



The Legislative Wrap-Up

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COURTS AND CIVIL PROCEEDINGS

Final Passage

Measures receiving final passage this week address:

- *Child Support – Incarceration.* [HB 651](#) (passed) establishes that a child support payment is not past due and arrearages may not accrue while the parent that is required to pay the support is incarcerated, and continuing for 60 days after the parent's release, if the parent was sentenced to 18 months or more and certain other conditions are met. The Child Support Enforcement Administration may adjust the incarcerated parent's account to reflect the suspension of support payments without filing a court motion and after sending a notice to the parent who receives the payment;
- *Child Sexual Abuse – Expanded Definition.* [HB 860](#) (passed) expands the definition of child sexual abuse to include human trafficking for purposes of laws concerning children in need of assistance and child abuse and neglect. Allowing or encouraging a child to engage in obscene or pornographic photography, films, poses, or similar activity or prostitution is also included in the expanded definition;
- *Human Trafficking – Posted Signs.* [SB 352](#) (passed) requires owners of privately-owned bus stations and truck stops to post in each restroom a sign with the National Human Trafficking Resource Center Hotline number, with a maximum civil penalty of \$1,000 for each restroom without the signage. The State Highway Administration must post the same information in restrooms at rest areas within an interstate or State highway right-of-way;
- *Jury Duty.* [SB 16](#) and [HB 353](#) (both passed) prohibit an employer from requiring an employee who performs jury service for at least four hours to work a shift that begins on or after 5 p.m. the day of jury service or before 3 a.m. the day after jury service; and
- *Domestic Violence – Unemployment Insurance.* [SB 291/HB 769](#) (both passed) establish that a "good cause" for voluntarily leaving work for purposes of

qualifying for unemployment insurance benefits is that the person or the person's spouse, minor child, or parent is a victim of domestic violence and continued employment would jeopardize their safety. Required documentation substantiating the domestic violence may not be disclosed, and claimant benefits may not be charged against the employer's rating record.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Public Defender Representation

After lengthy deliberations, a conference committee agreed and the General Assembly passed [SB 422](#) (passed) to respond to a recent Court of Appeals decision requiring the Office of the Public Defender (OPD) to provide indigent representation under certain circumstances.

The legislation requires the OPD to provide representation to indigent individuals at bail hearings before a District Court or circuit court judge on or after June 1, 2012, but representation is not required to be provided to indigent individuals at an initial appearance before a District Court commissioner.

An immediate bail review hearing before a District Court judge is required if the court is in session or, if not, at the court's next session, after a commissioner denies pretrial release or determines conditions of release after which the defendant remains in custody. The bill also:

- modifies commissioner authority to issue arrest warrants;
- prohibits a statement made during the course of a defendant's initial appearance before a commissioner from being used as evidence against the defendant in a criminal or juvenile proceeding;
- requires a police officer to charge a person by citation for any misdemeanor or local ordinance violation that carries no jail time or a maximum jail

time of 90 days or less, with certain exceptions, and for marijuana possession;

- creates a task force to study the laws and policies relating to representation of indigent criminal defendants by the OPD, with a final report due November 1, 2013; and
- requires data collection by law enforcement officers for citations issued from 2013 through 2017 for use in developing a policy against using race or ethnicity as the sole justification for issuing a citation.

Gun Legislation

With final passage this week, legislation related to guns addresses:

- *Mental Illness – Access.* [HB 618](#) (passed) establishes a Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms to consider further limiting gun access by individuals with a history of mental illness and expanding access of law enforcement officers to certain mental health records, with a report due by the end of the year;
- *Transfer of Handguns.* [SB 514/HB 396](#) (both passed) authorize a law enforcement agency to transfer the handgun of a law enforcement officer who is killed or dies in the line of duty to the officer's next of kin, if certain firearms application requirements are met; and
- *Possession – Disqualifying Crimes.* [SB 640/HB 209](#) (both passed) prohibit a person from possessing a regulated firearm or a rifle or shotgun if the person was previously convicted of a federal charge or an offense in another state that would constitute a disqualifying crime of violence or drug crime if committed in Maryland.

Child Pornography

[SB 889/HB 349](#) (both passed) extend from one to two years the statute of limitations for the prosecution of possession of child pornography.

