

SENATE BILL 1

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2001 Regular Session
11r0739

(PRE-FILED)

By: **The President (Department of Legislative Services - Code Revision)**

Requested: July 1, 2000

Introduced and read first time: January 10, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the "Criminal Procedure Article", to revise, restate,
5 and recodify the laws relating to law enforcement procedures, the arrest process,
6 warrantless arrests, and fresh pursuit both in-State and out-of-state; revising,
7 restating, and recodifying certain provisions relating to the determination of
8 incompetency and criminal responsibility in criminal cases, pretrial procedures,
9 charging procedures and documents, venue and other procedural matters,
10 release from incarceration, pretrial release, trial and sentencing procedures, the
11 State Commission on Criminal Sentencing Policy, and sentence review; revising,
12 restating, and recodifying certain provisions relating to the Uniform
13 Postconviction Procedure Act, extradition, expungement of police and court
14 records, certain provisions relating to the Criminal Justice Information System,
15 the rights of victims and witnesses from pretrial to postconviction, restitution,
16 registration of certain offenders, the Criminal Injuries Compensation Board, the
17 State Board of Victim Services, treatment and help for victims and witnesses,
18 the State Victims of Crime Fund, and the Victim and Witness Relocation Fund,
19 the forfeiture of property involved in controlled dangerous substance violations
20 and violations of gambling and gun laws; defining certain terms; providing for
21 the construction and application of this Act; providing for the continuity of
22 certain units and the terms of certain officials; providing for the continuity of
23 the status of certain transactions, employees, rights, duties, titles, interests,
24 licenses, registrations, certifications, and permits; providing for the termination
25 of certain provisions of this Act; and generally relating to laws of the State
26 relating to criminal procedure.

27 BY repealing

28 Article 27 - Crimes and Punishments

29 Section 12B and 12C and the subheading "Bail or Recognizance - Violation of";

30 36C; 264; 297 and 297A; 467B and the subheading "Recording or

31 Broadcasting Criminal Trials"; 551 and the subheading "Search Warrants";

32 586 through 590, inclusive, and the subheading "Venue"; 591 through

33 594A, inclusive, and the subheading "Procedure"; 594B through 594C-2,

1 inclusive, and the subheading "Arrests"; 594D and 594D-1 and the
2 subheading "District Court Judges - Powers as to Warrants and Writs";
3 595 through 602, inclusive, and the subheading "Fresh Pursuit"; 602A and
4 the subheading "Fresh Pursuit - Intrastate"; 602B and 602C and the
5 subheading "Police Mutual Aid Agreements"; 605, 607, 612 through 615,
6 inclusive; 616 1/2 through 616 1/2B, inclusive; 618; 623A and the
7 subheading "Handicapped Defendants"; 624 and 625 and the subheading
8 "Process Against Corporations, etc. in Criminal Cases"; 633, 634, 635, 638A
9 through 638C, and 639, inclusive; 640 through 642, inclusive; 643A and
10 643C; 645A through 645J, inclusive, and the subheading "Post Conviction
11 Procedure"; 645JA through 645JG, inclusive, and the subheading "Review
12 of Criminal Sentences"; 735 through 741, inclusive, and the subtitle "IV.
13 Criminal Records"; 742 through 755, inclusive, and the subtitle "V.
14 Criminal Justice Information System"; 766 through 771, inclusive, and the
15 subheading "Pretrial Procedures"; 772 through 778, inclusive, and the
16 subheading "Trial Procedures"; 780 through 781, inclusive, and the
17 subheading "Sentencing Procedures"; 783A through 789, inclusive, and the
18 subheading "Postsentencing Procedures"; 790 through 795, inclusive, and
19 the subheading "Sexual Offenses"; 798 through 804, inclusive, and the
20 subheading "Domestic Violence"; 805A through 813, inclusive, and the
21 subheading "Restitution"; 815 through 832, inclusive, and the subheading
22 "Criminal Injuries Compensation"; 835 and 836 and the subheading
23 "Victims and Witnesses - Services" and the sub-subheading "Victim and
24 Witness Protection and Relocation Program"; 837 through 844, inclusive,
25 and the sub-subheading "Board of Victim Services"; 847 through 851,
26 inclusive, and the subheading "Victims and Witnesses - Treatment and
27 Assistance"; and 854 through 857, inclusive, and the subheading
28 "Miscellaneous Provisions"

29 Annotated Code of Maryland
30 (1996 Replacement Volume and 2000 Supplement)

31 BY repealing

32 Article 41 - Governor - Executive and Administrative Departments
33 Section 2-201 through 2-228, inclusive, and the subtitle "Subtitle 2.
34 Extradition"; 2-301 through 2-306, inclusive, and the subtitle "Uniform
35 Act for Extradition of Persons of Unsound Mind"; 2-401 and 2-404; 21-101
36 through 21-108, inclusive, and the title "Title 21. State Commission on
37 Criminal Sentencing Policy"

38 Annotated Code of Maryland
39 (1997 Replacement Volume and 2000 Supplement)

40 BY repealing

41 Article 75 - Pleadings, Practice and Process at Law
42 Section 85 and 86
43 Annotated Code of Maryland
44 (1998 Replacement Volume and 2000 Supplement)

- 1 BY repealing
- 2 Article 87 - Sheriffs
- 3 Section 6 and 7
- 4 Annotated Code of Maryland
- 5 (1998 Replacement Volume and 2000 Supplement)

- 6 BY repealing
- 7 Article - Family Law
- 8 Section 4-501
- 9 Annotated Code of Maryland
- 10 (1999 Replacement Volume and 2000 Supplement)

- 11 BY repealing
- 12 Article - Health - General
- 13 Section 12-101 through 12-122, inclusive, and the title "Title 12. Incompetency
- 14 and Criminal Responsibility in Criminal Cases"
- 15 Annotated Code of Maryland
- 16 (2000 Replacement Volume)

- 17 BY adding
- 18 New Article - Criminal Procedure
- 19 Section 1-101 through 13-206, inclusive, and the various titles
- 20 Annotated Code of Maryland

- 21 BY adding to
- 22 Article 2B - Alcoholic Beverages
- 23 Section 16-509
- 24 Annotated Code of Maryland
- 25 (1998 Replacement Volume and 2000 Supplement)

- 26 BY adding to
- 27 Article 27 - Crimes and Punishments
- 28 Section 612
- 29 Annotated Code of Maryland
- 30 (1996 Replacement Volume and 2000 Supplement)

- 31 BY adding to
- 32 Article - Courts and Judicial Proceedings
- 33 Section 1-609, 2-107, 3-815(j), and 7-409
- 34 Annotated Code of Maryland
- 35 (1998 Replacement Volume and 2000 Supplement)

- 36 BY repealing and reenacting, with amendments,

1 Article - Courts and Judicial Proceedings
2 Section 5-106(b)
3 Annotated Code of Maryland
4 (1998 Replacement Volume and 2000 Supplement)

5 BY adding to
6 Article - Estates and Trusts
7 Section 11-109
8 Annotated Code of Maryland
9 (1991 Replacement Volume and 2000 Supplement)

10 BY adding to
11 Article - Family Law
12 Section 4-501 through 4-503.2, inclusive, to be under the amended part "Part I.
13 Definitions; General Provisions"
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2000 Supplement)

16 BY adding to
17 Article - Health - General
18 Section 10-1301 through 10-1306, inclusive, to be under the new subtitle
19 "Subtitle 13. Uniform Act for the Extradition of Persons of Unsound Mind"
20 Annotated Code of Maryland
21 (2000 Replacement Volume)

22 BY adding to
23 Article - Health Occupations
24 Section 8-509
25 Annotated Code of Maryland
26 (2000 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the following Section(s) of the Annotated Code of Maryland be
29 repealed:

30 Article 27 - Crimes and Punishments
31 Section 12B and 12C and the subheading "Bail or Recognizance - Violation of";
32 36C; 264; 297 and 297A; 467B and the subheading "Recording or
33 Broadcasting Criminal Trials"; 551 and the subheading "Search Warrants";
34 586 through 590, inclusive, and the subheading "Venue"; 591 through
35 594A, inclusive, and the subheading "Procedure"; 594B through 594C-2,
36 inclusive, and the subheading "Arrests"; 594D and 594D-1 and the
37 subheading "District Court Judges - Powers as to Warrants and Writs";
38 595 through 602, inclusive, and the subheading "Fresh Pursuit"; 602A and

1 the subheading "Fresh Pursuit - Intrastate"; 602B and 602C and the
2 subheading "Police Mutual Aid Agreements"; 605, 607, 612 through 615,
3 inclusive; 616 1/2 through 616 1/2B, inclusive; 618; 623A and the
4 subheading "Handicapped Defendants"; 624 and 625 and the subheading
5 "Process Against Corporations, etc. in Criminal Cases"; 633, 634, 635, 638A
6 through 638C, and 639, inclusive; 640 through 642, inclusive; 643A and
7 643C; 645A through 645J, inclusive, and the subheading "Post Conviction
8 Procedure"; 645JA through 645JG, inclusive, and the subheading "Review
9 of Criminal Sentences"; 735 through 741, inclusive, and the subtitle "IV.
10 Criminal Records"; 742 through 755, inclusive, and the subtitle "V.
11 Criminal Justice Information System"; 766 through 771, inclusive, and the
12 subheading "Pretrial Procedures"; 772 through 778, inclusive, and the
13 subheading "Trial Procedures"; 780 through 781, inclusive, and the
14 subheading "Sentencing Procedures"; 783A through 789, inclusive, and the
15 subheading "Postsentencing Procedures"; 790 through 795, inclusive, and
16 the subheading "Sexual Offenses"; 798 through 804, inclusive, and the
17 subheading "Domestic Violence"; 805A through 813, inclusive, and the
18 subheading "Restitution"; 815 through 832, inclusive, and the subheading
19 "Criminal Injuries Compensation"; 835 and 836 and the subheading
20 "Victims and Witnesses - Services" and the sub-subheading "Victim and
21 Witness Protection and Relocation Program"; 837 through 844, inclusive,
22 and the sub-subheading "Board of Victim Services"; 847 through 851,
23 inclusive, and the subheading "Victims and Witnesses - Treatment and
24 Assistance"; and 854 through 857, inclusive, and the subheading
25 "Miscellaneous Provisions"

26 Article 41 - Governor - Executive and Administrative Departments
27 Section 2-201 through 2-228, inclusive, and the subtitle "Subtitle 2.
28 Extradition"; 2-301 through 2-306, inclusive, and the subtitle "Uniform
29 Act for Extradition of Persons of Unsound Mind"; 2-401 and 2-404; 21-101
30 through 21-108, inclusive, and the title "Title 21. State Commission on
31 Criminal Sentencing Policy"

32 Article 75 - Pleadings, Practice and Process at Law
33 Section 85 and 86

34 Article 87 - Sheriffs
35 Section 6 and 7

36 Article - Family Law
37 Section 4-501

38 Article - Health - General
39 Section 12-101 through 12-122, inclusive, and the title "Title 12. Incompetency
40 and Criminal Responsibility in Criminal Cases"

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

3 **ARTICLE - CRIMINAL PROCEDURE**

4 TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

5 SUBTITLE 1. DEFINITIONS.

6 1-101. DEFINITIONS.

7 (A) IN GENERAL.

8 IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 REVISOR'S NOTE: This subsection is new language added as the standard
10 introductory language to a definition section.

11 (B) CHARGING DOCUMENT.

12 (1) "CHARGING DOCUMENT" MEANS A WRITTEN ACCUSATION ALLEGING
13 THAT A DEFENDANT HAS COMMITTED A CRIME.

14 (2) "CHARGING DOCUMENT" INCLUDES A CITATION, AN INDICTMENT,
15 AN INFORMATION, A STATEMENT OF CHARGES, AND A WARRANT.

16 REVISOR'S NOTE: This subsection is new language added to provide a
17 convenient reference to any document containing allegations that a
18 defendant has committed a crime. It is based on Md. Rule 4-102(a).

19 (C) CORRECTIONAL FACILITY.

20 "CORRECTIONAL FACILITY" HAS THE MEANING STATED IN § 1-101 OF THE
21 CORRECTIONAL SERVICES ARTICLE.

22 REVISOR'S NOTE: This subsection is new language added to provide a
23 definition of the term "correctional facility" for this article.

24 The comprehensive term, which was first defined for the Correctional
25 Services Article, includes the former references to a "jail", "prison",
26 "detention center", "penal institution", "reformatory", "institution",
27 "lock-up", "community correctional facility", "work release facility",
28 "pre-release facility", and various other similar terms. *See* General
29 Revisor's Note to the Correctional Services Article.

30 The Criminal Procedure Article Review Committee notes, for consideration
31 by the General Assembly, that this definition does not explicitly cover
32 adults who are detained or confined after a plea of nolo contendere or
33 probation before judgment.

1 (D) COUNTY.

2 "COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

3 REVISOR'S NOTE: This subsection is new language added to indicate that a
4 reference in this article to a "county" includes Baltimore City, unless the
5 reference specifically provides otherwise.

6 Article 1, § 14(a) provides that "county" includes Baltimore City "unless
7 such construction would be unreasonable". Since the word "unreasonable"
8 in that section has been interpreted in various ways, the Criminal
9 Procedure Article Review Committee decided that an explicit definition of
10 "county" should be included in this article.

11 Former Art. 27, § 743(d), which defined "county" to include Baltimore City
12 but applied only to the subtitle concerning the Criminal Justice
13 Information System, is therefore deleted as unnecessary.

14 (E) CRIME OF VIOLENCE.

15 "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, § 643B(A) OF
16 THE CODE.

17 REVISOR'S NOTE: This subsection is new language added to conform the
18 definition of "crime of violence" in this article to the definition in Art. 27, §
19 643B(a) while avoiding the possibility of unintended language variations if
20 that definition is amended in the future.

21 (F) DEPARTMENT.

22 "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND
23 CORRECTIONAL SERVICES.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 27, § 792(a)(4).

26 This defined term is applied throughout this article to provide a
27 convenient, brief reference to the Department of Public Safety and
28 Correctional Services.

29 (G) INMATE.

30 "INMATE" HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL
31 SERVICES ARTICLE.

32 REVISOR'S NOTE: This subsection is new language added to provide
33 uniformity throughout this article when referring to a person who is
34 actually or constructively detained or confined in a correctional facility.

35 The comprehensive term, which was first defined for the Correctional
36 Services Article, includes the former references to "felon", "convict",

1 "prisoner", "persons confined", and various other similar terms. *See*
2 General Revisor's Note to the Correctional Services Article.

3 (H) LOCAL CORRECTIONAL FACILITY.

4 "LOCAL CORRECTIONAL FACILITY" HAS THE MEANING STATED IN § 1-101 OF
5 THE CORRECTIONAL SERVICES ARTICLE.

6 REVISOR'S NOTE: This subsection is new language added to provide
7 uniformity throughout this article when referring to a place in which
8 inmates in counties or municipal corporations are detained.

9 (I) MANAGING OFFICIAL.

10 "MANAGING OFFICIAL" HAS THE MEANING STATED IN § 1-101 OF THE
11 CORRECTIONAL SERVICES ARTICLE.

12 REVISOR'S NOTE: This subsection is new language added to provide
13 uniformity throughout this article when referring to the person who
14 manages a correctional facility.

15 The comprehensive term, which was first defined for the Correctional
16 Services Article, includes the former references to "jailer", "warden", and
17 various other similar terms.

18 (J) NOLO CONTENDERE.

19 "NOLO CONTENDERE" MEANS A PLEA STATING THAT THE DEFENDANT WILL
20 NOT CONTEST THE CHARGE BUT DOES NOT ADMIT GUILT OR CLAIM INNOCENCE.

21 REVISOR'S NOTE: This subsection is new language added to explain the
22 meaning of "nolo contendere".

23 (K) NOLLE PROSEQUI.

24 "NOLLE PROSEQUI" MEANS A FORMAL ENTRY ON THE RECORD BY THE STATE
25 THAT DECLARES THE STATE'S INTENTION NOT TO PROSECUTE A CHARGE.

26 REVISOR'S NOTE: This subsection is new language added to explain the
27 meaning of "nolle prosequi".

28 (L) PERSON.

29 "PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL
30 REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM,
31 ASSOCIATION, CORPORATION, OR OTHER ENTITY.

32 REVISOR'S NOTE: This subsection is new language added to provide an
33 express definition of the term "person" for this article.

34 The definition of "person" in this subsection does not include a

1 governmental entity or unit. The Court of Appeals of Maryland has held
2 consistently that the word "person" in a statute does not include the State,
3 its agencies, or subdivisions unless an intention to include these entities is
4 made manifest by the legislature. *See, e.g., Unnamed Physician v.*
5 *Commission on Medical Discipline*, 285 Md. 1, 12-14 (1979).

6 As to the term "personal representative", *see* Art. 1, § 5.

7 Former Art. 27, § 854(a)(3), which defined "person" to mean a natural
8 person, a firm, corporation, partnership, association, or other legal entity
9 but applied only to provisions regarding notoriety of crimes contracts, is
10 deleted as unnecessary.

11 (M) SECRETARY.

12 "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF PUBLIC
13 SAFETY AND CORRECTIONAL SERVICES.

14 REVISOR'S NOTE: This subsection is new language added to avoid repetition
15 of the full title, "Secretary of the Department of Public Safety and
16 Correctional Services".

17 Former Art. 27, § 743(j), which defined "Secretary" to mean the Secretary
18 of Public Safety and Correctional Services but applied only to the subtitle
19 concerning the Criminal Justice Information System, is therefore deleted
20 as unnecessary.

21 The first clause of former Art. 27, § 815(g), which defined "Secretary" to
22 mean the Secretary of Public Safety and Correctional Services but applied
23 only to the subheading concerning criminal injuries compensation, is
24 therefore deleted as unnecessary. As to the rest of former Art. 27, § 815(g),
25 which authorized the Secretary to have a designee, *see* § 11-805(c) of this
26 article.

27 (N) STATE.

28 "STATE" MEANS:

29 (1) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE
30 UNITED STATES; OR

31 (2) THE DISTRICT OF COLUMBIA.

32 REVISOR'S NOTE: This subsection is new language added to provide an
33 express definition of the term "state" for this article.

34 This definition conforms to the definition of "state" in other revised articles
35 of the Code. *See, e.g.,* CS § 1-101(n), PUC § 1-101(v), and IN § 1-101(kk).

36 (O) STATE CORRECTIONAL FACILITY.

1 "STATE CORRECTIONAL FACILITY" HAS THE MEANING STATED IN § 1-101 OF
2 THE CORRECTIONAL SERVICES ARTICLE.

3 REVISOR'S NOTE: This subsection is new language added to provide a
4 convenient, comprehensive term for referring to any place of confinement
5 for inmates that is operated by the State.

6 This term, which was first defined for the Correctional Services Article,
7 includes the former references to the Patuxent Institution, the Baltimore
8 City Detention Center, and the centralized booking facility in Baltimore
9 City that is operated by the Division of Pretrial Detention and Services in
10 the Department of Public Safety and Correctional Services.

11 SUBTITLE 2. GENERAL PROVISIONS.

12 1-201. RECORDING OR BROADCASTING CRIMINAL PROCEEDINGS.

13 (A) PROHIBITED.

14 (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
15 PERSON MAY NOT RECORD OR BROADCAST ANY CRIMINAL MATTER, INCLUDING A
16 TRIAL, HEARING, MOTION, OR ARGUMENT, THAT IS HELD IN TRIAL COURT OR
17 BEFORE A GRAND JURY.

18 (2) THIS PROHIBITION APPLIES TO THE USE OF TELEVISION, RADIO, AND
19 PHOTOGRAPHIC OR RECORDING EQUIPMENT.

20 (B) EXCEPTIONS.

21 SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO THE USE OF
22 ELECTRONIC OR PHOTOGRAPHIC EQUIPMENT APPROVED BY THE COURT:

23 (1) TO TAKE THE TESTIMONY OF A CHILD VICTIM UNDER § 11-303 OF
24 THIS ARTICLE; OR

25 (2) TO PERPETUATE A COURT RECORD.

26 (C) PENALTY.

27 A PERSON WHO VIOLATES THIS SECTION MAY BE HELD IN CONTEMPT OF
28 COURT.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 467B.

31 In subsection (a) of this section, the introductory language of former Art.
32 27, § 467B, which was the standard introductory language to a definition
33 provision, is deleted as unnecessary. The former definitions have been
34 revised as parts of the substantive provisions.

1 %Also in subsection (a) of this section, the former definitions of "extended
2 coverage" and "proceedings" are revised as part of the substantive
3 prohibition because the definitions were used only once in the former law.
4 As a result, the terms "extended coverage" and "proceeding" are deleted as
5 unnecessary.

6 In subsection (b) of this section, the former reference to "[i]nvestiture or
7 ceremonial proceedings, in which the local administrative judge may
8 regulate the presence and use of cameras, recorders, and broadcasting
9 equipment" is deleted as unnecessary because the reference does not
10 concern a criminal proceeding and thus is beyond the scope of this section.
11 Accordingly, in subsection (a) of this section, the former definition of "local
12 administrative law judge" to mean "the county administrative judge in the
13 circuit court and the district administrative judge in the District Court" is
14 deleted as unnecessary because it was used only in this provision in the
15 former law.

16 In subsection (b)(1) of this section, the reference to taking "the testimony of
17 a child victim under § 11-303 of this article" is added to reflect that closed
18 circuit television may be used in the courtroom under certain
19 circumstances to take the testimony of a child victim.

20 The scope of this section is limited to media coverage of criminal
21 proceedings. Maryland Rule 16-109, however, allows recording or
22 broadcasting of court proceedings in civil actions in the trial courts of the
23 State and in appellate courts. *See* the Rules Order of May 4, 1984, for
24 Maryland Rule 1209 (now Maryland Rule 16-109) making the experiment
25 of extended media coverage permanent for civil actions in the trial courts.

26 Defined term: "Person" § 1-101

27 1-202. INTERPRETERS FOR CRIMINAL PROCEEDINGS.

28 (A) WHEN APPOINTMENT REQUIRED.

29 THE COURT SHALL APPOINT A QUALIFIED INTERPRETER TO HELP A
30 DEFENDANT IN A CRIMINAL PROCEEDING THROUGHOUT ANY CRIMINAL
31 PROCEEDING WHEN THE DEFENDANT IS:

32 (1) DEAF; OR

33 (2) CANNOT READILY UNDERSTAND OR COMMUNICATE THE ENGLISH
34 LANGUAGE AND CANNOT UNDERSTAND A CHARGE MADE AGAINST THE DEFENDANT
35 OR HELP PRESENT THE DEFENSE.

36 (B) COMPENSATION AND EXPENSES.

37 THE COURT SHALL GIVE AN INTERPRETER APPOINTED UNDER THIS SECTION:

1 (1) COMPENSATION FOR SERVICES IN AN AMOUNT EQUAL TO THAT
2 PROVIDED FOR INTERPRETERS OF LANGUAGES OTHER THAN ENGLISH; AND

3 (2) REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES
4 INCURRED IN THE PERFORMANCE OF SERVICES.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 623A(a)(1) and (b).

7 In subsection (a) of this section, the former reference to a criminal
8 proceeding in "any court in this State" is deleted as surplusage.

9 Also in subsection (a) of this section, the former reference to "deaf-mute" is
10 deleted as included in the reference to "deaf".

11 Also in subsection (a) of this section, the former reference to a defendant
12 who "[b]ecause of hearing, speaking, or other impairment" cannot readily
13 understand or communicate the English language is deleted as
14 unnecessary in light of the general reference to a defendant who "cannot
15 readily understand or communicate the English language and cannot
16 understand a charge made against the defendant or help present the
17 defense".

18 As to the appointment and compensation of interpreters generally, *see* §
19 9-114 of the Courts Article.

20 1-203. SEARCH WARRANTS.

21 (A) IN GENERAL.

22 (1) A CIRCUIT COURT JUDGE OR DISTRICT COURT JUDGE MAY ISSUE
23 FORTHWITH A SEARCH WARRANT WHENEVER IT IS MADE TO APPEAR TO THE JUDGE,
24 BY APPLICATION AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THAT
25 THERE IS PROBABLE CAUSE TO BELIEVE THAT:

26 (I) A MISDEMEANOR OR FELONY IS BEING COMMITTED BY A
27 PERSON OR IN A BUILDING, APARTMENT, PREMISES, PLACE, OR THING WITHIN THE
28 TERRITORIAL JURISDICTION OF THE JUDGE; OR

29 (II) PROPERTY SUBJECT TO SEIZURE UNDER THE CRIMINAL LAWS
30 OF THE STATE IS ON THE PERSON OR IN OR ON THE BUILDING, APARTMENT,
31 PREMISES, PLACE, OR THING.

32 (2) AN APPLICATION FOR A SEARCH WARRANT SHALL BE:

33 (I) IN WRITING;

34 (II) SIGNED AND SWORN TO BY THE APPLICANT; AND

35 (III) ACCOMPANIED BY AN AFFIDAVIT THAT:

1 1. SETS FORTH THE BASIS FOR PROBABLE CAUSE AS
2 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

3 2. CONTAINS FACTS WITHIN THE PERSONAL KNOWLEDGE
4 OF THE AFFIANT THAT THERE IS PROBABLE CAUSE.

5 (3) THE SEARCH WARRANT SHALL:

6 (I) BE DIRECTED TO A DULY CONSTITUTED POLICE OFFICER AND
7 AUTHORIZE THE POLICE OFFICER TO SEARCH THE SUSPECTED PERSON, BUILDING,
8 APARTMENT, PREMISES, PLACE, OR THING AND TO SEIZE ANY PROPERTY FOUND
9 SUBJECT TO SEIZURE UNDER THE CRIMINAL LAWS OF THE STATE; AND

10 (II) NAME OR DESCRIBE, WITH REASONABLE PARTICULARITY:

11 1. THE PERSON, BUILDING, APARTMENT, PREMISES, PLACE,
12 OR THING TO BE SEARCHED;

13 2. THE GROUNDS FOR THE SEARCH; AND

14 3. THE NAME OF THE APPLICANT ON WHOSE APPLICATION
15 THE SEARCH WARRANT WAS ISSUED.

16 (4) (I) THE SEARCH AND SEIZURE UNDER THE AUTHORITY OF A
17 SEARCH WARRANT SHALL BE MADE WITHIN 15 CALENDAR DAYS AFTER THE DAY
18 THAT THE SEARCH WARRANT IS ISSUED.

19 (II) AFTER THE EXPIRATION OF THE 15-DAY PERIOD, THE SEARCH
20 WARRANT IS VOID.

21 (B) RETURN OF PROPERTY WRONGFULLY TAKEN.

22 (1) A CIRCUIT COURT JUDGE OR DISTRICT COURT JUDGE SHALL CAUSE
23 PROPERTY TAKEN UNDER A SEARCH WARRANT TO BE RESTORED TO THE PERSON
24 FROM WHOM IT WAS TAKEN IF, AT ANY TIME, ON APPLICATION TO THE JUDGE, IT
25 APPEARS THAT:

26 (I) THE PROPERTY TAKEN IS NOT THE SAME AS THAT DESCRIBED
27 IN THE SEARCH WARRANT;

28 (II) THERE IS NO PROBABLE CAUSE FOR BELIEVING THE
29 EXISTENCE OF THE GROUNDS ON WHICH THE SEARCH WARRANT WAS ISSUED; OR

30 (III) THE PROPERTY WAS TAKEN UNDER A SEARCH WARRANT
31 ISSUED MORE THAN 15 CALENDAR DAYS BEFORE THE SEIZURE.

32 (2) THE JUDGE MAY RECEIVE AN ORAL MOTION MADE IN OPEN COURT
33 AT ANY TIME MAKING APPLICATION FOR THE RETURN OF SEIZED PROPERTY IF THE
34 APPLICATION FOR RETURN IS BASED ON ANY GROUND DESCRIBED IN PARAGRAPH (1)
35 OF THIS SUBSECTION.

1 (3) IF THE JUDGE GRANTS THE ORAL MOTION DESCRIBED IN
2 PARAGRAPH (2) OF THIS SUBSECTION, THE ORDER OF THE COURT SHALL BE IN
3 WRITING AND A COPY OF THE ORDER SHALL BE SENT TO THE STATE'S ATTORNEY.

4 (4) COURT COSTS MAY NOT BE ASSESSED AGAINST THE PERSON FROM
5 WHOM THE PROPERTY WAS TAKEN IF:

6 (I) THE JUDGE DENIES THE ORAL MOTION AND REQUIRES THE
7 PERSON FROM WHOM THE PROPERTY WAS TAKEN TO PROCEED FOR RETURN OF THE
8 SEIZED PROPERTY BY PETITION AND AN ORDER TO SHOW CAUSE TO THE POLICE
9 AUTHORITY SEIZING THE PROPERTY; AND

10 (II) IT IS LATER ORDERED THAT THE PROPERTY BE RESTORED TO
11 THE PERSON FROM WHOM IT WAS TAKEN.

12 (5) IF THE JUDGE FINDS THAT THE PROPERTY TAKEN IS THE SAME AS
13 THAT DESCRIBED IN THE SEARCH WARRANT AND THAT THERE IS PROBABLE CAUSE
14 FOR BELIEVING THE EXISTENCE OF THE GROUNDS ON WHICH THE SEARCH
15 WARRANT WAS ISSUED, THE JUDGE SHALL ORDER THE PROPERTY TO BE RETAINED
16 IN THE CUSTODY OF THE POLICE AUTHORITY SEIZING IT OR TO BE OTHERWISE
17 DISPOSED OF ACCORDING TO LAW.

18 (C) RETURN OF PROPERTY RIGHTFULLY TAKEN.

19 (1) THIS SUBSECTION DOES NOT APPLY TO CONTRABAND OR OTHER
20 PROPERTY PROHIBITED BY LAW FROM BEING RECOVERABLE.

21 (2) PROPERTY SEIZED UNDER A SEARCH WARRANT ISSUED UNDER
22 SUBSECTION (A) OF THIS SECTION MAY BE RETURNED TO THE PERSON TO WHOM
23 THE PROPERTY BELONGS WITHOUT THE NECESSITY OF THAT PERSON BRINGING AN
24 ACTION FOR REPLEVIN OR ANY OTHER PROCEEDING AGAINST THE UNIT WITH
25 CUSTODY OF THE PROPERTY IF:

26 (I) THE CRIMINAL CASE IN WHICH THE PROPERTY WAS SEIZED IS
27 DISPOSED OF BECAUSE OF A NOLLE PROSEQUI, DISMISSAL, OR ACQUITTAL;

28 (II) THE STATE DOES NOT APPEAL THE CRIMINAL CASE IN WHICH
29 THE PROPERTY WAS SEIZED; OR

30 (III) THE TIME FOR APPEAL HAS EXPIRED.

31 (D) RETURN OF PROPERTY RIGHTFULLY TAKEN AND WRONGFULLY
32 WITHHELD.

33 (1) A CIRCUIT COURT JUDGE OR DISTRICT COURT JUDGE SHALL CAUSE
34 PROPERTY RIGHTFULLY TAKEN UNDER A SEARCH WARRANT TO BE RESTORED TO
35 THE PERSON FROM WHOM IT WAS TAKEN IF, AT ANY TIME, ON APPLICATION TO THE
36 JUDGE, THE JUDGE FINDS THAT THE PROPERTY IS BEING WRONGFULLY WITHHELD
37 AFTER THERE IS NO FURTHER NEED FOR RETENTION OF THE PROPERTY.

1 (2) THE JUDGE MAY RECEIVE AN ORAL MOTION MADE IN OPEN COURT
2 AT ANY TIME MAKING APPLICATION FOR THE RETURN OF SEIZED PROPERTY IF THE
3 APPLICATION FOR RETURN IS BASED ON THE GROUND THAT THE PROPERTY,
4 ALTHOUGH RIGHTFULLY TAKEN UNDER A SEARCH WARRANT, IS BEING
5 WRONGFULLY WITHHELD AFTER THERE IS NO FURTHER NEED FOR RETENTION OF
6 THE PROPERTY.

7 (3) IF THE JUDGE GRANTS THE ORAL MOTION DESCRIBED IN
8 PARAGRAPH (2) OF THIS SUBSECTION, THE ORDER OF THE COURT SHALL BE IN
9 WRITING AND A COPY OF THE ORDER SHALL BE SENT TO THE STATE'S ATTORNEY.

10 (4) COURT COSTS MAY NOT BE ASSESSED AGAINST THE PERSON FROM
11 WHOM THE PROPERTY WAS TAKEN IF:

12 (I) THE JUDGE DENIES THE ORAL MOTION AND REQUIRES THE
13 PERSON FROM WHOM THE PROPERTY WAS TAKEN TO PROCEED FOR RETURN OF THE
14 SEIZED PROPERTY BY PETITION AND AN ORDER TO SHOW CAUSE TO THE POLICE
15 AUTHORITY WRONGFULLY WITHHOLDING THE PROPERTY; AND

16 (II) IT IS LATER ORDERED THAT THE PROPERTY BE RESTORED TO
17 THE PERSON FROM WHOM IT WAS TAKEN.

18 (E) SEALING AFFIDAVITS.

19 (1) THIS SUBSECTION APPLIES TO CRIMINAL INVESTIGATIONS
20 CONDUCTED BY A LAW ENFORCEMENT UNIT, GRAND JURY, OR STATE'S ATTORNEY
21 UNDER ARTICLE 10, § 39A OF THE CODE INTO ALLEGED CRIMINAL ACTIVITIES IN
22 VIOLATION OF:

23 (I) ARTICLE 27, § 286, § 286A, § 286B, § 286C, § 287, OR § 287A OF THE
24 CODE, RELATING TO CONTROLLED DANGEROUS SUBSTANCES;

25 (II) ARTICLE 27, § 407, § 408, § 409, § 410, OR § 411 OF THE CODE,
26 RELATING TO MURDER; OR

27 (III) ARTICLE 27, § 419A OR § 419B OF THE CODE, RELATING TO
28 PORNOGRAPHY.

29 (2) NOTWITHSTANDING ANY PROVISION OF THE MARYLAND RULES, A
30 CIRCUIT COURT JUDGE OR DISTRICT COURT JUDGE, ON A FINDING OF GOOD CAUSE,
31 MAY ORDER THAT AN AFFIDAVIT PRESENTED IN SUPPORT OF A SEARCH AND
32 SEIZURE WARRANT BE SEALED FOR A PERIOD NOT EXCEEDING 30 DAYS.

33 (3) A FINDING OF GOOD CAUSE REQUIRED BY PARAGRAPH (2) OF THIS
34 SUBSECTION IS ESTABLISHED BY EVIDENCE THAT:

35 (I) THE CRIMINAL INVESTIGATION TO WHICH THE AFFIDAVIT IS
36 RELATED IS OF A CONTINUING NATURE AND LIKELY TO YIELD FURTHER
37 INFORMATION THAT COULD BE OF USE IN PROSECUTING ALLEGED CRIMINAL
38 ACTIVITIES; AND

1 (II) THE FAILURE TO MAINTAIN THE CONFIDENTIALITY OF THE
2 INVESTIGATION WOULD:

3 1. JEOPARDIZE THE USE OF INFORMATION ALREADY
4 OBTAINED IN THE INVESTIGATION;

5 2. IMPAIR THE CONTINUATION OF THE INVESTIGATION; OR

6 3. JEOPARDIZE THE SAFETY OF A SOURCE OF INFORMATION.

7 (4) AFTER THE ORDER SEALING THE AFFIDAVIT EXPIRES, THE
8 AFFIDAVIT SHALL BE:

9 (I) UNSEALED; AND

10 (II) DELIVERED WITHIN 15 DAYS:

11 1. TO THE PERSON FROM WHOM THE PROPERTY WAS
12 TAKEN; OR

13 2. IF THAT PERSON IS NOT ON THE PREMISES AT THE TIME
14 OF DELIVERY, TO THE PERSON APPARENTLY IN CHARGE OF THE PREMISES FROM
15 WHICH THE PROPERTY WAS TAKEN.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 551.

18 Throughout this section, the reference to the defined term "person" is
19 substituted for the former reference to "individual" to conform to the
20 terminology used throughout this subtitle.

21 In the introductory language of subsections (a)(1) and (b)(1) and in
22 subsection (d)(1) of this section, the references to a "circuit court judge" and
23 a "District Court judge" are substituted for the former references to a
24 "judge of any of the circuit courts in the counties of this State", a "judge of
25 the District Court", a "judge of the circuit court of any county", and "a
26 judge of the circuit court of any county or judge of the District Court" for
27 consistency with terminology used throughout this article. Similarly, in
28 subsection (e)(2) of this section, the reference to "a circuit court judge or
29 District Court judge" is substituted for the former reference to "a judge of
30 the District Court or circuit court".

31 In subsection (a)(1)(ii) of this section, the former reference to property
32 "situated or located" on the person of an individual is deleted as
33 surplusage.

34 In subsection (a)(3) of this section, the former reference to "policeman" is
35 deleted as included in the reference to "police officer".

36 In subsection (b)(4)(i) of this section, the reference to a judge who "denies

1 the oral motion" is substituted for the former reference to a judge who
2 "rejects the proffer on" an oral motion for clarity. Similarly, in subsection
3 (d)(4)(i) of this section the same reference is substituted for the former
4 reference to a judge who "rejects the proffer of" an oral motion.

5 In subsection (b)(5) of this section, the phrase "[i]f the judge finds" is
6 substituted for the former phrase "[i]f ... it appears" to clarify to whom it
7 must appear that property was rightfully seized.

8 Also in subsection (b)(5) of this section, the reference to the "police
9 authority" is substituted for the former reference to "the person" to
10 conform to the terminology used throughout this section.

11 In subsection (c) of this section, as to the right of the State to appeal from
12 a final judgment entered in the District Court, *see* CJ § 12-401.

13 In subsections (c)(2) and (e)(1) of this section, the reference to "unit" is
14 substituted for the former reference to "agency" to conform to the
15 terminology used throughout this article. *See* General Revisor's Note to
16 article.

17 In subsection (d)(4)(i) of this section, the reference to the "police" authority
18 is added for clarity.

19 In subsection (e) of this section, the references to sections of the Code
20 "relating to controlled dangerous substances", "relating to murder", and
21 "relating to pornography" are added for clarity.

22 In subsection (e)(4) of this section, the former reference to a person who is
23 not "present" on the premises is deleted as surplusage.

24 The Criminal Procedure Article Review Committee notes, for consideration
25 by the General Assembly, that the terminology in subsections (b), (c), and
26 (d) of this section is inconsistent concerning persons and property.
27 Subsection (c)(2) of this section refers to the person "to whom property
28 belongs". Subsections (b)(1) and (d)(4) of this section refer to the person
29 "from whom it [*i.e.*, property] was taken" and "from whom the property
30 was taken".

31 Defined terms: "Nolle prosequi" § 1-101

32 "Person" § 1-101

33 1-204. WITNESS COMPENSATION.

34 A WITNESS ATTENDING COURT HAS THE RIGHT TO COMPENSATION AS
35 PROVIDED IN § 9-202 OF THE COURTS ARTICLE.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 27, § 777.

1 There are no changes.

2 The Criminal Procedure Article Review Committee notes, for consideration
3 by the General Assembly, that the compensation provided in § 9-202 of the
4 Courts Article ranges from 50 cents to \$5 per day, plus travel expenses of
5 up to 12 cents per mile. The General Assembly may wish to increase the
6 compensation or repeal CJ § 9-202 and this section.

7 1-205. PROCESS ACROSS COUNTY LINES.

8 (A) IN GENERAL.

9 A COURT IN A COUNTY WHERE A CRIME IS COMMITTED MAY ISSUE PROCESS
10 AGAINST A PERSON CHARGED WITH THE CRIME EVEN IF:

11 (1) THE PERSON IS NOT A RESIDENT OF THE COUNTY; OR

12 (2) THE PERSON IS A RESIDENT OF THE COUNTY BUT LEAVES THE
13 COUNTY.

14 (B) SHERIFFS.

15 (1) PROCESS ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL
16 BE DIRECTED TO THE SHERIFF OF THE COUNTY WHERE THE PERSON RESIDES.

17 (2) THE SHERIFF SHALL SERVE AND RETURN THE PROCESS AS IF
18 ISSUED BY A COURT OF THE SHERIFF'S COUNTY.

19 (3) A COURT THAT ISSUED PROCESS UNDER SUBSECTION (A) OF THIS
20 SECTION MAY FINE A SHERIFF WHO NEGLECTS THE PROCESS OR DELAYS SERVING
21 AND RETURNING THE PROCESS.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 75, § 85.

24 In subsection (a) of this section, the reference to "[a] court in a county
25 where a crime is committed" is substituted for the former reference to "the
26 court before which such presentment or indictment shall be found" for
27 clarity.

28 Also in subsection (a) of this section, the former reference to "offense" is
29 deleted as included in the reference to "crime".

30 In subsection (a)(1) and (2) of this section, the references to being a
31 "resident" are substituted for the former references to being an
32 "inhabitant" for consistency with the reference in subsection (b) of this
33 section of a county where the person "resides".

34 In subsection (a)(2) of this section, the reference to the authority of a court
35 to issue process against a person charged with a crime even if the person
36 "leaves the county" is substituted for the former reference to a person who

1 "shall remove after the commission thereof and shall be presented or
2 indicted in the county where the crime or offense shall have been
3 committed" for brevity and clarity.

4 Defined terms: "County" § 1-101

5 "Person" § 1-101

6 1-206. DEFENDANT TO HAVE COPY OF PROCESS.

7 WHENEVER PROCESS IS SERVED ON A DEFENDANT IN A CRIMINAL CASE, THE
8 PROCESS SERVER SHALL LEAVE WITH THE DEFENDANT A COPY OF THE PROCESS.

9 REVISOR'S NOTE: This section formerly was Art. 75, § 86.

10 The only changes are in style.

11 1-207. REMISSION OF FINES AND FORFEITURES.

12 (A) FINES OR FORFEITURES.

13 THE GOVERNOR MAY REMIT ALL OR PART OF A FINE OR FORFEITURE.

14 (B) RECOGNIZANCE.

15 A DEFENDANT OR SURETY APPLYING FOR THE REMISSION OF ALL OR PART OF A
16 RECOGNIZANCE THAT HAS BEEN FORFEITED:

17 (1) MAY APPLY TO A COURT TO ORDER THE REMISSION IN ACCORDANCE
18 WITH TITLE 4 OF THE MARYLAND RULES; AND

19 (2) NEED NOT APPLY TO THE GOVERNOR TO ORDER THE REMISSION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 2-401.

22 In item (1) of this section, the reference to a defendant or surety who "may"
23 apply to a court to order a remission is substituted for the former reference
24 to a defendant or surety who "shall" apply to a court to harmonize with the
25 language of item (2) of this section, which states that a defendant or surety
26 "need not" apply to the Governor.

27 1-208. PAYMENT OF COSTS FOR NOLLE PROSEQUI.

28 THE GOVERNOR MAY NOT GRANT A NOLLE PROSEQUI UNLESS THE APPLICANT
29 FOR THE NOLLE PROSEQUI PAYS THE COST OF PROSECUTION.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 41, § 2-404.

32 The reference to the "applicant" is substituted for the former reference to
33 "the person applying for the same" for brevity.

1 %The Criminal Procedure Article Review Committee notes, for consideration
2 by the General Assembly, that this section, which concerns the grant of a
3 nolle prosequi by the Governor, is obsolete and is a possible candidate for
4 repeal.

5 Defined term: "Nolle prosequi" § 1-101

6 TITLE 2. LAW ENFORCEMENT PROCEDURES; ARREST PROCESS.

7 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

8 2-101. DEFINITIONS.

9 (A) IN GENERAL.

10 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27, § 594B(h)(1)(i) and (m)(1)(i).

13 The reference to "title" is substituted for the former reference to
14 "subsection" because the definitions in this section are used throughout
15 this title.

16 (B) EMERGENCY.

17 "EMERGENCY" MEANS A SUDDEN OR UNEXPECTED HAPPENING OR AN
18 UNFORESEEN COMBINATION OF CIRCUMSTANCES THAT CALLS FOR IMMEDIATE
19 ACTION TO PROTECT THE HEALTH, SAFETY, WELFARE, OR PROPERTY OF A PERSON
20 FROM ACTUAL OR THREATENED HARM OR FROM AN UNLAWFUL ACT.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 27, § 594B(h)(1)(ii) and (m)(1)(ii).

23 The reference to a "person" is substituted for the former reference to an
24 "individual" to conform to the terminology used throughout this article.

25 Defined term: "Person" § 1-101

26 (C) POLICE OFFICER.

