



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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GREEN BAG APPOINTMENTS

On Friday, February 15, the “Green Bag” appointments were delivered to the President of the Senate during the morning session. The Maryland Constitution requires the Governor to submit to the Senate nominations of civil officers for confirmation “within forty days” from the beginning of each regular session. Since the 40th day falls on Sunday, February 17, the bag was delivered on Friday.

The green leather bag is embossed with the Maryland Great Seal and is modeled on the green bags used by English barristers of old to convey official documents. Except for the annual presentation ceremony, the Green Bag resides at the State Archives.

SPEAKER’S MEDALLION AND THOMAS KENNEDY AWARDS

In conjunction with the Speaker’s Society, established in 1995 for current and former delegates to meet together annually, several awards were created to recognize Marylanders of merit. The Speaker’s Medallion is given in memory of Thomas Kennedy, a former member of the House, for his courageous stand on principle. Through Kennedy’s efforts, in 1826 the General Assembly extended the same rights and privileges enjoyed by Christians to people of the Jewish religion. Sister Helen Amos, RSM, Sisters of Mercy was chosen as the recipient of the 2008 Speaker’s Medallion.

Sister Amos, currently Executive Chair, Board of Trustees of Mercy Medical Center in Baltimore, has been for 30 years an active advocate for the betterment of the quality of the Maryland community with special emphasis on initiatives in education and public health, including women’s health and medicine.

The Speaker’s Society also presents an annual Thomas Kennedy Award to a former House member for personal courage and dedication to the principles of liberty and freedom. This year the award went to United States Senator Benjamin L. Cardin. Senator Cardin was a member of the Maryland House of Delegates from 1967 to 1986 and Speaker from 1979 to 1986. He then ran successfully for Maryland’s Third Congressional District seat in 1986 and subsequently was elected to the Senate in 2006.

COURTS AND CIVIL PROCEEDINGS

A Senate committee heard testimony this week on the following marriage-related bills:

- [SB 290](#) (Religious Freedom and Civil Marriage Protection Act) declares that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland and that a church official is not required to solemnize a marriage in violation of the official’s right to the free exercise of religion;
- [SB 689](#) replaces the term “marriage” with the term “domestic partnership” in those portions of Maryland law that specify requirements for a valid marriage and establish marriage licensing and ceremony performance requirements. The bill defines a valid domestic partnership as one that takes place between two individuals who are not otherwise prohibited from entering a domestic partnership and establishes that parties to a domestic partnership have all the same benefits, protections, and responsibilities as are granted to spouses in marriage, whether they are derived from law, court rules, regulations, policy, common law, or any other source of civil law;
- [SB 168](#) authorizes “covenant marriage” in which a man and woman agree to participate in premarital counseling, make all reasonable efforts to preserve the marriage, and accept limited grounds for divorce; and
- [SB 169](#) (Maryland’s Marriage Protection Act) establishes by constitutional amendment that only a marriage between a man and a woman is valid in the State and a civil union or relationship between persons of the same sex, by whatever name or title, that confers the benefit of marriage is not valid in the State.

The House will hold hearings on a slate of marriage-related bills in two weeks, including [HB 848](#) (companion bill to [SB 689](#)), [HB 351](#), and [HB 1345](#) (similar to [SB 290](#) and [SB 169](#), respectively), and [HB 631](#) that changes the term “marriage” to “civil marriage” in the law while not affecting religious marriage ceremonies.

Denied committee approval this week, [HB 262](#) would have authorized the Secretary of Human Resources to establish an alternative response to selected reports of child abuse or neglect allowing the department to respond to allegations of child abuse or neglect based on the level of risk to the child.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Both the House and the Senate held hearings this week on legislation seeking to expand the requirement to collect DNA samples from individuals convicted of a felony, fourth degree burglary, or breaking and entering into a vehicle to include individuals arrested for:

- a felony, fourth degree burglary, or breaking and entering into a vehicle ([SB 333](#));
- a crime of violence, burglary, or breaking and entering into a vehicle (Administration bills [SB 211/HB 370](#)); and
- a sexual offense or kidnapping ([SB 575/HB 729](#)).

Abuse or neglect of an animal is a misdemeanor punishable by 90 days in jail or a fine of up to \$1,000 or both. [HB 378](#), heard in committee last week, increases the maximum penalty to be 180 days in jail and a \$2,000 fine. The bill also increases the maximum penalty for the felony crime of aggravated cruelty to animals from 3 years in jail and a \$5,000 fine to up to 5 years in jail, with a mandatory minimum sentence of 1 year that may not be suspended, and a \$10,000 fine. A person convicted of either crime must participate in and pay for psychological counseling.

Bills receiving unfavorable reports in committee this week include:

- [HB 34](#) that would have removed the entitlement to diminution credits for prisoners serving time in a State prison or local jail for committing a violent crime and would have increased the mandatory minimum sentence for first degree rape and first degree sexual offense committed against a child under 13 by a person 18 or older; and
- [HB 161](#) that would have authorized the temporary suspension of the driver's license of a person convicted of malicious destruction of property by graffiti.

