



The Legislative Wrap-Up

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COURTS AND CIVIL PROCEEDINGS

Under current law, a person who is a victim of assault by the person's spouse may not be compelled to testify against the spouse at a trial for the first offense, but may be compelled to testify for a subsequent offense. [HB 765](#), heard by a committee last week, removes the spousal privilege for first offenses.

[HB 207](#) repeals a prohibition against the recording or broadcasting by the media of a criminal sentencing hearing and gives the presiding judge the authority to grant, deny, or limit a media request for coverage, with certain exceptions. The bill has had a hearing and awaits committee action.

The Maryland Court of Appeals is deliberating on an appeal of a 2006 circuit court decision that found the Maryland law unconstitutional that defines marriage as only between a man and a woman. In response to this issue, legislation again this session proposes to amend the Maryland Constitution to provide that only a marriage between a man and a woman is valid in this State. [SB 564](#) had a hearing this week. A similar bill, [HB 919](#), is scheduled for a hearing in two weeks.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

The Senate passed [SB 61](#) to expand the ability of prosecutors to present evidence of prior acts of sexual misconduct involving a minor as evidence in the trial of a defendant charged with sexual misconduct involving a minor. Before the evidence may be admitted, the court must find by clear and convincing evidence in a closed hearing that the defendant committed the separate act and that the probative value of the evidence outweighs the danger of unfair prejudice against the defendant. Certain other conditions must also be met.

The House gave preliminary approval to an amended [HB 10](#) that entitles a person who is arrested or confined by a law enforcement unit on or after October 1, 2007, and then released without being charged with a crime, to automatic expungement of all related police records. A person arrested or confined before October 1, 2007, and then released with no charge may request expungement

of related police records with no requirement to sign a waiver of tort claims arising from the incident.

Companion bills ([SB 157/HB 103](#)) that require each law enforcement agency in the State to write and adopt an eyewitness identification policy that complies with federal standards have passed to the opposite chamber in identical form.

[SB 160](#) that expands existing hate crime laws to include crimes based on the homeless status of a person passed a preliminary floor vote after being amended to include a definition of "homeless."

Testimony was heard this week on the Maryland Assault Weapons Ban of 2007 ([SB 43](#)) that expands the 1994 ban on the sale and possession of assault pistols in Maryland to include the 45 semiautomatic weapons (termed "assault long guns") that can currently be purchased legally in the State, as well as any copycat weapons. The bill also establishes the new misdemeanor crime of using an assault long gun in the commission of a felony or crime of violence, with a punishment of up to 20 years in prison.

Also heard by a committee this week, [HB 992](#) reforms drug sentencing laws by repealing mandatory minimum sentences and increasing maximum penalties for repeat offenders convicted of certain crimes involving controlled dangerous substances. The bill does not apply to volume dealers, drug kingpins, or importers. A hearing is scheduled in two weeks for the companion bill, [SB 624](#).

ECONOMIC AND BUSINESS ISSUES

The increasing concern about liquefied natural gas (LNG) storage facilities at Sparrows Point has resulted in the introduction of several bills on the subject this session. [SB 196/HB 1312](#) prohibit the Board of Public Works from approving a license to dredge on State wetlands under certain conditions. Additionally, the bills state that the Public Service Commission (PSC) may not recommend any approval for the construction or operation of a facility if it is to be located within two miles of any residence in Baltimore County. Other bills, [SB 307/HB 724](#), require the PSC to impose an impact fee on new LNG facilities. The fee must cover the cost

for extra county services, particularly fire and safety requirements, that the county may need due to the existence of the facility.

Two companion proposals, [SB 562/HB 631](#), require, in the procurement of electricity for standard-offer service, that each electric company provide cost-effective energy efficiency and conservation measures and services for its residential customers. The bills also require that the PSC adopt standards and incentives to encourage an electric company's investments in these measures. Both bills were before committees this week.

EDUCATION

Passing the Senate, [SB 128](#) allows county boards of education to establish a program of education to be held annually on "Constitution Day and Citizenship Day" (September 17) to teach students about the United States Constitution and the Maryland Constitution.

Heard recently, [HB 160](#) requires two members of the State Board of Education to be the parents of students enrolled in public schools in Maryland at the time of their appointments.

ELECTIONS AND ETHICS

A number of interesting bills under consideration will:

- create a comprehensive system of fully funded election campaign financing for qualifying candidates for the General Assembly ([SB 546/HB 731](#));
- require, as amended, that an application for an absentee ballot be received by a local board not later than 10 days preceding the election, rather than the Tuesday preceding the election, as provided in current law. A voter or the voter's agent may continue to appear in person at the local board to request a ballot up to the closing of the polls on election day ([HB 16](#));
- expand the types of entities covered by campaign contribution attribution provisions to include a general or limited partnership, a limited liability company (LLC), or a real estate trust, as well as a corporation, thus restricting the amount of campaign contributions these entities may make ([SB 227/HB 816](#)); and
- restrict or prohibit prerecorded or automated phone messages, particularly with regard to campaigns and

the national Do-Not-Call Registry ([HB 589](#), [SB 523/HB 652](#), [SB 598](#)).

