

SENATE BILL 92
EMERGENCY BILL

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P5

1998 Regular Session
8lr0116

By: **The President (Department of Legislative Services)**

Introduced and read first time: January 16, 1998

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Annual Curative Bill**

3 FOR the purpose of generally curing previous Acts of the General Assembly with
4 possible title defects; providing that a professional engineer is not liable for any
5 loss caused by an act, error, or omission of the professional engineer while
6 practicing engineering if the act, error, or omission was not wanton, willful,
7 intentionally tortious, or grossly negligent and the practice of engineering was
8 performed voluntarily and without compensation, at the scene of an emergency,
9 disaster, or catastrophic event, and at the request of a certain official acting in
10 an official capacity under certain circumstances; requiring a court, prior to
11 service of process of a prisoner's civil action, to review the prisoner's initial
12 complaint and identify any cognizable claims; providing for the disposition of
13 compensatory and punitive damages awarded to a prisoner in a certain civil
14 action; requiring a prisoner's custodian to notify certain persons in a certain
15 manner if the prisoner is awarded certain compensatory or punitive damages;
16 altering the specific purposes and objectives of the School Health Program
17 operated in Caroline County to include the provision of certain health and
18 referral services for students; repealing a certain provision of law prohibiting
19 fishing with a haul seine or any other net in certain waters within the limits of
20 or adjacent or contiguous to Baltimore County without obtaining the permission
21 of certain owners or occupiers of certain land; requiring the Department of
22 Natural Resources to provide certain counties with certain maps; providing for
23 the effect and construction of certain provisions of this Act; making this Act an
24 emergency measure; providing for the effective date of certain provisions of this
25 Act; and generally repealing and reenacting without amendments certain Acts
26 of the General Assembly that may be subject to possible title or function
27 paragraph defects in order to validate those Acts.

28 BY repealing and reenacting, without amendments,
29 Article 88A - Department of Human Resources
30 Section 47
31 Annotated Code of Maryland
32 (1995 Replacement Volume and 1997 Supplement)

33 BY repealing and reenacting, without amendments,

1 Article - Courts and Judicial Proceedings
2 Section 5-425, 5-1004, and 5-1006
3 Annotated Code of Maryland
4 (1995 Replacement Volume and 1997 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Education
7 Section 7-415
8 Annotated Code of Maryland
9 (1997 Replacement Volume and 1997 Supplement)

10 BY repealing and reenacting, without amendments,
11 Article - Family Law
12 Section 5-1039
13 Annotated Code of Maryland
14 (1991 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Natural Resources
17 Section 4-715
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 1997 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Natural Resources
22 Section 10-612(e)
23 Annotated Code of Maryland
24 (1990 Replacement Volume and 1997 Supplement)

25 BY repealing and reenacting, without amendments,
26 Chapter 379 of the Acts of the General Assembly of 1996, as amended by
27 Chapter 70 of the Acts of the General Assembly of 1997
28 Section 3(c)

29 BY repealing and reenacting, without amendments,
30 Article - Corporations and Associations
31 Section 3-112
32 Annotated Code of Maryland
33 (1993 Replacement Volume and 1997 Supplement)
34 (As enacted by Chapter 654 of the Acts of the General Assembly of 1997)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
36 MARYLAND, That the Laws of Maryland read as follows:

1 **Article 88A - Department of Human Resources**

2 47.

3 (a) In providing assistance under this subtitle, the Department may contract
4 with charitable organizations, private organizations, religious organizations, and
5 institutions of higher education.

6 (b) Except as provided in subsection (c) of this section, a religious organization
7 may participate in the Family Investment Program on the same basis as any other
8 nongovernmental entity.

9 (c) An individual may not be required to accept assistance from a religious
10 organization if acceptance would violate the individual's bona fide religious beliefs
11 and practices.

12 (d) (1) The Maryland Higher Education Commission, in cooperation with
13 the Department, shall:

14 (i) Identify and promote at institutions of higher education efforts
15 to provide assistance to FIP recipients; and

16 (ii) Coordinate efforts among institutions of higher education to
17 encourage and identify student volunteers to help provide to FIP recipients
18 educational and employment-related services, such as literacy training, resume
19 writing, and job interviewing skills.

