



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## SINE DIE

Legislative activity for the 2009 session is nearing its peak as *sine die* (April 13 at midnight) approaches. At this point in each session, legislation that may pass usually is under committee consideration in the opposite chamber or on the appropriate chamber floor waiting for action, either through third reading passage or conference committee resolution. Passage requires that both chambers agree to exactly the same language or the differences must be resolved. Any measure not passed in identical language by both chambers at *sine die* dies.

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## BILL SIGNINGS

The Governor has scheduled the following bill signing ceremonies to begin at 10:00 a.m. in the Governor's Reception Room, Maryland State House:

- Tuesday, April 14, 2009 (Traditional *Sine Die* Signing);
- Thursday, May 7, 2009; and
- Thursday, May 21, 2009.

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## COURTS AND CIVIL PROCEEDINGS

Limiting the relevance of a disability of a parent, guardian, custodian, or party in certain child in need of assistance proceedings, as well as in custody and visitation proceedings, [SB 613/HB 689](#) (both passed) were approved by the General Assembly this week. The bills also prohibit a local department of social services (LDSS), guardian, or child placement agency from withholding consent to adoption, or a court from denying an adoption petition solely because of a disability. As well, a child may not be committed to the custody or guardianship of a LDSS, and the LDSS may not seek custody of a child, solely because the child's parent or guardian has a disability.

Current law requires that legal proceedings scheduled for specified times be postponed when a member or desk officer of the General Assembly is an attorney of record in the proceeding. [HB 1115](#) (failed) would have expanded the requirement to include a member or desk officer of the General Assembly who is a party to a legal proceeding. The bill died in a Senate committee.

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Final legislative approval was granted to create the crime of knowingly and willfully obtaining by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual's property ([SB 304](#), passed). The crime is a misdemeanor if the value of the property is less than \$500 and a felony if the value is \$500 or more.

Also gaining final passage, [SB 218](#) (passed) requires a person who was adjudicated delinquent as a juvenile for acts involving a victim under the age of 15, which would constitute first or second degree rape or sexual offense if committed by an adult, to register at age 18 or older for inclusion on the State's sex offender registry if the person was at least age 13 at the time the qualifying delinquent act was committed.

Additionally, the State's Attorney or the Department of Juvenile Services must request that the person be required to register, and the juvenile court must determine that the person is at significant risk of committing a sexually violent offense or an offense for which registration as a child sexual offender is required. The term of registration is up to five years, subject to reduction by the juvenile court on the filing of a petition for reduction by the registrant.

Conference committees will attempt to resolve differences between House and Senate versions of:

- [HB 539](#), which regulates the possession, use, and sale of electronic control devices (ECDs) by, among other things, listing criteria that disqualify a person from using or possessing an ECD, requiring ECD registration, and adding criminal penalties for violations of requirements or restrictions; and
- [HB 311](#) (Freedom of Association and Assembly Protection Act of 2009), which restricts police covert investigations involving First Amendment activities by adding requirements for the justification and conduct of covert investigations, including maintenance of intelligence files and databases.

## EDUCATION

### *Teacher Identification Numbers and Standardized Course Number Systems*

With Senate passage, two closely related bills ([HB 587](#) and [HB 588](#), both passed) are ready for the Governor's consideration. [HB 587](#) calls for the creation of unique identification numbers for each public school educator in the State, and [HB 588](#) authorizes the Maryland State Department of Education to create a statewide standardized course numbering system that local schools systems can opt to use. Together, these bills aim to produce a statewide longitudinal education data system that will allow comparisons among local school systems.

### *Financial Literacy*

Legislation ([SB 140/HB 120](#), both passed) addressing the Task Force to Study How to Improve Financial Literacy in the State will also go to the Governor's desk. The amended bills add additional members to the task force, extend the task force to June 2010, and include a December 1, 2009 reporting requirement.

