



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 02-6

February 11-15, 2002

## THIS WEEK

On Friday, February 15, the annual delivery of the gubernatorial “Green Bag” nominations took place. The Governor’s Appointments Secretary presented the list in the official Green Bag of Maryland to the President of the Senate at the morning floor session. The green leather bag, embossed with the Maryland Great Seal, is modeled on the green bags used at one time by English barristers to convey official documents. The Maryland Constitution requires the Governor to submit nominations of civil officers to the Senate within 40 days of the beginning of each regular session. The House of Delegates received a smaller number of local Green Bag nominations requiring their approval.

defense of “medical necessity” and allows them to introduce evidence to support it; and

- [HB 24](#) requires a court to consider evidence of medical necessity as a mitigating factor in the sentencing phase of a trial.

The death penalty would be more difficult to apply under the provisions of [HB 972](#) and [SB 629](#). The measures change the standard of proof used to impose a death sentence during the sentencing portion of a capital case from the preponderance of evidence standard to the higher standard of beyond a reasonable doubt.

Convicted child sexual offenders would be subject to harsher sentencing restrictions under “Christopher’s Laws,” introduced this week:

- [SB 799](#) prohibits a prosecutor from entering into a plea bargain that would result in a *nolle prosequi* (placement on the stet docket) for charges of certain sexual offenses against a child under 16; the bill also denies good behavior credits to certain child sexual offenders;
- [SB 800](#) denies good behavior credits or parole for offenders convicted of rape or of a first or second degree sexual offense against a child under the age of 16; and
- [SB 801](#) allows a judge to impose a life sentence without the possibility of parole for offenders who are convicted of rape or of a first or second degree sexual offense against a child under 16, and who have a previous conviction for one of those crimes.

## COURTS AND CIVIL PROCEEDINGS

A Judicial Conference bill to allow more than 6 jurors to serve in a civil trial, eliminating the concept of “alternate jurors,” was defeated by a House committee ([HB 113](#)). The companion bill, [SB 198](#), had a hearing last week. Another Judicial Conference initiative, [HB 320](#), which expands the requirement of providing interpreters in court proceedings to include civil as well as criminal cases, was withdrawn earlier in the week.

Child sexual abuse will be added to the list of crimes of violence for which enhanced penalties must be handed out to repeat offenders under [HB 876](#). A first subsequent offense earns a mandatory minimum 10-year sentence; a second subsequent offense earns a mandatory minimum 25-year sentence; and a third subsequent offense earns a mandatory life sentence without parole.

## CRIMINAL MATTERS AND CORRECTIONS

Three bills under consideration support the use of marijuana for medical purposes:

- [HB 1222](#) seeks to protect medical marijuana patients and their caregivers and physicians from arrest and imprisonment by requiring patients to obtain a registry identification card, allowing cultivation of only small amounts of marijuana in a secure indoor facility, and permitting a caregiver to serve only one patient;
- [HB 504](#) allows defendants charged with possessing marijuana to raise the affirmative

## EDUCATION

Recently introduced, [HB 579](#) requires that each lavatory in a public school contain handsoap to help prevent diseases such as salmonella, E. coli, hepatitis A, pink eye, and streptococcus. Current State law doesn't require soap, paper towels, toilet paper or any other school bathroom supplies in public schools.

This week, a House committee killed a bill to codify State regulations pertaining to the school reconstitution process and to establish a funding formula for schools identified for reconstitution ([HB 56](#)). School reconstitution is a multi-step process that enables the State Board of Education to intervene when a public school has shown a continuous pattern of failure to educate its students over a number of years.

A hearing was held this week on [SB 153](#), which requires local school boards to establish full-day kindergarten programs by the 2007-2008 school year and requests the Governor to fund pre-kindergarten programs. The bill also changes the definition of full-time student to include all kindergarten students rather than one half. The companion bill, [HB 817](#), is scheduled for a hearing next month. Also receiving a hearing was a bill establishing a pilot program to provide grants for instruction and training of principals. Under provisions of [HB 7](#), the grants will be awarded on a competitive basis by the State Board of Education, require matching funds, and be limited to principals from one county from each of five regions of the State.

The House passed an emergency bill to establish a temporary State Executive Committee to review and approve major actions of the Prince George's County School Board and the Prince George's County Public School System ([HB 780](#)).

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## ENVIRONMENTAL MATTERS

Emergency measures to expand who has standing to seek judicial review of air quality operating permit decisions rendered by the Department of the Environment (DOE) passed their respective chambers this week ([SB 248/HB 5](#)). The legislation brings the State into compliance with the federal Clean Air Act.

