:

(i) prepares the child for reentry into the specific community to which the child will return;

(ii) ensures the delivery of prescribed services to the child in the community; and

(iii) monitors conduct in the community to ensure public safety.

(b) (1) A child discharged from a committed residential placement shall receive step-down aftercare for the period that the Department determines.

(2) A child in step-down aftercare shall receive:

(i) a step-down aftercare plan;

(ii) supervision by step-down aftercare staff in accordance with the step-down aftercare plan;

(iii) educational services; and

(iv) any other services necessary to implement the step-down aftercare plan.

(c) The step-down aftercare staff shall:

(1) prepare a step-down aftercare plan for each child assigned to the step-down aftercare program and file the plan with the Department;

(2) keep regular records concerning the progress of each child;

(3) file with the Department a monthly progress report on each child; and

(4) file with the Department an annual report on the outcome of step-down aftercare plans for the children in the step-down aftercare program, that includes to the extent possible:

(i) information on the number of children who:

1. are rearrested;

2. are rearrested and charged with serious or violent offenses;

3. are rearrested and waived to the adult system;

4. are re-referred to the Department;

5. are readjudicated and recommitted;

6. graduate from high school or successfully complete a high school equivalency examination; and

7. are employed; and

(ii) other relevant information.

§9–240.1.

(a) (1) The Secretary shall establish a Program to attempt to provide a volunteer mentor for each child in the State who has spent at least 30 days in a committed placement.

(2) The Program shall be called "Maryland Rising".

(b) The purpose of the Program is to provide individualized attention to a child:

(1) to decrease the child's delinquent or violent behavior in the community; and

(2) to increase the child's potential for becoming a productive, successful member of the community.

(c) (1) To carry out the purpose of the Program, the Department shall develop a statewide network of State agencies, community agencies, citizen action groups, social services providers, volunteer organizations, college student groups, and other groups who will recruit volunteer mentors for the Program.

(2) A mentor shall have frequent contact with the child and may provide the following services to the child:

(i) informal counseling;

(ii) tutoring;

(iii) assisting the child with life skills training;

(iv) working with the child's family or guardian;

(v) interacting with the child's school or employer, if necessary; and

(vi) other individualized support services that help the child avoid negative behaviors and become a successful, productive member of the community.

(d) The Department may adopt regulations to implement this section.

§9–241.

(a) The Secretary shall establish programs for juvenile intake, predelinquent diversion services, community detention, investigation, probation, and aftercare services.

(b) (1) Except for predelinquent diversion services, the Secretary shall provide sufficient staff to operate the programs described in subsection (a) of this section.

(2) The staff of the Department is under the immediate direction and control of the Secretary.

§9–242.

The Secretary shall hold institutes, conferences, and other programs to familiarize

the judiciary, the Baltimore City Social Services Commission and other boards of local departments of social services, citizens action groups, and other interested persons with the functions and programs of the Department.

§9–243.

(a) If requested by a juvenile court or by any other court in a proceeding that involves the interest of a minor, the Department shall provide the services described in this title.

(b) The Department shall provide the employees necessary for any services that a juvenile court orders.

(c) The Department shall cooperate with the juvenile court in carrying out the objectives of this title and Title 3, Subtitles 8 and 8A of the Courts Article.

§9–244.

(a) The Secretary shall:

(1) study the problem of the units of work that are involved in the juvenile courts; and

(2) establish a system for units of work.

(b) (1) On the basis of the comparative workload of any juvenile court, the Secretary shall provide the court with adequate staff and an adequate variety of staff.

(2) Unless the judges of the court consent, a juvenile court may not be assigned a smaller staff than authorized as of July 1, 1986.

(c) (1) Within the formula described in this section, a judge of any juvenile court may request the additional clerical and professional court service staff that the workload of the court requires.

(2) The Secretary shall consider and respond to a request under paragraph (1) of this subsection in accordance with §§ 9-241 and 9-243 of this subtitle.

§9–245.

(a) In this section, "foster parent" includes an individual who cares for a child on an emergency basis under a shelter care program.

(b) (1) The Department shall provide liability insurance for foster parents who care for children under foster parent programs.

(2) Subject to a reasonable deductible limit that the Department sets, the liability insurance shall cover:

(i) bodily injury and property damage that a foster child causes to the person or property of a person other than a foster parent; and

(ii) actions against a foster parent by a parent for any accidental injury to the foster child.

(c) (1) Subject to paragraph (2) of this subsection, the Secretary shall reimburse a foster parent for the costs of bodily injury or property damage that the foster child causes to the foster parent and that insurance does not cover, if the Secretary is satisfied that the actions of the foster parent did not contribute substantially to the bodily injury or property damage.

(2) (i) Reimbursement under this subsection may not exceed $5,000.

(ii) Reimbursement exceeding $2,000 requires the approval of the Board of Public Works.

§9–246.

(a) In this section, "fund" means a youth welfare fund.

(b) (1) There is a youth welfare fund in each facility of the Department of Juvenile Services.

(2) A fund shall be used for goods and services that benefit the general youth population in the facility.

(c) (1) Each fund is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) Each fund consists of:

(i) profits derived from the sale of goods through the commissary operation and telephone and vending machine commissions for the facility; and

(ii) subject to paragraph (3) of this subsection, money received from other sources.

(3) Money from the General Fund of the State may not be transferred by budget amendment or other manner to a fund.

(d) (1) The Treasurer shall hold each fund separately, and the Comptroller shall account for each fund.

(2) Each fund is subject to an audit by the Office of Legislative Audits under § 2–1220 of the State Government Article.

(3) (i) Each fund shall be invested and reinvested in the same manner as other State funds.

(ii) Any investment earnings are not a part of the fund.

(e) The Comptroller shall pay out money from each fund as appropriated in the State budget.

§9–301.

This subtitle may be cited as the Interstate Compact for Juveniles.

§9–302.

Article I. Purpose.

(a) The compacting states to this Interstate Compact recognize that:

(1) each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others;

(2) each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence; and

(3) Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this Compact, through means of joint and cooperative action among the compacting states:

(1) to ensure that the adjudicated juveniles and status offenders subject to this Compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(2) to ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(3) to return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(4) to make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(5) to provide for the effective tracking and supervision of juveniles;

(6) to equitably allocate the costs, benefits, and obligations of the compacting states;

(7) to establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(8) to insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(9) to establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this Compact;

(10) to establish a system of uniform data collection on information pertaining to juveniles subject to this Compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

(11) to monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(12) to coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

(13) to coordinate the implementation and operation of the Compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

(c) It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business. The compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this Compact. The provisions of this Compact shall be reasonably and liberally construed to accomplish the purposes and policies of the Compact.

§9–303.

Article II. Definitions.

(a) As used in this subtitle the following words have the meanings indicated, unless the context clearly requires a different construction.

(b) "Bylaws" means those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(c) "Compact Administrator" means the individual in each compacting state

appointed pursuant to the terms of this Compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this Compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this Compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this Compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this Compact.

(f) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

(g) "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this Compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this Compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this Compact.

(h) "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this Compact.

(i) (1) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission.

(2) "Juvenile" includes:

(i) an accused delinquent or person charged with an offense that, if committed by an adult, would be a criminal offense;

(ii) an adjudicated delinquent or person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(iii) an accused status offender or person charged with an offense that would not be a criminal offense if committed by an adult;

(iv) an adjudicated status offender or person found to have committed an offense that would not be a criminal offense if committed by an adult; or

(v) a nonoffender or person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

(j) "Noncompacting state" means any state which has not enacted the enabling legislation for this Compact.

(k) "Probation or parole" means any kind of supervision or conditional release

of juveniles authorized under the laws of the compacting states.

(l) (1) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this Compact that:

(i) is of general applicability;

(ii) implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission; and

(iii) has the force and effect of statutory law in a compacting state.

(2) "Rule" includes the amendment, repeal, or suspension of an existing rule.

(m) "State" means a state of the United States, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

§9–304.

Article III. Interstate Commission for Juveniles.

(a) The compacting states hereby create the "Interstate Commission for Juveniles." The Commission shall be a body corporate and joint agency of the compacting states. The Commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this Compact.

(b) (1) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the Compact Administrator, deputy compact administrator, or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

(2) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex officio

(nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the Commission.

(c) Each compacting state represented at any meeting of the Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. The Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(d) The Interstate Commission shall establish an executive committee, which shall include Commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact.

(e) The executive committee shall:

(1) oversee the day–to–day activities of the administration of the Compact managed by an executive director and Interstate Commission staff;

(2) administer enforcement and compliance with the provisions of the Compact, its bylaws, and rules; and

(3) perform such other duties as directed by the Interstate Commission or set forth in the bylaws.

(f) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(g) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(h) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two–thirds vote that an open meeting would be likely to:

(1) relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing any person of a crime, or formally censuring any person;

(5) disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes;

(7) disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

(8) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

(9) specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(i) For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(j) The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up–to–date technology and coordinate its information functions with the appropriate repository of records.

§9–305.

Article IV. Powers and Duties of the Interstate Commission.

(a) The Interstate Commission shall have the following powers and duties:

(1) to provide for dispute resolution among compacting states;

(2) to promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this Compact;

(3) to oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this Compact and any bylaws adopted and rules promulgated by the Interstate Commission;

(4) to enforce compliance with the Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to, the use of judicial process;

(5) to establish and maintain offices which shall be located within one or more of the compacting states;

(6) to purchase and maintain insurance and bonds;

(7) to borrow, accept, hire, or contract for services of personnel;

(8) to establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

(9) to elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

(10) to accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same;

(11) to lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;

(12) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(13) to establish a budget and make expenditures and levy dues as provided in Article VIII of this Compact;

(14) to sue and be sued;

(15) to adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(16) to perform such functions as may be necessary or appropriate to achieve the purposes of this Compact;

(17) to report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;

(18) to coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity; and

(19) to establish uniform standards of the reporting, collecting, and exchanging of data.

(b) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

§9–306.

Article V. Organization and Operation of the Interstate Commission.

(a) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

(1) establishing the fiscal year of the Interstate Commission;

(2) establishing an executive committee and such other committees as may be necessary;

(3) providing for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

(4) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(5) establishing the titles and responsibilities of the officers of the Interstate Commission;

(6) providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

(7) providing "start–up" rules for initial administration of the Compact;

and

(8) establishing standards and procedures for compliance and technical assistance in carrying out the Compact.

(b) (1) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission.

(2) The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(3) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

(c) (1) The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission

employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§9–307.

Article VI. Rulemaking Functions of the Interstate Commission.

(a) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the Compact.

(b) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

(c) When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) publish the proposed rule's entire text stating the reason for that proposed rule;

(2) allow and invite persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;

(3) provide an opportunity for an informal hearing if petitioned by 10 or more persons; and

(4) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

(d) Not later than 60 days after a rule is promulgated, any interested person

may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the Model State Administrative Procedures Act) in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(e) If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the Compact, cause that such rule shall have no further force and effect in any compacting state.

(f) The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this Act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.

(g) Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

§9–308.

Article VII. Oversight, Enforcement, and Dispute Resolution by the Interstate Commission.

(a) (1) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this Compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the Compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(b) (1) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the Compact as well as issues and activities pertaining to compliance with the provisions of the Compact and

its bylaws and rules.

(2) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the Compact and which may arise among compacting states and between compacting and noncompacting states.

(3) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact using any or all means set forth in Article XI of this Compact.

§9–309.

Article VIII. Finance.

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

§9–310.

Article IX. The State Council.

(a) Each member state shall create a State Council for Interstate Juvenile

Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims' groups, and the Compact Administrator, deputy compact administrator, or designee.

(b) Each compacting state retains the right to determine the qualifications of the Compact Administrator or deputy compact administrator.

(c) Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the Compact within that state.

§9–311.

Article X. Compacting States, Effective Date and Amendment.

(a) Any state is eligible to become a compacting state.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the Compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by all states and territories of the United States.

(c) The Interstate Commission may propose amendments to the Compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

§9–312.

Article XI. Withdrawal, Default, Termination, and Judicial Enforcement.

(a) (1) Once effective, the Compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its

receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.

(b) (1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this Compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(i) remedial training and technical assistance as directed by the Interstate Commission;

(ii) alternative dispute resolution;

(iii) fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; or

(iv) suspension or termination of membership in the Compact.

(2) (i) Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has determined the offending state is in default.

(ii) Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the State Council.

(3) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this Compact, the bylaws, or duly promulgated rules and any other grounds designated in Commission bylaws and rules.

(4) The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Commission, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this Compact shall be terminated from the effective date of termination. Within 60 days of the effective date of termination of a defaulting state, the Commission shall

notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the State Council of such termination.

(5) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(6) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(7) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(c) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the Compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

(d) (1) The Compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the Compact to one compacting state.

(2) Upon dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

§9–313.

Article XII. Severability and Construction.

(a) The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(b) The provisions of this Compact shall be liberally construed to effectuate its purposes.

§9–314.

Article XIII. Binding Effect of Compact and Other Laws.

(a) (1) Nothing in this subtitle prevents the enforcement of any other law of

a compacting state that is not inconsistent with this Compact.

(2) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this Compact are superseded to the extent of the conflict.

(b) (1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

§9–401.

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

(b) "Juvenile facility" means a property used for a juvenile program that is:

(1) operated under the authority of:

(i) a county or municipal corporation, or both;

(ii) a for profit organization; or

(iii) a nonprofit organization; and

(2) (i) wholly owned by the entity described in paragraph (1) of this subsection; or

(ii) leased by the entity if:

1. the lease is for a minimum term of 30 years after completion of the project or gives the lessee the right of purchase; and

2. the lessor consents to the recording of a notice of the State's

right of recovery under § 9-405 of this subtitle in the land records of the county in which the facility is located.

(c) "Juvenile program" means a:

(1) program that:

(i) 1. is a group home or institution described under § 9-231 of this title; or

2. is a home for runaway youths described under § 9-232 of this title; and

(ii) provides residential services to youth placed by the Department; or

(2) nonresidential program that under contract to the State provides educational, vocational, recreational, counseling, or other day services to youth.

§9–402.

(a) A county, municipal corporation, for profit organization, or nonprofit organization sponsoring a project involving the planning, design, construction, conversion, acquisition, renovation, and equipping of a juvenile facility in the State may apply to the Department for a grant under this subtitle.

(b) (1) An application shall be filed with the Department in the form the Department requires.

(2) The applicant shall file with the Department a statement that includes:

(i) a list of the personnel employed or to be employed at the juvenile facility;

(ii) all compensation and other expenses paid or to be paid to the personnel;

(iii) all other expenses incurred or to be incurred in operating the juvenile facility; and

(iv) a schedule of rates charged or to be charged for services provided at the juvenile facility.

(c) If the Secretary approves the project and the project plans, the Secretary shall promptly:

(1) report the application to the Board of Public Works; and

(2) recommend that the Board make funds available as provided in this subtitle.

(d) The amount of the State grant for a project shall be determined after considering:

(1) all eligible applications;

(2) the total of unallocated State funds available when the application is received; and

(3) the priorities of area need that the Department establishes.

§9–403.

(a) The Board of Public Works shall:

(1) make allocations of funds available for the Juvenile Services Facilities Capital Program in accordance with this subtitle; and

(2) certify the allocations to the Comptroller and the Treasurer.

(b) After the Board certifies the allocations, the Treasurer shall make payments to or on behalf of an applicant, when needed, for the project.

§9–404.

(a) (1) A State grant may be used only to plan, design, construct, convert, acquire, renovate, and equip a juvenile facility, including related reports, plans, specifications, site improvements, surveys, and programs.

(2) Any available federal or other grant shall be applied first to the cost of planning, design, construction, conversion, acquisition, renovation, or equipping of a juvenile facility.

(3) A State grant may not exceed 50% of the cost of eligible work remaining unpaid after all federal and other grants have been applied.

(b) (1) A State grant may not be used:

(i) to further sectarian religious instruction;

(ii) in connection with the design, acquisition, or construction of a building used or to be used as a place of sectarian religious worship or instruction; or

(iii) in connection with a program or department of divinity for a religious denomination.

(2) On request of the Board of Public Works, an applicant shall submit

evidence satisfactory to the Board that a grant is not being used and has not been used for a purpose prohibited under this section.

§9–405.

(a) Before any State funds are paid for an approved project, the Department shall cause a notice of the State's right of recovery to be recorded in the land records of the county in which the property is located.

(b) The recording of the notice:

(1) does not create a lien against the property; but

(2) constitutes notice to any potential transferee, potential creditor, or other interested person that the State may obtain a lien under this subtitle.

§9–406.

(a) The State may recover grant funds paid under this subtitle if, within 30 years after completion of a project, the project property:

(1) is sold or transferred to a person that:

(i) would not qualify as an applicant under this subtitle; or

(ii) the Board of Public Works does not approve as a transferee; or

(2) ceases to be a juvenile facility.

(b) The State may recover from the:

(1) transferor;

(2) transferee; or

(3) owner of a property that has ceased to be a juvenile facility.

(c) The State is entitled to recover the sum of:

(1) an amount that equals the value of the project property at the time of the recovery multiplied by a fraction:

(i) the numerator of which is the amount of the State funds for the project; and

(ii) the denominator of which is the total eligible cost of the project; and

(2) all costs and reasonable attorneys' fees incurred in the recovery

proceedings.

(d) The Board of Public Works may waive the State's right of recovery for good cause.

§9–407.

(a) (1) If a default described in § 9-406(a) of this subtitle is alleged, the Secretary of the Board of Public Works may file a civil action under this subtitle in the circuit court of the county in which the property is located against the owner of the property and any other interested parties, including any transferor.

(2) The initial filing shall include affidavits stating facts on which the allegations of default are based and a detailed justification of the amount claimed.

(b) (1) If the court determines from the State's initial filing that there is probable cause to believe that a default described in § 9-406(a) of this subtitle has occurred, the court shall authorize a temporary lien on the property pending full determination of the State's claim.

(2) The temporary lien shall be in the amount of the State's claim, plus any additional amount estimated to be necessary to cover the costs and reasonable attorneys' fees incurred by the State, or another amount that the court determines is reasonable.

(c) (1) The temporary lien takes effect:

(i) on the date of the court order authorizing the lien if, within 10 days, the Secretary of the Board of Public Works records a notice of temporary lien in the land records of the county in which the property is located; or

(ii) if the Secretary fails to record the notice within 10 days, on the date the notice of temporary lien is recorded.

(2) While the temporary lien is in effect, the owner or any person who acquired an interest in the property after the State first made funds available under this subtitle may not take an action that would affect the title to the property or institute proceedings to enforce a security interest or other similar rights in the property, without the prior written consent of the State.

(d) (1) The owner or any other interested party may obtain release of the temporary lien at any time by filing with the court a bond securing the payment in full of the amount described in subsection (b)(2) of this section.

(2) The owner or other interested party may cause the release to be recorded in the land records of the county in which the property is located.

§9–408.

(a) Proceedings to determine the State's right to recover and the amount of its recovery under this subtitle have priority over other civil proceedings in the circuit court.

(b) (1) After a full adversary proceeding, if the court finds that a default described in § 9-406(a) of this subtitle has occurred, the court shall issue a final judgment for the amount the court finds to be recoverable by the State.

(2) All parties involved in the default, including the owner of the property, shall be held jointly and severally liable to the State for the amount of the judgment.

(3) If the court does not find that a default described in § 9-406(a) of this subtitle has occurred or if the court's judgment is paid in full to the State within 30 days after the court's final order, any temporary lien shall be released immediately and the Secretary of the Board of Public Works shall cause the release to be recorded in the land records of the county in which the property is located.

(4) (i) If the judgment remains unpaid for more than 30 days after the court's final order, the amount shall be a lien on the property.

(ii) Unless the State provides otherwise in a written subordination agreement, the lien is superior to a lien or other interest of any mortgagee, pledgee, purchaser, or judgment creditor whose interest became perfected against third persons after the State awarded a grant.

(c) (1) A lien under this section takes effect on the later of:

(i) the 31st day after the court's final order if the Secretary of the Board of Public Works records a notice of lien in the land records of the county in which the property is located on or before the 41st day after the final order; or

(ii) the date a notice of lien is recorded.

(2) (i) When the lien takes effect, any temporary lien is automatically and fully released.

(ii) The recorded notice of the lien constitutes notice of the release of the temporary lien.

(d) A lien under this section may be enforced and foreclosed in accordance with the Maryland Rules, except that the State or any agent appointed by the State to sell the property does not need to file a bond.

(e) (1) The owner or any other interested party may obtain release of a lien under this section by paying to the State the full amount of the judgment entered by the circuit court, and any interest that has accrued from the date of judgment.

(2) On payment in full, the Secretary of the Board of Public Works shall cause a release to be recorded in the land records of the county in which the property is located.

§9–409.

All funds recovered under this subtitle shall be deposited in the Annuity Bond Fund and applied to the debt service requirements of the State.

§9–410.

(a) (1) The Secretary shall adopt regulations to carry out this subtitle.

(2) The regulations shall require each juvenile facility to submit certified financial statements annually for at least the term of the bonds used to finance any project at that juvenile facility.

(3) The regulations may require the submission of other reports.

(b) The Board of Public Works may adopt regulations for:

(1) receiving applications;

(2) considering applications; and

(3) disbursing funds to or on behalf of applicants.

§10–101.

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

(b) "Area agency" means the local agency that the Department designates in accordance with the Older Americans Act of 1965 to administer the delivery of a comprehensive and coordinated plan of social and other services and activities for seniors in a planning and service area.

(c) "Community for a Lifetime" means a community certified under § 10–804 of this title.

(d) "Congregate housing services" means services provided in an apartment building that promote independent living for an eligible individual.

(e) "Department" means the Department of Aging.

(f) "Interagency Committee" means the unit established in § 10–301 of this title to oversee the coordination and consolidation of services for seniors in the State.

(g) "Planning and service area" means an area of the State that the Department designates in accordance with the Older Americans Act of 1965 for the planning and

administration of social, health, and other services for seniors.

(h) "Secretary" means the Secretary of Aging.

§10–201.

There is a Department of Aging established as a principal department of the State government.

§10–202.

(a) (1) With the advice and consent of the Senate, the Governor shall appoint the Secretary of Aging.

(2) The Secretary is the head of the Department.

(b) Before taking office, the appointee shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) (1) The Secretary serves at the pleasure of the Governor and is responsible directly to the Governor.

(2) The Secretary shall advise the Governor on all matters assigned to the Department and is responsible for carrying out the Governor's policies on those matters.

(d) The Secretary is entitled to the compensation provided in the State budget.

§10–203.

(a) The Secretary is responsible for the operation of the Department and shall establish guidelines and procedures to promote the orderly and efficient operation of the Department.

