



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 10-10

March 15-19, 2010

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## COURTS AND CIVIL PROCEEDINGS

### *Civil Legal Services*

The House passed [HB 106](#) to increase the surcharge on civil cases filed in circuit court and District Court that is deposited into the Maryland Legal Services Corporation Fund, which is used to provide civil legal services to indigent clients. Committee amendments moderate the surcharge increases; require the corporation to annually submit its budget to the General Assembly, for informational purposes only, in conjunction with the budget of the Judicial Branch; and terminate the provisions of the bill after three years. The companion bill, [SB 248](#), passed the Senate with no amendments.

### *Child Protection*

State law regarding the reporting of child abuse does not require or authorize reporting if a reporter believes that a child may be at substantial risk of sexual abuse. The Senate passed an amended [SB 559](#) to authorize an individual to notify a local department of social services or law enforcement agency if the individual believes that a child lives with or is in the regular presence of a person, other than the child's parent or guardian, who is a registered child sexual offender and, based on additional information, poses a substantial risk of sexual abuse to the child.

After confirming certain allegations in the report, the local department must thoroughly investigate the allegations jointly with a law enforcement agency and complete the investigation no later than 30 days after receipt of the report. Individuals who report receive the same immunity from civil liability that applies to other reporters of abuse and neglect.

[HB 811](#) is similar to [SB 559](#) in its pre-amended form. It requires, rather than authorizes, the reporting and notifications spelled out in [SB 559](#) by health practitioners, police officers, parole and probation agents, judges, educators, and human service workers with regard to registered child sexual offenders and also persons identified in the child abuse or neglect central registry as responsible for child sexual abuse. [HB 811](#) had a House hearing in late February.

Related legislation, [SB 892/HB 1330](#), requires the disclosure of a report or record concerning child abuse or neglect to the Division of Parole and Probation (DPP) if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe or learns that an individual who lives in or has a regular presence in a child's home is under the supervision of DPP. [HB 1330](#) had a hearing this week; [SB 892](#) will be heard next week.

### *Jury Service*

An employer must compensate an employee for job time lost as a result of responding to a summons issued for jury service under the provisions of [HB 1320](#), heard this week in a House committee. Compensation must be provided for each day of jury service based on the amount of the employee's average daily compensation from the employer, less the amount of the State per diem and any applicable local supplement payable to the employee.

### *Civil Litigation Funding*

Nonrecourse civil litigation funding means a transaction in which a civil litigation funding company purchases, and a consumer with a pending legal claim assigns to the company, the contingent right to receive an amount of the potential proceeds of an award obtained in the consumer's legal claim. Under [SB 831/HB 1331](#), in return for this right, the company provides the consumer with a set amount of funds and also may assess other fees. If there are insufficient proceeds from the claim to pay the company in full, the company is to be paid only to the extent possible under the available proceeds, and the consumer is not liable for any remaining amount that may be due to the company, unless the consumer violates the terms of the contract. A company must be licensed by the Commissioner of Financial Regulation, but the legislation clarifies that nonrecourse civil litigation funding is not a loan and is not subject to the restrictions or provisions governing loans. Both bills have been heard by their respective committees.

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### *Sexual Offenders*

The House considered and moved several measures relating to sexual offenders. Three of these measures are Administration bills:

- [HB 936](#), with preliminary approval, alters sex offender registration and notification requirements; establishes tier I, tier II, and tier III sex offender classifications; alters requirements for the Internet posting of registrant information; provides for a listing of juvenile sex offenders that is maintained separately from the sex offender registry and is accessible only by law enforcement personnel for law enforcement purposes; and alters various other sex offender registration requirements to move Maryland closer to compliance with federal law. The companion bill is [SB 854](#);
- [HB 473](#), as passed, establishes the conditions and requirements for lifetime sexual offender supervision. The companion bill is [SB 280](#); and
- [HB 931](#), as passed, alters the composition and duties of the Sexual Offender Advisory Board, including a requirement to develop criteria for measuring a person's risk of reoffending to assist a court in determining whether a sexual offender may be appropriately released from lifetime supervision. The companion bill is [SB 856](#).

The House also passed [HB 1046](#) to prohibit a District Court Commissioner from authorizing the pretrial release of a defendant who is a registered sex offender. A judge is authorized to release such a defendant on suitable bail, on any other conditions reasonably assuring that the defendant will not flee or pose a danger to others, or both bail and such other conditions. If the judge determines that no condition of pretrial release would protect against flight or danger to others, the judge must order a continued detention. There is a rebuttable presumption that such a defendant will flee or pose such a danger.

