



The LEGISLATIVE WRAP-UP

Issue: 01-5

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Concern about the increasing resistance of bacteria to antibiotics has led to the introduction of **SB 692/HB 740** requiring the Secretary of Agriculture to report annually on the use of antibiotics and hormones used in raising animals for human consumption in the State.

[Courts And Civil Proceedings](#)

CIVIL RIGHTS

[Criminal Matters And Corrections](#)

Heard this week in committee was **HB 18** prohibiting employment discrimination due to genetic information or refusal to submit to a genetic test or make available the results of a genetic test. The bill also prohibits an employer from requesting or requiring genetic information as a condition for hiring or determining benefits. Currently, employment discrimination based on race, sex, creed, color, religion, national origin, marital status, and physical or mental disability is prohibited, but the use of genetic information is not considered an unlawful employment practice. Health insurers may not discriminate against an individual based on genetic information. The companion bill, **SB 2**, has a hearing scheduled in March. Similar legislation was considered during the 2000 session.

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Scheduled for a hearing next week is **HB 303** requiring law enforcement agencies to adopt policies against racial profiling and to provide for the collection and analysis of data on traffic stops. (Companion **SB 208** will be heard in March.) Also being heard next week is **HB 573** prohibiting a law enforcement officer from engaging in racial profiling as the sole factor in detaining, interdicting, or giving other disparate treatment to an individual. Violation of this provision by a law enforcement officer can result in a civil penalty up to \$1,000, a maximum three month suspension without pay, or mandatory sensitivity training. Third or subsequent offenses can result in termination of employment.

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COURTS AND CIVIL PROCEEDINGS

The Maryland Comparative Negligence Act (**SB 483**) changes the State standard for awarding damages in tort cases from contributory negligence to a more plaintifffriendly comparative negligence. Currently, recovery of damages by accident victims from other responsible parties is prohibited if the victim contributed in any way to the accident. The bill allows recovery in such situations if the victim's negligence is less than the combined negligence of the parties being sued. The court is required to reduce damages in proportion to the amount of negligence attributable to the plaintiff. Similar legislation has been introduced for the last several years.

Hearings will be held next month on the Senate legislation to accomplish the agenda presented by Chief Judge Robert M. Bell in his recent State of the Judiciary address, including:

- **SB 656/HB 715**, to require the State to fund the salary and benefits of one law clerk for

each circuit court judge and to pay each county rental for space occupied by the clerks of the circuit courts;

- **SB 657/HB 764** (constitutional amendment) and **SB 658/HB 763** (implementing law), to permit District Court commissioners to issue civil ex parte domestic violence and peace orders when the District Courts are closed, affording 24 hours/7 days a week coverage for these cases; and
- **SB 519/HB 658**, to increase the number of circuit court judgeships in Anne Arundel, Baltimore, Calvert, Montgomery, Prince George's, and Worcester Counties and Baltimore City, and the number of District Court judgeships in Montgomery, Prince George's, St. Mary's, and Worcester Counties and Baltimore City.

CRIMINAL MATTERS AND CORRECTIONS

Maryland judges may reconsider sentences they hand out to criminals at any time and for any reason under the authority of a 50-year-old procedural rule. **HB 62** and **SB 632** would limit reconsideration to one year after a defendant's motion for sentence revision, which must be made within 90 days after sentencing, except in cases involving an illegal sentence, fraud, mistake, or irregularity. In addition, judges would be required to state in writing the reasons for reconsideration. **SB 632** would also require judges to notify victims in advance of reconsideration hearings. Currently, prosecutors are responsible for providing notice of sentence reconsideration to victims, not necessarily before the fact.

EDUCATION

Unanimously passing the Senate was **SB 41** to extend the sunset date for the Maryland Adult External High School Diploma from June 30, 2001 to June 30, 2006. This program allows adults to earn their diplomas by passing a series of lengthy written assignments instead of taking the daylong General Educational Development tests.

