



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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COURTS AND CIVIL PROCEEDINGS

Court-appointed Interpreters

Proposals affecting judicial authority have had recent committee hearings. [SB 256](#) prohibits a court from dismissing a criminal proceeding based on a violation of a defendant's right to a speedy trial for failure to provide a qualified interpreter, unless the court holds a hearing and makes detailed written findings that the court has no reasonable alternative but to dismiss the case. Other legislation ([SB 42/HB 640](#) and [HB 659](#)) allows a judge, when issuing a temporary protection order, to order the surrender of any firearm in the possession of a respondent for the duration of the protection order. Judges have this authority now when issuing a final protection order.

Legal Advertisements

Currently, a newspaper or similar publication must be for sale and eligible for entry as second-class matter in the U.S. mail in order to meet the requirements for legal advertisement or notice in a newspaper or similar publication. [HB 311](#) eliminates this requirement, allowing public notice advertising to be placed in newspapers that are distributed for free. The bill had a hearing last week. The companion measure is [SB 337](#).

Sexual Child Abuse

A proposal ([HB 858](#)) extends the statute of limitations for civil actions relating to sexual child abuse from until the victim reaches the age of 25 to until the victim reaches the age of 50. In addition, a victim, no matter what age, may file an action before December 31, 2009, provided the victim obtains and files a certificate of merit from the victim's attorney and a psychiatrist or psychologist. The proposal is waiting for a hearing.

Driver's License Suspension

[HB 632](#) (failed) would have automatically suspended the driver's license of a child support obligor who received 3 driver's license suspension notices within a 2-year period for nonpayment of support and whose child support payment is 30 days or more in arrears.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

House Action

The House passed:

- [HB 353](#) to require a person who commits the misdemeanor crime of destroying a funerary object or plant in a cemetery to pay for the restoration of the damaged or defaced property to the property's owner or the cemetery's owner;
- [HB 719](#) to increase the penalty for attending a cockfight or dogfight from a maximum of 90 days in jail and a \$1,000 fine to a year and \$2,500. The crime remains a misdemeanor under the bill, which is now identical to its companion bill ([SB 44](#)) passed by the Senate last week; and
- [HB 436](#) to increase the maximum jail time for a first offense of the crime of possession of child pornography, a misdemeanor, from 2 years to 5 years and to make a subsequent offense a felony earning a maximum imprisonment of 10 years, up from the current 5.

Domestic Violence

[HB 980](#), heard by committee members earlier, establishes the felony crime of assault by burning, with a maximum penalty of 30 years in jail and a \$50,000 fine. The crime is also classified as a "crime of violence," with subsequent convictions earning mandatory minimum sentences. Other legislation targeting domestic violence also had recent hearings:

- [HB 181](#) makes it a misdemeanor to violate a condition of pretrial release that requires a defendant to have no contact with the alleged victim or the alleged victim's premises or place of employment, with a maximum penalty of a \$1,000 fine and 90 days in jail for a first offense, and a \$2,500 fine and 1 year in jail for a second or subsequent offense. A law enforcement officer is required to arrest a person who the officer has probable cause to believe is in violation of this condition (companion bill [SB 394](#));
- [HB 182](#) requires that the relief granted in a final protective order is permanent if the respondent is

convicted and sentenced to imprisonment for attempted murder in the first or second degree or assault in the first or second degree for the underlying act of abuse (the companion bill is [SB 393](#));

- [HB 1116](#) allows a court, in a county that implements a global positioning satellite tracking system program, to suspend the sentence of a person convicted of violating an interim, temporary, or permanent protective order and to place the person on probation on the condition that the person is supervised by an active electronic monitoring system and is responsible for paying the fee for the monitoring (the companion bill is [SB 700](#)); and
- [HB 1257](#) allows a court, under an interim, temporary or final protection order, to order the respondent to stay away from, or refrain from cruelty toward, the pet or service animal of the person eligible for relief or of a family member. The bill also expands the crime of stalking to include conduct that places a person in reasonable fear that the person's pet or service animal likely will suffer cruelty or aggravated cruelty (the companion bill [SB 615](#)).