The bill also requires a State record of arrest and prosecution ("RAP" sheet) that is accessible to judicial officers making pretrial release determinations to prominently indicate, when applicable, that the subject of the report is a registered sex offender or subject to a term of lifetime sexual offender supervision and makes the imposition of lifetime sexual offender supervision a reportable offense to the State's Criminal Justice Information System Central Repository.

Another measure with preliminary approval, [HB 254](#), increases the penalties for a person 18 years of age or older convicted of second degree rape or second degree sexual offense of a victim younger than the age of 13. The bill increases the mandatory minimum sentence from 5 years to 15 years imprisonment and increases the maximum term of imprisonment from 20 years to life. The companion bill is [SB 622](#).

Two additional House measures now in the Senate prohibit the earning of diminution credits to reduce the term of confinement of a State or local correctional facility inmate:

- for committing first or second degree rape or sexual offense against a child under the age of 16 ([HB 289](#)). The companion bill is [SB 620](#); and
- for a subsequent conviction of a third degree sexual offense against a child under the age of 16 ([HB 599](#)).

The indicated companion bills had hearings in the Senate this week.

### *Human Trafficking*

The Senate gave preliminary approval to [SB 542](#) to require the Department of Labor, Licensing, and Regulation (DLLR) to design and place on its website a sign that states the phone number for and other information about the National Human Trafficking Resource Center hotline. A lodging establishment that is located on property where arrests leading to convictions of prostitution, solicitation of a minor, or human trafficking have occurred may be issued a civil citation that requires it to post prominently in each guest room for one year a sign identical to the DLLR sign. Amendments to the bill more closely align it with provisions of a similar bill, [HB 1322](#), heard in the House last week.

### *Controlled Dangerous Substances*

[HB 1068](#) makes it a felony for a person 18 years or older to distribute or dispense a controlled dangerous substance to a minor when the minor dies as a result of the use or ingestion of the substance. The crime carries a mandatory minimum sentence of 20 years imprisonment, which is nonsuspendable and nonparolable. The prosecutor for this offense must only prove that a reasonable person should have known that the minor was younger than 18 years old based on the totality of the circumstances. The bill had a hearing last week.

### *Juvenile Facilities and Services for Girls*

The Thomas J.S. Waxter Children's Center is Maryland's only secure detention facility for girls. Built in the early 1960's, the facility is not in line to be

replaced for at least six to eight years. Reports of the State's Juvenile Justice Monitoring Unit over the past few years have detailed overcrowding, understaffing, and other shortcomings at Waxter and in 2007 recommended that the facility be closed and the girls moved at the earliest possible date. This week the House held a hearing on [HB 1245](#) that requires the Department of Juvenile Services (DJS) to develop and implement a plan to close Waxter by July 11, 2011. A related measure that had a hearing last month requires DJS to provide substantially equivalent services on a regional basis for girls and boys in the juvenile services system ([HB 394](#)).

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## ECONOMIC AND BUSINESS ISSUES

### *Maryland Winery Modernization Act*

[SB 858/HB 921](#) establish a farmer's market permit that allows the holder to sell sealed containers of wine to consumers for consumption off the premises of the farmer's market. The permit holder may also provide at no charge samples of wine to consumers for consumption at the farmer's market. The bill also expands the scope of operations and activities of a Class 4 limited winery licensee.

The House bill, with amendments, has received preliminary approval by that chamber. Floor action on the Senate bill with the same amendments has not been resolved. An additional Senate floor amendment to [SB 858](#) requires the Comptroller to report by November 2010 on the viability and efficacy of permitting direct shipment of wine to consumers in Maryland. Failed amendments would have added language to allow direct shipment of wine to Maryland residents.

### *State Investments in Tech Companies*

Defeated by a committee, [HB 845](#) (failed) would have required the Board of Trustees of the State Retirement and Pension System to invest \$50 million over five years in venture capital funds in businesses related to bioscience or information, green, and medical device technologies. The companion bill, [SB 793](#), remains in a Senate committee.

### *Maryland Automobile Insurance Fund (MAIF)*

Created by the General Assembly in 1972, MAIF is an independent, nonbudgeted State agency that provides automobile liability insurance to State residents who are unable to obtain policies in the private insurance market. Legislation before committees this week includes:

- [SB 401/HB 317](#) that authorize MAIF to accept premiums on an installment basis only for 12-month

personal lines policies under certain conditions and, among other provisions, require MAIF to submit an annual report to the Insurance Commissioner regarding MAIF's prior year surplus and net direct premiums; and

- [SB 238/HB 1052](#) that prohibit money and property available to MAIF from being used to pay for employee bonuses, strategic consulting services, marketing, advertising, or public relations services, external lobbyists, fund producer appreciation events, or corporate sponsorships. These emergency proposals respond to a recent audit critical of MAIF's reporting and expenditure procedures.