27 "POLICE OFFICER" MEANS A PERSON WHO IN AN OFFICIAL CAPACITY IS
28 AUTHORIZED BY LAW TO MAKE ARRESTS AND IS:

29 (1) A MEMBER OF THE DEPARTMENT OF STATE POLICE;

30 (2) A MEMBER OF THE POLICE DEPARTMENT OF BALTIMORE CITY;

31 (3) A MEMBER OF THE BALTIMORE CITY SCHOOL POLICE FORCE;

1 (4) A MEMBER OF THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
2 COUNTY;

3 (5) A MEMBER OF THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
4 MUNICIPAL CORPORATION;

5 (6) A MEMBER OF THE MASS TRANSIT ADMINISTRATION POLICE FORCE,
6 MARYLAND PORT ADMINISTRATION POLICE FORCE, OR MARYLAND
7 TRANSPORTATION AUTHORITY POLICE FORCE;

8 (7) A MEMBER OF THE UNIVERSITY OF MARYLAND POLICE FORCE OR
9 MORGAN STATE UNIVERSITY POLICE FORCE;

10 (8) A SPECIAL POLICEMAN WHO IS APPOINTED TO ENFORCE THE LAW
11 AND MAINTAIN ORDER ON OR PROTECT PROPERTY OF THE STATE OR ANY OF ITS
12 UNITS;

13 (9) A MEMBER OF THE DEPARTMENT OF GENERAL SERVICES SECURITY
14 FORCE;

15 (10) THE SHERIFF OF A COUNTY AND WHOSE USUAL DUTIES INCLUDE
16 THE MAKING OF ARRESTS;

17 (11) A REGULARLY EMPLOYED DEPUTY SHERIFF OF A COUNTY WHO IS
18 COMPENSATED BY THE COUNTY AND WHOSE USUAL DUTIES INCLUDE THE MAKING
19 OF ARRESTS;

20 (12) A MEMBER OF THE NATURAL RESOURCES POLICE FORCE OF THE
21 DEPARTMENT OF NATURAL RESOURCES;

22 (13) AN AUTHORIZED EMPLOYEE OF THE INVESTIGATIVE SERVICES UNIT
23 OF THE COMPTROLLER'S OFFICE;

24 (14) A MEMBER OF THE MARYLAND-NATIONAL CAPITAL PARK AND
25 PLANNING COMMISSION PARK POLICE;

26 (15) A MEMBER OF THE HOUSING AUTHORITY OF BALTIMORE CITY
27 POLICE FORCE;

28 (16) A MEMBER OF THE CROFTON POLICE DEPARTMENT;

29 (17) A MEMBER OF THE WMATA METRO TRANSIT POLICE, SUBJECT TO
30 THE JURISDICTIONAL LIMITATIONS UNDER ARTICLE XVI, § 76 OF THE WASHINGTON
31 METROPOLITAN AREA TRANSIT AUTHORITY COMPACT, WHICH IS CODIFIED AT §
32 10-204 OF THE TRANSPORTATION ARTICLE;

33 (18) A MEMBER OF THE INTERNAL INVESTIGATIVE UNIT OF THE
34 DEPARTMENT; OR

35 (19) A MEMBER OF THE STATE FOREST AND PARK SERVICE POLICE
36 FORCE OF THE DEPARTMENT OF NATURAL RESOURCES.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, § 594B(g), except as it included in
3 the definition of a "police officer" the "State Fire Marshal or a full-time
4 investigative and inspection assistant".

5 In item (5) of this subsection, the reference to a "municipal corporation" is
6 substituted for the former reference to an "incorporated city or town" to
7 conform to Md. Constitution, Art. XI-E.

8 Also in item (5) of this subsection, the former exception for "Baltimore City,
9 which is a 'qualifying municipality', as defined in § 66(a)(7) and § 69 of
10 Article 88B of this Code" is deleted because Baltimore City is not
11 considered a municipal corporation and thus would not seem to be covered
12 by this item. Article 88B, § 66(a)(7) defines "qualifying municipality" as
13 any municipality whose expenditures for police protection exceed \$5,000
14 and which employs at least one qualified full-time policeman. This would
15 seem to cover Baltimore City, except for the fact that it is not considered a
16 municipality. Further, the Baltimore City Police Department is specifically
17 covered in item (2)(ii) of this subsection. Finally, the reference to Art. 88B,
18 § 69 is deleted as erroneous, because that section does not define a
19 qualifying municipality; rather, that section deals with administration of
20 the State Aid for Police Protection Fund.

21 In item (6) of this subsection, the former phrase "of the Department of
22 Transportation" is deleted because the phrase is not part of the official title
23 of the Maryland Port Administration Police Force.

24 In item (8) of this subsection, the former reference to a person who is
25 "given the powers of" a special policeman is deleted as included in the
26 reference to a person who is "appointed" as a special policeman. *See* Art.
27 41, § 4-901, which refers to the Governor appointing special policemen.

28 Also in item (8) of this subsection, the former reference to a special
29 policeman who is "employed and compensated by the State" is deleted as
30 misleading and unnecessary. Under Art. 41, § 4-909, each person
31 appointed as a special policeman is deemed to be an employee of the entity
32 requesting the appointment. Therefore, a special policeman appointed to
33 protect State property is deemed to be an employee of the State. The fact
34 that such a special policeman is compensated by the State is unnecessary
35 in the revision because under Art. 41, § 4-909, a special policeman is
36 compensated by the entity requesting the appointment on whatever terms
37 are contracted.

38 Also in item (8) of this subsection, the reference to a special policeman who
39 is appointed to maintain order on "or" protect property is substituted for
40 the former reference to a special policeman who is appointed to maintain
41 order "and" protect property for clarity.

42 In item (12) of this subsection, the reference to a member of the Natural

1 Resources Police "Force" is added to use the official name of the entity. For
2 provisions on the Natural Resources Police Force, *see* NR §§ 1-201 through
3 1-210.

4 In item (13) of this subsection, the reference to an "authorized employee" is
5 substituted for the former reference to a "member" of the Investigative
6 Services Unit of the Comptroller's Office to conform to terminology used
7 elsewhere in the revised Code. *See* TG § 2-107 for provisions on the
8 Investigative Services Unit.

9 Former Art. 27, § 594B(g)(17), which defined "police officer" in part to
10 mean "[s]ubject to subsections (i) and (l)(7) of this section, the State Fire
11 Marshal or a full-time investigative and inspector assistant of the Office of
12 the State Fire Marshal", is deleted to avoid confusion and needless
13 cross-references. The authority of the State Fire Marshal and full-time
14 investigative and inspection assistants to make specified arrests is fully
15 set forth in § 2-208 of this title and is unchanged from the former law. No
16 substantive change is intended.

17 Defined terms: "County" § 1-101

18 "Department" § 1-101

19 2-102. AUTHORITY OF POLICE OFFICERS -- IN GENERAL.

20 (A) SCOPE OF SECTION.

21 THIS SECTION DOES NOT APPLY TO AN EMPLOYEE OF THE DEPARTMENT OF
22 STATE POLICE TO WHOM THE SECRETARY OF STATE POLICE ASSIGNS THE POWERS
23 CONTAINED IN ARTICLE 88B, § 4 OF THE CODE.

24 (B) IN GENERAL.

25 (1) SUBJECT TO THE LIMITATIONS OF PARAGRAPH (3) OF THIS
26 SUBSECTION, A POLICE OFFICER MAY MAKE ARRESTS, CONDUCT INVESTIGATIONS,
27 AND OTHERWISE ENFORCE THE LAWS OF THE STATE THROUGHOUT THE STATE
28 WITHOUT LIMITATIONS AS TO JURISDICTION.

29 (2) THIS SECTION DOES NOT AUTHORIZE A POLICE OFFICER WHO ACTS
30 UNDER THE AUTHORITY GRANTED BY THIS SECTION TO ENFORCE THE MARYLAND
31 VEHICLE LAW BEYOND THE POLICE OFFICER'S SWORN JURISDICTION.

32 (3) A POLICE OFFICER MAY EXERCISE THE POWERS GRANTED BY THIS
33 SECTION WHEN:

34 (I) 1. THE POLICE OFFICER IS PARTICIPATING IN A JOINT
35 INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW
36 ENFORCEMENT UNIT, AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

37 2. THE POLICE OFFICER IS HELPING ANOTHER POLICE
38 OFFICER;

1 A POLICE OFFICER WHO ACTS UNDER THE AUTHORITY GRANTED BY THIS
2 SECTION:

3 (1) HAS ALL THE IMMUNITIES FROM LIABILITY AND EXEMPTIONS AS A
4 STATE POLICE OFFICER IN ADDITION TO ANY OTHER IMMUNITIES AND EXEMPTIONS
5 TO WHICH THE POLICE OFFICER IS OTHERWISE ENTITLED; AND

6 (2) REMAINS AT ALL TIMES AND FOR ALL PURPOSES AN EMPLOYEE OF
7 THE EMPLOYING UNIT.

8 (E) EFFECT OF SECTION.

9 (1) THIS SECTION DOES NOT IMPAIR A RIGHT OF ARREST OTHERWISE
10 EXISTING UNDER THE CODE.

11 (2) THIS SECTION DOES NOT DEPRIVE A PERSON OF THE RIGHT TO
12 RECEIVE A CITATION FOR A TRAFFIC VIOLATION AS PROVIDED IN THE MARYLAND
13 VEHICLE LAW OR A CRIMINAL VIOLATION AS PROVIDED BY LAW OR THE MARYLAND
14 RULES.

15 REVISOR'S NOTE: Subsections (a) through (d) of this section are new language
16 derived without substantive change from former Art. 27, § 594B(m)(1)(i),
17 (iii), and (iv), and (2) through (6).

18 Subsection (e) of this section is new language derived without substantive
19 change from former Art. 27, § 594B(k) and (l).

20 Subsection (a) of this section is revised as a scope provision because the
21 intent of former Art. 27, § 594B(m)(1)(iii), seemed to be to exclude State
22 Police officers from those officers who were covered by the substantive
23 provisions of former § 594B(m), which is revised as this section.

24 In subsection (a) of this section, the reference to "an employee of the
25 Department of State Police to whom the Secretary of the State Police
26 assigns the powers contained in Article 88B, § 4 of the Code" is substituted
27 for the former provision that defined "State Police officer", for clarity. This
28 revised provision is based on the definitions of "employee" and "police
29 employee" in Art. 88B, § 2. As for the authority of State Police officers in
30 general and specifically in incorporated municipalities, *see* Art. 88B, § 4(b)
31 and (c).

32 In subsection (b)(1) of this section, the former reference to a police officer
33 "of this State" is deleted in light of the definition of "police officer" in §
34 2-101 of this subtitle.

35 In subsection (b)(2) of this section, the reference to a police officer "who [is
36 acting] under the authority granted by this section" is substituted for the
37 former reference to a police officer's authority to enforce the Maryland
38 Vehicle Law "[u]nder this subsection" for clarity.

1 %In subsection (b)(3)(ii) of this section, as for the substitution of the phrase
2 "carry out" for the former term to "implement", *see* General Revisor's Note
3 to article.

4 Subsection (c) of this section is revised to clarify that the police officer
5 acting under the authority of this section must notify the listed entities.

6 In subsection (c)(1)(i)1 of this section, the reference to a "municipal
7 corporation" is substituted for the former reference to an "incorporated
8 municipality" to conform to Md. Constitution, Art. XI-E.

9 In subsection (c)(1)(i)3 of this section, the exception for "Baltimore City" is
10 added for clarity because Baltimore City is included in the standard
11 definition of "county". However, Baltimore City is covered in subsection
12 (c)(1)(i)2 of this section.

13 In subsection (c)(2) of this section, the reference to a police officer who
14 "participates in a joint investigation with officials from another State,
15 federal, or local law enforcement unit" is substituted for the former
16 reference to a police officer who is "acting under the authority granted in
17 paragraph (3)(i)1 of this subsection" for specificity and to eliminate an
18 unnecessary cross-reference.

19 In the introductory language of subsection (d) of this section, the reference
20 to a police officer who "acts" under the authority granted by this section is
21 substituted for the former reference to a police officer who "uses" that
22 authority for consistency with language used throughout this section.

23 As for authority granted to the State Police, *see* Art. 88B, § 4.

24 As for the substitution of the term "unit" for the former reference to
25 "agency", *see* General Revisor's Note to article.

26 Defined terms: "County" § 1-101

27 "Emergency" § 2-101

28 "Person" § 1-101

29 "Police officer" § 2-101

30 "State" § 1-101

31 2-103. SAME -- SERVICE OF ARREST WARRANTS.

32 (A) "PRIMARY LAW ENFORCEMENT OFFICER" DEFINED.

33 IN THIS SECTION, "PRIMARY LAW ENFORCEMENT OFFICER" MEANS:

34 (1) THE CHIEF OF POLICE, IF ANY, OR THE CHIEF'S DESIGNEE, IN A
35 MUNICIPAL CORPORATION;

36 (2) THE CHIEF OF POLICE OR THE CHIEF'S DESIGNEE IN A COUNTY
37 WITH A COUNTY POLICE DEPARTMENT;

1 (3) THE SHERIFF OR THE SHERIFF'S DESIGNEE IN A COUNTY WITHOUT A
2 POLICE DEPARTMENT;

3 (4) THE POLICE COMMISSIONER OR THE POLICE COMMISSIONER'S
4 DESIGNEE IN BALTIMORE CITY;

5 (5) THE SECRETARY OF NATURAL RESOURCES OR THE SECRETARY'S
6 DESIGNEE ON ANY PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE
7 CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES;

8 (6) THE RESPECTIVE CHIEF OF POLICE OR CHIEF'S DESIGNEE ON
9 PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE CONTROL OF THE
10 MARYLAND AVIATION ADMINISTRATION, THE MARYLAND PORT ADMINISTRATION, OR
11 THE MARYLAND TRANSPORTATION AUTHORITY; OR

12 (7) THE SECRETARY OF THE STATE POLICE.

13 (B) SERVICE OF WARRANTS.

14 A POLICE OFFICER MAY ARREST A PERSON THROUGHOUT THE STATE WITHOUT
15 LIMITATIONS AS TO JURISDICTION IF:

16 (1) A WARRANT HAS BEEN ISSUED AGAINST THE PERSON;

17 (2) THE POLICE OFFICER IS PARTICIPATING IN A JOINT OPERATION
18 CREATED BY AN AGREEMENT BETWEEN THE PRIMARY LAW ENFORCEMENT
19 OFFICERS;

20 (3) THE ARREST OCCURS WITHIN ONE OF THE PARTICIPATING
21 JURISDICTIONS IN ACCORDANCE WITH THE AGREEMENT; AND

22 (4) THE POLICE OFFICER IS ACTING IN ACCORDANCE WITH
23 REGULATIONS THAT THE POLICE OFFICER'S EMPLOYING UNIT ADOPTS TO CARRY
24 OUT THIS SECTION.

25 (C) IMMUNITIES AND STATUS OF POLICE OFFICER.

26 A POLICE OFFICER WHO ACTS UNDER THE AUTHORITY GRANTED BY THIS
27 SECTION:

28 (1) HAS ALL THE IMMUNITIES FROM LIABILITY AND EXEMPTIONS AS A
29 STATE POLICE OFFICER IN ADDITION TO ANY OTHER IMMUNITIES AND EXEMPTIONS
30 TO WHICH THE POLICE OFFICER IS OTHERWISE ENTITLED; AND

31 (2) REMAINS AT ALL TIMES AND FOR ALL PURPOSES AN EMPLOYEE OF
32 THE EMPLOYING UNIT.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 594C-2.

35 In subsection (a) of this section, the former cross-reference to the

1 definition of "police officer" is deleted as unnecessary.

2 In subsections (b)(4) and (c)(2) of this section, the reference to the
3 employing "unit" is substituted for the former reference to the employing
4 "agency" for consistency with the terminology used throughout this article.
5 *See* General Revisor's Note to article.

6 In subsection (b)(4) of this section, as for the substitution of the phrase
7 "carry out" for the former term "implement", *see* General Revisor's Note to
8 article.

9 Defined terms: "County" § 1-101

10 "Person" § 1-101

11 "Police officer" § 2-101

12 2-104. AUTHORITY OF FEDERAL LAW ENFORCEMENT OFFICERS.

13 (A) "FEDERAL LAW ENFORCEMENT OFFICER" DEFINED.

14 IN THIS SECTION, "FEDERAL LAW ENFORCEMENT OFFICER" MEANS AN
15 OFFICER WHO MAY:

16 (1) MAKE AN ARREST WITH OR WITHOUT A WARRANT FOR VIOLATIONS
17 OF THE UNITED STATES CODE; AND

18 (2) CARRY FIREARMS IN THE PERFORMANCE OF THE OFFICER'S DUTIES.

19 (B) IN GENERAL.

20 (1) SUBJECT TO THE LIMITATIONS OF PARAGRAPH (2) OF THIS
21 SUBSECTION, A FEDERAL LAW ENFORCEMENT OFFICER MAY:

22 (I) MAKE ARRESTS AS SET FORTH IN SUBTITLE 2 OF THIS TITLE;
23 AND

24 (II) EXECUTE ARREST AND SEARCH AND SEIZURE WARRANTS
25 ISSUED UNDER THE LAWS OF THE STATE.

26 (2) A FEDERAL LAW ENFORCEMENT OFFICER MAY EXERCISE THE
27 POWERS GRANTED BY THIS SUBSECTION WHEN:

28 (I) THE FEDERAL LAW ENFORCEMENT OFFICER IS PARTICIPATING
29 IN A JOINT INVESTIGATION WITH OFFICIALS FROM A STATE OR LOCAL LAW
30 ENFORCEMENT UNIT;

31 (II) THE FEDERAL LAW ENFORCEMENT OFFICER IS HELPING A
32 POLICE OFFICER;

33 (III) THE FEDERAL LAW ENFORCEMENT OFFICER IS ACTING AT THE
34 REQUEST OF A LOCAL POLICE OFFICER OR STATE POLICE OFFICER; OR

1 (IV) AN EMERGENCY EXISTS.

2 (C) REQUIRED NOTIFICATIONS.

3 (1) A FEDERAL LAW ENFORCEMENT OFFICER WHO ACTS UNDER THE
4 AUTHORITY GRANTED BY THIS SECTION SHALL NOTIFY THE FOLLOWING PERSONS
5 OF AN INVESTIGATION OR ENFORCEMENT ACTION:

6 (I) 1. THE CHIEF OF POLICE, IF ANY, OR CHIEF'S DESIGNEE,
7 WHEN IN A MUNICIPAL CORPORATION;

8 2. THE POLICE COMMISSIONER OR POLICE COMMISSIONER'S
9 DESIGNEE, WHEN IN BALTIMORE CITY;

10 3. THE CHIEF OF POLICE OR CHIEF'S DESIGNEE, WHEN IN A
11 COUNTY WITH A COUNTY POLICE DEPARTMENT, EXCEPT BALTIMORE CITY;

12 4. THE SHERIFF OR SHERIFF'S DESIGNEE, WHEN IN A
13 COUNTY WITHOUT A COUNTY POLICE DEPARTMENT;

14 5. THE SECRETARY OF NATURAL RESOURCES OR
15 SECRETARY'S DESIGNEE, WHEN ON PROPERTY OWNED, LEASED, OPERATED BY, OR
16 UNDER THE CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES; OR

17 6. THE RESPECTIVE CHIEF OF POLICE OR CHIEF'S
18 DESIGNEE, WHEN ON PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE
19 CONTROL OF THE MARYLAND TRANSPORTATION AUTHORITY OR MARYLAND PORT
20 ADMINISTRATION; AND

21 (II) THE DEPARTMENT OF STATE POLICE BARRACK COMMANDER
22 OR COMMANDER'S DESIGNEE, UNLESS THERE IS AN AGREEMENT OTHERWISE WITH
23 THE DEPARTMENT OF STATE POLICE.

24 (2) WHEN THE FEDERAL LAW ENFORCEMENT OFFICER PARTICIPATES
25 IN A JOINT INVESTIGATION WITH OFFICIALS FROM A STATE OR LOCAL LAW
26 ENFORCEMENT UNIT, THE FEDERAL LAW ENFORCEMENT OFFICER SHALL GIVE THE
27 NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION REASONABLY IN
28 ADVANCE.

29 (D) LEGAL STATUS; IMMUNITY FROM LIABILITY.

30 A FEDERAL LAW ENFORCEMENT OFFICER WHO ACTS UNDER THE AUTHORITY
31 GRANTED BY THIS SECTION:

32 (1) HAS THE SAME LEGAL STATUS AS A POLICE OFFICER;

33 (2) HAS THE SAME PROTECTIONS AS A POLICE OFFICER UNDER § 2-608
34 OF THE COURTS ARTICLE WITH REGARD TO CHARGING DOCUMENTS AGAINST
35 POLICE OFFICERS; AND

1 (3) HAS THE SAME IMMUNITY FROM LIABILITY DESCRIBED IN § 5-611 OF
2 THE COURTS ARTICLE.

3 (E) EFFECT OF SECTION.

4 THIS SECTION DOES NOT IMPOSE LIABILITY ON OR REQUIRE
5 INDEMNIFICATION BY THE STATE OR A LOCAL SUBDIVISION FOR AN ACT
6 PERFORMED BY A FEDERAL LAW ENFORCEMENT OFFICER UNDER THIS SECTION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 594B(h)(1)(i) and (iii) through (8).

9 In subsection (b)(1)(i) of this section, the cross-reference to "Subtitle 2 of
10 this title" is substituted for the former reference to "this section". The
11 former cross-reference was to Art. 27, § 594B, most of which, including the
12 powers of arrest, is revised in Subtitle 2 of this title. Thus, the former
13 cross-reference is slightly broader than the revised cross-reference. No
14 substantive change is intended.

15 Subsection (c) of this section is revised to clarify that a federal law
16 enforcement officer acting under the authority of this section must notify
17 the listed entities.

18 In subsection (c)(1)(i)1 of this section, the reference to a "municipal
19 corporation" is substituted for the former reference to an "incorporated
20 municipality" to conform to Md. Constitution, Art. XI-E.

21 In subsection (c)(1)(i)3 of this section, the exception for "Baltimore City" is
22 added for clarity because Baltimore City is included in the standard
23 definition of "county". However, Baltimore City is covered in subsection
24 (c)(1)(i)2 of this section.

25 In subsection (c)(2) of this section, the reference to a federal law
26 enforcement officer who "participates in a joint investigation with officials
27 from a State or local law enforcement unit" is substituted for the former
28 reference to a federal law enforcement officer who is "acting under the
29 authority granted in paragraph (3)(i) of this subsection" for specificity and
30 to eliminate an unnecessary cross-reference.

31 In subsection (d)(1) and (2) of this section, the former references to a police
32 officer "of this State" are deleted in light of the definition of "police officer"
33 in § 2-101 of this subtitle.

34 In the introductory language of subsection (d) of this section, the reference
35 to a federal law enforcement officer who "acts under the authority granted
36 by this section" is substituted for the former reference to an officer who
37 "exercises the powers set forth in this subsection", for consistency with
38 language used throughout this section.

39 The Criminal Procedure Article Review Committee notes, for consideration

1 by the General Assembly, that in subsection (c)(1)(i)6 of this section there is
2 no mention of property owned, leased, operated by, or under the control of
3 the Maryland Aviation Administration, unlike a similar provision in this
4 subtitle dealing with notification of an investigation or enforcement action.
5 *See* § 2-102(c)(1)(i)6.

6 Defined terms: "County" § 1-101

7 "Emergency" § 2-101

8 "Person" § 1-101

9 "Police officer" § 2-101

10 2-105. MUTUAL AID AGREEMENTS.

11 (A) "GOVERNING BODY" DEFINED.

12 IN THIS SECTION, "GOVERNING BODY" MEANS:

13 (1) THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF A CHARTER
14 COUNTY WITH A COUNTY EXECUTIVE;

15 (2) THE COUNTY COUNCIL OF A CHARTER COUNTY WITH NO COUNTY
16 EXECUTIVE;

17 (3) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY; OR

18 (4) THE MAYOR AND COUNCIL, BY WHATEVER NAME KNOWN, OF A
19 MUNICIPAL CORPORATION.

20 (B) AUTHORITY BEYOND BOUNDARIES OF COUNTY OR MUNICIPAL
21 CORPORATION.

22 BY ACTION AS IN THE REGULAR ROUTINE FOR LEGISLATIVE ENACTMENT, THE
23 GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY DETERMINE
24 THE CIRCUMSTANCES UNDER WHICH THE POLICE OFFICERS AND OTHER OFFICERS,
25 AGENTS, AND EMPLOYEES OF THE COUNTY OR MUNICIPAL CORPORATION,
26 TOGETHER WITH ALL NECESSARY EQUIPMENT, MAY LAWFULLY GO OR BE SENT
27 BEYOND THE BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION TO ANY
28 PLACE WITHIN OR OUTSIDE THE STATE.

29 (C) ACTIONS CONSIDERED TO BE FOR PUBLIC AND GOVERNMENTAL
30 PURPOSE; IMMUNITIES.

31 (1) THE ACTS DONE BY THE POLICE OFFICERS OR OTHER OFFICERS,
32 AGENTS, OR EMPLOYEES OF A COUNTY OR MUNICIPAL CORPORATION UNDER THE
33 AUTHORITY OF SUBSECTION (B) OF THIS SECTION AND THE EXPENDITURES MADE BY
34 THE COUNTY OR MUNICIPAL CORPORATION ARE CONSIDERED TO BE FOR A PUBLIC
35 AND GOVERNMENTAL PURPOSE.

36 (2) WHEN A COUNTY OR MUNICIPAL CORPORATION IS ACTING
37 THROUGH ITS POLICE OFFICERS OR OTHER OFFICERS, AGENTS, OR EMPLOYEES FOR

1 A PUBLIC OR GOVERNMENTAL PURPOSE BEYOND ITS BOUNDARIES UNDER THIS
2 SECTION OR OTHER LAWFUL AUTHORITY, THE COUNTY OR MUNICIPAL
3 CORPORATION HAS THE SAME IMMUNITIES FROM LIABILITY THAT THE COUNTY OR
4 MUNICIPAL CORPORATION HAS WHEN ACTING THROUGH ITS POLICE OFFICERS OR
5 OTHER OFFICERS, AGENTS, OR EMPLOYEES FOR A PUBLIC OR GOVERNMENTAL
6 PURPOSE WITHIN ITS BOUNDARIES.

7 (3) WHEN THE POLICE OFFICERS OR OTHER OFFICERS, AGENTS, OR
8 EMPLOYEES OF A COUNTY OR MUNICIPAL CORPORATION ARE ACTING BEYOND THE
9 BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION WITHIN THE STATE
10 UNDER THIS SECTION OR OTHER LAWFUL AUTHORITY, THE POLICE OFFICERS AND
11 OTHER OFFICERS, AGENTS, AND EMPLOYEES OF THE COUNTY OR MUNICIPAL
12 CORPORATION HAVE THE SAME IMMUNITY FROM LIABILITY DESCRIBED IN § 5-612
13 OF THE COURTS ARTICLE AND EXEMPTIONS FROM LAWS, ORDINANCES, AND
14 REGULATIONS, AND THE SAME PENSION, RELIEF, DISABILITY, WORKERS'
15 COMPENSATION, AND OTHER BENEFITS AS THOSE PERSONS HAVE WHILE
16 PERFORMING THEIR DUTIES WITHIN THE BOUNDARIES OF THE COUNTY OR
17 MUNICIPAL CORPORATION.

18 (D) COUNTY -- MUNICIPAL CORPORATION AGREEMENTS IN ALLEGANY
19 COUNTY.

20 IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, ALLEGANY COUNTY
21 AND A MUNICIPAL CORPORATION IN THAT COUNTY MAY MAKE A RECIPROCAL
22 AGREEMENT TO PROVIDE POLICE OFFICERS AND OTHER OFFICERS, EMPLOYEES,
23 AND AGENTS, TOGETHER WITH ALL NECESSARY EQUIPMENT.

24 (E) AUTHORITY TO ENTER INTO RECIPROCAL AGREEMENTS FOR
25 EMERGENCIES.

26 (1) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION
27 OR THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MAY
28 MAKE A RECIPROCAL AGREEMENT FOR THE PERIOD THAT IT CONSIDERS ADVISABLE
29 WITH THE DISTRICT OF COLUMBIA OR A COUNTY, MUNICIPAL CORPORATION, OR THE
30 MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, WITHIN OR
31 OUTSIDE THE STATE, AND ESTABLISH AND CARRY OUT A PLAN TO PROVIDE MUTUAL
32 AID BY PROVIDING ITS POLICE OFFICERS AND OTHER OFFICERS, EMPLOYEES, AND
33 AGENTS, TOGETHER WITH ALL NECESSARY EQUIPMENT, IN AN EMERGENCY.

34 (2) A COUNTY, MUNICIPAL CORPORATION, OR THE
35 MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MAY NOT MAKE
36 A RECIPROCAL AGREEMENT UNLESS THE AGREEMENT PROVIDES THAT EACH PARTY
37 SHALL:

38 (I) WAIVE ANY AND ALL CLAIMS THAT ARE AGAINST THE OTHER
39 PARTIES TO THE AGREEMENT AND THAT MAY ARISE OUT OF THEIR ACTIVITIES
40 OUTSIDE THEIR RESPECTIVE JURISDICTIONS UNDER THE AGREEMENT; AND

41 (II) INDEMNIFY AND HOLD HARMLESS THE OTHER PARTIES TO THE
42 AGREEMENT FROM ALL CLAIMS BY THIRD PARTIES THAT ARE FOR PROPERTY

1 DAMAGE OR PERSONAL INJURY AND THAT MAY ARISE OUT OF THE ACTIVITIES OF
2 THE OTHER PARTIES TO THE AGREEMENT OUTSIDE THEIR RESPECTIVE
3 JURISDICTIONS UNDER THE AGREEMENT.

4 (F) LIABILITY INSURANCE.

5 THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION IN THE
6 STATE MAY OBTAIN OR EXTEND THE NECESSARY PUBLIC LIABILITY INSURANCE TO
7 COVER CLAIMS THAT ARISE OUT OF MUTUAL AID AGREEMENTS MADE WITH
8 ANOTHER COUNTY OR MUNICIPAL CORPORATION OUTSIDE THE STATE.

9 (G) AUTHORITY TO ENFORCE LAWS.

10 THE POLICE OFFICERS AND OTHER OFFICERS, AGENTS, AND EMPLOYEES
11 COMING INTO THE STATE UNDER A RECIPROCAL AGREEMENT UNDER THIS SECTION,
12 MAY ENFORCE THE LAWS OF THE STATE TO THE SAME EXTENT AS AUTHORIZED LAW
13 ENFORCEMENT OFFICERS OF A COUNTY OR MUNICIPAL CORPORATION IN THE
14 STATE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 602B.

17 Subsection (a) of this section is revised as a definition of "governing body"
18 to provide a shorthand method to refer to the entities included in the term
19 "governing body" for purposes of this section. It is based on the list in the
20 first sentence of former Art. 27, § 602B(a) of enumerated entities that may
21 authorize police and others to go or be sent beyond the territorial limits of
22 the jurisdiction.

23 In subsections (b), (c)(1) and (2), and (g) of this section, the defined term
24 "police officers" is substituted for the former references to "policemen" to
25 use a gender-neutral term and for consistency with language used
26 throughout this section. Similarly, in subsection (e)(1) of this section, the
27 defined term "police officer" is substituted for the former reference to
28 "police" to conform to the terminology used throughout this section.

29 In subsections (b) and (c)(2) and (3) of this section, the reference to
30 "boundaries" is substituted for the former references to the "territorial
31 limits" of a county or municipal corporation for brevity.

32 In subsection (b) of this section, the former phrase "as the case may be",
33 which modified "county or municipal corporation", is deleted as
34 surplusage.

35 In subsection (c)(1) of this section, the phrase "under the authority of
36 subsection (b) of this section" is substituted for the former phrase "[i]n such
37 event" for clarity and specificity.

38 Also in subsection (c)(1) of this section, the word "conclusively", which
39 formerly modified "deemed", is deleted as surplusage.

1 Defined terms: "County" § 1-101

2 "Emergency" § 2-101

3 "Person" § 1-101

4 "Police officer" § 2-101

5 2-106. KEEPING CUSTODY OF ARRESTED PERSONS.

6 (A) DISTRICT COURT COMMISSIONER IN ANOTHER JURISDICTION.

7 (1) A PEACE OFFICER, WHO IS APPOINTED IN THE JURISDICTION IN
8 WHICH A PERSON IS ARRESTED, MAY KEEP CUSTODY OF THE ARRESTED PERSON IN
9 ANOTHER JURISDICTION IN WHICH A DISTRICT COURT COMMISSIONER IS LOCATED
10 TO BRING THE PERSON BEFORE THE DISTRICT COURT COMMISSIONER IN THE OTHER
11 JURISDICTION.

12 (2) THE PEACE OFFICER HAS THE SAME POWER TO KEEP CUSTODY OF
13 THE ARRESTED PERSON UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE
14 PEACE OFFICER HAS IN THE JURISDICTION FOR WHICH THE PEACE OFFICER IS
15 APPOINTED AND THE ARREST IS MADE.

16 (B) PERSON ARRESTED IN ANOTHER JURISDICTION.

17 (1) A PEACE OFFICER, WHO IS APPOINTED IN THE JURISDICTION FOR
18 WHICH A CHARGING DOCUMENT IS ISSUED FOR A PERSON WHO IS ARRESTED IN
19 ANOTHER JURISDICTION, MAY OBTAIN CUSTODY OF THE ARRESTED PERSON IN THE
20 OTHER JURISDICTION TO BRING THE PERSON BEFORE A DISTRICT COURT
21 COMMISSIONER IN THE JURISDICTION IN WHICH THE CHARGING DOCUMENT IS
22 ISSUED.

23 (2) THE PEACE OFFICER HAS THE SAME POWER TO KEEP CUSTODY OF
24 THE ARRESTED PERSON UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE
25 PEACE OFFICER HAS IN THE JURISDICTION FOR WHICH THE PEACE OFFICER IS
26 APPOINTED.

27 (C) EFFECT OF SECTION.

28 THIS SECTION DOES NOT AFFECT OR EXTEND THE TIME PERIOD FOR BRINGING
29 AN ARRESTED PERSON BEFORE A JUDICIAL OFFICER AFTER ARREST.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 602C.

32 In subsection (a)(1) of this section, the reference to keeping custody of an
33 arrested person "in another jurisdiction in which a District Court
34 commissioner is located" is substituted for the former reference to
35 maintaining custody to bring the person "before a District Court
36 commissioner beyond the boundaries of the jurisdiction for which the peace
37 officer was appointed and in which the arrest was made" for brevity.

38 Also in subsection (a)(1) of this section, the phrase "in this State", which

1 formerly modified "peace officer", is deleted as implicit.

2 In subsection (c) of this section, the reference to "bringing" an arrested
3 person before a judicial officer after arrest is substituted for the former
4 reference to "taking" an arrested person for consistency with terminology
5 used in subsections (a)(1) and (b)(1) of this section.

6 The Criminal Procedure Article Review Committee notes, for consideration
7 by the General Assembly, that the meaning of the term "peace officer",
8 which is used throughout this section, is vague. In practice, "peace officer"
9 generally includes a greater range of personnel than just those who have
10 been certified by the Police Training Commission, such as mall security
11 guards. The General Assembly may wish to clarify the term "peace officer"
12 or replace it with a more precise term, *e.g.* "law enforcement officer", to
13 avoid the erroneous implication that this section applies to personnel who
14 have not been certified by the Commission.

15 Defined term: "Person" § 1-101

16 2-107. DUTY TO SEMICONSCIOUS OR UNCONSCIOUS SUSPECTS.

17 (A) DUTY OF OFFICER FINDING SEMICONSCIOUS OR UNCONSCIOUS PERSON.

18 (1) BEFORE A LAW ENFORCEMENT OFFICER MAY CHARGE WITH A
19 CRIME A PERSON WHO IS FOUND BY THE LAW ENFORCEMENT OFFICER IN A
20 SEMICONSCIOUS OR UNCONSCIOUS CONDITION, THE LAW ENFORCEMENT OFFICER
21 SHALL MAKE A DILIGENT EFFORT TO DETERMINE WHETHER THE PERSON:

22 (I) SUFFERS FROM EPILEPSY, DIABETES, A CARDIAC CONDITION,
23 OR ANOTHER TYPE OF ILLNESS THAT CAUSES SEMICONSCIOUSNESS OR
24 UNCONSCIOUSNESS; AND

25 (II) IS CARRYING THE IDENTIFICATION BRACELET, TAG, OR CARD
26 DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

27 (2) IF THE LAW ENFORCEMENT OFFICER DETERMINES THAT THE
28 PERSON SUFFERS FROM AN ILLNESS THAT CAUSES SEMICONSCIOUSNESS OR
29 UNCONSCIOUSNESS, AND THE PERSON IS CARRYING THE IDENTIFICATION
30 BRACELET, TAG, OR CARD DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE LAW
31 ENFORCEMENT OFFICER SHALL:

32 (I) NOTIFY THE PERSON'S PHYSICIAN IMMEDIATELY; OR

33 (II) HAVE THE PERSON IMMEDIATELY TRANSPORTED TO:

34 1. A PHYSICIAN; OR

35 2. A FACILITY WHERE THE SERVICES OF A PHYSICIAN ARE
36 AVAILABLE.

1 (B) IDENTIFICATION OF PERSONS.

2 A PERSON WHO SUFFERS FROM EPILEPSY, DIABETES, A CARDIAC CONDITION,
3 OR OTHER TYPE OF ILLNESS THAT CAUSES TEMPORARY BLACKOUTS,
4 SEMICONSCIOUS PERIODS, OR COMPLETE UNCONSCIOUSNESS MAY WEAR AN
5 IDENTIFICATION BRACELET OR METAL TAG OR CARRY AN IDENTIFICATION CARD
6 THAT IS ENGRAVED, STAMPED, OR IMPRINTED WITH THE PERSON'S NAME, TYPE OF
7 ILLNESS, PHYSICIAN'S NAME, AND REQUIRED MEDICATION.

8 (C) FALSIFICATION OF IDENTIFICATION OR MISREPRESENTATION OF
9 ILLNESS PROHIBITED; PENALTY.

10 (1) A PERSON MAY NOT WILLFULLY AND KNOWINGLY FALSIFY
11 IDENTIFICATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

12 (2) A PERSON MAY NOT DELIBERATELY MISREPRESENT AN ILLNESS
13 THAT CAUSES BLACKOUTS, SEMICONSCIOUSNESS, OR UNCONSCIOUSNESS AS
14 DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

15 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
16 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 594C-1.

19 In the introductory language of subsection (a)(1) of this section, the former
20 reference to all law enforcement officers "in this State" is deleted as
21 implicit.

22 In the introductory language of subsection (a)(2) of this section, the
23 reference to suffering from an "illness" is substituted for the former
24 reference to an "affliction" for consistency with language used in
25 subsections (a)(1)(i) and (b) of this section.

26 The Criminal Procedure Article Review Committee notes, for consideration
27 by the General Assembly, that subsection (b) of this section, which
28 authorizes persons with specified conditions to carry medical alert devices,
29 may be unnecessary. The Committee believes that absent this provision
30 the affected persons would still be able to carry the specified devices. Thus,
31 the purpose of this provision is unclear.

32 Defined term: "Person" § 1-101

33 SUBTITLE 2. WARRANTLESS ARRESTS.

34 2-201. EFFECT OF SUBTITLE.

35 (A) OTHER RIGHTS OF ARREST.

1 THIS SUBTITLE DOES NOT IMPAIR A RIGHT OF ARREST OTHERWISE EXISTING
2 UNDER THE CODE.

3 (B) RIGHT TO RECEIVE CITATIONS.

4 THIS SUBTITLE DOES NOT DEPRIVE A PERSON OF THE RIGHT TO RECEIVE A
5 CITATION FOR:

6 (1) A TRAFFIC VIOLATION AS PROVIDED IN THE MARYLAND VEHICLE
7 LAW; OR

8 (2) A CRIMINAL VIOLATION AS PROVIDED BY LAW OR THE MARYLAND
9 RULES.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 594B(k) and (l).

12 In subsection (a) and the introductory language of subsection (b) of this
13 section, the references to this "subtitle" are substituted for the former
14 references to this "section". This subtitle is derived from parts of former
15 Art. 27, § 594B; other parts of the former section are revised in Subtitle 1
16 of this title. However, the provisions on arrests without a warrant are
17 included in this subtitle. Former § 594B(k) and (l) seemed to relate to these
18 provisions on arrests without a warrant and are therefore included in this
19 subtitle. No substantive change is intended.

20 Defined term: "Person" § 1-101

21 2-202. WARRANTLESS ARRESTS -- IN GENERAL.

22 (A) CRIME COMMITTED IN PRESENCE OF POLICE OFFICER.

23 A POLICE OFFICER MAY ARREST WITHOUT A WARRANT A PERSON WHO
24 COMMITS OR ATTEMPTS TO COMMIT A FELONY OR MISDEMEANOR IN THE PRESENCE
25 OR WITHIN THE VIEW OF THE POLICE OFFICER.

26 (B) PROBABLE CAUSE TO BELIEVE CRIME COMMITTED IN PRESENCE OF
27 OFFICER.

28 A POLICE OFFICER WHO HAS PROBABLE CAUSE TO BELIEVE THAT A FELONY OR
29 MISDEMEANOR IS BEING COMMITTED IN THE PRESENCE OR WITHIN THE VIEW OF
30 THE POLICE OFFICER MAY ARREST WITHOUT A WARRANT ANY PERSON WHOM THE
31 POLICE OFFICER REASONABLY BELIEVES TO HAVE COMMITTED THE CRIME.

32 (C) PROBABLE CAUSE TO BELIEVE FELONY COMMITTED.

33 A POLICE OFFICER WITHOUT A WARRANT MAY ARREST A PERSON IF THE
34 POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A FELONY HAS BEEN
35 COMMITTED OR ATTEMPTED AND THE PERSON HAS COMMITTED OR ATTEMPTED TO

1 COMMIT THE FELONY WHETHER OR NOT IN THE PRESENCE OR WITHIN THE VIEW OF
2 THE POLICE OFFICER.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 594B(a), (b), and (c).

5 In subsection (c) of this section, the reference to "the" felony is substituted
6 for the former second reference to "a" felony to clarify that the felony
7 referred to in the first instance in this section is the same felony referred to
8 in the second instance. *See Williams v. State*, 14 Md. App. 619 (1972);
9 *Simms v. State*, 4 Md. App. 160 (1968).

10 Defined terms: "Person" § 1-101

11 "Police officer" § 2-101

12 2-203. SAME -- COMMISSION OF SPECIFIED CRIMES.

13 (A) IN GENERAL.

14 A POLICE OFFICER WITHOUT A WARRANT MAY ARREST A PERSON IF THE
15 POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE:

16 (1) THAT THE PERSON HAS COMMITTED A CRIME LISTED IN
17 SUBSECTION (B) OF THIS SECTION; AND

18 (2) THAT UNLESS THE PERSON IS ARRESTED IMMEDIATELY, THE
19 PERSON:

20 (I) MAY NOT BE APPREHENDED;

21 (II) MAY CAUSE PHYSICAL INJURY OR PROPERTY DAMAGE TO
22 ANOTHER; OR

23 (III) MAY TAMPER WITH, DISPOSE OF, OR DESTROY EVIDENCE.

24 (B) SPECIFIED CRIMES.

25 THE CRIMES REFERRED TO IN SUBSECTION (A)(1) OF THIS SECTION ARE:

26 (1) MANSLAUGHTER BY AUTOMOBILE, MOTOR VEHICLE, LOCOMOTIVE,
27 ENGINE, CAR, STREETCAR, TRAIN, VESSEL, OR OTHER VEHICLE UNDER ARTICLE 27, §
28 388 OF THE CODE;

29 (2) MALICIOUS BURNING UNDER ARTICLE 27, § 8(A) OF THE CODE OR AN
30 ATTEMPT TO COMMIT THE CRIME;

31 (3) MALICIOUS MISCHIEF UNDER ARTICLE 27, § 111 OF THE CODE OR AN
32 ATTEMPT TO COMMIT THE CRIME;

1 (4) A THEFT CRIME WHERE THE VALUE OF THE PROPERTY OR SERVICES
2 STOLEN IS LESS THAN \$500 UNDER ARTICLE 27, §§ 342 AND 342A OF THE CODE OR AN
3 ATTEMPT TO COMMIT THE CRIME;

4 (5) THE CRIME OF GIVING OR CAUSING TO BE GIVEN A FALSE ALARM OF
5 FIRE UNDER ARTICLE 27, § 156 OF THE CODE;

6 (6) INDECENT EXPOSURE UNDER ARTICLE 27, § 335A OF THE CODE;

7 (7) A CRIME THAT RELATES TO CONTROLLED DANGEROUS SUBSTANCES
8 UNDER ARTICLE 27, §§ 276 THROUGH 302 OF THE CODE OR AN ATTEMPT TO COMMIT
9 THE CRIME;

10 (8) THE WEARING, CARRYING, OR TRANSPORTING OF A HANDGUN
11 UNDER ARTICLE 27, § 36B OF THE CODE; AND

12 (9) CARRYING OR WEARING A CONCEALED WEAPON UNDER ARTICLE 27,
13 § 36 OF THE CODE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 594B(e) and (f).