### *Military Children*

The Interstate Compact on Educational Opportunity for Military Children ([SB 257/HB 306](#), both passed) received final passage. The bill facilitates the transfer of children of active duty military parents into Maryland schools from another state.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Oysters and Other Shellfish*

Several bills seeking to preserve the oyster population in State waters passed in both houses:

- [HB 312](#) (passed) makes changes to the State's shellfish leasing program and creates Aquaculture Enterprise Zones for shellfish. Amendments add an aquaculture development surcharge to be used for the development of training and grants for shellfish aquaculture. Amendments also prohibit the harvest of shellfish for commerce or consumption from a demonstration lease area. The crossfiled bill, [SB 271](#), has received preliminary House approval;
- [HB 177](#) (passed) alters the time and condition under which a dealer shall reserve oyster shells and requires the Department of Natural Resources (DNR), in consultation with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, to set the annual fair market value the department will pay for oyster shells and their

transportation and placement under the Oyster Shell Purchase Program. [SB 810](#), the crossfiled legislation, has received preliminary House approval; and

- [HB 103](#) (passed), an emergency measure, alters the date by which DNR is required to apply to the Department of the Environment (MDE) and the United States Army Corps of Engineers for permits to dredge buried oyster shells under specific circumstances. [SB 175](#), the crossfiled bill, has received preliminary House approval.

### *Septic and Sewers*

[HB 1105](#) (passed) prohibits the installation of an individual sewerage system for residential use, defined as a privately owned system of sewers, piping, and treatment tanks, or other facilities, that serves only a single lot for the disposal of sewage and discharges to the surface waters of the State, unless an existing septic system fails and cannot be repaired or replaced by any means and the installation is approved by MDE. Testimony was heard in the opposite chamber on the crossfiled measure, [SB 721](#).

### *Pollution and Recycling*

The legislature passed [SB 553/HB 609](#) (both passed) that prohibit the sale of lawn fertilizer that contains more than 5% of available phosphoric acid, and establishes labeling and reporting requirements.

[HB 595](#) (passed) requires MDE to include in the State recycling program by July 1, 2010, a system to recover aluminum, glass, paper, and plastic generated for disposal in State-operated office buildings in locations where it is determined to be practical and economically feasible.

[HB 1556](#) moved to the Senate. This departmental bill establishes a Coal Combustion By-Products Management Fund and authorizes MDE to impose a fee on coal combustion by-products generated in the State to be used to pay the cost of State monitoring and regulation.

### *Agriculture and Hunting*

With final approval, [SB 73](#) (passed) requires that certain documents relating to the purchase of easements by the Maryland Agriculture Land Preservation Fund remain confidential. Under the bill's provisions, records relating to a landowner's ranking, asking price, or foundation offer will be confidential and not subject to public inspection until after the end of the offer cycle.

[SB 944](#), which requires DNR to establish a program to train sharpshooters for the purpose of controlling the

deer population in Calvert, Charles, and St. Mary's counties, has moved to the House.

[HB 1309](#) (failed) would have expanded the hunting "safety zone" from 150 to 300 yards around a dwelling house, residence, church, or other building or camp occupied by human beings.

#### *Program Open Space*

[HB 1564](#) received preliminary approval in the Senate. The emergency legislation permits local governments to use Program Open Space (POS) funds for indoor recreational facilities, requires the use of green building standards if the facility is at least 7,500 square feet, and mandates the incorporation, to the maximum extent practicable, of specific nonstructural site design practices. The bill also modifies State reimbursement provisions concerning local POS funds. Testimony on the crossfiled measure, [SB 163](#), has been heard in the opposite chamber.

#### *Green Building Council*

[HB 154](#) (passed) expands the responsibilities of the Green Building Council to include providing recommendations on how to expand green building in the State. [SB 212](#), the companion measure, is moving in the House.

#### *Green Jobs*

[SB 856](#) (failed) was reported unfavorably in the opposite chamber. The bill would have established the Green Jobs Workforce Training Program in the Department of Labor, Licensing, and Regulation to prepare individuals for employment in the energy conservation, energy efficiency, and renewable energy sectors.

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## FISCAL MATTERS

Both the Budget Bill, [HB 100](#), and the Budget Reconciliation and Financing Act (BRFA), [HB 101](#), are in conference committees. After several days of discussion, the Senate rejected a proposed floor amendment to the Budget Bill that would have eliminated general funds to any public higher education institution permitting a public screening of a pornographic film meeting certain criteria after a specified date, with an exclusion for films shown in an academic class. Subsequently, in further discussion, the Senate upheld the President's ruling that a proposed amendment to the capital budget bill, [HB 102](#), concerning pornography does not relate to the capital budget and therefore is out of order. The proposed amendment would have prohibited the expenditure of any public funds at a public institution of higher

education until its governing board develops a policy addressing the social and health concerns associated with showing pornographic films at the institution.

The Governor submitted a second supplemental budget that adds \$792.5 million in federal stimulus funds to the Budget Bill (\$718.9 million for fiscal 2010 and \$73.7 for fiscal 2009). Most of these funds are for education for students with disabilities or for students from low-income families. The funds are also for social services needs. There is also an additional \$28.9 million in general funds, including \$5 million for the Temporary Disability Assistance Program and \$2 million for video lottery terminal expenses.