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## EDUCATION

### *Compulsory School Attendance*

A bill to increase the age of compulsory school attendance, [SB 239](#), as passed by the Senate, phases in an increased age of compulsory school attendance from 16 to 17 for the 2012-2013 school year and from 17 to 18 for the 2014-2015 school year. The bill also includes several exemptions from the requirements for compulsory attendance such as: home-schooling; obtaining a GED; getting married; serving in the military; being in an alternative educational program; or otherwise being waived from the requirement by the State Superintendent of Schools.

The bill's fiscal note estimates that general fund expenditures increase under the legislation by an estimated \$48.8 million in fiscal 2014, \$51.1 million in fiscal 2015, and \$71 million in 2016. In response, amendments require a specific amount of funding be included in the fiscal 2013 and 2015 budgets to accommodate for more students remaining in school, or the law will be null and void. The companion bill, [HB 723](#), remains in committee.

### *Safe Schools Act of 2010*

The House passed [HB 1160](#), which calls for increased sharing of information among courts, law enforcement agencies, and schools regarding juvenile delinquency, criminal activity, and suspected gang activity by students. Amendments include language that requires school officials to keep confidential any information they receive concerning students who are placed in the care of a local department of social services or DJS and prohibits the information from being made part of the student's permanent record.

Another amendment expands the list of crimes that, when a student is arrested, law enforcement agencies must report to specified school officials to include the

following: malicious destruction of property; second degree assault; witness intimidation; retaliation against a witness; intimidating or corrupting a juror; and auto theft. Each county board of education must establish a policy and educational programs to address gangs and gang-like activity based on model policy developed by the State Board of Education that is required by January 2011.

#### *Maryland Football Act*

[HB 482](#) (failed) would have required the University of Maryland, College Park to schedule and play a regular season football game at least once every four years against Morgan State University and Towson University. A companion bill, [SB 705](#), has not yet been reported out of committee.

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## **ELECTIONS AND ETHICS**

### *Right to Register and Vote*

Over 70 bills dealing with elections are under consideration this session. Legislation that has been approved by the original chamber and moved to the other chamber includes:

- [HB 444](#) to establish that a citizen of the United States born abroad who has never lived in the United States, but who has a parent who is a resident of the State, is considered a resident of the State for purposes of qualifying to register to vote, provided the individual has not established a domicile outside the State. An amendment provides that the citizen in question may only vote in federal elections; and
- [SB 28](#) to allow individuals who are under guardianship for mental disability the right to register to vote. [HB 816](#), the companion bill, remains in committee.

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## **ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE**

### *Poaching*

A bill that increases the penalties for conviction of violating State hunting laws and regulations and trespass provisions, [HB 636](#), has received preliminary approval in the House. The crossfiled bill, [SB 363](#) (failed), received an unfavorable committee report this week.

### *Arsenic*

Testimony was heard this week on [SB 859](#), banning commercial poultry feed that contains roxarsone or any other additive that contains arsenic. The additives are

used to control poultry parasites, which results in increased rate of weight gain, improved feed efficiency, and improved pigmentation, but concern has been raised about their health and environmental effects. The companion bill, [HB 953](#), remains in committee.

### *Discharge of Sewage in State Waters*

Also heard this week, [SB 513/HB 1257](#) require the State to initiate the process with the U.S. Environmental Protection Agency (EPA) to designate Maryland waters as a no-discharge zone by July 1, 2010. Contingent on EPA's determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for all Maryland waters, the bill makes changes to existing provisions regarding allowable marine sanitation devices and related requirements for vessel owners, and increases the penalty for violations of these provisions from a maximum of \$2,000 to a maximum of \$10,000 per occurrence.

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## **FINANCIAL INSTITUTIONS AND COMMERCIAL LAW**

### *Credit Services Businesses - Limits on Fees*

Crossfiled bills, [SB 678/HB 79](#), amend the Maryland Credit Services Businesses Act (MCSBA) to provide limits on fees that credit services businesses may charge their clients. Specifically, a credit services business may not charge or receive a fee in connection with an extension of credit that, when combined with an interest charge, would exceed the interest rate permitted by law. Existing penalties that apply to violations of MCSBA also apply to this offense. The House passed [HB 79](#). The Senate is scheduled to continue to consider [SB 678](#) on the floor next week.