16 In subsection (a)(2)(ii) of this section, the reference to causing "physical
17 injury or property damage to another" is substituted for the former
18 reference to causing "injury to the person or damage to the property of one
19 or more other persons" for brevity and consistency with § 2-204(a)(1)(iii)2
20 of this subtitle.

21 In the introductory language of subsection (b) and in subsection (b)(7) of
22 this section, the former phrases "as they may be amended from time to
23 time" and "as they shall be amended from time to time" are deleted in light
24 of Art. 1, § 21.

25 In subsection (b)(4) of this section, the reference to "services" is added to
26 conform to language in Art. 27, § 342(f)(2).

27 Also in subsection (b)(4) of this section, the reference to "Art. 27, §§ 342
28 and 342A" is substituted for the former reference to "Art. 27, §§ 342
29 through 344" because the other sections that the phrase "through 344"
30 connotes, namely, §§ 343 and 344, are not relevant to this provision.
31 Section 343 concerns defenses and presumptions, while § 344 concerns
32 charging documents for theft and the ways in which bad check crimes may
33 be considered theft crimes. In addition, the reference to "\$500" is
34 substituted for the former reference to "\$300" to reflect the change made by
35 Ch. 288, Acts of 2000.

36 The Criminal Procedure Article Review Committee notes, for consideration
37 by the General Assembly, that subsection (b)(1) of this section is
38 redundant. Section 2-202(c)(1) of this subtitle allows a warrantless arrest
39 for any felony under specified conditions. Subsection (b)(1) of this section

1 names several felonies that are subject to warrantless arrest, unlike the
2 rest of subsection (b), which specifies a variety of misdemeanors that may
3 be subject to warrantless arrest. The General Assembly may wish to repeal
4 subsection (b)(1).

5 Former Art. 27, § 594B(f)(1)(v), which referred to the crime specified in Art.
6 27, § 287 relating to possession of devices that are usable for administering
7 controlled substances by hypodermic injection, is deleted as included in
8 subsection (b)(7) of this section.

9 Former Art. 27, § 594B(f)(2)(iv), which referred to breaking into a building
10 or boat with intent to steal, is deleted because former Art. 27, § 33A, which
11 specified the underlying crime, was repealed by Ch. 712, Acts of 1994.

12 Defined terms: "Person" § 1-101

13 "Police officer" § 2-101

14 2-204. SAME -- FOR DOMESTIC ABUSE.

15 (A) IN GENERAL.

16 A POLICE OFFICER WITHOUT A WARRANT MAY ARREST A PERSON IF:

17 (1) THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT:

18 (I) THE PERSON BATTERED THE PERSON'S SPOUSE OR ANOTHER
19 PERSON WITH WHOM THE PERSON RESIDES;

20 (II) THERE IS EVIDENCE OF PHYSICAL INJURY; AND

21 (III) UNLESS THE PERSON IS ARRESTED IMMEDIATELY, THE
22 PERSON:

23 1. MAY NOT BE APPREHENDED;

24 2. MAY CAUSE PHYSICAL INJURY OR PROPERTY DAMAGE TO
25 ANOTHER; OR

26 3. MAY TAMPER WITH, DISPOSE OF, OR DESTROY EVIDENCE;
27 AND

28 (2) A REPORT TO THE POLICE WAS MADE WITHIN 48 HOURS OF THE
29 ALLEGED INCIDENT.

30 (B) SELF-DEFENSE.

31 IF THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT MUTUAL
32 BATTERY OCCURRED AND ARREST IS NECESSARY UNDER SUBSECTION (A) OF THIS
33 SECTION, THE POLICE OFFICER SHALL CONSIDER WHETHER ONE OF THE PERSONS
34 ACTED IN SELF-DEFENSE WHEN DETERMINING WHETHER TO ARREST THE PERSON
35 WHOM THE POLICE OFFICER BELIEVES TO BE THE PRIMARY AGGRESSOR.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 594B(d).

3 In subsection (a)(1)(i) of this section, the reference to "another person" is
4 substituted for the former reference to "other individual" to conform to the
5 terminology used throughout this section.

6 In subsection (a)(1)(iii)2 of this section, the reference to causing "physical
7 injury or property damage to another" is substituted for the former
8 reference to causing "injury to the person or damage to the property of one
9 or more other persons" for brevity.

10 In subsection (b) of this section, the reference to one of the "persons" is
11 substituted for the former reference to one of the "parties" for consistency
12 with terminology used throughout this section.

13 The Criminal Procedure Article Review Committee notes, for consideration
14 by the General Assembly, that in subsection (a)(1)(i) of this section, a police
15 officer may arrest a person without a warrant if the person "battered" the
16 person's spouse or another person with whom the person resides. The
17 General Assembly may wish to substitute the word "assaulted" for
18 "battered" to conform to the terminology of Art. 27, § 12.

19 Defined terms: "Person" § 1-101

20 "Police officer" § 2-101

21 2-205. SAME -- FOR STALKING.

22 A POLICE OFFICER WITHOUT A WARRANT MAY ARREST A PERSON IF:

23 (1) THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THE
24 PERSON HAS ENGAGED IN STALKING UNDER ARTICLE 27, § 124 OF THE CODE;

25 (2) THERE IS CREDIBLE EVIDENCE OTHER THAN THE STATEMENTS OF
26 THE ALLEGED STALKING VICTIM TO SUPPORT THE PROBABLE CAUSE UNDER ITEM (1)
27 OF THIS SECTION; AND

28 (3) THE POLICE OFFICER HAS REASON TO BELIEVE THAT THE ALLEGED
29 STALKING VICTIM OR ANOTHER PERSON IS IN DANGER OF IMMINENT BODILY HARM
30 OR DEATH.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 594B(p).

33 Defined terms: "Person" § 1-101

34 "Police officer" § 2-101

35 2-206. WARRANTLESS ARRESTS DURING STATE OF EMERGENCY.

36 (A) SCOPE OF SECTION.

1 THIS SECTION APPLIES DURING A PUBLIC CRISIS, DISASTER, RIOTING,
2 CATASTROPHE, OR SIMILAR PUBLIC EMERGENCY, AS THESE TERMS ARE DEFINED IN
3 ARTICLE 41, § 2-101(B)(1) OF THE CODE, AND WHEN PUBLIC SAFETY IS IMPERILED, OR
4 ON REASONABLE APPREHENSION OF IMMEDIATE DANGER OF PUBLIC SAFETY BEING
5 IMPERILED.

6 (B) IN GENERAL.

7 DURING A TIME DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE
8 AUTHORITY TO MAKE AN ARREST WITHOUT A WARRANT GRANTED TO POLICE
9 OFFICERS UNDER THIS TITLE IS GRANTED TO A PERSON WHO:

10 (1) IS SERVING UNDER A PROCLAMATION OF A STATE OF EMERGENCY
11 ISSUED BY THE GOVERNOR, AS PROVIDED IN ARTICLE 41, § 2-101(C) OF THE CODE, AS:

12 (I) A MEMBER OF A LAW ENFORCEMENT UNIT THAT IS LISTED IN §
13 2-101(C) OF THIS TITLE; OR

14 (II) A MEMBER OF THE MILITIA CALLED INTO ACTION BY THE
15 GOVERNOR, AS PROVIDED IN ARTICLE 41, § 2-101(E) OF THE CODE;

16 (2) IS SERVING AS A MEMBER OF THE MILITIA ORDERED INTO ACTIVE
17 SERVICE BY THE GOVERNOR UNDER ARTICLE 65, § 8 OF THE CODE; OR

18 (3) IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES
19 UNDER ORDERS TO AID CIVIL AUTHORITIES OF THE STATE IN ENFORCING LAW AND
20 ORDER, SUBJECT TO SUBSECTION (C) OF THIS SECTION.

21 (C) EFFECT OF SECTION.

22 THE GRANT OF AUTHORITY UNDER SUBSECTION (B)(3) OF THIS SECTION DOES
23 NOT LIMIT OR IMPAIR ANY POWER OR DUTY OF A MEMBER OF THE ARMED FORCES
24 OF THE UNITED STATES OR AUTHORIZE ANY ACTION INCOMPATIBLE WITH FEDERAL
25 LAW OR REGULATIONS.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 594C.

28 In subsection (b)(1) of this section, the reference to a proclamation "of a
29 state of emergency" is added for clarity. *See* Art. 41, § 2-101(c).

30 Defined terms: "Person" § 1-101

31 "Police officer" § 2-101

32 2-207. AUTHORITY OF CORRECTIONAL AND OTHER EMPLOYEES.

33 (A) CORRECTIONAL EMPLOYEES MONITORING INMATES ON HOME
34 DETENTION.

35 CORRECTIONAL EMPLOYEES ASSIGNED BY THE COMMISSIONER OF
36 CORRECTION TO MONITOR INMATES ON HOME DETENTION UNDER TITLE 3,

1 SUBTITLE 4 OF THE CORRECTIONAL SERVICES ARTICLE HAVE THE SAME POWERS TO
2 ARREST INMATES IN THE HOME DETENTION PROGRAM AS ARE SET FORTH IN THIS
3 TITLE FOR POLICE OFFICERS.

4 (B) PAROLE AND PROBATION EMPLOYEES SUPERVISING OFFENDERS ON
5 HOME DETENTION.

6 PAROLE AND PROBATION EMPLOYEES ASSIGNED BY THE DIRECTOR OF PAROLE
7 AND PROBATION TO SUPERVISE OFFENDERS ON HOME DETENTION UNDER § 6-108 OF
8 THE CORRECTIONAL SERVICES ARTICLE HAVE THE SAME POWERS TO ARREST THESE
9 OFFENDERS AS ARE SET FORTH IN THIS TITLE FOR POLICE OFFICERS.

10 (C) CORRECTIONAL OFFICERS IN STATE CORRECTIONAL FACILITIES.

11 CORRECTIONAL OFFICERS DESIGNATED BY THE COMMISSIONER OF
12 CORRECTION UNDER § 3-216 OF THE CORRECTIONAL SERVICES ARTICLE HAVE THE
13 SAME POWERS TO ARREST PERSONS ON THE PROPERTY OF A CORRECTIONAL
14 FACILITY OF THE DIVISION OF CORRECTION AS ARE SET FORTH IN THIS TITLE FOR
15 POLICE OFFICERS.

16 (D) CORRECTIONAL OFFICERS IN LOCAL CORRECTIONAL FACILITIES.

17 CORRECTIONAL OFFICERS DESIGNATED BY THE MANAGING OFFICIAL OF A
18 LOCAL CORRECTIONAL FACILITY UNDER § 11-802 OF THE CORRECTIONAL SERVICES
19 ARTICLE HAVE THE SAME POWERS TO ARREST PERSONS ON THE PROPERTY OF THE
20 FACILITY AS ARE SET FORTH IN THIS TITLE FOR POLICE OFFICERS.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 594B(n), (o), (q), and (r).

23 In subsection (b) of this section, the reference to supervising offenders "on
24 home detention under § 6-108 of the Correctional Services Article" is
25 substituted for the former erroneous cross-reference to "§ 6-106 of the
26 Correctional Services Article" for clarity. *See* CS § 6-108.

27 In subsections (c) and (d) of this section, the reference to "persons" is
28 substituted for the former reference to "individuals" to conform to the
29 terminology used throughout this article.

30 In subsection (c) of this section, the reference to a "correctional facility of"
31 the Division of Correction is substituted for the former reference to a
32 "facility under the jurisdiction of" the Division for consistency with
33 terminology used in the Correctional Services Article. *See* General
34 Revisor's Note to the Correctional Services Article.

35 Defined terms: "Correctional facility" § 1-101

36 "Managing official" § 1-101

37 "Person" § 1-101

38 "Police officer" § 2-101

1 2-208. AUTHORITY OF STATE FIRE MARSHAL AND ASSISTANTS.

2 (A) WARRANTLESS ARREST POWERS FOR COMMISSION OF SPECIFIED
3 FELONIES.

4 (1) THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND
5 INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL MAY ARREST
6 A PERSON WITHOUT A WARRANT IF THE STATE FIRE MARSHAL OR ASSISTANT HAS
7 PROBABLE CAUSE TO BELIEVE:

8 (I) A FELONY THAT IS A CRIME LISTED IN PARAGRAPH (2) OF THIS
9 SUBSECTION HAS BEEN COMMITTED OR ATTEMPTED; AND

10 (II) THE PERSON TO BE ARRESTED HAS COMMITTED OR
11 ATTEMPTED TO COMMIT THE FELONY WHETHER OR NOT IN THE PRESENCE OR
12 WITHIN THE VIEW OF THE STATE FIRE MARSHAL OR ASSISTANT.

13 (2) THE POWERS OF ARREST SET FORTH IN PARAGRAPH (1) OF THIS
14 SUBSECTION APPLY ONLY TO THE CRIMES LISTED IN THIS PARAGRAPH AND TO
15 ATTEMPTS, CONSPIRACIES, AND SOLICITATIONS TO COMMIT THESE CRIMES:

16 (I) MURDER UNDER ARTICLE 27, § 410 OF THE CODE;

17 (II) SETTING FIRE TO A DWELLING OR OCCUPIED STRUCTURE
18 UNDER ARTICLE 27, § 6 OF THE CODE;

19 (III) SETTING FIRE TO A STRUCTURE UNDER ARTICLE 27, § 7 OF THE
20 CODE;

21 (IV) A CRIME THAT RELATES TO DESTRUCTIVE DEVICES UNDER
22 ARTICLE 27, § 139C OF THE CODE; AND

23 (V) MAKING A FALSE STATEMENT OR RUMOR AS TO A
24 DESTRUCTIVE DEVICE UNDER ARTICLE 27, § 151A OF THE CODE.

25 (B) WARRANTLESS ARREST POWERS FOR COMMISSION OF SPECIFIED CRIMES.

26 (1) THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND
27 INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL MAY ARREST
28 A PERSON WITHOUT A WARRANT IF THE STATE FIRE MARSHAL OR ASSISTANT HAS
29 PROBABLE CAUSE TO BELIEVE:

30 (I) THE PERSON HAS COMMITTED A CRIME LISTED IN PARAGRAPH
31 (2) OF THIS SUBSECTION; AND

32 (II) UNLESS THE PERSON IS ARRESTED IMMEDIATELY, THE
33 PERSON:

34 1. MAY NOT BE APPREHENDED;

1 UNDER THE AUTHORITY GRANTED BY THIS SECTION SHALL NOTIFY THE FOLLOWING
2 PERSONS OF AN INVESTIGATION OR ENFORCEMENT ACTION:

3 (I) 1. THE CHIEF OF POLICE, IF ANY, OR CHIEF'S DESIGNEE,
4 WHEN IN A MUNICIPAL CORPORATION;

5 2. THE POLICE COMMISSIONER OR POLICE COMMISSIONER'S
6 DESIGNEE, WHEN IN BALTIMORE CITY;

7 3. THE CHIEF OF POLICE OR CHIEF'S DESIGNEE, WHEN IN A
8 COUNTY WITH A COUNTY POLICE DEPARTMENT, EXCEPT BALTIMORE CITY;

9 4. THE SHERIFF OR SHERIFF'S DESIGNEE, WHEN IN A
10 COUNTY WITHOUT A COUNTY POLICE DEPARTMENT;

11 5. THE SECRETARY OF NATURAL RESOURCES OR
12 SECRETARY'S DESIGNEE, WHEN ON PROPERTY OWNED, LEASED, OPERATED BY, OR
13 UNDER THE CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES; OR

14 6. THE RESPECTIVE CHIEF OF POLICE OR CHIEF'S
15 DESIGNEE, WHEN ON PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE
16 CONTROL OF THE MARYLAND TRANSPORTATION AUTHORITY, MARYLAND AVIATION
17 ADMINISTRATION, OR MARYLAND PORT ADMINISTRATION; AND

18 (II) THE DEPARTMENT OF STATE POLICE BARRACK COMMANDER
19 OR COMMANDER'S DESIGNEE, UNLESS THERE IS AN AGREEMENT OTHERWISE WITH
20 THE DEPARTMENT OF STATE POLICE.

21 (2) WHEN THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE
22 AND INSPECTION ASSISTANT IN THE OFFICE OF THE STATE FIRE MARSHAL
23 PARTICIPATES IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE,
24 FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, THE STATE FIRE MARSHAL OR A
25 FULL-TIME INVESTIGATIVE AND INSPECTION ASSISTANT IN THE OFFICE OF THE
26 STATE FIRE MARSHAL SHALL GIVE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF
27 THIS SUBSECTION REASONABLY IN ADVANCE.

28 (E) IMMUNITIES AND EXEMPTIONS; EMPLOYEE STATUS.

29 A STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION
30 ASSISTANT IN THE OFFICE OF THE STATE FIRE MARSHAL WHO ACTS UNDER THE
31 AUTHORITY GRANTED BY THIS SECTION:

32 (1) HAS THE SAME IMMUNITIES FROM LIABILITY AND EXEMPTIONS AS A
33 STATE POLICE OFFICER IN ADDITION TO ANY OTHER IMMUNITIES AND EXEMPTIONS
34 TO WHICH THE STATE FIRE MARSHAL OR FULL-TIME INVESTIGATIVE AND
35 INSPECTION ASSISTANT IS OTHERWISE ENTITLED; AND

36 (2) REMAINS AT ALL TIMES AND FOR ALL PURPOSES AN EMPLOYEE OF
37 THE EMPLOYING UNIT.

1 (F) EFFECT OF SECTION.

2 (1) THIS SECTION DOES NOT IMPAIR A RIGHT OF ARREST OTHERWISE
3 EXISTING UNDER THE CODE.

4 (2) THIS SECTION DOES NOT DEPRIVE A PERSON OF THE RIGHT TO
5 RECEIVE A CITATION FOR A TRAFFIC VIOLATION AS PROVIDED IN THE MARYLAND
6 VEHICLE LAW OR A CRIMINAL VIOLATION AS PROVIDED BY LAW OR THE MARYLAND
7 RULES.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 594B(e), (k), (l), (i)(1) and (2), and (m)(7)(i)
10 and (4), (5), and (6), as they related to the State Fire Marshal and full-time
11 investigative and inspection assistants in the Office of the State Fire
12 Marshal.

13 Subsection (a)(1) of this section is revised to repeat the provisions of §
14 2-202(c) of this subtitle for clarity and to eliminate the former
15 cross-reference to "subsection (c) of [Art. 27, § 594B]". Similarly, subsection
16 (b)(1) of this section is revised to repeat the provisions of § 2-203 of this
17 subtitle for clarity and to eliminate the former cross-reference to
18 "subsection (e) of [Art. 27, § 594B]".

19 In subsection (b) of this section, the former reference to "Art. 27, § 9",
20 which contains the prohibition against making a threat of arson, is deleted
21 as included in item (b)(2)(vii) of this section.

22 Also in subsection (b) of this section, the former reference to "Art. 27, §
23 111B" is deleted as erroneous because § 111B concerns throwing missiles
24 into an occupied vehicle and no longer concerns crimes related to fire.

25 In subsection (c) of this section, the former reference to the grant of the
26 power of arrest set forth in former subsections (a) through (e) of this
27 section "for any criminal violation of the Code" is deleted as misleading in
28 light of the fact that former subsections (d) and (e) did not apply to any
29 criminal violation of the Code, but instead only to domestic abuse crime
30 and certain other specified crimes.

31 Subsections (d) and (e) of this section are revised in this section as well as
32 in § 2-102 of this subtitle, which concerns police officers, to clarify that
33 these provisions also apply to the State Fire Marshal and certain
34 assistants. Under the former law, the State Fire Marshal and a full-time
35 investigative and inspection assistant were covered by these provisions
36 because those persons were defined as "police officers".

37 Subsection (d) of this section is revised to clarify that the State Fire
38 Marshal or a full-time investigative and inspection assistant in the Office
39 of the State Fire Marshal who acts under the authority of this section must
40 notify the listed entities.

- 1 %In subsection (d)(1)(i)1 of this section, the reference to a "municipal
2 corporation" is substituted for the former reference to an "incorporated
3 municipality" to conform to Md. Constitution, Art. XI-E.
- 4 In subsection (d)(1)(i)3 of this section, the exception for "Baltimore City" is
5 added for clarity because Baltimore City is included in the standard
6 definition of "county". However, Baltimore City is covered in subsection
7 (c)(1)(i)2 of this section.
- 8 In subsection (d)(2) of this section, the reference to the State Fire Marshal
9 or a full-time investigative and inspection assistant in the Office of the
10 State Fire Marshal who "participates in a joint investigation with officials
11 from another State, federal, or local law enforcement unit" is substituted
12 for the former reference to a police officer who is "acting under the
13 authority granted in paragraph (3)(i)1 of this subsection" for specificity
14 and to eliminate an unnecessary cross-reference.
- 15 In the introductory language of subsection (d) of this section, the reference
16 to the State Fire Marshal or a full-time investigative and inspection
17 assistant in the Office of the State Fire Marshal who "acts" under the
18 authority granted by this section is substituted for the former reference to
19 a police officer who "uses" that authority for consistency with language
20 used throughout this section.
- 21 As for authority granted to the State Police, *see* Art. 88B, § 4.
- 22 As for the substitution of the term "unit" for the former reference to
23 "agency", *see* General Revisor's Note to article.
- 24 Former Art. 27, § 594B(i)(3), which stated that the State Fire Marshal or a
25 certain assistant does not have certain arrest powers, except as provided in
26 subsection (l)(7) [the correct cross-reference to (m)(7)(i)], is deleted as
27 unnecessary. Subsection (c) of this section revises former subsection
28 (m)(7)(i). The fact that the State Fire Marshal or a certain assistant does
29 not have certain arrest powers absent the conditions stated in subsection
30 (c) of this section is implicit in this revision.
- 31 Former Art. 27, § 594B(m)(7)(ii), which stated that the powers of arrest
32 established in former subsection (m)(7)(i) are in addition to the powers of
33 arrest established under former § 594B(i), is deleted as implicit in this
34 revised section, which contains the provisions of both former subsection
35 (m)(7)(i) and subsection (i).
- 36 The Criminal Procedure Article Review Committee notes, for consideration
37 by the General Assembly, that the General Assembly may wish to extend
38 the authority of the State Fire Marshal and investigative and inspection
39 assistants under this section to include the making of warrantless arrests
40 if there is probable cause to believe that there has been murder committed
41 in perpetration of arson under Art. 27, § 408 or murder committed in
42 perpetration of any murder under Art. 27, § 409 (murder in a burning

1 barn, tobacco house, etc.).

2 Defined terms: "County" § 1-101

3 "Person" § 1-101

4 "Police officer" § 2-101

5 2-209. AUTHORITY OF PRINCE GEORGE'S COUNTY FIRE INVESTIGATORS.

6 (A) WARRANTLESS ARREST POWERS FOR COMMISSION OF SPECIFIED
7 FELONIES.

8 (1) A FIRE INVESTIGATOR OF THE PRINCE GEORGE'S COUNTY FIRE
9 DEPARTMENT MAY ARREST A PERSON WITHOUT A WARRANT IF THE FIRE
10 INVESTIGATOR HAS PROBABLE CAUSE TO BELIEVE:

11 (I) A FELONY THAT IS A CRIME LISTED IN PARAGRAPH (2) OF THIS
12 SUBSECTION HAS BEEN COMMITTED OR ATTEMPTED; AND

13 (II) THE PERSON TO BE ARRESTED HAS COMMITTED OR
14 ATTEMPTED TO COMMIT THE FELONY WHETHER OR NOT IN THE PRESENCE OR
15 WITHIN THE VIEW OF THE FIRE INVESTIGATOR.

16 (2) THE POWERS OF ARREST SET FORTH IN PARAGRAPH (1) OF THIS
17 SUBSECTION APPLY ONLY TO:

18 (I) THE CRIMES LISTED IN THIS PARAGRAPH AND TO ATTEMPTS,
19 CONSPIRACIES, AND SOLICITATIONS TO COMMIT THESE CRIMES:

20 1. A CRIME THAT RELATES TO A DEVICE THAT IS
21 CONSTRUCTED TO REPRESENT A DESTRUCTIVE DEVICE UNDER ARTICLE 27, § 151C OF
22 THE CODE;

23 2. SETTING FIRE TO A DWELLING OR OCCUPIED STRUCTURE
24 UNDER ARTICLE 27, § 6 OF THE CODE;

25 3. SETTING FIRE TO A STRUCTURE UNDER ARTICLE 27, § 7 OF
26 THE CODE;

27 4. MAKING A FALSE STATEMENT OR RUMOR AS TO A
28 DESTRUCTIVE DEVICE UNDER ARTICLE 27, § 151A OF THE CODE; AND

29 5. A CRIME THAT RELATES TO DESTRUCTIVE DEVICES
30 UNDER ARTICLE 27, § 139C OF THE CODE; AND

31 (II) A CRIME THAT RELATES TO THE UNLAWFUL POSSESSION OR
32 SALE OF EXPLOSIVES UNDER ARTICLE 38A, §§ 27A AND 31 OF THE CODE.

33 (B) WARRANTLESS ARREST POWERS FOR COMMISSION OF SPECIFIED CRIMES.

1 (1) A FIRE INVESTIGATOR OF THE PRINCE GEORGE'S COUNTY FIRE
2 DEPARTMENT MAY ARREST A PERSON WITHOUT A WARRANT IF THE FIRE
3 INVESTIGATOR HAS PROBABLE CAUSE TO BELIEVE:

4 (I) THE PERSON HAS COMMITTED A CRIME LISTED IN PARAGRAPH
5 (2) OF THIS SUBSECTION; AND

6 (II) UNLESS THE PERSON IS ARRESTED IMMEDIATELY, THE
7 PERSON:

8 1. MAY NOT BE APPREHENDED;

9 2. MAY CAUSE PHYSICAL INJURY OR PROPERTY DAMAGE TO
10 ANOTHER; OR

11 3. MAY TAMPER WITH, DISPOSE OF, OR DESTROY EVIDENCE.

12 (2) THE CRIMES REFERRED TO IN PARAGRAPH (1) OF THIS SUBSECTION
13 ARE:

14 (I) RECKLESS ENDANGERMENT UNDER ARTICLE 27, § 12A-2 OF
15 THE CODE;

16 (II) MALICIOUS BURNING UNDER ARTICLE 27, § 8(A) OF THE CODE;

17 (III) THREATENING ARSON UNDER ARTICLE 27, § 9 OF THE CODE;

18 (IV) BURNING THE CONTENTS OF A TRASH CONTAINER UNDER
19 ARTICLE 27, § 9A OF THE CODE;

20 (V) MAKING A FALSE ALARM OF FIRE UNDER ARTICLE 27, § 156 OF
21 THE CODE;

22 (VI) MAKING A FALSE STATEMENT OR REPORT OF COMMISSION OF
23 CRIME UNDER ARTICLE 27, § 151 OF THE CODE;

24 (VII) A CRIME THAT RELATES TO BURNING OR ATTEMPTING TO
25 BURN PROPERTY AS PART OF A RELIGIOUS OR ETHNIC CRIME UNDER ARTICLE 27, §
26 470A(B)(4) OF THE CODE;

27 (VIII) INTENTIONALLY ACTIVATING AN ALARM UNDER ARTICLE 27, §
28 156B OF THE CODE;

29 (IX) A CRIME THAT RELATES TO INTERFERENCE, OBSTRUCTION, OR
30 FALSE REPRESENTATION OF FIRE AND SAFETY PERSONNEL UNDER ARTICLE 27, § 11D
31 OF THE CODE;

32 (X) ATTEMPTING, CAUSING, AIDING, OR ABETTING:

33 1. SETTING FIRE TO A DWELLING OR OCCUPIED STRUCTURE
34 IN VIOLATION OF ARTICLE 27, § 6 OF THE CODE; OR

1 (1) FRESH PURSUIT IS PURSUIT THAT IS CONTINUOUS AND WITHOUT
2 UNREASONABLE DELAY.

3 (2) FRESH PURSUIT NEED NOT BE INSTANT PURSUIT.

4 (3) IN DETERMINING WHETHER THE PURSUIT MEETS THE ELEMENTS
5 OF FRESH PURSUIT, A COURT SHALL APPLY THE REQUIREMENTS OF THE COMMON
6 LAW DEFINITION OF FRESH PURSUIT THAT RELATES TO THESE ELEMENTS.

7 (C) CONDITIONS FOR FRESH PURSUIT.

8 A LAW ENFORCEMENT OFFICER MAY ENGAGE IN FRESH PURSUIT OF A PERSON
9 WHO:

10 (1) HAS COMMITTED OR IS REASONABLY BELIEVED BY THE LAW
11 ENFORCEMENT OFFICER TO HAVE COMMITTED A FELONY IN THE JURISDICTION IN
12 WHICH THE LAW ENFORCEMENT OFFICER HAS THE POWER OF ARREST; OR

13 (2) HAS COMMITTED A MISDEMEANOR IN THE PRESENCE OF THE LAW
14 ENFORCEMENT OFFICER IN THE JURISDICTION IN WHICH THE LAW ENFORCEMENT
15 OFFICER HAS THE POWER OF ARREST.

16 (D) AUTHORITY OF OFFICER ENGAGED IN FRESH PURSUIT.

17 A LAW ENFORCEMENT OFFICER WHO IS ENGAGED IN FRESH PURSUIT OF A
18 PERSON MAY:

19 (1) ARREST THE PERSON ANYWHERE IN THE STATE AND HOLD THE
20 PERSON IN CUSTODY; AND

21 (2) RETURN THE PERSON TO THE JURISDICTION IN WHICH A COURT HAS
22 PROPER VENUE FOR THE CRIME ALLEGED TO HAVE BEEN COMMITTED BY THE
23 PERSON.

24 REVISOR'S NOTE: Subsection (a) of this section is new language added to
25 clarify that this section applies to intrastate fresh pursuit cases.

26 Subsections (b) through (d) of this section are new language derived
27 without substantive change from former Art. 27, § 602A.

28 In subsection (b) of this section, the former definition of "fresh pursuit" as
29 "pursuit under the circumstances listed in subsection (c) of this section" is
30 deleted as unnecessary. Former Art. 27, § 602A(c) is revised as a
31 substantive provision in subsection (c) of this section. A cross-reference to
32 the revised substantive provision in a definition section is redundant and
33 unnecessary.

34 In the introductory language of subsection (c) of this section, the former
35 reference to a law enforcement officer "exercis[ing] the authority provided
36 by subsection (b)" is deleted as unnecessary in light of subsection (d) of this

1 section, which sets forth the authority of a law enforcement officer who is
2 engaged in fresh pursuit.

3 In the introductory language of subsection (d) of this section, the reference
4 to a law enforcement officer "who is engaged in fresh pursuit" is
5 substituted for the former phrase "[u]nder the circumstances provided by
6 subsection (c) [now (d)] of this section" for clarity and to eliminate an
7 unnecessary cross-reference.

8 Defined term: "Person" § 1-101

9 2-302. RESERVED.

10 2-303. RESERVED.

11 PART II. UNIFORM ACT ON FRESH PURSUIT.

12 2-304. DEFINITIONS.

13 (A) IN GENERAL.

14 IN PART II OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 REVISOR'S NOTE: This subsection is new language added as the standard
17 introductory language to a definition section.

18 (B) FRESH PURSUIT.

19 "FRESH PURSUIT" INCLUDES:

20 (1) FRESH PURSUIT AS DEFINED BY THE COMMON LAW; AND

21 (2) PURSUIT WITHOUT UNREASONABLE DELAY, BUT NOT NECESSARILY
22 INSTANT PURSUIT, OF A PERSON WHO:

23 (I) HAS COMMITTED OR IS REASONABLY SUSPECTED OF HAVING
24 COMMITTED A FELONY; OR

25 (II) IS SUSPECTED OF HAVING COMMITTED A FELONY, ALTHOUGH
26 A FELONY HAS NOT BEEN COMMITTED, IF THERE IS REASONABLE GROUND FOR
27 BELIEVING THAT A FELONY HAS BEEN COMMITTED.

28 REVISOR'S NOTE: This subsection is new language derived without
29 substantive change from former Art. 27, § 599.

30 In the introductory language of this subsection, the former phrases "as
31 used in this subtitle" and "as used herein", which modified "fresh pursuit",
32 are deleted as unnecessary in light of subsection (a) of this section.

33 In item (2)(ii) of this subsection, the former references to "supposed" felony

1 and a felony that has not "actually" been committed are deleted as
2 surplusage.

3 Defined term: "Person" § 1-101

4 (C) STATE.

5 "STATE" MEANS A STATE OF THE UNITED STATES OR THE DISTRICT OF
6 COLUMBIA.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 27, § 598.

9 The word "means" is substituted for the former words "shall include" to
10 distinguish this definition from the article-wide definition of the term
11 "state" found in Title 1 of this article. Because the article-wide definition is
12 a "means" definition, and is meant to be exhaustive and not illustrative,
13 the definition for Part II of this subtitle also must be stated as a "means"
14 definition in order for it to be exhaustive for purposes of Part II of this
15 subtitle. In addition, to ensure that the definition is exhaustive, the
16 reference to "a state of the United States" is added.

17 The former phrase "[f]or the purpose of this subtitle" is deleted in light of
18 subsection (a) of this section.

19 The Criminal Procedure Article Review Committee notes, for consideration
20 by the General Assembly, that as enacted by Chapter 123, Acts of 1937, the
21 term "State" began with an uppercase letter as did all the other references
22 to the term "State" in the former subtitle. However, later, the references to
23 the term "state" when it meant a state other than the State of Maryland or
24 "this State" were changed to begin with a lowercase letter. The term
25 "State" in this definition was not changed to begin with a lowercase letter,
26 as it apparently should have been. No substantive change is intended by
27 changing the term to begin with a lowercase letter in this revision.

28 2-305. AUTHORITY OF OFFICERS OF OTHER STATES TO ARREST IN THIS STATE.

29 (A) IN GENERAL.

30 A MEMBER OF A STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT UNIT OF
31 ANOTHER STATE WHO ENTERS THIS STATE IN FRESH PURSUIT AND CONTINUES
32 WITHIN THIS STATE IN FRESH PURSUIT OF A PERSON TO ARREST THE PERSON ON
33 THE GROUND THAT THE PERSON IS BELIEVED TO HAVE COMMITTED A FELONY IN
34 THE OTHER STATE HAS THE SAME AUTHORITY TO ARREST AND HOLD THE PERSON IN
35 CUSTODY AS HAS A MEMBER OF A DULY ORGANIZED STATE, COUNTY, OR MUNICIPAL
36 CORPORATION LAW ENFORCEMENT UNIT OF THIS STATE TO ARREST AND HOLD A
37 PERSON IN CUSTODY ON THE GROUND THAT THE PERSON IS BELIEVED TO HAVE
38 COMMITTED A FELONY IN THIS STATE.

39 (B) CONSTRUCTION OF SECTION.

1 THIS SECTION DOES NOT MAKE UNLAWFUL AN ARREST IN THIS STATE THAT
2 WOULD OTHERWISE BE LAWFUL.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, §§ 595 and 597.

5 Defined terms: "County" § 1-101

6 "Fresh pursuit" § 2-304

7 "Person" § 1-101

8 "State" § 2-304

9 2-306. HEARING TO DETERMINE LAWFULNESS OF ARREST.

10 (A) NECESSITY FOR HEARING.

11 IF AN OFFICER OF ANOTHER STATE MAKES AN ARREST IN THIS STATE IN
12 ACCORDANCE WITH § 2-305(A) OF THIS SUBTITLE, THE OFFICER SHALL, WITHOUT
13 UNNECESSARY DELAY, TAKE THE PERSON ARRESTED BEFORE A JUDGE OF THE
14 CIRCUIT COURT OF THE COUNTY IN WHICH THE ARREST WAS MADE FOR A HEARING
15 TO DETERMINE THE LAWFULNESS OF THE ARREST.

16 (B) EFFECT OF UNLAWFUL ARREST.

17 IF THE JUDGE DETERMINES THAT THE ARREST WAS UNLAWFUL, THE JUDGE
18 SHALL DISCHARGE THE ARRESTED PERSON.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 596.

21 Defined terms: "County" § 1-101

22 "Person" § 1-101

23 "State" § 2-304

24 2-307. NOTICE OF SUBTITLE.

25 AFTER THIS PART II OF THIS SUBTITLE IS PASSED AND APPROVED BY THE
26 GOVERNOR, THE SECRETARY OF STATE SHALL CERTIFY A COPY OF THIS SUBTITLE TO
27 THE EXECUTIVE DEPARTMENT OF EACH STATE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 600.

30 Defined term: "State" § 2-304

31 2-308. VALIDITY OF PART.

32 IF ANY PROVISION OF PART II OF THIS SUBTITLE IS FOR ANY REASON
33 DECLARED VOID, THE REST OF PART II OF THIS SUBTITLE WILL STILL BE VALID.

34 REVISOR'S NOTE: This section formerly was Art. 27, § 601.

1 %The only changes are in style.

2 2-309. SHORT TITLE.

3 PART II OF THIS SUBTITLE IS THE MARYLAND UNIFORM ACT ON FRESH
4 PURSUIT.

5 REVISOR'S NOTE: This section formerly was Art. 27, § 602.

6 The only changes are in style.

7 TITLE 3. INCOMPETENCY AND CRIMINAL RESPONSIBILITY IN CRIMINAL CASES.

8 3-101. DEFINED TERMS.

9 (A) IN GENERAL.

10 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

11 REVISOR'S NOTE: This subsection formerly was HG § 12-101(a).

12 No changes are made.

13 (B) COMMITTED PERSON.

14 "COMMITTED PERSON" MEANS A PERSON COMMITTED TO THE HEALTH
15 DEPARTMENT AS NOT CRIMINALLY RESPONSIBLE UNDER THE TEST FOR CRIMINAL
16 RESPONSIBILITY.

17 REVISOR'S NOTE: This subsection formerly was HG § 12-101(b).

18 In this subsection, the defined term "person" is substituted for the former
19 reference to "individual" to conform to the terminology used throughout
20 this article.

21 There are no other changes.

22 Defined term: "Person" § 1-101

23 (C) COURT.

24 "COURT" MEANS A COURT THAT HAS CRIMINAL JURISDICTION.

25 REVISOR'S NOTE: This subsection formerly was HG § 12-101(c).

26 No changes are made.

27 (D) HEALTH DEPARTMENT.

28 "HEALTH DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL
29 HYGIENE.

1 REVISOR'S NOTE: This subsection is new language added to provide a
2 convenient, short reference to the Department of Health and Mental
3 Hygiene.

4 (E) HOSPITAL WARRANT.

5 "HOSPITAL WARRANT" MEANS A LEGAL DOCUMENT ISSUED BY A COURT THAT:

6 (1) AUTHORIZES ANY LAW ENFORCEMENT OFFICER IN THE STATE TO
7 APPREHEND A PERSON WHO IS ALLEGED TO HAVE VIOLATED AN ORDER FOR
8 CONDITIONAL RELEASE AND TRANSPORT THE PERSON TO A FACILITY DESIGNATED
9 BY THE HEALTH DEPARTMENT; AND

10 (2) REQUIRES THAT THE ISSUANCE OF THE WARRANT IS ENTERED IN
11 THE PERSON'S CRIMINAL HISTORY RECORD INFORMATION OF THE CRIMINAL
12 JUSTICE INFORMATION SYSTEM.

13 REVISOR'S NOTE: This subsection formerly was HG § 12-101(d).

14 In item (2) of this subsection, the reference to "requires" is substituted for
15 the former reference to "[e]nsures" for clarity.

16 The only changes are in style.

17 Defined terms: "Court" § 3-101

18 "Health Department" § 3-101

19 "Person" § 1-101

20 (F) INCOMPETENT TO STAND TRIAL.

21 "INCOMPETENT TO STAND TRIAL" MEANS NOT ABLE:

22 (1) TO UNDERSTAND THE NATURE OR OBJECT OF THE PROCEEDING; OR

23 (2) TO ASSIST IN ONE'S DEFENSE.

24 REVISOR'S NOTE: This subsection formerly was HG § 12-101(e).

25 The only changes are in style.

26 (G) MENTAL DISORDER.

27 (1) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL
28 ILLNESS THAT RESULTS FROM A PSYCHIATRIC OR NEUROLOGICAL DISORDER.

29 (2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO
30 SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF A PERSON
31 AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE WELFARE OF
32 THE PERSON OR FOR THE SAFETY OF THE PERSON OR PROPERTY OF ANOTHER.

33 (3) "MENTAL DISORDER" DOES NOT INCLUDE MENTAL RETARDATION.

1 REVISOR'S NOTE: This subsection formerly was HG § 12-101(g).

2 The defined term "person" is substituted for the former reference to
3 "individual" to conform to the terminology used throughout this article.

4 No other changes are made.

5 Defined term: "Person" § 1-101

6 (H) OFFICE.

7 "OFFICE" MEANS THE OFFICE OF ADMINISTRATIVE HEARINGS.

8 REVISOR'S NOTE: This subsection is new language added to allow a concise
9 reference to the Office of Administrative Hearings.

10 REVISOR'S NOTE TO SECTION: Former HG § 12-101(f), which defined "jail"
11 to mean a jail, detention center, or correctional facility, is deleted as
12 included in the defined term "correctional facility".

13 3-102. SECRETARY TO ADOPT REGULATIONS.

14 THE SECRETARY OF THE HEALTH DEPARTMENT SHALL ADOPT REGULATIONS
15 TO CARRY OUT THE PROVISIONS OF THIS TITLE THAT RELATE TO THE HEALTH
16 DEPARTMENT.

17 REVISOR'S NOTE: This section formerly was HG § 12-102.

18 The reference to the Secretary "of the Health Department" is added for
19 clarity.

20 The former reference that "the duties set forth" in this title are "[i]n
21 addition to the duties set forth" in the Health - General Article is deleted
22 as an unnecessary statement of an ordinary rule of statutory construction.

23 The former reference to "rules" is deleted in light of the reference to
24 "regulations". *See* General Revisor's Note to article.

25 The only other changes are in style.

26 Defined term: "Health Department" § 3-101

27 3-103. INTERPRETERS FOR PROCEEDINGS.

28 (A) WHEN APPOINTMENT REQUIRED.

29 THE COURT SHALL APPOINT A QUALIFIED INTERPRETER TO HELP A
30 DEFENDANT THROUGHOUT ANY COURT PROCEEDINGS UNDER THIS TITLE WHEN
31 THE DEFENDANT IS:

32 (1) DEAF; OR

1 (2) CANNOT READILY UNDERSTAND OR COMMUNICATE THE ENGLISH
2 LANGUAGE AND CANNOT UNDERSTAND A CHARGE MADE AGAINST THE DEFENDANT
3 OR HELP PRESENT THE DEFENSE.

4 (B) COMPENSATION AND EXPENSES.

5 THE COURT SHALL GIVE AN INTERPRETER APPOINTED UNDER THIS SECTION:

6 (1) COMPENSATION FOR SERVICES IN AN AMOUNT EQUAL TO THAT
7 PROVIDED FOR INTERPRETERS OF LANGUAGES OTHER THAN ENGLISH; AND

8 (2) REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES
9 INCURRED IN THE PERFORMANCE OF SERVICES.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 623A, as it related to the appointment of
12 interpreters for court proceedings under this title.

13 In subsection (a) of this section, the reference to "any court proceedings
14 under this title" is substituted for the former obsolete reference to
15 "insanity or mental health commitment proceedings".

16 Also in subsection (a) of this section, the former reference to being a
17 "deaf-mute" is deleted as included in the reference to being "deaf".

18 Also in subsection (a) of this section, the former reference to a defendant
19 who "[b]ecause of hearing, speaking, or other impairment" cannot readily
20 understand or communicate the English language is deleted as
21 unnecessary in light of the general reference to a "defendant is deaf or
22 cannot readily understand or communicate the English language and
23 cannot understand a charge made against the defendant or help present
24 the defense".