Department of Juvenile Services (DJS)

A House committee is considering [HB 622](#) that establishes a Redirection Pilot Program in DJS to reduce by 50% the number of children placed by the department in per diem residential placements, including foster homes, group homes, drug treatment programs, and out-of-state placements. DJS must assess a child's eligibility for evidence-based therapeutic programs, such as multisystemic therapy or functional family therapy, when a child is adjudicated delinquent and is at risk of placement in a per diem residential placement. If eligible, DJS must seek approval from the juvenile court to divert the child to an appropriate evidence-based therapeutic program.

ECONOMIC AND BUSINESS ISSUES

Fallen Soldier Privacy Act

An amended version of [HB 64](#), known as the Fallen Soldier Privacy Act of 2008, passed in the House and moved to the Senate this week. As amended, the bill prohibits for a period of 50 years knowingly using the name, portrait, picture, or image of an active duty military member who has been killed in the line of duty in certain commercial advertisements without the prior consent of the soldier or the surviving spouse, personal representative, or majority heirs of the deceased soldier. Certain provisions are specified where the act would not

apply, including certain live performances, exhibitions, and noncommercial uses. Other states including Arizona, Louisiana, Oklahoma, and Texas have passed similar laws.

Nanobiotechnology Research

Hearings were held this week for [SB 735/HB 1409](#), which propose the establishment of the Coordinating Emerging Nanobiotechnology Research in Maryland Program (CENTR) and Fund. Administered by the Maryland Technology Development Corporation (TEDCO), the CENTR program and fund would facilitate advanced nanobiotechnology research at higher education institutions and promote Maryland as a key location for private-sector firms in the industry, in part by establishing new research centers and fostering public-private partnerships. The emerging field of nanobiotechnology combines life sciences and engineering and is of interest to the pharmaceutical industry and computer chip manufacturers. The bill encourages the Governor to include at least \$5 million in the State budget for the CENTR in addition to any funds already appropriated to support nanobiotechnology development.

Omnibus Coastal Property Insurance Reform Act

In recent years, a number of large insurance companies have made decisions to stop offering property insurance in coastal areas due to an increased risk of hurricane damage linked to rising ocean temperatures. This trend began in Florida after 1992's Hurricane Andrew, a category-five hurricane that caused an estimated \$26.5 billion in damage. Recently, a number of insurance companies including Allstate, Liberty Mutual, Nationwide Mutual, and State Farm have decided to stop offering property insurance in Mid-Atlantic coastal areas, including many counties in Maryland.

This week a House committee considered [HB 1353](#), the Omnibus Coastal Property Insurance Reform Act. The bill prohibits an insurer from excluding coverage for specific dangers in a contract of motor vehicle, property, or casualty insurance solely because the subject of the risk or the policy holder's address is located in a certain geographic area of the State, with certain exceptions specified. Under the bill, insurers may exclude certain perils from coverage under a policy based on geographic area provided that the insurer has adopted a written underwriting standard designating the geographic area and the underwriting standard has been filed with and approved by the Commissioner of Insurance. Currently, the approval of the Commissioner is not required for an insurer to change underwriting policies in order to implement geographic coverage restrictions.

Minority-Owned Automobile Dealerships

A House committee heard a proposal this week to establish the Task Force to Study the Dearth of Minority-Owned Automobile Dealerships in Maryland ([HB 897](#)). Staffed by the Department of Business and Economic Development, the task force would be charged with determining the number of minority-owned automotive dealerships in Maryland, comparing the number of minorities who purchase automobiles to the number of minority-owned dealerships, and making recommendations on methods to increase the number of minority-owned dealerships.

