



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## BILL INTRODUCTIONS

The bill introduction deadlines for both the Senate and House have passed. Senate bills now number 627 and House bills 890. There are 9 resolutions from the Senate and 14 from the House. Legislation introduced after the deadline goes to each chamber's Rules Committee to be considered for reassignment.

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## CRIMINAL MATTERS AND CORRECTIONS

Under current law, a person who was erroneously convicted, sentenced, and confined for a crime the person did not commit is eligible for a grant for damages only if the person has received a full pardon from the Governor stating that the conviction has been shown conclusively to be in error. The Board of Public Works (BPW) is then authorized to grant money commensurate with the actual damages. However, not every person whose conviction has been reversed is eligible. Procedural mistakes that lead to a reversal are not sufficient to make a person eligible, and the determination of whether the eligibility standard has been met by the person requesting the pardon is wholly within the discretion of the Governor. Several bills would make changes in the law:

- [SB 570](#) authorizes the BPW to provide, in addition to actual damages, funds that may be used only to pay the cost of financial and life planning counseling for the person;
- [HB 10](#), heard in committee this week, eliminates the gubernatorial pardon requirement for grant eligibility, requires the BPW to make a finding that the conviction has been shown conclusively to be in error, and then authorizes the BPW at its discretion to grant actual damages; and
- [SB 569](#) requires either a full pardon by the Governor stating that the conviction has been shown by clear and convincing evidence to be in error, or a court determination by clear and convincing evidence that the conviction is in error and the individual is innocent of the crime. If a person is determined to be

eligible for a grant, this measure requires, rather than authorizes, the BPW to grant damages and increases the amount to cover not only economic damages, but also non-economic damages, including pain, suffering, physical impairment or disfigurement, mental anguish, loss of consortium, and other nonpecuniary injuries, but not including punitive damages.

A bill to abolish the death penalty and bar future executions ([SB 544](#)) is scheduled for a hearing in 2 weeks.

Dubbed "Project Exile" after the initiative developed in Richmond, Virginia in the 1990s, gubernatorial proposals ([SB 389/HB 858](#)), identified by supporters as a step toward implementation of the initiative in Maryland, would subject any felon who possesses any kind of firearm to a 5-year mandatory minimum sentence, with no possibility of parole. Currently, only violent felons in possession of a handgun fall under this provision. The bill also prohibits a 3-judge panel from being able to reduce such sentences, as they now can, and requires a judge, rather than a district court commissioner, to decide the pretrial release or detention status of a felon who possessed a gun. [SB 280/HB 127](#) contain similar provisions. Other bills to tighten restrictions on firearms include:

- [SB 494](#), strengthening the law banning assault weapons by closing a loophole that allows the sale of weapons that are similar but not identical to weapons included on the list of banned weapons;
- [SB 528](#), requiring the owner of a lost or stolen firearm to report the loss or theft to the State Police within 48 hours of discovering it and to require a dealer who sells a gun to notify the buyer of this responsibility; and
- [SB 208/HB 696](#), expanding the current ballistic fingerprinting requirements for handguns to apply to all new firearms. Ballistic fingerprinting involves recording and logging the unique signature each gun leaves on a shell casing.

Under [SB 596/HB 570](#), the misdemeanors of visual surveillance, with prurient intent, of a person in a private place without the person's consent, and using a camera for deliberate surreptitious observation of a person inside a private residence would become felonies. The maximum penalty for each crime would increase from 6 months in jail and a \$1,000 fine to 5 years in jail and a \$10,000 fine.

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## EDUCATION

The Governor's charter school bill ([SB 388/HB 859](#)) establishes a charter school program with chartering authority granted to the State Board of Education, local boards of education, public institutions of higher education, or any other entity designated by the State Board. Under the legislation, a public charter school is an independent legal entity that is responsible for the management and operation of its fiscal affairs and local boards of education are required to fund students in a public charter school at the same rate as students enrolled in other public schools in the county. The collective bargaining unit at a public charter school must be separate from other bargaining units. Additional provisions specify that a public charter school teacher may not be a member of more than one bargaining unit and must withdraw from any bargaining unit with which the teacher was previously affiliated. A committee hearing was held this week on [SB 388](#) and another bill, [SB 75](#), establishing a public charter school program. [SB 75](#) gives primary chartering authority to local boards of education and secondary authority to the State Board of Education.