25 As to the appointment and compensation of interpreters generally, *see* CJ §
26 9-114.

27 Defined term: "Court" § 3-101

28 3-104. COURT TO DETERMINE COMPETENCE.

29 (A) IN GENERAL.

30 IF, BEFORE OR DURING A TRIAL, THE DEFENDANT IN A CRIMINAL CASE
31 APPEARS TO THE COURT TO BE INCOMPETENT TO STAND TRIAL OR THE DEFENDANT
32 ALLEGES INCOMPETENCE TO STAND TRIAL, THE COURT SHALL DETERMINE, ON
33 EVIDENCE PRESENTED ON THE RECORD, WHETHER THE DEFENDANT IS
34 INCOMPETENT TO STAND TRIAL.

35 (B) COURT ACTION IF DEFENDANT FOUND COMPETENT.

1 IF, AFTER RECEIVING EVIDENCE, THE COURT FINDS THAT THE DEFENDANT IS
2 COMPETENT TO STAND TRIAL, THE TRIAL SHALL BEGIN AS SOON AS PRACTICABLE
3 OR, IF ALREADY BEGUN, SHALL CONTINUE.

4 (C) RECONSIDERATION.

5 AT ANY TIME DURING THE TRIAL AND BEFORE VERDICT, THE COURT MAY
6 RECONSIDER THE QUESTION OF WHETHER THE DEFENDANT IS INCOMPETENT TO
7 STAND TRIAL.

8 REVISOR'S NOTE: This section formerly was HG § 12-103.

9 No changes are made.

10 Defined terms: "Court" § 3-101

11 "Incompetent to stand trial" § 3-101

12 3-105. EXAMINATION OF DEFENDANT BY HEALTH DEPARTMENT.

13 (A) IN GENERAL.

14 (1) FOR GOOD CAUSE AND AFTER GIVING THE DEFENDANT AN
15 OPPORTUNITY TO BE HEARD, THE COURT MAY ORDER THE HEALTH DEPARTMENT TO
16 EXAMINE THE DEFENDANT TO DETERMINE WHETHER THE DEFENDANT IS
17 INCOMPETENT TO STAND TRIAL.

18 (2) THE COURT SHALL SET AND MAY CHANGE THE CONDITIONS UNDER
19 WHICH THE EXAMINATION IS TO BE MADE.

20 (B) RELEASE FOR EXAMINATION.

21 EXCEPT IN A CAPITAL CASE, ON CONSIDERATION OF THE NATURE OF THE
22 CHARGE, THE COURT:

23 (1) MAY REQUIRE OR ALLOW THE EXAMINATION TO BE DONE ON AN
24 OUTPATIENT BASIS; AND

25 (2) IF AN OUTPATIENT EXAMINATION IS AUTHORIZED, SHALL SET BAIL
26 FOR THE DEFENDANT OR AUTHORIZE RELEASE OF THE DEFENDANT ON
27 RECOGNIZANCE.

28 (C) CONFINEMENT BEFORE AND DURING EXAMINATION; HABEAS CORPUS.

29 (1) IF A DEFENDANT IS TO BE HELD IN CUSTODY FOR EXAMINATION
30 UNDER THIS SECTION, THE DEFENDANT MAY BE CONFINED IN A CORRECTIONAL
31 FACILITY UNTIL THE HEALTH DEPARTMENT CAN CONDUCT THE EXAMINATION. IF
32 THE COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY OF THE
33 DEFENDANT, THE COURT MAY ORDER CONFINEMENT IN A MEDICAL WING OR OTHER
34 ISOLATED AND SECURE UNIT OF THE CORRECTIONAL FACILITY.

1 (2) (I) IF THE COURT FINDS THAT, BECAUSE OF THE APPARENT
2 SEVERITY OF THE MENTAL DISORDER OR MENTAL RETARDATION, A DEFENDANT IN
3 CUSTODY WOULD BE ENDANGERED BY CONFINEMENT IN A CORRECTIONAL
4 FACILITY, THE COURT MAY ORDER THAT THE HEALTH DEPARTMENT, IN THE HEALTH
5 DEPARTMENT'S DISCRETION:

6 1. CONFINE THE DEFENDANT, PENDING EXAMINATION, IN A
7 MEDICAL FACILITY THAT THE HEALTH DEPARTMENT DESIGNATES AS APPROPRIATE;
8 OR

9 2. IMMEDIATELY CONDUCT A COMPETENCY EXAMINATION
10 OF THE DEFENDANT BY A COMMUNITY FORENSIC SCREENING PROGRAM OR OTHER
11 AGENCY THAT THE HEALTH DEPARTMENT FINDS APPROPRIATE.

12 (II) UNLESS THE HEALTH DEPARTMENT RETAINS THE
13 DEFENDANT, THE DEFENDANT SHALL BE PROMPTLY RETURNED TO THE COURT
14 AFTER THE EXAMINATION.

15 (3) A DEFENDANT WHO IS HELD FOR EXAMINATION UNDER THIS
16 SECTION MAY QUESTION AT ANY TIME THE LEGALITY OF THE DETENTION BY
17 PETITION FOR A WRIT OF HABEAS CORPUS.

18 (D) DUTIES OF HEALTH DEPARTMENT.

19 (1) IF A COURT ORDERS AN EXAMINATION UNDER THIS SECTION, THE
20 HEALTH DEPARTMENT SHALL:

21 (I) EXAMINE THE DEFENDANT; AND

22 (II) SEND A COMPLETE REPORT OF ITS FINDINGS TO:

23 1. THE COURT;

24 2. THE STATE'S ATTORNEY; AND

25 3. THE DEFENSE COUNSEL.

26 (2) UNLESS THERE IS A PLEA THAT THE DEFENDANT WAS NOT
27 CRIMINALLY RESPONSIBLE UNDER § 3-109 OF THIS TITLE, THE DEFENDANT IS
28 ENTITLED TO HAVE THE REPORT WITHIN 7 DAYS AFTER THE COURT ORDERS THE
29 EXAMINATION. HOWEVER, FAILURE OF THE HEALTH DEPARTMENT TO SEND THE
30 COMPLETE REPORT WITHIN THAT TIME IS NOT, OF ITSELF, GROUNDS FOR DISMISSAL
31 OF THE CHARGES. ON GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR
32 EXAMINATION.

33 (3) IF THE HEALTH DEPARTMENT REPORTS THAT, IN ITS OPINION, THE
34 DEFENDANT IS INCOMPETENT TO STAND TRIAL, THE REPORT SHALL STATE, IN A
35 COMPLETE SUPPLEMENTARY OPINION, WHETHER, BECAUSE OF MENTAL
36 RETARDATION OR MENTAL DISORDER, THE DEFENDANT WOULD BE A DANGER TO
37 SELF OR THE PERSON OR PROPERTY OF ANOTHER, IF RELEASED.

1 REVISOR'S NOTE: This section formerly was HG § 12-104.

2 The only changes are in style.

3 Defined terms: "Correctional facility" § 1-101

4 "Court" § 3-101

5 "Health Department" § 3-101

6 "Incompetent to stand trial" § 3-101

7 "Person" § 1-101

8 3-106. FINDING OF INCOMPETENCY.

9 (A) RELEASE.

10 EXCEPT IN A CAPITAL CASE, IF, AFTER A HEARING, THE COURT FINDS THAT
11 THE DEFENDANT IS INCOMPETENT TO STAND TRIAL BUT IS NOT DANGEROUS, AS A
12 RESULT OF A MENTAL DISORDER OR MENTAL RETARDATION, TO SELF OR THE
13 PERSON OR PROPERTY OF OTHERS, THE COURT MAY SET BAIL FOR THE DEFENDANT
14 OR AUTHORIZE RELEASE OF THE DEFENDANT ON RECOGNIZANCE.

15 (B) COMMITMENT.

16 (1) IF, AFTER A HEARING, THE COURT FINDS THAT THE DEFENDANT IS
17 INCOMPETENT TO STAND TRIAL AND, BECAUSE OF MENTAL RETARDATION OR A
18 MENTAL DISORDER, IS A DANGER TO SELF OR THE PERSON OR PROPERTY OF
19 ANOTHER, THE COURT MAY ORDER THE DEFENDANT COMMITTED TO THE FACILITY
20 THAT THE HEALTH DEPARTMENT DESIGNATES UNTIL THE COURT IS SATISFIED
21 THAT THE DEFENDANT NO LONGER IS INCOMPETENT TO STAND TRIAL OR NO
22 LONGER IS, BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER, A DANGER
23 TO SELF OR THE PERSON OR PROPERTY OF OTHERS.

24 (2) IF A COURT COMMITS THE DEFENDANT BECAUSE OF MENTAL
25 RETARDATION, THE HEALTH DEPARTMENT SHALL REQUIRE THE DEVELOPMENTAL
26 DISABILITIES ADMINISTRATION TO PROVIDE THE CARE OR TREATMENT THAT THE
27 DEFENDANT NEEDS.

28 (C) RECONSIDERATION.

29 (1) ON SUGGESTION OF THE DEFENDANT OR ON ITS INITIATIVE AND
30 SUBJECT TO THE LIMITATIONS ON FREQUENCY IN § 7-507 OR § 10-805 OF THE
31 HEALTH - GENERAL ARTICLE, AS THE CASE MAY BE, THE COURT MAY RECONSIDER
32 WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

33 (2) IF THE COURT ORDERS COMMITMENT UNDER SUBSECTION (B) OF
34 THIS SECTION, THE DEFENDANT MAY APPLY FOR RELEASE UNDER § 7-507 OR § 10-805
35 OF THE HEALTH - GENERAL ARTICLE. IN COMPUTING THE AVAILABILITY OF REVIEW
36 UNDER THOSE SECTIONS, AS THE CASE MAY BE, THE DATE OF THE COMMITMENT
37 ORDER SHALL BE TREATED AS A HEARING.

38 (D) OTHER LEGAL QUESTIONS.

1 IF THE DEFENDANT IS FOUND INCOMPETENT TO STAND TRIAL, DEFENSE
2 COUNSEL MAY MAKE ANY LEGAL OBJECTION TO THE PROSECUTION THAT MAY BE
3 DETERMINED FAIRLY BEFORE TRIAL AND WITHOUT THE PERSONAL PARTICIPATION
4 OF THE DEFENDANT.

5 (E) INCLUSION IN CENTRAL REPOSITORY.

6 THE COURT SHALL NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM
7 CENTRAL REPOSITORY OF ANY COMMITMENT ORDERED OR RELEASE AUTHORIZED
8 UNDER THIS SECTION AND OF ANY DETERMINATION THAT A DEFENDANT IS NO
9 LONGER INCOMPETENT TO STAND TRIAL.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former HG § 12-105.

12 In subsection (e) of this section, the reference to "Criminal Justice
13 Information System Central Repository" is substituted for the former
14 reference to "central repository of the criminal justice information system"
15 to conform to the terminology used in § 11-203 of this article.

16 Defined terms: "Court" § 3-101

17 "Health Department" § 3-101

18 "Incompetent to stand trial" § 3-101

19 "Mental disorder" § 3-101

20 "Person" § 1-101

21 3-107. DISMISSAL OF CHARGES.

22 (A) IN GENERAL.

23 WHETHER OR NOT THE DEFENDANT IS CONFINED, IF THE COURT CONSIDERS
24 THAT RESUMING THE CRIMINAL PROCEEDING WOULD BE UNJUST BECAUSE SO
25 MUCH TIME HAS PASSED SINCE THE DEFENDANT WAS FOUND INCOMPETENT TO
26 STAND TRIAL, THE COURT MAY DISMISS THE CHARGE. HOWEVER, THE COURT MAY
27 NOT DISMISS A CHARGE:

28 (1) WITHOUT PROVIDING THE STATE'S ATTORNEY AND A VICTIM OR
29 VICTIM'S REPRESENTATIVE WHO HAS FILED A NOTIFICATION REQUEST FORM
30 UNDER § 11-104 OF THIS ARTICLE ADVANCE NOTICE AND AN OPPORTUNITY TO BE
31 HEARD; AND

32 (2) (I) UNTIL 10 YEARS AFTER THE DEFENDANT WAS FOUND
33 INCOMPETENT TO STAND TRIAL IN ANY CAPITAL CASE; OR

34 (II) UNTIL 5 YEARS AFTER THE DEFENDANT WAS FOUND
35 INCOMPETENT TO STAND TRIAL IN ANY OTHER CASE WHERE THE PENALTY MAY BE
36 IMPRISONMENT IN A STATE CORRECTIONAL FACILITY.

37 (B) NOTICE OF DISMISSAL.

1 IF CHARGES ARE DISMISSED UNDER THIS SECTION, THE COURT SHALL NOTIFY:

2 (1) THE VICTIM OF THE CRIME CHARGED OR THE VICTIM'S
3 REPRESENTATIVE WHO HAS FILED A NOTIFICATION REQUEST FORM UNDER § 11-104
4 OF THIS ARTICLE; AND

5 (2) THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
6 REPOSITORY.

7 REVISOR'S NOTE: This section formerly was HG § 12-106.

8 The reference to "Criminal Justice Information System Central
9 Repository" is substituted for the former reference to "Central Repository
10 of the Criminal Justice Information System" to conform to the terminology
11 used in § 11-203 of this article.

12 The defined term "State correctional facility" is substituted for the former
13 reference to the "State penitentiary" to conform to the terminology used
14 throughout this article.

15 Defined terms: "Court" § 3-101

16 "Incompetent to stand trial" § 3-101

17 "State correctional facility" § 1-101

18 3-108. REPORTS ON INCOMPETENT PERSONS.

19 (A) REPORT TO COURT.

20 (1) IN ADDITION TO ANY OTHER REPORT REQUIRED UNDER THIS TITLE,
21 THE HEALTH DEPARTMENT SHALL REPORT ANNUALLY TO EACH COURT THAT HAS
22 ORDERED COMMITMENT OF A PERSON UNDER § 3-106 OF THIS TITLE.

23 (2) THE REPORT SHALL CONTAIN:

24 (I) A LIST OF THE PERSONS HELD UNDER COMMITMENT ORDERS;
25 AND

26 (II) ANY RECOMMENDATIONS THAT THE HEALTH DEPARTMENT
27 CONSIDERS APPROPRIATE.

28 (B) DISTRIBUTION OF COPIES.

29 (1) THE CLERK OF COURT SHALL GIVE THE LAST COUNSEL FOR EACH
30 PERSON, AS SHOWN BY THE COURT RECORDS, NOTICE THAT THE CLIENT IS LISTED
31 IN THE REPORT AND A COPY OF ANY RECOMMENDATION THAT RELATES TO THE
32 CLIENT.

33 (2) THE HEALTH DEPARTMENT SHALL SEND A COPY OF THE REPORT TO
34 EACH STATE'S ATTORNEY WHO BROUGHT CHARGES AGAINST A PERSON IN THE
35 REPORT.

1 (C) RECOMMENDATIONS BY STATE'S ATTORNEY.

2 (1) WITHIN 30 DAYS AFTER A STATE'S ATTORNEY RECEIVES THE
3 REPORT, THE STATE'S ATTORNEY SHALL SEND A RECOMMENDATION ON
4 DISPOSITION OF CHARGES AGAINST EACH PERSON WHO HAS BEEN HELD LONG
5 ENOUGH TO BE ELIGIBLE FOR RELEASE UNDER § 3-107 OF THIS TITLE.

6 (2) THE STATE'S ATTORNEY SHALL SEND THE RECOMMENDATION
7 ABOUT A PERSON TO:

8 (I) THE COURT THAT ORDERED COMMITMENT OF THE PERSON;
9 AND

10 (II) THE LAST COUNSEL FOR THE PERSON.

11 (D) NOTIFICATION OF CENTRAL REPOSITORY.

12 THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE OF A PERSON
13 COMMITTED AS INCOMPETENT TO STAND TRIAL SHALL NOTIFY THE CRIMINAL
14 JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IF THE PERSON ESCAPES.

15 REVISOR'S NOTE: This section formerly was HG § 12-107.

16 In subsection (d) of this section, the reference to "Criminal Justice
17 Information System Central Repository" is substituted for the former
18 reference to "central repository of the criminal justice information system"
19 to conform to the terminology used in § 11-203 of this article.

20 Defined terms: "Court" § 3-101

21 "Health Department" § 3-101

22 "Incompetent to stand trial" § 3-101

23 "Person" § 1-101

24 3-109. TEST FOR CRIMINAL RESPONSIBILITY.

25 (A) IN GENERAL.

26 A DEFENDANT IS NOT CRIMINALLY RESPONSIBLE FOR CRIMINAL CONDUCT IF,
27 AT THE TIME OF THAT CONDUCT, THE DEFENDANT, BECAUSE OF A MENTAL
28 DISORDER OR MENTAL RETARDATION, LACKS SUBSTANTIAL CAPACITY TO:

29 (1) APPRECIATE THE CRIMINALITY OF THAT CONDUCT; OR

30 (2) CONFORM THAT CONDUCT TO THE REQUIREMENTS OF LAW.

31 (B) EXCLUSIONS.

32 FOR PURPOSES OF THIS SECTION, "MENTAL DISORDER" DOES NOT INCLUDE AN
33 ABNORMALITY THAT IS MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHERWISE
34 ANTISOCIAL CONDUCT.

1 REVISOR'S NOTE: This section formerly was HG § 12-108.

2 The only changes are in style.

3 Defined term: "Mental disorder" § 3-101

4 3-110. NOT CRIMINALLY RESPONSIBLE -- PLEA AND VERDICT.

5 (A) TIME AND MANNER OF PLEADING.

6 (1) IF A DEFENDANT INTENDS TO RELY ON A PLEA OF NOT CRIMINALLY
7 RESPONSIBLE, THE DEFENDANT OR DEFENSE COUNSEL SHALL FILE A WRITTEN
8 PLEA ALLEGING, IN SUBSTANCE, THAT WHEN THE ALLEGED CRIME WAS
9 COMMITTED, THE DEFENDANT WAS NOT CRIMINALLY RESPONSIBLE BY REASON OF
10 INSANITY UNDER THE TEST FOR CRIMINAL RESPONSIBILITY IN § 3-109 OF THIS
11 TITLE.

12 (2) A WRITTEN PLEA OF NOT CRIMINALLY RESPONSIBLE BY REASON OF
13 INSANITY SHALL BE FILED AT THE TIME PROVIDED FOR INITIAL PLEADING, UNLESS,
14 FOR GOOD CAUSE SHOWN, THE COURT ALLOWS THE PLEA TO BE FILED LATER.

15 (B) BURDEN OF PROOF.

16 THE DEFENDANT HAS THE BURDEN TO ESTABLISH, BY A PREPONDERANCE OF
17 THE EVIDENCE, THE DEFENSE OF NOT CRIMINALLY RESPONSIBLE.

18 (C) DEGREE OF PROOF.

19 IF THE TRIER OF FACT FINDS THAT THE STATE HAS PROVED BEYOND A
20 REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIMINAL ACT
21 CHARGED, THEN, IF THE DEFENDANT HAS PLEADED NOT CRIMINALLY RESPONSIBLE,
22 THE TRIER OF FACT SEPARATELY SHALL FIND, BY A PREPONDERANCE OF THE
23 EVIDENCE, WHETHER THE DEFENDANT WAS AT THE TIME CRIMINALLY
24 RESPONSIBLE OR NOT CRIMINALLY RESPONSIBLE BY REASON OF INSANITY UNDER
25 THE TEST FOR CRIMINAL RESPONSIBILITY IN § 3-109 OF THIS TITLE.

26 (D) RESTRICTION ON VERDICT.

27 A COURT MAY NOT ENTER A VERDICT OF NOT CRIMINALLY RESPONSIBLE
28 UNLESS THE DEFENDANT OR DEFENSE COUNSEL HAS FILED A WRITTEN PLEA
29 UNDER SUBSECTION (A) OF THIS SECTION.

30 REVISOR'S NOTE: This section formerly was HG § 12-109.

31 The only changes are in style.

32 Defined term: "Court" § 3-101

33 3-111. SAME -- EXAMINATION.

34 (A) IN GENERAL.

1 IF A DEFENDANT HAS ENTERED A PLEA OF NOT CRIMINALLY RESPONSIBLE,
2 THE COURT MAY ORDER THE HEALTH DEPARTMENT TO EXAMINE THE DEFENDANT
3 TO DETERMINE WHETHER THE DEFENDANT WAS NOT CRIMINALLY RESPONSIBLE
4 UNDER § 3-109 OF THIS TITLE AND WHETHER THE DEFENDANT IS COMPETENT TO
5 STAND TRIAL.

6 (B) CONFINEMENT.

7 (1) IF A DEFENDANT IS TO BE HELD IN CUSTODY FOR EXAMINATION
8 UNDER THIS SECTION, THE DEFENDANT SHALL BE CONFINED IN A CORRECTIONAL
9 FACILITY UNTIL THE HEALTH DEPARTMENT CAN DO THE EXAMINATION. IF THE
10 COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY OF THE DEFENDANT,
11 THE COURT MAY ORDER CONFINEMENT:

12 (I) IN A MEDICAL WING OR OTHER ISOLATED AND SECURE UNIT
13 OF THE CORRECTIONAL FACILITY; OR

14 (II) IF A MEDICAL WING OR OTHER SECURE UNIT IS NOT
15 AVAILABLE, IN A MEDICAL FACILITY THAT THE SECRETARY OF THE HEALTH
16 DEPARTMENT DESIGNATES AS APPROPRIATE.

17 (2) (I) WHEN THE HEALTH DEPARTMENT CAN DO THE EXAMINATION,
18 A COURT UNIT SHALL TAKE THE DEFENDANT TO THE EVALUATION FACILITY THAT
19 THE HEALTH DEPARTMENT DESIGNATES.

20 (II) AFTER THE EXAMINATION, UNLESS THE HEALTH DEPARTMENT
21 RETAINS THE DEFENDANT, A COURT UNIT SHALL RETURN THE DEFENDANT TO THE
22 PLACE OF CONFINEMENT.

23 (C) REPORT.

24 IF A COURT ORDERS AN EXAMINATION UNDER THIS SECTION:

25 (1) THE HEALTH DEPARTMENT SHALL:

26 (I) EXAMINE THE DEFENDANT; AND

27 (II) SEND A REPORT OF ITS OPINIONS TO THE COURT, THE STATE'S
28 ATTORNEY, THE DEFENDANT, AND THE DEFENSE COUNSEL;

29 (2) THE DEFENDANT IS ENTITLED TO HAVE THE REPORT WITHIN 60
30 DAYS AFTER THE COURT ORDERS THE EXAMINATION. HOWEVER, FAILURE OF THE
31 HEALTH DEPARTMENT TO SEND THE COMPLETE REPORT WITHIN THAT TIME IS NOT,
32 OF ITSELF, GROUNDS FOR DISMISSAL OF THE CHARGES; AND

33 (3) FOR GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR
34 EXAMINATION OR ORDER AN ADDITIONAL EXAMINATION.

35 REVISOR'S NOTE: This section formerly was HG § 12-110.

36 In subsection (b)(2) of this section, the references to "unit" are substituted

1 for the former references to "agency" to conform to the terminology used
2 throughout this article.

3 The only other changes are in style.

4 Defined terms: "Correctional facility" § 1-101

5 "Court" § 3-101

6 "Health Department" § 3-101

7 3-112. SAME -- COMMITMENT.

8 (A) IN GENERAL.

9 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AFTER A VERDICT
10 OF NOT CRIMINALLY RESPONSIBLE, THE COURT IMMEDIATELY SHALL COMMIT THE
11 DEFENDANT TO THE HEALTH DEPARTMENT FOR INSTITUTIONAL INPATIENT CARE
12 OR TREATMENT.

13 (B) RETARDED DEFENDANT.

14 IF THE COURT COMMITS A DEFENDANT WHO WAS FOUND NOT CRIMINALLY
15 RESPONSIBLE PRIMARILY BECAUSE OF MENTAL RETARDATION, THE HEALTH
16 DEPARTMENT SHALL DESIGNATE A FACILITY FOR MENTALLY RETARDED PERSONS
17 FOR CARE AND TREATMENT OF THE COMMITTED PERSON.

18 (C) RELEASE.

19 AFTER A VERDICT OF NOT CRIMINALLY RESPONSIBLE, A COURT MAY ORDER
20 THAT A PERSON BE RELEASED, WITH OR WITHOUT CONDITIONS, INSTEAD OF
21 COMMITTED TO THE HEALTH DEPARTMENT, BUT ONLY IF:

22 (1) THE COURT HAS AVAILABLE AN EVALUATION REPORT WITHIN 90
23 DAYS PRECEDING THE VERDICT MADE BY AN EVALUATING FACILITY DESIGNATED
24 BY THE HEALTH DEPARTMENT;

25 (2) THE REPORT INDICATES THAT THE PERSON WOULD NOT BE A
26 DANGER, AS A RESULT OF MENTAL RETARDATION OR MENTAL DISORDER, TO SELF OR
27 TO THE PERSON OR PROPERTY OF OTHERS IF RELEASED, WITH OR WITHOUT
28 CONDITION; AND

29 (3) THE PERSON AND THE STATE'S ATTORNEY AGREE TO THE RELEASE
30 AND TO ANY CONDITIONS FOR RELEASE THAT THE COURT IMPOSES.

31 (D) NOTIFICATION OF CENTRAL REPOSITORY.

32 THE COURT SHALL NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM
33 CENTRAL REPOSITORY OF EACH PERSON IT ORDERS COMMITTED UNDER THIS
34 SECTION.

35 REVISOR'S NOTE: This section formerly was HG § 12-111.

1 %In subsection (d) of this section, the reference to "Criminal Justice
2 Information System Central Repository" is substituted for the former
3 reference to "central repository of the criminal justice information system"
4 to conform to the terminology used in Title 10, Subtitle 2 of this article.

5 The only other changes are in style.

6 Defined terms: "Committed person" § 3-101

7 "Court" § 3-101

8 "Health Department" § 3-101

9 "Mental disorder" § 3-101

10 3-113. REPORT ON COMMITTED PERSONS.

11 (A) IN GENERAL.

12 (1) WITHIN 10 DAYS AFTER COMMITMENT OF A PERSON UNDER § 3-112
13 OF THIS TITLE, THE FACILITY THAT RECEIVES THE COMMITTED PERSON SHALL
14 SEND TO THE HEALTH DEPARTMENT AN ADMISSION REPORT ON THE COMMITTED
15 PERSON.

16 (2) THE REPORT SHALL CONTAIN THE INFORMATION AND BE ON THE
17 FORM THAT THE HEALTH DEPARTMENT REQUIRES.

18 (B) NOTIFICATION OF MOVEMENT.

19 (1) THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE OF
20 THE COMMITTED PERSON SHALL NOTIFY THE STATE'S ATTORNEY ANY TIME A
21 COMMITTED PERSON:

22 (I) IS TRANSFERRED;

23 (II) IS APPROVED FOR TEMPORARY LEAVES OF MORE THAN 24
24 HOURS; OR

25 (III) IS ABSENT WITHOUT AUTHORIZATION.

26 (2) FOR INFORMATION PURPOSES, A COPY OF THIS NOTICE SHALL BE
27 SENT FOR INCLUSION IN THE COURT FILE AND TO COUNSEL FOR THE COMMITTED
28 PERSON.

29 (C) NOTIFICATION OF CENTRAL REPOSITORY.

30 THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE OF A
31 COMMITTED PERSON SHALL NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM
32 CENTRAL REPOSITORY IF THE COMMITTED PERSON ESCAPES.

33 REVISOR'S NOTE: This section formerly was HG § 12-112.

34 In subsection (c) of this section, the reference to "Criminal Justice
35 Information System Central Repository" is substituted for the former

1 reference to "central repository of the criminal justice information system"
2 to conform to the terminology used in Title 10, Subtitle 2 of this article.

3 The only other changes are in style.

4 Defined terms: "Committed person" § 3-101

5 "Court" § 3-101

6 "Health Department" § 3-101

7 3-114. ELIGIBILITY FOR RELEASE.

8 (A) IN GENERAL.

9 A COMMITTED PERSON MAY BE RELEASED UNDER THE PROVISIONS OF THIS
10 SECTION AND §§ 3-115 THROUGH 3-122 OF THIS TITLE.

11 (B) DISCHARGE.

12 A COMMITTED PERSON IS ELIGIBLE FOR DISCHARGE FROM COMMITMENT ONLY
13 IF THAT PERSON WOULD NOT BE A DANGER, AS A RESULT OF MENTAL DISORDER OR
14 MENTAL RETARDATION, TO SELF OR TO THE PERSON OR PROPERTY OF OTHERS IF
15 DISCHARGED.

16 (C) CONDITIONAL RELEASE.

17 A COMMITTED PERSON IS ELIGIBLE FOR CONDITIONAL RELEASE FROM
18 COMMITMENT ONLY IF THAT PERSON WOULD NOT BE A DANGER, AS A RESULT OF
19 MENTAL DISORDER OR MENTAL RETARDATION, TO SELF OR TO THE PERSON OR
20 PROPERTY OF OTHERS IF RELEASED FROM CONFINEMENT WITH CONDITIONS
21 IMPOSED BY THE COURT.

22 (D) BURDEN OF PROOF.

23 TO BE RELEASED, A COMMITTED PERSON HAS THE BURDEN TO ESTABLISH BY A
24 PREPONDERANCE OF THE EVIDENCE ELIGIBILITY FOR DISCHARGE OR ELIGIBILITY
25 FOR CONDITIONAL RELEASE.

26 REVISOR'S NOTE: This section formerly was HG § 12-113.

27 The only changes are in style.

28 Defined terms: "Committed person" § 3-101

29 "Court" § 3-101

30 "Mental disorder" § 3-101

31 3-115. RELEASE HEARING.

32 (A) WHEN REQUIRED.

33 WITHIN 50 DAYS AFTER COMMITMENT TO THE HEALTH DEPARTMENT UNDER §
34 3-112 OF THIS TITLE, A HEARING OFFICER OF THE HEALTH DEPARTMENT SHALL

1 HOLD A HEARING TO CONSIDER ANY RELEVANT INFORMATION THAT WILL ENABLE
2 THE HEARING OFFICER TO MAKE RECOMMENDATIONS TO THE COURT AS TO
3 WHETHER THE COMMITTED PERSON IS ELIGIBLE FOR RELEASE UNDER § 3-114 OF
4 THIS TITLE.

5 (B) POSTPONEMENT OR WAIVER.

6 (1) THE RELEASE HEARING MAY BE POSTPONED FOR GOOD CAUSE OR
7 BY AGREEMENT OF THE COMMITTED PERSON AND THE HEALTH DEPARTMENT.

8 (2) THE COMMITTED PERSON MAY WAIVE THE RELEASE HEARING.

9 (C) EVALUATION AND REPORT.

10 (1) UNLESS THE HEALTH DEPARTMENT HAS COMPLETED AN
11 EXAMINATION AND REPORT DURING THE 90 DAYS PRECEDING THE RELEASE
12 HEARING, AT LEAST 7 DAYS BEFORE THE RELEASE HEARING IS SCHEDULED, THE
13 HEALTH DEPARTMENT SHALL COMPLETE AN EXAMINATION AND EVALUATION OF
14 THE COMMITTED PERSON.

15 (2) WHETHER OR NOT THE RELEASE HEARING IS WAIVED, THE HEALTH
16 DEPARTMENT SHALL SEND A COPY OF THE EVALUATION REPORT:

17 (I) TO THE COMMITTED PERSON;

18 (II) TO COUNSEL FOR THE COMMITTED PERSON;

19 (III) TO THE STATE'S ATTORNEY; AND

20 (IV) TO THE OFFICE OF ADMINISTRATIVE HEARINGS.

21 (D) NOTICE.

22 (1) THE HEALTH DEPARTMENT SHALL SEND NOTICE OF THE RELEASE
23 HEARING TO:

24 (I) THE COMMITTED PERSON;

25 (II) COUNSEL FOR THE COMMITTED PERSON; AND

26 (III) THE STATE'S ATTORNEY.

27 (2) THE OFFICE SHALL ISSUE ANY APPROPRIATE SUBPOENA FOR ANY
28 PERSON OR EVIDENCE. THE COURT MAY COMPEL OBEDIENCE TO THE SUBPOENA.

29 (E) CONDUCT OF HEARING.

30 (1) FORMAL RULES OF EVIDENCE DO NOT APPLY TO THE RELEASE
31 HEARING, AND THE OFFICE MAY ADMIT AND CONSIDER ANY RELEVANT EVIDENCE.

1 (2) THE HEARING SHALL BE RECORDED, BUT THE RECORDING NEED
2 NOT BE TRANSCRIBED UNLESS REQUESTED. THE REQUESTING PARTY SHALL PAY
3 THE COSTS OF THE TRANSCRIPT AND, IF EXCEPTIONS HAVE BEEN FILED, PROVIDE
4 COPIES TO OTHER PARTIES AND THE COURT. IF THE COURT ORDERS A TRANSCRIPT,
5 THE COURT SHALL PAY THE COSTS OF THE TRANSCRIPT.

6 (3) ANY RECORD THAT RELATES TO EVALUATION OR TREATMENT OF
7 THE COMMITTED PERSON BY THIS STATE SHALL BE MADE AVAILABLE, ON REQUEST,
8 TO THE COMMITTED PERSON OR COUNSEL FOR THE COMMITTED PERSON.

9 (4) THE HEALTH DEPARTMENT SHALL PRESENT THE EVALUATION
10 REPORT ON THE COMMITTED PERSON AND ANY OTHER RELEVANT EVIDENCE.

11 (5) AT THE RELEASE HEARING, THE COMMITTED PERSON IS ENTITLED:

12 (I) TO BE PRESENT, TO OFFER EVIDENCE, AND TO
13 CROSS-EXAMINE ADVERSE WITNESSES; AND

14 (II) TO BE REPRESENTED BY COUNSEL, INCLUDING, IF THE
15 COMMITTED PERSON IS INDIGENT, THE PUBLIC DEFENDER OR A DESIGNEE OF THE
16 PUBLIC DEFENDER.

17 (6) AT THE RELEASE HEARING, THE STATE'S ATTORNEY AND THE
18 HEALTH DEPARTMENT ARE ENTITLED TO BE PRESENT, TO OFFER EVIDENCE, AND TO
19 CROSS-EXAMINE WITNESSES.

20 REVISOR'S NOTE: This section formerly was HG § 12-114.

21 The defined term "person" is substituted for the former reference to
22 "individual" to conform to the terminology used throughout this article.

23 The only other changes are in style.

24 Defined terms: "Committed person" § 3-101

25 "Court" § 3-101

26 "Health Department" § 3-101

27 "Office" § 3-101

28 3-116. REPORT OF OFFICE.

29 (A) IN GENERAL.

30 WITHIN 10 DAYS AFTER THE HEARING ENDS, THE OFFICE SHALL PREPARE A
31 REPORT OF RECOMMENDATIONS TO THE COURT THAT CONTAINS:

32 (1) A SUMMARY OF THE EVIDENCE PRESENTED AT THE HEARING;

33 (2) RECOMMENDATIONS OF THE OFFICE AS TO WHETHER THE
34 COMMITTED PERSON PROVED, BY A PREPONDERANCE OF THE EVIDENCE,
35 ELIGIBILITY FOR CONDITIONAL RELEASE OR ELIGIBILITY FOR DISCHARGE; AND

1 (3) IF THE OFFICE DETERMINES THAT THE COMMITTED PERSON
2 PROVED ELIGIBILITY FOR CONDITIONAL RELEASE, THE RECOMMENDED
3 CONDITIONS OF THE RELEASE IN ACCORDANCE WITH SUBSECTION (B) OF THIS
4 SECTION.

5 (B) CONSIDERATION OF CONDITIONS FOR RELEASE.

6 IN RECOMMENDING THE CONDITIONS OF A CONDITIONAL RELEASE, THE
7 OFFICE SHALL GIVE CONSIDERATION TO ANY SPECIFIC CONDITIONS
8 RECOMMENDED BY THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE
9 OF THE COMMITTED PERSON, THE COMMITTED PERSON, OR COUNSEL FOR THE
10 COMMITTED PERSON.

11 (C) COPIES OF REPORT.

12 THE OFFICE SHALL SEND COPIES OF THE REPORT OF RECOMMENDATIONS:

13 (1) TO THE COMMITTED PERSON;

14 (2) TO COUNSEL FOR THE COMMITTED PERSON;

15 (3) TO THE STATE'S ATTORNEY;

16 (4) TO THE COURT; AND

17 (5) TO THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE
18 OF THE COMMITTED PERSON.

19 (D) EXCEPTIONS.

20 THE COMMITTED PERSON, THE STATE'S ATTORNEY, OR THE HEALTH
21 DEPARTMENT MAY FILE EXCEPTIONS TO THE REPORT OF THE OFFICE WITHIN 10
22 DAYS AFTER RECEIVING THE REPORT.

23 REVISOR'S NOTE: This section formerly was HG § 12-115.

24 Throughout this section, the defined term "Office" is substituted for the
25 former obsolete references to "hearing officer of the Department" and
26 "hearing officer" for accuracy.

27 The only other changes are in style.

28 Defined terms: "Committed person" § 3-101

29 "Court" § 3-101

30 "Health Department" § 3-101

31 "Office" § 3-101

32 3-117. COURT REVIEW OF REPORT OF OFFICE.

33 (A) IN GENERAL.

1 WITHIN 30 DAYS AFTER THE COURT RECEIVES THE REPORT OF
2 RECOMMENDATIONS FROM THE OFFICE:

3 (1) THE COURT ON ITS OWN INITIATIVE MAY HOLD A HEARING; OR

4 (2) IF TIMELY EXCEPTIONS ARE FILED, OR IF THE COURT REQUIRES
5 MORE INFORMATION, THE COURT SHALL HOLD A HEARING UNLESS THE COMMITTED
6 PERSON AND THE STATE'S ATTORNEY WAIVE THE HEARING.

7 (B) CONDUCT OF HEARING.

8 (1) THE COURT SHALL HOLD THE HEARING ON THE RECORD THAT WAS
9 MADE BEFORE THE OFFICE.

10 (2) AT THE JUDICIAL HEARING, THE COMMITTED PERSON IS ENTITLED
11 TO BE PRESENT AND TO BE REPRESENTED BY COUNSEL.

12 (3) THE COURT MAY CONTINUE ITS HEARING AND REMAND FOR THE
13 OFFICE TO TAKE ADDITIONAL EVIDENCE.

14 REVISOR'S NOTE: This section formerly was HG § 12-116.

15 The defined term "Office" is substituted for the former obsolete references
16 to "hearing officer of the Department" and "hearing officer" for accuracy.

17 The only other changes are in style.

18 Defined terms: "Committed person" § 3-101

19 "Court" § 3-101

20 "Office" § 3-101

21 3-118. COURT ACTION ON REPORT OF OFFICE.

22 (A) IN GENERAL.

23 WITHIN 15 DAYS AFTER A JUDICIAL HEARING ENDS OR IS WAIVED, THE COURT
24 SHALL DETERMINE WHETHER THE EVIDENCE INDICATES THAT THE COMMITTED
25 PERSON PROVED BY A PREPONDERANCE OF THE EVIDENCE ELIGIBILITY FOR
26 RELEASE, WITH OR WITHOUT CONDITIONS, IN ACCORDANCE WITH § 3-114 OF THIS
27 TITLE, AND ENTER AN APPROPRIATE ORDER CONTAINING A CONCISE STATEMENT OF
28 THE FINDINGS OF THE COURT, THE REASONS FOR THOSE FINDINGS, AND ORDERING:

29 (1) CONTINUED COMMITMENT;

30 (2) CONDITIONAL RELEASE; OR

31 (3) DISCHARGE FROM COMMITMENT.

32 (B) ORDER WITHOUT HEARING.

1 (1) IF TIMELY EXCEPTIONS ARE NOT FILED, AND, ON REVIEW OF THE
2 REPORT OF RECOMMENDATIONS FROM THE OFFICE, THE COURT DETERMINES THAT
3 THE RECOMMENDATIONS ARE SUPPORTED BY THE EVIDENCE AND A JUDICIAL
4 HEARING IS NOT NECESSARY, THE COURT SHALL ENTER AN ORDER IN ACCORDANCE
5 WITH THE RECOMMENDATIONS WITHIN 30 DAYS AFTER RECEIVING THE REPORT
6 FROM THE OFFICE.

7 (2) A COURT MAY NOT ENTER AN ORDER THAT IS NOT IN ACCORDANCE
8 WITH THE RECOMMENDATIONS FROM THE OFFICE UNLESS THE COURT HOLDS A
9 HEARING OR THE HEARING IS WAIVED.

10 (C) LIMITATION ON CONDITIONS OF RELEASE.

11 UNLESS THE CONDITIONAL RELEASE IS EXTENDED UNDER § 3-122 OF THIS
12 TITLE, THE COURT MAY NOT CONTINUE THE CONDITIONS OF A CONDITIONAL
13 RELEASE FOR MORE THAN 5 YEARS.

14 (D) NOTIFICATION OF CENTRAL REPOSITORY.

15 THE COURT SHALL NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM
16 CENTRAL REPOSITORY WHENEVER IT ORDERS CONDITIONAL RELEASE OR
17 DISCHARGE OF A COMMITTED PERSON.

18 (E) APPEALS.

19 (1) AN APPEAL FROM A DISTRICT COURT ORDER SHALL BE ON THE
20 RECORD IN THE CIRCUIT COURT.

21 (2) AN APPEAL FROM A CIRCUIT COURT ORDER SHALL BE BY
22 APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS.

23 REVISOR'S NOTE: This section formerly was HG § 12-117.

24 In subsection (b) of this section, the defined term "Office" is substituted for
25 the former obsolete reference to "hearing officer" for accuracy.

26 In subsection (d) of this section, the reference to "Criminal Justice
27 Information System Central Repository" is substituted for the former
28 reference to "central repository of the criminal justice information system"
29 to conform to the terminology used in Title 10, Subtitle 2 of this article.

30 Defined terms: "Committed person" § 3-101

31 "Court" § 3-101

32 "Office" § 3-101

33 3-119. APPLICATION FOR RELEASE.

34 (A) IN GENERAL.

35 (1) NOT EARLIER THAN 1 YEAR AFTER THE INITIAL RELEASE HEARING
36 ENDS OR WAS WAIVED, AND NOT MORE THAN ONCE A YEAR THEREAFTER, A

1 COMMITTED PERSON MAY APPLY FOR RELEASE UNDER EITHER SUBSECTION (B) OR
2 (C) OF THIS SECTION, BUT NOT BOTH.

3 (2) NOTWITHSTANDING THE TIME RESTRICTIONS IN PARAGRAPH (1) OF
4 THIS SUBSECTION, A COMMITTED PERSON MAY FILE AN APPLICATION FOR RELEASE
5 AT ANY TIME IF THE APPLICATION IS ACCOMPANIED BY AN AFFIDAVIT OF A
6 PHYSICIAN OR LICENSED PSYCHOLOGIST THAT STATES AN IMPROVEMENT IN THE
7 MENTAL CONDITION OF THE COMMITTED PERSON SINCE THE LAST HEARING.

8 (B) ADMINISTRATIVE PROCEDURE.

9 (1) TO APPLY FOR RELEASE UNDER THIS SUBSECTION, THE COMMITTED
10 PERSON SHALL FILE AN APPLICATION FOR RELEASE WITH THE HEALTH
11 DEPARTMENT AND NOTIFY THE COURT AND STATE'S ATTORNEY, IN WRITING, OF THIS
12 REQUEST.

13 (2) THE PROVISIONS OF THIS TITLE GOVERNING ADMINISTRATIVE
14 HEARING AND JUDICIAL DETERMINATION OF ELIGIBILITY FOR RELEASE APPLY TO
15 ANY APPLICATION FOR RELEASE UNDER THIS SUBSECTION.

16 (C) COURT PROCEDURE.

17 (1) TO APPLY FOR RELEASE UNDER THIS SUBSECTION, THE COMMITTED
18 PERSON SHALL FILE A PETITION FOR RELEASE WITH THE COURT THAT ORDERED
19 COMMITMENT.

20 (2) THE COMMITTED PERSON SHALL SEND A COPY OF THE PETITION
21 FOR RELEASE TO THE HEALTH DEPARTMENT AND THE STATE'S ATTORNEY.

22 (3) IF THE COMMITTED PERSON REQUESTS A TRIAL BY JURY, THE TRIAL
23 SHALL BE HELD IN A CIRCUIT COURT WITH A JURY AS IN A CIVIL ACTION AT LAW.