Final Passage

Successful legislation alters the scope of crimes and increases criminal penalties:

- *Electronic Mail –* [SB 175/HB 8](#) (both passed) expand the current prohibition against the use of electronic mail with the intent to harass by prohibiting a person from maliciously engaging in a course of conduct, through the use of electronic communication, including transmission of data, that alarms or seriously annoys another person under

certain circumstances. The bills also eliminate the requirement that the recipient of the transmission be identified by a unique address;

- *Justice's Law –* [SB 521/HB 604](#) (both passed) expand the list of persons who can be convicted of the felony of first degree child abuse to include a family member or household member and increase the maximum penalty from 30 years to 40 years in prison if the violation results in the death of the victim; and
- *Ava's Law –* [HB 1334](#) (passed) increases the maximum penalty for causing life-threatening injury by motor vehicle or vessel while impaired by a controlled dangerous substance from a \$3,000 fine and two years in prison to a \$5,000 fine and three years in prison.

Sprinkler Systems – Local Prohibitions

[SB 602](#) (passed) prohibits a county or municipal corporation from adopting local amendments to the Maryland Building Performance Standards (MBPS) that weaken the MBPS automatic fire sprinkler systems requirements for townhouses and one- and two-family dwellings, with certain exceptions and grandfathering provisions. Companion bill [HB 366](#) passed in the Senate with amendments to make it identical to [SB 602](#). It now goes back to the House for approval.

Failed Legislation

Recent failed legislation would have repealed the death penalty and required the resulting savings to be appropriated in the annual budget for the State Victims of Crime Fund ([SB 872/HB 949](#), both failed).

Other proposals would have required the Division of Correction to revoke diminution credits, also known as good-time credits, of inmates caught with a telecommunication device in prison and would have prohibited the credits from being restored ([SB 669/HB 1086](#), both failed). Another proposal would have allowed an inmate a deduction (diminution credit) of 60 days from the prisoner's term of confinement for certain diplomas, degrees, or certificates earned while in prison ([HB 650](#), failed).

ECONOMIC AND BUSINESS ISSUES

Homeowner's Insurance

Recently, a number of large insurance companies have ceased offering property insurance coverage to customers living in coastal areas, including in some Maryland counties, due to an increased risk of hurricane damage. In 2008, the Maryland Insurance Commissioner

accepted a decision by Allstate to refuse new homeowner's insurance policies for customers living in specific coastal areas, stating that State law had not been violated. The decision was later upheld by the Court of Special Appeals.

To address this issue, the House amended and passed [HB 1383](#). The measure prohibits insurers from refusing to issue or renew a homeowner's insurance policy *solely* because the home or the policyholder's address is in a certain geographic area of the State. To base coverage decisions on geographic area, insurers must file a written underwriting standard addressing the specific geographic region, and the standard must be approved by the Maryland Insurance Commissioner before the insurer may implement the standard in the State.

Utilities – Gas Infrastructure Surcharge

The chambers disagreed on bills ([SB 541/HB 662](#), both failed) that would have authorized gas companies to file a plan with the Public Service Commission requesting authorization to add a gas infrastructure surcharge on customers' bills. The surcharge would have been limited to \$2 per month and used for the purpose of recovering costs by a gas company associated with infrastructure replacement projects.

Injured Worker's Insurance Fund (IWIF)

Emergency bill [SB 745](#) that converts IWIF from an independent State agency to a private, nonprofit, nonstock workers' compensation insurer was amended and passed by both chambers, but with different language. The Senate appointed a conference committee, but to date the House has not responded.

Both versions of the bill provide that upon conversion of IWIF to the private company, to be named the Chesapeake Employers' Insurance Company, IWIF must transfer \$50 million to the general fund, as required by [SB 152](#), the Budget Reconciliation and Financing Act of 2012 (BRFA).

In addition, IWIF must make a transfer payment to the State to resolve any claim the State has or may have to the property or assets of IWIF. The transfer payment will be in an amount determined to be the fair value of the State's investment in IWIF, as determined by a consulting firm. A prohibition on the method used to compute the value is a point of contention between the chambers.

The original House companion, [HB 1017](#), as amended and passed by the House, now is an emergency measure that creates a Task Force to Study Maryland Insurance of Last Resort Programs. The task force is charged with reporting its recommendations concerning the

relationship and benefits to the State with regard to these insurers.