ECONOMIC AND BUSINESS ISSUES

This week Senate committees heard two bills related to Maryland's immigrant population. [SB 475](#) establishes a Commission to Study the Impact of Immigrants in Maryland. The Commission, led by a research team staffed by the University of Maryland, College Park, would study the immigrant population's demographic and socioeconomic profiles, as well as the economic and fiscal impact of documented and undocumented immigrants on the State.

More specifically focused on the impact of illegal immigrants on the State, [SB 52](#) proposes a Task Force to Study the Cost of Illegal Aliens in Maryland. The Task Force, staffed by the Department of Business and Economic Development, would study the fiscal impact of illegal aliens on the State and make recommendations regarding legislation relevant to the Task Force's findings.

EDUCATION

To encourage enrollment and a growing healthcare workforce, [SB 146](#) revises existing law aimed at recruiting out-of-state nursing students. Currently, nonresident students may enroll in a Maryland program at in-state tuition rates if they agree to work in Maryland for four years after graduation. In order to quickly infuse the healthcare workforce, many institutions have implemented accelerated programs that graduate nurses in less than four years. In response, [SB 146](#), which has passed second reading, requires one year of service to the State in exchange for each year a nonresident is enrolled in a Maryland school at in-state rates.

Residents and activists in some communities surrounding certain universities are concerned that housing regulations limiting the number of unrelated persons living inside of a single family domicile are not being enforced, resulting in a negative impact on the quality of life in the area. [HB 184](#) will provide grants from the Department of Housing and Community Development to fund salaries of additional zoning and code enforcement authorities to ensure that code is being met in affected areas with a large college student population.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Testimony was heard this week on [HB 388](#), which prohibits the use of pozzolan (fly ash), a by-product of coal-burning power plants, for landfill, soil

improvement, agriculture, soil conditioning, or land reclamation and requires that pozzolan be disposed of in a permitted refuse disposal system.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

[HB 417](#) has passed the House. The bill authorizes the Commissioner of Financial Regulation to enter into cooperative and information-sharing agreements with any federal, State, or municipal regulatory or law enforcement agency that has authority over financial institutions. Sponsors believe that the commissioner's current limited authority to enter into agreements should be expanded to respond to a growing need for information sharing in order to prevent terrorist financing, money laundering, mortgage fraud, and illegal lending activities.

Several pieces of legislation have been introduced with regard to consumer protection and credit cards. [HB 1210](#) prohibits credit card issuers from distributing gifts to students as part of a credit card marketing activity on campus; [HB 129](#) and [HB 1108](#) both prevent a person from retaining certain data from credit card transactions after the transaction is completed but each amends different portions of the Commercial Law Article. These bills will be heard by a House committee next month.

FISCAL MATTERS

A number of bills increase taxes on alcoholic beverages by varying amounts. Under [SB 232](#) and [HB 904](#), the alcoholic beverage tax revenue continues to go to the General Fund, but [SB 562/HB 1310](#) dedicate the revenue from the increased tax rates to a new special fund to support increased adult and adolescent addiction and prevention services. Other tax measures under consideration include:

- [HB 189](#) to lower the homeowner's property tax assessment cap for State property tax purposes from 10% to 5%; and
- [SB 406](#) to require the person purchasing property in a tax sale to provide 3 months notice to the foreclosed owner before the purchaser may file a complaint of foreclosure on the right to redeem the property. The bill also caps the attorney fees of the purchaser's attorney at \$500, unless an action to foreclose the right of redemption is filed when the fees are capped at \$1,000.

Additional legislation related to tax sales increases the minimum amount of delinquent taxes or fees due before

the property may be sold at a tax sale ([HB 796](#), [SB 854/HB 1211](#), [SB 478/HB 1276](#)). The current amount is \$100. Another proposal ([SB 688](#)) prohibits a tax sale for unpaid water, sewer, or other sanitary system bills.

HEALTH CARE AND HEALTH INSURANCE

Public testimony was given last week on Connor's Law ([HB 204](#)). The bill requires the Secretary of Health and Mental Hygiene to adopt regulations that require owners of specified swimming pools to have one lifeguard on duty for each group of 25 individuals or fewer in the water at a given time. The bill is named in memory of a five-year-old boy who drowned in a country club pool in Anne Arundel County in 2007. Connor's parents won a judgment of \$4 million against the pool management company with the claim that the company did not post enough lifeguards or sufficiently train those on duty.

Companion bills regarding HIV testing for pregnant women have been introduced. [SB 826/HB 991](#) require prenatal care providers to inform each pregnant patient that she will be tested for HIV infection as a part of routine prenatal blood tests. Language in the bill allows the patient to decline testing, but the refusal is documented in the patient's record. The bill also alters the requirements for providers to obtain informed consent for HIV testing.