24 (4) THE TRIER OF FACT SHALL:

25 (I) DETERMINE WHETHER THE COMMITTED PERSON HAS PROVED
26 ELIGIBILITY FOR RELEASE BY A PREPONDERANCE OF THE EVIDENCE; AND

27 (II) RENDER A VERDICT FOR:

28 1. CONTINUED COMMITMENT;

29 2. CONDITIONAL RELEASE; OR

30 3. DISCHARGE FROM COMMITMENT.

31 (5) IF THE TRIER OF FACT RENDERS A VERDICT FOR CONDITIONAL
32 RELEASE, WITHIN 30 DAYS AFTER THE VERDICT, THE COURT SHALL RELEASE THE
33 COMMITTED PERSON UNDER CONDITIONS IT IMPOSES IN ACCORDANCE WITH
34 SPECIFIC RECOMMENDATIONS FOR CONDITIONS UNDER § 3-116(B) OF THIS TITLE.

35 (D) APPEALS.

1 (1) AN APPEAL FROM A DISTRICT COURT ORDER SHALL BE ON THE
2 RECORD IN THE CIRCUIT COURT.

3 (2) AN APPEAL FROM A CIRCUIT COURT ORDER SHALL BE BY
4 APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS.

5 REVISOR'S NOTE: This section formerly was HG § 12-118.

6 In subsection (c)(5) of this section, the reference to "the trier of fact" is
7 substituted for the former misleading reference to "the court" to conform to
8 the terminology used in subsection (c)(4) of this section.

9 The only other changes are in style.

10 Defined terms: "Committed person" § 3-101

11 "Court" § 3-101

12 "Health Department" § 3-101

13 3-120. CONDITIONAL RELEASE REQUEST BY HEALTH DEPARTMENT.

14 (A) IN GENERAL.

15 (1) IF AT ANY TIME THE HEALTH DEPARTMENT CONSIDERS THAT A
16 COMMITTED PERSON IS ELIGIBLE FOR CONDITIONAL RELEASE, THE HEALTH
17 DEPARTMENT MAY APPLY FOR THE CONDITIONAL RELEASE TO THE COURT THAT
18 COMMITTED THE PERSON.

19 (2) THE HEALTH DEPARTMENT SHALL SEND A COPY OF THE
20 APPLICATION FOR CONDITIONAL RELEASE:

21 (I) TO THE COMMITTED PERSON;

22 (II) TO COUNSEL FOR THE COMMITTED PERSON; AND

23 (III) TO THE STATE'S ATTORNEY, BY CERTIFIED MAIL, RETURN
24 RECEIPT REQUESTED.

25 (B) COURT ACTION.

26 WITHIN 30 DAYS AFTER RECEIPT OF THE APPLICATION FROM THE HEALTH
27 DEPARTMENT, THE COURT SHALL ISSUE AN ORDER THAT IS IN ACCORDANCE WITH §
28 3-114 OF THIS TITLE FOR:

29 (1) CONTINUED COMMITMENT; OR

30 (2) CONDITIONAL RELEASE UNDER THE CONDITIONS IT IMPOSES AFTER
31 GIVING CONSIDERATION TO THE RECOMMENDATIONS OF SPECIFIC CONDITIONS
32 FROM THE HEALTH DEPARTMENT.

33 (C) APPLICATION FOR CHANGE IN CONDITIONAL RELEASE.

1 IF THE COURT ORDERS A CONDITIONAL RELEASE OF THE COMMITTED PERSON
2 UNDER THIS SECTION, THE COMMITTED PERSON, THE STATE'S ATTORNEY, OR THE
3 HEALTH DEPARTMENT MAY APPLY FOR A REVOCATION, CHANGE, OR EXTENSION
4 UNDER § 3-122 OF THIS TITLE.

5 (D) APPEALS.

6 (1) AN APPEAL FROM A DISTRICT COURT ORDER SHALL BE ON THE
7 RECORD IN CIRCUIT COURT.

8 (2) AN APPEAL FROM A CIRCUIT COURT ORDER SHALL BE BY
9 APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS.

10 REVISOR'S NOTE: This section formerly was HG § 12-119.

11 The only changes are in style.

12 Defined terms: "Committed person" § 3-101

13 "Court" § 3-101

14 "Health Department" § 3-101

15 3-121. ALLEGATIONS OF VIOLATIONS OF CONDITIONAL RELEASE.

16 (A) DETERMINATION OF FACTUAL BASIS BY STATE'S ATTORNEY.

17 (1) IF THE STATE'S ATTORNEY RECEIVES A REPORT THAT ALLEGES THAT
18 A COMMITTED PERSON HAS VIOLATED A CONDITION OF A CONDITIONAL RELEASE,
19 OR IF THE STATE'S ATTORNEY IS NOTIFIED BY THE COURT OR HEALTH DEPARTMENT
20 UNDER SUBSECTION (B) OF THIS SECTION, THE STATE'S ATTORNEY SHALL
21 DETERMINE WHETHER THERE IS A FACTUAL BASIS FOR THE COMPLAINT.

22 (2) IF THE STATE'S ATTORNEY DETERMINES THAT THERE IS NO
23 FACTUAL BASIS FOR THE COMPLAINT, THE STATE'S ATTORNEY SHALL NOTIFY THE
24 PERSON WHO MADE THE REPORT AND TAKE NO FURTHER ACTION.

25 (3) IF THE STATE'S ATTORNEY DETERMINES THAT THERE IS A FACTUAL
26 BASIS TO BELIEVE THAT THE COMMITTED PERSON HAS VIOLATED THE TERMS OF A
27 CONDITIONAL RELEASE AND BELIEVES FURTHER ACTION BY THE COURT IS
28 NECESSARY, THE STATE'S ATTORNEY PROMPTLY SHALL:

29 (I) NOTIFY THE HEALTH DEPARTMENT OF THE ALLEGED
30 VIOLATION; AND

31 (II) FILE WITH THE COURT A PETITION FOR REVOCATION OR
32 MODIFICATION OF CONDITIONAL RELEASE AND SEND A COPY OF THE PETITION TO
33 THE HEALTH DEPARTMENT.

34 (B) ACTION BY COURT AND HEALTH DEPARTMENT.

1 (1) IF A COURT RECEIVES A REPORT THAT ALLEGES THAT A COMMITTED
2 PERSON HAS VIOLATED A CONDITION OF A CONDITIONAL RELEASE, THE COURT
3 PROMPTLY SHALL:

4 (I) NOTIFY THE HEALTH DEPARTMENT; AND

5 (II) NOTIFY THE STATE'S ATTORNEY AND PROVIDE THE NAME,
6 ADDRESS, AND TELEPHONE NUMBER OF THE PERSON WHO REPORTED THE
7 VIOLATION AND A COPY OF THE ORDER FOR CONDITIONAL RELEASE.

8 (2) IF THE HEALTH DEPARTMENT RECEIVES A REPORT THAT ALLEGES
9 THAT A COMMITTED PERSON HAS VIOLATED CONDITIONAL RELEASE, THE
10 DEPARTMENT SHALL:

11 (I) NOTIFY THE COURT AND THE STATE'S ATTORNEY; AND

12 (II) PROVIDE THE STATE'S ATTORNEY WITH THE NAME, ADDRESS,
13 AND TELEPHONE NUMBER OF THE PERSON WHO REPORTED THE VIOLATION AND A
14 COPY OF THE ORDER FOR CONDITIONAL RELEASE.

15 (C) PETITION FOR REVOCATION OR MODIFICATION.

16 THE PETITION FOR REVOCATION OR MODIFICATION OF A CONDITIONAL
17 RELEASE SHALL CONTAIN:

18 (1) A STATEMENT THAT THE COMMITTED PERSON HAS VIOLATED A
19 TERM OF A CONDITIONAL RELEASE AND THAT THERE IS THEREFORE REASON TO
20 BELIEVE THAT THE COMMITTED PERSON NO LONGER MEETS THE CRITERIA FOR
21 ELIGIBILITY FOR CONDITIONAL RELEASE;

22 (2) A STATEMENT OF THE CONDITIONS VIOLATED;

23 (3) THE FACTUAL BASIS FOR THE STATEMENTS IN ITEMS (1) AND (2) OF
24 THIS SUBSECTION;

25 (4) THE MOST RECENT EVALUATION REPORT ON THE COMMITTED
26 PERSON; AND

27 (5) THE DESIGNATION BY THE HEALTH DEPARTMENT OF THE FACILITY
28 TO RECEIVE THE RETURNED COMMITTED PERSON.

29 (D) DETERMINATION OF NO PROBABLE CAUSE.

30 IF THE COURT'S REVIEW OF THE PETITION DETERMINES THAT THERE IS NO
31 PROBABLE CAUSE TO BELIEVE THAT THE COMMITTED PERSON HAS VIOLATED A
32 CONDITIONAL RELEASE, THE COURT SHALL:

33 (1) NOTE THE DETERMINATION ON THE PETITION AND FILE IT IN THE
34 COURT FILE ON THE COMMITTED PERSON; AND

1 (2) NOTIFY THE STATE'S ATTORNEY, THE HEALTH DEPARTMENT, AND
2 THE PERSON WHO REPORTED THE VIOLATION.

3 (E) DETERMINATION OF PROBABLE CAUSE.

4 IF THE COURT'S REVIEW OF THE PETITION DETERMINES THAT THERE IS
5 PROBABLE CAUSE TO BELIEVE THAT THE COMMITTED PERSON HAS VIOLATED A
6 CONDITIONAL RELEASE, THE COURT PROMPTLY SHALL:

7 (1) ISSUE A HOSPITAL WARRANT FOR THE COMMITTED PERSON AND
8 DIRECT THAT ON EXECUTION THE COMMITTED PERSON SHALL BE TRANSPORTED TO
9 THE FACILITY DESIGNATED BY THE HEALTH DEPARTMENT; AND

10 (2) SEND A COPY OF THE HOSPITAL WARRANT AND THE PETITION TO:

11 (I) THE STATE'S ATTORNEY;

12 (II) THE PUBLIC DEFENDER;

13 (III) THE COUNSEL OF RECORD FOR THE COMMITTED PERSON;

14 (IV) THE PERSON WHO REPORTED THE VIOLATION;

15 (V) THE OFFICE; AND

16 (VI) THE HEALTH DEPARTMENT.

17 (F) REVOCATION HEARING REQUIRED.

18 WITHIN 10 DAYS AFTER THE COMMITTED PERSON IS RETURNED TO THE
19 HEALTH DEPARTMENT IN ACCORDANCE WITH THE HOSPITAL WARRANT, THE OFFICE
20 SHALL HOLD A HEARING UNLESS:

21 (1) THE HEARING IS POSTPONED OR WAIVED BY AGREEMENT OF THE
22 PARTIES; OR

23 (2) THE OFFICE POSTPONES THE HEARING FOR GOOD CAUSE SHOWN.

24 (G) HEARING PROCEDURES.

25 AT THE HEARING ON REVOCATION OR MODIFICATION:

26 (1) THE COMMITTED PERSON IS ENTITLED TO BE REPRESENTED BY
27 COUNSEL INCLUDING, IF THE COMMITTED PERSON IS INDIGENT, THE PUBLIC
28 DEFENDER OR DESIGNEE OF THE PUBLIC DEFENDER;

29 (2) THE COMMITTED PERSON, HEALTH DEPARTMENT, AND STATE'S
30 ATTORNEY ARE ENTITLED TO OFFER EVIDENCE, TO CROSS-EXAMINE ADVERSE
31 WITNESSES, AND TO EXERCISE ANY OTHER RIGHTS THAT THE OFFICE CONSIDERS
32 NECESSARY FOR A FAIR HEARING; AND

1 (3) THE OFFICE SHALL FIND:

2 (I) WHETHER, BY A PREPONDERANCE OF THE EVIDENCE, THE
3 STATE HAS PROVED THAT THE COMMITTED PERSON VIOLATED CONDITIONAL
4 RELEASE; AND

5 (II) WHETHER, BY A PREPONDERANCE OF THE EVIDENCE, THE
6 COMMITTED PERSON NEVERTHELESS HAS PROVED ELIGIBILITY FOR CONDITIONAL
7 RELEASE.

8 (H) REPORT AND EXCEPTIONS.

9 (1) THE OFFICE PROMPTLY SHALL:

10 (I) SEND A REPORT OF THE HEARING AND DETERMINATION TO
11 THE COURT; AND

12 (II) SEND COPIES OF THE REPORT TO THE COMMITTED PERSON,
13 COUNSEL FOR THE COMMITTED PERSON, THE STATE'S ATTORNEY, AND THE HEALTH
14 DEPARTMENT.

15 (2) WITHIN 5 DAYS AFTER RECEIPT OF THE REPORT OF THE OFFICE, THE
16 COMMITTED PERSON, THE STATE'S ATTORNEY, OR THE HEALTH DEPARTMENT MAY
17 FILE EXCEPTIONS TO THE DETERMINATION OF THE OFFICE.

18 (I) COURT ACTION.

19 AFTER THE COURT CONSIDERS THE REPORT OF THE OFFICE, THE EVIDENCE,
20 AND ANY EXCEPTIONS FILED, WITHIN 10 DAYS AFTER THE COURT RECEIVES THE
21 REPORT, THE COURT SHALL:

22 (1) REVOKE THE CONDITIONAL RELEASE AND ORDER THE COMMITTED
23 PERSON RETURNED TO THE FACILITY DESIGNATED BY THE HEALTH DEPARTMENT;

24 (2) MODIFY THE CONDITIONAL RELEASE AS REQUIRED BY THE
25 EVIDENCE;

26 (3) CONTINUE THE PRESENT CONDITIONS OF RELEASE; OR

27 (4) EXTEND THE CONDITIONAL RELEASE BY AN ADDITIONAL TERM OF 5
28 YEARS.

29 (J) NOTIFICATION OF CENTRAL REPOSITORY.

30 THE COURT SHALL NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM
31 CENTRAL REPOSITORY OF THE ISSUANCE OF ANY HOSPITAL WARRANT AND ANY
32 REVOCATION IT ORDERS UNDER THIS SECTION.

33 (K) APPEALS.

1 (1) AN APPEAL FROM A DISTRICT COURT ORDER SHALL BE ON THE
2 RECORD IN CIRCUIT COURT.

3 (2) AN APPEAL FROM A CIRCUIT COURT ORDER SHALL BE BY
4 APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS.

5 REVISOR'S NOTE: This section formerly was HG § 12-120.

6 Throughout this section, the defined term "Office" is substituted for the
7 former obsolete references to a "hearing officer of the Department" and
8 "hearing officer" for accuracy.

9 In subsection (j) of this section, the reference to "Criminal Justice
10 Information System Central Repository" is substituted for the former
11 reference to "central repository of the criminal justice information system"
12 to conform to the terminology used in Title 10, Subtitle 2 of this article.

13 Defined terms: "Committed person" § 3-101

14 "Court" § 3-101

15 "Health Department" § 3-101

16 "Hospital warrant" § 3-101

17 "Office" § 3-101

18 "Person" § 1-101

19 3-122. APPLICATION FOR CHANGE IN CONDITIONAL RELEASE.

20 (A) IN GENERAL.

21 (1) AN APPLICATION TO THE COURT FOR A CHANGE IN CONDITIONAL
22 RELEASE OF A COMMITTED PERSON MAY BE MADE BY:

23 (I) THE HEALTH DEPARTMENT OR THE STATE'S ATTORNEY AT ANY
24 TIME; OR

25 (II) THE COMMITTED PERSON NOT EARLIER THAN 6 MONTHS
26 AFTER THE COURT ORDERED THE CONDITIONAL RELEASE, UNLESS THE COURT FOR
27 GOOD CAUSE PERMITS AN EARLIER APPLICATION.

28 (2) THE APPLICANT FOR A CHANGE IN CONDITIONAL RELEASE SHALL
29 NOTIFY THE COURT AND OTHER PARTIES, IN WRITING, OF THE APPLICATION AND
30 THE REASONS FOR THE REQUESTED CHANGE.

31 (B) BURDEN OF PROOF.

32 THE BURDEN OF PROOF OF ANY ISSUE RAISED BY THE APPLICATION FOR
33 CHANGE IN CONDITIONAL RELEASE RESTS WITH THE APPLICANT.

34 (C) COURT ACTION.

1 AFTER THE COURT CONSIDERS THE APPLICATION FOR CHANGE IN
2 CONDITIONAL RELEASE AND THE EVIDENCE, IN ACCORDANCE WITH § 3-114 OF THIS
3 TITLE, THE COURT SHALL:

- 4 (1) CHANGE THE CONDITIONS;
- 5 (2) IMPOSE APPROPRIATE ADDITIONAL CONDITIONS;
- 6 (3) REVOKE THE CONDITIONAL RELEASE;
- 7 (4) CONTINUE THE PRESENT CONDITIONS OF RELEASE; OR
- 8 (5) EXTEND THE CONDITIONAL RELEASE BY AN ADDITIONAL TERM OF 5
9 YEARS.

10 (D) REAPPLICATION.

11 (1) NOT EARLIER THAN 1 YEAR AFTER THE COURT ACTION ON THE
12 APPLICATION FOR CHANGE FILED BY THE COMMITTED PERSON, AND NOT MORE
13 THAN ONCE A YEAR THEREAFTER, A COMMITTED PERSON MAY REAPPLY FOR A
14 CHANGE IN CONDITIONAL RELEASE.

15 (2) NOTWITHSTANDING THE TIME RESTRICTIONS IN PARAGRAPH (1) OF
16 THIS SUBSECTION, A COMMITTED PERSON MAY APPLY FOR A CHANGE IN
17 CONDITIONAL RELEASE AT ANY TIME IF THE APPLICATION IS ACCOMPANIED BY AN
18 AFFIDAVIT OF A PHYSICIAN OR LICENSED PSYCHOLOGIST THAT STATES AN
19 IMPROVEMENT IN THE MENTAL CONDITION OF THE COMMITTED PERSON.

20 REVISOR'S NOTE: This section formerly was HG § 12-121.

21 The only changes are in style.

22 Defined terms: "Committed person" § 3-101

23 "Court" § 3-101

24 "Health Department" § 3-101

25 3-123. NOTIFICATION OF VICTIM.

26 (A) DEFINITIONS.

27 (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
28 INDICATED.

29 (2) "VICTIM" MEANS A VICTIM OF A CRIME OF VIOLENCE OR A VICTIM
30 WHO HAS FILED A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS ARTICLE.

31 (3) "VICTIM'S REPRESENTATIVE" INCLUDES A FAMILY MEMBER OR
32 GUARDIAN OF A VICTIM WHO IS:

33 (I) A MINOR;

1 (II) DECEASED; OR

2 (III) DISABLED.

3 (B) NOTIFICATION OF RIGHTS.

4 A STATE'S ATTORNEY SHALL NOTIFY A VICTIM OR VICTIM'S REPRESENTATIVE
5 OF ALL RIGHTS PROVIDED UNDER THIS SECTION.

6 (C) REQUEST FOR NOTIFICATION.

7 (1) A VICTIM OR VICTIM'S REPRESENTATIVE MAY REQUEST
8 NOTIFICATION UNDER THIS SECTION BY:

9 (I) NOTIFYING THE STATE'S ATTORNEY AND THE HEALTH
10 DEPARTMENT ONCE EVERY 2 YEARS IN WRITING OF THE REQUEST FOR
11 NOTIFICATION; OR

12 (II) FILING A NOTIFICATION REQUEST FORM UNDER § 11-104 OF
13 THIS ARTICLE.

14 (2) A REQUEST FOR NOTIFICATION UNDER PARAGRAPH (1)(I) OF THIS
15 SUBSECTION SHALL DESIGNATE:

16 (I) THE ADDRESS AND TELEPHONE NUMBER OF THE VICTIM; OR

17 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A VICTIM'S
18 REPRESENTATIVE.

19 (3) A VICTIM OR VICTIM'S REPRESENTATIVE MAY, AT ANY TIME,
20 WITHDRAW A REQUEST FOR NOTIFICATION.

21 (D) NOTIFICATION BY HEALTH DEPARTMENT.

22 IF A VICTIM OR VICTIM'S REPRESENTATIVE HAS REQUESTED NOTIFICATION IN
23 THE MANNER PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE HEALTH
24 DEPARTMENT SHALL PROMPTLY NOTIFY THE VICTIM OR THE VICTIM'S
25 REPRESENTATIVE IN WRITING WHEN:

26 (1) THE HEALTH DEPARTMENT RECEIVES A COURT ORDER TO EXAMINE
27 A DEFENDANT UNDER § 3-111 OF THIS TITLE;

28 (2) THE HEALTH DEPARTMENT RECEIVES A COURT ORDER COMMITTING
29 A DEFENDANT TO THE HEALTH DEPARTMENT UNDER § 3-112 OF THIS TITLE;

30 (3) A HEARING IS SCHEDULED UNDER § 3-115 OF THIS TITLE;

31 (4) THE HEALTH DEPARTMENT RECEIVES NOTICE THAT A COMMITTED
32 PERSON HAS APPLIED FOR A HEARING UNDER § 3-119 OF THIS TITLE;

1 (5) THE OFFICE RECOMMENDS THAT A COMMITTED PERSON BE
2 RELEASED AFTER A HEARING UNDER § 3-115 OF THIS TITLE;

3 (6) THE HEALTH DEPARTMENT SUBMITS A RECOMMENDATION TO THE
4 COURT FOR A COMMITTED PERSON'S CONDITIONAL RELEASE UNDER § 3-120 OF THIS
5 TITLE;

6 (7) THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE OF
7 A COMMITTED PERSON HAS NOTIFIED THE STATE'S ATTORNEY THAT A COMMITTED
8 PERSON IS ABSENT WITHOUT AUTHORIZATION; OR

9 (8) THE HEALTH DEPARTMENT RECEIVES A COURT ORDER FOR THE
10 CONDITIONAL RELEASE OR DISCHARGE FROM COMMITMENT OF A COMMITTED
11 PERSON UNDER § 3-118, § 3-119, OR § 3-120 OF THIS TITLE.

12 (E) SUBMISSION OF INFORMATION AND REQUESTS.

13 ON NOTIFICATION BY THE HEALTH DEPARTMENT UNDER SUBSECTION (D) OF
14 THIS SECTION, A VICTIM OR VICTIM'S REPRESENTATIVE MAY SUBMIT, IN WRITING,
15 TO THE STATE'S ATTORNEY AND TO THE FACILITY OF THE HEALTH DEPARTMENT
16 THAT HAS CHARGE OF A COMMITTED PERSON:

17 (1) ANY INFORMATION THAT THE VICTIM OR VICTIM'S REPRESENTATIVE
18 CONSIDERS RELEVANT; AND

19 (2) A REQUEST THAT THE COMMITTED PERSON BE PROHIBITED FROM
20 HAVING ANY CONTACT WITH THE VICTIM OR VICTIM'S REPRESENTATIVE, AS A
21 CONDITION OF RELEASE.

22 (F) TREATMENT OF INFORMATION BY HEALTH DEPARTMENT.

23 IF A VICTIM OR VICTIM'S REPRESENTATIVE SUBMITS INFORMATION TO THE
24 HEALTH DEPARTMENT UNDER THIS SECTION, THE HEALTH DEPARTMENT SHALL:

25 (1) CONSIDER THE INFORMATION;

26 (2) MAINTAIN AT THE FACILITY THAT HAS CHARGE OF THE COMMITTED
27 PERSON, SEPARATE FROM THE MEDICAL RECORD OF THE COMMITTED PERSON, THE
28 WRITTEN STATEMENT OF THE VICTIM OR VICTIM'S REPRESENTATIVE; AND

29 (3) DELETE THE VICTIM'S OR THE VICTIM'S REPRESENTATIVE'S
30 ADDRESS AND TELEPHONE NUMBER BEFORE ANY DOCUMENT IS EXAMINED BY THE
31 COMMITTED PERSON OR THE COMMITTED PERSON'S REPRESENTATIVE.

32 (G) CONFIDENTIALITY.

33 THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE THE RELEASE TO THE
34 VICTIM OR VICTIM'S REPRESENTATIVE OF ANY MEDICAL, PSYCHOLOGICAL, OR
35 PSYCHIATRIC INFORMATION ON A COMMITTED PERSON.

36 (H) NOTICE OF PERSON'S ABSENCE WITHOUT AUTHORIZATION.

1 THE FACILITY OF THE HEALTH DEPARTMENT THAT HAS CHARGE OF A PERSON
2 UNDER § 3-111 OF THIS TITLE SHALL PROMPTLY NOTIFY THE STATE'S ATTORNEY AND
3 A VICTIM OR A VICTIM'S REPRESENTATIVE WHO HAS REQUESTED NOTIFICATION
4 UNDER THIS SECTION IF THE PERSON IS ABSENT WITHOUT AUTHORIZATION.

5 (I) IMMUNITY.

6 AN AGENT OR EMPLOYEE OF THE HEALTH DEPARTMENT WHO ACTS IN
7 COMPLIANCE WITH THIS SECTION SHALL HAVE THE IMMUNITY FROM LIABILITY
8 DESCRIBED UNDER § 5-522 OF THE COURTS ARTICLE.

9 REVISOR'S NOTE: This section is new language revised without substantive
10 change from former HG § 12-122.

11 In subsection (a)(3) of this section, the defined term "victim's
12 representative" is substituted for that part of the former definition of
13 "victim" that included "a designated family member of a victim" to conform
14 to the terminology used throughout this article.

15 In subsection (d)(5) of this section, the defined term "Office" is substituted
16 for the former obsolete reference to an "administrative law judge" for
17 accuracy.

18 Defined terms: "Committed person" § 3-101

19 "Court" § 3-101

20 "Crime of violence" § 1-101

21 "Health Department" § 3-101

22 "Person" § 1-101

23 TITLE 4. PRETRIAL PROCEDURES.

24 SUBTITLE 1. CHARGING PROCEDURES AND DOCUMENTS.

25 4-101. CHARGE BY CITATION.

26 (A) DEFINITIONS.

27 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) (I) "CITATION" MEANS A WRITTEN CHARGING DOCUMENT THAT A
30 POLICE OFFICER OR FIRE MARSHAL ISSUES TO A DEFENDANT, ALLEGING THE
31 DEFENDANT HAS COMMITTED A CRIME.

32 (II) "CITATION" DOES NOT INCLUDE AN INDICTMENT,
33 INFORMATION, OR STATEMENT OF CHARGES.

34 (3) "FIRE MARSHAL" MEANS:

35 (I) THE STATE FIRE MARSHAL;

- 1 (II) A DEPUTY STATE FIRE MARSHAL; OR
- 2 (III) AS DESIGNATED UNDER ARTICLE 38A, § 7 OF THE CODE:
- 3 1. AN ASSISTANT STATE FIRE MARSHAL; OR
- 4 2. A SPECIAL ASSISTANT STATE FIRE MARSHAL.
- 5 (4) "POLICE OFFICER" HAS THE MEANING STATED IN § 2-101 OF THIS
6 ARTICLE.
- 7 (B) CITATION BY POLICE OFFICER.
- 8 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO
9 ANY OTHER LAW ALLOWING A CRIME TO BE CHARGED BY CITATION, A POLICE
10 OFFICER MAY ISSUE A CITATION FOR:
- 11 (I) MALICIOUS DESTRUCTION OF PROPERTY UNDER ARTICLE 27, §
12 111(B) OF THE CODE, IF THE AMOUNT OF DAMAGE TO THE PROPERTY IS LESS THAN
13 \$500;
- 14 (II) DISTURBING THE PEACE OR DISORDERLY CONDUCT UNDER
15 ARTICLE 27, § 121 OF THE CODE; OR
- 16 (III) MISDEMEANOR THEFT UNDER ARTICLE 27, § 342(F)(2) OF THE
17 CODE.
- 18 (2) A POLICE OFFICER MAY ISSUE A CITATION TO A DEFENDANT IF THE
19 POLICE OFFICER IS SATISFIED WITH THE DEFENDANT'S EVIDENCE OF IDENTITY AND
20 REASONABLY BELIEVES THAT THE DEFENDANT WILL COMPLY WITH THE CITATION.
- 21 (C) CITATION BY FIRE MARSHAL.
- 22 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO
23 ANY OTHER LAW ALLOWING A CRIME TO BE CHARGED BY CITATION, A FIRE
24 MARSHAL MAY ISSUE A CITATION FOR:
- 25 (I) DISCHARGING FIREWORKS WITHOUT A PERMIT UNDER
26 ARTICLE 38A, § 16 OF THE CODE;
- 27 (II) POSSESSING WITH INTENT TO DISCHARGE OR ALLOWING THE
28 DISCHARGE OF FIREWORKS UNDER ARTICLE 38A, § 16 OF THE CODE; OR
- 29 (III) MAINTAINING A FIRE HAZARD UNDER ARTICLE 38A, § 9(A) OF
30 THE CODE.
- 31 (2) A FIRE MARSHAL MAY ISSUE A CITATION IF THE FIRE MARSHAL IS
32 SATISFIED WITH THE DEFENDANT'S EVIDENCE OF IDENTITY AND REASONABLY
33 BELIEVES THAT THE DEFENDANT WILL COMPLY WITH THE CITATION.
- 34 (D) FORM.

1 (1) THIS SECTION DOES NOT APPLY TO A CITATION THAT IS:

2 (I) AUTHORIZED FOR A VIOLATION OF A PARKING ORDINANCE OR
3 A REGULATION ADOPTED BY A STATE UNIT OR POLITICAL SUBDIVISION OF THE
4 STATE UNDER TITLE 26, SUBTITLE 3 OF THE TRANSPORTATION ARTICLE;

5 (II) AUTHORIZED BY THE DEPARTMENT OF NATURAL RESOURCES
6 UNDER § 1-205 OF THE NATURAL RESOURCES ARTICLE; OR

7 (III) AUTHORIZED BY BALTIMORE CITY UNDER § 16-16A (SPECIAL
8 ENFORCEMENT OFFICERS) OF THE CODE OF PUBLIC LOCAL LAWS OF BALTIMORE
9 CITY FOR VIOLATION OF A CODE, ORDINANCE, OR PUBLIC LOCAL LAW OF BALTIMORE
10 CITY CONCERNING BUILDING, HOUSING, HEALTH, FIRE, SAFETY, ZONING, OR
11 SANITATION.

12 (2) THE DISTRICT COURT SHALL PRESCRIBE A UNIFORM, STATEWIDE
13 FORM OF A CITATION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, §§ 594B-1 and 594B-2.

16 Throughout this section, the reference to a "crime" is substituted for the
17 former reference to an "offense" to conform to the terminology used
18 throughout this article.

19 In the introductory language of subsections (b)(1) and (c)(1) of this section,
20 the former references to law "or rule" are deleted as implicit in the
21 references to "law".

22 In the introductory language of subsection (b)(1) and (2) of this section, the
23 references to the authority of a police officer to "issue a citation" are
24 substituted for the former references to being "charged by citation" in light
25 of the definition of "citation" in subsection (a)(2)(i) of this section, which
26 specifies that a citation is a charging document.

27 In subsection (b)(1)(i) of this section, the reference to "\$500" is substituted
28 for the former erroneous reference to "\$300". *See* Ch. 288, Acts of 2000.

29 In subsection (b)(1)(ii) of this section, the reference to disturbing the peace
30 "or" disorderly conduct is substituted for the former reference to disturbing
31 the peace "and" disorderly conduct to conform to Art. 27, § 111(b).

32 In subsection (b)(1)(iii) of this section, the former reference to
33 misdemeanor theft "as defined" is deleted for consistency with subsection
34 (b)(1)(i) and (ii) of this section and because Art. 27, § 342(f)(2) does not
35 define misdemeanor theft.

36 In subsection (c)(2) of this section, the reference to the authority of a fire
37 marshal to "issue a citation" is substituted for the former authority to
38 "charge a defendant with an offense specified under subsection (d) of this

1 section by citation" in light of the definition of "citation" in subsection
2 (a)(2)(i) of this section, which specifies that a citation is a charging
3 document.

4 In subsection (d)(1)(ii) and (iii) of this section, the reference to a citation
5 that is "authorized" is substituted for the former references to citations
6 that are "[p]rescribed" and "[a]dopted" for clarity.

7 In subsection (d)(1)(i) of this section, the reference to "a State unit or
8 political subdivision of the State" is added to identify the entity authorized
9 to adopt a parking ordinance or regulation under Title 26, Subtitle 3 of the
10 Transportation Article and for consistency with subsection (d)(1)(ii) and
11 (iii) of this section. *See* TR § 26-301.

12 In subsection (d)(1)(iii) of this section, the former reference to "designated
13 provisions" of the codes, ordinances, and public local laws of Baltimore City
14 is deleted as unnecessary in light of the reference in this subsection and in
15 § 16-16A of the Code of Public Laws of Baltimore City to codes, ordinances,
16 and public local laws of Baltimore City concerning building, housing,
17 health, fire, safety, zoning, and sanitation.

18 Also in subsection (d)(1)(iii) of this section, the references to the disjunctive
19 "or" are substituted for the former references to the conjunctive "and" to
20 avoid the unreasonable implication that a violation must simultaneously
21 violate a code, ordinance, and public local law in each of the subject areas
22 of housing, health, fire, safety, zoning, and sanitation.

23 In subsection (d)(2) of this section, the former reference to a citation "used
24 as a charging document" is deleted as unnecessary in light of subsection
25 (a)(2)(i) of this section, which defines a citation as a charging document.

26 Defined terms: "Charging document" § 1-101

27 "State" § 1-101

28 4-102. CHARGE BY CRIMINAL INFORMATION.

29 A STATE'S ATTORNEY MAY CHARGE BY INFORMATION:

30 (1) IN A CASE INVOLVING A FELONY THAT DOES NOT INVOLVE A
31 FELONY WITHIN THE JURISDICTION OF THE DISTRICT COURT, IF THE DEFENDANT IS
32 ENTITLED TO A PRELIMINARY HEARING BUT DOES NOT REQUEST A HEARING WITHIN
33 10 DAYS AFTER A COURT OR COURT COMMISSIONER INFORMS THE DEFENDANT
34 ABOUT THE AVAILABILITY OF A PRELIMINARY HEARING; OR

35 (2) IN ANY OTHER CASE, IF A COURT IN A PRELIMINARY HEARING FINDS
36 THAT THERE IS PROBABLE CAUSE TO HOLD THE DEFENDANT.

37 REVISOR'S NOTE: This section is new language derived without substantive
38 change from former Art. 27, § 592(a).

1 %In this section, the references to a "defendant" are substituted for the
2 former references to the "accused" for consistency.

3 In item (2) of this section, the former phrase "other than a felony" is
4 deleted as implicit in the phrase a "felony within the jurisdiction of the
5 District Court".

6 4-103. PRELIMINARY HEARING.

7 (A) DEFENDANT TO BE ADVISED OF RIGHT.

8 IF A DEFENDANT IS CHARGED WITH A FELONY OTHER THAN A FELONY WITHIN
9 THE JURISDICTION OF THE DISTRICT COURT, AT THE TIME OF THE DEFENDANT'S
10 INITIAL APPEARANCE, AS REQUIRED BY MARYLAND RULE 4-213, A COURT OR COURT
11 COMMISSIONER SHALL ADVISE THE DEFENDANT OF THE DEFENDANT'S RIGHT TO
12 REQUEST A PRELIMINARY HEARING.

13 (B) TIME FOR WAIVER REQUESTS.

14 (1) A DEFENDANT MAY REQUEST A PRELIMINARY HEARING AT THE
15 DEFENDANT'S INITIAL APPEARANCE OR AT ANY TIME WITHIN 10 DAYS AFTER THE
16 INITIAL APPEARANCE.

17 (2) IF THE DEFENDANT DOES NOT REQUEST A PRELIMINARY HEARING
18 WITHIN 10 DAYS AFTER THE INITIAL APPEARANCE, THE RIGHT TO A PRELIMINARY
19 HEARING IS WAIVED.

20 (C) WHEN RIGHT IS ABSOLUTE.

21 (1) THE RIGHT OF A DEFENDANT TO A PRELIMINARY HEARING IS
22 ABSOLUTE IF:

23 (I) THE DEFENDANT IS CHARGED BY CRIMINAL INFORMATION;
24 AND

25 (II) THE DEFENDANT REQUESTS A PRELIMINARY HEARING IN
26 ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

27 (2) IF THE DEFENDANT IS CHARGED BY GRAND JURY INDICTMENT, THE
28 RIGHT OF A DEFENDANT TO A PRELIMINARY HEARING IS NOT ABSOLUTE BUT THE
29 COURT MAY ALLOW THE DEFENDANT TO HAVE A PRELIMINARY HEARING.

30 (3) IN ANY OTHER CASE, THE RIGHT OF A DEFENDANT TO A
31 PRELIMINARY HEARING IS NOT ABSOLUTE, BUT ON MOTION OF THE STATE'S
32 ATTORNEY OR THE DEFENDANT, THE COURT MAY ALLOW THE DEFENDANT TO HAVE
33 A PRELIMINARY HEARING.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 592(b).

36 In subsections (a) and (c)(1)(i) and (ii) of this section, the references to a

1 "defendant" are substituted for the former references to the "accused" for
2 consistency.

3 In subsection (c)(2) and (3) of this section, the references to a preliminary
4 hearing not being "absolute" are substituted for the former references that
5 a preliminary hearing is "not a matter of right" for consistency with the
6 introductory language of subsection (c)(1) of this section.

7 In subsection (c)(1) and (2) of this section, the former references to the
8 "State's Attorney" are deleted and the paragraphs are revised in the
9 passive voice because, in some cases, defendants may be charged by the
10 State Prosecutor or the Attorney General. The Criminal Procedure Article
11 Review Committee calls this change to the attention of the General
12 Assembly. The Criminal Procedure Article Review Committee also notes,
13 for consideration by the General Assembly, that subsection (c)(2) of this
14 section refers to only a "court". The General Assembly may wish to clarify
15 that this paragraph applies to a circuit court.

16 The Criminal Procedure Article Review Committee also notes, for
17 consideration by the General Assembly, that subsection (c)(2) of this
18 section authorizes a court to allow a defendant a preliminary hearing if the
19 defendant is charged by grand jury indictment. This authorization is
20 inconsistent with Maryland Rule 4-221(c)(1), which provides that a
21 preliminary hearing may not be held if, before the hearing, an indictment
22 is filed in circuit court. In *Marshall v. State*, 46 Md. App. 695, 420 A.2d
23 1266 (1980), *rev'd. on other grounds*, 291 Md. 205, 434 A.2d 555 (1981), the
24 Court of Special Appeals affirmed the existence of the conflict between
25 former Art. 27, § 592(b)(3) and Maryland Rule 4-221(c)(1) and stated that
26 the Maryland Rule prevails as the rule was adopted after the statute.

27 4-104. MERGER OF COMMON LAW MISDEMEANOR IN STATUTORY FELONY
28 PROHIBITED.

29 IF A STATUTE MAKES A FELONY OF A CRIME THAT IS A MISDEMEANOR AT
30 COMMON LAW, A CHARGING DOCUMENT:

31 (1) MAY NOT MERGE THE MISDEMEANOR IN THE FELONY; BUT

32 (2) MAY CONTAIN COUNTS FOR THE FELONY AND FOR THE
33 MISDEMEANOR.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 607.

36 The reference to "crime" is substituted for the former reference to an
37 "offense" to conform to the terminology used throughout this article.

38 The defined term "charging document" is substituted for the former
39 reference to "indictment" to conform to terminology used throughout this
40 article.

1 Defined term: "Charging document" § 1-101

2 4-105. NAMING OF TWO OR MORE PERSONS WITH LIKE INTERESTS IN CHARGING
3 DOCUMENT.

4 (A) PARTNERS, JOINT TENANTS, HEIRS, TENANTS IN COMMON, OR TRUSTEES.

5 IN SPEAKING OF ANY PARTNERS, JOINT TENANTS, HEIRS, TENANTS IN
6 COMMON, OR TRUSTEES, A CHARGING DOCUMENT MAY NAME ANY ONE OF THEM
7 AND SPEAK OF THEM AS THE NAMED PERSON AND ANOTHER OR OTHERS, AS THE
8 CASE MAY BE.

9 (B) OWNERS OR POSSESSORS OF PROPERTY.

10 IN STATING THE OWNERSHIP OR POSSESSION OF REAL OR PERSONAL
11 PROPERTY OWNED OR POSSESSED BY TWO OR MORE PERSONS, A CHARGING
12 DOCUMENT MAY NAME ONE OF THE PERSONS AND LAY THE OWNERSHIP OR
13 POSSESSION IN THE NAMED PERSON AND ANOTHER OR OTHERS, AS THE CASE MAY
14 BE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 605.

17 The defined term "charging document" is substituted for the former
18 reference to "indictment" to conform to terminology used throughout this
19 article.

20 In subsection (a) of this section, the reference to a charging document that
21 may name "partners, joint tenants, heirs, tenants in common, or trustees"
22 is substituted for the former reference to "in the manner aforesaid" for
23 clarity.

24 Also in subsection (a) of this section, the reference to "heirs" is substituted
25 for the former obscure reference to "parceners".

26 In subsection (b) of this section, the former reference to "partners in trade,
27 joint tenants, parceners, tenants in common or trustees" is deleted in light
28 of the definition of "person" in § 1-101 of this article.

29 In this section, the former phrase "for any felony or misdemeanor" is
30 deleted as unnecessary. Every crime except treason is either a felony or
31 misdemeanor.

32 Defined terms: "Charging document" § 1-101

33 "Person" § 1-101

34 4-106. DESCRIPTION OF MONEY IN CHARGING DOCUMENT.

35 (A) CONTENT OF CHARGING DOCUMENT.

1 A CHARGING DOCUMENT MAY DESCRIBE AN AMOUNT OF MONEY IN DOLLARS
2 AND CENTS WITHOUT SPECIFYING THE PARTICULAR NOTES, DENOMINATIONS,
3 COINS, OR CERTIFICATES CIRCULATING AS MONEY THAT CONSTITUTE THE AMOUNT.

4 (B) PROOF OF DESCRIPTION.

5 A DESCRIPTION OF AN AMOUNT OF MONEY IN DOLLARS AND CENTS UNDER
6 SUBSECTION (A) OF THIS SECTION IS SUSTAINED BY PROOF OF ANY NUMBER OF
7 NOTES, DENOMINATIONS, COINS, OR CERTIFICATES CIRCULATING AS MONEY
8 WITHOUT PROOF OF THE PARTICULAR SPECIES OF NOTES, DENOMINATIONS, COINS,
9 OR CERTIFICATES THAT CONSTITUTE THE AMOUNT.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 613.

12 In subsection (a) of this section, the defined term "charging document" is
13 substituted for the former reference to "indictment, information or
14 warrant" to conform to the terminology used throughout this article.

15 Also in subsection (a) of this section, the former reference to dollars and
16 cents "current money" is deleted as unnecessary in light of the references
17 in subsections (a) and (b) of this section to notes, denominations, coins, or
18 certificates "circulating as money".

19 In subsection (b) of this section, the reference to "[a] description of an
20 amount of money" is substituted for the former reference to "such
21 allegation" for consistency with the similar reference to "describe an
22 amount of money" in subsection (a)(1) of this section.

23 Also in subsection (b) of this section, the reference to any "number" of notes
24 is substituted for the former reference to any "amount" of notes for clarity.

25 Defined term: "Charging document" § 1-101

26 4-107. CHARGING DOCUMENT FOR VIOLATION OF ORDINANCE.

27 (A) COPY OF ORDINANCE NOT NECESSARY.

28 IT IS NOT NECESSARY TO SET FORTH A COPY OF AN ORDINANCE OR A SECTION
29 OF AN ORDINANCE IN A CHARGING DOCUMENT FOR THE VIOLATION OF AN
30 ORDINANCE OF A MUNICIPAL CORPORATION, A COUNTY, OR A SPECIAL TAXING AREA.

31 (B) SUFFICIENCY OF CHARGING DOCUMENT.

32 A CHARGING DOCUMENT SPECIFIED IN SUBSECTION (A) OF THIS SECTION IS
33 SUFFICIENT IF IT:

34 (1) CITES THE ORDINANCE ALLEGED TO HAVE BEEN VIOLATED BY DATE
35 OF PASSAGE OR, IF CODIFIED, BY ARTICLE AND SECTION NUMBER;

1 (2) CONFORMS TO THE LAW GOVERNING THE FRAMING OF CHARGING
2 DOCUMENTS FOR A VIOLATION OF AN ACT OF THE GENERAL ASSEMBLY; AND

3 (3) CONCLUDES WITH THE WORDS "AGAINST THE PEACE, GOVERNMENT,
4 AND DIGNITY OF THE STATE."

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 615. The defined term "charging document"
7 is substituted for the former references to "indictment or warrant" and
8 "indictments or warrants" to conform to terminology used throughout this
9 article.