Other Tobacco Products (OTPs)

Legislation on OTPs, which include cigars or any rolled tobacco other than cigarettes, or any other tobacco product intended for consumption by smoking, chewing, or as snuff, has succeeded ([SB 452/HB 570](#), both passed). The measures remove out-of-state sellers of premium cigars or pipe tobacco from licensure requirements of OTP manufacturers, wholesalers, warehouses, retailers and tobacconists.

The bills also allow licensed OTP retailers and tobacconists to ship premium cigars or pipe tobacco purchased by phone or on the Internet to customers in Maryland. Further provisions require the Comptroller to submit to the General Assembly a report on the viability and efficacy of instituting a policy of permitting direct shipment of premium cigars and pipe tobacco to consumers in the State.

EDUCATION

Auto-injectable Epinephrine

With final approval, [SB 621/HB 497](#) (both passed) require local boards of education to establish a policy for public schools within their jurisdiction to authorize the school nurse and other personnel to administer auto-injectable epinephrine to a student who is determined or perceived to be in a state of anaphylaxis, regardless of whether the student has been identified as having an anaphylactic allergy or has a prescription for epinephrine. Per the National Institutes of Health, the prevalence of food allergies is between 6% and 8% in children younger than age four and 3.7% in adults, and appears to be increasing.

Online Education

Now on its way to the Governor, [SB 689/HB 745](#) (both passed) establish the Maryland Advisory Council for Virtual Learning within the Maryland State Department of Education. The mission of the 23-member council is to encourage and support student education in accordance with national standards of online learning and State law and to annually make recommendations about digital learning that align with their mission.

[SB 735/HB 1222](#) (both failed) would have set reasonable processing fees for the approval of course evaluations, and [SB 736/HB 1215](#) (both failed) would have allowed the use of courses approved by other states.

Compulsory Attendance

The House amended and passed [HB 373](#) to change the maximum age of compulsory attendance for public schools from 15 to 17 under certain circumstances. As amended, the bill phases in increases so that beginning with the 2015-2016 school year, the age of compulsory school attendance increases from 15 to 16; beginning with the 2017-2018 school year, the age increases again from 16 to 17.

The bill specifies a number of exemptions from the requirement. The bill also requires the return to school of a child within the age requirements who is no longer taking GED courses and yet has not passed the GED test. The original companion bill, [SB 362](#), passed the Senate without amendments last month and had a hearing in a House committee this week.

Financial Literacy

Chapter 186 of 2008 created the Task Force to Study How to Improve Financial Literacy in the State. Much of the task force's work was dedicated to studying financial literacy in primary and secondary schools. However, the task force also made recommendations relating to the financial education of adults, including encouraging both State and private employers who receive a State contract or assistance to provide financial education training.

[SB 476](#) and [HB 515](#), original companion bills, create the Financial Education and Capability Commission. A difference in membership language now separates the bills from final passage. The commission is to monitor the implementation of public and private initiatives to improve the financial education and capability of residents of the State, as well as to make recommendations on the coordination of financial literacy efforts across State agencies.

The Maryland CASH (Creating Assets, Savings, and Hope) Campaign will staff the commission. The CASH Campaign is a statewide network of organizations that coordinates the provision of free tax preparation services and access to high-quality financial services, financial education, and coaching.

ELECTIONS AND ETHICS

Electronic Signatures

To date, voter registration has been accomplished through paper applications. Currently, an online voter registration system is under development, as well as improvements to the Motor Vehicle Administration (MVA) and State Board of Elections (SBE) computer systems that will allow for voter registration applications

to occur at the MVA and then be transmitted to SBE entirely electronically. An MVA driver's license or identification card number will be required to register through the online system, though absent uniformed services or overseas voters can register online with a Social Security number.

With final passage by the General Assembly, [HB 173](#) (passed) specifies that an applicant registering to vote at a voter registration agency may consent to the use of an electronic copy of the individual's signature that is on file with the agency as the individual's signature for the application. Voter registration agencies include agencies providing public assistance and services for individuals with disabilities, public higher education institutions, and military recruiting offices.

17th Amendment to the United States Constitution

[SJ 2](#) establishes the State of Maryland's ratification of the 17th Amendment to the U.S. Constitution, which specifies that U.S. Senators be elected by the people of each state rather than by the state legislatures of the respective states. The resolution gained final passage. [HJ 3](#), the companion, is in the Senate.