Committee hearings were held recently on the following:

- **HB 55**, the Student Voting Rights Act, requires Maryland colleges and universities to have a polling place on their campuses. The purpose of the bill is to increase political participation among young adults, as well as to make it easier for students without transportation to vote;
- **SB 124/HB 390** require students in kindergarten through 12th grade to receive gun safety lessons, with educators in each school system developing plans to be approved by the State Department of Education;
- **HB 130** requires gun safety education through 6th grade. The State Board of Education must develop guidelines and curricula working with the Department of Natural Resources, the Department of State Police, and local law enforcement agencies. **SB 446** is the companion bill.

ENVIRONMENT

A requirement for everyone 16 years of age or older who catches or possesses crabs in the waters of the Chesapeake Bay and its tidal tributaries to obtain a crabbing license seeks to help to establish better estimates of annual crab catches. **HB 772/SB 514** also establish limits on the number of crabs caught and the equipment used.

FAMILY LAW

This week two measures that would alter the marriage process in Maryland were on the House floor. **HB 20**, which passed a preliminary vote, gives counties the authority to reduce marriage license fees for couples who complete a premarital preparation course conducted by a licensed clinical professional counselor, clinical marriage and family therapist, psychologist, or social worker, a relevantly trained church representative, or other county-approved qualified provider. **HB 135**, which passed the House, gives authority to perform a marriage ceremony in the State to any sitting or retired judge of a Maryland court, the U.S. District Court for the District of Maryland, and the U.S. Court of Appeals for the 4th Circuit or to a sitting or retired judge of another state or federal court that has substantially equivalent jurisdiction.

"Safe haven" bills for abandoned babies (**SB 82, SB 32/HB 252, SB 704/HB 363, HB 312, and HB 515**) will have a hearing in the House next week and in the Senate the following week. The bills establish procedures a parent can follow to relinquish a newborn and yet retain complete anonymity and no criminal liability.

FISCAL MATTERS

A proposed constitutional amendment related to the State budget process and another dealing with any surplus money in the State's general fund are moving through the legislative process. Similar proposals have been considered in previous sessions, but not adopted. Proposed constitutional amendments must pass the General Assembly with a vote of the three-fifths of the membership of each chamber and are not subject to veto by the Governor. The amendments are then placed on the ballot at the next general election for approval or rejection by the voters:

- **SB 245**, heard this week by a committee, gives the General Assembly the authority to increase or add appropriations for executive branch agencies in the Budget Bill and give the Governor veto authority over the increases and additions. However, the total appropriation, approved by the legislature, may not exceed the total allowance submitted by the Governor. If the Governor exercises veto authority, the General Assembly would convene in a special veto override session to consider the vetoed items. Currently, the General Assembly may only delete or reduce items in executive branch appropriations, and the Governor has no veto over any portion of the Budget Bill; and
- **HB 477**, scheduled for a committee hearing later this month, requires that any surplus in excess of 2% of general fund revenues be rebated to individual income taxpayers.

SB 745 provides an income tax credit for construction or rehabilitation costs of "green" buildings. "Green" buildings and equipment must meet energy efficiency and environmental standards established by the Maryland Energy Administration and the Maryland Department of the Environment to be eligible for the credit. Similar legislation introduced in the House last year failed.

HEALTH CARE AND INSURANCE

A number of measures seeking to address the nursing shortage in Maryland are once again before the legislature. Several bills provide income tax incentives for nurses and nursing assistants to encourage retention including **SB 24, SB 153, SB 154, SB 297, and SB 496**. Other proposals, **HB 547, HB 753, SB 618, and SB 96/HB 727**, under consideration provide added scholarship assistance for nursing students. One of these, **SB 96**, has received preliminary Senate

approval and will allow the recipient of an award from the Maryland State Nursing Scholarship Program to also receive a Senatorial Scholarship, a Delegate Scholarship, or a Distinguished Scholar Award. Additionally, **HB 316** and **HB 708** exempt from reemployment restrictions and a retirement allowance offset, State retirees who are employed by the Department of Health and Mental Hygiene as nurses in State facilities that have a shortage of nurses. **HB 236** requires nursing homes with more than 50% turnover of "direct care nursing staff" in any calendar year to establish a program to improve staff retention.