10 In subsection (a)(1) of this section, the reference to a "municipal
11 corporation" is substituted for the former reference to an "incorporated city
12 or town" for brevity.

13 In subsection (a) of this section, the former reference to a municipal
14 corporation or a county "of this State" is deleted as unnecessary. Similarly,
15 the former references to "the board of county commissioners" of a county
16 and a special taxing district "of a county" are deleted as unnecessary.

17 Also in subsection (a) of this section, the reference to the "governing body"
18 of a county is substituted for the former reference to the "board of county
19 commissioners" of a county in light of the existence in this State of local
20 governing entities other than boards of county commissioners, *e.g.*, county
21 executives.

22 In subsection (b)(2) of this section, the former reference to the General
23 Assembly "of this State" is deleted as implicit in light of the reference to
24 the "General Assembly".

25 In subsection (b)(3) of this section, the former archaic reference, "against
26 the form of the ordinance in such case made and provided", is deleted as
27 surplusage.

28 Defined terms: "Charging document" § 1-101

29 "County" § 1-101

30 "State" § 1-101

31 4-108. CHARGING DOCUMENT FOR CRIMES INVOLVING INSTRUMENTS.

32 (A) DESCRIPTION OF INSTRUMENT.

33 IN MAKING AN AVERMENT AS TO AN INSTRUMENT, WHETHER THE
34 INSTRUMENT CONSISTS WHOLLY OR PARTLY OF WRITING, PRINT, OR FIGURES, A
35 CHARGING DOCUMENT MAY DESCRIBE THE INSTRUMENT BY ITS USUAL NAME OR
36 DESIGNATION OR BY ITS PURPORT, WITHOUT SETTING OUT A COPY OF THE
37 INSTRUMENT OR PART OF THE INSTRUMENT.

38 (B) USING FALSE INSTRUMENTS.

1 (1) THIS SUBSECTION APPLIES TO A CHARGING DOCUMENT FOR:

2 (I) FORGING, UTTERING, DISPOSING OF, PUTTING OFF, OR
3 PASSING ANY KIND OF INSTRUMENT; OR

4 (II) OBTAINING PROPERTY BY FALSE PRETENSES.

5 (2) A CHARGING DOCUMENT IS SUFFICIENT IF THE CHARGING
6 DOCUMENT ALLEGES THAT THE DEFENDANT ACTED WITH THE INTENT TO
7 DEFRAUD, WITHOUT ALLEGING THE INTENT OF THE DEFENDANT TO DEFRAUD ANY
8 PARTICULAR PERSON.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 612, except as it referred to a standard of
11 proof.

12 In subsection (a) of this section, the former specific reference to "any
13 indictment for forging, altering, putting off, passing, stealing, embezzling,
14 destroying or for obtaining by false pretenses any instrument" is deleted as
15 included in the reference to "a charging document".

16 Also in subsection (a) of this section, the former reference to "facsimile" is
17 deleted as included in the reference to "copy".

18 Defined term: "Charging document" § 1-101

19 SUBTITLE 2. VENUE AND OTHER PROCEDURAL MATTERS.

20 4-201. VENUE.

21 (A) IN DISTRICT COURT.

22 IN THE DISTRICT COURT, A PROSECUTION FOR A CRIME SHALL BE BROUGHT IN
23 THE DISTRICT THAT INCLUDES THE COUNTY WHERE THE CRIME WAS COMMITTED,
24 AND THE TRIAL SHALL BE HELD IN THAT COUNTY UNLESS THE CASE IS LAWFULLY
25 REMOVED.

26 (B) PERSON STRICKEN OR POISONED IN ONE COUNTY AND DYING IN
27 ANOTHER COUNTY.

28 IF A PERSON IS FELONIOUSLY STRICKEN OR POISONED IN A COUNTY AND DIES
29 IN ANOTHER COUNTY OF THE SAME STROKE OR POISON, A PROSECUTION FOR THE
30 FELONY SHALL BE BROUGHT IN THE COUNTY WHERE THE STROKE OR POISON WAS
31 GIVEN.

32 (C) CRIMES COMMITTED ON CHESAPEAKE BAY.

33 A PROSECUTION MAY BE BROUGHT IN THE COUNTY IN WHICH THE DEFENDANT
34 IS ARRESTED OR FIRST BROUGHT IF THE PROSECUTION IS FOR:

1 (1) A CRIME COMMITTED ON THE WATERS OF THE CHESAPEAKE BAY
2 AND NOT IN A COUNTY;

3 (2) AIDING, ABETTING, OR COMFORTING THE PERPETRATOR OF SUCH A
4 CRIME; OR

5 (3) BEING AN ACCESSORY TO SUCH A CRIME.

6 (D) PERSON STRICKEN OR POISONED ON CHESAPEAKE BAY AND DYING IN
7 COUNTY.

8 IF A PERSON IS FELONIOUSLY STRICKEN OR POISONED ON THE WATERS OF THE
9 CHESAPEAKE BAY AND NOT IN A COUNTY, AND DIES OF THE SAME STROKE OR
10 POISON IN A COUNTY, A PROSECUTION FOR THE FELONY, OR FOR BEING AN
11 ACCESSORY TO THE FELONY, SHALL BE BROUGHT IN THE COUNTY WHERE THE
12 PERSON DIED.

13 (E) PERSON STRICKEN OR POISONED IN COUNTY AND DYING ON
14 CHESAPEAKE BAY.

15 IF A PERSON IS FELONIOUSLY STRICKEN OR POISONED IN A COUNTY, AND DIES
16 OF THE SAME STROKE OR POISON ON THE WATERS OF THE CHESAPEAKE BAY AND
17 NOT IN A COUNTY, A PROSECUTION FOR THE FELONY, OR FOR BEING AN ACCESSORY
18 TO THE FELONY, SHALL BE BROUGHT IN THE COUNTY WHERE THE STROKE OR
19 POISON WAS GIVEN.

20 (F) CRIMES COMMITTED ON COMMON CARRIERS.

21 (1) IN THIS SUBSECTION, "COMMON CARRIER" MEANS A STEAMBOAT,
22 RAILROAD TRAIN, MOTOR BUS, AIRPLANE, OR OTHER MEANS OF INTERCITY OR
23 INTERSTATE PUBLIC TRANSPORTATION.

24 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PROSECUTION
25 FOR AN INDICTABLE CRIME COMMITTED ON A COMMON CARRIER MAY BE BROUGHT,
26 AND A DISTRICT COURT COMMISSIONER MAY HOLD THE DEFENDANT TO BAIL IF THE
27 CRIME IS BAILABLE, IN ANY COUNTY FROM, TO, OR THROUGH WHICH THE COMMON
28 CARRIER RUNS.

29 (3) IF THE ACCUSED IS HELD TO BAIL UNDER THIS SUBSECTION BY A
30 DISTRICT COURT COMMISSIONER, PROSECUTION FOR THE CRIME SHALL BE IN THE
31 COUNTY WHERE THE DEFENDANT IS HELD.

32 (G) CRIMES COMMITTED ON OR NEAR BOUNDARY LINES OF COUNTIES.

33 (1) A PROSECUTION FOR A CRIME MAY BE BROUGHT IN THE COUNTY IN
34 WHICH PROCESS FOR THE ARREST AND PROSECUTION OF THE DEFENDANT IS FIRST
35 ISSUED IF:

36 (I) THE CRIME WAS COMMITTED AT THE BOUNDARY BETWEEN
37 COUNTIES; OR

1 (II) THE BOUNDARY IS SO UNCERTAIN OR THE SITE OF THE CRIME
2 IS SO NEAR TO THE BOUNDARY THAT IT IS DOUBTFUL IN WHICH COUNTY THE CRIME
3 WAS COMMITTED.

4 (2) TO ESTABLISH THE VENUE ALLEGED IN THE CHARGING DOCUMENT,
5 THE STATE NEED ONLY PROVE THAT A SET OF FACTS IN PARAGRAPH (1)(I) OR (II) OF
6 THIS SUBSECTION IS TRUE.

7 (H) ACCESSORY AFTER THE FACT TO MURDER OR FELONY.

8 EXCEPT AS OTHERWISE PROVIDED BY LAW, A PROSECUTION OF A PERSON FOR
9 BEING AN ACCESSORY AFTER THE FACT TO MURDER OR OTHER FELONY SHALL BE
10 BROUGHT IN THE COUNTY IN WHICH THE PERSON BECAME AN ACCESSORY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, §§ 586A, 587, 588, 589, 590, and except as it
13 related to the jurisdiction of the District Court, 586.

14 In subsections (a), (c), (f), and (g) of this section, the reference to "crime" is
15 substituted for former references to "offense", "offense or misdemeanor",
16 and "felony or misdemeanor" to conform to terminology used throughout
17 this article.

18 In subsection (a) of this section, the requirement that a "prosecution for a
19 crime shall be brought" is substituted for the former requirement that "the
20 defendant shall be tried" for clarity. Similarly, in subsection (c) of this
21 section, the phrase "[a] prosecution may be brought" is substituted for the
22 former phrase "[a]ny person ... may be indicted and tried".

23 In subsections (b), (d), and (e) of this section, former references to the death
24 of a person "within one year" after the commission of a murder or felony or
25 after a felonious strike or poisoning are deleted in light of Art. 27, § 415
26 which abolishes the time element between the act or omission causing the
27 death of a person and the death of the person.

28 In subsection (c)(2) of this section, the reference to "aiding, abetting, or
29 comforting the perpetrator of such a crime" is substituted for the former
30 reference to "all aiders, abettors, comforters ... thereof and thereto" for
31 clarity. Similarly, in subsection (c)(3) of this section, the reference to "being
32 an accessory to such a crime" is substituted for the former reference to
33 "accessories thereof and thereto".

34 In subsections (d) and (e) of this section, the references to "an accessory to
35 the felony" are substituted for the former reference to "his [offender's]
36 aiders, abettors and comforters, or any accessory after the fact" to conform
37 to the terminology used in subsection (c) of this section.

38 Also in subsection (d) of this section, the reference to a prosecution being
39 brought "in the county" where the person died is substituted for the former
40 reference to "the court within whose jurisdiction such county lies" for

1 brevity.

2 In subsection (f)(2) of this section, the reference to a "prosecution for an
3 indictable crime" is substituted for former references to "[a] person who
4 may commit any indictable offense" being "presented indicted, tried and
5 convicted". In addition, the reference to a "prosecution" is substituted for
6 the former reference to "arrest" and "presentment, indictment and trial",
7 for brevity.

8 In subsection (f)(3) of this section, the former reference to a county "or city"
9 where a commissioner is located is deleted as included in the reference to
10 "county".

11 In subsection (g)(1) of this section, the former provision that grants a
12 county "jurisdiction to charge, present, indict, try, convict and sentence" is
13 deleted as implicit in the provision that allows "[a] prosecution for a crime"
14 to be brought in a county.

15 In subsection (g)(1)(i) of this section, the reference to "the boundary
16 between counties" is substituted for the former reference to "at or on the
17 boundary of the county wherein the accused is being tried" for brevity.

18 Also in subsection (g)(1)(i) of this section, the former reference to a
19 "divisional line" is deleted as included in the reference to a "boundary".

20 The first clause of former Art. 27, § 586, which stated that "[t]he District
21 Court sitting in each district may hear and determine criminal cases
22 within its jurisdiction if the acts charged occurred within the district" is
23 deleted as unnecessary in light of Title 4 of the Courts Article, which
24 concerns jurisdiction of the District Court.

25 The Criminal Procedure Article Review Committee notes, for consideration
26 by the General Assembly, that Art. 75, § 82, which specifies the jurisdiction
27 of a county lying on a navigable river, may conflict with subsection (d) of
28 this section. Under Art. 75, § 82, apparently there are no navigable waters
29 outside of all counties.

30 Defined terms: "Charging document" § 1-101

31 "County" § 1-101

32 "Person" § 1-101

33 4-202. TRANSFER OF CRIMINAL CASES TO JUVENILE COURT.

34 (A) DEFINITIONS.

35 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
36 INDICATED.

37 (2) "VICTIM" HAS THE MEANING STATED IN § 11-104 OF THIS ARTICLE.

1 (3) "VICTIM'S REPRESENTATIVE" HAS THE MEANING STATED IN § 11-104
2 OF THIS ARTICLE.

3 (B) WHEN TRANSFER ALLOWED.

4 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A COURT
5 EXERCISING JURISDICTION IN A CASE INVOLVING A CHILD MAY TRANSFER THE CASE
6 TO THE JUVENILE COURT IF:

7 (1) THE ACCUSED CHILD WAS AT LEAST 14 BUT NOT 18 YEARS OF AGE
8 WHEN THE ALLEGED CRIME WAS COMMITTED;

9 (2) THE ALLEGED CRIME IS EXCLUDED FROM THE JURISDICTION OF
10 THE JUVENILE COURT UNDER § 3-804(E)(1), (4), OR (5) OF THE COURTS ARTICLE; AND

11 (3) THE COURT BELIEVES THAT A TRANSFER OF ITS JURISDICTION IS IN
12 THE INTEREST OF THE CHILD OR SOCIETY.

13 (C) TRANSFER PROHIBITED.

14 THE COURT MAY NOT TRANSFER A CASE TO THE JUVENILE COURT UNDER
15 SUBSECTION (B) OF THIS SECTION IF:

16 (1) THE CHILD PREVIOUSLY HAS BEEN TRANSFERRED TO JUVENILE
17 COURT AND ADJUDICATED DELINQUENT;

18 (2) THE CHILD WAS CONVICTED IN AN UNRELATED CASE EXCLUDED
19 FROM THE JURISDICTION OF THE JUVENILE COURT UNDER § 3-804(E)(1) OR (4) OF
20 THE COURTS ARTICLE; OR

21 (3) THE ALLEGED CRIME IS MURDER IN THE FIRST DEGREE AND THE
22 ACCUSED CHILD WAS 16 OR 17 YEARS OF AGE WHEN THE ALLEGED CRIME WAS
23 COMMITTED.

24 (D) TRANSFER CRITERIA.

25 IN DETERMINING WHETHER TO TRANSFER JURISDICTION UNDER THIS
26 SECTION, THE COURT SHALL CONSIDER:

27 (1) THE AGE OF THE CHILD;

28 (2) THE MENTAL AND PHYSICAL CONDITION OF THE CHILD;

29 (3) THE AMENABILITY OF THE CHILD TO TREATMENT IN AN
30 INSTITUTION, FACILITY, OR PROGRAM AVAILABLE TO DELINQUENT CHILDREN;

31 (4) THE NATURE OF THE ALLEGED CRIME; AND

32 (5) THE PUBLIC SAFETY.

33 (E) STUDY CONCERNING CHILD.

1 IN MAKING A DETERMINATION UNDER THIS SECTION, THE COURT MAY
2 REQUEST THAT A STUDY BE MADE CONCERNING THE CHILD, THE FAMILY OF THE
3 CHILD, THE ENVIRONMENT OF THE CHILD, AND OTHER MATTERS CONCERNING THE
4 DISPOSITION OF THE CASE.

5 (F) PROCEDURES ON TRANSFER -- JUVENILE COURT.

6 IF THE COURT TRANSFERS ITS JURISDICTION UNDER THIS SECTION, THE
7 COURT MAY ORDER THE CHILD HELD FOR AN ADJUDICATORY HEARING UNDER THE
8 REGULAR PROCEDURE OF THE JUVENILE COURT.

9 (G) HOLDING IN JUVENILE FACILITY.

10 PENDING A DETERMINATION UNDER THIS SECTION TO TRANSFER ITS
11 JURISDICTION, THE COURT MAY ORDER A CHILD TO BE HELD IN A JUVENILE
12 FACILITY.

13 (H) RIGHTS OF VICTIMS.

14 (1) A VICTIM OR VICTIM'S REPRESENTATIVE SHALL BE GIVEN NOTICE OF
15 THE TRANSFER HEARING AS PROVIDED UNDER § 11-104 OF THIS ARTICLE.

16 (2) (I) A VICTIM OR VICTIM'S REPRESENTATIVE MAY SUBMIT A VICTIM
17 IMPACT STATEMENT TO THE COURT AS PROVIDED IN § 11-402 OF THIS ARTICLE.

18 (II) THIS PARAGRAPH DOES NOT PRECLUDE A VICTIM OR VICTIM'S
19 REPRESENTATIVE WHO HAS NOT FILED A NOTIFICATION REQUEST FORM UNDER §
20 11-104 OF THIS ARTICLE FROM SUBMITTING A VICTIM IMPACT STATEMENT TO THE
21 COURT.

22 (III) THE COURT MAY CONSIDER A VICTIM IMPACT STATEMENT IN
23 DETERMINING WHETHER TO TRANSFER JURISDICTION UNDER THIS SECTION.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 594A.

26 Throughout this section, the references to "transfer", "transferred", and
27 "transfers" are substituted for the former references to "waive", "waived",
28 and "waiver" for consistency.

29 In this section, the reference to a "crime" is substituted for the former
30 reference to an "offense" to conform to the terminology used throughout
31 this article.

32 In subsection (a) of this section, the defined term "victim's representative"
33 is added to state explicitly what was only implied in the former law, which
34 definition of "victim" included a "victim's representative".

35 In subsection (b)(3) of this section, the reference to "the court" is added to
36 identify who decides on the appropriateness of a waiver under this

1 subsection.

2 In subsections (f) and (g) of this section, the references to "child" are
3 substituted for the former references to "person" and "minor" for
4 consistency with subsections (b) through (e) of this section.

5 In subsection (f) of this section, the reference to an "adjudicatory hearing"
6 is substituted for the former reference to a "trial" to conform to the
7 terminology used in Title 3, Subtitle 8 of the Courts Article.

8 In subsection (g) of this section, the former reference to a determination to
9 waive jurisdiction "over the case involving the minor to the juvenile court"
10 is deleted as unnecessary in light of the reference to a determination
11 "under this section" to waive jurisdiction.

12 4-203. PROCESS AGAINST CORPORATIONS.

13 (A) "CORPORATION" DEFINED.

14 IN THIS SECTION, "CORPORATION" INCLUDES A JOINT-STOCK COMPANY AND
15 AN ASSOCIATION.

16 (B) SUMMONS AUTHORIZED.

17 IF A CHARGING DOCUMENT IS FILED AGAINST A CORPORATION, THE CLERK OF
18 COURT MAY ISSUE A SUMMONS TO THE CORPORATION IN ITS CORPORATE NAME TO
19 APPEAR AT THE COURT TO ANSWER THE CHARGING DOCUMENT.

20 (C) SERVICE OF SUMMONS.

21 A SUMMONS SERVED UNDER SUBSECTION (B) OF THIS SECTION MAY BE SERVED
22 IN THE SAME MANNER AS PROVIDED FOR SERVICE OF PROCESS IN A CIVIL SUIT
23 UNDER THE MARYLAND RULES.

24 (D) RETURN OF SUMMONS AS APPEARANCE.

25 (1) IF A SHERIFF OR OTHER OFFICER RETURNS A SUMMONS SERVED
26 UNDER THIS SECTION AS "SUMMONED" OR "SERVED":

27 (I) THE CORPORATION TO WHOM THE SUMMONS WAS ISSUED
28 SHALL BE CONSIDERED AS IN COURT AND AS APPEARING TO THE CHARGING
29 DOCUMENT; AND

30 (II) THE COURT SHALL ORDER THE CLERK TO ENTER AN
31 APPEARANCE FOR THE CORPORATION AND TO ENDORSE A PLEA OF NOT GUILTY ON
32 THE CHARGING DOCUMENT.

33 (2) AFTER THE CLERK MAKES THE ENTRY AND ENDORSEMENT
34 SPECIFIED IN PARAGRAPH (1)(II) OF THIS SUBSECTION, FURTHER PROCEEDINGS MAY
35 OCCUR CONCERNING THE CHARGING DOCUMENT IN THE SAME MANNER AS IF THE
36 CORPORATION HAD APPEARED AND PLEADED NOT GUILTY.

1 (E) EXECUTION.

2 (1) IF A CORPORATION IS SERVED A SUMMONS UNDER THIS SECTION
3 AND IS CONVICTED ON THE CHARGING DOCUMENT, A COURT MAY:

4 (I) PASS A JUDGMENT CONCERNING THE CHARGING DOCUMENT;
5 AND

6 (II) ISSUE PROCESS OF EXECUTION TO THE SHERIFF OF THE
7 COUNTY AGAINST THE PROPERTY OF THE CORPORATION FOR THE AMOUNT OF THE
8 FINE AND COSTS THAT MAY BE AWARDED AGAINST THE CORPORATION IN THE SAME
9 MANNER AS ON A JUDGMENT IN A CIVIL ACTION.

10 (2) A SHERIFF SHALL SELL THE PROPERTY OF THE CORPORATION ON AN
11 EXECUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION IN THE SAME MANNER AS
12 ON AN EXECUTION ISSUED IN A CIVIL SUIT.

13 REVISOR'S NOTE: Subsection (a) of this section is new language added for
14 brevity to avoid repetition throughout this section of the former reference
15 to "corporation, joint-stock company or association".

16 Subsections (b) and (c) of this section are new language derived without
17 substantive change from former Art. 27, § 624.

18 Subsections (d) and (e) of this section are new language derived without
19 substantive change from former Art. 27, § 625.

20 The references to "charging document" are substituted for the references to
21 an "indictment" or "information" to conform to the terminology used
22 throughout this article.

23 As to the manner for the service of process on a corporation, joint-stock
24 company, or incorporated association as specified in subsection (c) of this
25 section, *see* Md. Rule 2-124(c).

26 In the introductory language of subsection (e)(1) of this section, the
27 reference to a corporation that is "served a summons under this section" is
28 substituted for the former reference to the "said corporation" for clarity
29 and as service of a summons is the fact common to both actual and
30 constructive service under this section.

31 In subsection (e)(1)(ii) and (2) of this section, the references to "property"
32 are substituted for the former references to "goods and chattels or lands
33 and tenements" for brevity.

34 The Criminal Procedure Article Review Committee notes, for consideration
35 by the General Assembly, that this section applies only to joint-stock
36 companies or associations. The General Assembly may wish to apply this
37 section also to other kinds of limited liability entities.

1 Defined terms: "Charging document" § 1-101

2 "County" § 1-101

3 4-204. ACCESSORY BEFORE THE FACT.

4 (A) "ACCESSORY BEFORE THE FACT" AND "PRINCIPAL" DEFINED.

5 IN THIS SECTION, THE WORDS "ACCESSORY BEFORE THE FACT" AND
6 "PRINCIPAL" HAVE THEIR JUDICIALLY DETERMINED MEANINGS.

7 (B) ACCESSORY BEFORE THE FACT AND PRINCIPAL -- COMPARED.

8 EXCEPT FOR A SENTENCING PROCEEDING UNDER ARTICLE 27, § 413 OF THE
9 CODE:

10 (1) THE DISTINCTION BETWEEN AN ACCESSORY BEFORE THE FACT AND
11 A PRINCIPAL IS ABROGATED; AND

12 (2) AN ACCESSORY BEFORE THE FACT MAY BE CHARGED, TRIED AND
13 CONVICTED, AND SENTENCED AS A PRINCIPAL.

14 (C) ACCESSORY LIABILITY NOT LINKED TO PRINCIPAL.

15 AN ACCESSORY BEFORE THE FACT MAY BE CHARGED, TRIED AND CONVICTED,
16 AND SENTENCED FOR A CRIME REGARDLESS OF WHETHER A PRINCIPAL IN THE
17 CRIME HAS BEEN:

18 (1) CHARGED WITH THE CRIME;

19 (2) ACQUITTED OF THE CRIME; OR

20 (3) CONVICTED OF A LESSER OR DIFFERENT CRIME.

21 (D) VENUE.

22 IF A CRIME IS COMMITTED IN THE STATE, AN ACCESSORY BEFORE THE FACT
23 MAY BE CHARGED, TRIED AND CONVICTED, AND SENTENCED IN A COUNTY WHERE:

24 (1) AN ACT OF ACCESSORYSHIP WAS COMMITTED; OR

25 (2) A PRINCIPAL IN THE CRIME MAY BE CHARGED, TRIED AND
26 CONVICTED, AND SENTENCED.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 592A.

29 Defined term: "County" § 1-101

1 TITLE 5. RELEASE.

2 SUBTITLE 1. IN GENERAL.

3 5-101. RELEASE ON PERSONAL RECOGNIZANCE.

4 (A) CONSTRUCTION OF SECTION.

5 THIS SECTION SHALL BE LIBERALLY CONSTRUED TO CARRY OUT THE PURPOSE
6 OF RELYING ON CRIMINAL SANCTIONS INSTEAD OF FINANCIAL LOSS TO ENSURE
7 THE APPEARANCE OF A DEFENDANT IN A CRIMINAL CASE BEFORE VERDICT OR
8 PENDING A NEW TRIAL.

9 (B) IN GENERAL.

10 (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF,
11 FROM ALL THE CIRCUMSTANCES, THE COURT BELIEVES THAT A MINOR OR ADULT
12 DEFENDANT IN A CRIMINAL CASE WILL APPEAR AS REQUIRED FOR TRIAL BEFORE
13 VERDICT OR PENDING A NEW TRIAL, THE DEFENDANT MAY BE RELEASED ON
14 PERSONAL RECOGNIZANCE.

15 (2) A FAILURE TO APPEAR AS REQUIRED BY PERSONAL RECOGNIZANCE
16 IS SUBJECT TO THE PENALTIES PROVIDED IN § 5-211 OF THIS TITLE.

17 (C) EXCEPTIONS.

18 A DEFENDANT MAY NOT BE RELEASED ON PERSONAL RECOGNIZANCE IF THE
19 DEFENDANT IS CHARGED WITH:

20 (1) A CRIME LISTED IN § 5-202(D) OF THIS SUBTITLE AFTER HAVING
21 BEEN CONVICTED OF A CRIME LISTED IN § 5-202(D) OF THIS SUBTITLE; OR

22 (2) A CRIME PUNISHABLE BY DEATH OR LIFE IMPRISONMENT WITHOUT
23 PAROLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, §§ 638A and 616 1/2(d).

26 In subsections (a) and (b) of this section, the reference to "before verdict or
27 pending a new trial" is substituted for the former references to "before or
28 after trial of the case" and "trial either before or after", respectively, for
29 accuracy.

30 In subsections (a) and (b)(1) of this section, the references to a "defendant"
31 are substituted for the former references to an "accused person" for
32 consistency with terminology used throughout this subtitle and in the
33 Maryland Rules.

34 In subsection (b)(1) of this section, the phrase "[e]xcept as provided in
35 subsection (c) of this section" is added to state expressly what was only

1 implied in the former law.

2 Also in subsection (b)(1) of this section, the reference to "personal"
3 recognizance is substituted for the former reference to a person's "own"
4 recognizance for consistency with terminology used in subsection (c) of this
5 section and in the Maryland Rules.

6 Also in subsection (b)(1) of this section, the reference to a "minor or adult
7 defendant" is substituted for the former reference that "[t]he provisions of
8 this section shall apply to all persons regardless of age" for brevity.

9 In subsection (c) of this section, the reference to a "crime" is substituted for
10 the former reference to a "criminal case or offense" to conform to the
11 terminology used throughout this subtitle.

12 In subsection (c)(2) of this section, the former phrase "before any judge of
13 any circuit court in the counties or any judge or commissioner of the
14 District Court of Maryland" is deleted as surplusage.

15 5-102. DEFENDANT CHARGED WITH CRIME PUNISHABLE BY LIFE IMPRISONMENT.

16 A DEFENDANT CHARGED WITH A CRIME PUNISHABLE BY LIFE IMPRISONMENT
17 MAY BE RELEASED ON BAIL OR OTHER CONDITIONS OF RELEASE BEFORE
18 CONVICTION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 638B.

21 The former phrases "or may not be" and "in the discretion of the court" are
22 deleted as implicit in the word "may".

23 The reference to a "crime" is substituted for the former reference to an
24 "offense" to conform to the terminology used throughout this article.

25 SUBTITLE 2. PRETRIAL RELEASE.

26 5-201. CONDITIONS OF PRETRIAL RELEASE.

27 (A) PROTECTIONS OF VICTIM.

28 IF A DEFENDANT IS CHARGED WITH STALKING UNDER ARTICLE 27, § 124 OF THE
29 CODE OR WITH A FELONY, THE COURT OR A DISTRICT COURT COMMISSIONER SHALL
30 CONSIDER INCLUDING, AS A CONDITION OF PRETRIAL RELEASE, REASONABLE
31 PROTECTIONS FOR THE SAFETY OF THE ALLEGED VICTIM.

32 (B) HOME DETENTION.

33 (1) IN ACCORDANCE WITH ELIGIBILITY CRITERIA, CONDITIONS, AND
34 PROCEDURES REQUIRED UNDER THE MARYLAND RULES, THE COURT MAY REQUIRE,
35 AS A CONDITION OF A DEFENDANT'S PRETRIAL RELEASE, THAT THE DEFENDANT BE

1 MONITORED BY A PRIVATE HOME DETENTION MONITORING AGENCY LICENSED
2 UNDER TITLE 20 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

3 (2) A DEFENDANT PLACED IN PRIVATE HOME DETENTION UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION SHALL PAY DIRECTLY TO THE PRIVATE HOME
5 DETENTION MONITORING AGENCY THE AGENCY'S MONITORING FEE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 616 1/2(m) and (k), except as it related to
8 juveniles.

9 In subsection (a) of this section, the former phrase "and is released
10 pretrial" is deleted as implicit in the requirement to consider conditions of
11 pretrial release.

12 Also in subsection (a) of this section, under the former law the protections
13 for the safety of the alleged victim applied also to "a delinquent act
14 committed by a child that would be a felony if committed by an adult". In
15 addition, a "juvenile intake officer" was required to consider including, as a
16 condition of release, reasonable protections for the safety of the alleged
17 victim. These provisions are transferred to Title 3, Subtitle 8 (Juvenile
18 Causes) of the Courts Article.

19 5-202. RESTRICTIONS ON PRETRIAL RELEASE.

20 (A) ESCAPEES.

21 A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE PRETRIAL RELEASE
22 FOR A DEFENDANT CHARGED WITH ESCAPING FROM A CORRECTIONAL FACILITY OR
23 ANY OTHER PLACE OF CONFINEMENT IN THE STATE.

24 (B) DRUG KINGPINS.

25 (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE
26 PRETRIAL RELEASE OF A DEFENDANT CHARGED AS A DRUG KINGPIN UNDER
27 ARTICLE 27, § 286(G) OF THE CODE.

28 (2) A JUDGE MAY AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT
29 CHARGED AS A DRUG KINGPIN ON SUITABLE BAIL AND ON ANY OTHER CONDITIONS
30 THAT WILL REASONABLY ENSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A
31 DANGER TO ANOTHER PERSON OR THE COMMUNITY.

32 (3) THERE IS A REBUTTABLE PRESUMPTION THAT, IF RELEASED, A
33 DEFENDANT CHARGED AS A DRUG KINGPIN WILL FLEE AND POSE A DANGER TO
34 ANOTHER PERSON OR THE COMMUNITY.

35 (C) CRIMES OF VIOLENCE.

1 (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE
2 PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH A CRIME OF VIOLENCE IF THE
3 DEFENDANT HAS BEEN PREVIOUSLY CONVICTED:

4 (I) IN THIS STATE OF A CRIME OF VIOLENCE; OR

5 (II) IN ANY OTHER JURISDICTION OF A CRIME THAT WOULD BE A
6 CRIME OF VIOLENCE IF COMMITTED IN THIS STATE.

7 (2) (I) A JUDGE MAY AUTHORIZE THE PRETRIAL RELEASE OF A
8 DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ON:

9 1. SUITABLE BAIL;

10 2. ANY OTHER CONDITIONS THAT WILL REASONABLY
11 ENSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER
12 PERSON OR THE COMMUNITY; OR

13 3. BOTH BAIL AND OTHER CONDITIONS DESCRIBED UNDER
14 ITEM 2 OF THIS SUBPARAGRAPH.

15 (II) WHEN A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS
16 SUBSECTION IS PRESENTED TO THE COURT UNDER MARYLAND RULE 4-216(G), THE
17 JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE DEFENDANT IF THE
18 JUDGE DETERMINES THAT NEITHER SUITABLE BAIL NOR ANY CONDITION OR
19 COMBINATION OF CONDITIONS WILL REASONABLY ENSURE THAT THE DEFENDANT
20 WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY
21 BEFORE THE TRIAL.

22 (3) THERE IS A REBUTTABLE PRESUMPTION THAT A DEFENDANT
23 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WILL FLEE AND POSE A DANGER
24 TO ANOTHER PERSON OR THE COMMUNITY.

25 (D) CRIMES COMMITTED ON PRETRIAL RELEASE.

26 (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE
27 PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH COMMITTING ONE OF THE
28 FOLLOWING CRIMES WHILE THE DEFENDANT WAS RELEASED ON BAIL OR PERSONAL
29 RECOGNIZANCE FOR A PENDING PRIOR CHARGE OF COMMITTING ONE OF THE
30 FOLLOWING CRIMES:

31 (I) AIDING, COUNSELING, OR PROCURING ARSON IN THE FIRST
32 DEGREE UNDER ARTICLE 27, § 6 OF THE CODE;

33 (II) ARSON IN THE SECOND DEGREE OR ATTEMPTING, AIDING,
34 COUNSELING, OR PROCURING ARSON IN THE SECOND DEGREE UNDER ARTICLE 27, §
35 7 OF THE CODE;

36 (III) BURGLARY IN THE FIRST DEGREE UNDER ARTICLE 27, § 29 OF
37 THE CODE;

1 (IV) BURGLARY IN THE SECOND DEGREE UNDER ARTICLE 27, § 30 OF
2 THE CODE;

3 (V) BURGLARY IN THE THIRD DEGREE UNDER ARTICLE 27, § 31 OF
4 THE CODE;

5 (VI) CAUSING ABUSE TO A CHILD UNDER ARTICLE 27, § 35C OF THE
6 CODE;

7 (VII) A CRIME THAT RELATES TO A DESTRUCTIVE DEVICE UNDER
8 ARTICLE 27, § 139C OF THE CODE;

9 (VIII) A CRIME THAT RELATES TO A CONTROLLED DANGEROUS
10 SUBSTANCE UNDER ARTICLE 27, § 286 OF THE CODE;

11 (IX) MANSLAUGHTER BY VEHICLE OR VESSEL UNDER ARTICLE 27, §
12 388 OF THE CODE; AND

13 (X) A CRIME OF VIOLENCE.

14 (2) A DEFENDANT UNDER THIS SUBSECTION REMAINS INELIGIBLE TO
15 GIVE BAIL OR BE RELEASED ON RECOGNIZANCE ON THE SUBSEQUENT CHARGE
16 UNTIL ALL PRIOR CHARGES HAVE FINALLY BEEN DETERMINED BY THE COURTS.

17 (3) A JUDGE MAY AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT
18 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ON SUITABLE BAIL AND ON ANY
19 OTHER CONDITIONS THAT WILL REASONABLY ENSURE THAT THE DEFENDANT WILL
20 NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY.

21 (4) THERE IS A REBUTTABLE PRESUMPTION THAT A DEFENDANT
22 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WILL FLEE AND POSE A DANGER
23 TO ANOTHER PERSON OR THE COMMUNITY IF RELEASED BEFORE FINAL
24 DETERMINATION OF THE PRIOR CHARGE.

25 (E) VIOLATORS OF EX PARTE ORDERS OR PROTECTIVE ORDERS.

26 (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE
27 PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH VIOLATING:

28 (I) THE PROVISIONS OF AN EX PARTE ORDER DESCRIBED IN §
29 4-505(A)(2)(I) OF THE FAMILY LAW ARTICLE OR THE PROVISIONS OF A PROTECTIVE
30 ORDER DESCRIBED IN § 4-506(D)(1) OF THE FAMILY LAW ARTICLE THAT ORDER THE
31 DEFENDANT TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON
32 ELIGIBLE FOR RELIEF; OR

33 (II) THE PROVISIONS OF A PROTECTIVE ORDER ISSUED BY A COURT
34 OF ANOTHER STATE OR OF A NATIVE AMERICAN TRIBE THAT ORDER THE
35 DEFENDANT TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON
36 ELIGIBLE FOR RELIEF, IF THE ORDER IS ENFORCEABLE UNDER § 4-508.1 OF THE
37 FAMILY LAW ARTICLE.

1 (2) A JUDGE MAY ALLOW THE PRETRIAL RELEASE OF A DEFENDANT
2 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ON:

3 (I) SUITABLE BAIL;

4 (II) ANY OTHER CONDITIONS THAT WILL REASONABLY ENSURE
5 THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR
6 THE COMMUNITY; OR

7 (III) BOTH BAIL AND OTHER CONDITIONS DESCRIBED UNDER
8 SUBPARAGRAPH (II) OF THIS PARAGRAPH.

9 (3) WHEN A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS
10 SUBSECTION IS PRESENTED TO THE COURT UNDER MARYLAND RULE 4-216(G), THE
11 JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE DEFENDANT IF THE
12 JUDGE DETERMINES THAT NEITHER SUITABLE BAIL NOR ANY CONDITION OR
13 COMBINATION OF CONDITIONS WILL REASONABLY ENSURE THAT THE DEFENDANT
14 WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY
15 BEFORE THE TRIAL.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 616 1/2(c), (i), (j), (l), and (n).

18 In subsection (a) of this section, the reference to a "defendant" is
19 substituted for the former reference to an "individual" for consistency with
20 terminology used throughout this subtitle and in the Maryland Rules.

21 Also in subsection (a) of this section, the reference to the defined term
22 "correctional facility" is substituted for the former reference to
23 "penitentiary, jail, house of correction, reformatory, station house, or any
24 other place of confinement" for consistency throughout this article.

25 In subsections (b)(2) and (c)(1) of this section, the former phrase "pending
26 trial" is deleted as implicit in the reference to "pretrial release".

27 In subsection (c) of this section, the former references to a crime of violence
28 "under § 643B of this article" and "as defined under § 643B of this article"
29 are deleted in light of the definition of "crime of violence" in § 1-101 of this
30 article to the same effect.

31 In subsection (d) of this section, the reference to a "crime" is substituted for
32 the former reference to an "offense" to conform to the terminology used
33 throughout this article.

34 In subsection (d)(1) of this section, the phrase "[a] District Court
35 commissioner may not authorize the pretrial release of a defendant" is
36 substituted for the former phrase "court does not mean District Court
37 commissioners" for consistency with subsections (b) and (c) of this section.

38 Subsection (d)(3) of this section is revised to conform to the terminology

1 used throughout this subtitle, *e.g.*, § 5-202(b)(2). It is substituted for the
2 former sentence "[i]f, after consideration of the matters presented in
3 rebuttal, the court hearing the application for bail is persuaded that the
4 applicant would not pose a danger to any other person or to the community,
5 and would appear at the time set for trial, the court may allow release
6 pending trial on suitable bail and on such other conditions as will
7 reasonably assure that the person charged will not flee".

8 Also in subsection (d)(3) of this section, the reference to "[a] judge" is
9 substituted for the former reference to "the court" for consistency with
10 subsections (b) and (c) of this section.

11 Subsection (d)(4) of this section is revised to state expressly that "[t]here is
12 a rebuttable presumption" that certain defendants will flee and pose a
13 danger to another person or the community, which was only implied in the
14 former statement that a person is able to "rebut his ineligibility for release
15 on bail before determination of the prior charge".

16 Defined terms: "Correctional facility" § 1-101

17 "Crime of violence" § 1-101

18 "Person" § 1-101

19 5-203. BAIL BONDS IN CIRCUIT COURTS.

20 (A) CIRCUIT COURT RULES.

21 (1) A CIRCUIT COURT MAY ADOPT RULES SETTING THE TERMS AND
22 CONDITIONS OF BAIL BONDS FILED IN THAT COURT AND RULES ON THE
23 QUALIFICATIONS OF AND FEES CHARGED BY BAIL BONDSMEN.

24 (2) A BAIL BOND COMMISSIONER MAY BE APPOINTED TO CARRY OUT
25 RULES ADOPTED UNDER THIS SECTION.

26 (3) A VIOLATION OF A RULE ADOPTED UNDER THIS SECTION IS
27 CONTEMPT OF COURT AND SHALL BE PUNISHED IN ACCORDANCE WITH TITLE 15,
28 CHAPTER 200 OF THE MARYLAND RULES.

29 (4) A PERSON MAY NOT ENGAGE IN THE BUSINESS OF BECOMING A
30 SURETY FOR COMPENSATION ON BAIL BONDS IN CRIMINAL CASES UNLESS THE
31 PERSON IS:

32 (I) APPROVED IN ACCORDANCE WITH ANY RULES ADOPTED
33 UNDER THIS SECTION; AND

34 (II) IF REQUIRED UNDER THE INSURANCE ARTICLE, LICENSED IN
35 ACCORDANCE WITH THE INSURANCE ARTICLE.

36 (B) SEVENTH JUDICIAL CIRCUIT.

1 (1) IN THE CIRCUIT COURTS IN THE SEVENTH JUDICIAL CIRCUIT, A BAIL
2 BONDSMAN APPROVED UNDER SUBSECTION (A) OF THIS SECTION SHALL PAY A
3 LICENSE FEE OF 1% OF THE GROSS VALUE OF ALL BAIL BONDS WRITTEN IN ALL
4 COURTS OF THE CIRCUIT, IF THE FEE IS APPROVED BY THE COURT OF THE COUNTY
5 IN WHICH IT APPLIES.

6 (2) THE FEE SHALL BE PAID TO THE COURT AS REQUIRED BY THE RULES
7 OF COURT AND SHALL BE USED TO PAY THE EXPENSES OF CARRYING OUT THIS
8 SECTION.

9 (3) ANY ABSOLUTE BAIL BOND FORFEITURES COLLECTED MAY BE USED
10 TO PAY THE EXPENSES OF CARRYING OUT THIS SECTION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 616 1/2(f).

13 Throughout this section, the reference to "bail bond" is substituted for the
14 former reference to "bond" for clarity.

15 In subsection (a) of this section, the former reference to circuit courts "for
16 each of the counties" is deleted as implicit in the reference to "a circuit
17 court".

18 In subsection (a)(3) of this section, the phrase "in accordance with Title 15,
19 Chapter 200 of the Maryland Rules" is substituted for the former phrase
20 "as for contempt" for clarity and accuracy.

21 In subsections (a)(2) and (b)(2) of this section, as for substituting the
22 phrases "carry out" rules and "carrying out" this section for the former
23 phrases "administer" rules and "the administration of" this section, *see*
24 General Revisor's Note to article.

25 For provisions relating to licensing of bail bondsmen, *see* Title 10, Subtitle
26 3 of the Insurance Article.

27 Defined terms: "County" § 1-101

28 "Person" § 1-101

29 5-204. BAIL AFTER ADJOURNMENT OR DURING RECESS OF CIRCUIT COURT.

30 (A) BAIL AFTER ADJOURNMENT.

31 IN A CRIMINAL CASE IN A CIRCUIT COURT IN WHICH THE DEFENDANT IS
32 ALLOWED TO GIVE BAIL, THE CLERK OF THE COURT MAY TAKE THE BAIL IF:

33 (1) THE COURT ADJOURNS BEFORE THE DEFENDANT HAS SECURED THE
34 BAIL; AND

1 (2) THE COURT BEFORE ADJOURNMENT, OR ANY JUDGE OF THE COURT
2 AFTER ADJOURNMENT, ISSUES AN ORDER THAT SETS THE AMOUNT OF THE BAIL
3 AND DIRECTS THE CLERK TO TAKE THE BAIL.

4 (B) BAIL DURING RECESS.

5 IF A DEFENDANT IS ARRESTED ON INDICTMENT IN A BAILABLE CASE IN A
6 CIRCUIT COURT AND IS CONFINED DURING THE RECESS OF THE COURT, ANY JUDGE
7 OF THE COURT, BY WRITTEN ORDER, MAY SET THE AMOUNT OF THE BAIL AND
8 DIRECT THE CLERK TO TAKE THE BAIL WITH SECURITY.

9 (C) SECURITY FOR BAIL.

10 THE CLERK MAY NOT ACCEPT SECURITY FOR BAIL UNLESS:

11 (1) THE PERSON OFFERING THE SECURITY STATES UNDER OATH THAT
12 THE PERSON OWNS REAL OR PERSONAL PROPERTY WORTH THE AMOUNT OF THE
13 BAIL, EXCLUSIVE OF THE PERSON'S RIGHT TO EXEMPTION FROM EXECUTION; AND

14 (2) THE CLERK IS SATISFIED THAT THE STATEMENT IS TRUE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 616 1/2(a).