A Senate committee voted to refer to interim study several bills related to voting issues:

- [SB 31](#) would have altered the qualifications for voter registration to allow an individual who is at least 16 years old to register to vote, but an individual would not have been eligible to vote until the individual was 18 years old or older.
- [SB 77](#) would have required that the names of certain candidates be listed on the ballot under regulations adopted by the Secretary of State, and would have required a protocol for the rotation of the names of those candidates.
- [SB 78](#) would have provided that election judges be hired on a nonpartisan basis.
- [SB 89](#) would have strengthened the address requirement on a certificate of candidacy form.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

[SB 103/HB 131](#), the Maryland Clean Cars Act of 2007, have passed to the opposite chambers with amendments.

Testimony was heard this week on bills that encourage the use of solar energy. [HB 253](#) increases the grant amount that may be given under the Solar Energy Grant Program and eliminates the Geothermal Heat Pump Grant Program (crossfiled [SB 187](#) had an earlier hearing.). [HB 960](#) consolidates the two programs and increases the grant amounts. [SB 186/HB 328](#), which create the Solar Energy Grant Fund, were heard previously.

Several bills to protect the wildlife of the Chesapeake and Coastal Bays have been discussed in committees. [SB 532/HB 760](#) prohibit the possession of diamondback terrapins for commercial purposes and limit their possession for noncommercial purposes. The bills repeal the requirement enacted during the 2006 legislative session that the Department of Natural Resources (DNR) develop a fisheries management plan for the terrapins.

[SB 379/HB 964](#) extend the prohibition from using hydraulic or mechanical dredges to catch oysters and clams in certain areas of the Chesapeake Bay to include the State's Coastal Bays. Other bills, [SB 206/HB 473](#), allow for the possession of one undersized soft crab in any dozen of soft crabs.

[SB 352/HB 417](#) require specific environmental testing and evaluation before development can occur on a former golf course.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Adopted unanimously by the full Senate, an amended [SB 52](#) generally allows a consumer to place a “credit freeze” on the individual’s consumer report. The reporting agency may charge fees as specified in the bill for placement, temporary lift, or removal of a security freeze but no fees for freezes documented by a police report alleging the consumer is a victim of identify theft. After extensive debate, the Senate passed with amendments legislation ([SB 367](#)) repealing the licensure restriction that prohibited for-profit debt management services from operating in the State. The companion bill, [HB 374](#), has a hearing next week.

The Senate looked at several bills to protect consumers’ personal information and restrict unwanted mailings:

- [SB 194](#) imposes duties on a “business” with an annual gross income of at least \$1.0 million to protect an individual’s “personal information” and to provide notice of a security breach relating to an individual’s personal information;
- [SB 514](#) requires businesses and State governmental entities that maintain personal information on State residents to notify individuals if the security of their information is breached and the personal information is disclosed or could potentially be disclosed to unauthorized persons;
- [SB 467](#) requires a merchant with 50 or more employees that collects and maintains “personal information” about a Maryland consumer to implement and maintain reasonable security procedures and practices to protect that information; and
- [SB 548](#) establishes in the Attorney General’s Consumer Protection Division a restricted mailing registry of Maryland consumers who choose not to receive “solicitations.”

FISCAL MATTERS

[SB 949](#) and [HB 821](#) each increase the motor fuel tax in order to raise additional revenue for transportation purposes. [SB 949](#) increases the gasoline tax from 23.5 cents per gallon to 35.5 cents per gallon and indexes the

tax to increase with the increase in the wholesale price with a maximum tax of 39.5 cents per gallon. [HB 821](#) increases the gasoline tax to 33.5 cents per gallon and in addition imposes a sales tax on gasoline with the revenue from the sales tax dedicated to transportation purposes.

[HB 393](#) and [HB 846](#) each increase the sales tax from 5% to 6%, but allocate the revenue differently. [HB 393](#) allocates 8.33% of the sales tax revenue (equivalent to one-half cent of the sales tax rate) after certain deductions to mass transit, while [HB 846](#) allocates 16.67% of sales tax revenue (equivalent to one cent of the sales tax rate) to an Education Trust Fund, established in the bill, for elementary and secondary education programs first enacted in the Bridge to Excellence in Public Education Act in 2002. Currently, sales tax revenue goes to the State’s General Fund.