EDUCATION

Elementary/Secondary Education

With [SB 519](#), a student victim of a violent crime perpetrated by another student on or in transit to school grounds or at a school sponsored event may request that the offender be transferred to another school in the same county. Currently, a victim of violent crime by a classmate may request to be transferred. [SB 519](#) gives the victim the choice of relocating themselves or the offender. The companion bill is [HB 920](#).

Public schools may provide access about students and student contact information to educational and career opportunity organizations, but these organizations must include military recruiters in order to qualify for funding under the federal No Child Left Behind Act. Under the federal law, parents and students may opt out of providing contact information to recruiters. However, school systems currently use a variety of methods to communicate this option. [SB 428](#) will standardize communicating the choice by placing check boxes on emergency contact forms for students with the option to allow or not allow release of contact information to military recruiters.

[SB 229](#) (failed), which would have placed a minimum of 65% of a school's funds to be spent on direct classroom expenditures, failed in committee.

Nursing Service Obligation

Recently, [SB 146](#) passed the Senate and crossed over to the House. The bill reduces the service out-of-state nursing students receiving in-state tuition are obligated to give back to Maryland. Currently the obligation is to work in Maryland for 4 years after graduation. [SB 146](#) redefines this as 1 year of service for each year of reduced tuition received.

Undocumented Immigrants

Several bills regarding postsecondary education tuition rates for undocumented immigrants are under consideration. [SB 591](#) and a similar [HB 1236](#) both provide the ability for undocumented immigrants to qualify for an exemption from paying nonresident tuition provided they meet several qualifying factors. Some of the factors an undocumented individual must meet to receive tuition reduction include:

- attendance at a Maryland secondary school for at least 2 years;
- graduation from a high school in Maryland or receipt of the equivalent of a high school diploma in the State; and
- registration to attend a higher education institution within 3 years of graduation.

If a student qualifies for the exemption, the student must also provide an affidavit stating that an application for permanent residency will be filed within 30 days of becoming eligible to do so.

Conversely, [SB 40](#) would prohibit Maryland higher education institutions from classifying an individual as a resident for tuition remission if the individual cannot provide legal documentation for lawful residency in the United States. An additional bill, [SB 84](#), limits many of the public benefits or services undocumented immigrants may receive from the State, unless the benefit or service is required by federal law. Eligibility for nonresident tuition or fees is prohibited.

[HB 184](#) (failed), "Public Safety – Public Senior Higher Education Institutions – Housing Code Enforcement – Funding," received an unfavorable vote by a committee. The bill would have increased funds to housing code enforcement officers in areas that are adversely affected by the student population of public institutions of higher education.

ELECTIONS AND ETHICS

Amendment to the Maryland Constitution

The Senate approved and sent to the House legislation that amends the Maryland Constitution to specify that an individual who is a citizen of the United States, is a resident of the State as of the time of the close of registration preceding an election, and is at least age 18 or will be age 18 on or before the day of the next succeeding general or special election is entitled to vote ([SB 201](#)). If approved by the General Assembly, the proposed constitutional amendment will be on the ballot

at the 2008 general election and if then approved by the voters the amendment will establish the constitutionality of the practice in the past, pursuant to State election law and an assumption that Article I, §1 of the Maryland Constitution only applied to general elections, that allowed an individual who would be age 18 by the time of the next general election to register prior to and vote in the preceding primary as a 17 year old.

Court of Appeals Decision

Article I, §1 of the Maryland Constitution states that “[e]very citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which he resides at all elections to be held in this State.” A February 2008 Maryland Court of Appeals order indicated that, while Art. I, §1 applies to primary elections, the voter eligibility provisions of that section are not in conflict with, and do not prohibit the General Assembly from establishing, the existing age-related provisions of voter registration eligibility requirements under State election law, thus allowing an otherwise qualified individual who is age 18 or will be on or before the day of the next succeeding general or special election to register to vote.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Poultry Litter

A bill designed to increase the use of poultry litter as an energy source by classifying it as a Tier 1 renewable resource, [SB 348](#), has moved to the opposite chamber. As amended, the bill requires a connection with the electric distribution grid serving Maryland. A hearing is scheduled for the crossfiled bill, [HB 1166](#), on March 4.