17 In subsections (a) and (b) of this section, the references to the "defendant"
18 are substituted for the former references to the "accused" and a "party" for
19 consistency with terminology used throughout this subtitle and in the
20 Maryland Rules.

21 In subsection (c) of this section, the phrase "exception from execution" is
22 added for clarity.

23 In the introductory language of subsection (a) of this section, the former
24 phrase "[s]ubject to the provisions of subsection (c) of this section" is
25 deleted as unnecessary because those provisions - now § 5-202(d) of this
26 subtitle - do not limit this subsection.

27 Also in subsection (c) of this section, the former references to an
28 "affirmation" are deleted in light of Art. 1, § 9, which provides that
29 "[w]henever an oath is required by this Code an affirmation shall be
30 sufficient, if made by a person conscientiously scrupulous of taking an
31 oath".

32 The Criminal Procedure Article Review Committee notes, for consideration
33 by the General Assembly, that in subsection (a)(2) of this section, the
34 provision stating that the court "directs the clerk to take the bail" is
35 archaic and does not reflect current practice.

36 Defined term: "Person" § 1-101

1 5-205. BAIL IN DISTRICT COURT.

2 (A) POWERS OF DISTRICT COURT JUDGE.

3 A DISTRICT COURT JUDGE MAY:

4 (1) SET BOND OR BAIL;

5 (2) RELEASE A DEFENDANT ON PERSONAL RECOGNIZANCE OR ON A
6 PERSONAL OR OTHER BAIL BOND;

7 (3) COMMIT A DEFENDANT TO A CORRECTIONAL FACILITY IN DEFAULT
8 OF A BAIL BOND; AND

9 (4) ORDER A BAIL BOND FORFEITED IF THE DEFENDANT FAILS TO MEET
10 THE CONDITIONS OF THE BOND.

11 (B) POSTING OF BOND; RELEASE OF DEFENDANT.

12 (1) THIS SUBSECTION DOES NOT APPLY TO A DEFENDANT WHO HAS
13 BEEN ARRESTED FOR FAILURE TO APPEAR IN COURT OR FOR CONTEMPT OF COURT.

14 (2) (I) IN A CRIMINAL OR TRAFFIC CASE IN THE DISTRICT COURT IN
15 WHICH A BAIL BOND HAS BEEN SET, THE DEFENDANT OR A PRIVATE SURETY ACTING
16 FOR THE DEFENDANT MAY POST THE BAIL BOND BY:

17 1. EXECUTING IT IN THE FULL PENALTY AMOUNT; AND

18 2. DEPOSITING WITH THE CLERK OF THE COURT OR A
19 COMMISSIONER THE GREATER OF 10% OF THE PENALTY AMOUNT OR \$25.

20 (II) A JUDGE MAY INCREASE THE PERCENTAGE OF CASH SURETY
21 REQUIRED IN A PARTICULAR CASE BUT MAY NOT AUTHORIZE A CASH DEPOSIT OF
22 LESS THAN \$25.

23 (3) ON DEPOSITING THE AMOUNT REQUIRED UNDER PARAGRAPH (2) OF
24 THIS SUBSECTION AND EXECUTING THE RECOGNIZANCE, THE DEFENDANT SHALL
25 BE RELEASED FROM CUSTODY SUBJECT TO THE CONDITIONS OF THE BAIL BOND.

26 (C) PERFORMANCE OF CONDITIONS OF BOND; DEFAULT.

27 (1) WHEN ALL CONDITIONS OF THE BAIL BOND HAVE BEEN PERFORMED
28 WITHOUT DEFAULT AND THE DEFENDANT HAS BEEN DISCHARGED FROM ALL
29 OBLIGATIONS IN THE CAUSE FOR WHICH THE RECOGNIZANCE WAS POSTED, THE
30 CLERK OF THE COURT SHALL RETURN THE DEPOSIT TO THE PERSON OR PRIVATE
31 SURETY WHO DEPOSITED IT.

32 (2) (I) IF THE DEFENDANT FAILS TO PERFORM ANY CONDITION OF
33 THE BAIL BOND, THE BAIL BOND SHALL BE FORFEITED.

1 (II) IF THE BAIL BOND IS FORFEITED, THE LIABILITY OF THE BAIL
2 BOND SHALL EXTEND TO THE FULL AMOUNT OF THE BAIL BOND SET AND THE
3 AMOUNT POSTED AS A DEPOSIT SHALL BE APPLIED TO REDUCE THE LIABILITY
4 INCURRED BY THE FORFEITURE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 616 1/2(b).

7 In subsections (a)(2) and (4), (b)(2)(i), and (c) of this section, the references
8 to a "bail bond" are substituted for the former references to a "bond" to
9 conform to the terminology used throughout this subtitle.

10 In the introductory language of subsection (a) of this section, the former
11 phrase "[s]ubject to the provisions of subsection (c)" is deleted as
12 unnecessary because those provisions - now § 5-202(d) of this subtitle - do
13 not limit this subsection.

14 In subsection (a) of this section, the former reference to the power of the
15 District Court to "exercise all of the powers of justices of the peace under
16 the Constitution of 1867" is deleted in light of Md. Constitution, Art. IV, §
17 41-I(c), stating that statutory references to justices of the peace are
18 deemed to refer to the District Court.

19 In subsection (a)(3) of this section, the reference to the defined term
20 "correctional facility" is substituted for the former reference to a "jail" for
21 consistency throughout this article.

22 Defined terms: "Correctional facility" § 1-101

23 "Person" § 1-101

24 5-206. REINSTATEMENT OF BAIL AFTER DISCHARGE AT PRELIMINARY HEARING.

25 IN A CRIMINAL CASE, A JUDGE MAY REINSTATE ANY BAIL, BOND, OR
26 RECOGNIZANCE FOR CRIMINAL CHARGES DISCHARGED AT A PRELIMINARY HEARING
27 IN THE DISTRICT COURT, IF A NEW CHARGING DOCUMENT ARISES OUT OF THE
28 SUBSTANTIALLY SAME SET OF FACTS.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 616 1/2(g).

31 The former reference to an "indictment" is deleted as included in the
32 defined term "charging document".

33 Defined term: "Charging document" § 1-101

34 5-207. TERMINATION OF BOND ON SENTENCING.

35 (A) IN GENERAL.

1 IF A DEFENDANT IS FOUND GUILTY IN A CIRCUIT COURT AND SENTENCED TO
2 IMPRISONMENT, A BOND ON WHICH THE DEFENDANT WAS RELEASED BEFORE THE
3 SENTENCING IS TERMINATED.

4 (B) NEW BOND ON APPEAL.

5 IF THE DEFENDANT FILES A NOTICE OF APPEAL AND THE SENTENCING COURT
6 REQUIRES A BOND TO BE POSTED, THE DEFENDANT SHALL POST A NEW BOND.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 616 1/2(h).

9 In subsection (b) of this section, the reference to "fil[ing] a notice" of appeal
10 is substituted for the former reference to "tak[ing]" an appeal for accuracy.
11 *See* Md. Rules 8-201 and 8-202.

12 5-208. STRIKING OUT FORFEITURE OF BAIL OR COLLATERAL; PRODUCTION OF
13 DEFENDANT.

14 (A) "RETURN" DEFINED.

15 IN THIS SECTION, "RETURN" MEANS TO PLACE IN THE CUSTODY OF A POLICE
16 OFFICER, SHERIFF, OR OTHER COMMISSIONED LAW ENFORCEMENT OFFICER WHO IS
17 AUTHORIZED TO MAKE ARRESTS WITHIN THE JURISDICTION OF THE COURT.

18 (B) IN GENERAL.

19 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COURT THAT
20 EXERCISES CRIMINAL JURISDICTION SHALL STRIKE OUT A FORFEITURE OF BAIL OR
21 COLLATERAL AND DISCHARGE THE UNDERLYING BAIL BOND IF THE DEFENDANT
22 CAN SHOW REASONABLE GROUNDS FOR THE DEFENDANT'S FAILURE TO APPEAR.

23 (2) THE COURT SHALL:

24 (I) ALLOW A SURETY 90 DAYS AFTER THE DATE OF THE
25 DEFENDANT'S FAILURE TO APPEAR OR, FOR GOOD CAUSE SHOWN, 180 DAYS TO
26 RETURN THE DEFENDANT BEFORE REQUIRING THE PAYMENT OF ANY FORFEITURE
27 OF BAIL OR COLLATERAL; AND

28 (II) STRIKE OUT A FORFEITURE OF BAIL OR COLLATERAL AND
29 DEDUCT ONLY THE ACTUAL EXPENSE INCURRED FOR THE DEFENDANT'S ARREST,
30 APPREHENSION, OR SURRENDER, IF:

31 1. THE DEFENDANT IS RETURNED; AND

32 2. THE ARREST, APPREHENSION, OR SURRENDER OCCURS
33 MORE THAN 90 DAYS AFTER THE DEFENDANT'S FAILURE TO APPEAR OR AT THE END
34 OF THE PERIOD THAT THE COURT ALLOWS TO RETURN THE DEFENDANT.

35 (C) CONFINEMENT OF DEFENDANT.

1 EVIDENCE OF CONFINEMENT OF A FUGITIVE DEFENDANT IN A CORRECTIONAL
2 FACILITY IN THE UNITED STATES IS A WHOLLY SUFFICIENT GROUND TO STRIKE OUT
3 A FORFEITURE, IF ASSURANCE IS GIVEN THAT THE DEFENDANT WILL COME BACK TO
4 THE JURISDICTION OF THE COURT ON EXPIRATION OF THE SENTENCE AT NO
5 EXPENSE TO THE STATE, COUNTY, OR MUNICIPAL CORPORATION.

6 (D) STETTED CHARGE.

7 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
8 THE COURT INDEFINITELY POSTPONES TRIAL OF A CRIMINAL CHARGE BY MARKING
9 THE CRIMINAL CHARGE "STET" ON THE DOCKET:

10 (I) THE DEFENDANT OR OTHER PERSON WHO GAVE COLLATERAL
11 FOR BAIL OR RECOGNIZANCE IS ENTITLED TO A REFUND; AND

12 (II) IF A BAIL BOND OR OTHER SECURITY WAS GIVEN, THE BAIL
13 BOND OR OTHER SECURITY SHALL BE DISCHARGED.

14 (2) IF THE BAIL BOND OR OTHER SECURITY HAS BEEN DECLARED
15 FORFEITED AND 10 YEARS HAVE PASSED SINCE THE BAIL BOND OR OTHER SECURITY
16 WAS POSTED, THE DEFENDANT OR OTHER PERSON MAY NOT RECEIVE A REFUND OR
17 DISCHARGE.

18 (E) DEFENDANT CONFINED OUTSIDE STATE; GIVE BACK OF BOND OR
19 COLLATERAL TO SURETY.

20 (1) A COURT EXERCISING CRIMINAL JURISDICTION MAY NOT ORDER A
21 FORFEITURE OF THE BAIL BOND OR COLLATERAL POSTED BY A SURETY AND SHALL
22 GIVE BACK THE BAIL BOND OR COLLATERAL TO THE SURETY IF:

23 (I) THE DEFENDANT FAILS TO APPEAR IN COURT; AND

24 (II) THE SURETY PRODUCES EVIDENCE, WITHIN THE TIME LIMITS
25 ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, THAT:

26 1. THE DEFENDANT IS CONFINED IN A CORRECTIONAL
27 FACILITY OUTSIDE THE STATE;

28 2. THE STATE'S ATTORNEY IS UNWILLING TO ISSUE A
29 DETAINER AND LATER EXTRADITE THE DEFENDANT; AND

30 3. THE SURETY AGREES IN WRITING TO DEFRAY THE
31 EXPENSE OF RETURNING THE DEFENDANT TO THE JURISDICTION IN ACCORDANCE
32 WITH SUBSECTION (B) OF THIS SECTION.

33 (2) A COURT EXERCISING CRIMINAL JURISDICTION THAT HAS ORDERED
34 FORFEITURE OF A BAIL BOND OR COLLATERAL AFTER EXPIRATION OF THE TIME
35 LIMITS ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION FOR A SURETY TO
36 RETURN A DEFENDANT SHALL GIVE BACK THE FORFEITED BAIL BOND OR

1 COLLATERAL IF, WITHIN 10 YEARS AFTER THE DATE THE BAIL BOND OR
2 COLLATERAL WAS POSTED, THE SURETY PRODUCES EVIDENCE THAT:

3 (I) THE DEFENDANT IS CONFINED IN A CORRECTIONAL FACILITY
4 OUTSIDE THE STATE;

5 (II) THE STATE'S ATTORNEY IS UNWILLING TO ISSUE A DETAINER
6 AND LATER EXTRADITE THE DEFENDANT; AND

7 (III) THE SURETY AGREES IN WRITING TO DEFRAY THE EXPENSE OF
8 RETURNING THE DEFENDANT TO THE JURISDICTION IN ACCORDANCE WITH
9 SUBSECTION (B) OF THIS SECTION.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 616 1/2(e).

12 In subsection (a) of this section, the former phrase "unless the context
13 indicates otherwise" is deleted as an unnecessary statement of a standard
14 rule of statutory construction that applies to all definitions.

15 Also in subsection (a) of this section, the word "return" is substituted for
16 the former references to "produce" and "produced" for clarity.

17 Also in subsection (a) of this section, the former reference to "the
18 defendant" is deleted as redundant.

19 In subsections (b)(1) and (e)(1) and (2) of this section, the references to a
20 "bail bond" are substituted for the former references to a "bond" to conform
21 to the terminology used throughout this subtitle.

22 In subsection (b)(1) of this section, the phrase "failure to appear" is
23 substituted for the former reference to "nonappearance" to conform to the
24 terminology used throughout this subtitle.

25 In subsections (c) and (e)(1)(ii)1 and (2)(i) of this section, the references to
26 the defined term "correctional facility" are substituted for the former
27 references to a "penal institution" for consistency throughout this article.

28 In subsection (d)(1) of this section, the reference to a criminal "charge" is
29 substituted for the former reference to a criminal "case" for accuracy. *See*
30 *Md. Rule 4-248.*

31 Also in subsection (d)(1) of this section, the clause "if the court indefinitely
32 postpones trial of a criminal charge by marking the criminal charge `stet'
33 on the docket" is substituted for the former reference to "stetted" to clarify
34 the meaning of that term.

35 Defined terms: "Correctional facility" § 1-101

36 "County" § 1-101

37 "Person" § 1-101

1 5-209. PROPERTY BONDSMEN.

2 (A) "PROPERTY BONDSMAN" DEFINED.

3 IN THIS SECTION, "PROPERTY BONDSMAN" MEANS A PERSON OTHER THAN A
4 DEFENDANT WHO EXECUTES A BAIL BOND SECURED BY REAL ESTATE IN THE STATE.

5 (B) AGENT.

6 A PROPERTY BONDSMAN MAY AUTHORIZE AN AGENT IN WRITING TO EXECUTE
7 ON BEHALF OF THE PROPERTY BONDSMAN:

8 (1) A BAIL BOND; AND

9 (2) A DECLARATION OF TRUST OR DEED OF TRUST TO SECURE A BAIL
10 BOND BY REAL ESTATE.

11 (C) ACCEPTANCE OF BOND.

12 IF ALL OTHER REQUIREMENTS OF LAW ARE MET, A PERSON AUTHORIZED BY
13 LAW TO TAKE A BAIL BOND SHALL TAKE A BAIL BOND SECURED BY DECLARATION OF
14 TRUST OR DEED OF TRUST ON REAL ESTATE PROPERLY EXECUTED BY AN
15 AUTHORIZED AGENT OF A PROPERTY BONDSMAN.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 616 1/2B.

18 In subsection (a) of this section, the former reference to "one or more
19 parcels" of real property is deleted as surplusage.

20 In subsection (b) of this section, the former reference to "agents" is deleted
21 in light of the word "agent" and Art. 1, § 8, which provides that the singular
22 includes the plural.

23 Defined term: "Person" § 1-101

24 5-210. SOLICITING BUSINESS.

25 (A) DEFINITIONS.

26 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (2) "AGENT" MEANS A PERSON THAT ACTS OR IS AUTHORIZED TO ACT AS
29 THE REPRESENTATIVE OF A BAIL BONDSMAN.

30 (3) (I) "BAIL BONDSMAN" MEANS A LICENSED LIMITED SURETY
31 AGENT OR A LICENSED PROFESSIONAL BAIL BONDSMAN.

1 (II) "BAIL BONDSMAN" DOES NOT INCLUDE A PERSON THAT
2 CONTRACTS WITH A PUBLIC AGENCY TO PROVIDE BAIL BONDS TO PERSONS
3 DETAINED IN A CORRECTIONAL FACILITY.

4 (B) PROHIBITED ACTS.

5 ON THE GROUNDS OF A COURTHOUSE OR CORRECTIONAL FACILITY, A BAIL
6 BONDSMAN OR AN AGENT OF A BAIL BONDSMAN MAY NOT:

7 (1) APPROACH, ENTICE, OR INVITE A PERSON TO USE THE SERVICES OF
8 A BAIL BONDSMAN;

9 (2) DISTRIBUTE, DISPLAY, OR WEAR AN ITEM THAT ADVERTISES THE
10 SERVICES OF A BAIL BONDSMAN; OR

11 (3) OTHERWISE SOLICIT BUSINESS AS A BAIL BONDSMAN.

12 (C) PENALTIES.

13 A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A
14 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

15 (1) A FINE NOT EXCEEDING \$100 FOR A FIRST OFFENSE; AND

16 (2) A FINE NOT EXCEEDING \$1,000 FOR A SUBSEQUENT OFFENSE.

17 (D) REFERRAL TO INSURANCE COMMISSIONER.

18 A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (B) OF THIS SECTION
19 SHALL BE REFERRED TO THE INSURANCE COMMISSIONER FOR APPROPRIATE
20 ACTION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 616 1/2A.

23 In subsection (a)(2) and (3)(ii) of this section, the defined term "person" is
24 substituted for the former reference to "an individual, partnership,
25 association, or corporation" for brevity.

26 In subsection (b) of this section, the reference to "correctional facility" is
27 substituted for the former reference to "jail, or prison" to conform to the
28 terminology used throughout this article.

29 In subsection (c) of this section, the defined term "person" is substituted for
30 the former reference to "individual" to conform to the terminology used
31 throughout this article.

32 Defined terms: "Correctional facility" § 1-101

33 "Person" § 1-101

1 5-211. FAILURE TO SURRENDER AFTER FORFEITURE OF BAIL OR RECOGNIZANCE.

2 (A) BENCH WARRANT.

3 IF A PERSON HAS BEEN CHARGED WITH A CRIME AND ADMITTED TO BAIL OR
4 RELEASED ON RECOGNIZANCE AND THE PERSON FORFEITS THE BAIL OR
5 RECOGNIZANCE AND WILLFULLY FAILS TO SURRENDER, A BENCH WARRANT SHALL
6 BE ISSUED FOR THE PERSON'S ARREST.

7 (B) PENALTIES.

8 A PERSON WHO HAS BEEN ADMITTED TO BAIL OR RELEASED ON
9 RECOGNIZANCE IN A CRIMINAL CASE IN THE STATE AND WHO WILLFULLY FAILS TO
10 SURRENDER WITHIN 30 DAYS AFTER THE DATE OF FORFEITURE IS GUILTY OF A
11 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

12 (1) A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 5
13 YEARS OR BOTH, IF THE BAIL OR RECOGNIZANCE WAS GIVEN IN CONNECTION WITH
14 A CHARGE OF A FELONY OR PENDING AN APPEAL, CERTIORARI, HABEAS CORPUS, OR
15 POSTCONVICTION PROCEEDING AFTER CONVICTION OF ANY CRIME; OR

16 (2) A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1
17 YEAR OR BOTH, IF THE BAIL OR RECOGNIZANCE WAS GIVEN IN CONNECTION WITH A
18 CHARGE OF A MISDEMEANOR, OR FOR APPEARANCE AS A WITNESS.

19 (C) EFFECT OF SECTION.

20 THIS SECTION DOES NOT DIMINISH THE POWER OF A COURT TO PUNISH FOR
21 CONTEMPT.

22 (D) STATUTE OF LIMITATIONS AND IN BANC REVIEW.

23 A PERSON WHO IS PROSECUTED UNDER SUBSECTION (B)(1) OF THIS SECTION IS
24 SUBJECT TO § 5-106(B) OF THE COURTS ARTICLE REGARDING THE EXEMPTION FROM
25 THE STATUTE OF LIMITATIONS FOR THE INSTITUTION OF PROSECUTION AND THE
26 RIGHT OF IN BANC REVIEW.

27 REVISOR'S NOTE: Subsections (a) through (c) of this section are new language
28 derived without substantive change from former Art. 27, § 12B.

29 Subsection (d) of this section is new language substituted for the former
30 reference to being "imprisoned in the penitentiary" for consistency with CS
31 § 9-103(a), which requires convicted persons to be sentenced to the
32 jurisdiction of the Division of Correction. The revision does not alter the
33 two substantive matters that a penitentiary misdemeanor provision
34 connotes, *i.e.*, exemption from the statute of limitations and the right to in
35 banc review. *See* CJ § 5-106(b). *See* Ch. _____, Acts of 2001, § _____ which
36 also enacted this revision.

37 In subsection (b) of this section, the reference to being "guilty of a

1 misdemeanor" is added to state expressly that which only was implied in
2 the former law. In this State, any crime that was not a felony at common
3 law and has not been declared a felony by statute, is considered to be a
4 misdemeanor. *See State v. Canova*, 278 Md. 493, 490 (1976), *Bowser v.*
5 *State*, 136 Md. 342, 345 (1920), *Dutton v. State*, 123 Md. 373, 378 (1914),
6 and *Williams v. State*, 4 Md. App. 342, 347.

7 In subsection (c) of this section, the reference to the inability of this section
8 to "diminish" the power of a court to punish for contempt is substituted for
9 the former reference to the inability of this section to "interfere with or
10 prevent the exercise" by any court of its power to punish, for brevity.

11 Defined term: "Person" § 1-101

12 5-212. FAILURE TO APPEAR IN RESPONSE TO CITATION.

13 (A) APPLICATION OF SECTION.

14 THIS SECTION DOES NOT APPLY TO A CITATION:

15 (1) FOR A VIOLATION OF A PARKING ORDINANCE OR REGULATION
16 ADOPTED UNDER TITLE 26, SUBTITLE 3 OF THE TRANSPORTATION ARTICLE;

17 (2) ADOPTED BY THE CHIEF JUDGE OF THE DISTRICT COURT UNDER §
18 1-605(D)(8) OF THE COURTS ARTICLE, FOR USE IN TRAFFIC OFFENSES; OR

19 (3) ISSUED BY A NATURAL RESOURCES POLICE OFFICER UNDER § 1-205
20 OF THE NATURAL RESOURCES ARTICLE.

21 (B) BENCH WARRANT.

22 A BENCH WARRANT MAY BE ISSUED FOR THE ARREST OF A DEFENDANT WHO
23 FAILS TO APPEAR IN COURT IN RESPONSE TO A CITATION.

24 (C) PENALTY.

25 A PERSON WHO FAILS TO APPEAR IN COURT IN RESPONSE TO A CITATION IS
26 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
27 EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 12C.

30 In subsection (a)(3) of this section, the phrase "issued by a Natural
31 Resources police officer" is substituted for the former phrase "[p]rescribed
32 by the Department of Natural Resources" for accuracy.

33 Defined term: "Person" § 1-101

1 5-213. VIOLATION OF CONDITIONS OF PRETRIAL RELEASE.

2 (A) BENCH WARRANT.

3 A COURT MAY ISSUE A BENCH WARRANT FOR THE ARREST OF A DEFENDANT
4 WHO VIOLATES A CONDITION OF PRETRIAL RELEASE.

5 (B) COURT ACTION.

6 AFTER A DEFENDANT IS PRESENTED BEFORE A COURT, THE COURT MAY:

7 (1) REVOKE THE DEFENDANT'S PRETRIAL RELEASE; OR

8 (2) CONTINUE THE DEFENDANT'S PRETRIAL RELEASE WITH OR
9 WITHOUT CONDITIONS.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 616 1/2(o).

12 In subsection (a) of this section, the former reference to being "charged
13 with a criminal offense" is deleted as implicit in the reference to a
14 "defendant".

15 GENERAL REVISOR'S NOTE TO SUBTITLE:

16 Former Art. 87, §§ 6 and 7, which authorized a sheriff or sheriff's deputy to take
17 a bail bond under specified circumstances, are deleted as obsolete. The chief deputy
18 sheriff for Baltimore City reports that in his 25-year career he has never used these
19 sections -- the standard practice is for sheriffs to take persons they arrest to the clerk
20 of the court to post a bond. The executive board of the Maryland Sheriffs' Association
21 concurs that these sections are obsolete.

22 TITLE 6. TRIAL AND SENTENCING.

23 SUBTITLE 1. TRIAL.

24 6-101. RIGHT TO TRIAL BY JURY.

25 IN A CRIMINAL CASE TRIED IN A COURT OF GENERAL JURISDICTION, THERE IS
26 NO RIGHT TO A JURY TRIAL UNLESS:

27 (1) THE CRIME CHARGED IS SUBJECT TO A PENALTY OF IMPRISONMENT;
28 OR

29 (2) THERE IS A CONSTITUTIONAL RIGHT TO A JURY TRIAL FOR THE
30 CRIME.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 593A.

33 In this section, the references to "crime" are substituted for the former

1 references to "offense" to avoid any ambiguity that "offense" could apply to
2 an offense other than an offense that results in a criminal conviction and to
3 conform to terminology used in the Correctional Services Article. *See, e.g.*,
4 CS § 4-306(c)(1)(iii).

5 6-102. ROLE OF JURY.

6 EXCEPT AS PROVIDED IN § 6-104 OF THIS SUBTITLE, IN THE TRIAL OF A
7 CRIMINAL CASE IN WHICH THERE IS A JURY, THE JURY IS THE JUDGE OF LAW AND
8 FACT.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first clause of the first sentence of former Art. 27, § 593.

11 In this section, the reference to a trial "in which there is a jury" is added in
12 light of § 6-101 of this subtitle and to state expressly what was only
13 implied in the former reference to the trial of "all criminal cases".

14 The Criminal Procedure Article Review Committee notes, for consideration
15 by the General Assembly, that the General Assembly may wish to delete
16 this section as unnecessary in light of Article 23 of the Maryland
17 Declaration of Rights, which declares that "[i]n the trial of all criminal
18 cases, the Jury shall be the Judges of Law, as well as of fact".

19 6-103. TRIAL DATE.

20 (A) REQUIREMENTS FOR SETTING DATE.

21 (1) THE DATE FOR TRIAL OF A CRIMINAL MATTER IN THE CIRCUIT
22 COURT SHALL BE SET WITHIN 30 DAYS AFTER THE EARLIER OF:

23 (I) THE APPEARANCE OF COUNSEL; OR

24 (II) THE FIRST APPEARANCE OF THE DEFENDANT BEFORE THE
25 CIRCUIT COURT, AS PROVIDED IN THE MARYLAND RULES.

26 (2) THE TRIAL DATE MAY NOT BE LATER THAN 180 DAYS AFTER THE
27 EARLIER OF THOSE EVENTS.

28 (B) CHANGE OF DATE.

29 FOR GOOD CAUSE SHOWN, THE ADMINISTRATIVE JUDGE OF A COUNTY OR A
30 DESIGNEE OF THE JUDGE MAY GRANT A CHANGE OF THE TRIAL DATE IN A CIRCUIT
31 COURT:

32 (1) ON MOTION OF A PARTY; OR

33 (2) ON THE INITIATIVE OF THE CIRCUIT COURT.

34 (C) COURT RULES.

1 THE COURT OF APPEALS MAY ADOPT ADDITIONAL RULES TO CARRY OUT THIS
2 SECTION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 591.

5 As to the first appearance of a defendant before a circuit court, as specified
6 in subsection (a)(1)(ii) of this section, *see* Md. Rule 4-213(c).

7 In subsection (c) of this section, the former reference to rules of "practice
8 and procedure" is deleted as unnecessary.

9 Also in subsection (c) of this section, the former phrase "in circuit courts" is
10 deleted as surplusage.

11 Also in subsection (c) of this section, the phrase "to carry out" is
12 substituted for the former phrase "for the implementation of" to conform to
13 the terminology used throughout this article. *See* General Revisor's Note to
14 article.

15 Defined term: "County" § 1-101

16 6-104. MOTION FOR JUDGMENT OF ACQUITTAL ON GROUND OF INSUFFICIENT
17 EVIDENCE.

18 (A) MOTION AFTER STATE'S EVIDENCE.

19 (1) AT THE CLOSE OF THE EVIDENCE FOR THE STATE, A DEFENDANT
20 MAY MOVE FOR JUDGMENT OF ACQUITTAL ON ONE OR MORE COUNTS OR ON ONE OR
21 MORE DEGREES OF A CRIME, ON THE GROUND THAT THE EVIDENCE IS
22 INSUFFICIENT IN LAW TO SUSTAIN A CONVICTION AS TO THE COUNT OR DEGREE.

23 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF THE COURT
24 DENIES THE MOVE FOR JUDGMENT OF ACQUITTAL, THE DEFENDANT MAY OFFER
25 EVIDENCE ON THE DEFENDANT'S BEHALF WITHOUT HAVING RESERVED THE RIGHT
26 TO DO SO.

27 (3) IF THE DEFENDANT OFFERS EVIDENCE AFTER MAKING A MOTION
28 FOR JUDGMENT OF ACQUITTAL, THE MOTION IS DEEMED WITHDRAWN.

29 (B) MOTION AFTER ALL EVIDENCE.

30 (1) THE DEFENDANT MAY MOVE FOR JUDGMENT OF ACQUITTAL AT THE
31 CLOSE OF ALL THE EVIDENCE WHETHER OR NOT A MOTION FOR JUDGMENT OF
32 ACQUITTAL WAS MADE AT THE CLOSE OF THE EVIDENCE FOR THE STATE.

33 (2) IF THE COURT DENIES THE MOTION FOR JUDGMENT OF ACQUITTAL,
34 THE DEFENDANT MAY HAVE REVIEW OF THE RULING ON APPEAL.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from the second, third, and fourth sentences and the second clause

1 of the first sentence of former Art. 27, § 593.

2 In subsection (a)(1) of this section, the reference to a "crime" is substituted
3 for the former reference to an "offense" to avoid any ambiguity that
4 "offense" could apply to an offense other than an offense that results in a
5 criminal conviction and to conform to terminology used in the Correctional
6 Services Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

7 Also in subsection (a)(1) of this section, the reference to the "defendant" is
8 substituted for the former reference to the "accused" for clarity and
9 consistency within this section. Similarly, in subsection (a)(2) and (3) of
10 this section, the references to the "defendant" and the "defendant's" are
11 substituted for the former references to "he" and "his".

12 In subsections (a)(2) and (b)(2) of this section, the references to the "court
13 den[ying]" the motion for judgment of acquittal are added to clarify that it
14 is the court who denies the motion.

15 In subsection (a)(2) of this section, the phrase "[s]ubject to paragraph (3) of
16 this subsection" is added for clarity.

17 In subsection (b)(1) of this section, the reference to the "defendant" is
18 added to clarify that it is the defendant making the motion.

19 6-105. MOTION FOR NEW TRIAL.

20 (A) TIMING OF HEARING ON MOTION.

21 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A COURT IN WHICH
22 A MOTION FOR A NEW TRIAL IN A CRIMINAL CASE IS PENDING SHALL HEAR THE
23 MOTION:

24 (1) WITHIN 10 DAYS AFTER THE MOTION IS FILED; OR

25 (2) IF AN AGREED STATEMENT OF THE EVIDENCE OR A STATEMENT OF
26 THE EVIDENCE CERTIFIED BY THE TRIAL JUDGE IS FILED, WITHIN 10 DAYS AFTER
27 THE STATEMENT IS FILED.

28 (B) EXTENSION OF TIME FOR HEARING.

29 THE TIME FOR THE HEARING OF A MOTION FOR A NEW TRIAL MAY BE
30 EXTENDED BY:

31 (1) A WRITTEN AGREEMENT, SIGNED BY THE STATE'S ATTORNEY OF THE
32 COUNTY IN WHICH THE MOTION IS PENDING AND THE DEFENDANT OR THE
33 DEFENDANT'S COUNSEL; OR

34 (2) AN ORDER SIGNED BY THE TRIAL JUDGE.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 27, § 594(a).

1 %In subsection (a)(2) of this section, the reference to the "trial judge" is
2 substituted for the former reference to the "judge before whom the case
3 was tried" for brevity.

4 In subsection (b)(1) of this section, the reference to the "defendant's
5 counsel" is substituted for the former reference to "his counsel" for clarity.

6 Also in subsection (b)(1) of this section, the former reference to the "City of
7 Baltimore" is deleted as included in the defined term "county".

8 The Criminal Procedure Article Review Committee notes, for consideration
9 by the General Assembly, that the 10-day time period within which a court
10 is required to hear a motion for a new trial in a criminal case is contrary to
11 current practice. The General Assembly may wish to delete subsection (a)
12 of this section as obsolete.

13 Defined term: "County" § 1-101

14 6-106. RIGHTS OF VICTIM OR VICTIM'S REPRESENTATIVE.

15 (A) NOTICE.

16 BEFORE A HEARING UNDER § 6-105 OF THIS SUBTITLE, THE VICTIM OR VICTIM'S
17 REPRESENTATIVE SHALL BE NOTIFIED AS PROVIDED UNDER § 11-104 OR § 11-503 OF
18 THIS ARTICLE.

19 (B) ATTENDANCE AT HEARING.

20 A VICTIM OR VICTIM'S REPRESENTATIVE HAS THE RIGHT TO ATTEND A
21 HEARING UNDER § 6-105 OF THIS SUBTITLE AS PROVIDED UNDER § 11-102 OF THIS
22 ARTICLE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 2-594(b) and (c).

25 In subsection (a) of this section, the former reference to a victim or victim's
26 representative being notified "of the proceeding" is deleted as implicit in
27 the reference to the requirement that the victim or victim's representative
28 be notified.

29 Former Art. 27, § 593B, which cross-referenced former Title 12 of the
30 Health - General Article -- now revised as Title 2 of this article, is deleted
31 as unnecessary.

32 Former Art. 27, § 791, which cross-referenced Art. 27, § 461A concerning
33 the admissibility of evidence relating to a victim's chastity or prior sexual
34 conduct, is deleted as unnecessary.

1 SUBTITLE 2. SENTENCING.

2 PART I. STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

3 6-201.

4 "COMMISSION" DEFINED.

5 IN THIS PART, "COMMISSION" MEANS THE STATE COMMISSION ON CRIMINAL
6 SENTENCING POLICY.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 21-101.

9 6-202. STATEMENT OF INTENT.

10 THE GENERAL ASSEMBLY INTENDS THAT:

11 (1) SENTENCING SHOULD BE FAIR AND PROPORTIONAL AND THAT
12 SENTENCING POLICIES SHOULD REDUCE UNWARRANTED DISPARITY, INCLUDING
13 ANY RACIAL DISPARITY, IN SENTENCES FOR CRIMINALS WHO HAVE COMMITTED
14 SIMILAR CRIMES AND HAVE SIMILAR CRIMINAL HISTORIES;

15 (2) SENTENCING POLICIES SHOULD HELP CITIZENS TO UNDERSTAND
16 HOW LONG A CRIMINAL WILL BE CONFINED;

17 (3) SENTENCING POLICIES SHOULD PRESERVE JUDICIAL DISCRETION
18 AND SUFFICIENT FLEXIBILITY TO ALLOW INDIVIDUALIZED SENTENCES;

19 (4) SENTENCING GUIDELINES BE VOLUNTARY;

20 (5) THE PRIORITY FOR THE CAPACITY AND USE OF CORRECTIONAL
21 FACILITIES SHOULD BE THE CONFINEMENT OF VIOLENT AND CAREER CRIMINALS;
22 AND

23 (6) SENTENCING JUDGES IN THE STATE SHOULD BE ABLE TO IMPOSE
24 THE MOST APPROPRIATE CRIMINAL PENALTIES, INCLUDING CORRECTIONS OPTIONS
25 PROGRAMS FOR APPROPRIATE CRIMINALS.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 21-102.

28 In items (1), (2), (5), and (6) of this section, the references to a "criminal"
29 and "criminals" are substituted for the former reference to an "offender"
30 and "offenders" to conform to the terminology used throughout this article.
31 Similarly, in item (1) of this section, the reference to "crimes" is substituted
32 for the former reference to "offenses".

33 In items (2) and (5) of this section, the references to being "confined" and
34 "confinement" are substituted for the former references to being

1 "incarcerated" and "incarceration" to conform to the terminology of this
2 article and of the Correctional Services Article.

3 In item (2) of this section, the former reference to an offender who will
4 "actually" be confined is deleted as implicit in the reference to being
5 "confined".

6 In item (3) of this section, the former reference to "meaningful judicial
7 discretion in the imposition of sentences" is deleted as implicit in the
8 reference to "judicial discretion".

9 In item (4) of this section, the former clause "it is voluntary for the court to
10 sentence within the guidelines" is deleted as redundant in light of the
11 phrase "sentencing guidelines be voluntary".

12 Defined term: "Correctional facility" § 1-101

13 6-203. ESTABLISHED.

14 THERE IS A STATE COMMISSION ON CRIMINAL SENTENCING POLICY.

15 REVISOR'S NOTE: This section formerly was Art. 41, § 21-103.

16 No changes are made.

17 6-204. MEMBERSHIP.

18 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

19 THE COMMISSION CONSISTS OF THE FOLLOWING 19 MEMBERS:

20 (1) A CHAIRMAN, APPOINTED BY THE GOVERNOR;

21 (2) (I) THE CHIEF JUDGE OF THE COURT OF APPEALS; OR

22 (II) A JUDGE OR FORMER JUDGE OF THE COURT OF APPEALS OR
23 THE COURT OF SPECIAL APPEALS DESIGNATED BY THE CHIEF JUDGE OF THE COURT
24 OF APPEALS;

25 (3) ONE CIRCUIT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF
26 THE COURT OF APPEALS;

27 (4) ONE DISTRICT COURT JUDGE, APPOINTED BY THE CHIEF JUDGE OF
28 THE COURT OF APPEALS;

29 (5) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE;

30 (6) ONE STATE'S ATTORNEY WHO IS RECOMMENDED BY THE PRESIDENT
31 OF THE MARYLAND STATE'S ATTORNEYS ASSOCIATION, APPOINTED BY THE
32 GOVERNOR;

1 (7) THE PUBLIC DEFENDER OR THE PUBLIC DEFENDER'S DESIGNEE;

2 (8) A CRIMINAL DEFENSE ATTORNEY WHO IS RECOMMENDED BY THE
3 PRESIDENT OF THE MARYLAND CRIMINAL DEFENSE ATTORNEYS ASSOCIATION,
4 APPOINTED BY THE GOVERNOR;

5 (9) TWO MEMBERS OF THE STATE SENATE, INCLUDING AT LEAST ONE
6 MEMBER OF THE SENATE JUDICIAL PROCEEDINGS COMMITTEE, APPOINTED BY THE
7 PRESIDENT OF THE SENATE;

8 (10) TWO MEMBERS OF THE HOUSE OF DELEGATES, INCLUDING AT
9 LEAST ONE MEMBER OF THE HOUSE JUDICIARY COMMITTEE, APPOINTED BY THE
10 SPEAKER OF THE HOUSE;

11 (11) THE SECRETARY OF THE DEPARTMENT OR THE SECRETARY'S
12 DESIGNEE;

13 (12) ONE REPRESENTATIVE FROM A VICTIMS' ADVOCACY GROUP,
14 APPOINTED BY THE GOVERNOR;

15 (13) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, APPOINTED BY
16 THE GOVERNOR;

17 (14) ONE MEMBER WITH A BACKGROUND IN CRIMINAL JUSTICE OR
18 CORRECTIONS POLICY WHO IS A RECOGNIZED EXPERT IN THE FIELD AND WHO IS
19 APPOINTED BY THE GOVERNOR;

20 (15) ONE REPRESENTATIVE OF LOCAL CORRECTIONAL FACILITIES,
21 APPOINTED BY THE GOVERNOR; AND

22 (16) TWO REPRESENTATIVES OF THE PUBLIC, APPOINTED BY THE
23 GOVERNOR.

24 (B) TERMS.

25 (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

26 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
27 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON
28 OCTOBER 1, 2001.

29 (3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO
30 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

31 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
32 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
33 QUALIFIES.

34 (C) REMOVAL.

1 THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
2 MISCONDUCT.

3 REVISOR'S NOTE: Subsections (a) and (b) of this section are new language
4 derived without substantive change from former Art. 41, § 21-104(a) and
5 (b)(1) through (4).

6 Subsection (c) of this section is new language that repeats the provisions of
7 Md. Constitution, Art. II, § 15. For other provisions on removal, *see* Md.
8 Constitution, Art. XV, § 2, on suspension and removal for crimes, and SG §
9 8-501, on removal for failure to attend meetings.

10 In subsection (b)(2) of this section, the phrase "as required by the terms
11 provided for members of the Commission on October 1, 2001" is standard
12 language added for clarity. The terms of the members serving on October 1,
13 2001, and who are subject to appointment end as follows: (1) seven in 2003;
14 and (2) six in 2005.

15 Former Art. 41, § 21-104(b)(5), which allowed reappointment, is deleted as
16 unnecessary. As a general rule, the right to serve successive terms is not
17 limited, absent an express provision to the contrary.

18 Defined terms: "Commission" § 6-201

19 "Department" § 1-101

20 "Local correctional facility" § 1-101

21 6-205. QUORUM; MEETINGS; COMPENSATION; STAFF.

22 (A) QUORUM.

23 A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A
24 QUORUM.

25 (B) MEETINGS.

26 (1) THE COMMISSION SHALL MEET QUARTERLY AT THE TIMES AND
27 PLACES THAT IT DETERMINES.

28 (2) THE COMMISSION MAY HOLD ADDITIONAL MEETINGS AT THE CALL
29 OF THE CHAIRMAN OR ANY SIX MEMBERS OF THE COMMISSION AFTER GIVING
30 PROPER NOTICE IN THE MANNER PROVIDED IN THE RULES OF THE COMMISSION.

31 (C) COMPENSATION.

32 A MEMBER OF THE COMMISSION:

33 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE
34 COMMISSION; BUT

35 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
36 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

1 (D) STAFF.

2 THE CHAIRMAN MAY SELECT A STAFF IN ACCORDANCE WITH THE STATE
3 BUDGET.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 21-105(a), (b), (g), and (i).

6 In subsection (d) of this section, the former authority granted to the
7 Commission to "employ a staff" is deleted as implicit in the authority of
8 the chairman to "select" a staff.

9 Defined term: "Commission" § 6-201

10 6-206. MISCELLANEOUS POWERS AND DUTIES.

11 (A) POWERS.

12 IN ADDITION TO ANY OTHER POWERS SET FORTH ELSEWHERE, THE
13 COMMISSION MAY:

14 (1) ESTABLISH SUBCOMMITTEES OR ADVISORY COMMITTEES
15 COMPOSED OF COMMISSION MEMBERS TO ACCOMPLISH THE DUTIES IMPOSED
16 UNDER THIS SECTION;

17 (2) REQUIRE EACH STATE UNIT AND LOCAL GOVERNMENT UNIT TO
18 GIVE INFORMATION TO THE COMMISSION ON REQUEST; AND

19 (3) APPLY FOR, ACCEPT, AND USE GRANTS OR FINANCIAL OR OTHER AID
20 FROM A PUBLIC OR PRIVATE SOURCE TO ACCOMPLISH THE DUTIES ESTABLISHED IN
21 THIS PART.

22 (B) DUTIES.

23 AT LEAST ANNUALLY, THE COMMISSION SHALL HOLD A HEARING FOR PUBLIC
24 COMMENTS ABOUT THE ISSUES THAT ARE BEING STUDIED BY THE COMMISSION.

25 (C) REGULATIONS AND CHANGES TO GUIDELINES.

26 (1) THE COMMISSION MAY ADOPT RULES GOVERNING THE
27 ADMINISTRATION AND PROCEEDINGS OF THE COMMISSION.

28 (2) A CHANGE TO THE SENTENCING GUIDELINES REQUIRES ADOPTION
29 BY A MAJORITY OF THE TOTAL NUMBER OF MEMBERS OF THE COMMISSION.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 41, § 21-105(c), (d), (e), (f), and (h).

32 In subsection (c)(2) of this section, the reference to "sentencing" guidelines
33 is added for clarity and to conform to the terminology used throughout this
34 article.