A number of bills have been introduced pertaining to pharmacy benefits managers (PBMs), individuals who administer and manage prescription drug benefit plans for a variety of organizations. Approximately 95% of all patients with prescription drug coverage receive benefits through a PBM. The House bills were the subject of a committee's deliberations last week:

- [SB 720/HB 580](#) establishes requirements for members of a pharmacy and therapeutics committee of a PBM;
- [SB 722/HB 419](#) require a person to register with the Maryland Insurance Commissioner before the person represents themselves as a PBM in the State;
- [SB 723/HB 343](#) prohibit a PBM to substitute one prescription drug in place of the one prescribed, unless certain conditions are met;
- [SB 724/HB 120](#) require a PBM to disclose certain information to purchasers and prospective purchasers and establishes certain requirements for disclosure practices;
- [SB 725/HB 257](#) require a PBM to enter into contracts with pharmacy providers under specified

circumstances and provide for the requirements for these contracts; and

- [SB 726/HB 243](#) allow for the insured or certificate holder to obtain pharmaceutical benefits from the pharmacy or pharmacist of their choice within any pharmacy network, among other provisions related to reimbursements and copayments.

Legislation directed toward assisting Maryland's veterans this session includes Administration bills ([SB 210/HB 372](#)) that establish behavioral health service coordination among the Department of Health and Mental Hygiene, the United States Department of Veterans Affairs, the Maryland Department of Veterans Affairs, the Maryland National Guard, and the Maryland Defense Force for veterans of the Afghanistan or Iraq conflicts. To date, Maryland has over 10,000 veterans of the Afghanistan and Iraq conflicts. By the end of 2008, an estimated 5,000 more will return to the State. These bills address the facilitation of ensuring support services for veterans to make a smooth transition from military to civilian life. Hearings are scheduled for next week for both bills. Additionally, companion bills "Veterans of Afghanistan and Iraq Mental Health Pilot Program" ([SB 872/HB 984](#)) provide for inpatient and outpatient mental health services for these veterans.

TRANSPORTATION

Certain "road rage" offenses are the subject of [HB 1348](#), recently dropped in the House hopper. The bill makes it a motor vehicle offense to maliciously violate certain provisions of the Maryland Vehicle Law. A person found guilty of violating with malicious intent existing provisions related to overtaking and passing vehicles, driving in single lane when required, following too closely, stopping or decreasing speed, driving at a slow speed that impedes traffic, or provisions related to limitations on backing may receive a fine of not more than \$2,000, or if the violation contributes to an accident, the penalty would be a fine of not more than \$2,000, imprisonment of not more than 2 months, or both.

[HB 191](#) was aired on the House side recently. The bill requires the Motor Vehicle Administration (MVA), as part of its driver's license examination, to test each applicant for an original or provisional license who is younger than 21 for the presence of alcohol or an unlawful controlled dangerous substance. This requirement may not be waived by MVA. Upon a positive test result, the applicant is not entitled to a driver's license or provisional driver's license, and MVA is required to suspend the privilege to drive for six

months. Any licensee or applicant whose privilege is suspended is entitled to a hearing under regulations to be developed by MVA. Most of the other legislation related to underage driving privileges and restrictions is scheduled for committee hearings later this month or in early March ([SB 345](#), [SB 460/HB 511](#), [SB 461/HB 695](#), [SB 610](#), [SB 661/HB 874](#), [HB 1281](#), [SB 865/HB 1313](#), and [HB 1426](#)).

ROBERT A. ZARNOCH

On Friday, February 15, the Senate with the recommendation of the Executive Nominations Committee confirmed Robert A. Zarnoch to a seat on the Court of Special Appeals. The court is an appellate court established in 1966 to ease the caseload of the Court of Appeals, Maryland's highest court, and to facilitate resolution of cases requiring appellate adjudication.

Since 1979, Zarnoch has been the Attorney General's Chief Counsel for Legislation and Counsel to the Maryland General Assembly. At the close of this distinguished career, Zarnoch was called to the Senate podium to receive accolades and a standing ovation. "Bob Zarnoch's knowledge of Maryland law and legislative history is unsurpassed in the State," said Senate President Thomas V. Mike Miller. Earlier, Speaker Michael E. Busch, who praised Zarnoch on behalf of the House of Delegates, stated, "Over the years, his counsel has been invaluable to the legislature, and I am confident that he will serve the State with similar distinction as a judge."

Under the Maryland Constitution, the Attorney General is charged with the responsibility of rendering legal advice to the General Assembly (Article V, Section 3). To better fulfill that responsibility, the Office of Counsel to the General Assembly is located in Annapolis. The office renders legal advice with respect to requests from legislators and committees and may be used by members, committees, and task forces of the legislature, their staff, and the Department of Legislative Services as a liaison between the legislative branch and the Attorney General's staff assigned to various State agencies. As well, the office is primarily responsible for coordinating the review of all passed legislation for constitutionality and for preparing the Attorney General's bill review letters that are submitted to the Governor prior to the approval or veto of the bills. The office also defends legislators and legislative staff who are sued or subpoenaed for official actions and goes to court to defend the constitutionality of legislation challenged by litigation.

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