(b) The Secretary may establish, reorganize, or abolish areas of responsibility in the Department as necessary to fulfill the duties assigned to the Secretary.

§10–204.

(a) The Secretary shall administer the programs and activities that the federal government delegates to the State under the Older Americans Act of 1965 that are not otherwise committed by law to another unit of State government.

(b) The Secretary:

(1) is a member of the Governor's Executive Council; and

(2) shall cooperate with and receive the cooperation of State, federal, and local governmental units to carry out the purposes of this title.

(c) The Secretary shall:

(1) evaluate the service needs of seniors in the State;

(2) determine the extent to which existing public and private programs meet the needs of seniors;

(3) establish priorities for meeting the needs of seniors;

(4) coordinate, subject to existing law, assess and evaluate, and educate the public and professionals about all State and local programs and services, both public and private, that relate and are important to the well–being of seniors in the State, including programs and services in the areas of:

(i) income maintenance;

(ii) public health;

(iii) mental health;

(iv) housing and urban development;

(v) employment;

(vi) education;

(vii) recreation; and

(viii) rehabilitation of seniors with physical or mental disabilities; and

(5) develop a statewide plan incorporating local plans for a comprehensive and coordinated system of health, social, and community services for seniors, including housing and institutional and noninstitutional care.

(d) The Secretary shall:

(1) represent the interests of seniors by serving as an advocate at all levels of government;

(2) consult with and advise the secretaries of the principal departments of State government about the programs and services for seniors that are the primary responsibility of those departments;

(3) consult with the Commission on Aging on all matters pertaining to programs for seniors;

(4) provide consultation and technical assistance to communities and civic groups developing local services for seniors;

(5) maintain a clearinghouse of information related to the interests of seniors; and

(6) review and recommend policies to the Governor on publicly funded plans and programs that affect seniors.

§10–205.

(a) The Secretary shall prepare and submit a budget for the Department.

(b) The Secretary may accept and use any State or federal funds for the purposes specified in this title.

§10–206.

(a) (1) With the advice and recommendation of the Commission on Aging, the Secretary shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on or before January 1 of each year.

(2) The report shall include:

(i) a description of the senior citizen activities centers in each county;

(ii) the allocation and use of funds made available for senior citizen activities centers;

(iii) the results of any studies; and

(iv) any recommendations for legislation.

(b) On or before January 1 of each year, the Secretary shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the operation and performance of accessible housing services counseling provided by the Aging and Disability Resource Center Program.

§10–207.

The Secretary shall appoint a deputy secretary.

§10–208.

(a) There is a Commission on Aging in the Department.

(b) (1) The Commission consists of 13 members appointed by the Governor as follows:

(i) 1 shall be a member of the Senate of Maryland, who may not vote;

(ii) 1 shall be a member of the Maryland House of Delegates, who may not vote; and

(iii) 11 shall be selected to reflect the geographic diversity of the State and because of their interest in the needs of seniors.

(2) At least 7 members shall be at least 55 years old.

(c) (1) The term of a member of the Commission is 4 years.

(2) The terms of members appointed under subsection (b)(1)(iii) of this section are staggered as required by the terms provided for members of the Commission on October 1, 2007.

(3) A member of the Commission appointed under subsection (b)(1)(iii) of this section may not serve more than two consecutive terms.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(d) From among the members of the Commission, the Governor shall designate a chair.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(f) The Commission shall:

(1) exercise the powers and perform the duties specified in this title;

(2) review:

(i) ongoing statewide programs and activities for seniors; and

(ii) new statewide programs for seniors before the programs are implemented;

(3) make recommendations to the Secretary about statewide programs and activities for seniors; and

(4) prepare and submit an annual report to the Governor and the Secretary that includes recommendations for legislative or other actions to strengthen

statewide programs and activities for seniors.

§10–209.

(a) (1) The Secretary shall develop congregate housing services programs for seniors in conjunction with:

(i) public or private for profit or nonprofit corporations; or

(ii) State or federal units.

(2) Congregate housing services shall include congregate meals, housekeeping, and personal services.

(b) (1) An individual is eligible for congregate housing services if the individual is at least 62 years old and has temporary or periodic difficulty with one or more essential activities of daily living, such as feeding, bathing, grooming, dressing, or transferring.

(2) The spouse of an individual described in paragraph (1) of this subsection is eligible for congregate housing services if the spouse is at least 55 years old and has temporary or periodic difficulty with one or more essential activities of daily living, such as feeding, bathing, grooming, dressing, or transferring.

(c) The Secretary shall:

(1) make maximum use of rent and other subsidies available from federal and State sources;

(2) provide for subsidies necessary from State general funds to assist low-income seniors to reside in congregate housing as an alternative to more costly institutional care that is not required;

(3) find sponsors or managers for congregate housing services programs;

(4) assist developers in formulating design concepts and meeting program needs; and

(5) when necessary, provide subsidies for congregate meals, housekeeping, and personal services in congregate housing services programs and develop eligibility requirements for the subsidies.

(d) The Secretary shall adopt regulations to:

(1) govern the certification and operation of congregate housing services programs; and

(2) provide for investigations of criminal records of congregate housing services providers and employees under subsection (e) of this section.

(e) The Secretary is authorized to conduct federal and State criminal background investigations of providers of congregate housing services programs and their employees.

(f) (1) A congregate housing services program must be certified by the Secretary.

(2) The Secretary shall review the compliance of congregate housing services programs with the regulations governing their certification and operation.

(3) Before the Secretary may certify or renew the certification of a provider of congregate housing services for seniors with Alzheimer's disease and related disorders, the provider shall have an in-service education program that includes instruction on dementia and the techniques necessary to manage patients with physical, intellectual, and behavioral manifestations of dementia.

§10–210.

(a) The Secretary may impose a civil money penalty against a provider of congregate housing services for a violation:

(1) that results in conditions presenting an imminent danger or a substantial probability of death or serious physical harm to a resident of congregate housing;

(2) of a resident's rights as specified in regulations adopted under this title; or

(3) of a State or local fire safety law.

(b) Before imposing a penalty under this section, the Department shall send a notice of violation to the provider that states:

(1) when the provider must submit a plan of correction that is acceptable to the Department;

(2) when each identified violation must be substantially corrected; and

(3) that a civil money penalty may be imposed for failure to:

(i) submit an acceptable plan of correction; or

(ii) correct an identified violation.

(c) (1) After the time for correcting a violation has ended, the Department shall reinspect the facility to determine whether the violation has been corrected.

(2) After the reinspection, the Secretary may:

(i) extend the time to correct the violation; or

(ii) impose a civil money penalty under subsection (d) of this section.

(d) (1) The Secretary may impose a civil money penalty not exceeding $20 per violation per resident for each day that a violation remains uncorrected after the time set for correction under subsection (b)(2) of this section.

(2) A penalty imposed under this section may not exceed $1,000 per violation or $5,000 in total.

(e) (1) The Secretary shall provide written notice of a civil money penalty to the provider.

(2) The notice shall:

(i) be served on the provider by certified mail; and

(ii) state:

1. each penalty imposed;

2. the regulation or provision violated;

3. the amount of the penalty;

4. the provider's right to request a reduction of the penalty; and

5. how to file an administrative appeal of the penalty.

(f) (1) A provider of congregate housing services may request a reduction of a civil money penalty.

(2) A request for a reduction shall:

(i) be made in writing within 10 days after the provider receives the notice of the civil money penalty; and

(ii) state the reasons for the request.

(3) A request for a reduction of a civil money penalty does not affect the accrual of the penalties under subsection (d) of this section.

(4) Within 14 days after receiving the request for reduction, the Department shall hold an informal conference with the provider on the issue of whether to reduce the civil money penalty.

(5) In deciding whether to reduce the penalty, the Secretary shall consider:

(i) the provider's history of violations;

(ii) the provider's current and past diligence in correcting violations; and

(iii) other factors that the Secretary considers appropriate.

(6) The Secretary shall issue a written determination granting or denying the request for a reduction of a civil money penalty that states the reasons for the determination.

(7) As a condition of reducing a penalty, the Secretary shall require correction of all violations.

(g) If a civil money penalty is imposed under this section, the provider has the right to appeal from the order in accordance with Title 10, Subtitle 2 of the State Government Article.

(h) The Secretary may impose a penalty of three times the amount set forth in subsection (d) of this section on a provider of congregate housing services if a penalty was imposed on the provider for the same violation during the 2 years before the date on which the notice of violation was issued.

(i) (1) An order imposing a civil money penalty is final when the provider has exhausted all opportunities to contest the penalty under subsection (f) or (g) of this section.

(2) A provider shall pay all penalties to the Department within 10 days after the provider receives a final order imposing a penalty.

(3) If a provider does not comply with this section, the Department may file a civil action to recover the penalty.

§10–211.

(a) In this section, "assisted living program" has the meaning stated in § 19-1801 of the Health - General Article.

(b) The Secretary shall develop assisted living programs for seniors in conjunction with:

(1) public or private for profit or nonprofit corporations; or

(2) State or federal units.

(c) (1) The Secretary shall:

(i) make maximum use of rent and other subsidies available from federal and State sources; and

(ii) provide for and set, by regulation, the amount of subsidies necessary from State general funds to assist low-income seniors to reside in assisted living programs as an alternative to more costly institutional care that is not required.

(2) Subsidies under paragraph (1)(ii) of this subsection may include, when necessary and in accordance with available funds, monthly subsidies for residents of assisted living programs whose adjusted gross annual income is less than their cost of care for assisted living services.

(3) When necessary and in accordance with available funds, the Secretary shall provide subsidies for congregate meals, housekeeping, and personal services for assisted living programs and develop eligibility requirements for these subsidies.

(4) The Secretary shall adopt regulations to govern eligibility requirements for subsidies.

(d) The Secretary shall:

(1) find sponsors for assisted living programs; and

(2) assist developers in formulating design concepts and meeting program needs.

(e) The Secretary shall review the compliance of assisted living programs with the regulations that the Secretary of Health and Mental Hygiene adopts for licensing these programs to operate in the State.

§10–214.

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

(2) "Nursing home" means comprehensive care facilities and extended care facilities.

(3) "Unclaimed deceased nursing home resident" means a resident of a nursing home:

(i) who has not prearranged and prepaid for the disposal of the resident's body; and

(ii) for whom no person has claimed the body and assumed funeral or burial responsibility on the death of the resident.

(b) The Secretary shall adopt regulations establishing guidelines for nursing home administrators regarding funeral and burial arrangements for unclaimed deceased nursing home residents:

(1) consistent with § 5-406 of the Health - General Article; and

(2) with the cooperation of the State Anatomy Board.

(c) A nursing home administrator shall:

(1) immediately notify the Department of the death of an unclaimed deceased nursing home resident; and

(2) obtain the approval of the Department before burying or making funeral arrangements for the unclaimed deceased nursing home resident.

§10–301.

There is an Interagency Committee on Aging Services in the Executive Department.

§10–302.

(a) The Interagency Committee consists of the following members:

(1) the Secretary of Aging;

(2) the Secretary of Disabilities;

(3) the Secretary of Health and Mental Hygiene;

(4) the Secretary of Housing and Community Development;

(5) the Secretary of Human Resources;

(6) the Secretary of Labor, Licensing, and Regulation;

(7) the Secretary of Transportation;

(8) the Secretary of Veterans Affairs;

(9) the Director of the Governor's Office of the Deaf and Hard of Hearing;

(10) the Chair of the Commission on Aging;

(11) a representative from an area agency appointed by the Governor from a list submitted by the Maryland Association of Area Agencies on Aging; and

(12) a member of the public appointed by the Governor.

(b) (1) The term of a member appointed by the Governor under subsection (a)(11) or (12) of this section is 2 years.

(2) A member appointed by the Governor under subsection (a)(11) or (12) of this section may not be reappointed for more than 2 additional terms.

§10–303.

The Governor shall appoint the chair of the Interagency Committee from among the members listed in § 10-302(a)(1) through (7) of this subtitle.

§10–304.

(a) (1) An Executive Director shall serve as the principal staff of the Interagency Committee.

(2) The Executive Director shall be an employee of the Department.

(b) Each member of the Interagency Committee listed in § 10-302(a)(1) through (7) of this subtitle shall designate an employee as liaison with the Executive Director to:

(1) implement policies of the Interagency Committee; and

(2) monitor the expenditure of funds to serve seniors.

§10–305.

(a) The Interagency Committee shall meet at least quarterly.

(b) The chair shall designate at least one meeting each year as an executive meeting.

(c) A member of the Interagency Committee may send a designee to represent the member at any meeting that is not an executive meeting.

§10–306.

(a) (1) The Interagency Committee shall develop and update annually a plan for providing coordinated health services, social services, transportation, housing, and employment services to seniors in the State consistent with the priorities that the Department establishes.

(2) If the members of the Interagency Committee cannot agree on a plan, the chair shall refer the matter to the Governor for resolution.

(b) Annually on or before a date that the Governor sets, the Interagency Committee shall develop and present to the Governor and the General Assembly a consolidated operating budget for services to seniors that:

(1) sets forth the relevant portions of the operating budget of any unit responsible for services to seniors; and

(2) is consistent with the plan developed under subsection (a) of this section.

(c) The Interagency Committee shall establish interagency agreements and adopt regulations to:

(1) implement and coordinate services to seniors consistent with the plan developed under subsection (a) of this section;

(2) maximize the sharing of resources among units of State government for services to seniors;

(3) consolidate planning and evaluation efforts at the State and local levels; and

(4) coordinate and expedite the delivery of services to seniors by providing technical assistance to local agencies.

(d) (1) The Interagency Committee shall assist county agencies to establish local interagency committees composed of:

(i) the directors of the local health department, local department of social services, and area agency; and

(ii) officials from housing, transportation, mental health, employment, and economic development agencies.

(2) Local interagency committees shall coordinate and expedite the delivery of services to seniors at the local level.

§10–307.

(a) (1) The Interagency Committee shall establish and coordinate a program to provide single points of entry within each planning and service area.

(2) The Department shall supervise the program for the Interagency Committee.

(b) Each area agency shall operate a single point of entry program to assess the needs of seniors and their caregivers and provide appropriate services.

(c) The following services shall be provided through a single point of entry:

(1) providing current information on available programs, services, or benefits;

(2) determining the service needs of each senior who requests service;

(3) processing requests for service from seniors;

(4) through widely publicized local outreach facilities and communications systems, providing access to available public and private programs and services for

seniors, including:

(i) transportation services;

(ii) health and nutrition services;

(iii) financial assistance;

(iv) social services;

(v) educational services;

(vi) services available through volunteer organizations or private agencies;

(vii) appropriate housing arrangements;

(viii) health insurance counseling;

(ix) employment and volunteer opportunities;

(x) respite care services; and

(xi) other programs, information, counseling, or benefits for seniors;

(5) monitoring the outcome of requests for service or information; and

(6) arranging with other agencies for individual assessment to determine the service needs of a frail or health-impaired senior.

(d) To the extent possible, each single point of entry shall be:

(1) located in a senior citizen center; and

(2) available for access at least 5 days a week.

(e) Local interagency committees on services to seniors shall make agreements among themselves and with other agencies to provide staff on a regular basis at the single points of entry to:

(1) provide information and services to seniors; and

(2) administer agency programs.

§10–308.

Each planning and service area shall have a telephone information and referral service that is available on a 24-hour basis.

§10–309.

(a) (1) The Interagency Committee shall:

(i) develop a system to provide services to frail or health-impaired seniors at risk of institutionalization; and

(ii) coordinate the system among the agencies represented on the Interagency Committee.

(2) The Department shall administer the system for the Interagency Committee.

(b) The services shall include:

(1) integrated screening and evaluation;

(2) development of an individual plan of care;

(3) in-home services such as minor home repair, shopping assistance, homemaking, personal care, meal delivery or preparation, supportive services to group or shared living arrangements, transportation services, and health services; and

(4) community services such as day care, congregate meals, and other programs to assist seniors or adult caregivers in providing care for seniors.

(c) To be eligible to participate in the system, a county or counties shall establish a community-based plan that:

(1) is developed by a local or regional committee composed of:

(i) the directors of the local health department, local department of social services, and area agency; and

(ii) officials of other relevant agencies, such as local housing, transportation, employment, and economic development officials;

(2) is consistent with the plan developed under § 10-306(a) of this subtitle;

(3) specifies administrative arrangements to evaluate and develop care plans for frail or health-impaired seniors;

(4) encourages further coordination of service delivery;

(5) fosters individual contributions for services provided;

(6) fosters the development of innovative service delivery;

(7) fosters the development of services in conjunction with the private

sector; and

(8) fosters community involvement through the use of volunteers.

(d) The Interagency Committee, through the Department, shall work with local health departments, local departments of social services, area agencies, and local housing, transportation, economic development, and employment development officials to develop:

(1) a system to designate case managers to secure and manage necessary services for each frail or health-impaired senior in need; and

(2) guidelines to establish local or regional committees to coordinate the services system to implement this section.

§10–310.

Subject to § 2-1246 of the State Government Article, the Interagency Committee shall present a report before each legislative session to the General Assembly on:

(1) the plan developed under § 10-306(a) of this subtitle;

(2) the activities of the Interagency Committee; and

(3) the status of services to seniors in the State.

§10–401.

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

(b) "Assisted living program" has the meaning stated in § 19-1801 of the Health - General Article.

(c) "Certified financial statement" means a complete audit prepared and certified by an independent certified public accountant.

(d) "Continuing care" means:

(1) continuing care in a retirement community; or

(2) continuing care at home.

(e) "Continuing care agreement" means an agreement between a provider and a subscriber to provide continuing care.

(f) (1) "Continuing care at home" means providing medical, nursing, or other health related services directly or by contractual arrangement:

(i) to an individual who is at least 60 years of age and not related by

blood or marriage to the provider;

(ii) for the life of the individual or for a period exceeding 1 year; and

(iii) under a written agreement that requires a transfer of assets or an entrance fee notwithstanding periodic charges.

(2) "Continuing care at home" includes providing assistance with the physical maintenance of the individual's dwelling.

(g) "Continuing care in a retirement community" means providing shelter and providing either medical and nursing or other health related services or making the services readily accessible through the provider or an affiliate of the provider, whether or not the services are specifically offered in the written agreement for shelter:

(1) to an individual who is at least 60 years of age and not related by blood or marriage to the provider;

(2) for the life of the individual or for a period exceeding 1 year; and

(3) under one or more written agreements that require a transfer of assets or an entrance fee notwithstanding periodic charges.

(h) (1) "Contractual entrance fee refund" means a repayment of all or part of a subscriber's entrance fee to the subscriber or the subscriber's estate or designated beneficiary, as required by the terms of the continuing care agreement.

(2) "Contractual entrance fee refund" does not include a payment required under § 10-446 or § 10-448 of this subtitle.

(i) "Conversion" means converting a physical plant that provides housing or shelter into a facility if:

(1) the residential accommodations exist before a statement of intent is filed under § 10-409(b) of this subtitle; and

(2) at least 60% of the available residential accommodations of the facility owner were occupied during the two fiscal years prior to the filing of a statement of intent.

(j) "Deposit" means a portion of an entrance fee.

(k) (1) "Entrance fee" means a sum of money or other consideration paid initially or in deferred payments, that:

(i) assures a subscriber continuing care for the life of the subscriber or for a period exceeding 1 year; and

(ii) is at least three times the weighted average of the monthly cost

of the periodic fees charged for independent living and assisted living units.

(2) "Entrance fee" includes a fee of similar form and application, regardless of title.

(3) "Entrance fee" does not include a surcharge.

(l) (1) "Expansion" means any single new capital addition to an existing facility that meets either of the following criteria:

(i) if independent or assisted living units are to be constructed, the number of units to be constructed is less than or equal to 25% of the number of existing independent and assisted living units; or

(ii) if independent or assisted living units are not to be constructed, the total projected cost exceeds the sum of:

1. 10% of the total operating expenses, less depreciation, amortization, and interest expense of the facility as shown on the certified financial statement for the most recent fiscal year for which a certified financial statement is available; and

2. the amount of the existing reserves properly allocable to, and allocated for, the expansion.

(2) "Expansion" does not include renovation and normal repair and maintenance.

(m) "Facility" means a physical plant in which continuing care in a retirement community is provided in accordance with this subtitle.

(n) "Financial difficulty" means current or impending financial conditions that impair or may impair the ability of a provider to meet existing or future obligations.

(o) "Governing body" means a board of directors, board of trustees, or similar group that ultimately directs the affairs of a provider, but whose members are not required to have an equity interest in the provider.

(p) (1) "Health related services" means services that are needed by a subscriber to maintain the subscriber's health.

(2) "Health related services" includes:

(i) priority admission to a nursing home or assisted living program; or

(ii) except for the provision of meals, assistance with the activities of daily living.

(q) "Person" includes a governmental entity or unit.

(r) "Processing fee" means a fee imposed by a provider for determining the financial, mental, and physical eligibility of an applicant for entrance into a facility.

(s) "Provider" means a person who:

(1) undertakes to provide continuing care; and

(2) is:

(i) the owner or operator of a facility; or

(ii) an applicant for or the holder of a preliminary, initial, or renewal certificate of registration.

(t) "Records" means information maintained by a provider for the proper operation of a facility under this subtitle.

(u) (1) "Renovation" means any single capital improvement to, or replacement of, all or part of an existing facility that will not increase the number of independent or assisted living units and for which the total projected cost exceeds the sum of:

(i) 20% of the total operating expenses, less depreciation, amortization, and interest expense of the facility as shown on the certified financial statement for the most recent fiscal year for which a certified financial statement is available; and

(ii) the amount of existing reserves properly allocable to, and allocated for, the renovation.

(2) "Renovation" does not include normal repair or maintenance.

(v) "Subscriber" means an individual for whom a continuing care agreement is purchased.

(w) (1) "Surcharge" means a separate and additional charge that:

(i) is imposed simultaneously with the entrance fee; and

(ii) may be required of some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers.

(2) "Surcharge" does not include a second person entrance fee.

§10–402.

(a) (1) A continuing care at home provider is subject to each provision of this subtitle except Part II and §§ 10–446 and 10–448.

(2) A continuing care in a retirement community provider is subject to each provision of this subtitle except Part VI.

(b) (1) A continuing care operation that is subject to the provisions of this subtitle is not subject to:

(i) the Maryland Health Maintenance Organization Act under Title 19, Subtitle 7 of the Health – General Article;

(ii) except for § 15–603 of the Insurance Article, the Insurance Article;

(iii) Title 8 of the Real Property Article;

(iv) any county or municipal landlord–tenant law; or

(v) § 19–310.1 of the Health – General Article.

(2) If a provider contractually utilizes the services of a licensed home health agency or residential service agency and is not itself directly providing the type of services provided by a home health agency or residential service agency, the provider is not subject to Title 19, Subtitles 4 and 4A of the Health – General Article.