Three-fourths of the states, which is the necessary number for the amendment to become part of the U.S. Constitution, ratified the 17th amendment in 1913. In 2010, the Delaware General Assembly passed ratification legislation making Delaware the most recent state to ratify the 17th Amendment.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Sustainable Growth and Agricultural Preservation

The House passed an amended [SB 236](#), based in part on the recommendations of the Task Force on Sustainable Growth and Wastewater Disposal. The Administration bill, as amended, creates four growth tiers based on specific land use characteristics for local jurisdictions to adopt for use in approving major residential subdivisions served by onsite sewage disposal systems, community sewerage systems, or shared systems.

The bill includes exceptions to the growth tiers and clarification of the authority of local government, as well as a requirement for the Maryland Department of the Environment to draft regulations relating to nutrient offsets and the Maryland Department of Planning to report on the implementation of the bill by February 1, 2013.

Arsenic

Prohibiting the use of roxarsone, or any other additive that contains arsenic in commercial feed intended for use as poultry feed unless it is approved by the U.S. Food and Drug Administration (FDA), was discussed over several days on the Senate floor this week. The result was that [SB 207/HB 167](#) were both amended to permit the use of the FDA-approved drug histostat in poultry feed.

Both bills now move to the House. The Senate bill moves to a House rules committee, while the House bill with the Senate amendment returns to the House floor for consideration.

Honey

The General Assembly approved [SB 193](#) (passed), Agriculture - Maryland Standard of Identity for Honey. The legislation, as amended by the House, now includes the same language as [HB 159](#), which is on the Senate floor. The bills establish a Maryland standard of identity for honey and requirements applicable to the labeling of honey. The Maryland Department of Agriculture is not required to enforce the bill's provisions, but the bill authorizes an action to be filed in circuit court by specified persons and entities, including the Attorney General.

Reduction of Lead Risk in Housing

Legislation ([HB 472](#)) that, as introduced, established a Lead Poisoning Compensation Fund for compensating individuals with injuries due to lead poisoning and for providing liability coverage to residential rental property owners for lead poisoning injuries, within certain limits, has been amended and passed by the House.

The bill now requires the Maryland Insurance Commission to convene a workgroup to evaluate and make recommendations relating to lead liability protections for owners of pre-1978 rental property. The original crossfiled bill, [SB 873](#), now with identical language, received preliminary approval in the Senate.

[HB 644](#), which modifies the State's Lead Poisoning Prevention Program partially in response to the recent Maryland Court of Appeals decision, *Jackson, et al., v. Dackman Co. et al.*, has received preliminary approval from the Senate. As amended, the bill expands the lead abatement requirements applicable to rental housing to child care centers, family child care centers and preschools, and clarifies issues that may be considered in an action seeking damages, among other provisions.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Lend Local Act of 2012

The General Assembly gave final approval to [HB 571](#) (passed), the Lend Local Act of 2012, as amended. In its current posture, the bill establishes a Linked Deposit Program for Small Businesses in the Department of Housing and Community Development. The Program supports small businesses that qualify for the Small Business Reserve Program in gaining access to credit by helping them obtain loans at lower-than-market interest rates. The crossfiled bill, [SB 792](#), is identical and moving toward passage on the House floor.

FISCAL MATTERS

Fiscal Package Conference Committees

The Budget Bill, the Maryland Consolidated Capital Bond Loan of 2012, the Budget Reconciliation and Financing Act of 2012 (BRFA), and the State and Local Revenue and Financing Act of 2012 ([SB 150](#), [SB 151](#), [SB 152](#), [SB 523](#), respectively) are all in conference committees.

Gubernatorial Proclamation – Extended Session

The Governor has issued the required executive order extending the session, since the Budget Bill did not pass the General Assembly by April 2. If the Budget Bill is not passed by midnight of the 90th day, April 9, the General Assembly will continue in extended session, but may only deal with the Budget Bill and the costs of the extended session. Under the Maryland Constitution, the General Assembly may not pass a supplementary appropriation bill, which includes a bond bill such as [SB 151](#), until the Budget Bill has been passed.