20 (2) An institution of higher education shall:

21 (i) Meet with the local department about developing services for
22 FIP recipients in the jurisdiction in which the institution is located;

23 (ii) Advise the local department of the services available for FIP
24 recipients; and

25 (iii) By September 15 of each year, provide to the Maryland Higher
26 Education Commission, a report on efforts to encourage and identify student
27 volunteers and identify services provided under the provisions of this subsection.

28 (3) By December 1 of each year, the Maryland Higher Education
29 Commission shall submit a report, subject to § 2-1246 of the State Government
30 Article, to the Joint Committee on Welfare Reform regarding the services provided
31 under the provisions of this subsection.

32 (e) An organization funded under the Family Investment Program may not
33 discriminate on the basis of religion, religious belief, or refusal to participate in a
34 religious practice with respect to any individual's receipt of service under the
35 Program.

1 (f) The Department of Human Resources shall provide all persons receiving
2 benefits under the Family Investment Program with clear and timely notice of their
3 rights under § 104(e) of P.L. 104-193 (1996).

4 DRAFTER'S NOTE:

5 Error: Function paragraph of bill being cured incorrectly indicated that
6 Article 88A, § 47(g) and (h) were being added.

7 Occurred: Chapter 593 (Senate Bill 499) of the Acts of 1997.

8

Article - Courts and Judicial Proceedings

9 5-425.

10 (a) (1) In this section the following words have the meanings indicated.

11 (2) "Building inspection official" means any appointed or elected federal,
12 State, or local official with overall executive responsibility to coordinate building
13 inspection in the jurisdiction in which an emergency, disaster, or catastrophic event
14 has occurred.

15 (3) "Fire official" means any appointed or elected local official with
16 overall executive responsibility to coordinate fire, rescue, or emergency medical
17 services in the jurisdiction in which a fire, emergency, disaster, or catastrophic event
18 has occurred.

19 (4) "Law enforcement official" means any appointed or elected federal,
20 State, or local official with overall executive responsibility to coordinate law
21 enforcement in the jurisdiction in which an emergency, disaster, or catastrophic event
22 has occurred.

23 (5) "Public official" means any federal, State, or locally elected official
24 with overall executive responsibility in the jurisdiction in which an emergency,
25 disaster, or catastrophic event has occurred.

26 (6) "Public safety official" means any appointed or elected federal, State,
27 or local official with overall executive responsibility to coordinate public safety in the
28 jurisdiction in which an emergency, disaster, or catastrophic event has occurred.

29 (b) A professional engineer is not personally liable in damages beyond the
30 limits of any applicable insurance or self-insurance for any personal injury, wrongful
31 death, property damage, or other loss caused by an act, error, or omission of the
32 professional engineer while practicing engineering with regard to any structure,
33 building, piping, or other engineered system, either publicly or privately owned, if:

34 (1) The act, error, or omission was not wanton, willful, intentionally
35 tortious, or grossly negligent; and

36 (2) The practice of engineering was performed:

1 (i) Voluntarily and without compensation;
2 (ii) At the scene of a declared national, State, or local emergency
3 caused by a major earthquake, hurricane, tornado, fire, explosion, collapse, or similar
4 disaster or catastrophic event; and

5 (iii) At the request of a public official, law enforcement official,
6 public safety official, fire official, or building inspection official, acting in an official
7 capacity.

8 (c) The immunity provided by this section applies only to the voluntary
9 practice of engineering performed while a declared state of emergency is in effect.

10 (d) (1) This section does not create, and may not be construed as creating, a
11 new cause of action or substantive legal right against a professional engineer.

12 (2) This section does not affect, and may not be construed as affecting,
13 any immunities from civil liability or defenses established by any other provisions of
14 the Code or available at common law, to which a professional engineer may be
15 entitled.

16 DRAFTER'S NOTE:

17 Error: Purpose paragraph of bill being cured failed to accurately describe
18 the changes made by the bill.

19 Occurred: Chapter 277 (House Bill 1125) of the Acts of 1997.

20 5-1004.

21 (a) Prior to service of process of the prisoner's civil action, the court shall
22 review the prisoner's initial complaint and identify any cognizable claims.

23 (b) After reviewing the prisoner's complaint, the court may dismiss the civil
24 action, or any portion thereof, with or without prejudice, if it finds that the civil
25 action:

26 (1) Is frivolous, malicious, or fails to state a claim for which relief can be
27 granted;

28 (2) Seeks monetary damages from a defendant who is immune from such
29 relief; or

30 (3) Is barred under § 5-1003(a) of this subtitle.