Other proposals in the legislative pipeline include:

- [HB 345](#), requiring county boards of education to set up a policy to prevent harassment and intimidation of students at public schools, at school activities, or on school buses;
- [SJ 5/HJ 13](#), urging local boards of education to establish "Celebrate Freedom Week" during September in order to instill a sense of the sacrifices made during the founding of this country and the values upon which this country was founded; and
- [SB 291](#), altering the eligibility criteria for receiving a Maryland Teacher Scholarship to include students who pledge to work at a nonpublic elementary or secondary school after graduation. The current provision provides that students must work at public

schools after graduation for 1 year for each year of the scholarship.

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## FISCAL MATTERS

Measures reintroduced from last year ([SB120/HB19](#)) would 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 in a specified corporation, partnership, limited liability company, or other form of unincorporated business. "Controlling" interest is defined as more than 80% of total value of the stock or the interest in capital and profits. Revenues would go to local governments and to several State special funds including Program Open Space, Agricultural Land Preservation, and Rural Legacy. [SB 120](#) had a hearing on February 5. [HB 19](#) will be heard on February 20.

Additional revenue-enhancing legislation addresses cigarette and alcoholic beverages tax rates. [SB 324](#) increases the tax on a pack of 20 cigarettes from \$1.00 to \$1.36. The tax was increased to \$1.00 per pack in 2002. With reference to alcoholic beverages, the current tax rate is \$1.50 per gallon on distilled spirits, 40 cents per gallon on wine, and 9 cents per gallon on beer. [HB 87](#) increases the rate to \$5.12 per gallon on distilled spirits, \$1.28 per gallon on wine, and 64 cents per gallon on beer. [SB 384](#) increases the tax to \$3.50 per gallon on distilled spirits, \$1.00 per gallon on wine, and 25 cents per gallon on beer. Additional funds realized from these bills go to the State's General Fund, the current recipient of this revenue.

Two other bills ([SB 529](#) and [HB 580](#)) raise the rate to \$3.00 per gallon on distilled spirits, 80 cents per gallon on wine, and 18 cents per gallon on beer. Additional revenue from [SB 529](#) is earmarked for the Maryland Emergency Medical System Operations Fund. Under [HB 580](#) the increased revenue is dedicated to a new special fund for alternatives to incarceration for drug offenders.

Two sales tax-free week bills, popularly called "Back to School Tax-Free Shopping Weeks", have been introduced. Both bills exempt clothing and footwear with a taxable price under \$100 from the sales tax. [HB 37](#) allows the exemption from August 22 through August 25, 2003, while [SB 66](#) extends the exemption to school supplies, and makes it a week-long event each August.

## HEALTH CARE AND INSURANCE

Legislation ([SB 48/HB 60](#)) related to the dispensing of controlled dangerous substances has moved through the first stage of the committee process, having had hearings before committee members and the public. The bills require pharmacists, physicians, and other health care providers who are licensed as dispensers with the Board of Pharmacy to report data to the Department of Health and Mental Hygiene (DHMH) in an electronic format. DHMH would then establish an electronic monitoring program to impede the illegal diversion of prescription drugs. Similar legislation was reported unfavorably out of committees last session.

Legislation introduced this week includes:

- [HB 441](#), expanding the authority of optometrists to issue prescriptions of certain medications and to treat certain eye diseases without having to consult with an ophthalmologist (Similar legislation in another session failed);
- [HB 509](#), establishing a State Advisory Council on Obesity in Youth directed to coordinate collecting and analyzing data, increase public awareness of the problem of obesity in youth, and report to the Governor and the General Assembly with recommendations for statewide action;
- [SB 457/HB 772](#), prohibiting a physician from performing an abortion on a minor unless a notice is given to a parent/guardian, it is a medical emergency, or a court orders a waiver to the notice requirement. (DHMH is required to prepare a fact sheet to be distributed to a minor by the physician, which explains the procedures for a court petition to waive the parental notice); and
- [SB 502/HB 702](#), establishing, in the Board of Physician Quality Assurance, a Medical Marijuana Research Program, charged to adopt regulations to determine what medical conditions apply and reviewing applications from patients and their physicians for admittance to the program. Participants and their caregivers would receive an identification card as protection from arrest and prosecution or any other penalty. Physicians who prescribe the medical use of marijuana would also be protected from arrest or criminal prosecution. A committee hearing is scheduled later this month.