Energy Efficiency

Testimony now has been given on several bills that require State government to be more energy conscious:

- [SB 208/HB 376](#) require new State buildings and renovations, including state-funded school construction to use energy-efficient techniques;
- [SB 342](#) requires a percentage of state-owned vehicles to be flexible fuel vehicles capable of using gasoline or blends of gasoline and ethanol beginning in fiscal 2010;
- [SB 343](#) increases the requirement for the use for biodiesel fuel in state-owned vehicles beginning in fiscal 2010; and

- [SB 474](#) reduces the State motor fuel tax for biodiesel fuel that is purchased for use in county or municipal government-owned vehicles.

Shoreline Stabilization and Air Quality

Among other bills recently at the committee hearing stage of the legislative process:

- [HB 973](#) requires that improvements to protect property from erosion must consist of nonstructural shoreline stabilization measures that preserve the natural environment;
- [SB 590](#) extends the statute of limitation to three years after the Department of Environment knew or reasonably should have known about a violation; and
- [SB 442](#) changes the maximum air quality emissions-based permit fee and provides that money in the Maryland Clean Air Fund may not revert or be transferred to the general fund.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

[HB 417](#), which authorizes the Commissioner of Financial Regulation to enter into cooperative and information sharing agreements and to exchange specified information with specified federal, State, or municipal regulatory or law enforcement agencies, recently passed the House of Delegates. A hearing has not yet been scheduled in the assigned House committee.

FISCAL MATTERS

Retirement Income

Legislation ([HB 549](#), [SB 315](#), and [SB 625](#)) to increase the current \$5,000 military retirement pay income tax exemption is moving through the process. [HB 549](#) and [SB 625](#) increase the exemption to exclude all military retirement pay, with [HB 549](#) applying to income received in 2008 and subsequent years. [SB 625](#) does not take effect until 2010 and exempts income received during that and subsequent years. [SB 315](#) phases in over 3 years an exemption for all military retirement income for those with federal adjusted income of \$50,000 or less and phases in an exemption of 50% of military retirement income for those with federal adjusted income greater than \$50,000.

The “Hometown Heroes Act of 2008” provides that retirement income of retired federal, State, and local law enforcement officers, firefighters, and emergency

services workers is included under the existing State pension exclusion if the recipient is at least 50 years old ([SB 581/HB 1120](#)).

Cigarette Taxes and Commercial Property Assessments

Additional fiscal measures include:

- [SB 383](#) to impose the cigarette tax on little cigars and imposes a tobacco tax on moist snuff of \$.54 per ounce. The bill also requires little cigars be sold in packages of at least five; and
- [SB 676/HB 612](#) to establish commercial waterfront property as a separate subclass of real property for tax assessment purposes and requires the property to be assessed on its use, instead of its market value.

Budget Bill Decisions

The Senate committee charged with reviewing the Budget Bill, [SB 90](#), is concluding its hearings and will be making decisions on the budget next week. The Budget Bill is scheduled to be brought to the Senate floor for full chamber consideration on Monday, March 10.

GAMING, RACING, AND SPORTS

Two companion emergency bills titled “Statewide Phase-Out of Electronic Gaming Devices” were introduced just this week. [SB 959/HB 1576](#), define electronic gaming devices and seek, with certain exceptions, to prohibit the purchase, lease, sale, transfer, replacement, licensure, or operation of these devices.

Video gaming devices are also the subject of [SB 838](#), which gathered public testimony this week. The legislation requires the Attorney General to institute a declaratory judgment proceeding to determine the validity of approximately 1,000 video gaming devices currently operating in St. Mary’s County. Among several decisions requested about video gaming devices, [SB 838](#) asks if the devices should or should not be considered slot machines.