31 (c) An order of dismissal under subsection (b)(1) or (2) of this section may be
32 issued without first requiring proof of exhaustion.

33 DRAFTER'S NOTE:

34 Error: Purpose paragraph of bill being cured failed to accurately describe

1 the changes made by the bill.

2 Occurred: Chapter 495 (House Bill 926) of the Acts of 1997.

3 5-1006.

4 (a) (1) Any compensatory or punitive damages awarded to a prisoner in
5 connection with a civil action shall be paid directly to satisfy any outstanding
6 restitution order or child support order pending against the prisoner.

7 (2) If there are multiple orders of restitution or child support pending
8 against the prisoner, any compensatory damages shall be distributed against those
9 orders on a pro rata basis.

10 (3) (i) The State, the Department, and the Division of Correction may
11 not be liable for any failure to credit an award as provided in this section.

12 (ii) The State, the Department, the Division of Correction, and any
13 county or municipality, through any authorized employee or official, may reclaim any
14 money erroneously credited to a prisoner without judicial action in order to comply
15 with this section.

16 (b) If a prisoner is awarded compensatory or punitive damages for a civil
17 action, the prisoner's custodian shall notify, in writing, the victim or victims of the
18 crime for which the prisoner is incarcerated and the recipient or recipients of any
19 child support obligation for which the prisoner is responsible.

20 DRAFTER'S NOTE:

21 Error: Purpose paragraph of bill being cured failed to accurately describe
22 the changes made by the bill.

23 Occurred: Chapter 495 (House Bill 926) of the Acts of 1997.

24 **Article - Education**

25 7-415.

26 (a) (1) There is a School Health Program.

27 (2) The general purpose of the Program is to implement a program in
28 two areas of this State in which portions of the population currently are underserved.

29 (3) The Program is designed to:

30 (i) Improve the health of school age children in this State; and

31 (ii) Provide reports on the performance of the Program.

1 (4) Each of the two areas of this State shall be served by separate and
2 equal component parts. One part of the Program will be operated in Baltimore City
3 and the other in Caroline County.

4 (b) (1) The specific purposes and objectives of the Program operated in
5 Baltimore City are:

6 (i) To encourage and promote appropriate and cost effective use of
7 health care services;

8 (ii) To reduce unnecessary use of hospital emergency room services;

9 (iii) To demonstrate the efficacy of involving parents, students, and
10 community organizations in school health programs, particularly with regard to
11 recruiting and retaining students in school health programs; and

12 (iv) To assess whether school health programs could be used as a
13 basis for advising other family members of the student of other sources of primary
14 care.

15 (2) The specific purposes and objectives of the Program operated in
16 Caroline County are:

17 (i) To concentrate on the early identification, health counseling,
18 and referral for mental health problems to prevent suicides;

19 (ii) To assess whether school health programs could be used as a
20 basis for advising other family members of the student of other sources of primary
21 care; and

22 (iii) To provide the following health and referral services for
23 students:

24 1. First aid;

25 2. Physical exams and sports physicals;

26 3. Care for minor and chronic illnesses;

27 4. Immunizations;

28 5. Preventive health education services;

29 6. Referrals for counseling at the County Health
30 Department; and

31 7. Social services referrals.

32 (c) (1) Funds for this Program shall be used to acquire:

1 (i) For the Baltimore City Program, the services of one full-time
2 nurse practitioner, physician assistant, or other appropriate health care provider; and

3 (ii) For the Caroline County Program, the services of one full-time
4 nurse practitioner, physician assistant, or other appropriate health care provider.

5 (2) The local subdivisions shall be reimbursed for the purchase of
6 necessary supplies for the Program.

7 (3) The Department of Health and Mental Hygiene or the Baltimore City
8 Health Department shall designate a part-time health research design analyst:

9 (i) To work with the local subdivisions to collect and analyze data
10 during the Program period; and

11 (ii) Subject to § 2-1246 of the State Government Article, to prepare
12 the reports to the General Assembly and the Secretary of Health and Mental Hygiene
13 on July 1, 1992, July 1, 1997, and July 1, 2001 on the status and success of the
14 Program.

15 (d) The Program staff shall develop or appropriately adapt an existing
16 parental consent form for the provision of health services.

17 DRAFTER'S NOTE:

18 Error: Purpose paragraphs of bills being cured failed to accurately
19 describe the changes made by the bills.

20 Occurred: Chapter 358 (Senate Bill 452) and Chapter 553 (House Bill
21 701) of the Acts of 1997.

22 **Article - Family Law**

23 5-1039.