Additional bills relating to uncompensated trauma care were dropped in the hopper before the recent bill introduction deadline. Included are [SB 479](#), the companion to the Speaker's bill ([HB 1](#)) that was heard by a subcommittee this week. Another measure, [SB 587](#), while similar, adds trauma centers to the fund reimbursement pool and includes a \$4 per motor vehicle insurance policy surcharge, instead of the \$2 per vehicle surcharge in the other bills. Under [SB 479/HB 1](#), the Health Care Commission and Health Services Cost Review Commission would oversee and administer the fund, while [SB 587](#) would assign those duties to the Maryland Institute for Emergency Medical Services Systems.

The number of bills related to cardiac surgery also continues to grow. [SB 337](#) and its earlier-introduced companion, [HB 236](#), remove the certificate of need (CON) requirement from the licensing of open-heart surgery programs by the DHMH. Another proposal, [SB 424/HB 828](#), also expands the number of hospitals that provide open-heart surgery but instead of removing the CON, the bill would change the requirements for approval of a certificate by the Maryland Health Care Commission. Similar legislation failed last session.

Next week both the Senate and House will take testimony on the Small Business Health Insurance Affordability Act ([SB 477/HB 2](#)). The bills make revisions to the Comprehensive Standard Health Benefit Plan (CSHBP) which an insurer, nonprofit health service plan, or HMO must offer to small businesses. A primary component of the proposals is the reduction of the premium rate affordability cap for the standard plan from 12% to 10% of the average annual wage in Maryland in order to help keep CSHBP affordable for small businesses and permit them to continue purchasing riders for additional benefits at an affordable rate. If the average premium reaches 10%, however, the Maryland Health Care Commission, responsible for the design and annual review of CSHBP, may be required to change the CSHBP benefit package, increasing out-of-pocket expenses such as deductibles and co-payments, or eliminating certain benefits.

## SPORTS AND GAMING

[HB 337](#) makes the deer firearms season 21 days statewide. Currently the Department of Natural Resources sets the number of hunting days within different regions of the State.

Legislation dealing with gaming and more specifically slot machines continues to be introduced:

- [HB 281](#), the Local Gaming Accountability Act, requires that organizations that conduct a gaming event submit an affidavit every 6 months to the State Lottery Agency and that the attorney general account for all the income raised by each gaming event and the disposition of that income. (Organizations that do not comply may not conduct a gaming event for up to a year);
  - [SB 446](#) requires the State Lottery to regulate the operation of 12,500 video lottery terminals (slot machines) at Pimlico Race Track, Laurel Race Track, and a racetrack in Allegany County. The bill provides that after deducting the commission's cost, 50% of the proceeds will be distributed to the general fund, 45% to licensees, and 5% to the local governments within a 5 mile radius of gambling sites;
  - [HB 329](#) establishes a commission to study and issue a report on video lottery terminals in Maryland and forbids the establishment of additional forms of gaming in the State from June 1, 2003 until December 31, 2003;
  - [HB 359](#), the House companion to the Governor's proposal ([SB 322](#)), authorizes slots at 4 Maryland racetracks with a cap of 10,500 machines;
  - [HB 105](#) prohibits anyone involved in the gaming industry from contributing to Maryland's political campaigns; and
- [SB 452/HB 491](#) establishes a Host Community Gaming Benefits Authority and a special fund for each gaming benefits district, which as defined in the bill, covers the area within 1 mile of a gaming venue. The purpose of each fund is to improve the communities located in the gaming benefits district. Fees negotiated between each Authority and the operators of its gaming venue coupled with 5% of the State's revenues from the operation of slot machines at the Authority's gaming venue would support each special fund. Other provisions require the submission of master plans to the Authority and the Legislative Policy Committee before a licensee makes a capital expenditure at a racetrack.

[SB 304](#) makes it a misdemeanor to conduct a casino event at which a card game, dice game, or roulette is played and money or tokens redeemable in money are awarded as prizes.

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## TRANSPORTATION

A measure heard in committee this week prohibits a licensed driver under the age of 18 from driving with a passenger under the age of 18 for 180 days (six months) after the driver's license is issued. The restriction, which would be imposed on the licensee, does not apply to a passenger who is a spouse, daughter, son, or sibling of the licensee. A police officer may only enforce [SB 63](#) as a secondary violation, i.e., it cannot be the primary cause for stopping a motorist.

[SB 455/HB 694](#) authorizes local governments and the State to issue citations or warnings to vehicle owners for speeding based on evidence collected by speed monitoring systems and provides for a maximum civil penalty of \$100. Such violations are not moving violations, may not be placed onto the driving record of the owner or driver of the vehicle, and may not be considered in the provision of vehicle insurance.