(3) Except as provided in paragraphs (1) and (2) of this subsection, a continuing care at home provider is subject to all other applicable licensing or certification requirements of State law.

(c) This subtitle does not apply to an agreement that is regulated as insurance under the Insurance Article.

(d) A provider that offers assisted living program services as part of a continuum of care in accordance with a continuing care agreement may:

(1) execute a separate assisted living resident agreement and a separate assisted living disclosure statement; or

(2) meet the requirements of §§ 10–425(c) and 10–444(e) of this subtitle.

(e) The liability of a provider to the Department of Health and Mental Hygiene under § 15–603 of the Insurance Article shall be limited to the amount of the refund that would be due to the subscriber if the subscriber were dismissed under § 10–448 of this subtitle at the time of enrollment in services provided by or paid wholly or partly by the Department of Health and Mental Hygiene.

§10–403.

(a) The Department shall:

(1) administer this subtitle;

(2) prepare and furnish all forms necessary or desirable under this subtitle;

(3) establish and collect reasonable filing fees to carry out this subtitle;

(4) adopt regulations necessary to enforce this subtitle; and

(5) prepare and distribute relevant public information and educational materials designed to advise individuals, institutions, and organizations of their rights and responsibilities under this subtitle.

(b) (1) Except as provided in paragraph (2) of this subsection, the Department shall make available to interested persons any information required to be provided to the Department under this subtitle and publicize the availability of the information.

(2) (i) A feasibility study filed under § 10-408 of this subtitle may not be disclosed until the Department issues an initial certificate of registration for the project.

(ii) Information required to be provided under § 10-434(b)(2) of this subtitle shall be disclosed only to the extent required under the Public Information Act.

§10–404.

Medical and nursing services and other health related services may be covered by an entrance fee or periodic charges or, at the option of the subscriber, may be purchased for an additional fee.

§10–405.

(a) In this section, "Fund" means the Continuing Care Fund.

(b) There is a Continuing Care Fund.

(c) The purpose of the Fund is to defray the costs of administering this subtitle.

(d) The Department of Aging shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) all fees collected under this subtitle;

(2) money appropriated in the State budget to the Fund;

(3) investment earnings of the Fund; and

(4) any other money from any other source accepted for the benefit of the Fund.

(g) The Fund may be used only for the purposes specified in this subtitle.

(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be paid into the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Money expended from the Fund for administering this subtitle is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for administering this subtitle.

§10–407.

This part applies only to continuing care in a retirement community operations.

§10–408.

(a) A provider shall comply with the applicable provisions of §§ 10-409 through 10-415 of this subtitle before the provider may:

(1) offer continuing care in a retirement community;

(2) enter into or renew continuing care agreements;

(3) begin construction of a new facility;

(4) begin construction of an expansion to or renovation of an existing facility; or

(5) collect deposits for continuing care in this State.

(b) (1) A new capital addition to a facility that will result in the construction of a number of independent and assisted living units that is greater than 25% of the number of existing units is considered new development and is subject to §§ 10-409 through 10-411 of this subtitle.

(2) A new capital addition to a facility that does not involve the construction of independent or assisted living units and that does not meet the standard of § 10-401(l)(1)(ii) of this subtitle is not subject to review by the Department under §§ 10-409 through 10-415 of this subtitle.

(3) A capital improvement or replacement that does not meet the standard of § 10-401(w) of this subtitle is not subject to review by the Department under §§ 10-409 through 10-415 of this subtitle.

(c) A provider that has more than one facility offering continuing care shall make a separate application for each facility for preliminary, initial, and renewal certificates of registration.

§10–409.

(a) A provider may not collect deposits for continuing care or begin construction of a new facility until the Department approves a feasibility study.

(b) A person who intends to submit a feasibility study under subsection (c) of this section shall file with the Department a statement of intent to provide continuing care at least 30 days before the person submits the feasibility study to the Department.

(c) A feasibility study shall:

(1) be filed in a form satisfactory to the Department; and

(2) include at least the following information:

(i) a statement of the purpose of the proposed construction or conversion;

(ii) documentation of the financial resources of the provider;

(iii) a statement of the capital expenditures necessary to accomplish the project and the plan for acquiring the necessary capital;

(iv) a plan demonstrating the financial feasibility of the proposed project, including future funding sources;

(v) a study that demonstrates the market for the project;

(vi) an actuarial forecast reviewed by a qualified actuary;

(vii) a statement of the planned fee structure, including any proposed escalator or other automatic adjustment provision;

(viii) a description of the facility proposed to be used or being used for continuing care;

(ix) a copy of the proposed escrow and deposit agreements; and

(x) the form and substance of any proposed advertisement, advertising campaign, or promotional material for the facility that is available at the time of filing.

(d) The Department may approve a feasibility study if the Department determines that:

(1) the number of comprehensive care or assisted living beds in the facility for which licenses are required by the Department of Health and Mental Hygiene is not inconsistent with the State health plan;

(2) a reasonable financial plan has been submitted for developing and operating the project;

(3) a market for the facility appears to exist;

(4) a recognized authority prepared the feasibility study;

(5) the actuarial forecast supports the projections for the project;

(6) the Department has approved the escrow agreement and deposit agreement; and

(7) the approved escrow agreement is executed by the provider and the financial institution.

§10–410.

(a) A provider may collect deposits from prospective subscribers if:

(1) the Department has approved the provider's feasibility study; and

(2) funds collected are maintained in an escrow account.

(b) Each deposit agreement shall comply with the requirements of subsection (c) or (d) of this section.

(c) If a deposit agreement is used for a deposit on a unit for which the provider has not received written approval to withdraw deposits, the deposit agreement shall:

(1) state that all deposits and entrance fees will be held in escrow until:

(i) an initial certificate of registration for the unit is issued;

(ii) construction is completed;

(iii) a certificate of occupancy, or its equivalent, is issued by the local jurisdiction; and

(iv) the provider has the appropriate licenses or certificates from the Department of Health and Mental Hygiene, the Maryland Health Care Commission, and the Department;

(2) describe the disposition of any interest earned on deposits and entrance fees;

(3) state the amount of any processing fee and whether it will be refunded if the deposit agreement is canceled; and

(4) describe the disposition of the deposit if the deposit agreement is canceled before the continuing care agreement is executed.

(d) If a deposit agreement is used for a deposit on a unit for which the provider has received written approval to withdraw deposits, the deposit agreement shall:

(1) state that the provider may use all deposits and entrance fees at any time; or

(2) describe any applicable limitations on the use of deposits and entrance fees.

§10–411.

(a) A provider may not enter into a continuing care agreement until the Department issues a preliminary certificate of registration.

(b) An application for a preliminary certificate of registration shall be filed in a form satisfactory to the Department.

(c) An application shall include at least the following information:

(1) the name and address of the facility and the name and address of any affiliate, parent, or subsidiary;

(2) the organizational structure and management of the provider, including:

(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;

(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;

(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;

(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the

name of the chief executive officer;

(v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities;

(vi) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater financial equity or beneficial interest in the provider and a description of the person's financial interest in or occupation with the provider;

(vii) the name and address of any entity in which a person identified in item (vi) of this paragraph has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of $10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider; and

(viii) a statement whether the provider is qualified, or intends to qualify, as a tax exempt organization under the Internal Revenue Code;

(3) a copy of the corporate charter, partnership agreement, articles of association, membership agreement, trust agreement, or similar instrument or agreement governing the legal organization of the provider;

(4) (i) a certified financial statement of the provider for as many of the most recent fiscal years, not exceeding 3 years, for which certified financial statements are obtainable under generally accepted accounting principles; and

(ii) if the provider's fiscal year ended more than 90 days before the date the application is filed, an income statement, which need not be certified, covering the period between the end of the fiscal year and a date not more than 90 days before the date the application is filed;

(5) a statement of any affiliation with a religious, charitable, or other nonprofit organization, the extent of the affiliation, and the extent, if any, to which the affiliate organization will be responsible for the provider's financial and contractual obligations;

(6) a copy of the proposed continuing care agreement;

(7) a copy of any priority admission agreements between the provider and any health care provider for health related services;

(8) a statement of the current fee structure, including escalator or other automatic adjustment provisions;

(9) a statement of the role of any publicly funded benefit or insurance

program in the financing of care;

(10) the form and substance of any advertisement, advertising campaign, or other promotional material for the facility that has not been previously submitted to the Department; and

(11) other reasonable and pertinent information that the Department requires.

(d) The Department shall issue a preliminary certificate of registration to a provider if:

(1) the feasibility study has been approved; and

(2) the Department determines that:

(i) the proposed continuing care agreement meets the requirements of §§ 10-444, 10-445, 10-446, and 10-448 of this subtitle;

(ii) all of the financial and organizational materials required to be submitted under subsection (c) of this section have been submitted to the Department; and

(iii) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead.

(e) If a preliminary certificate of registration is not issued within 6 months after the feasibility study is approved, or a longer time allowed by the Department for good cause shown, the provider shall refund all deposits and stop marketing continuing care under that application.

(f) A provider that plans to advertise before an initial certificate of registration is issued under § 10-412 of this subtitle shall submit to the Department the form and substance of any advertisement, advertising campaign, or other promotional material before it may be used.

§10–412.

(a) A provider may not provide continuing care until the Department issues an initial certificate of registration.

(b) An application for an initial certificate of registration shall be filed in a form satisfactory to the Department.

(c) An application shall include at least the following information:

(1) for a project other than a conversion, verification that continuing care

agreements have been executed with subscribers for at least 65% of the independent living units and at least 10% of the total entrance fee for each contracted unit has been collected;

(2) for a conversion project, verification that at least 80% of the accommodations in the project that are not licensed as assisted living or comprehensive care beds are occupied or reserved in accordance with:

(i) leases;

(ii) continuing care agreements executed with subscribers who have paid a deposit that:

1. equals at least 10% of the total entrance fee; and

2. has been deposited by the provider under an escrow agreement approved by the Department; or

(iii) other appropriate contractual arrangements;

(3) verification that the provider has received a written commitment for permanent long-term financing; and

(4) if construction financing is required, verification that the provider has applied for the financing.

(d) (1) If requested by the permanent financing lender, the Department may issue a letter stating that the requirements of subsection (c)(1) of this section have been met.

(2) If requested by the construction lender, the Department may issue a letter stating that:

(i) the requirements of subsection (c)(1) and (3) of this section have been met; and

(ii) the initial certificate of registration will be issued on the closing of the construction loan.

(e) (1) The Department shall issue an initial certificate of registration to a provider if the Department determines that:

(i) the provider has a preliminary certificate of registration;

(ii) the provider has submitted the required documents;

(iii) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead;

(iv) for a project other than a conversion, continuing care agreements have been executed with subscribers for at least 65% of the independent living units and at least 10% of the entrance fee has been paid as a deposit for each contracted unit;

(v) for a conversion project, at least 80% of the accommodations in the project that are not licensed as assisted living or comprehensive care beds are occupied or reserved in accordance with:

1. leases;

2. continuing care agreements executed with subscribers who have paid a deposit that:

A. equals at least 10% of the total entrance fee; and

B. has been deposited by the provider under an escrow agreement approved by the Department; or

3. other appropriate contractual arrangements;

(vi) if construction financing is required, closing on the financing has occurred; and

(vii) the provider has a commitment for permanent long-term financing.

(2) The Department may issue the initial certificate of registration for a period not exceeding 18 months.

(f) A deposit held in escrow may not be used until:

(1) an initial certificate of registration has been issued;

(2) construction is completed;

(3) the provider has a certificate of occupancy or the equivalent from the appropriate local jurisdiction; and

(4) the provider has the appropriate licenses or certificates from the Department of Health and Mental Hygiene or the Department.

(g) If an initial certificate of registration is not issued within 24 months after the issuance of a preliminary certificate of registration, or a longer time allowed by the Department for good cause shown, the provider shall refund all deposits and stop offering continuing care under that application.

§10–413.

(a) (1) Each year, within 120 days after the end of a provider's fiscal year,

the provider shall file an application for a renewal certificate of registration in a form satisfactory to the Department.

(2) A renewal application shall contain:

(i) any additions or changes to the information required by §§ 10-408 through 10-410 of this subtitle;

(ii) an audited financial statement for the preceding fiscal year prepared in accordance with an audit guide that the Department adopts;

(iii) an operating budget for the current fiscal year and a projected operating budget for the next fiscal year;

(iv) a cash flow projection for the current fiscal year and the next two fiscal years;

(v) a projection of the life expectancy and the number of residents who will require nursing home care;

(vi) an actuarial study reviewed by a qualified actuary and submitted every 3 years, unless the provider is exempted from the requirement for an actuarial study by regulations adopted by the Department exempting categories of providers that the Department determines have substantially limited long-term care liability exposure;

(vii) the form and substance of any proposed advertisement, advertising campaign, or other promotional material not previously submitted to the Department; and

(viii) any further information that the Department requires.

(b) (1) The Department may charge a late fee if the application and accompanying information are not received by the Department within 120 days after the end of the provider's fiscal year.

(2) Failure to file the required information within 90 days after the due date is a violation of this subtitle.

(c) The Department shall issue a renewal certificate of registration if the Department determines that:

(1) the required documents have been filed;

(2) any revised continuing care agreements meet the requirements of this subtitle;

(3) if the provider has been found to be in financial difficulty, the provider

has complied with Part VII of this subtitle;

(4) when appropriate, the facility has been licensed or certified by the Department of Health and Mental Hygiene or the Department; and

(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted to the Department are not deceptive, misleading, or likely to mislead.

§10–414.

(a) A provider may not begin construction of a renovation until the provider receives written approval from the Department.

(b) (1) A provider shall file with the Department a request for approval for each renovation.

(2) At least 30 days before filing the request, the provider shall submit to the Department a written statement of intent to file a request for approval of a renovation.

(3) A request for approval of a renovation shall be in a form satisfactory to the Department.

(4) A request for approval shall include:

(i) a statement of the purpose of and need for the renovation;

(ii) a financial plan that demonstrates to the satisfaction of the Department that the renovation will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this subtitle at the facility to be renovated and at the provider's other facilities in the State; and

(iii) any other information that the Department requires.

(c) The Department shall approve a renovation if the Department determines that the proposed renovation will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this subtitle.

§10–415.

(a) A provider may not begin construction of an expansion until the provider receives written approval from the Department.

(b) (1) A provider shall file with the Department a request for approval for each expansion.

(2) At least 30 days before filing the request, the provider shall submit to the Department a written statement of intent to file a request for approval of an expansion.

(3) A request for approval of an expansion shall be in a form satisfactory to the Department.

(4) A request for approval shall include:

(i) a statement of the purpose of and need for the expansion;

(ii) if the expansion involves living units, a plan that demonstrates to the satisfaction of the Department that a market exists for the additional living units;

(iii) a financial plan that demonstrates to the satisfaction of the Department that the expansion will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this subtitle at the facility to be expanded and at the provider's other facilities in the State; and

(iv) any other information that the Department requires.

(c) The Department shall approve an expansion and, if appropriate, issue a new certificate of registration if the Department determines that the proposed expansion will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this subtitle.

§10–416.

(a) For cause, the Department may:

(1) deny a feasibility study approval; or

(2) deny, suspend, or revoke a preliminary, initial, or renewal certificate of registration.

(b) (1) Grounds for a denial, suspension, or revocation include:

(i) violation of this subtitle;

(ii) violation of a regulation the Department adopts under this subtitle;

(iii) misrepresentation; or

(iv) submission of a false financial statement.

(2) The Department shall set forth in writing its reasons for a denial,

suspension, or revocation.

(c) Title 10, Subtitle 2 of the State Government Article governs the appeal of a denial, revocation, or suspension.

§10–419.

In this part, "net operating expenses" means the total operating expenses at each facility of a provider, less depreciation, amortization, unusual and infrequent expenses, changes in the obligation to provide future services, and changes in the fair market value of interest rate swap agreements not involving an exchange of funds.

§10–420.

(a) Interest expenses may be excluded from the calculation of net operating expenses for a fiscal year, if the provider funded a debt service reserve or other interest reserve under requirements imposed by a financial institution or under applicable financing documents, to the extent the reserve fund included amounts to cover interest for that fiscal year.

(b) (1) Except as otherwise provided in this part, a provider shall set aside for each facility subject to this subtitle operating reserves that:

(i) before January 1, 2023, equal 15% of the facility's net operating expenses for the most recent fiscal year for which a certified financial statement is available; and

(ii) beginning January 1, 2023, equal 25% of the facility's net operating expenses for the most recent fiscal year for which a certified financial statement is available.

(2) The provider shall keep the operating reserves in a reasonably liquid form in the judgment of the provider.

(3) Beginning January 1, 2014, the assets held by the provider as the operating reserves required under this subsection:

(i) except as provided in paragraph (4) of this subsection, shall be unrestricted cash and investments; and

(ii) may not:

1. be met with a line of credit; or

2. except as provided in paragraph (4) of this subsection, be hypothecated, pledged as collateral, or otherwise encumbered by the provider in any manner.

(4) Beginning January 1, 2014, the assets held by the provider as the operating reserves may be encumbered if:

(i) the assets are encumbered by contractual obligations undertaken before January 1, 2014, that have not materially changed since January 1, 2014; or

(ii) the assets are encumbered as part of a general security pledge of assets or similar collateralization that is part of the provider's long–term capital debt covenants included in the provider's long–term debt indenture or similar financial instrument but which remain available to the provider to pay operating expenses without substantial restrictions or limitations.

(c) (1) A provider shall meet the requirements of subsection (b) of this section within 10 full fiscal years after the date of its initial certificate of registration.

(2) A provider shall set aside at least 10% of the reserves required under subsection (b) of this section at the end of each fiscal year after the date of its initial certificate of registration, up to a total of 100% at the end of the 10th fiscal year.

(3) The Department may allow a provider to modify the minimum rate required under paragraph (2) of this subsection or extend the time to meet the requirements of subsection (b) of this section if the modification is necessary to maintain the financial viability of the facility.

§10–421.

(a) (1) A provider shall compute operating reserves for each facility as of the end of the facility's most recent fiscal year.

(2) When a provider files an application for a renewal certificate of registration, the provider shall show compliance with operating reserve requirements by including with the application:

(i) a letter to the Department from a certified public accountant that states the amount set aside; or

(ii) a certified financial statement that states the amount set aside.

(b) A provider may apply toward the operating reserves required by § 10-420(b) of this subtitle any reserves, except debt service reserves, that are maintained under applicable financing document requirements if the reserves are available to the provider to meet the facility's operating expenses.

(c) For the purpose of computing a provider's operating reserves, investments held to the credit of the reserves shall be calculated at their market value as of the end of the provider's most recent fiscal year for which a certified financial statement is available.

§10–422.

(a) A provider shall notify the Department in writing immediately on the withdrawal of any amount from the funds available to satisfy the operating reserves required by § 10-420(b) of this subtitle.

(b) Within 30 days after making a withdrawal described in subsection (a) of this section, the provider shall submit to the Department a written plan for restoring the reserves to the level required by § 10-420(b) of this subtitle.

§10–423.

(a) For a facility that has not been the subject of a conversion and that has residents who are not parties to continuing care agreements, the provider shall calculate the amount of operating reserves required under § 10–420 of this subtitle based on the pro rata proportion of the net operating expenses as specified under subsection (b) of this section.

(b) The pro rata proportion of the net operating expenses equals the number of units in the facility for which the Department has issued a certificate of registration divided by the total number of accommodations in the facility multiplied by the net operating expenses for the most recent fiscal year for which a certified financial statement is available.

§10–424.

(a) (1) A provider shall give without cost a disclosure statement for each facility for which the provider holds a preliminary, initial, or renewal certificate of registration:

(i) to a prospective subscriber before the earlier of payment of any part of the entrance fee or execution of a continuing care agreement; and

(ii) annually to any subscriber who requests a disclosure statement.

(2) A provider shall submit its initial disclosure statement to the Department for review at least 45 days before giving the statement to any prospective subscriber.

(b) (1) A provider shall revise the disclosure statement annually and file it with the Department within 120 days after the end of the provider's fiscal year.

(2) The Department shall review the disclosure statement solely to ensure compliance with § 10-425 of this subtitle.

(c) (1) An amended disclosure statement is subject to each requirement of this subtitle.

(2) A provider shall file an amended disclosure statement with the Department when it is delivered to a subscriber or prospective subscriber.

§10–425.

(a) A disclosure statement shall include:

(1) a table of contents;

(2) the name, address, and description of the facility and the identity of the owner or owners of the facility and the land on which it is located;

(3) the name and address of the provider and of any parent or subsidiary;

(4) the organizational structure and management of the provider, including:

(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;

(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;

(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;

(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer;

(v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities; and

(vi) a statement whether the provider is qualified, or intends to qualify, as a tax–exempt organization under the Internal Revenue Code;

(5) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater equity or beneficial interest in the provider, and a description of the person's financial interest in or occupation with the provider;

(6) the name and address of any entity in which a person identified in item (5) of this subsection has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of $10,000 or more to the facility

or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider;

(7) a description of any matter in which an individual identified in item (5) of this subsection:

(i) has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;

(iii) has been subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or

(iv) in the past 10 years, had a state or federal license or permit suspended or revoked because a governmental unit brought an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons;

(8) a description of the provider's form of governance and the composition of its governing body, and a statement that the provider will satisfy the requirements of §§ 10–426 and 10–427 of this subtitle;

(9) if the provider has a governing body, a description of the process used by the provider to:

(i) select a subscriber member of its governing body; and

(ii) satisfy the requirements of § 10–427(a) of this subtitle.