The Senate has approved legislation related to the Chesapeake Bay. [SB 195](#) establishes new requirements for the identification and delineation of submerged aquatic vegetation areas and prohibits the use of dredges

and rakes in protected areas. The companion House bill, [HB 536](#), will be heard by a committee next week. Similar legislation was introduced in previous sessions.

Under consideration on the Senate floor is a bill that responds to recent Court of Appeals decisions that the sponsors believe alter the intent of the 1984 Chesapeake Bay Critical Area Protection Program. [SB 326](#) requires that a local critical area program include provisions for granting variances in accordance with regulations adopted by the State Critical Areas Commission. The variance conditions would not apply to building permits or activities that comply with approved buffer exemption plans or buffer management plans. Similar legislation, [SB 249](#), received an unfavorable vote by a committee earlier this session. Hearings are scheduled for next week on comparable House proposals ([HB 298](#) and [HB 528](#)).

Additional bills related to environmentally sensitive areas include [SB 247](#), which expands the protections established by the Chesapeake Bay Critical Area Commission to include the coastal bays of the Atlantic. The companion bill, [HB 301](#), and another measure, [HB 1183](#), that establishes a coastal bays protection program in Worcester County to be administered by that county, will have hearings next week.

Public testimony was heard this week on measures to remove the current prohibition against the Secretary of the Environment adopting and enforcing State primary drinking water regulations that are more stringent than national primary drinking water regulations in effect at the time ([SB 246/HB 302](#), and [HB 350](#)).

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## FAMILY LAW

A sitting or retired judge or justice from any court in the United States may perform a civil wedding ceremony in Maryland under the provisions of [HB 106](#), which passed the House last week. Currently, only a clerk or deputy clerk of the circuit court or a minister may perform wedding ceremonies. The Senate heard testimony on a companion bill, [SB 404](#), earlier this week.

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## FISCAL MATTERS

The Budget Reconciliation Act ([SB 323/HB 424](#)), scheduled for hearings next week, transfers money from special funds, reduces expenditures, and increases revenues by amending current law to help balance the

State budget for the current fiscal year and for fiscal year 2003. The 911 Trust Fund, Lead Poisoning Prevention Fund, State Reserve Fund, and Emergency Medical System Operations Fund are included among the special funds earmarked for transfers of money to the General Fund.

Other provisions include:

- reducing fiscal year 2003 aid to community colleges by limiting the increase in funding to 4% rather than the 14% under the community college funding formula law;
- delaying the January 1, 2002 effective date for reducing the top personal income tax rate from 4.8% to 4.75% and increasing the personal exemption from \$2,100 to \$2,400; and
- eliminating grants to counties with power generating plants. These grants were to partially reimburse the counties from lost property tax revenue related to the deregulation of the electricity industry. The Act provides some additional revenue to the counties by subjecting electric and steam generating equipment to the personal property tax on 100 % of its value, rather than 50 % of its value.

Another measure intended to balance the State budget was introduced this week in both chambers. Sponsors of this legislation do not propose eliminating the 2% income tax cut that took effect in January. The Budget Financing Act of 2002 ([SB 828/HB 1274](#)) adjusts current provisions of law in order to increase General Fund revenues by:

- reducing the commissions paid to lottery agents and the discounts paid to sales tax, motor fuel tax, and excise tax collectors;
- redirecting some revenues which would otherwise be deposited in the Transportation Trust Fund to the General Fund, including a portion of the sales and use tax on short-term motor vehicle rentals; and
- altering Maryland law so that certain federal tax changes, related to college tuition and estate taxes, do not apply.

Legislation raising the cigarette tax from the current rate of \$0.66 per pack of 20 cigarettes to \$1.36 per pack of

20 cigarettes was heard in a Senate committee this week and a companion bill was introduced in the House ([SB 343/HB 988](#)).

A Senate committee heard testimony on a measure that will impose recordation and transfer taxes on the transfer of real property with a value of \$500,000 or more, when the transfer is achieved through the sale of a “controlling” interest (more than 50%) in a specified corporation, partnership, limited liability company, or other form of unincorporated business ([SB 316](#)). [HB 557](#), which will be heard by a committee next week, is similar, but defines “controlling” interest as more than 80% of the total value of the stock or the interest in capital profits.