24 (a) If the court finds that the alleged father is not the father, the court may:

25 (1) retain jurisdiction; and

26 (2) on its own motion or otherwise, take any further proceeding that the
27 court considers just and proper and in the best interests of the child.

28 (b) Under this section, the court may:

29 (1) enter an appropriate order against the mother for the support of the
30 child;

31 (2) allow the impleader or joinder of any other alleged father; or

32 (3) consider any other matter that may be in the best interests of the
33 child.

1 DRAFTER'S NOTE:

2 Error: Function paragraph of bill being cured incorrectly indicated that §
3 5-1039 of the Family Law Article was unamended.

4 Occurred: Chapter 609 (Senate Bill 636) of the Acts of 1997.

5

Article - Natural Resources

6 4-715.

7 (a) A person may not fish with rod or hook and line from any kind of boat or
8 float, or fish with nets of any kind within 1500 feet of any occupied duck blind for the
9 period beginning two days prior to the open season, as promulgated by the
10 Department of Interior of the United States for hunting wild waterfowl, and ending
11 the day following the closing of the season in the following waters:

12 (1) Back River, except in the portion lying west of a line drawn from
13 Stansbury's Point on the south shore to Walnut Point on the north shore;

14 (2) Bird River and its tributaries lying within Baltimore County;

15 (3) Dark Head Creek, except in the portion lying north of a line drawn
16 from Clark Point on the west shore directly across the creek to Sharp Point on Bull
17 Neck Shore;

18 (4) Frog Mortar Creek, except in the portion lying northerly of a line
19 drawn from Strawberry Point on the west shore to Weiskettle's Landing on the east
20 shore;

21 (5) Gunpowder River and its tributaries lying within Baltimore County;

22 (6) Hogpen Creek, except in the portion lying southwest of natural
23 headlands marking entrance into the creek;

24 (7) Middle River, except in the portion lying west of a line drawn from
25 Clark Point, also known as Maryland Yacht Club Point, on the north shore to the
26 point of shore directly south of Clark Point;

27 (8) Norman Creek, except in the portion lying west of a line drawn from
28 Cape May Beach on the south shore to Barren Point on the north shore;

29 (9) Seneca Creek, except in the portion lying northwest of a line drawn
30 from Gun Point on the north shore directly south to Blackberry or Flying Point on the
31 south shore;

32 (10) Seneca River; Saltpeter Creek; Dundee Creek and in the waters of
33 their tributaries;

1 (11) Stansbury's Creek, except in the portion lying northwest of a line
2 drawn from Wilson Point on south shore to Strawberry Point on north shore; and

3 (12) Sue Creek, except in the portion lying west of a line drawn from the
4 northeasternmost point of Sue's Island to extremity of Rockaway Beach Road at the
5 southern tip of Turkey Point.

6 (b) A person may not set a pound net or any similar device in the waters of
7 Back River and its tributaries.

8 (c) A person may not fish with rod, hook and line or a net in the waters of Bird
9 River between November 1 and January 31, both dates inclusive. A person shall
10 remove every net or stake used for taking fish before midnight on October 31.

11 (d) A person may not fish with a net of any kind in the waters of Dundee
12 Creek west of a line drawn from Levering's Point on the north to Marshy Point on the
13 south.

14 (e) (1) Except as provided in paragraph (2) of this subsection, a person may
15 not fish in the waters of Gunpowder River lying in Baltimore County, with nets, from
16 May 15 to September 15, both dates inclusive.

17 (2) (i) Except in areas where it is prohibited by the Department, in the
18 waters of the Gunpowder River lying in Baltimore County or Harford County, on prior
19 notification to the Department a person may catch carp 6 weeks before and during
20 Passover in each year and 4 weeks before and during Rosh Hashanah through Yom
21 Kippur in each year. If a person catches any fish variety other than carp under this
22 paragraph, the person shall return them immediately to the water unharmed.

23 (ii) The Department, by regulation:

24 1. Shall establish procedures for the prior notification
25 required under subparagraph (2)(i) of this subsection; and

26 2. May prohibit fishing for carp and catfish in certain areas
27 as provided in subparagraph (2)(i) of this subsection.