(10) a statement of any affiliation of the provider with a religious, charitable, or other nonprofit organization, and the extent of the organization's responsibility for the financial and contractual obligations of the provider;

(11) if the facility will be managed on a day–to–day basis by a person other than an individual who is directly employed by the provider, the name of the proposed manager or management company and a description of the business experience of the manager or company in operating or managing similar facilities;

(12) a copy of the most recent certified financial statement obtainable under generally accepted accounting principles;

(13) a description of the long–term financing for the facility;

(14) a cash flow forecast for the current and the next two fiscal years;

(15) a description of any activity related to a renovation, expansion, or new development during the preceding fiscal year or proposed for the current fiscal year;

(16) a description of:

(i) the steps that have been or will be taken to comply with the operating reserve requirements under § 10–420(b) of this subtitle; and

(ii) the provider's investment policy related to the required reserves, including how often and by whom the reserve fund investment is reviewed;

(17) a description of the financial arrangements that the provider has made, if any, to address the renewal and replacement of the buildings and improvements at the facility, such as the establishment of a renewal and replacement fund;

(18) if the facility has not reached 85% occupancy of its independent living units, a summary of the feasibility study;

(19) if applicable, a description of the conditions under which the provider may be issued an initial certificate of registration and may use escrowed deposits;

(20) a description of all basic fees, including entrance fees, fees for health related services, and periodic fees that the provider collects from subscribers, and the amount and frequency of any fee changes during the previous 5 years or, if the facility has been in operation less than 5 years, for each year of operation;

(21) a summary of the basic services provided or proposed to be provided at the facility under the continuing care agreement, including the extent to which health related services are provided, that clearly states which services are indicated in the agreement as included in the basic fee and which services are or will be made available at or by the facility at an extra charge;

(22) if applicable, a statement that it is the provider's policy to impose a surcharge on some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers and that the surcharge is not part of the entrance fee refund required under § 10–448 of this subtitle;

(23) a description of the role of any resident association;

(24) a description of the internal grievance procedure;

(25) if the provider offers a continuing care agreement that promises a contractual entrance fee refund after occupancy, a statement whether the portion of the entrance fee to be refunded is held in trust or escrow for the subscriber after

occupancy, and if so held, a description of where and how the funds are held;

(26) if the provider offers an extensive agreement, the following statement: "If you have a long–term care insurance policy, request your advisors to review the policy and the continuing care agreement to determine whether there are potential areas of duplication or areas where benefits can be coordinated.";

(27) a statement that the provider will amend its disclosure statement whenever the provider or the Department considers an amendment necessary to prevent the disclosure statement from containing:

(i) a material misstatement of a fact required by this section to be stated in the disclosure statement; or

(ii) an omission of a material fact required by this section to be stated in the disclosure statement; and

(28) any other material information about the facility or the provider that the Department requires or that the provider wishes to include.

(b) The disclosure statement shall contain a cover page that states, in a prominent location and type face:

(1) the date of the disclosure statement; and

(2) that the issuance of a certificate of registration does not:

(i) constitute approval, recommendation, or endorsement of the facility by the Department; or

(ii) evidence or attest to the accuracy or completeness of the information in the disclosure statement.

(c) (1) This subsection applies to a provider that:

(i) has a continuing care agreement that includes a provision to provide assisted living program services; and

(ii) does not execute a separate assisted living agreement.

(2) In addition to any other requirement of this section, the disclosure statement shall contain the following information about the assisted living program:

(i) the name and address and a description of each facility that the provider operates;

(ii) a statement regarding the relationship of the provider to other providers or services if the relationship affects the care of the resident;

(iii) a description of any special programming, staffing, and training provided by the program for individuals with particular needs or conditions such as cognitive impairment;

(iv) notice of:

1. the availability of locks for storage;

2. the availability of locks for the subscriber's room;

3. the security procedures that the provider will implement to protect the subscriber and the subscriber's property; and

4. the provider's right, if any, to enter a subscriber's room;

(v) a statement of the obligations of the provider, the subscriber, or the subscriber's agent for:

1. arranging or overseeing medical care;

2. monitoring the subscriber's health status;

3. purchasing or renting essential or desired equipment and supplies; and

4. ascertaining the cost of and purchasing durable medical equipment;

(vi) an explanation of the assisted living program's complaint or grievance procedure; and

(vii) notice of any material changes in the assisted living program.

(3) The provider shall:

(i) give to each subscriber annually and without cost revisions to the disclosure statement provisions under paragraph (2) of this subsection;

(ii) ensure that each subscriber or the subscriber's agent initials the revised disclosure statement to acknowledge the revisions; and

(iii) make copies of the initialed disclosure statements available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18 of the Health - General Article.

§10–426.

(a) At least once a year, each provider shall hold a meeting open to all of the provider's subscribers.

(b) At the meeting, an authorized officer of the provider shall:

(1) summarize the provider's operations, significant changes from the previous year, and goals and objectives for the next year; and

(2) answer subscribers' questions.

§10–427.

(a) (1) If a provider has a governing body, at least one of the provider's subscribers shall be a full and regular member of the governing body.

(2) If the provider owns or operates more than three facilities in the State, the governing body shall include at least one of the provider's subscribers for every three facilities in the State.

(3) Subject to paragraph (4) of this subsection, a member of the governing body who is selected to meet the requirements of this subsection shall be a subscriber at a facility in the State and be selected according to the same general written standards and criteria used to select other members of the governing body.

(4) The governing body shall confer with the resident association at each of the provider's facilities before the subscriber officially joins the governing body.

(5) The Secretary may waive the requirements of this subsection for a provider in the process of decertifying as a provider, if the Secretary determines that there are no subscribers willing and able to serve on the governing body.

(b) (1) If a provider does not have a governing body, the provider shall appoint a select committee of its officers or partners to meet at least twice a year with the resident association at each of its facilities to address concerns of the subscribers and to ensure that the opinions of subscribers are relayed to all officers or partners of the provider.

(2) If a facility does not have a resident association, the committee shall meet with a reasonable number of representatives, not required to exceed fifteen, that the subscribers elect.

(c) As determined by the provider's governing body, the provider shall make available to subscribers either the nonconfidential portions of the minutes of each meeting of the governing body or a summary of the nonconfidential portions of the minutes, within 1 month of approval of the minutes.

§10–428.

(a) A provider shall establish an internal grievance procedure to address a subscriber's grievance.

(b) The internal grievance procedure shall at least:

(1) allow a subscriber or group of subscribers collectively to submit a written grievance to the provider;

(2) require the provider to send a written acknowledgment to the subscriber or group of subscribers within 5 days after receipt of the written grievance;

(3) require the provider to assign personnel to investigate the grievance;

(4) give a subscriber or group of subscribers who file a written grievance the right to meet with management of the provider within 30 days after receipt of the written grievance to present the grievance; and

(5) require the provider to respond in writing within 45 days after receipt of the written grievance regarding the investigation and resolution of the grievance.

(c) (1) Within 30 days after the conclusion of an internal grievance procedure established under this section, a subscriber, group of subscribers, or provider may seek mediation through one of the Community Mediation Centers in the State or another mediation provider.

(2) If a provider, subscriber, or group of subscribers seeks mediation under paragraph (1) of this subsection:

(i) the mediation shall be nonbinding; and

(ii) the provider, subscriber, or group of subscribers may not be represented by counsel.

§10–429.

A provider shall make readily available to its subscribers for review at the facility:

(1) copies of all materials that the provider submits to the Department that are required to be disclosed under the Public Information Act; and

(2) a copy of the most recent finalized budget of the facility.

§10–430.

All marketing materials, including disclosure statements, that state that part or all of the entrance fee is or may be refundable shall include a conspicuous disclaimer that states at least the following: "Carefully read the continuing care agreement for the conditions that must be satisfied before the provider is required to pay the entrance fee refund.".

§10–432.

(a) (1) Subsection (b)(2) of this section does not apply to a transfer of ownership or control of a person that owns or controls a facility, if:

(i) the transfer is part of a business reorganization; and

(ii) the same person or persons holding the right to control or holding a majority of ownership before the business reorganization will retain, directly or indirectly, the right to control or a majority of ownership, respectively, after the business reorganization.

(2) The provider shall notify the Department and the facility's subscribers 30 days before any reorganization described in paragraph (1) of this subsection.

(b) Unless the Department approves the sale or transfer in accordance with §§ 10–433 through 10–435 of this subtitle:

(1) except for the grant of a mortgage or deed of trust to an unrelated third party, a provider that holds a preliminary, initial, or renewal certificate of registration may not sell or otherwise transfer, directly or indirectly, ownership of a facility or any ownership interest in a facility; and

(2) a person with an ownership interest in or a right to control the provider, through governing body appointments or contractual or similar arrangements, may not sell or otherwise transfer, directly or indirectly, the right to control or more than 50% of the ownership of a person that owns or controls a facility.

(c) Any series of sales or other transfers described in subsection (b) of this section that occur in a 12–month period shall be aggregated for purposes of this section and §§ 10–433 through 10–435 of this subtitle.

§10–433.

(a) (1) At least 90 days before the proposed effective date of a sale or other transfer, a provider subject to § 10-432(b) of this subtitle shall file with the Department a statement of intent to transfer ownership or control.

(2) At least 65 days before the proposed effective date of the sale or other transfer, a provider subject to § 10-432(b) of this subtitle and any proposed new provider shall give written notice of the proposed sale or other transfer, including notice of the place and time of the meeting required by § 10-434(b) of this subtitle, to the subscribers of the affected facility and the Department.

(b) (1) The written notice to the Department required under subsection (a)(2) of this section shall include:

(i) the name and address of the existing provider and any proposed

new provider and the office of each to which comments may be sent under § 10-434 of this subtitle;

(ii) the name and address of the affected facility;

(iii) the organizational structure and management of the provider and the facility after the proposed sale or other transfer is completed, including:

1. if the provider is to be a corporation or limited liability company, its name, its state of incorporation or formation, and the name of the chief executive officer;

2. if the provider is to be a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;

3. if the provider is to be an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;

4. if the provider is to be a trust, the trustee's name, the names of the owners of beneficial interests in the trust, the state that governs it, and the name of the primary individual responsible for overseeing its activities;

5. if the provider is to be a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, its state of incorporation or formation, and the name of its chief executive officer; and

6. the name and occupation of each officer, director, trustee, general partner, principal, and each person who will have a 10% or greater equity or beneficial interest in the provider or in a person that owns or controls the provider;

(iv) a copy of the corporate charter, partnership agreement, articles of association, membership agreement, or trust agreement that will govern the legal organization of the provider after the sale or transfer;

(v) a statement of any affiliation with a religious, charitable, or other nonprofit organization after the proposed sale or transfer and the extent, if any, of the affiliate organization's responsibility for the financial and contractual obligations of the provider;

(vi) the name and address of any business or professional entity in which a person identified in item (iii)6 of this paragraph has a 10% or greater financial interest and that is likely to provide goods, premises, or services with a value of $10,000 or more a year to the facility or provider after the sale or transfer, and a description of the goods, premises, or services;

(vii) the name of the proposed manager or management company that will manage the day-to-day operations of the facility after the sale or other transfer, and a description of the business experience of the manager or company in operating or managing similar facilities;

(viii) a description of any matter in which a person identified in item (iii)6 of this paragraph:

1. has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

2. has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;

3. was subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or

4. within the past 10 years, had a state or federal license or permit suspended or revoked because of an action brought by a governmental unit arising out of or relating to business activity or health care, including actions affecting a license to operate a facility or service for senior, impaired, or dependent persons;

(ix) a financial plan provided by the entity that will be the provider after the proposed sale or other transfer is completed in a form reasonably acceptable to the Department that demonstrates the projected effects of the sale or transfer on the financial operations of the provider and the facility, including any obligations of the provider to make payments in connection with the sale or transfer from the financial resources of the provider or the facility; and

(x) a statement by the entity that will be the provider after the proposed sale or transfer is completed that demonstrates that the sale or transfer is not likely to have an unreasonably adverse effect on:

1. the provider's financial stability; or

2. the provider's capacity to perform its continuing care agreement obligations to subscribers.

(2) In addition to the information required to be provided under paragraph (1) of this subsection, a provider subject to § 10-432(b) of this subtitle and any proposed new provider shall provide to the Department any other information that the Department requires to evaluate the proposed transaction.

(3) On request, the existing provider and any proposed new provider shall

give to a subscriber of the affected facility the information included in the written notice to the Department under paragraph (1) of this subsection.

§10–434.

(a) Within 15 days after the notice required under § 10-433(a)(2) of this subtitle is given, subscribers may submit to the existing provider, any proposed new provider, and the Department written questions and comments about the proposed sale or transfer.

(b) (1) Within 25 days after the notice required under § 10-433(a)(2) of this subtitle is given, representatives of the existing provider and any proposed new provider shall hold a meeting with not more than 15 representatives chosen by the subscribers of the affected facility to discuss the proposed sale or transfer.

(2) The subscriber representatives shall give their names and addresses to the existing provider, any proposed new provider, and the Department.

(3) Representatives of the Department may attend the meeting.

(c) Within 10 days after the meeting required under subsection (b) of this section, subscribers may submit to the existing provider, any proposed new provider, and the Department additional written comments about the proposed sale or transfer.

§10–435.

(a) (1) After reviewing the information required by §§ 10-433 and 10-434 of this subtitle, the Department shall determine whether the sale or transfer satisfies the standard for approval set forth in subsection (b) of this section.

(2) The Department shall make the determination within 50 days after the date of the notice required under § 10-433(a)(2) of this subtitle unless extended by the Department for good cause.

(3) The Department shall notify the existing provider, any proposed new provider, and the subscriber representatives in writing of the determination and the reasons for it and, if applicable, that the Department intends to transfer the certificate of registration to the new provider.

(b) The Department shall approve a sale or other transfer of ownership or control unless the Department determines that the sale or transfer is likely to have an unreasonably adverse effect on:

(1) the financial stability of the provider; or

(2) the capacity of the provider to perform continuing care agreement obligations to subscribers.

(c) (1) In accordance with Title 10, Subtitle 2 of the State Government Article, the provider may appeal the Department's decision on the proposed sale or transfer.

(2) A person other than the provider may not appeal the Department's decision or be a party in interest to the proceedings.

(3) The Department shall give prompt notice of any appeal and of any decision issued in the appeal to the subscriber representatives.

(d) A sale or other transfer of ownership or control subject to this section and §§ 10-432 through 10-434 of this subtitle may not be completed until 15 days after the later of:

(1) the day the Department issues the notice required under subsection (a)(3) of this section of its decision to approve the sale or transfer; or

(2) if an appeal is taken under subsection (c) of this section, the day the administrative law judge issues a decision to allow the sale or transfer.

§10–436.

(a) This section does not apply to:

(1) a transaction undertaken under a contractual obligation in effect on October 1, 1996;

(2) a transaction made in the ordinary course of business of operating a facility;

(3) a refund under a contract entered into in the ordinary course of business;

(4) a transfer of cash, securities, or other investment property in connection with an ordinary investment transaction;

(5) a grant of a mortgage, deed of trust, or security interest to an unrelated third party;

(6) a transaction involving an easement, right-of-way, road widening, or similar conveyance for the benefit of a public body or a utility;

(7) a transaction made for an expansion or renovation; or

(8) any other sale, transfer, or other disposition exempted by the Department by regulation.

(b) (1) A provider that holds a preliminary, initial, or renewal certificate of registration may not sell, transfer, or otherwise dispose of more than 10% of its total assets in any 12-month period unless the Department approves the sale, transfer, or

disposition in accordance with §§ 10-437 and 10-438 of this subtitle.

(2) A provider may not sell, transfer, or otherwise dispose of assets equal to or less than 10% of its total assets if the sale, transfer, or disposition is likely, according to standards set by regulation, to have an unreasonably adverse effect on:

(i) the financial stability of the provider; or

(ii) the capacity of the provider to perform its obligations under its continuing care agreements.

(3) Determinations of total assets shall be based on the provider's latest certified financial statements available at the time the sale, transfer, or other disposition is made.

§10–437.

(a) A provider subject to § 10-436(b)(1) of this subtitle shall:

(1) at least 60 days before the sale, transfer, or other disposition, file with the Department a statement of intent to sell, transfer, or otherwise dispose of assets; and

(2) at least 30 days before the sale, transfer, or other disposition, give written notice to the Department of the proposed sale, transfer, or other disposition of assets.

(b) The statement of intent required to be filed with the Department under subsection (a)(1) of this section shall include:

(1) identification of each asset to be sold, transferred, or otherwise disposed of;

(2) if the provider is subject to § 10-436(b)(1) of this subtitle because of a series of sales, transfers, or other dispositions that have exceeded cumulatively 10% of its total assets, identification of each asset that has been sold, transferred, or disposed of; and

(3) the reason for the sale, transfer, or other disposition identified in item (1) of this subsection.

(c) The notice to the Department required under subsection (a)(2) of this section shall include:

(1) a statement that demonstrates that the proposed sale, transfer, or other disposition is not likely to have an unreasonably adverse effect on:

(i) the financial stability of the provider; or

(ii) the capacity of the provider to perform its obligations under its continuing care agreements; and

(2) any other information that the Department requires.

§10–438.

(a) (1) After reviewing the information required by § 10-437 of this subtitle, the Department shall determine whether the sale, transfer, or other disposition satisfies the standard for approval set forth in subsection (b) of this section.

(2) The Department shall make its determination and notify the provider in writing within 25 days after the date of the notice required by § 10-437(a)(2) of this subtitle, unless extended by the Department for good cause.

(3) If the Department does not approve the proposed sale, transfer, or other disposition, the Department shall include the reasons for its determination in the written notice to the provider.

(b) The Department shall approve the sale, transfer, or other disposition of assets unless it determines that the sale, transfer, or disposition is likely to have an unreasonably adverse effect on:

(1) the financial stability of the provider; or

(2) the capacity of the provider to perform its obligations under its continuing care agreements.

(c) (1) By regulation, the Department shall adopt reasonable objective financial standards for a proposed sale, transfer, or other disposition of assets.

(2) If the Department determines that the provider has met the objective financial standards, the Department shall approve the proposed sale, transfer, or other disposition of assets.

(3) If the Department determines that the provider has not met the objective financial standards, the Department may approve a proposed sale, transfer, or other disposition of assets if it satisfies the requirements set forth in subsection (b) of this section.

(d) (1) In accordance with Title 10, Subtitle 2 of the State Government Article, the provider may appeal the Department's decision on the proposed sale, transfer, or other disposition of assets.

(2) A person other than the provider may not appeal the Department's decision or be a party in interest to the proceedings.

(e) A sale, transfer, or other disposition of assets subject to this part may not

be completed until 5 days after the later of:

(1) the day the Department issues the notice required under subsection (a)(2) of this section of its decision to approve the sale, transfer, or other disposition; or

(2) if an appeal is taken under subsection (d) of this section, the day the administrative law judge issues a decision to allow the sale, transfer, or other disposition of assets.

§10–439.

A provider whose facility has been the subject of a conversion may not terminate or fail to renew a lease for an accommodation in order to enter into a continuing care agreement for that accommodation.

§10–440.

(a) A provider may not remove a record or asset of the provider related to the operation of a facility or the provision of services under a continuing care agreement from the State unless the Department consents in writing.

(b) Consent shall be based on the provider's submission of satisfactory evidence that the removal:

(1) will facilitate and make the operations of the provider more economical; and

(2) will not diminish the service or protection to be given to the provider's subscribers in the State.

§10–441.

(a) The Department may:

(1) inspect a facility that offers continuing care;

(2) examine the facility's books and records; and

(3) audit or observe a service provided under a continuing care agreement.

(b) If all or part of a facility is subject to licensure by the Department of Health and Mental Hygiene, the Department shall coordinate its inspections under this section with the Department of Health and Mental Hygiene to avoid duplication.

§10–443.

The provisions of Part IV of this subtitle are in addition to, and not in lieu of, other applicable laws.

§10–444.

(a) Except as provided in subsection (b)(25) of this section, a requirement of this section does not apply to any continuing care agreement entered into before the effective date of the requirement.

(b) In a form acceptable to the Department, each continuing care agreement shall:

(1) show the total consideration paid by the subscriber for continuing care, including the value of all property transferred, donations, entrance fees, subscriptions, monthly fees, and any other fees paid or payable by or on behalf of a subscriber;

(2) specify all services that are to be provided by the provider to each subscriber, such as food, shelter, medical care, nursing care, or other health related services, including in detail all items that each subscriber will receive, and whether the items will be provided for life or for a designated time period;

(3) designate the classes of subscribers according to types of payment plans;

(4) subject to subsection (c) of this section, describe the procedures to be followed by the provider when the provider temporarily or permanently changes the subscriber's accommodations within the facility or transfers the subscriber to another health facility;

(5) describe the policies that will be implemented if the subscriber becomes unable to pay the monthly fees;

(6) state the policy of the provider concerning changes in accommodations and the procedure to implement that policy if the number of persons occupying an individual unit changes;

(7) provide in clear and understandable language, in boldface type, and in the largest type used in the body of the agreement:

(i) the terms governing the refund of any portion of the entrance fee if the provider discharges the subscriber or the subscriber cancels the agreement; and

(ii) whether monthly fees, if charged, will be subject to periodic increases;

(8) state the terms under which an agreement is canceled by the death of the subscriber;

(9) provide that charges for care paid in advance in a lump sum may not be increased or changed for the duration of the agreed–upon care;

(10) state that the provider represents that the subscriber has received, at least two weeks before signing the agreement:

(i) the current version of the written rules of the provider;

(ii) the continuing care agreement form, with the attachments, exhibits, and addenda; and

(iii) the current disclosure statement, with the attachments, exhibits, and addenda;

(11) describe the living quarters;

(12) if applicable, state the conditions under which a subscriber may assign a unit for the use of another individual;

(13) state the provider's religious or charitable affiliations and the extent, if any, to which the affiliate organization is responsible for the provider's financial and contractual obligations;

(14) state the subscriber's and provider's respective rights and obligations concerning:

(i) use of the facility; and

(ii) any real and personal property of the subscriber placed in the provider's custody;

(15) state that subscribers have the right to organize and operate a subscriber association at the facility and to meet privately to conduct business;

(16) state that there is an internal grievance procedure to address a subscriber's grievance;

(17) state the fee adjustments, if any, that will be made if the subscriber is voluntarily absent from the facility for an extended period of time;

(18) specify the circumstances, if any, under which the subscriber will be required to apply for Medicaid, Medicare, public assistance, or any public benefit program and whether the facility participates in Medicare or medical assistance;

(19) state that the subscriber received a copy of the latest certified financial statement at least two weeks before signing the agreement and that the subscriber has reviewed the statement;

(20) state that the subscriber acknowledges reviewing all of the terms of the entrance fee refund clauses and provisions contained in the continuing care agreement;

(21) provide that, on request, the provider will make available to the

subscriber any certified financial statement submitted to the Department;

(22) if applicable, describe the conditions under which the provider may be issued an initial certificate of registration and the conditions under which the provider may use escrowed deposits, and state the amount of the subscriber's deposit;

(23) state that fees collected by a provider under the terms of a continuing care agreement may only be used for purposes set forth in the agreement;

(24) include one of the following model statements or a substantially similar statement:

(i) "The provider agrees that, for as long as the subscriber's continuing care agreement remains in effect, the provider shall only use fees paid by the subscribers of the community for purposes directly related to the construction, operation, maintenance, or improvement of the community.";

(ii) "The provider does not currently use fees paid by subscribers of the community for purposes other than those directly related to the construction, operation, maintenance, or improvement of the community, but the provider reserves the future right to use fees paid by subscribers of the community for purposes unrelated to the construction, operation, maintenance, or improvement of the community."; or

(iii) "The provider may use fees paid by subscribers of the community for purposes unrelated to the construction, operation, maintenance, or improvement of the community, including for the furtherance of the provider's corporate mission, to distribute profits, or to benefit an affiliated community.";

(25) allow a subscriber to designate a beneficiary to receive any refundable portion of the entrance fee that is owed due to the death of the subscriber on or after the date of occupancy, if the designation is:

(i) in writing;

(ii) witnessed by at least two competent witnesses;

(iii) not contingent; and

(iv) specified in percentages and accounts for 100% of the refund due;

(26) state the funeral and burial services, if any, that the provider will provide;

(27) contain a table of contents;

(28) if the provider offers a continuing care agreement that promises a contractual entrance fee refund after occupancy, state whether the portion of the entrance fee to be refunded is held in trust or escrow for the subscriber after occupancy,

and if so held, state where and how the funds are held;

(29) if the payment of a contractual entrance fee refund after occupancy is conditioned on the reoccupancy or recontracting of the subscriber's unit, state that the provider agrees to make reasonable efforts to satisfy the condition; and

(30) contain the following statement in boldface type and in the largest type used in the agreement: "A preliminary certificate of registration or certificate of registration is not an endorsement or guarantee of this facility by the State of Maryland. The Maryland Department of Aging urges you to consult with an attorney and a suitable financial advisor before signing any documents.".