There are now two bills extending the sales tax to services before the General Assembly, [HB 448](#) and the recently introduced [HB 1022](#). The latter bill applies the sales tax to services related to home moving, tanning, tattoo or body piercing, self-storage, and swimming pool cleaning.

A tax credit measure, [HB 517](#), allows a \$750 income tax credit to a commercial oyster licensee who participates in an approved oyster restoration activity such as planting oyster shells to improve oyster habitat or dredging to clean silted oyster bars.

GAMING, RACING, AND SPORTS

Recently introduced, [SB 950](#), the Education Funding Act of 2007, allows up to 15,500 video lottery terminals (slot machines) at 4 racetrack sites and 3 non-racetracks sites in the State. Proceeds will be distributed as follows: 4.3% (5% the first year) to the State Lottery Commission to cover costs; 5% in a local development grant to the county in which a video lottery facility is located; 5.8% to the Purse Dedication Account (5.1% the first year); and the rest to the Education Trust Fund.

HEALTH CARE AND HEALTH INSURANCE

Concerns about the health consequences of trans fat in food preparation are addressed in [HB 91](#), recently before a House committee. The bill prohibits food containing artificial trans fat from being stored, distributed, held for service, used in preparation of any menu item, or served in any food service facility as of October 1, 2008. The prohibition does not apply to food served directly to

patrons in the original sealed manufacturer's package. A violation does not affect a facility's license or impose a fine or imprisonment.

Amended versions of two Administration health care initiatives have passed the House. Among the issue areas the Task Force on Health Care Access and Reimbursement ([HB 138](#)) is charged with examining are reimbursement rates and payments to physicians and health care providers, as well as uncompensated care provided in the State. The other initiative ([HB 140](#)) extends the sunset date of the Statewide Advisory Commission on Immunizations until 2010 and specifically requests the Commission to study and make recommendations on the development of a universal vaccine purchasing system, as well as an update on the status of the use of thimerosal, a preservative, in vaccines.

REAL PROPERTY, ESTATES, AND TRUSTS

Having passed both the House and the Senate, [HB 172](#) is on its way to be signed by the Governor. This bill prohibits the creation of new residential ground rents. The owner of a fee simple or leasehold estate in residential property that is used, intended to be used, or is authorized to be used for four or fewer dwelling units may not create a reversionary interest in the property under a ground lease or sublease for a term of years renewable forever subject to the payment of a periodic ground rent. The companion bill, [SB 106](#), was before a House committee this week.

STATE GOVERNMENT

Administration legislation migrating to the opposite chamber establishes a BRAC Subcabinet to address the influx of personnel into Maryland under the federal Base Realignment and Closure recommendations ([SB 110/HB 136](#)). The Administration's StateStat proposal ([SB 102](#)) is poised to pass the Senate. The companion bill ([HB 137](#)) remains in a House committee.

The State Employees' Rights and Protections Act of 2007 ([SB 2](#)) passed the Senate with amendments. The bill, resulting from the Special Committee on State Employee Rights and Protections, generally requires the designation of at-will positions that must be filled with and without regard to political affiliation, belief, and opinion. The companion measure is [HB 162](#).

The Senate also approved [SB 50](#) that relates to the duties of the Governor's Appointments Office. The crossfiled measure is [HB 161](#).

A Senate committee took testimony this week on the resolution ([SJ 6](#)) expressing regret for the role that Maryland played in instituting and maintaining slavery and for the discrimination that was slavery's legacy. [HJ 4](#), a late introduction, on the same subject does not have a House hearing date.

This week the sponsor withdrew the bill dealing with setting up a task force to study the State's Open Meetings law ([HB 612](#)).

TRANSPORTATION

Legislation introduced for the past two sessions addressing traffic congestion on the Chesapeake Bay Bridge has failed again this year. [SB 40](#) would have required the Maryland Transportation Authority (MdTA) to stop collecting tolls if traffic approaching the bridge was so congested that eastbound vehicles were waiting 30 minutes or longer to cross. MdTA would have resumed collecting tolls when the congestion eased.

Banning drivers from activities that are distracting has also been a major concern for many years. This year [HB 86](#) and [HB 174](#) did not fare any better than previously. The measures would have prohibited the driver of a motor vehicle that is in motion from using a "hand-held" wireless communication device. The measures also would have banned any use of a wireless communication device for school bus drivers who are in motion with passengers, or use by a person 18 years or older who has a learner's instructional permit or provisional driver's license. There are, however, similar measures ([SB 44](#), [SB 30](#), [HB 1127](#)) still waiting for committee action.

Another measure ([HB 205](#)) that did not make it through the committee process would have required the driver of a motor vehicle to yield the right-of-way to a pedestrian in a parking lot.