The Senate passed [HB 102](#), the Maryland Consolidated Capital Bond Loan of 2009, with amendments. As passed by the Senate, the bill authorizes \$1.1 billion in bonds. The Senate also deleted most of the House deauthorizations of local projects from prior years. Among other Senate changes:

- Public School Construction authorizations are reduced by \$50.6 million to \$209.4 million in recognition of the action taken in the operating budget, restricting this amount for public school construction purposes;
- Western Maryland Regional Library receives an authorization of \$5 million with an additional \$5 million pre-authorized for 2010;
- State Library Resource Center receives an authorization of \$1.6 million;
- Chesapeake Bay Water Quality Project Funds are restored to \$28.5 million;
- Intercounty Connector authorization is increased slightly to \$89.7 million from \$88.9 million; and
- State Police Hagerstown Barrack and Garage authorization is reduced by \$5 million and a pre-authorization in the same amount is made for 2010.

A number of tax credit bills are moving:

- [SB 800/HB 493](#), concerning the Biotechnology Investment Incentive Tax Credit, will be presented to the Governor;
- [HB 309](#), concerning the Maryland Heritage Structure Rehabilitation Tax Credit Program, is in a Senate committee. The companion bill is [SB 258](#); and
- [HB 1171](#), the Alternative Energy Tax Credits Act of 2009, passed the Senate.

Another measure, [SB 785](#), exempts from the State inheritance tax the receipt of an interest in a joint primary residence that: (1) at the time of the death was held in joint tenancy by the decedent and the decedent's domestic partner; and (2) passes from the decedent to the domestic partner. The bill requires the domestic partner of a decedent to provide evidence of the domestic partnership. The bill passed the Senate and is in a House committee. The companion bill is [HB 1215](#).

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## GAMING, RACING, AND SPORTS

### *Horse Racing*

The Preakness Stakes horse race is the second jewel in the Triple Crown of racing. The Preakness was first run at Pimlico Race Course in Baltimore in 1873. After a brief respite elsewhere, the Preakness has been at Pimlico continuously since 1909. Additionally, the Preakness attracts more than 100,000 people to Pimlico each year and earns enough revenue to support Maryland's thoroughbred industry for the rest of the year.

In an effort to ensure that the race stays in Maryland, new bills were introduced this week regarding Pimlico and Laurel Park Racetracks, Bowie Race Course Training Center, and the Preakness Stakes. [SB 1072](#) authorizes the State to acquire by purchase or condemnation, for public use and with just compensation, private property relating to these race courses and other tangible and intangible property related to the Preakness Stakes and the Woodlawn Vase, including the race and the trademark. The Maryland Economic Development Corporation may issue bonds or borrow money to finance the cost of acquiring the properties. The crossfiled bill is [HB 1578](#).

If the Governor agrees, [HB 1212](#) will become law. The bill alters the distribution of specified funds, established under Chapter 4 of the 2007 Special Session, from the Purse Dedication Account. Out of the funds allocated to the thoroughbred and standardbred industries, the bill allocates 89% to purses and 11% to the respective bred funds. The companion measure, [SB 911](#), is in the House.

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## HEALTH CARE AND HEALTH INSURANCE

### *Rosa's Law*

The General Assembly has agreed to final passage of [HB 20](#), known as "Rosa's Law," to change references to the term "mental retardation" in the Maryland Annotated Code to the term "intellectual disability." The change in terminology also renames any State facilities that

include the terms "mentally retarded" or "mental retardation."

### *Health Maintenance Organizations - Out-of-Network Providers*

[SB 380/HB 255](#) (both passed) alter the rates that a health maintenance organization (HMO) must pay for a covered service rendered to a HMO enrollee by certain noncontracting (out-of-network) health care providers. Under current law, noncontracting providers must accept the amount defined in statute. The bills also contain reporting and compliance mechanisms.

### *Loan Assistance Repayment for Practicing Physicians*

The General Assembly passed and sent to the Governor [HB 714](#), concerning loan assistance repayment for practicing physicians. A substantially similar measure, [SB 627](#), received final approval in the House but with amendments. These bills establish a new Maryland Loan Assistance Repayment Program for Physicians and a related Fund.