Legislation, **SB 705/HB 940**, was introduced this week to legalize marijuana for medical use, allowing patients to acquire, possess, grow, or transport marijuana or drug paraphernalia used to administer the marijuana. The bills protect physicians who make authorizations and recommendations for the medical usage of marijuana and primary caregivers who manage the care of the patients. A similar bill failed last session.

Several bills addressing prescription drug coverage for senior citizens will be heard next week. **SB 126** requires a pharmacy that participates in the Medicaid program to charge Medicare beneficiaries discounted prescription prices based on Medicaid drug rates. **SB 239** establishes the Maryland Catastrophic Pharmaceutical Expense Program to provide financial assistance to qualifying low-income Medicare-eligible individuals with out-of-pocket expenses exceeding or projected to exceed 10% of the individual's annual income after payments by other liable entities or other coverage are deducted.

SPORTS AND GAMING

SB 17 prohibits anyone under 16 from riding on in-line skates without a helmet or protective headgear. This bill was introduced last session, but failed in a Senate committee.

STATE GOVERNMENT

Companion measures, **SB 210/HB 306**, from Governor Glendening's bill package were subject to committee hearings this week in both the Senate and House. The measures alter the goal for the percentage of the total dollar value of procurement contracts with minority business enterprises (MBEs), and extend the Minority Business Participation program to July 1, 2006. The bills also require a study, due by September 30, 2005, to evaluate any race neutral or other methods to address the needs of minority businesses and to report on the program's compliance with a Supreme Court ruling that state and local minority business programs be narrowly tailored to remedy the effects of past discrimination. In general, with certain exceptions, current law requires a 14% MBE participation goal for all units in State government subject to the State's procurement law. The 2001 legislation sets an overall minimum requirement that 25% of the total dollar value of procurement contracts be directly or indirectly with certified MBEs. The bills continue the current law exemption for Maryland Department of Transportation (MDOT) construction contracts for less than \$50,000 and the current law provision allowing procurement units to consider the practical severability of construction projects.

TRANSPORTATION

Hearings were held this week on similar measures that provide funds for transportation services for the elderly and handicapped. **HB 310** will change the criteria by which State funds are distributed to local jurisdictions for providing transportation services to the elderly and disabled individuals. Currently the Maryland Department of Transportation (MDOT) allocates 60% of

State funding taken from highway revenues equally among the counties, and distributes the remaining amount according to the size of each county's elderly and handicapped population. **HB 310** will not alter the current formula for distributing the funds, but will include a provision that allows a county's performance record in providing transportation services to be considered in determining the allocation of those remaining funds. **HB 77** directs MDOT to create a discretionary supplemental grant to help counties provide transportation services for the elderly and disabled individuals. The established procedures will also include rewarding those counties that have a high performance record, as well as the ability to match State funds.

A hearing has been held on **HB 10** that requests that the Virginia-Maryland-District of Columbia Joint Legislative Commission on Interstate Transportation study the creation of a regional transportation authority and submit its findings and recommendations to the legislatures and governors of Maryland and Virginia, prior to the next Virginia and Maryland 2002 legislative sessions. The commission would review: transportation project funding; transportation capacity; transit alternatives; Potomac River crossings; coordination of land use policies; air pollution control policies; and other issues relevant to a regional transportation authority. A companion measure, **SB 341** is scheduled for a hearing later this month.

A hearing was held this week on a bill to increase the amount of revenues dedicated to the Transportation Trust Fund (TTF). Under **SB 200**, TTF's share of the 7-cent corporate income tax increases from 1¾ cents to 2¾ cents and its share of the sales tax from short-term vehicle rentals increases to 100% from 45%. The bill also exempts new mass transit service from the 40% fare box recovery requirement for three years from the initiation of the services, and authorizes the Maryland Department of Transportation to make payments to Prince George's and Montgomery counties to subsidize new bus service for three years and for the loss of revenues from the fare modifications. A companion measure, **HB 309**, has been introduced.

Later this month, a committee will hear testimony on a measure to establish a commission to study alternative governing and financing structures for BWI airport. **SB 318** directs the commission to enlist industry consultants and federal transportation officials, as well as State officials to assist in the project. Both interim and final reports to the Governor and the General Assembly are required.