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## **FISCAL MATTERS**

### *Operating and Capital Budgets*

[SB 140](#), the Budget Bill, is scheduled to be brought to the floor Monday, March 22. The bill will be laid over until Wednesday, March 24, when the committee amendments will be debated and floor amendments may be offered and debated. The Senate committee has completed its hearings on [SB 142](#), the Maryland Consolidated Capital Bond Loan of 2010, and the House committee will complete its hearings next week.

### *Job Creation and Recovery Tax Credit*

[HB 92](#), an amended Administration bill, passed. The bill increases the credit from \$3,000 to \$5,000 with a corresponding monthly partial credit and changes the

coverage period for persons hired from January 1 to the effective date of the bill. The companion, [SB 106](#), which is currently in a House committee, has the same increase in the amount of the credit per hire.

#### *Earned Income Credit (EIC) Information Act*

[HB 755](#), as passed by the House, requires the Comptroller, on or before January 1 of each tax year, to publish the maximum income eligibility at which an individual is eligible for the State EIC. Employers are required to provide annual written or electronic notice to an employee who may be eligible for the credit. The bill takes effect January 1, 2011. The companion bill, [SB 638](#), had a hearing in March.

#### *BOAST Tax Credit*

This week the Senate passed [SB 385](#) to create an income tax credit for 75% of the contributions made by a business or nonprofit organization to an eligible nonprofit organization that either provides scholarships to eligible students or teachers at a nonpublic K-12 school; or provides grants to (a) public schools to support innovative educational programs that are not part of the regular academic program in order to achieve the goals of the Bridge to Excellence in Public Schools Act of 2002; or (b) public school teachers to assist in the cost of certification coursework. The bill applies to tax year 2011 and beyond. The crossfiled bill, [HB 946](#), was before a House committee this week.

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## **GAMING, RACING, AND SPORTS**

### *Table Games*

During the November 2008 general election, voters authorized VLTs, also known as slot machines, to be operated at certain locations in the State. Licenses have been awarded for three locations thus far: a 4,750 VLT facility in Hanover in Anne Arundel County; 1,500 VLTs in Perryville in Cecil County; and 800 VLTs at Ocean Downs Racetrack in Worcester County. The vote to support VLTs also specified that further expansion of gambling was subject to specified restrictions. Among the restrictions, only after approval of a referendum by the majority of Maryland voters during a general election may the General Assembly authorize additional forms or expansion of commercial gaming. This week senators took testimony on:

- [SB 522](#), which proposes that the Maryland Video Lottery Facility Location Commission conduct a study to assess the financial impact of offering table games such as cards, dice, and roulette in State video lottery facilities. With surrounding states recently offering or authorizing table game opportunities, the

commission is required to recommend options for Maryland to remain competitive with these surrounding states; and

- [SB 795/HB 608](#) propose a constitutional amendment to be submitted to the voters at the 2010 general election to allow the holder of a video lottery operation license to offer table games, including poker, blackjack, craps, and roulette.

### *Card Games*

This week senators continued floor debate on [SB 1035](#), which provides that, with voter approval via referendum at the November 2010 general election, the State is authorized to issue one license for the commercial operation of card games in the State. The license may only be awarded to a card games facility located in a specified area in Prince George's County (Rosecroft Raceway in Fort Washington). This bill will again be considered at the upcoming Monday night session.

### *Clarification and Technical VLT Changes*

In response to recent recommendations of the Location Commission, [SB 882/HB 1077](#), with hearings this week, make a number of clarifying and technical changes regarding the implementation of VLTs in the State. The bills also change provisions regarding the implementation of a VLT facility in Allegany County.

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## **HEALTH CARE AND HEALTH INSURANCE**

### *Freestanding Medical Facilities - Rates*

Bills have been heard in committee in both chambers regarding rates for hospital services provided at freestanding medical facilities. [SB 593/HB 699](#) require the State Health Services Cost Review Commission (HSCRC) to set rates for hospital services provided at freestanding medical facilities and freestanding medical facility pilot projects and requires all payors subject to the jurisdiction of HSCRC, including insurers, nonprofit health service plans, HMOs, managed care organizations, and Medicaid, to pay the HSCRC rates at a freestanding medical facility. The bills eliminate the current method of reimbursing such facilities, and alter the definition of "hospital services" in the HSCRC statutes to specify that the emergency services include services provided at freestanding medical facilities and freestanding medical facility pilot projects. HSCRC must report on the rates established under the bill and its methodology by October 1, 2010. The effective date is July 1, 2010.