### *Health Insurance - Out-of-State Association Contracts - Regulation*

[HB 39](#), also slated for gubernatorial consideration, requires certain insurance carriers that offer out-of-state association contracts to make disclosures to a Maryland resident applying for coverage under an out-of-state association contract. The disclosures include the notification that coverage is conditioned on association membership, of the health insurance benefits otherwise mandated in Maryland that are not included in the contract, and that the contract is not regulated by the Maryland Insurance Commissioner. Additionally, the Commissioner may require a carrier that offers coverage under an out-of-state association contract to report the number of Maryland residents covered in the preceding calendar year.

### *Prosthetic Parity Act*

Identical crossfiled measures [SB 341/HB 579](#) establish a Prosthetic Parity Act in the State. The bills have each received final approval by the opposite chamber. The bills require insurers, nonprofit health service plans, and HMOs (carriers) to provide coverage for prosthetic devices, components of prosthetic devices, and repair of prosthetic devices. The bills apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State beginning October 1, 2009.

### *Decabrominated Diphenyl Ether (decaBDE)*

The House passed [HB 14](#), which prohibits, with certain exceptions, the manufacturing, processing, selling, or distributing of a new product or a flame-retardant part of

a new product that contains more than one-tenth of 1% of decaDBE, beginning January 1, 2010. The bill does not yet have a hearing in the Senate. The companion bill is [SB 184](#).

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## **REAL PROPERTY, ESTATES, AND TRUSTS**

[SB 5](#) (failed) did not pass third reading in the Senate. The bill would have increased from three to five years the lease extension period offered to a person who is at least 62 years old or disabled before a landlord of a rental unit covered by federal rental housing assistance may transfer the rental unit or take another protected action specific in statute.

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## **STATE GOVERNMENT**

The Senate gave preliminary approval with amendments to [HB 265](#) to increase the membership of the State Emergency Medical Services Board. The legislation also establishes a new joint legislative committee to provide, for a period of four years, oversight of issues such as system governance, medical protocols, and helicopter procurement related to the operation of the State's emergency medical services.

This week, the Senate agreed with the House and passed legislation related to the expansion of the State's Open Meetings Act. [HB 1194](#) alters the definition of a public body to include multimember boards, commissions, or committees that are appointed by an entity in the Executive Branch.

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## **TRANSPORTATION**

### *Bay Bridge Traffic and Safety*

The Senate passed [SB 866](#), requiring the Maryland Transportation Authority, in consultation with the Maryland Motor Truck Association and Bay Bridge Reconstruction Advisory group, to conduct a study of various aspects of the use of the Chesapeake Bay Bridge. As amended, the legislation no longer establishes a new committee to address problems relating to the Bridge, language that was included in a failed House companion measure ([HB 1375](#), failed).

### *Drunk and Drugged Driving*

The Senate also passed a bill on the use of ignition interlock systems. As amended, [SB 735](#) requires, rather than authorizes, the Motor Vehicle Administration (MVA) to establish an ignition interlock system program and to establish minimum standards for all service providers. Among its provisions, the bill also requires,

rather than permits, participation from persons who are convicted or receive probation before judgment for driving under the influence of alcohol per se or driving while impaired by alcohol.

### *Driver's Licenses and REAL ID Compliance*

This week, the Senate passed an amended version of [HB 387](#), which addresses legal presence as a requirement for driver's licenses and the related issue of compliance with federal identification requirements. The legislation has moved to conference committee, where chamber appointees will attempt to reconcile the differences between the House and Senate versions of the bill.

### *Rules of the Road*

A Senate committee reported unfavorably on [HB 67](#) (failed), which would have prohibited drivers from changing lanes on a roadway without signaling beforehand in situations where other motor vehicles would be affected by the movement.

### *Speed Cameras*

The General Assembly gave final approval to [SB 277](#) (passed) after extended discussion. The bill permits the statewide use of cameras in the vicinity of work and school zones for the purpose of issuing citations to speeders.

### *Texting While Driving*

[SB 98](#) that prohibits a driver from using a text messaging device to write, send, or read a text message while operating a motor vehicle passed third reading in the House this week, with amendments. The House proposal ([HB 72](#)) has received preliminary approval with amendments.

### *Young Driver Safety*

[HB 303](#), concerning various aspects of teen driver safety, is slated for discussion in a conference committee. [SB 265](#), on the same subject, recently passed with amendments in the House chamber.

Bill status for this <i>Wrap-Up</i> is current as of 3:00 p.m. on April 10, 2009. A <i>Wrap-Up</i> with the final status of bills will be published on Thursday, April 16, 2009.
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