(c) A subscriber's accommodations may be changed only to protect the health or safety of the subscriber or the general and economic welfare of other residents.

(d) A continuing care agreement may contain, in a form acceptable to the Department, any other appropriate provision to effectuate the purpose of the agreement.

(e) (1) This subsection applies if:

(i) a provider's continuing care agreement includes a provision to provide assisted living program services; and

(ii) the provider does not execute a separate assisted living agreement.

(2) In addition to any other requirement of this section, the continuing care agreement shall include the following provisions concerning the assisted living program:

(i) a statement of the level of care that the assisted living program is licensed to offer;

(ii) a description of the procedures to be followed by the provider for notifying the subscriber of the level of care the subscriber needs if the subscriber transfers to an assisted living program;

(iii) a statement indicating the options available to a subscriber if the subscriber's level of care, after admission to an assisted living program, exceeds the level of care for which the provider is licensed;

(iv) based on a sample list of assisted living program services that the Department of Health and Mental Hygiene maintains, a statement of which services are provided by the assisted living program and which services are not;

(v) a statement of the obligations of the provider and the subscriber or the subscriber's agent for handling the subscriber's finances;

(vi) a statement of the obligations of the provider and the subscriber or the subscriber's agent for disposition of the subscriber's property on the subscriber's discharge or death; and

(vii) the applicable rate structure and payment provisions covering:

1. all rates to be charged to the subscriber, including:

A. service packages;

B. fee-for-service rates; and

C. any other nonservice-related charges;

2. criteria to be used for imposing additional charges to provide additional services, if the subscriber's service and care needs change;

3. payment arrangements and fees, if known, for third-party services not covered by the continuing care agreement, but arranged for by the subscriber, the subscriber's agent, or the assisted living program;

4. identification of the persons responsible to pay all fees and charges and a clear indication of whether the person's responsibility is or is not limited to the extent of the subscriber's funds;

5. a provision for notice at least 45 days before any rate increase, except for an increase necessitated by a change in the subscriber's medical condition; and

6. fair and reasonable billing and payment policies.

§10–445.

(a) (1) (i) If a provider's feasibility study has been approved under § 10–409 of this subtitle, the Department, within 120 days after receipt of a continuing care agreement or any other related agreement submitted by a provider, shall determine whether the agreement complies with the requirements of this subtitle.

(ii) At any time during the review process, the Department may submit comments to or request additional information from the provider to determine whether the agreement complies with the requirements of this subtitle and other applicable law.

(iii) If the Department submits comments or a request for additional information under subparagraph (ii) of this paragraph, the 120–day review period under subparagraph (i) of this paragraph is suspended.

(iv) On receipt of any requested information or modifications to the

agreement necessitated by the Department's comments under subparagraph (iii) of this paragraph, the Department, within the number of days remaining in the 120–day review period, shall:

1. complete its review to determine whether the agreement meets the requirements of this subtitle and other applicable law identified by the Department in accordance with subparagraph (ii) of this paragraph; and

2. approve or disapprove the agreement.

(v) 1. If the Department does not approve the agreement, the Department shall notify the provider in writing, including citations to the specific provisions of law that the Department determined were not complied with in the agreement.

2. A provider may appeal the disapproval of an agreement under subparagraph (iv) of this paragraph under the provisions of Title 10, Subtitle 2 of the State Government Article.

(2) If the Department does not act within 120 days, the agreement is deemed approved.

(b) The provider shall maintain the continuing care agreement at the facility and make it available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18, of the Health – General Article and Title 10, Subtitle 3 of the Health – General Article.

(c) If a provider is seeking approval for a modification to an approved continuing care agreement or other related agreement, the Department shall limit its review to:

(1) the section of the agreement being modified and any sections directly affected by the modification; and

(2) any section of the agreement that may have been affected by a change in the law or a regulation that was enacted after the Department approved the agreement.

(d) If the continuing care agreement is not an extensive agreement or a modified agreement and the provider uses a separate assisted living agreement:

(1) the provider is not required to submit the assisted living agreement or any requests for modifications to the Department for approval; and

(2) (i) the provider shall state in its continuing care agreement that, if the subscriber wishes to transfer to assisted living, the subscriber will be required to sign an additional separate agreement for assisted living services that will not be approved by the Department for compliance with legal requirements or coordination with the continuing care agreement; and

(ii) the provider may include a provision in its continuing care agreement stating that assisted living contracts and services are regulated by the Office of Health Care Quality within the Department of Health and Mental Hygiene.

(e) If the continuing care agreement is not an extensive agreement or a modified agreement and the provider uses a separate comprehensive care agreement:

(1) the provider is not required to submit the comprehensive care agreement or any requests for modifications to the Department for approval; and

(2) (i) the provider shall state in its continuing care agreement that, if the subscriber wishes to transfer to comprehensive care, the subscriber will be required to sign an additional separate agreement for comprehensive care services that will not be approved by the Department for compliance with legal requirements or coordination with the continuing care agreement; and

(ii) the provider may include a provision in its continuing care agreement stating that comprehensive care facilities contracts and services are regulated by the Office of Health Care Quality within the Department of Health and Mental Hygiene.

§10–446.

(a) A subscriber may rescind a continuing care agreement for any reason before the date of occupancy by the subscriber.

(b) (1) A continuing care agreement is automatically canceled if, before the date of occupancy:

(i) the subscriber dies;

(ii) the provider determines that the subscriber is ineligible for admission to the facility; or

(iii) the subscriber terminates the continuing care agreement because of a substantial change in the subscriber's physical, mental, or financial condition.

(2) Within 30 days after a continuing care agreement is canceled under this subsection, the subscriber or the subscriber's legal representative shall receive a full refund of all money paid to the provider, less:

(i) a processing fee approved by the Department; and

(ii) any special additional costs incurred by the provider due to modifications in the structure or furnishings of the unit specifically requested by the subscriber, if:

1. the costs do not exceed the costs of modification and the

reasonable costs of restoration actually incurred by the provider; and

2. the costs were set forth in writing in a separate addendum to the agreement signed by the subscriber.

(c) (1) If the subscriber rescinds the continuing care agreement within 90 days after entering into the agreement and before the date of occupancy for any reason other than the reasons specified in subsection (b)(1) of this section, the provider shall refund the amount described in subsection (b)(2) of this section to the subscriber or the subscriber's legal representative within 30 days after the date of rescission.

(2) If the subscriber rescinds the continuing care agreement more than 90 days after entering into the agreement and before the date of occupancy for any reason other than the reasons specified in subsection (b)(1) of this section, the provider may retain up to 25% of the subscriber's entrance fee deposit.

(d) (1) A subscriber may rescind a continuing care agreement at any time if a term of the agreement violates this subtitle and the subscriber is injured by the violation.

(2) The subscriber is entitled to treble damages for extensive injuries arising from a violation.

(e) (1) An applicant for admission to a facility who withdraws the application before executing a continuing care agreement shall receive a refund of all money paid to the provider except a processing fee approved by the Department.

(2) The refund shall be paid within 60 days after the applicant withdraws the application.

§10–447.

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

(2) "Extensive agreement" means a continuing care agreement under which the provider promises to provide residential facilities, meals, amenities, and long-term care services in a licensed assisted living program or comprehensive care program:

(i) for as long as the subscriber needs the services; and

(ii) for no increase in the subscriber's entrance fee or periodic fees, except for an adjustment to account for increased operating costs caused by inflation or other factors unrelated to the individual subscriber.

(3) "Modified agreement" means a continuing care agreement:

(i) under which the provider promises to provide residential

facilities, meals, amenities, and a limited amount of long-term care services in a licensed assisted living program or comprehensive care program:

1. for as long as the subscriber needs the services; and

2. for no increase in the subscriber's entrance fee or periodic fees, except for an adjustment to account for increased operating costs caused by inflation or other factors unrelated to the individual subscriber; and

(ii) that provides that long-term care services in a licensed assisted living program or comprehensive care program beyond the limited amount of services to be provided under item (i) of this paragraph will be provided at a per diem, fee-for-service, or other agreed-upon rate.

(b) (1) A provider shall provide the assisted living services a subscriber needs in accordance with paragraph (2) of this subsection if:

(i) the subscriber's continuing care agreement is an extensive or modified agreement that promises the provider will provide assisted living services; and

(ii) the provider does not have an assisted living bed available at the facility when the subscriber needs the promised care.

(2) The provider shall provide assisted living services required under paragraph (1) of this subsection to a subscriber:

(i) at the same rate the subscriber would pay if an assisted living bed were available; and

(ii) at the provider's option:

1. in the subscriber's independent living unit; or

2. in a nearby licensed assisted living facility.

(c) (1) A provider shall provide the comprehensive care services a subscriber needs in accordance with paragraph (2) of this subsection if:

(i) the subscriber's continuing care agreement is an extensive or modified agreement that promises the provider will provide the subscriber with comprehensive care services if the subscriber needs them; and

(ii) the provider does not have a comprehensive care bed available when the subscriber needs the promised care.

(2) The provider shall provide the services required under paragraph (1) of this subsection:

(i) at the same rate the subscriber would pay if a comprehensive bed were available; and

(ii) at the provider's option:

1. in the subscriber's independent or assisted living unit; or

2. in a nearby licensed comprehensive care facility.

§10–448.

(a) A continuing care agreement may not allow dismissal or discharge of the subscriber from the facility providing care before the agreement expires unless:

(1) the provider has just cause for the dismissal or discharge; and

(2) the provider gives the subscriber at least 60 days' advance notice.

(b) If a provider terminates a subscriber's continuing care agreement for just cause, the provider shall pay the subscriber a refund calculated in accordance with subsection (c) of this section, within 60 days after the later of:

(1) the date of dismissal or discharge; or

(2) the date the subscriber vacates the unit.

(c) (1) The subscriber's refund shall equal the entrance fee divided by the subscriber's years of expected lifetime at admission, multiplied by the subscriber's years of expected lifetime at dismissal or discharge.

(2) A subscriber's years of expected lifetime at admission and at dismissal or discharge shall be computed based on the appropriate tables most recently published by the U.S. Department of Health and Human Services at the time of dismissal or discharge.

§10–449.

(a) A continuing care agreement shall allow a subscriber to terminate the agreement by giving a written termination notice to the provider.

(b) If a continuing care agreement is terminated by the subscriber's election or death within the first 90 days of occupancy, the provider shall pay any contractual entrance fee refund within 30 days after the earlier to occur of:

(1) the recontracting of the subscriber's unit by:

(i) another subscriber for whom an entrance fee has been paid; or

(ii) another party who is not a subscriber; or

(2) the later to occur of:

(i) the 90th day after the date the written termination notice is given or the date of death; or

(ii) the day the independent living units at the facility have operated at 95% of capacity for the previous 6 months.

(c) If a continuing care agreement is terminated by the subscriber's election or death after the first 90 days of occupancy, the provider shall pay any contractual entrance fee refund within 60 days after the subscriber's death or the effective date of termination, if on the date of death or at any time between the date the written termination notice is given and the effective date of termination:

(1) the subscriber resides in a unit at a higher level of care than the level of care in which the subscriber resided on initially entering the facility; and

(2) the last unit in which the subscriber resided at the initial level of care on entering the facility has been occupied by or reserved for another subscriber who has paid an entrance fee.

(d) This section does not prohibit a provider from requiring that a subscriber's unit be vacated before any contractual entrance fee refund is paid as a result of the subscriber's election to terminate a continuing care agreement.

§10–450.

An act, agreement, or statement by a subscriber or by an individual purchasing care for a subscriber under an agreement to furnish care to the subscriber is not a valid waiver of any provision of this subtitle intended for the benefit or protection of the subscriber or the individual purchasing care for the subscriber.

§10–453.

This part applies only to continuing care at home operations.

§10–454.

(a) The Department shall adopt regulations that:

(1) set standards for continuing care at home providers; and

(2) provide for the certification of continuing care at home providers and the annual renewal of certificates of registration.

(b) In addition to the provisions required under subsection (a) of this section, the regulations adopted by the Department shall, at a minimum:

(1) provide for and encourage the establishment of continuing care at

home programs;

(2) for an individual who is employed by or under contract with a continuing care at home provider and who will enter a subscriber's home to provide continuing care at home services:

(i) set minimum requirements;

(ii) require a criminal history records check, if the individual will have routine, direct access to a subscriber; and

(iii) require the provider to screen and verify the individual's character references;

(3) establish standards for the renewal of certificates of registration;

(4) establish standards for entrance fees, deposits, and the number of executed agreements necessary to begin operations;

(5) establish conditions for the release of deposits and entrance fees from escrow accounts;

(6) establish standards for when and how a subscriber or provider may rescind a continuing care at home agreement before continuing care at home services are provided to the subscriber;

(7) allow a subscriber to rescind a continuing care at home agreement at any time if the terms of the agreement violate this subtitle; and

(8) establish that a provider may terminate an agreement or discharge a subscriber only for just cause and establish procedures to carry out the termination or discharge.

§10–455.

(a) A provider may not collect deposits to provide continuing care at home services until the Department approves a feasibility study.

(b) A provider that intends to develop a continuing care at home program and provide continuing care at home services shall file a statement of intent with the Department at least 30 days before submitting the feasibility study required under this section.

(c) A feasibility study shall:

(1) be filed in a form satisfactory to the Department; and

(2) include at least the following information:

(i) a statement of the purpose of the program and the need for the proposed services;

(ii) documentation of the financial resources of the provider;

(iii) a plan demonstrating the financial feasibility of the proposed program, including future funding sources;

(iv) an actuarial forecast that has been reviewed by a qualified actuary;

(v) a study demonstrating the proposed market for the program;

(vi) the form and substance of any proposed advertisements, advertising campaigns, or other promotional materials for the program that is available at the time of filing;

(vii) a detailed statement of the covered services; and

(viii) any other information that the Department requires.

(d) The Department shall approve a feasibility study filed under this section if the Department determines that:

(1) the proposed use of new or existing health facilities is not inconsistent with the State health plan;

(2) a reasonable financial plan has been developed to provide continuing care at home services, including the number of agreements to be executed before beginning operations and the criteria to release funds from escrow;

(3) a market for the continuing care at home program appears to exist;

(4) the feasibility study was prepared by a recognized authority;

(5) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;

(6) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead;

(7) the actuarial forecast supports the market for the program;

(8) the approved escrow agreement and deposit agreement state the conditions for the release of deposits and entrance fees from escrow;

(9) a copy of the escrow agreement executed by the provider and the financial institution has been filed with the Department; and

(10) any other information requested by the Department has been submitted and approved.

§10–456.

(a) A provider may collect deposits from prospective subscribers if:

(1) the Department has approved the provider's feasibility study; and

(2) the provider maintains the funds collected in an escrow account.

(b) Deposits collected under subsection (a) of this section shall be held in escrow until:

(1) the provider has been issued a certificate of registration under § 10-458 of this subtitle; or

(2) a later time that the Department may set by regulation.

§10–457.

(a) A provider may not enter into an agreement to provide continuing care at home services until the Department issues a preliminary certificate of registration to the provider.

(b) An application for a preliminary certificate of registration shall:

(1) be filed in a form satisfactory to the Department; and

(2) include at least the following information:

(i) a copy of the proposed continuing care at home agreement, which shall include the following statement set forth in print no smaller than the largest type used in the body of the agreement:

"A certificate of registration is not an endorsement or guarantee of this continuing care at home provider by the State of Maryland. The Maryland Department of Aging urges you to consult an attorney and a suitable financial advisor before signing any documents.";

(ii) the form and substance of any proposed advertisements, advertising campaigns, or other promotional material for the program that is available at the time of filing the application and that has not been filed previously with the Department; and

(iii) any other information that the Department requires.

(c) The Department shall issue a preliminary certificate of registration to a provider if the Department determines that:

(1) the proposed continuing care at home agreement is satisfactory;

(2) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;

(3) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead;

(4) the information and documents submitted with the feasibility study under § 10-455 of this subtitle are current and accurate or have been updated to make them accurate; and

(5) the provider has submitted any other information that the Department requests.

§10–458.

(a) A provider may not provide continuing care at home services until the Department issues a certificate of registration to the provider.

(b) An application for a certificate of registration shall:

(1) be filed in a form satisfactory to the Department; and

(2) include at least the following information:

(i) verification that the required number of agreements has been executed and the corresponding deposits collected;

(ii) the form and substance of any proposed advertisements, advertising campaigns, or other promotional material for the program that are available at the time of filing and that have not been filed previously with the Department;

(iii) verification that any other license or certificate required by other appropriate State units has been issued to the provider; and

(iv) any other information that the Department requires.

(c) The Department shall issue a certificate of registration to a provider if the Department determines that:

(1) the information and documents submitted with the feasibility study and application for a preliminary certificate of registration are current and accurate or have been updated to make them accurate;

(2) the required number of agreements has been executed and the corresponding deposits collected;

(3) any other license or certificate required by other appropriate State units has been issued to the provider;

(4) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;

(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead; and

(6) the provider has submitted any other information that the Department required.

(d) If a provider intends to advertise before the Department issues a certificate of registration under subsection (c) of this section, the provider shall submit to the Department any advertisement, advertising campaign, or other promotional materials before using it.

(e) If a certificate of registration is not issued to a provider within 24 months after the Department approves a feasibility study, or a longer time allowed by the Department for good cause shown, the provider shall refund all deposits collected and stop offering continuing care at home services under that application.

§10–459.

(a) (1) Each year, within 120 days after the end of a provider's fiscal year, the provider shall file an application for a renewal certificate of registration with the Department.

(2) An application shall:

(i) be filed in a form satisfactory to the Department; and

(ii) contain any reasonable and pertinent information that the Department requires.

(b) The Department shall issue a renewal certificate of registration if the Department determines that:

(1) all required documents have been filed and are satisfactory;

(2) any revised agreements for continuing care at home services meet the Department's requirements;

(3) the proposed use of new or existing health facilities is not inconsistent with the State health plan;

(4) the provider has submitted all proposed advertisements, advertising

campaigns, and other promotional materials for the program; and

(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead.

§10–460.

(a) For cause, the Department may:

(1) deny a feasibility study approval; or

(2) deny, suspend, or revoke a preliminary, initial, or renewal certificate of registration.

(b) (1) Grounds for a denial, suspension, or revocation include:

(i) violation of this subtitle;

(ii) violation of a regulation the Department adopts under this subtitle;

(iii) misrepresentation; or

(iv) submission of a false financial statement.

(2) The Department shall set forth in writing its reasons for a denial, suspension, or revocation.

(c) Title 10, Subtitle 2 of the State Government Article governs the appeal of a denial, revocation, or suspension.

§10–463.

In this part, "Committee" means the Financial Review Committee established in § 10-464 of this subtitle.

§10–464.

There is a Financial Review Committee in the Department.

§10–465.

(a) (1) The Committee consists of seven members appointed by the Secretary.

(2) Of the seven members:

(i) two shall be knowledgeable in the field of continuing care;

(ii) two shall be certified public accountants;

(iii) one shall be from the financial community; and

(iv) two shall be consumer members.

(3) In appointing the consumer members, the Secretary shall give a preference to subscribers of continuing care facilities.

(b) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members on October 1, 2007.

(3) A member may serve consecutive terms.

(c) The Committee shall elect its chair.

(d) A member:

(1) may not receive compensation as a member of the Committee; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) A member is immune from civil liability as provided in § 5-514 of the Courts Article.

(f) A member may not participate in a review of a provider's financial condition if that member has an interest, as defined under the Maryland Public Ethics Law in § 5–101 of the General Provisions Article, in the provider.

(g) The deliberations of the Committee and communications between the Department and the Committee, including recommendations of the Committee, shall be confidential.

§10–466.

(a) (1) The Department may refer to the Committee for its consideration:

(i) a provider's application for a renewal certificate of registration after review by the Department; or

(ii) a finding of possible financial difficulty, at any time.

(2) The Department shall provide to the Committee any materials the Department considers necessary.

(b) (1) The Committee shall review the referral from the Department and may

request additional information from the Department.

(2) Except as provided in subsection (c) of this section, within 45 days after receipt of a referral, the Committee shall notify the Department in writing whether the Committee recommends that the Department:

(i) find the provider in financial difficulty; and

(ii) find that the financial difficulty, if any, includes a significant risk of financial failure in accordance with § 10-469 of this subtitle.

(3) In making a recommendation to the Department, the Committee shall state the reason for the recommendation.

(c) (1) The Committee may request from the Secretary one 30-day extension of the deadline under subsection (b)(2) of this section.

(2) The Secretary may grant or deny the extension.

§10–467.

(a) Within 25 days after receipt of the Committee's recommendations, the Department shall consider the recommendations and make a final determination of whether financial difficulty exists and, if so, whether there is a significant risk of financial failure in accordance with § 10-469 of this subtitle.

(b) If the Department determines that the provider is in financial difficulty it shall immediately notify the provider by certified mail, return receipt requested, and inform the provider whether the Department has determined that there is a significant risk of financial failure.

(c) The provider shall:

(1) advise its subscribers of the Department's determination in a meeting to be held by the provider with representatives of the subscribers;

(2) hold the meeting within 10 days after the provider's receipt of notice from the Department; and

(3) advise the Department of the date, time, and location of the meeting.

§10–468.

(a) (1) A provider notified of financial difficulty by the Department shall prepare and submit to the Department for its approval a 5-year financial plan to correct the causes of the financial difficulty.

(2) The financial plan shall be submitted within 60 days after receipt of notification.

(3) The provider may request one 30-day extension from the Secretary.

(4) The Secretary may grant or deny the extension.

(b) (1) The Department shall respond to the provider within 60 days after receipt of the proposed financial plan.

(2) The Department may:

(i) work with the provider to establish the financial plan; and

(ii) consult with the Committee before approving the financial plan.

(c) (1) On approval, the financial plan shall be implemented.