28 (f) A person may not fish with nets or seines of any kind in the waters of
29 Middle River and its tributaries, defined as those waters northeast of a line drawn
30 from Bowley Point southwesterly to the navigation light at the western end of Sue
31 Island, between March 1 and June 1, both dates inclusive.

32 (g) A person may not fish with seines or nets of any kind in the waters of Sue's
33 Creek west of a line drawn from the northeasternmost point of Sue's Island to
34 extremity of Rockaway Beach Road at the southern tip of Turkey Point.

35 DRAFTER'S NOTE:

36 Error: Purpose paragraph of bill being cured failed to accurately describe
37 the changes made by the bill.

1 10-612.

2 (e) (1) A stationary blind or blind site license may be obtained from the clerk
3 of the circuit court of the county within whose jurisdiction the stationary blind or
4 blind site lies.

5 (2) Application shall be made on forms, furnished by the Secretary to the
6 clerks of courts, which provide for the location of the blind and the name of the
7 riparian owner. A person may apply by mail.

8 (3) The number of stationary blind and blind site licenses that the clerk
9 shall issue to any resident nonowner during 1 day is limited to no more than two.

10 (4) The clerk shall issue the license upon payment of a \$11.00 fee. The
11 clerk shall retain \$1.00 to cover issuing costs.

12 (5) The Department shall provide each participating county with maps
13 designed for public display and indication of the geographic locations of each
14 purchased site.

15 DRAFTER'S NOTE:

16 Error: Purpose paragraph of bill being cured failed to accurately describe
17 the changes made by the bill.

18 Occurred: Chapter 658 (House Bill 290) of the Acts of 1997.

19 **Chapter 379 of the Acts of 1996, as amended by Chapter 70 of the Acts of 1997**

20 SECTION 3. AND BE IT FURTHER ENACTED, That:

21 (c) any excess credits may be carried forward and, subject to the limitations of
22 Article 88A, § 54 of the Code, may be applied as a credit for taxable years beginning
23 on or after January 1, 2002.

24 DRAFTER'S NOTE:

25 Error: Function paragraph of bill being cured incorrectly indicated that
26 Section 3, rather than Section 3(c), of the Acts of the General Assembly of
27 1996 was being amended.

28 Occurred: Chapter 70 (House Bill 1299) of the Acts of 1997.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

1 **Article - Corporations and Associations**

2 3-112.

3 (a) In order to keep the land assessment records current in each county, the
4 Department shall require a corporation, limited partnership, limited liability
5 company, or business trust to submit with the articles a property certificate for each
6 county where a merging corporation, partnership, limited partnership, limited
7 liability company, or business trust other than the successor, a consolidating
8 corporation, or a transferor corporation owns an interest in land.

9 (b) A property certificate is not required with respect to any property in which
10 the only interest owned by the merging corporation, partnership, limited partnership,
11 limited liability company, or business trust or by the consolidating or transferor
12 corporation is a security interest.

13 (c) The property certificate shall be in the form and number of copies which
14 the Department requires and may include the certificate of the Department required
15 by § 3-111 of this subtitle.

16 (d) (1) The property certificate shall:

17 (i) Provide a deed reference or other description sufficient to
18 identify the property; and

19 (ii) State the actual consideration paid or to be paid for the
20 property.

21 (2) The Department shall indicate on the certificate the time the articles
22 are accepted for record and send a copy of it to the chief assessor of the county where
23 the property is located.

24 (e) A transfer, vesting, or devolution of title to the property is not invalidated
25 or otherwise affected by any error or defect in the property certificate, failure to file it,
26 or failure of the Department to act on it.

27 **DRAFTER'S NOTE:**

28 Error: Function paragraph of bill being cured incorrectly indicated that §
29 3-112 of the Corporations and Associations Article, rather than § 3-112(a)
30 and (b), was being amended.

31 Occurred: Chapter 654 (House Bill 251) of the Acts of 1997.

32 **SECTION 3. AND BE IT FURTHER ENACTED,** That the Drafter's Notes
33 contained in this Act are not law and may not be considered to have been enacted as
34 part of this Act.

35 **SECTION 4. AND BE IT FURTHER ENACTED,** That, except for Section 2 of
36 this Act, this Act is an emergency measure, is necessary for the immediate

1 preservation of the public health and safety, has been passed by a yea and nay vote
2 supported by three-fifths of all the members elected to each of the two Houses of the
3 General Assembly, and shall take effect from the date it is enacted.

4 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
5 take effect July 1, 1998.