HEALTH CARE AND HEALTH INSURANCE

Advance Directives

[HB 510](#), an extension of the existing Maryland Health Care Decisions Act, allows advance directives to be signed electronically. Maryland advance directives permit an individual to select a health care agent, give health care instructions, or both. In current law, advance directives must be signed by two witnesses, at least one of whom would not benefit financially from the

individual’s death and they may take two forms. The first is a witnessed written document voluntarily executed by the individual and the second is a witnessed oral statement by the individual. [HB 510](#) establishes that an electronic signature has the same effect as the written or oral agreements. The electronic signatures must use an algorithm approved by the National Institute of Standards and Technology and be unique to the individual using the signature, among other requirements. The bill has passed the House.

Other Health-related Legislation

Action was taken on several other health-related bills in the past week:

- [HB 62](#), containing prohibitions on lead-containing products for both children’s toys and other consumable products, has passed the House. A companion bill, [SB 97](#), has had a hearing but has not yet been reported out of committee;
- [SB 65](#) (failed), to extend coverage to child dependents in the Comprehensive Standard Health Benefit Plan (CSHBP), received an unfavorable committee vote. The bill would have expanded legislation passed in 2007 that requires insurers, nonprofit health service plans, and HMOs to allow a child dependent (as defined in federal law) to remain on an insured’s plan until age 25. This law does not currently apply to CSHBP; and
- [SB 98/HB 69](#) (failed), the Prosthetic Parity Act, received an unfavorable Senate committee vote and the House legislation was withdrawn. The bills would have required insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for prosthetic devices at least equivalent to coverage specified in federal laws and regulations.

HUMAN RESOURCES

Testimony was taken this week on [HB 1300](#) that conditions eligibility for temporary cash assistance (TCA) on submitting to drug testing. Applicants for and recipients of TCA who fail to submit to testing or who test positive are prohibited from receiving services until certain criteria have been met. If a recipient tests positive for use of a controlled dangerous substance, assistance resumes once the recipient successfully completes a drug abuse treatment program or after 90 days if treatment is unavailable and a subsequent drug test is negative. TCA immediately resumes once the recipient tests negative for drug use. An applicant who tests positive may reapply for temporary cash assistance upon successfully

completing a drug abuse treatment program or after 90 days if treatment is unavailable and a subsequent drug test is negative.

REAL PROPERTY, ESTATES, AND TRUSTS

The Maryland Uniform Power of Attorney Act, amended to add the designation of Loretta's Law, establishes a clear and comprehensive set of rules governing powers of attorney. The Act contains safeguards for the protection of the principal, the agent, and persons who are asked to accept a power of attorney. [SB 87](#) passed the Senate, while its crossfiled bill, [HB 412](#), has been heard by a committee in that chamber. Loretta's Law refers to Loretta Soustek, a Pasadena woman suffering from dementia, who died last month. Ms. Soustek's niece was convicted of stealing \$449,000 from Ms. Soustek by improperly using a power of attorney prior to Ms. Soustek's death. The provisions of legislation that had been introduced directly on behalf of Ms. Soustek ([SB 663/HB 1357](#)) are covered by [SB 87/HB 412](#).

TRANSPORTATION

Several bills advanced through the process this week:

- [HB 114](#) to establish an All-Terrain Vehicle Safety Task Force passed the House. The Senate measure, [SB 28](#), passed that body earlier and is in the House;
- [SB 538](#) to prohibit the Maryland Transportation Authority from fixing or revising a toll on any part of any transportation facilities project unless the General Assembly approves the toll through legislation was before a Senate committee; and
- [SB 412](#) to establish a Task Force to Study Changes to the Automotive Warranty Enforcement Act, passed the Senate. The Warranty Enforcement Act, also known as the "lemon law," provides legal remedies to anyone who purchases a new car, small truck, or multipurpose vehicle (including motorcycles). The Act also applies when a vehicle is transferred to another person during the vehicle's warranty period.

[HB 380](#) (failed) received an unfavorable committee vote. The bill would have prohibited the use of a text messaging device to write, send, or read a text message while driving.