(2) The provider shall make available to its subscribers copies of its approved financial plan.

(d) The provider shall:

(1) submit to the Department an annual progress report for the term of its financial plan; and

(2) revise its financial plan if the Department determines that revisions are necessary.

(e) The Department may withhold the renewal certificate of registration or withdraw a preliminary, initial, or renewal certificate of registration if:

(1) the provider does not prepare a financial plan;

(2) the provider is unwilling or unable to prepare a financial plan;

(3) the financial plan is inadequate to correct the current or impending financial condition that necessitated the financial plan; or

(4) the provider fails to implement the financial plan.

§10–469.

The Department may determine that there exists a significant risk of the financial failure of a provider based on one or more of the following findings or circumstances:

(1) the provider has failed to meet loan covenants that give a lender or a bond trustee the option to exercise remedies on its collateral;

(2) an actuarial report has been provided to the Department reflecting significant underfunding of future liabilities that are unlikely to be readily addressed;

(3) there is a significant shortfall by the provider in maintaining required reserves for a significant period of time;

(4) a significant balloon payment or future loan payment will become due within the next 12 months and the provider is unable to demonstrate that it will obtain a modification from its lender, have the resources to make the payment, or have the ability to refinance;

(5) there has been a significant decline in the occupancy rate that is likely to have a material adverse financial impact on the provider;

(6) there has been a material adverse change in debt service coverage ratio for an extended period of time that reduces the ratio to less than 1.0;

(7) there has been a significant decline in days cash on hand that is unrelated to additions to property, plant, and equipment or other community enhancements and that could result in an inability to pay obligations of the provider as they become due;

(8) there has been a significant increase in the operating ratio, adjusted for unrealized gains and losses on investments, that could result in the inability of the provider to meet its obligations; or

(9) the refusal or inability of the provider to provide accurate information or data required to be submitted to the Department under this subtitle and related regulations.

§10–472.

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

(b) "Creditor" means a person with a claim against a provider.

(c) "Delinquency proceeding" means a proceeding under this subtitle to liquidate, rehabilitate, reorganize, or conserve a provider.

(d) "General assets" means:

(1) all property that is not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or a limited class of persons;

(2) to the extent that property of a provider is specifically encumbered, the amount of the property or its proceeds that exceeds the amount necessary to discharge the encumbrance; and

(3) assets held in trust and assets held on deposit for the security or benefit of all subscribers and creditors in the United States.

(e) "Receiver" includes a conservator, rehabilitator, and liquidator.

(f) (1) "Secured claim" means a claim that:

(i) is secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise; or

(ii) has become a lien on specific assets through judicial process.

(2) "Secured claim" does not include a special deposit claim or a claim against general assets.

(g) (1) "Special deposit claim" means a claim secured by a deposit required by law for the security or benefit of a limited class of persons.

(2) "Special deposit claim" does not include a claim against general assets.

(h) "Transfer" means:

(1) the sale or other direct or indirect disposition of property or an interest in property;

(2) the fixing of a lien on property or an interest in property; or

(3) the retention of a security title to property delivered to a debtor.

§10–473.

Notwithstanding any other provision of law and subject to § 10-493 of this subtitle, a delinquency proceeding is the exclusive method of liquidating, rehabilitating, reorganizing, or conserving a provider.

§10–474.

The Secretary, deputy secretary, special deputy secretary, or any person acting as receiver in a rehabilitation, liquidation, or conservation of a provider as a result of a court order shall have the same immunity from liability that the Maryland Insurance Commissioner, deputy commissioner, special deputy commissioner, or any person acting as receiver in a rehabilitation, liquidation, or conservation of an insurer would have under § 5-410 of the Courts Article.

§10–475.

(a) (1) This subsection applies even if a paper or instrument is not:

(i) executed by the Secretary or a deputy, employee, or attorney of record of the Secretary; and

(ii) connected with the commencement of an action or proceeding by

or against the Secretary or with the subsequent conduct of the action or proceeding.

(2) Subject to subsection (b) of this section, the Secretary may not be required to pay to a public officer in the State a fee for filing, recording, or issuing a transcript or certificate or for authenticating a paper or instrument that relates to the exercise by the Secretary of a power or duty of the Secretary under this subtitle.

(b) (1) The Secretary or deputy secretary, when acting as receiver or ancillary receiver under this subtitle, shall pay all court costs out of the assets of the provider before any distribution to creditors or termination of rehabilitation.

(2) In all cases, court costs and those specified in subsection (a) of this section shall:

(i) be charged in the accounts of the Secretary to the court; or

(ii) be paid by the provider as a condition of termination of the action or proceeding.

§10–476.

(a) (1) In a delinquency proceeding in which the Secretary has been appointed receiver, the Secretary may:

(i) appoint one or more special deputy secretaries to act for the Secretary; and

(ii) employ counsel, clerks, and assistants.

(2) Compensation of the special deputies, counsel, clerks, and assistants and all expenses of taking possession of the provider and of conducting the delinquency proceeding shall be:

(i) set by the Secretary, subject to approval by the court; and

(ii) paid out of the assets or funds of the provider.

(3) Within the limits of duties imposed on a special deputy concerning a delinquency proceeding, the special deputy:

(i) has all powers given to the receiver; and

(ii) in the exercise of those powers, is subject to all the duties imposed on the receiver concerning the delinquency proceeding.

(b) In a civil proceeding filed against a special deputy secretary appointed under this subtitle, the special deputy secretary is entitled to representation by the Attorney General as specified in Title 12, Subtitle 3, Part II of the State Government Article.

§10–477.

(a) The Circuit Court of Baltimore City:

(1) has exclusive original jurisdiction over delinquency proceedings; and

(2) may issue all necessary and proper orders to carry out this subtitle.

(b) If service is made in accordance with the Maryland Rules or other applicable law, a court with subject matter jurisdiction over an action brought under this subtitle also has jurisdiction over:

(1) an officer, director, manager, trustee, organizer, promoter, or attorney in fact of a provider against which a delinquency proceeding has been commenced, in an action resulting from or incidental to the person's relationship with the provider;

(2) a person that, at the time of or after commencement of the delinquency proceeding, held or was in control of assets in which the receiver claims an interest on behalf of the provider, in an action concerning the assets of the provider; and

(3) a person obligated to the provider in any way, in an action on or incidental to the obligation.

(c) The venue of all delinquency proceedings is in Baltimore City.

§10–478.

(a) The Secretary shall commence a delinquency proceeding against a provider by applying to the court for an order that directs the provider to show cause why the court should not grant the relief requested.

(b) (1) The court may consider an application for commencement of a delinquency proceeding only if the application is filed by the Secretary in the name of the State.

(2) After a hearing under the terms of the show cause order, the court:

(i) shall grant or deny the application; and

(ii) may order other relief as the nature of the case and the interests of the creditors, stockholders, members, subscribers, or the public may require.

§10–479.

(a) The Secretary may apply to the court for an order that directs the Secretary to conserve or rehabilitate a provider, if the provider:

(1) is a provider for which the Department has made a determination of significant risk of financial failure under Part VII of this subtitle;

(2) has refused to submit to the Secretary or a deputy or examiner of the Secretary, for reasonable examination, any of the property, books, records, accounts, or affairs of the provider, or of a subsidiary or related company of the provider within the provider's control;

(3) has concealed or removed its assets or records;

(4) has willfully violated its charter, articles of incorporation, a State law, or an order of the Secretary;

(5) after reasonable notice, has failed promptly and effectively to terminate the employment, status, and influence over the management of the provider of a person that has executive authority in fact over the provider and has refused to be examined under oath about the affairs of the provider in the State or elsewhere;

(6) has been or is the subject of an application for appointment of a receiver, trustee, custodian, sequestrator, or similar fiduciary of the provider or its property in an action that was not filed under this subtitle, regardless of whether the appointment:

(i) has been made;

(ii) may deny the courts of the State jurisdiction; or

(iii) may prejudice an orderly delinquency proceeding under this subtitle;

(7) has consented to the order for conservation or rehabilitation through a majority of its directors, stockholders, members, or subscribers;

(8) has failed to pay a final judgment rendered against it in the State on a continuing care agreement issued or assumed by the provider, within 60 days after the latest of:

(i) the day on which the judgment became final;

(ii) the day on which the time for taking an appeal expired; or

(iii) the day on which an appeal was dismissed before final termination;

(9) after examination by the Secretary, is found to be in a condition in which further transaction of its business will be hazardous to its subscribers, bondholders, creditors, or the public;

(10) has failed to remove a person that has executive authority in fact over the provider after the Secretary has found that person to be dishonest or untrustworthy in a manner that may affect the business of the provider;

(11) has reasonable cause to know, or should have known, that there has been:

(i) embezzlement of funds from the provider;

(ii) wrongful sequestration or diversion of assets of the provider;

(iii) forgery or fraud that affects the provider; or

(iv) other illegal conduct in, by, or with respect to the provider;

(12) is controlled directly or indirectly by a person that the Secretary finds to be untrustworthy; or

(13) has failed to file a financial report required by law within the time allowed by law and, after written demand by the Secretary, has failed to give an immediate and adequate explanation.

(b) (1) If the appointment of the Secretary as receiver is not then in effect, and even if no previous order has directed the Secretary to rehabilitate a provider, the Secretary may apply to the court for an order that appoints the Secretary as receiver and that directs the Secretary to liquidate the provider if the provider:

(i) has not done business for at least 1 year;

(ii) is a provider determined to have a significant risk of financial failure under Part VII of this subtitle and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an action or proceeding to liquidate its business or affairs, to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any law except this title;

(iii) is doing business in a fraudulent manner; or

(iv) is in a condition in which further rehabilitation efforts on any grounds specified in subsection (a) of this section appear to be useless.

(2) If at any time during a rehabilitation proceeding the Secretary determines that further efforts to rehabilitate the provider would be useless, the Secretary may apply to the court for an order of liquidation.

§10–480.

(a) (1) An order to rehabilitate a provider shall:

(i) appoint the Secretary as rehabilitator;

(ii) direct the Secretary:

1. to take possession of the property of the provider and

conduct the business of the provider under the general supervision of the court; and

2. to take action the court directs to remove the causes and conditions that have made rehabilitation necessary;

(iii) vest title to all property of the provider in the rehabilitator; and

(iv) require the rehabilitator to make accountings to the court that:

1. are at intervals as the court specifies in its order, but not less frequently than two times each year; and

2. include the opinion of the rehabilitator about the likelihood of success of the rehabilitation.

(2) Issuance of an order of rehabilitation:

(i) does not constitute an anticipatory breach of any contract of the provider; and

(ii) is not grounds for retroactive revocation or retroactive cancellation of a contract of the provider, unless the rehabilitator revokes or cancels the contract.

(b) (1) Subject to paragraph (2) of this subsection, the Secretary, or an interested person on due notice to the Secretary, may apply to the court at any time for an order that:

(i) terminates a rehabilitation proceeding; and

(ii) allows the provider to resume possession of its property and the conduct of its business.

(2) An order under this subsection may not be issued unless, after a hearing, the court determines that the purposes of the rehabilitation proceeding have been fully accomplished.

(c) (1) An order to liquidate the business of a provider shall direct the Secretary promptly to:

(i) take possession of the property of the provider;

(ii) liquidate the business of the provider;

(iii) deal with the property and business of the provider in the name of the Secretary or in the name of the provider, as the court directs; and

(iv) notify each creditor that may have a claim against the provider to present the creditor's claim.

(2) The Secretary may apply for, and the court may issue, an order to dissolve the corporate existence of a provider:

(i) on application of the Secretary for an order to liquidate the provider; or

(ii) at any time after the court has granted the order of liquidation.

(d) An order to conserve the assets of a provider shall require the Secretary promptly to take possession of and conserve the property of the provider in the State, subject to further direction by the court.

§10–481.

(a) In this section, "appointed receiver" means a person, other than the Secretary, that the court appoints as a conservator, rehabilitator, or receiver under this section.

(b) (1) On motion of the court or the Secretary, the court may issue an order that appoints or substitutes a person other than the Secretary as conservator, rehabilitator, or receiver:

(i) on initial application by the Secretary for an order to appoint the Secretary as conservator, rehabilitator, or receiver under this subtitle; or

(ii) at any time during the course of a conservatorship, rehabilitation, or receivership under this subtitle.

(2) An appointed receiver has the same powers and duties that the Secretary has under this subtitle as conservator, rehabilitator, or receiver.

(c) (1) In addition to any other report required by the court, the court shall require an appointed receiver at least quarterly to file with the Secretary and court a report about:

(i) the status of the conservatorship, rehabilitation, or receivership; and

(ii) the activities of the appointed receiver since the last report filed under this paragraph.

(2) The report required under paragraph (1) of this subsection at a minimum shall include:

(i) information of the character required by Title 13 of the Maryland Rules that applies to receivers generally;

(ii) any other information necessary to provide a complete report

on the financial affairs and condition of the conservatorship, rehabilitation, or receivership;

(iii) a complete account of all efforts by the appointed receiver since the last report:

1. to sell or dispose of the remaining business or assets of the provider; or

2. to otherwise bring to a prompt conclusion the conservatorship, rehabilitation, or receivership; and

(iv) copies of any actuarial or other evaluations of the business and assets under the control of the appointed receiver.

(3) The report shall be audited unless for good cause the court waives the audit.

(d) Subject to any protective order that the court considers appropriate, information filed under seal shall be provided to the Secretary.

(e) The appointed receiver shall give the Secretary full access to all documents and records related to the conservatorship, rehabilitation, or receivership that are in the possession of the appointed receiver.

(f) The Secretary may be a party to a conservatorship, rehabilitation, or receivership for which there is an appointed receiver.

(g) (1) Subject to approval of the court, the Secretary may negotiate for sale of all or part of the assets or business of the provider placed in conservatorship, rehabilitation, or receivership.

(2) The appointed receiver:

(i) shall cooperate fully in any sales negotiation under paragraph (1) of this subsection; and

(ii) may object to the terms of a sale of the assets or business of the provider that results from the negotiation.

(3) After notice and an opportunity to be heard, the court may limit the efforts of the Secretary to undertake or continue negotiations for the sale of the assets or business of the provider if the negotiations would impair the ability of the appointed receiver to engage in similar negotiations or discharge other responsibilities.

(h) (1) If the Secretary determines that an appointed receiver is not adequately discharging the duties and responsibilities of the position, the Secretary may file with the court an application that seeks to discharge the appointed receiver

and to appoint the Secretary as conservator, rehabilitator, or receiver or to appoint another receiver.

(2) If the Secretary establishes by a preponderance of the evidence that grounds exist for discharge of an appointed receiver, the court shall grant the application of the Secretary to discharge the appointed receiver and to appoint the Secretary as conservator, rehabilitator, or receiver or to appoint another receiver.

§10–482.

Within 15 days after appointment as receiver or conservator for a provider against which a delinquency proceeding has been commenced, the receiver or conservator shall notify each subscriber of the provider, by letter or other means approved by the court, of the commencement of the delinquency proceeding and of the possibility that the continuing care agreement of the subscriber may be canceled.

§10–483.

An appeal may be taken to the Court of Special Appeals from:

(1) an order that grants or refuses rehabilitation, liquidation, or conservation; and

(2) any other order in a delinquency proceeding that has the character of a final order as to the particular part of the delinquency proceeding covered by the order.

§10–484.

(a) To facilitate the rehabilitation, liquidation, conservation, or dissolution of a provider under this subtitle, the Secretary, subject to the approval of the court, may:

(1) borrow money;

(2) execute, acknowledge, and deliver notes or other evidences of indebtedness for the loan;

(3) secure the repayment of the loan by the mortgage, pledge, assignment, or transfer in trust of all or part of the property of the provider; and

(4) take any other action necessary and proper to consummate the loan and to provide for its repayment.

(b) The Secretary is not obligated personally or in an official capacity to repay a loan made under this section.

§10–485.

(a) Whenever under this subtitle a receiver is to be appointed in a delinquency proceeding for a provider, the court shall:

(1) appoint the Secretary as receiver; and

(2) order the Secretary promptly to take possession of the assets of the provider and to administer the assets under the orders of the court.

(b) Beginning on the date of issuance of an order that directs the Secretary to rehabilitate or liquidate a provider, the Secretary as receiver is vested by operation of law with title to and may take possession of all of the property, contracts, rights of action, books, and records of the provider, wherever located.

(c) The filing of the order that directs possession to be taken, or a certified copy of the order, in an office where instruments affecting title to property are required to be filed provides the same notice as would be provided by a deed, bill of sale, or other evidence of title that is so filed.

(d) (1) The Secretary as receiver shall administer properly all assets that come into the possession or control of the Secretary.

(2) If considered desirable to protect the assets, the court at any time may require a bond from the Secretary or deputy secretary.

(3) On taking possession of the assets of a provider and subject to the direction of the court, the Secretary immediately shall:

(i) conduct the business of the provider; or

(ii) take action authorized by this subtitle to rehabilitate, liquidate, or conserve the affairs or assets of the provider.

§10–486.

(a) During pendency of a delinquency proceeding for a provider, an attachment, garnishment, execution, or similar action or proceeding may not be commenced or maintained in a court of this State against the provider or its assets.

(b) A lien obtained or an action or proceeding prohibited by subsection (a) of this section is void as against any rights arising in the delinquency proceeding, if the lien was obtained or the action or proceeding commenced within 4 months before or at any time after commencement of a delinquency proceeding.

§10–487.

(a) A transfer of or lien on the property of a provider is voidable if the transfer or lien is:

(1) made or created within 4 months before the issuance of a show cause order under this subtitle;

(2) made or created with the intent to give a creditor a preference or to enable the creditor to obtain a greater percentage of the debt than another creditor of the same class; and

(3) accepted by the creditor having reasonable cause to believe that the preference will occur.

(b) Each director, officer, employee, stockholder, member, subscriber, and any other person acting on behalf of a provider that is concerned in a voidable transfer under subsection (a) of this section and each person that, as a result of the voidable transfer, receives any property of the provider or benefits from the voidable transfer:

(1) is personally liable; and

(2) shall account to the Secretary.

(c) The Secretary as receiver in a delinquency proceeding may:

(1) avoid a transfer of or lien on the property of a provider that a creditor, stockholder, subscriber, or member of the provider might have avoided; and

(2) recover the transferred property or its value from the person that received it unless that person was a bona fide holder for value before the date of issuance of a show cause order under this subtitle.

§10–488.

(a) (1) The Secretary shall deposit moneys collected in a delinquency proceeding in a State or national bank, savings bank, or trust company.

(2) Deposits made by the Secretary under paragraph (1) of this subsection have priority of payment equal to any other priority specified by the banking laws of this State if the depository:

(i) is an institution organized and supervised under the laws of this State; and

(ii) becomes insolvent or liquidates voluntarily or involuntarily.

(3) The Secretary may deposit all or part of the moneys collected in a national bank or trust company as a trust fund.

(b) To the extent that an investment or account is insured by the Federal Deposit Insurance Corporation, the Secretary may invest in shares of or deposits in a savings and loan association or building and loan association.

§10–489.

(a) (1) If on issuance of an order of liquidation under this subtitle or at any

time during a liquidation proceeding the provider is not clearly solvent, the court, after notice it considers proper and a hearing, shall issue an order that the provider is an impaired provider.

(2) Notwithstanding any previous notice given to creditors, after issuance of an order under paragraph (1) of this subsection, the Secretary shall notify each person that may have a claim against the provider that the claim is forever barred unless the person files the claim with the Secretary at a place and within the time specified in the notice.

(3) The time specified in the notice:

(i) shall be as set by the court for filing claims; but

(ii) may not be less than 6 months after issuance of the order that the provider is an impaired provider.

(4) The notice shall be given in the manner and for the reasonable period of time that the court orders.

(b) (1) Each claimant shall set forth in reasonable detail:

(i) the amount of the claim or the basis on which the amount can be determined;

(ii) the facts on which the claim is based; and

(iii) any priority asserted by the claimant.

(2) Each claim shall:

(i) be verified by the affidavit of the claimant or a person authorized to act on behalf of the claimant who has knowledge of the facts; and

(ii) be supported by any documents that may be material to the claim.

(3) Each claim shall be filed with the receiver in the State on or before the last date specified under this subtitle for filing of claims.

(c) The receiver shall:

(1) report a claim to the court:

(i) within 10 days after receiving the claim; or

(ii) within an additional period set by the court for good cause shown; and

(2) recommend in the report action to be taken on the claim.

(d) (1) On receipt of the report of the receiver, the court shall:

(i) set a time for hearing the claim; and

(ii) direct the claimant or receiver to give notice as the court determines to each person that appears to the court to be interested in the claim.

(2) The notice given in accordance with this subsection shall:

(i) specify the time and place of the hearing; and

(ii) state concisely:

1. the amount and nature of the claim;

2. any priority asserted by the claimant; and

3. the recommendation of the receiver about the claim.

(e) (1) At the hearing specified under subsection (d) of this section:

(i) each person with an interest in the claim may appear; and

(ii) the court shall issue an order in which the court allows in part, or disallows the claim.

(2) An order under this subsection is a final order subject to appeal.

§10–490.

(a) In this section, "preferred claim" means a claim that is given priority of payment from the general assets of a provider under the laws of the State or the United States.

(b) (1) The first $500 of compensation or wages owed to an officer or employee of a provider for services rendered within 3 months before the commencement of a delinquency proceeding against the provider shall be paid before payment of any other debt or claim.

(2) Subject to paragraph (3) of this subsection, the Secretary may pay the compensation required to be paid under this subsection as soon as practicable after commencement of the delinquency proceeding.

(3) At all times, the Secretary shall reserve funds that the Secretary believes are sufficient for expenses of administration.

(4) The priority required under this subsection is instead of any other similar priority that may be authorized by law as to wages or compensation.

(c) Priority over all other claims in a liquidation proceeding, other than claims for wages specified in subsection (b) of this section, expenses of administration, and taxes, shall be given to claims by subscribers that arise from continuing care agreements with the provider, including claims to the statutory refund required by § 10-448 of this subtitle.

(d) (1) The owner of a secured claim against a provider for which a receiver has been appointed in this State or another state may:

(i) surrender the security and file the claim as a general creditor; or

(ii) have the claim discharged by resort to the security.

(2) If the owner of a secured claim has the claim discharged by resort to the security, any deficiency shall be treated as a claim against the general assets of the provider on the same basis as the claims of unsecured creditors.

(3) The amount of a deficiency is conclusive if adjudicated by a court of competent jurisdiction in a proceeding in which the receiver has been given notice and an opportunity to be heard.

(4) If the amount of a deficiency is not conclusive, the amount shall be determined in a delinquency proceeding in the State.

§10–491.

(a) (1) Subject to paragraph (2) of this subsection, contingent and unliquidated claims may not share in a distribution of the assets of a provider that has been adjudicated to be an impaired provider by an order issued under this subtitle.