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## HEALTH CARE AND INSURANCE

Given approval by the House this week, [HB 422](#) increases the amount of money for personal needs for nursing home residents who receive Medicaid. As amended, the amount will be \$50 per month in FY2004 and \$60 per month in FY2005. Starting in FY2006, the amount will be adjusted annually based on the percentage that Social Security benefits are increased. The Senate companion bill is [SB 5](#).

A House committee heard opposing testimony this week on [HB 1207](#), a bill that modifies the regulatory scheme for nonprofit health service plans such as those operated by CareFirst. Under the bill, to qualify for the insurance premium tax exemption, a Plan must meet specified public purpose requirements, offer a comprehensive open enrollment product in the individual health insurance market, offer an open enrollment product in the small employer group health insurance market, and agree to administer the Short-Term Prescription Drug Subsidy Plan. Other provisions alter the Plan’s board of directors’ membership, impose term limits for members, and determine reasonable compensation for board members.

Also a hearing topic during the past week, [HB 1228](#) establishes the Maryland Health Insurance Plan (MHIP) to decrease uncompensated health care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents by July 1, 2003. MHIP includes a Senior Prescription Drug Program for Medicare beneficiaries whose household income is at or below 300% of the federal poverty level. Funding for these programs will come from a variety of sources including enrollee premiums and, for MHIP, a

1% assessment on the gross annual revenue of each acute care hospital in the State. MHIP, organized as an independent unit of State government under the direction of a board, will replace present programs such as the Substantial, Available, and Affordable Coverage product and the Short Term Drug Subsidy Plan for seniors which will expire in 2003.

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## SPORTS AND GAMING

If [HB 374](#) is enacted, the current Maryland Sports Agents Act would be replaced with the Maryland Uniform Athlete Agent Act. The bill provides for the registration, certification, and background check of athlete agents seeking to represent student-athletes who are or may be eligible to participate in intercollegiate sports. The proposal also benefits student-athletes by imposing specified contract terms on athlete-agent agreements and provides that educational institutions be notified and maintain the right to a civil cause of action for damages resulting from breaches in agreements.

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## TRANSPORTATION

[HB 428](#) significantly increases the penalties for commercial vehicle drivers or motor carriers convicted of safety violations in accidents that cause serious injury or death. The Maryland Department of Transportation reports that the current penalties are not sufficient and that those who bear responsibility for a violation that may be a significant contributing cause of a serious accident may face relatively minor or no penalties.

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## UTILITIES

A hearing was held this week on a measure that will require the Public Service Commission (PSC) to create and operate a database of residential telephone subscribers in the State who choose not to receive telephone solicitations. [SB 674](#) requires telemarketers to purchase the latest updated version of the database and prohibits telephone solicitation to numbers listed in the database. A person receiving a telephone solicitation in violation of the bill may bring an action against the person making or causing the telephone solicitation to recover reasonable attorneys' fees and the greater of \$1,000 or actual damages. A violation of the bill is also an unfair and deceptive trade practice and, under certain

circumstances, a violation of the Maryland Credit Services Business Act.

The bill does not apply to telephone solicitations such as those that are made on behalf of a charitable organization, made to solicit the expression of ideas, opinions, or votes, or made to a business. The proposal further prohibits telemarketers, with limited exceptions, from blocking telemarketers' identity from the recipient of the call. Violation of this prohibition is a misdemeanor, punishable by a fine of \$1,000 for the first offense and up to \$5,000 for subsequent offenses.

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## NEXT WEEK

Next Friday marks the 45<sup>th</sup> day, half-way point of the 90-day session. The Legislative Districting Plan ([SJ 3/HJ 3](#)) will become law on that day, if the General Assembly has not adopted another plan by that time. The Plan redraws the lines of the existing 47 State legislative districts. Maryland legislators will run for election in the upcoming September primaries and in November in the general election based on these new districts.

The Maryland Constitution requires the Governor to prepare a legislative districting plan for the General Assembly following the decennial census of the United States. The Governor must present the plan to the President of the Senate and the Speaker of the House of Delegates. The presiding officers introduce the plan as a joint resolution on the first day of the regular session in the second year following the census (January 9, 2002) and if the General Assembly has not adopted another redistricting plan by the 45th day, the Governor's plan as presented becomes law.

Both the Maryland Constitution and statutes are silent on the matter of congressional redistricting. Congress has given the state legislatures authority to redistrict congressional seats. The only federal statutory requirement is that congressional districts be single-member districts. The Maryland Congressional Districting Plan ([SB 805/HB 1250](#)) is introduced as a regular bill in the General Assembly; it must be passed by both chambers and signed by the Governor, who maintains veto power over the plan.