### *Decabrominated Diphenyl Ether – Prohibition*

Two bills concerning the prohibition of decabrominated diphenyl ether (decaBDE), which is a type of brominated flame retardant, were heard by a Senate committee this week:

- **SB 353** prohibits a person, beginning January 1, 2011, from manufacturing, processing, selling, or distributing in the State, a new product or flame-retardant part of a new product that contains more than 0.1% of decaBDE. The prohibition does not apply to the processing of specified recyclables, specified original equipment manufacturer replacement service parts and products, or specified vehicles and vehicle parts. The bill takes effect January 1, 2011. The crossfiled legislation is **HB 35**; and
- **SB 556** phases out the manufacture, sale, and distribution of products containing decaBDE. A person may not manufacture, sell, or distribute for sale in the State any of the following products containing decaBDE: beginning December 31, 2010, mattresses, upholstered furniture designed for residential use, or electrical or electronic equipment; beginning December 31, 2012, any product, except transportation or military equipment or components thereof; and beginning December 31, 2013, transportation or military equipment or components thereof.

### *Medical Marijuana*

A Senate committee heard testimony this week on **SB 627**, which authorizes the legal use of marijuana for medical purposes under specified circumstances. The bill sets up a system whereby the Department of Health and Mental Hygiene (DHMH) must license growers and dispensaries, and allow doctors to recommend marijuana to certain patients. The crossfiled legislation, **HB 712**, was heard on last month.

### *Public Health*

Several measures related to public health concerns failed in committee this week:

- **HB 758** (failed) that would have required certain chain restaurants to provide nutritional information for standard menu items has been withdrawn. The Senate crossfile, **SB 539** (failed), received an unfavorable report in committee last week.
- **SB 718** (failed) would have prohibited a minor from using a tanning device and would have prohibited the owner, employee, or operator of a tanning facility from distributing to a minor a pass, coupon,

or package redeemable for use of a tanning device. The crossfiled legislation, **HB 1039**, has a hearing next week.

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

After considerable floor debate, on a close vote the Senate agreed to postpone indefinitely further consideration during this session of **SB 158** (failed). The legislation, as amended by a committee, would have prohibited a lien from being sold at a tax sale if the lien arises from unpaid water or sewer charges and the total amount of the lien is less than \$750. Another amendment restored the ability of a sanitary commission to sue a property owner to enforce the collection of unpaid benefit assessments or other charges.

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## **TRANSPORTATION**

### *Distracted Driving*

**HB 192** extends the current ban on writing or sending text messages while driving to also include a ban on reading text messages while driving. The bill was approved and moved to the Senate, where a hearing is scheduled for later this month.

The floor discussion will be continued on Monday, March 22, concerning two Senate bills addressing new technology and driving:

- **SB 321**, The Delegate John Arnick Electronic Communications Safety Act of 2010, prohibits any driver of a motor vehicle in motion from using a handheld telephone, except to initiate or end a call or to turn the phone on or off. It permits exceptions for emergencies, such as a driver calling 9-1-1, and exempts law enforcement and emergency workers while they are on duty; and
- **SB 322** prohibits use of video display equipment that a driver can see while driving. It adds new language to current law that addresses the location of television-type receivers in cars. It permits navigation equipment, and allows video equipment that is installed as intended by the vehicle manufacturer.

### *Traffic Citations – Option to Request Trial*

Floor consideration of another controversial proposal, **SB 560**, will also continue at the upcoming Monday night session. This legislation, as reported out of committee, alters how a person complies upon receiving a traffic citation for a nonincarcerable offense. It establishes that the citation must contain a notice that a person must either (1) pay the full amount of the preset

fine; (2) request a hearing for sentencing and disposition in lieu of trial; or (3) request a trial date within 15 days of the citation receipt at the date, time, and place established by the District Court by writ or trial notice. If the citation is for an offense that requires the person to appear in court to answer the charge, then the citation is a notice that it is a summons to appear in court.

*Off-Highway Vehicles*

[SB 466](#), amended to become an emergency measure, passed third reading in the Senate. The bill requires owners of new and used off-road recreational vehicles purchased after October 1, 2010, to apply for a certificate of title in Maryland, and the application must be made by electronic transmission. In purchases that do not involve Maryland sales and use tax, such as purchases made in Delaware, owners must pay Maryland excise tax. The bill applies to all-terrain vehicles, dirt bikes, and snowmobiles. Farm vehicles and vehicles used for residential landscaping are exempt. Previous versions of the bill have failed in the Senate. The crossfiled legislation, [HB 445](#), was heard last month.

*Safe Roads for Teens Act and Protective Headgear*

[HB 1221](#) (failed) received an unfavorable report from a House committee last week. The bill would have required a driver under age 18 to hold a provisional driver's license for more than 150 days before driving young passengers, except for relatives.

[HB 1030](#) (failed) would have required all motor scooter drivers and passengers to wear helmets. It received an unfavorable report in a House committee.