(2) If properly presented, a contingent and unliquidated claim shall be considered and may be allowed to share if:

(i) the claim becomes absolute against the provider on or before the last day for filing claims against the assets of the provider; or

(ii) there is a surplus and the liquidation is subsequently conducted on the basis that the provider is solvent.

(b) (1) Except as provided in paragraph (2) of this subsection, a claim of a person that has a secured claim may not be allowed at a sum greater than the difference between:

(i) the value of the claim without security; and

(ii) the value of the security itself on:

1. the date of issuance of the liquidation order; or

2. another date set by the court for determining rights and liabilities as provided in subsection (c) of this section.

(2) If the claimant surrenders the security to the Secretary, the claim shall be allowed in the full amount for which it is valued.

(c) Subject to the provisions of this subtitle on the rights of claimants holding contingent claims, and unless otherwise directed by the court, the rights and liabilities of a provider and creditors, stockholders, members, subscribers, and other persons interested in the estate of the provider are fixed on the date on which the order that directs the liquidation of the provider is filed in the office of the clerk of the court that issued the order.

§10–492.

(a) Except as provided in subsection (b) of this section, in all cases of mutual debts and credits between a provider and another person in connection with a delinquency proceeding, the debts and credits shall be offset and the balance only shall be allowed or paid.

(b) An offset may not be allowed in favor of another person if:

(1) on the date of issuance of a liquidation order or otherwise, as specified in § 10-491(c) of this subtitle, the obligation of the provider to the person would not entitle the person to share as a claimant in the assets of the provider; or

(2) the obligation of the provider to the person was purchased by or transferred to the person for use as an offset.

§10–493.

If a provider is the subject of a bankruptcy or receivership action, the claims of subscribers shall be administered in accordance with § 10-490(c) of this subtitle for the purpose of any legal action in conjunction with the bankruptcy or receivership.

§10–496.

(a) A person may not maintain or operate a facility offering continuing care without having obtained an initial or renewal certificate of registration.

(b) A person may not disseminate prohibited advertising or promotional materials.

(c) A person may not provide false registration information to the Department.

(d) (1) A person who violates any provision of this subtitle is guilty of a

misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.

(2) Each violation of this subtitle constitutes a separate offense.

§10–497.

(a) The Secretary may impose a civil money penalty against a provider for an action or inaction that violates this subtitle or any regulation adopted by the Department under this subtitle.

(b) (1) Before imposing a civil money penalty under subsection (a) of this section, the Department shall issue a notice of violation to the provider.

(2) The notice shall state:

(i) when the provider must submit a plan of correction that is acceptable to the Department;

(ii) when each identified violation must be substantially corrected, which may not be less than 30 days; and

(iii) that failure to submit an acceptable plan of correction as required under item (i) of this paragraph or to correct an identified violation may result in an order imposing a civil money penalty under subsection (d) of this section.

(c) If at the expiration of the time set forth in the notice required under subsection (b) of this section the Department determines a violation has not been corrected, the Secretary may:

(1) extend the time in which the violation must be corrected; or

(2) impose a civil money penalty under subsection (d) of this section.

(d) (1) The Secretary may impose a civil money penalty not exceeding $5,000 for each violation.

(2) In setting the amount of a civil money penalty under this section, the Secretary shall consider the following factors:

(i) the number, nature, and seriousness of the violations;

(ii) the degree of risk to the health, life, or physical or financial safety of the subscribers caused by the violations;

(iii) the efforts made by the provider to correct the violations;

(iv) whether the amount of the proposed civil money penalty will jeopardize the financial ability of the provider to continue operating; and

(v) other factors as justice may require.

(3) If a civil money penalty is imposed under this section, the Department shall issue an order stating:

(i) the basis on which the order is made;

(ii) each regulation or statute violated;

(iii) each civil money penalty imposed and the total amount of the civil money penalty imposed; and

(iv) the manner in which the amount of the civil money penalty was calculated.

(4) (i) The Department shall provide written notice to a provider of the imposition of a civil money penalty.

(ii) The notice shall be served on the provider by certified mail and shall include the order and a statement on how to file an administrative appeal.

(5) If a civil money penalty is imposed under this section, the provider has the right to appeal from the order in accordance with Title 10, Subtitle 2 of the State Government Article.

(e) (1) A provider shall pay a civil money penalty to the Department within 10 days after the provider receives a final order imposing the civil money penalty.

(2) An order imposing a civil money penalty is final when the provider has exhausted all opportunities to contest the civil penalty in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) If a provider does not comply with this section, the Department may file a civil action to recover the penalty.

(4) The Department shall deposit all civil money penalties collected under this section into the General Fund.

§10–498.

(a) (1) Any subscriber injured by a violation of this subtitle may bring an action for equitable relief or an action for damages in any court of general jurisdiction.

(2) In an action described in paragraph (1) of this subsection, the court may award reasonable attorney's fees to a subscriber in whose favor a judgment is entered.

(b) The Department may bring an action for an appropriate temporary restraining order or injunction for a violation of this subtitle.

§10–499.

(a) The Department may use the receivership provisions of Part VIII of this subtitle to protect the interests of subscribers in:

(1) the substantial advance payments subscribers have made in the form of entrance fees and, when applicable, periodic fees, for future continuing care without necessarily having any ownership in or control of the provider or the facility;

(2) the insurance aspects of continuing care agreements, as applicable; and

(3) the continued delivery of services committed to under continuing care agreements.

(b) The Department may petition for the appointment of a receiver:

(1) if there is a threat of immediate closure of a facility;

(2) if the provider is not honoring its contracts with its subscribers;

(3) to prohibit the improper diversion of the provider's assets and records from the facility or the State; or

(4) if the Department has made a determination of a significant risk of financial failure in accordance with §§ 10-467 and 10-469 of this subtitle.

(c) The Department may petition for the appointment of a receiver before the provider files a plan of correction.

(d) The receiver may rehabilitate, conserve, or liquidate as provided by the order of appointment and Part VIII of this subtitle.

§10–501.

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

(b) "Capital equipment" means essential fixed equipment and furnishings with an expected useful life of at least 15 years.

(c) (1) "Cost" means all expenses incident to the construction, acquisition, conversion, renovation, or improvement of a project.

(2) "Cost" includes:

(i) the cost to acquire any interest in real or personal property in connection with a project;

(ii) the cost of financial, technical, professional, engineering, and

legal services in connection with a project whether the expenses are incurred before or after any bond, note, or other evidence of indebtedness or obligation is issued by the State to finance the project;

(iii) the cost of development of a senior citizen activities center master plan; and

(iv) the cost of plans, specifications, surveys, estimates of costs and revenues, feasibility or practicability reports, machinery, equipment, and administrative expenses, and other expenses that are necessary and incident to the financing authorized for the project.

(d) "Grant" means a grant from the State under the Program.

(e) "Improvement" means construction, replacement, extension, or betterment of a project or real property.

(f) "Master plan" means a comprehensive plan for a local government's projected need for funds for senior citizen activities centers over 15 years.

(g) "Program" means the Senior Citizen Activities Centers Capital Improvement Grants Program.

(h) "Project" means a proposed or existing senior citizen activities center that:

(1) receives or has received a grant for work that is eligible under this part;

(2) is operated under the authority of a unit of local government; and

(3) is:

(i) wholly owned by the unit of local government; or

(ii) leased by a unit of local government if:

1. the lease is for a minimum term of 15 years after completion of the project or gives the lessee the right of purchase; and

2. the lessor consents to the recording of a notice of the right of recovery under § 10-506 of this subtitle in the land records of the county in which the facility is located.

(i) "Senior citizen activities center" means a community or neighborhood facility in which a broad spectrum of services are organized and provided to individuals at least 60 years old or their spouses, including health, social, nutritional, educational, and recreational services.

§10–502.

(a) A unit of local government may apply to the Secretary for a grant for the cost of:

(1) planning, design, construction, acquisition, conversion, renovation, or improvement of a project;

(2) developing a master plan;

(3) purchasing capital equipment for a project;

(4) leasing a project as a lessee or lessor; or

(5) making a subgrant to a nonprofit organization for a purpose described in item (1), (2), (3), or (4) of this subsection.

(b) If the Secretary approves an application for a grant, the Secretary shall file with the Board of Public Works a report describing the scope of the project and a recommendation that the Board make the requested funds available.

§10–503.

A grant may be used for any of the purposes specified in § 10-502(a) of this subtitle.

§10–504.

(a) (1) Any federal grant that is received for a project shall be applied first to the cost of the project.

(2) Except as provided in subsection (b) of this section, a State grant for a project may not exceed the lesser of $800,000 or 50% of the cost of eligible work remaining unpaid after any federal grant is applied.

(3) A State grant to develop a master plan may not exceed the lesser of $15,000 or 50% of the cost of development of the plan.

(b) The Board of Public Works may authorize a grant for a project that exceeds 50% of the cost of eligible work remaining unpaid after any federal grant is applied, if:

(1) the project involves the conversion, acquisition, renovation, construction, or improvement of a building for use as a senior citizen activities center;

(2) the value of real property and existing improvements made available by the local government equals or exceeds the amount of the State grant; and

(3) the residual value of the real property and existing improvements made available by the local government exceeds the sum of:

(i) any prior amounts used for matching funds under this Program;

(ii) any outstanding State debt relating to the property from another program;

(iii) any prior grant under this Program; and

(iv) any other tangible State investment in the property.

(c) The amount of a State grant for a project shall be determined after consideration of:

(1) the density of the senior population in the area affected by the project;

(2) the proximity of the proposed center to an existing senior citizen activities center; and

(3) other localities eligible for State funding that have not received previous funding under the Program or similar programs.

(d) A grantee who received funds for a project under this subtitle or a prior act authorizing grants for senior citizen activities centers may receive additional grants for the project, but only in an amount that does not exceed the difference between the sum of any prior grants and the maximum funding allowable.

§10–505.

At any reasonable time, a representative of the Department may enter a building or place for which a grant was awarded under this part to inspect any pertinent equipment or part of the building or place.

§10–506.

(a) Before State funds are paid under this Program, the grantee shall:

(1) record the notice of the State's right to recovery in the land records of the county in which the senior citizen activities center is or will be located; and

(2) provide evidence of the recordation to the Department.

(b) The recordation constitutes notice to any potential transferee, potential creditor, or other interested party of the possibility that the State may obtain a lien under this part, but the act of recordation does not create a lien against the property.

§10–507.

(a) The State may recover State grant funds if, within 15 years after completion of a project:

(1) the project's property ceases to be operated as a senior citizen activities center; or

(2) an interest in property for which funds have been paid under the Program is assigned, transferred, or conveyed:

(i) without approval by the Board of Public Works; or

(ii) for use other than as a senior citizen activities center.

(b) The State is entitled to recover the sum of:

(1) an amount that equals the value of the project property at the time of the recovery multiplied by a fraction:

(i) the numerator of which is the amount of the State funds for the project; and

(ii) the denominator of which is the total cost of all eligible work for the project; and

(2) costs, including reasonable attorneys' fees that the State incurs in recovery proceedings.

§10–508.

(a) (1) If a default described in § 10-507(a) of this subtitle is alleged, the Secretary of the Board of Public Works may file a civil action under this part in the circuit court of the county in which the property is located against the owner of the property and any other interested parties, including any transferor that the State wishes to make a party.

(2) The initial filing shall include sworn affidavits stating facts on which the allegations of default are based and a detailed justification of the amount claimed.

(b) (1) If the court determines from the State's initial filing that there is probable cause to believe that a default described in § 10-507(a) of this subtitle has occurred, the court shall authorize a temporary lien on the property pending full determination of the State's claim.

(2) The temporary lien shall be in the amount of the State's claim, plus any additional amount estimated to be necessary to cover the costs and reasonable attorneys' fees incurred by the State, or another amount that the court determines is reasonable.

(c) (1) The temporary lien takes effect:

(i) on the date of the court order authorizing the lien if, within 10

days, the Secretary of the Board of Public Works records a notice of temporary lien in the land records of the county in which the property is located; or

(ii) if the Secretary fails to record the notice within 10 days, on the date the notice of temporary lien is recorded.

(2) While the temporary lien is in effect, the owner or any person who acquired an interest in the property after the State first made funds available under the Program may not take an action that would affect the title to the property or institute proceedings to enforce a security interest or other similar rights in the property, without the prior written consent of the State.

(d) (1) The owner or any other interested party may obtain a release of the temporary lien at any time by filing with the court a bond securing the payment in full of the amount described in subsection (b)(2) of this section.

(2) The owner or other interested party may cause the release to be recorded in the land records of the county in which the property is located.

§10–509.

(a) Proceedings to determine the State's right to recover and the amount of its recovery under the Program have priority over other civil proceedings in the circuit court.

(b) (1) After a full adversary proceeding, if the court finds that a default described in § 10-507(a) of this subtitle has occurred, the court shall issue a final judgment for the amount the court finds to be recoverable by the State.

(2) All parties involved in the default, including the owner of the property, shall be held jointly and severally liable to the State for the amount of the judgment.

(3) If the court finds that a default described in § 10-507(a) of this subtitle has not occurred or if the court's judgment is paid in full to the State within 30 days after the court's final order, any temporary lien shall be released immediately and the Secretary of the Board of Public Works shall cause the release to be recorded in the land records of the county in which the property is located.

(4) (i) If the judgment remains unpaid for more than 30 days after the court's final order, the amount shall be a lien on the property.

(ii) Unless the State provides otherwise in a written subordination agreement, the lien is superior to a lien or other interest of any mortgagee, pledgee, purchaser, or judgment creditor whose interest became perfected against third persons after the State awarded a grant.

(c) (1) A lien issued under this section takes effect on the later of:

(i) the 31st day after the court's final order if the Secretary of the Board of Public Works records a notice of lien in the land records of the county in which the property is located on or before that day; or

(ii) the date a notice of lien is recorded.

(2) (i) When the lien takes effect, any temporary lien is automatically and fully released.

(ii) The recorded notice of the lien constitutes notice of the release of the temporary lien.

(d) A lien issued under this part may be enforced and foreclosed in accordance with the Maryland Rules, except that the State or any agent appointed by the State to sell the property need not file a bond.

(e) (1) The owner or any other interested party may obtain release of a lien issued under this part by paying to the State the full amount of the judgment entered by the circuit court, and any interest that has accrued from the date of judgment.

(2) On payment in full, the Secretary of the Board of Public Works shall cause a release to be recorded in the land records of the county in which the property is located.

(f) Funds recovered under this section shall be deposited in the Annuity Bond Fund and applied to the debt service requirements of the State.

(g) The Board of Public Works may waive the State's right of recovery if the Board determines that there is good cause for releasing the transferor, transferee, or owner from this obligation.

§10–510.

Subject to approval by the Board of Public Works, the Secretary may adopt regulations to carry out this part.

§10–513.

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

(b) "Fund" means the Senior Citizen Activities Center Operating Fund.

(c) "Senior citizen activities center" means a community or neighborhood facility in which a broad spectrum of services are organized and provided to seniors and their spouses, including health, social, nutritional, educational, and recreational services.

§10–514.

(a) There is a Senior Citizen Activities Center Operating Fund.

(b) The Fund shall be used to supplement, but may not be used to supplant, any existing funding for senior citizen activities centers in the State budget.

§10–515.

(a) The Secretary shall administer the Fund.

(b) The Secretary may adopt regulations to carry out this part.

§10–516.

(a) The Fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(b) (1) The Fund consists of appropriations that are made to the Fund from the State budget.

(2) For each fiscal year, the Governor shall include in the annual State budget an appropriation of $500,000 for the Fund.

(c) (1) Subject to paragraph (2) of this subsection, money from the Fund shall be distributed to counties for senior citizen activities centers based on a competitive grant process administered by the Department.

(2) At least 50% of the Fund shall be distributed for senior citizen activities centers on the basis of need, as determined by the Department, to counties:

(i) that have developed and submitted a local strategic plan for economic development that has been approved by the Secretary of Business and Economic Development; and

(ii) for which:

1. the average rate of unemployment for the most recent 18-month period for which data is available is greater than 150% of the average rate of unemployment for the entire State during that same period; or

2. the average per capita personal income for the most recent 24-month period for which data is available is equal to or less than 67% of the average personal per capita income for the entire State during that same period.

(d) The Fund shall be invested and reinvested in the same manner as other State funds.

§10–601.

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

(b) "Commission" means the Commission on Aging established under § 10–208 of this title.

(c) "Program" means the Innovations in Aging Services Program.

§10–602.

(a) There is an Innovations in Aging Services Program in the Department.

(b) The purposes of the Program are to:

(1) provide competitive funding grants to design and test innovative ideas in programs and services for seniors;

(2) publicly disseminate the results of the tests; and

(3) help meet the need for personnel trained to provide services to seniors in the State.

§10–603.

(a) (1) With the advice of the Commission, the Secretary shall:

(i) develop annually a Program plan; and

(ii) submit the plan to the Governor and General Assembly for approval as part of the annual State budget.

(2) The plan shall set forth priorities for:

(i) funding grants for innovative services to seniors; and

(ii) training personnel who provide services to seniors in the State.

(3) The plan shall include provisions for:

(i) funding grants that are sought by Communities for a Lifetime to the extent practicable; and

(ii) evaluating any program funded under the plan.

(b) The Secretary may accept money from any public or private source to fund grants awarded under this subtitle.

§10–604.

(a) The Secretary shall solicit grant proposals to implement the Program priorities approved by the Governor and the General Assembly under § 10–603(a) of this subtitle.

(b) With the advice of the Commission, the Secretary shall award grants funded in accordance with the approved Program priorities.

(c) The Secretary shall provide for the evaluation, by recognized authorities in the field of services to seniors, of the programs funded by the grants.

§10–606.

The Secretary shall report annually to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the evaluations of programs funded under this subtitle.

§10–607.

The Secretary shall adopt regulations to carry out this subtitle.

§10–701.

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

(b) "Adult dependent" means an individual who is:

(1) at least 18 years old;

(2) an individual with long-term care needs; and

(3) the spouse, parent, stepparent, grandparent, child, stepchild, sibling, aunt, uncle, son-in-law, daughter-in-law, mother-in-law, or father-in-law of a family caregiver.

(c) "Family caregiver" means an individual who cares for an adult dependent.

(d) "Individual with long-term care needs" means an individual who:

(1) is unable to perform at least three activities of daily living without substantial assistance from another individual; or

(2) (i) is unable to perform at least one activity of daily living without substantial assistance from another individual; and

(ii) requires substantial supervision to protect the individual from threats to the individual's health and safety due to severe cognitive impairment.

(e) "Program" means the Family Caregiver Assistance Program.

§10–702.

(a) There is a Family Caregiver Assistance Program in the Department.

(b) The purpose of the Program is to provide grants to eligible family caregivers to supplement the unmet expenses of caring for an adult dependent.

§10–703.

(a) Funding for the Program shall be as provided in the State budget.

(b) The Secretary may accept money provided by other public and private sources, including federal funds, to provide grants under the Program.

§10–704.

(a) A family caregiver is eligible for a grant from the Program if:

(1) the family caregiver resides with an adult dependent;

(2) the adult dependent has been certified by a licensed physician in the State as an individual with long-term care needs for at least 180 consecutive days during the year; and

(3) the family caregiver's household income is 200% or less of the State median income, as adjusted for family size, in accordance with regulations adopted by the Secretary.

(b) The Program may provide eligible family caregivers with a grant of up to $500 per household per year.

(c) A grant may be used to fund goods and services required to provide care for an adult dependent including:

(1) durable medical equipment;

(2) medical bills;

(3) medical supplies;

(4) prescription or over-the-counter medications;

(5) repairs or modifications to the home; and

(6) respite care for the family caregiver.

§10–705.

The Secretary shall:

(1) adopt regulations to implement the Program;

(2) work in cooperation with the Department of Disabilities, the Department of Health and Mental Hygiene, and the Maryland Caregivers Support Coordinating Council to promote the Program to family caregivers throughout the State; and

(3) report annually to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(i) the number of grant requests received;

(ii) the value of grants provided to family caregivers;

(iii) the purposes for which the grants were provided; and

(iv) the number of grant requests that the Program was unable to fund and the reason why those requests were not funded.

§10–706.

The regulations required to be adopted under § 10-705 of this subtitle shall:

(1) ensure that the total amount of funding available for grants under the Program is allocated among all counties based on each county's proportion of the total State adult population; and

(2) provide that if a county is unable to use its allocation, any unspent funds shall revert to the Program and be redistributed among all counties.

§10–801.

The purpose of this subtitle is to:

(1) establish a comprehensive, strategic State plan to address the aging–in–place preference of current and future seniors;

(2) provide available resources to local communities to enhance aging–in–place services and facilitate the independence of older adults; and

(3) promote a State aging–in–place program that overcomes barriers in housing, transportation, health care, employment, and social and civic engagement.

§10–802.

There is a Maryland Communities for a Lifetime Program in the Department.

§10–803.

The Department shall collect and make available best practices on policies to encourage aging–in–place.

§10–804.

(a) A county or municipal corporation may establish a process to certify communities as Communities for a Lifetime under the Maryland Communities for a Lifetime Program.

(b) The Department shall recommend criteria that local jurisdictions may use to certify Communities for a Lifetime, including:

(1) the extent to which a community has sought and plans to expand public health, prevention, and wellness programs that serve older adults;

(2) the extent to which a community has sought and plans to expand affordable transportation options;

(3) the extent to which a community has sought and plans to expand affordable rental housing and the ability to own affordable homes;

(4) the extent to which a community has sought and plans to expand employment, civic engagement, recreation, and leisure options for older adults; and

(5) the extent to which a community has sought and plans to expand other initiatives that boost the abilities of older adults to age in place.

(c) A Community for a Lifetime shall submit to the Department on or before September 1 each year a progress report on the community's efforts to enable aging in place and a report on the community's plans to enable aging in place in the future.

§10–901.

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

(b) "Local long–term care ombudsman entity" means an entity designated by the State Long–Term Care Ombudsman to assist in carrying out the duties of the Program.

(c) "Long–term care facility" means:

(1) a nursing facility, as defined in § 19–301 of the Health – General Article; or

(2) an assisted living program, as defined in § 19–1801 of the Health – General Article.

(d) "Office" means the Office of the Long–Term Care Ombudsman established under this subtitle.

(e) "Ombudsman" means:

(1) the State Long–Term Care Ombudsman; and

(2) any individual, whether a paid employee or a volunteer, who is designated by the State Long–Term Care Ombudsman as an ombudsman.

(f) "Program" means the Long–Term Care Ombudsman Program established under this subtitle.

(g) "Resident" means a resident of a long–term care facility located in the State.

(h) "State Long–Term Care Ombudsman" means the individual selected by the Secretary under § 10–903 of this subtitle.

§10–902.

(a) There is a Long–Term Care Ombudsman Program in the Department.