Supplemental Budget

This week, the Governor submitted a net \$69.5 million supplemental budget to [SB 150](#), the Budget Bill. Among the items in the supplemental budget are an additional \$8.4 million for fiscal years 2012 and 2013 for the Office of the Public Defender for indigent representation at bail hearings, \$5 million for fiscal 2012 for prior year claims for the public mental health system, and an additional \$1.5 million for fiscal 2013 for the psychiatric rehabilitation of the uninsured.

The supplemental budget also includes \$6 million for offshore wind power development, \$10.7 million in federal funds to implement the Race to the Top Early Learning Challenge Grant, \$3.7 million in federal funds for the Enhanced Child Care Tracking System, \$24.5

million for Empower Maryland weatherization projects, \$3.6 million for fiscal 2012 to support cover crop payments to farmers, and \$9 million for fiscal 2012 to the Department of Juvenile Services for residential per-diem.

Capital Budget Bill

The House passed its version of [SB 151](#), totaling \$1.1 billion. Among the provisions of the House version are:

- *Public School Construction* – There is no change in the authorized amount of \$357.5 million for public school construction, including the \$6.1 million for Aging Schools. There is an additional \$15.3 million for the Qualified Zone Academy Bond Program;
- *Land Conservation Programs* – Senate Program Open Space reductions were rejected, and authorizations were restored to the \$70.1 million proposed by the Governor. The House also restored \$9.9 million of the \$14.9 million in reductions for the Rural Legacy Program, leaving a \$5 million reduction from the Governor’s proposal. The Maryland Agricultural Land Preservation Program’s \$10.7 million was restored, bringing it back to the \$14.1 million proposed by the Governor;
- *Chesapeake Bay 2010 Trust Fund* – The fund was reduced from the \$53.8 million of the Senate to the \$27.8 million of the Governor;
- *University of Maryland, Baltimore, Health Sciences Research Facility III* – Design funds were reduced from \$5 million to \$3.3 million;
- *Salisbury University* – There is \$1.9 million for the design of a new library;
- *Strategic Demolition and Smart Growth Impact Project Fund* – The \$5 million proposed by the Governor was restored; and
- *Rental Housing Program* – The program was reduced by \$5 million to the \$15 million proposed by the Governor.

Prior Authorization Bond Bills

[SB 1037](#) (passed), which amends prior authorization bond bills and capital projects, has passed both chambers and will be presented to the Governor.

HEALTH CARE AND HEALTH INSURANCE

Health Benefit Exchange Act of 2012

This week, the legislature approved [HB 443](#) (passed), which makes various updates to Maryland’s Health

Benefit Exchange laws. The Administration bill, as amended, expands the operating structure of the Maryland Health Benefit Exchange by, among other things, authorizing the Exchange to contract with health insurance carriers, establishing the framework for the Small Business Health Options Program (SHOP) Exchange, and establishing navigator programs for the SHOP and Individual exchanges.

The bill also establishes a process for selecting the benchmark plan that will serve as the standard for the essential health benefits for health benefit plans offered in the small group and individual markets, both inside and outside the Exchange. The crossfiled bill, [SB 238](#), passed the Senate.

Artificial Trans Fats

[HB 627](#) (failed), which would have prohibited food containing artificial trans fat from being stored, distributed, held for service, used in preparation of any menu item, or served in any food service facility (with some exceptions), was withdrawn by its sponsor.

REAL PROPERTY, ESTATES, AND TRUSTS

Now before committees in their opposite chambers, [SB 968](#) and [HB 1331](#) require a vendor of residential real property to disclose utility consumption under specified circumstances. Originally crossfiled, the bills now have differing language. Among the House amendments is a requirement that the utility information be provided *only* on written request to a prospective purchaser who has signed a letter of intent and *only* if the vendor has access to the information. Both bills only apply prospectively and do not apply to the sale of single-family residential property marketed for sale before October 1, 2012.

TRANSPORTATION

Plug-in Vehicles

[SB 340](#) (failed), which would have reserved space for electric vehicles near plug-in-vehicle charging stations, was referred for interim study. The bill would have required that the vehicle charging space be kept free for plug-in vehicles, that plug-in vehicles be connected to the charging station while in the space, and that the vehicles vacate the space as soon as the battery is fully charged. A Senate amendment would have provided that fines and penalties for violations be distributed to the Transportation Trust Fund. The companion bill, [HB 108](#) (failed), was also referred for interim study by a House committee.