(b) The purpose of the Program is to fulfill the requirements of:

(1) the Program under this subtitle; and

(2) the federal Older Americans Act, including the requirements of 42 U.S.C. § 3058G.

(c) (1) The Secretary shall adopt regulations necessary to carry out this subtitle.

(2) The regulations adopted under paragraph (1) of this subsection shall establish:

(i) the requirements for an annual review by the Department of all ombudsman activities; and

(ii) the process for assisting individuals with organizing and operating a resident council and a family council in a long–term care facility.

§10–903.

(a) There is an Office of the Long–Term Care Ombudsman in the Department.

(b) (1) Unless the Secretary is subject to a conflict of interest that cannot be

removed, the Secretary shall select a State Long–Term Care Ombudsman.

(2) If the Secretary is subject to a conflict of interest that cannot be removed, the Secretary shall designate another individual, who is not subject to a conflict of interest, to select the State Long–Term Care Ombudsman.

(c) The State Long–Term Care Ombudsman:

(1) shall personally administer the Office;

(2) shall have expertise and experience in the field of long–term care advocacy;

(3) may not have any conflict of interest with the position; and

(4) shall, on a full–time basis, perform duties related to the Program.

(d) The State Long–Term Care Ombudsman shall personally or through designated ombudsmen:

(1) identify, investigate, and resolve complaints from any source made by, or on behalf of, a resident relating to any action, inaction, or decision, that may adversely affect the health, safety, welfare, or rights of a resident including the welfare and rights of residents with respect to the appointment and activities of guardians and representative payees, of:

(i) a provider, or a representative of a provider, of long–term care services;

(ii) a public agency; or

(iii) a health or social service agency;

(2) represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;

(3) provide information as appropriate to other agencies and the public regarding the problems and concerns of residents;

(4) inform residents, family members, and others acting on behalf of residents about how to access the assistance and services of the Office and the services and assistance of other providers or agencies, including legal services;

(5) ensure regular and timely access to and response from the Office;

(6) comment on, facilitate public comment on, and recommend changes to existing or proposed laws, rules, regulations, and other governmental policies and actions that affect the health, safety, welfare, and rights of residents;

(7) provide technical support for the development of resident and family councils to protect the well–being and rights of residents;

(8) provide for the education and training of ombudsmen;

(9) educate facilities, agencies, and staff members concerning the rights and welfare of residents;

(10) promote the development of citizen organizations to advocate for the well–being and rights of residents;

(11) provide services to assist residents in protecting the health, safety, welfare, and rights of residents; and

(12) carry out any other activities that the Secretary determines to be appropriate or that are required by the federal Older Americans Act.

§10–904.

(a) Entities eligible to be designated as local long–term care ombudsman entities shall:

(1) have demonstrated capability to carry out the responsibilities of the Office;

(2) be public or nonprofit entities;

(3) be free of conflicts of interest; and

(4) meet any additional requirements that the Secretary and the State Long–Term Care Ombudsman specify.

(b) (1) The Secretary, in consultation with area agencies on aging, shall adopt regulations to establish requirements for training and designating ombudsmen, including in–service training.

(2) The regulations shall prohibit the State Long–Term Care Ombudsman from designating an individual as an ombudsman unless the individual has successfully completed the required training and satisfied the requirements for designation.

§10–905.

In accordance with requirements of the federal Older Americans Act, an ombudsman shall have access to:

(1) long–term care facilities and residents;

(2) the medical and social records of a resident, if:

(i) the ombudsman has the permission of the resident or the legal representative of the resident; or

(ii) the resident is unable to consent and has no legal representative;

(3) the records that are necessary to investigate a complaint if:

(i) a legal guardian of the resident refuses to give permission to access the records;

(ii) the ombudsman has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(iii) the ombudsman obtains the approval of the State Long–Term Care Ombudsman;

(4) the administrative records, policies, and documents of long–term care facilities to which the residents or members of the general public have access; and

(5) copies of all licensing and certification records maintained by the Department of Health and Mental Hygiene or any other State unit with respect to long–term care facilities.

§10–906.

(a) The Secretary, in consultation with area agencies on aging, shall adopt regulations to govern conflicts of interest to ensure that:

(1) no individual, or member of the immediate family of an individual, involved in the designation of the State Long–Term Care Ombudsman or a local long–term care ombudsman entity, is subject to a conflict of interest; and

(2) no ombudsman or immediate family member of an ombudsman is subject to a conflict of interest.

(b) The Secretary, in consultation with area agencies on aging, shall adopt regulations governing the confidentiality of information and documents, including resident records, facility records, and complainant identification.

§10–907.

The Secretary shall require the State Long–Term Care Ombudsman to coordinate ombudsman services with:

(1) the Department of Health and Mental Hygiene;

(2) the Department of Human Resources;

(3) protection and advocacy systems for individuals with developmental

disabilities and mental illnesses; and

(4) legal assistance.

§10–908.

The Secretary shall establish and maintain a statewide uniform reporting system for the Program to collect and analyze data relating to complaints and conditions in long–term facilities and to residents for the purpose of identifying and resolving significant problems.

§10–909.

The State Long–Term Care Ombudsman shall submit an annual report to the Governor and the General Assembly, in accordance with § 2–1246 of the State Government Article, on the activities of the Program that includes recommendations of the State Long–Term Care Ombudsman for improving services for residents.

§10–910.

(a) In accordance with 42 U.S.C. § 3058G(j)(1), a person may not willfully interfere with an ombudsman's performance of an official duty.

(b) A person may not retaliate or make reprisals with respect to any person who filed a complaint with, or provided information to, an ombudsman.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,500.

§10–911.

An ombudsman is not liable under State law for good faith performance of official duties.

§10–1001.

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

(b) "Aging and Disability Resource Center" has the meaning stated in 42 U.S.C. § 3002(4).

(c) "Long–term services and supports" means the broad range of assistance needed by older adults and individuals with disabilities.

(d) "Options counseling" means an interactive process that:

(1) considers an individual's needs, preferences, values, and circumstances;

(2) assists and supports the individual and others the individual requests to participate in the process;

(3) determines the individual's goals for independent living; and

(4) develops an appropriate long–term services and supports plan to achieve those goals.

(e) "Program" means the Aging and Disability Resource Center Program established under this subtitle.

§10–1002.

(a) There is an Aging and Disability Resource Center Program, known as "Maryland Access Point", in the Department.

(b) The Program is the State's Aging and Disability Resource Center for purposes of the federal Older Americans Act Amendments of 2006.

(c) The purpose of the Program is to provide a coordinated system of information and access for individuals seeking long–term services and supports, including in–home, community–based, and institutional services.

(d) The Department shall administer, supervise, and coordinate the Program with the cooperation of the Department of Disabilities, the Department of Human Resources, the Governor's Office of the Deaf and Hard of Hearing, and the Department of Health and Mental Hygiene.

§10–1003.

The Program shall designate local Maryland Access Point offices throughout the State to ensure easy access to the Program.

§10–1004.

The Program shall, using its available resources, provide:

(1) options counseling;

(2) assistance concerning aging and disability issues and long–term services and supports planning;

(3) written materials regarding the availability of Program services;

(4) a public database, which can be accessed and searched on the Internet, of resources and services that could be useful to:

(i) individuals who may need long–term services and supports;

(ii) caregivers of individuals who need long–term services and supports; and

(iii) individuals involved in long–term services and supports planning; and

(5) other related services necessary for the Program's success.

§11–101.

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

(b) "Board" means the Board of Directors of the Maryland Legal Services Corporation.

(c) "Corporation" means the Maryland Legal Services Corporation.

(d) "Eligible client" means a person who is unable to afford legal assistance as determined under § 11-603 of this title.

(e) "Fund" means the Maryland Legal Services Corporation Fund.

(f) (1) "Grantee" means a nonprofit organization that:

(i) is qualified under § 501(c)(3) of the Internal Revenue Code;

(ii) provides legal assistance to eligible clients; and

(iii) receives financial assistance under § 11-501 of this title from the Corporation.

(2) "Grantee" includes:

(i) the Legal Aid Bureau, Inc.;

(ii) the Maryland Disability Law Center; and

(iii) the Maryland Volunteer Lawyers Service, Inc.

(g) "Internal Revenue Code" means:

(1) Title 26 of the United States Code; and

(2) regulations adopted under Title 26 of the United States Code.

(h) (1) "Legal assistance" means the legal representation of eligible clients by grantees.

(2) "Legal assistance" includes:

(i) training;

(ii) research;

(iii) coordination with private attorneys; and

(iv) other activities necessary to ensure the delivery of quality legal services.

§11–102.

The General Assembly finds and declares that:

(1) there is a need to provide equal access to the system of justice for individuals seeking redress of grievances;

(2) reduction of federal funds has diminished the availability of legal services provided by existing statewide legal services programs;

(3) there is a need to continue and expand legal assistance to those who would otherwise be unable to afford adequate legal counsel;

(4) the availability of legal services reaffirms faith in our government of laws;

(5) the funding of legal assistance programs for those who are unable to afford legal counsel will serve the ends of justice and the general welfare of the public; and

(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Maryland Rules of Professional Conduct and the high standards of the legal profession.

§11–201.

(a) (1) There is a Maryland Legal Services Corporation.

(2) The Corporation is a nonstock corporation.

(b) The purpose of the Corporation is to receive and distribute funds to grantees that provide legal assistance to eligible clients in civil proceedings or matters.

§11–202.

(a) (1) The Corporation shall maintain:

(i) its principal office in the State; and

(ii) a designated agent to accept service of process.

(2) The Corporation shall file the name and address of the designated agent with the State Department of Assessments and Taxation.

(b) The Corporation is exempt from any special tax, property tax, recordation tax, or transfer tax imposed by the State or a political subdivision of the State.

(c) Except as otherwise provided in this title, the Corporation is not a unit or instrumentality of the State.

§11–203.

(a) The Board shall appoint an executive director of the Corporation.

(b) (1) The executive director is the chief executive officer of the Corporation.

(2) Subject to this title and policies established by the Board, the executive director has the authority and responsibility for:

(i) administering the affairs of the Corporation;

(ii) appointing and removing employees as necessary to carry out the purposes of this title;

(iii) making grants;

(iv) entering into contracts;

(v) exercising powers incident to the office of the executive director; and

(vi) performing other duties that the Board prescribes.

(c) The executive director is entitled to a salary as provided in the budget of the Corporation.

(d) The executive director may be removed by a majority of the Board.

§11–204.

(a) A political test or political qualification may not be used in selecting, appointing, promoting, or taking any other personnel action with respect to an officer, agent, or employee of the Corporation.

(b) Employees of the Corporation are entitled to salaries as provided in the budget of the Corporation.

(c) Employees of the Corporation are not employees of the State.

§11–205.

To the extent consistent with this title, the Corporation shall exercise the powers granted to a nonstock corporation under Title 5, Subtitle 2 of the Corporations and Associations Article.

§11–206.

The Corporation shall indemnify the members of the Board and the officers, agents, and employees of the Corporation to the extent authorized under the Maryland General Corporation Law.

§11–207.

(a) (1) The Corporation shall publish an annual report.

(2) The Corporation shall submit the annual report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly.

(b) The report shall include a description of services provided.

§11–208. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2018 PER CHAPTERS 71 AND 72 OF 2013 //

(a) The executive director shall prepare an annual budget for the Corporation.

(b) (1) For informational purposes only, the Corporation shall submit its budget to the General Assembly in conjunction with the budget request of the Judicial Branch of the State government on November 1 of each year.

(2) The informational budget required under this subsection shall include 3 years of data, including the most recently completed fiscal year, an estimate for the current fiscal year, and an estimate for the next fiscal year, including:

(i) a summary of total expenditures and the sources of revenue that support that spending;

(ii) line item expenditure detail for personnel, operating expenses, and grants, including individual grantees;

(iii) narrative explanation of all revenue and spending changes between the current fiscal year and the next fiscal year;

(iv) performance measurement data that details the use of funds; and

(v) detail on the Corporation's reserve fund, including actual and estimated end of fiscal year balances, transfers to and from the reserve fund, and the policies governing the reserve fund.

§11–301.

(a) There is a Board of Directors of the Corporation.

(b) (1) The Board consists of:

(i) nine voting members appointed by the Governor with the advice and consent of the Senate; and

(ii) the executive director, who is a nonvoting ex officio member.

(2) Voting members shall be residents of the State and shall represent the different geographical regions of the State.

(3) Five voting members shall be lawyers admitted to the Bar in the State and four voting members shall be nonlawyers.

(c) A voting member of the Board is not an officer or employee of the State.

(d) (1) The term of office of a voting member is 3 years.

(2) At the end of a term a voting member continues to serve until a successor is appointed and qualifies.

(3) The terms of voting members are staggered as required by the terms provided for members of the Board on October 1, 2007.

(4) If a vacancy occurs during the term of a voting member, the Governor shall fill the vacancy.

(5) A voting member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) A voting member may not be reappointed for more than 2 consecutive terms immediately following the member's initial term.

(e) (1) A voting member may be removed by a vote of seven members.

(2) A voting member may only be removed for:

(i) malfeasance in office;

(ii) persistent neglect of or inability to discharge duties; or

(iii) offenses involving moral turpitude.

§11–302.

(a) From among its voting members, the Board annually shall elect a chair.

(b) From among its members, the Board shall appoint a secretary, a treasurer, and other officers.

§11–303.

A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for necessary expenses incurred in connection with service on the Board as provided in the budget of the Corporation.

§11–304.

(a) The Board shall meet at least 4 times a year.

(b) Except as provided in § 3–305 of the General Provisions Article, a meeting of the Board shall be open to the public.

§11–401.

Nonstate funds received by the Corporation shall be accounted for and reported as receipts and disbursements separate and distinct from State funds.

§11–402.

(a) There is a Maryland Legal Services Corporation Fund.

(b) The Administrative Office of the Courts shall administer the Fund.

(c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(d) The Fund consists of:

(1) money deposited to the Fund from the surcharge assessed in civil cases under §§ 7–202 and 7–301 of the Courts Article;

(2) money distributed to the Fund under § 17–317 of the Commercial Law Article;

(3) interest on attorney trust accounts paid to the Fund under § 10–303 of the Business Occupations and Professions Article; and

(4) investment earnings of the Fund.

(e) The Corporation shall use the Fund to provide funding for civil legal services to indigents under this title.

(f) The Treasurer shall:

(1) invest and reinvest the Fund in the same manner as other State funds; and

(2) credit any investment earnings to the Fund and may not charge interest against the Fund if the average daily net cash balance for the month is less than zero.

(g) Expenditures from the Fund shall be made in accordance with an appropriation requested by the Judicial Branch of the State government under § 7–108 of the State Finance and Procurement Article and approved by the General Assembly in the State budget or by the budget amendment procedure under § 7–208.1 of the State Finance and Procurement Article.

§11–403.

The Corporation shall accept and use any money or property received by gift, devise, bequest, or otherwise to further the purposes of this title.

§11–404.

The Corporation may not issue stock or declare or pay dividends.

§11–405.

(a) (1) This subsection does not apply to reasonable compensation paid for services rendered to or for the Corporation.

(2) Net earnings of the Corporation may not inure to the benefit of any individual.

(b) An individual may not share in the distribution of corporate assets on dissolution of the Corporation.

§11–406.

On the liquidation, dissolution, or winding up of the Corporation, after payment of the obligations and liabilities of the Corporation, all of the assets of the Corporation shall be transferred to one or more corporations or associations that:

(1) have a character or purpose similar to the Corporation's;

(2) are selected by the Board; and

(3) qualify under § 501(c)(3) of the Internal Revenue Code.

§11–407.

(a) (1) The accounts of the Corporation shall be audited annually.

(2) The audits shall be conducted in accordance with generally accepted auditing standards by an independent certified public accountant.

(b) (1) An audit under this section shall be conducted where the accounts of the Corporation are normally kept.

(2) If owned or in use by the Corporation and necessary to facilitate the audit, the Corporation shall make available to the auditor all:

(i) books;

(ii) accounts;

(iii) financial records;

(iv) reports;

(v) files; and

(vi) other papers or property.

(3) Full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be available to the auditors.

(c) The report of the annual audit shall:

(1) be submitted to the Governor, the Department of Budget and Management and, subject to § 2-1246 of the State Government Article, the General Assembly; and

(2) be available for public inspection during business hours at the principal office of the Corporation.

§11–408.

(a) (1) The audit authorized by this section is in addition to the annual audit required by § 11-407 of this subtitle.

(2) For any fiscal year during which State funds are available to finance any portion of the operations of the Corporation, the Legislative Auditor may audit the financial transactions of the Corporation.

(b) (1) An audit under this section shall be conducted where the accounts of the Corporation are normally kept.

(2) If owned or in use by the Corporation and necessary to facilitate the audit, the Corporation shall make available to the Legislative Auditor all:

(i) books;

(ii) accounts;

(iii) financial records;

(iv) reports;

(v) files; and

(vi) other papers or property.

(3) Full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be available to the Legislative Auditor.

(4) Unless the Legislative Auditor requires a longer period of retention, the items listed in paragraph (2) of this subsection shall remain in the possession and custody of the Corporation for 3 years.

(c) The legislative audit shall be submitted to the General Assembly and the Governor, with any recommendations the Legislative Auditor considers advisable.

§11–501.

The Corporation shall make grants of financial assistance to grantees for the purpose of providing legal assistance to eligible clients.

§11–502.

(a) The Corporation shall ensure that grants and contracts are made to:

(1) provide the most stable, economical, and effective delivery of legal assistance; and

(2) provide access to legal assistance to eligible clients in all areas of the State.

(b) The Corporation may not use a political test or political qualifications to select or monitor a grantee under this title.

(c) (1) This subsection does not apply to a suspension or termination of financial assistance or a denial of an application for refunding because of a lack of available funds.

(2) The Corporation shall prescribe procedures in accordance with this

subsection to govern:

(i) the suspension or termination of financial assistance; and

(ii) the denial of an application for refunding.

(3) The procedures shall ensure that financial assistance committed may not be suspended or terminated and an application for refunding may not be denied unless the grantee has been given:

(i) reasonable notice; and

(ii) an opportunity for a timely, full, and fair hearing conducted by an independent hearing examiner.

§11–503.

(a) In applying for and spending grant money from the Corporation, grantees shall consider the relative needs for service of clients, particularly the needs of eligible clients who have special difficulties of access to legal services or who have special legal problems, including elderly individuals and individuals with disabilities.

(b) Funds provided to grantees under this title may not be used:

(1) to provide legal assistance for a fee-generating case;

(2) to provide legal assistance for the defense of a criminal prosecution;

(3) to provide legal assistance in a civil action to a person who has been convicted of a criminal charge if the civil action:

(i) arises out of an alleged act or failure to act; and

(ii) is brought against an official of the court or a law enforcement official to challenge the validity of the criminal conviction;

(4) to influence the issuance, amendment, or revocation of an executive order or similar promulgation by a federal, State, or local unit, or to influence the passage or defeat of legislation by the United States Congress, or by a State or local legislative body, or a State proposal by referendum or petition;

(5) to contribute to or be made available to a political party or association or the campaign of a candidate for public or party office; or

(6) to provide representation in a class action suit.

§11–504.

(a) The Corporation may require a grantee to submit any reports the

Corporation considers necessary regarding activities carried out under this title.

(b) (1) The Corporation may require grantees to keep records regarding funds provided by the Corporation.

(2) The Corporation shall have access to the records at all reasonable times to ensure compliance with the grant or contract or the terms and conditions on which financial assistance was provided.

§11–505.

(a) Each year, the Corporation shall require:

(1) a financial audit by an independent certified public accountant of each grantee whose grant income from the Corporation in the most recently completed fiscal year was $50,000 or more; or

(2) a financial review by an independent certified public accountant of each grantee whose grant income from the Corporation in the most recently completed fiscal year was less than $50,000.

(b) The report of each audit or review shall be:

(1) submitted to the Governor;

(2) made available to the Legislative Auditor; and

(3) kept for at least 5 years at the principal office of the Corporation.

§11–601.

The Corporation shall seek to ensure that a grantee providing legal assistance to eligible clients:

(1) maintains the highest quality of service and professional standards;

(2) preserves attorney-client relationships; and

(3) protects the integrity of the adversary process from any impairment.

§11–602.

Each application for legal assistance shall be in writing and accompanied by an affidavit stating that the information contained in the application is true and correct.

§11–603.

(a) (1) The Corporation shall establish maximum income levels for client eligibility.

(2) The income levels shall be based on the financial ability of a client to pay for competent private counsel and all other necessary expenses of representation.

(b) The maximum income levels established under this section and eligibility guidelines established by each grantee to implement this section shall take into consideration:

(1) the size of the client's family;

(2) cost of living variations, including differences between urban and rural areas;

(3) the assets and income of the client;

(4) the fixed debts and medical expenses of the client; and

(5) other factors relevant to the client's ability to pay for the legal services the client requires.

(c) The Corporation may not set the maximum income levels for eligibility under this section at a level greater than 50% of the median family income for the State as certified annually by the United States Department of Health and Human Services.

§11–604.

Notwithstanding any other provision of this title, information subject to the attorney-client privilege is confidential and may not be disclosed to any person unless the privilege is waived by the client or a court orders the disclosure.

§11–701.

(a) A person may not obtain, attempt to obtain, or aid another person in obtaining or attempting to obtain legal assistance to which the person is not entitled by:

(1) willfully making a false statement or representation;

(2) willfully failing to disclose a material change in financial condition;

(3) impersonating another; or

(4) any other fraudulent means.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

(2) (i) A person convicted under this section shall make full restitution

of the value of the legal assistance unlawfully received.

(ii) The person shall be given notice and the opportunity for a hearing on the amount and terms of the payment.

§11–702.

The Corporation may not:

(1) participate in litigation, unless:

(i) the Corporation or a grantee is a party; or

(ii) a grantee is representing an eligible client in litigation in which the interpretation of this title or a guideline established by the Corporation under this title is an issue;

(2) interfere with a lawyer's professional responsibilities to clients under the Maryland Rules of Professional Conduct;

(3) compete directly or indirectly with any grantee;

(4) contribute or make available the Corporation's funds or services to a political party or association or the campaign of a candidate for public or party office;

(5) except as provided in §§ 501(h) and 4911 of the Internal Revenue Code:

(i) carry on propaganda or otherwise attempt to influence legislation; and

(ii) participate or intervene in a political campaign on behalf of a candidate for public office, including publishing or distributing statements;

(6) notwithstanding any other provision of this title, conduct or carry on activities not authorized for an organization:

(i) qualified under § 501(c)(3) of the Internal Revenue Code; or

(ii) to which contributions are deductible under § 170(c)(2) of the Internal Revenue Code.

§11–801.

This title may be cited as the "Maryland Legal Services Corporation Act".