1 Defined term: "Commission" § 6-201

2 6-207. DUTY OF STATE AND LOCAL UNITS.

3 EACH STATE UNIT AND LOCAL GOVERNMENTAL UNIT SHALL COOPERATE WITH
4 THE COMMISSION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 21-105(j).

7 Defined term: "Commission" § 6-201

8 6-208. SENTENCING GUIDELINES.

9 (A) ADOPTION OF GUIDELINES.

10 (1) THE COMMISSION SHALL ADOPT SENTENCING GUIDELINES THAT
11 THE COMMISSION MAY CHANGE.

12 (2) THE SENTENCING GUIDELINES SHALL INCLUDE SENTENCING
13 GUIDELINES FOR ORDINARY SENTENCES AND SENTENCING GUIDELINES FOR
14 CORRECTIONS OPTIONS.

15 (B) GUIDELINES FOR ORDINARY SENTENCES.

16 THE SENTENCING GUIDELINES FOR ORDINARY SENTENCES SHALL CALL FOR
17 SENTENCES WITHIN THE LIMITS SET BY LAW AND SHALL SET FORTH:

18 (1) THE RANGE OF SENTENCES FOR CRIMES OF A GIVEN DEGREE OF
19 SERIOUSNESS;

20 (2) A RANGE OF SEVERITY FOR DEFENDANTS PREVIOUSLY CONVICTED
21 OF OR ADJUDICATED DELINQUENT FOR A PREVIOUS CRIME; AND

22 (3) A LIST OF AGGRAVATING AND MITIGATING CIRCUMSTANCES.

23 (C) GUIDELINES FOR CORRECTIONS OPTIONS.

24 THE SENTENCING GUIDELINES FOR CORRECTIONS OPTIONS SHALL BE
25 DESIGNED TO IDENTIFY DEFENDANTS QUALIFIED FOR CORRECTIONS OPTIONS
26 PROGRAMS.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 21-106(b), (c)(1), and, as it related to the
29 Commission, (a).

30 In subsection (a) of this section, the former reference to "consideration of
31 the recommendations of the Maryland Commission on Criminal
32 Sentencing Policy" is deleted as obsolete. Additionally, the former reference
33 to "existing" sentencing guidelines is deleted as obsolete.

1 %In subsection (a)(2) of this section, the reference to "sentencing guideline
2 for ordinary sentences" options is substituted for the former reference to
3 guidelines "which shall be considered by the sentencing court in
4 determining the appropriate sentence for defendants who plead guilty or
5 nolo contendere to, or who were found guilty of crimes in a circuit court" for
6 brevity.

7 Also in subsection (a)(2) of this section, the reference to "sentencing
8 guidelines for corrections options" is added to state explicitly what was
9 only implied in the former law - that the guidelines should also help
10 identify defendants for corrections options programs.

11 In subsection (b)(2) of this section, the former reference to a range of
12 "increased" severity is deleted as included in the reference to "severity".

13 Also in subsection (b)(2) of this section, the reference to "crime" is
14 substituted for the former reference to an "offense" to conform to the
15 terminology used throughout this article.

16 In subsection (c) of this section, the reference to "sentencing" guidelines is
17 added to conform to the terminology used throughout this article.

18 Defined term: "Commission" § 6-201

19 6-209. ANNUAL REPORT.

20 (A) REQUIRED.

21 THE COMMISSION SHALL REVIEW ANNUALLY SENTENCING POLICY AND
22 PRACTICE AND, ON OR BEFORE DECEMBER 1 OF EACH YEAR, REPORT TO THE
23 GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
24 ARTICLE.

25 (B) CONTENTS.

26 (1) THE REPORT SHALL:

27 (I) INCLUDE ANY CHANGES TO THE SENTENCING GUIDELINES
28 MADE DURING THE PRECEDING YEAR; AND

29 (II) REVIEW JUDICIAL COMPLIANCE WITH THE SENTENCING
30 GUIDELINES, INCLUDING COMPLIANCE BY CRIME AND BY JUDICIAL CIRCUIT.

31 (2) THE COMMISSION SHALL CONSIDER A SENTENCE TO A
32 CORRECTIONS OPTIONS PROGRAM TO BE WITHIN THE SENTENCING GUIDELINES IF
33 THE SENTENCE FALLS WITHIN A CORRECTIONS OPTIONS ZONE SHOWN ON THE
34 MATRIX FOR PROPERTY OFFENSES, DRUG OFFENSES, OR OFFENSES AGAINST
35 PERSONS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 21-106(d).

3 In subsection (b) of this section, the reference to "sentencing" guidelines is
4 added for clarity and consistency with the terminology used throughout
5 this part.

6 In subsection (b)(1)(ii) of this section, the reference to "crime" is
7 substituted for the former reference to "offense" to conform to the
8 terminology used throughout this article.

9 In subsection (b)(2) of this section, the former introductory phrase "[i]n
10 determining whether a sentence is within the guidelines" is deleted as
11 unnecessary.

12 Also in subsection (b)(2) of this section, the reference to the matrix "for
13 property offenses, drug offenses, or offenses against persons" is added for
14 clarity.

15 Defined terms: "Commission" § 6-201

16 "Person" § 1-101

17 6-210. COLLECTING GUIDELINES WORKSHEETS AND MONITORING OF PRACTICE.

18 THE COMMISSION SHALL:

19 (1) COLLECT SENTENCING GUIDELINES WORKSHEETS AND AUTOMATE
20 THE INFORMATION WITH THE HELP OF THE ADMINISTRATIVE OFFICE OF THE
21 COURTS; AND

22 (2) MONITOR SENTENCING PRACTICE AND ADOPT CHANGES TO THE
23 SENTENCING GUIDELINE MATRICES CONSISTENT WITH THE INTENT OF THIS PART.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 21-106(e).

26 In item (2) of this section, the reference to "sentencing" guidelines is added
27 for clarity and to conform to the terminology used throughout this part.

28 6-211. ADOPTION OF VOLUNTARY GUIDELINES.

29 (A) ADOPTION BY COMMISSION.

30 SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL
31 ADOPT AS REGULATIONS SENTENCING GUIDELINES AND ANY CHANGES TO THOSE
32 SENTENCING GUIDELINES, SUBJECT TO TITLE 10, SUBTITLE 1 OF THE STATE
33 GOVERNMENT ARTICLE.

34 (B) REGULATIONS TO BE VOLUNTARY.

1 REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION ARE
2 VOLUNTARY SENTENCING GUIDELINES THAT A COURT NEED NOT FOLLOW.

3 (C) EFFECTIVE DATE OF GUIDELINES.

4 A CHANGE TO THE SENTENCING GUIDELINES TAKES EFFECT ON THE DAY THAT
5 THE REGULATION TAKES EFFECT AS PROVIDED UNDER TITLE 10, SUBTITLE 1 OF THE
6 STATE GOVERNMENT ARTICLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 21-106(f).

9 In subsection (a) of this section, the former reference to "the requirements
10 of" Title 10, Subtitle 1 of the State Government Article is deleted as
11 unnecessary.

12 Defined term: "Commission" § 6-201

13 6-212. TRAINING, OPERATIONS, AND INFORMATION.

14 THE COMMISSION SHALL:

15 (1) HOLD TRAINING AND ORIENTATION PROGRAMS FOR TRIAL COURT
16 JUDGES, ATTORNEYS, PROBATION OFFICERS, AND OTHER INTERESTED PARTIES AS
17 REQUIRED;

18 (2) CONSULT WITH THE GENERAL ASSEMBLY ABOUT CARRYING OUT,
19 MANAGING, MAINTAINING, AND OPERATING THE SENTENCING GUIDELINES SYSTEM;
20 AND

21 (3) PREPARE STATEMENTS CONTAINING FISCAL AND STATISTICAL
22 INFORMATION ON PROPOSED LEGISLATION AFFECTING SENTENCING AND
23 CORRECTIONS PRACTICE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 21-107.

26 In item (1) of this section, the reference to the Commission's holding
27 programs "as required" is substituted for the former reference to the
28 holding of programs "periodically as may be required" for brevity.

29 In item (2) of this section, the reference to "carrying out" the sentencing
30 guidelines system is substituted for the former reference to
31 "implement[ing]" the system, to conform to the terminology used
32 throughout this article. *See* General Revisor's Note to article.

33 Defined term: "Commission" § 6-201

34 6-213. USE OF CORRECTIONAL POPULATION SIMULATION MODEL.

35 (A) REQUIRED.

1 THE COMMISSION SHALL USE A CORRECTIONAL POPULATION SIMULATION
2 MODEL TO HELP DETERMINE THE STATE AND LOCAL CORRECTIONAL RESOURCES
3 THAT:

4 (1) ARE REQUIRED UNDER CURRENT LAWS, POLICIES, AND PRACTICES
5 RELATING TO SENTENCING, PAROLE, AND MANDATORY SUPERVISION; AND

6 (2) WOULD BE REQUIRED TO CARRY OUT FUTURE COMMISSION
7 RECOMMENDATIONS FOR LEGISLATION OR CHANGES TO THE SENTENCING
8 GUIDELINES.

9 (B) LIMITS ON RECOMMENDATIONS FOR CHANGES.

10 IF THE RECOMMENDATIONS OF THE COMMISSION FOR CHANGES IN
11 LEGISLATION WOULD RESULT IN STATE AND LOCAL INMATE POPULATIONS
12 EXCEEDING THE OPERATING CAPACITIES OF AVAILABLE FACILITIES, THE
13 COMMISSION SHALL PRESENT ADDITIONAL SENTENCING MODEL ALTERNATIVES
14 CONSISTENT WITH THESE CAPACITIES.

15 (C) AVAILABILITY OF MODEL.

16 IN SECOND PRIORITY TO THE WORK OF THE COMMISSION, THE COMMISSION
17 SHALL MAKE THE MODEL AVAILABLE ON REQUEST FROM ANY MEMBER OF THE
18 GENERAL ASSEMBLY OR THE SECRETARY.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 21-108.

21 Defined terms: "Commission" § 6-201

22 "Secretary" § 1-101

23 6-214. RESERVED.

24 6-215. RESERVED.

25 PART II. SENTENCING PROCEDURES.

26 6-216. JUDICIAL SENTENCING GUIDELINES.

27 (A) IN GENERAL.

28 (1) A CIRCUIT COURT SHALL CONSIDER:

29 (I) THE SENTENCING GUIDELINES FOR ORDINARY SENTENCES IN
30 DECIDING ON THE PROPER SENTENCE; AND

31 (II) THE SENTENCING GUIDELINES FOR CORRECTIONS OPTIONS IN
32 DECIDING WHETHER TO SENTENCE A DEFENDANT TO A CORRECTIONS OPTIONS
33 PROGRAM OR TO IMPOSE AN ORDINARY SENTENCE.

1 (2) IN DECIDING WHETHER TO SENTENCE A DEFENDANT TO A
2 CORRECTIONS OPTIONS PROGRAM, THE COURT PRIMARILY SHALL CONSIDER THE
3 PUBLIC SAFETY.

4 (B) LIMITS ON GUIDELINES.

5 THE SENTENCING GUIDELINES MAY NOT:

6 (1) ALLOW FOR A SENTENCE EXCEEDING THE MAXIMUM SENTENCE
7 PROVIDED BY LAW; OR

8 (2) BE USED IN VIOLATION OF ANY MANDATORY MINIMUM SENTENCE
9 REQUIRED BY LAW.

10 (C) DELIVERY AND REVIEW OF SENTENCING GUIDELINES WORKSHEET.

11 (1) IF A COURT PREPARES A MARYLAND SENTENCING GUIDELINES
12 WORKSHEET, THE CLERK OF COURT SHALL DELIVER A COPY OF THE MARYLAND
13 SENTENCING GUIDELINES WORKSHEET TO THE UNIT THAT HAS BEEN ORDERED BY
14 THE COURT TO RETAIN CUSTODY OF THE DEFENDANT.

15 (2) THE COPY SHALL BE DELIVERED WITH THE COMMITMENT ORDER OR
16 AS SOON AS PRACTICABLE AFTER ISSUANCE OF THE COMMITMENT ORDER.

17 (3) THE PAROLE COMMISSION SHALL REVIEW A MARYLAND
18 SENTENCING GUIDELINES WORKSHEET TO ENSURE COMPLIANCE WITH THE
19 REQUIREMENTS OF TITLE 7 OF THE CORRECTIONAL SERVICES ARTICLE.

20 REVISOR'S NOTE: Subsection (a) of this section is new language derived
21 without substantive change from former Art. 41, § 21-106(c)(2) and (3)
22 and, as it related to guidelines considered by the circuit court, (a).

23 Subsection (b) of this section is new language derived without substantive
24 change from former Art. 27, § 643C(b).

25 Subsection (c) of this section is new language derived without substantive
26 change from former Art. 27, § 643C(c).

27 In subsection (c)(1) of this section, the reference to a "unit" is substituted
28 for the former reference to an "agency" to conform to the terminology used
29 throughout this article.

30 Former Art. 27, § 643C(a), which prohibited provisions in Article 27 or
31 certain provisions in the Correctional Services Article from being
32 construed to prohibit the use of judicial guidelines in setting sentences, is
33 deleted as unnecessary in light of subsection (a) of this section, which
34 requires circuit courts to consider guidelines when imposing sentences.

35 6-217. ANNOUNCEMENT OF MINIMUM CONFINEMENT FOR VIOLENT CRIME.

36 (A) ANNOUNCEMENT REQUIRED IN OPEN COURT.

1 WHEN A SENTENCE OF CONFINEMENT THAT IS TO BE SERVED IS IMPOSED FOR
2 A VIOLENT CRIME FOR WHICH A DEFENDANT WILL BE ELIGIBLE FOR PAROLE UNDER
3 § 7-301(C) OR (D) OF THE CORRECTIONAL SERVICES ARTICLE, THE COURT SHALL
4 STATE IN OPEN COURT THE MINIMUM TIME THE DEFENDANT MUST SERVE BEFORE
5 BECOMING ELIGIBLE FOR PAROLE.

6 (B) STATEMENT FOR INFORMATION ONLY.

7 THE STATEMENT REQUIRED BY SUBSECTION (A) OF THIS SECTION IS FOR
8 INFORMATION ONLY AND IS NOT A PART OF THE SENTENCE.

9 (C) FAILURE TO COMPLY.

10 THE FAILURE OF A COURT TO COMPLY WITH SUBSECTION (A) OF THIS SECTION
11 DOES NOT AFFECT THE LEGALITY OR EFFICACY OF THE SENTENCE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 640.

14 In subsection (a) of this section, the former reference to "a violent crime as
15 defined in § 7-101 of the Correctional Services Article" is deleted as
16 implied in the reference to a violent crime "for which a defendant will be
17 eligible for parole under § 7-301(c) or (d) of the Correctional Services
18 Article".

19 Defined term: "Violent crime" § 1-101

20 6-218. CREDIT AGAINST SENTENCE FOR TIME SPENT IN CUSTODY.

21 (A) SCOPE OF SECTION.

22 THIS SECTION DOES NOT APPLY TO A PAROLEE WHO IS RETURNED TO THE
23 CUSTODY OF THE DIVISION OF CORRECTION BECAUSE OF A SUBSEQUENT CRIME
24 AND IS CONFINED BEFORE BEING SENTENCED FOR THE SUBSEQUENT CRIME.

25 (B) IN GENERAL.

26 (1) A DEFENDANT WHO IS CONVICTED AND SENTENCED SHALL RECEIVE
27 CREDIT AGAINST AND A REDUCTION OF THE TERM OF A DEFINITE OR LIFE
28 SENTENCE, OR THE MINIMUM AND MAXIMUM TERMS OF AN INDETERMINATE
29 SENTENCE, FOR ALL TIME SPENT IN THE CUSTODY OF A STATE CORRECTIONAL
30 FACILITY, LOCAL CORRECTIONAL FACILITY, HOSPITAL, FACILITY FOR PERSONS WITH
31 MENTAL DISORDERS, OR OTHER UNIT BECAUSE OF:

32 (I) THE CHARGE FOR WHICH THE SENTENCE IS IMPOSED; OR

33 (II) THE CONDUCT ON WHICH THE CHARGE IS BASED.

34 (2) IF A DEFENDANT IS IN CUSTODY BECAUSE A CHARGE THAT RESULTS
35 IN A DISMISSAL OR ACQUITTAL, THE TIME THAT WOULD HAVE BEEN CREDITED IF A
36 SENTENCE HAD BEEN IMPOSED SHALL BE CREDITED AGAINST ANY SENTENCE THAT

1 IS BASED ON A CHARGE FOR WHICH A WARRANT OR COMMITMENT WAS FILED
2 DURING THAT CUSTODY.

3 (3) IN A CASE OTHER THAN A CASE DESCRIBED IN PARAGRAPH (2) OF
4 THIS SUBSECTION, THE SENTENCING COURT MAY APPLY CREDIT AGAINST A
5 SENTENCE FOR TIME SPENT IN CUSTODY FOR ANOTHER CHARGE OR CRIME.

6 (C) CREDIT WHEN PRIOR SENTENCE SET ASIDE.

7 A DEFENDANT WHOSE SENTENCE IS SET ASIDE BECAUSE OF A DIRECT OR
8 COLLATERAL ATTACK AND WHO IS REPROSECUTED OR RESENTENCED FOR THE
9 SAME CRIME OR FOR ANOTHER CRIME BASED ON THE SAME TRANSACTION SHALL
10 RECEIVE CREDIT AGAINST AND A REDUCTION OF THE TERM OF A DEFINITE OR LIFE
11 SENTENCE, OR THE MINIMUM AND MAXIMUM TERMS OF AN INDETERMINATE
12 SENTENCE, FOR ALL TIME SPENT IN CUSTODY UNDER THE PRIOR SENTENCE,
13 INCLUDING CREDIT APPLIED AGAINST THE PRIOR SENTENCE IN ACCORDANCE WITH
14 SUBSECTION (B) OF THIS SECTION.

15 (D) CREDIT WHEN ONE OF MULTIPLE SENTENCES SET ASIDE.

16 A DEFENDANT WHO IS SERVING MULTIPLE SENTENCES, ONE OF WHICH IS SET
17 ASIDE AS THE RESULT OF A DIRECT OR COLLATERAL ATTACK, SHALL RECEIVE
18 CREDIT AGAINST AND A REDUCTION OF THE REMAINING TERM OF A DEFINITE OR
19 LIFE SENTENCE, OR THE REMAINING MINIMUM AND MAXIMUM TERMS OF AN
20 INDETERMINATE SENTENCE, FOR ALL TIME SPENT IN CUSTODY UNDER THE
21 SENTENCE SET ASIDE, INCLUDING CREDIT APPLIED AGAINST THE SENTENCE SET
22 ASIDE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

23 (E) CREDIT AWARDED AT SENTENCING.

24 (1) THE COURT SHALL AWARD THE CREDIT REQUIRED BY THIS SECTION
25 AT THE TIME OF SENTENCING.

26 (2) AFTER HAVING COMMUNICATED WITH THE PARTIES, THE COURT
27 SHALL TELL THE DEFENDANT AND SHALL STATE ON THE RECORD THE AMOUNT OF
28 THE CREDIT AND THE FACTS ON WHICH THE CREDIT IS BASED.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 638C.

31 In subsection (a) of this section, the reference to "confine[ment]" is
32 substituted for the former reference to "incarcerat[ion]" to conform to
33 terminology used throughout this article and the Correctional Services
34 Article. *See* General Revisor's Note to article.

35 In subsections (a), (b)(3), and (c) of this section, the references to a "crime"
36 are substituted for the former references to an "offense" to avoid any
37 ambiguity that "offense" could apply to an offense other than an offense
38 that results in a criminal conviction and to conform to terminology used in
39 the Correctional Services Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

1 %In subsections (b), (c), and (d) of this section, the reference to a "defendant"
2 is substituted for the former reference to a "person" to conform to the
3 terminology used throughout this part.

4 In subsections (b)(1), (c), and (d) of this section, the references to a
5 "reduction of" the terms of a sentence are substituted for the former
6 references to the requirements that the terms be "diminished" to conform
7 to the terminology used throughout this part.

8 In subsection (b)(1) of this section, the defined terms "State correctional
9 facility" and "local correctional facility" are substituted for the former
10 reference to "any state, county or city jail, [or] correctional institution" for
11 clarity and consistency within this article.

12 Also in subsection (b)(1) of this section, the reference to "facility for persons
13 with mental disorders" is substituted for the former narrower reference to
14 "mental hospital" for clarity.

15 Also in subsection (b)(1) of this section, as for the substitution of "unit" for
16 "agency", *see* General Revisor's Note to article.

17 In subsection (b)(2) of this section, the reference to "that custody" is
18 substituted for the former reference to "the pendency of such custody" for
19 brevity.

20 Also in subsection (b)(2) of this section, the reference to the time that
21 would have been credited "if a sentence had been imposed" is substituted
22 for the former reference to the time that would have been credited "against
23 a sentence for the charge, had one been imposed" for brevity.

24 In subsection (b)(3) of this section, the reference to "a case other than a
25 case described in paragraph (2) of this subsection" is substituted for the
26 former reference to "all other cases" for clarity.

27 In subsection (e) of this section, the former reference to "subsections (a), (b)
28 and (c)" is deleted as unnecessary because those subsections of former Art.
29 27, § 638C comprised the rest of the section and, thus, there is no need to
30 specify them.

31 Also in subsection (e) of this section, the reference to "court" is substituted
32 for the former reference to the "trial judge" to conform to the terminology
33 used throughout this subtitle.

34 Also in subsection (e) of this section, the former reference to the amount of
35 "time" is deleted as implicit in the reference to the "amount of the credit".

36 Also in subsection (e) of this section, the former reference to the "provision
37 for" credit is deleted as surplusage.

1 Defined terms: "Local correctional facility" § 1-101

2 "Person" § 1-101

3 "State correctional facility" § 1-101

4 6-219. SUSPENSION OF SENTENCE AND OTHER CONDITIONS PLACED ON SENTENCE.

5 (A) IN GENERAL.

6 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COURT:

7 (1) MAY SUSPEND A SENTENCE GENERALLY OR FOR A DEFINITE TIME;

8 (2) MAY PASS ORDERS AND IMPOSE TERMS AS TO COSTS,
9 RECOGNIZANCE FOR APPEARANCE, OR MATTERS RELATING TO THE RESIDENCE OR
10 CONDUCT OF THE DEFENDANT WHO IS CONVICTED AS MAY BE DEEMED PROPER; OR

11 (3) IF THE DEFENDANT WHO IS CONVICTED IS UNDER 18 YEARS OF AGE,
12 MAY ORDER CONFINEMENT IN ANY CARE OR CUSTODY AS MAY BE DEEMED PROPER.

13 (B) PARTICIPATION IN TREATMENT AND EDUCATION PROGRAMS.

14 (1) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS
15 BEEN CONVICTED OF A VIOLATION OF § 21-902(A) OR (B) OF THE TRANSPORTATION
16 ARTICLE, THE COURT SHALL REQUIRE AS A CONDITION THAT THE DEFENDANT
17 PARTICIPATE IN AN ALCOHOL TREATMENT OR EDUCATION PROGRAM APPROVED BY
18 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, UNLESS THE COURT FINDS
19 AND STATES ON THE RECORD THAT THE INTERESTS OF THE DEFENDANT AND THE
20 PUBLIC DO NOT REQUIRE THE IMPOSITION OF THIS CONDITION.

21 (2) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS
22 BEEN CONVICTED OF A VIOLATION OF ANY PROVISION OF ARTICLE 27, §§ 276
23 THROUGH 303 OF THE CODE, THE COURT SHALL REQUIRE AS A CONDITION THAT THE
24 DEFENDANT PARTICIPATE IN A DRUG TREATMENT OR EDUCATION PROGRAM
25 APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, UNLESS THE
26 COURT FINDS AND STATES ON THE RECORD THAT THE INTERESTS OF THE
27 DEFENDANT AND THE PUBLIC DO NOT REQUIRE THE IMPOSITION OF THIS
28 CONDITION.

29 (C) LOCAL PROVISIONS.

30 (1) IN CALVERT COUNTY, CHARLES COUNTY, AND ST. MARY'S COUNTY,
31 THE COURT MAY IMPOSE A SENTENCE OF CONFINEMENT AS A CONDITION OF
32 PROBATION.

33 (2) IN PRINCE GEORGE'S COUNTY, THE COURT ON CONVICTION MAY
34 SENTENCE A DEFENDANT TO THE LOCAL CORRECTIONAL FACILITY OR PLACE OF
35 CONFINEMENT UNDER THE JURISDICTION OF THE SHERIFF, IF:

1 (I) THE SENTENCE IS TO BE PERFORMED DURING ANY 48-HOUR
2 PERIOD IN A 7-DAY PERIOD, WITH EACH PERIOD OF CONFINEMENT TO BE NOT LESS
3 THAN 2 DAYS OF THE SENTENCE IMPOSED;

4 (II) THE CRIME LEADING TO THE CONVICTION ALLOWS
5 CONFINEMENT IN THE LOCAL CORRECTIONAL FACILITY; AND

6 (III) THE TOTAL SENTENCE DOES NOT EXCEED 30 TWO-DAY
7 PERIODS OF CONFINEMENT.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 639.

10 In subsection (a) of this section, the phrase "[s]ubject to subsection (b) of
11 this section" is added for clarity and to reflect the deletion of the former
12 word "[h]owever" in subsection (b) of this section.

13 Also in subsection (a) of this section, the word "or" is substituted for the
14 former word "and" to clarify that a court may take any of the three actions.

15 Also in subsection (a) of this section, the references to a "defendant who is
16 convicted" are substituted for the former references to the "convicts" and
17 "convict" to conform to the terminology used in this part. Similarly, in
18 subsections (b) and (c)(2) of this section, the reference to a "defendant" is
19 substituted for the former reference to a "person".

20 In subsection (b) of this section, the former references to a condition "of the
21 suspension of sentence" are deleted as unnecessary in light of the
22 references to the court placing a defendant on probation.

23 Also in subsection (b) of this section, the former reference to a court that
24 "affirmatively" states on the record is deleted as implicit in the reference to
25 "states on the record".

26 In subsection (c)(2) of this section, the reference to the court "sentenc[ing]
27 a defendant" is substituted for the former reference to the court "also
28 impos[ing] such sentences as may be provided by law with respect to the
29 offense upon which an accused has been convicted and cause the convict to
30 serve the sentence" for brevity.

31 In subsection (c)(2) and (2)(ii) of this section, the defined term "local
32 correctional facility" is substituted for the former reference to a "county
33 detention center" to conform to the terminology used throughout this
34 article.

35 In subsection (c)(2)(ii) of this section, the reference to a "crime" is
36 substituted for the former references to an "offense" to avoid any ambiguity
37 that "offense" could apply to an offense other than an offense that results
38 in a criminal conviction and to conform to terminology used in the
39 Correctional Services Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

1 %In subsection (c)(2)(iii) of this section, the former reference to the sentence
2 to be "imposed by the judge" is deleted as surplusage.

3 Defined term: "Local correctional facility" § 1-101

4 6-220. PROBATION BEFORE JUDGMENT.

5 (A) IN GENERAL.

6 (1) WHEN A DEFENDANT PLEADS GUILTY OR NOLO CONTENDERE OR IS
7 FOUND GUILTY OF A CRIME, A COURT MAY STAY THE ENTERING OF JUDGMENT,
8 DEFER FURTHER PROCEEDINGS, AND PLACE THE DEFENDANT ON PROBATION
9 SUBJECT TO REASONABLE CONDITIONS IF:

10 (I) THE COURT IS SATISFIED THAT THE BEST INTERESTS OF THE
11 DEFENDANT AND THE PUBLIC WELFARE WOULD BE SERVED; AND

12 (II) THE DEFENDANT GIVES WRITTEN CONSENT AFTER
13 DETERMINATION OF GUILT OR ACCEPTANCE OF A NOLO CONTENDERE PLEA.

14 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE
15 CONDITIONS MAY INCLUDE AN ORDER THAT THE DEFENDANT:

16 (I) PAY A FINE OR MONETARY PENALTY TO THE STATE OR MAKE
17 RESTITUTION; OR

18 (II) PARTICIPATE IN A REHABILITATION PROGRAM, THE PARKS
19 PROGRAM, OR A VOLUNTARY HOSPITAL PROGRAM.

20 (3) BEFORE THE COURT ORDERS A FINE, MONETARY PENALTY, OR
21 RESTITUTION, THE DEFENDANT IS ENTITLED TO NOTICE AND A HEARING TO
22 DETERMINE THE AMOUNT OF THE FINE, MONETARY PENALTY, OR RESTITUTION,
23 WHAT PAYMENT WILL BE REQUIRED, AND HOW PAYMENT WILL BE MADE.

24 (4) ANY FINE OR MONETARY PENALTY IMPOSED AS A CONDITION OF
25 PROBATION SHALL BE WITHIN THE AMOUNT SET BY LAW FOR A VIOLATION
26 RESULTING IN CONVICTION.

27 (B) PARTICIPATION IN TREATMENT AND EDUCATION PROGRAMS.

28 (1) WHEN THE CRIME FOR WHICH THE JUDGMENT IS BEING STAYED IS
29 FOR A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE, THE COURT SHALL
30 IMPOSE A PERIOD OF PROBATION AND, AS A CONDITION OF THE PROBATION:

31 (I) SHALL REQUIRE THE DEFENDANT TO PARTICIPATE IN AN
32 ALCOHOL TREATMENT OR EDUCATION PROGRAM APPROVED BY THE DEPARTMENT
33 OF HEALTH AND MENTAL HYGIENE, UNLESS THE COURT FINDS AND STATES ON THE
34 RECORD THAT THE INTERESTS OF THE DEFENDANT AND THE PUBLIC DO NOT
35 REQUIRE THE IMPOSITION OF THIS CONDITION; AND

1 (II) MAY PROHIBIT THE DEFENDANT FROM OPERATING A MOTOR
2 VEHICLE UNLESS THE MOTOR VEHICLE IS EQUIPPED WITH AN IGNITION INTERLOCK
3 SYSTEM UNDER § 27-107 OF THE TRANSPORTATION ARTICLE.

4 (2) WHEN THE CRIME FOR WHICH THE JUDGMENT IS BEING STAYED IS
5 FOR A VIOLATION OF ANY PROVISION OF ARTICLE 27, §§ 276 THROUGH 303 OF THE
6 CODE, THE COURT SHALL IMPOSE A PERIOD OF PROBATION AND, AS A CONDITION OF
7 PROBATION, REQUIRE THE DEFENDANT TO PARTICIPATE IN A DRUG TREATMENT OR
8 EDUCATION PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL
9 HYGIENE, UNLESS THE COURT FINDS AND STATES ON THE RECORD THAT THE
10 INTERESTS OF THE DEFENDANT AND THE PUBLIC DO NOT REQUIRE THE IMPOSITION
11 OF THIS CONDITION.

12 (C) CONDITIONS UNDER WHICH PROBATION BEFORE JUDGMENT
13 PROHIBITED.

14 NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, A COURT MAY
15 NOT STAY THE ENTERING OF JUDGMENT AND PLACE A DEFENDANT ON PROBATION
16 FOR:

17 (1) A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE, IF
18 WITHIN THE PRECEDING 5 YEARS THE DEFENDANT HAS BEEN CONVICTED UNDER
19 OR HAS BEEN PLACED ON PROBATION UNDER THAT SECTION AFTER BEING
20 CHARGED WITH A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE;

21 (2) A SECOND OR SUBSEQUENT CONTROLLED DANGEROUS SUBSTANCE
22 CRIME UNDER ARTICLE 27, §§ 276 THROUGH 303 OF THE CODE; OR

23 (3) A VIOLATION OF ANY OF THE PROVISIONS OF ARTICLE 27, §§ 462
24 THROUGH 464B OF THE CODE FOR A CRIME INVOLVING A PERSON UNDER THE AGE
25 OF 16 YEARS.

26 (D) WAIVER OF RIGHT TO APPEAL.

27 (1) BY CONSENTING TO AND RECEIVING A STAY OF ENTERING OF THE
28 JUDGMENT AS PROVIDED BY SUBSECTIONS (A) AND (B) OF THIS SECTION, THE
29 DEFENDANT WAIVES THE RIGHT TO APPEAL AT ANY TIME FROM THE JUDGMENT OF
30 GUILT.

31 (2) BEFORE GRANTING A STAY, THE COURT SHALL NOTIFY THE
32 DEFENDANT OF THE CONSEQUENCES OF CONSENTING TO AND RECEIVING A STAY
33 OF ENTRY OF JUDGMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

34 (E) EFFECT OF VIOLATION OF PROBATION.

35 ON VIOLATION OF A CONDITION OF PROBATION, THE COURT MAY ENTER
36 JUDGMENT AND PROCEED AS IF THE DEFENDANT HAD NOT BEEN PLACED ON
37 PROBATION.

38 (F) EFFECT OF FULFILLMENT OF CONDITIONS OF PROBATION.

1 (1) ON FULFILLMENT OF THE CONDITIONS OF PROBATION, THE COURT
2 SHALL DISCHARGE THE DEFENDANT FROM PROBATION.

3 (2) THE DISCHARGE IS A FINAL DISPOSITION OF THE MATTER.

4 (3) DISCHARGE OF A DEFENDANT UNDER THIS SECTION SHALL BE
5 WITHOUT JUDGMENT OF CONVICTION AND IS NOT A CONVICTION FOR THE PURPOSE
6 OF ANY DISQUALIFICATION OR DISABILITY IMPOSED BY LAW BECAUSE OF
7 CONVICTION OF A CRIME.

8 (G) LOCAL PROVISIONS.

9 IN ALLEGANY COUNTY, CALVERT COUNTY, CHARLES COUNTY, GARRETT
10 COUNTY, HOWARD COUNTY, AND ST. MARY'S COUNTY, THE COURT MAY IMPOSE A
11 SENTENCE OF CONFINEMENT AS A CONDITION OF PROBATION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 641.

14 Throughout this section, the references to a "defendant" are substituted for
15 the former references to a "person" to conform to the terminology used
16 throughout this part.

17 In subsections (a)(1), (2), and (4), and (f)(1) of this section, the former
18 references to "terms" or a "term" are deleted as unnecessary in light of the
19 references to "conditions" or a "condition".

20 In subsection (a)(1) of this section, the former reference to a court
21 "exercising criminal jurisdiction" is deleted as surplusage.

22 In subsection (a)(2) of this section, the phrase "[s]ubject to paragraphs (3)
23 and (4) of this subsection" is added for clarity and to reflect the deletion of
24 the former word "[h]owever" in subsection (b) of this section.

25 In subsection (a)(2)(i), (3), and (4) of this section, the reference to a
26 "monetary" penalty is substituted for the former reference to a "pecuniary"
27 penalty for clarity.

28 In subsection (a)(2)(ii) of this section, the former reference to "any type of"
29 rehabilitation program is deleted as surplusage.

30 Also in subsection (a)(2)(ii) of this section, the former reference to a
31 rehabilitation "clinic, or similar program" is deleted as surplusage.

32 In subsection (b)(1)(i) and (2) of this section, the former reference to a court
33 that "affirmatively" states on the record is deleted as implicit in the
34 reference to "states on the record".

35 In subsection (c)(3) of this section, the reference to a "crime" is substituted
36 for the former reference to an "offense" to avoid any ambiguity that

1 "offense" could apply to an offense other than an offense that results in a
2 criminal conviction and to conform to terminology used in the Correctional
3 Services Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

4 In subsection (d)(1) of this section, the former reference to judgment "by
5 the court" is deleted as surplusage.

6 In subsection (d)(2) of this section, the phrase "the consequences ... under
7 paragraph (1) of this subsection" is substituted for the former clause "the
8 person waives the right to appeal from the judgment of guilt by the court
9 at any time" for brevity.

10 In subsection (e) of this section, the former reference "proceed[ing] with
11 disposition of the person" is deleted as surplusage.

12 Defined terms: "Nolo contendere" § 1-101

13 "Person" § 1-101

14 6-221. SUSPENSION OF SENTENCE OR PROBATION AFTER JUDGMENT.

15 ON ENTERING A JUDGMENT OF CONVICTION, THE COURT MAY SUSPEND THE
16 IMPOSITION OR EXECUTION OF SENTENCE AND PLACE THE DEFENDANT ON
17 PROBATION ON THE CONDITIONS THAT THE COURT CONSIDERS PROPER.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 641A(a)(1).

20 The former reference to "terms" is deleted as unnecessary in light of the
21 reference to "conditions".

22 6-222. LIMITS ON PROBATION AFTER JUDGMENT; EXTENSION FOR RESTITUTION.

23 (A) LIMITS ON PROBATION AFTER JUDGMENT.

24 A CIRCUIT COURT OR THE DISTRICT COURT MAY:

25 (1) IMPOSE A SENTENCE FOR A SPECIFIED TIME AND PROVIDE THAT A
26 LESSER TIME BE SERVED IN CONFINEMENT;

27 (2) SUSPEND THE REMAINDER OF THE SENTENCE; AND

28 (3) ORDER PROBATION FOR A TIME LONGER THAN THE SENTENCE BUT
29 NOT LONGER THAN:

30 (I) 5 YEARS IF THE PROBATION IS ORDERED BY A CIRCUIT COURT;
31 OR

32 (II) 3 YEARS IF THE PROBATION IS ORDERED BY THE DISTRICT
33 COURT.

34 (B) EXTENSION FOR RESTITUTION.

1 THE COURT MAY EXTEND THE PROBATION BEYOND THE TIME ALLOWED
2 UNDER SUBSECTION (A) OF THIS SECTION IF:

- 3 (1) THE DEFENDANT CONSENTS IN WRITING; AND
4 (2) THE EXTENSION IS ONLY FOR MAKING RESTITUTION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, §§ 641A(a)(3) and (4) and 643A(a) and (b).

7 In the introductory language of subsection (a) of this section, the reference
8 to the authority of "[a] circuit court or the District Court" is substituted for
9 the former provision that "[i]n a criminal or motor vehicle case within the
10 court's jurisdiction, a District Court judge has the same power as a judge of
11 the circuit court" for brevity. The former reference to "a criminal or motor
12 vehicle case within the court's jurisdiction" is unnecessary for two reasons.
13 First, motor vehicle cases are criminal cases; and, second, items (1)
14 through (3) of this subsection are the only options that a court may choose
15 in a criminal case.

16 The Criminal Procedure Article Review Committee notes, for consideration
17 by the General Assembly, that a circuit court may order probation for up to
18 5 years, but a District Court may only order probation for up to 3 years.
19 The General Assembly may wish to conform the limits.

20 6-223. ADDITIONAL POWERS OF DISTRICT COURT.

21 (A) POWER TO END PROBATION.

22 THE DISTRICT COURT MAY END THE PERIOD OF PROBATION AT ANY TIME.

23 (B) PRESENCE OF PROBATIONER OR DEFENDANT REQUIRED.

24 DURING THE PERIOD OF PROBATION, ON WRITTEN CHARGES UNDER OATH OR
25 ON VIOLATION OF A CONDITION OF PROBATION, THE DISTRICT COURT MAY ISSUE A
26 WARRANT OR NOTICE REQUIRING THE PROBATIONER OR DEFENDANT TO BE
27 BROUGHT OR APPEAR BEFORE THE JUDGE ISSUING THE WARRANT OR NOTICE:

28 (1) TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS OF
29 PROBATION OR OF SUSPENSION OF SENTENCE; AND

30 (2) TO BE PRESENT FOR THE SETTING OF A HEARING DATE FOR THAT
31 CHARGE.

32 (C) REMAND OR RELEASE OF PROBATIONER OR DEFENDANT.

33 PENDING THE HEARING OR DETERMINATION OF THE CHARGE, THE DISTRICT
34 COURT MAY REMAND THE PROBATIONER OR DEFENDANT TO A CORRECTIONAL
35 FACILITY OR RELEASE THE PROBATIONER OR DEFENDANT WITH OR WITHOUT BAIL.

36 (D) OPTIONS AFTER HEARING.

1 IF, AT THE HEARING, THE DISTRICT COURT FINDS THAT THE PROBATIONER OR
2 DEFENDANT HAS VIOLATED A CONDITION OF PROBATION, THE DISTRICT COURT
3 MAY:

4 (1) REVOKE THE PROBATION GRANTED OR THE SUSPENSION OF
5 SENTENCE; AND

6 (2) IMPOSE ANY SENTENCE THAT MIGHT HAVE ORIGINALLY BEEN
7 IMPOSED FOR THE CRIME OF WHICH THE PROBATIONER OR DEFENDANT WAS
8 CONVICTED OR PLEADED NOLO CONTENDERE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 643A(c).

11 Throughout this section, the references to a "defendant" are substituted for
12 the former references to the "person accused" to conform to the terminology
13 used throughout this part.

14 In subsection (a) of this section, the reference to "the District Court" is
15 added to clarify a provision in Ch. 2, § 10, Acts of 1973, 1st Sp. Sess., which
16 had deleted the lead-in to former Art. 27, § 146(e), "[e]very District Court
17 judge in any criminal or motor vehicle case within the court's jurisdiction
18 shall have the power" and left former Art. 27, § 643A(c) as an incomplete
19 sentence.

20 In subsection (d)(2) of this section, the former phrase "to take effect from
21 its date", which formerly modified "sentence", is deleted as surplusage.

22 Also in subsection (d)(2) of this section, the former option of the court to try
23 the person accused on the charge if there was neither a conviction or plea
24 of guilty or nolo contendere is deleted as obsolete.

25 Defined terms: "Correctional facility" § 1-101

26 "Nolo contendere" § 1-101

27 6-224. SENTENCING BY OTHER JUDGE.

28 (A) SCOPE OF SECTION.

29 THIS SECTION APPLIES TO A DEFENDANT WHO IS CONVICTED OF A CRIME FOR
30 WHICH THE COURT:

31 (1) DOES NOT IMPOSE A SENTENCE;

32 (2) SUSPENDS THE SENTENCE GENERALLY;

33 (3) PLACES THE DEFENDANT ON PROBATION FOR A DEFINITE TIME; OR

34 (4) PASSES ANOTHER ORDER AND IMPOSES OTHER CONDITIONS OF
35 PROBATION.

1 (B) SENTENCING BY PRESIDING JUDGE OF CIRCUIT COURT.

2 IF A DEFENDANT IS BROUGHT BEFORE A CIRCUIT COURT TO BE SENTENCED ON
3 THE ORIGINAL CHARGE OR FOR VIOLATING A CONDITION OF PROBATION, AND THE
4 JUDGE THEN PRESIDING FINDS THAT THE DEFENDANT VIOLATED A CONDITION OF
5 PROBATION, THE JUDGE:

6 (1) MAY SENTENCE THE DEFENDANT TO:

7 (I) ALL OR ANY PART OF THE PERIOD OF IMPRISONMENT IMPOSED
8 IN THE ORIGINAL SENTENCE; OR

9 (II) ANY SENTENCE ALLOWED BY LAW, IF A SENTENCE WAS NOT
10 IMPOSED BEFORE; AND

11 (2) MAY SUSPEND ALL OR PART OF A SENTENCE AND PLACE THE
12 DEFENDANT ON FURTHER PROBATION ON ANY CONDITIONS THAT THE JUDGE
13 CONSIDERS PROPER, AND THAT DO NOT EXCEED THE MAXIMUM SET UNDER § 6-222
14 OF THIS SUBTITLE.

15 (C) SENTENCING IN DISTRICT COURT.

16 (1) THE DISTRICT COURT JUDGE WHO ORIGINALLY IMPOSED
17 CONDITIONS OF PROBATION OR SUSPENSION OF SENTENCE SHALL HEAR ANY
18 CHARGE OF VIOLATION OF THE CONDITIONS OF PROBATION OR SUSPENSION OF
19 SENTENCE.

20 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
21 JUDGE SHALL SENTENCE THE DEFENDANT IF PROBATION IS REVOKED OR
22 SUSPENSION STRICKEN.

23 (3) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS DIED OR
24 RESIGNED, OR IS OTHERWISE INCAPACITATED, ANY OTHER JUDGE OF THE DISTRICT
25 COURT MAY ACT IN THE MATTER.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, §§ 642 and 643A(d) and (a), as it related to
28 District Court sentencing.

29 In subsection (a) of this section, the reference to a "crime" is substituted for
30 the former reference to an "offense" to avoid any ambiguity that "offense"
31 could apply to an offense other than an offense that results in a criminal
32 conviction and to conform to terminology used in the Correctional Services
33 Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

34 Also in subsection (a) of this section, the former reference to a conviction
35 "in any of the courts of record of this State, having criminal jurisdiction" is
36 deleted as unnecessary because a person would not be convicted in any
37 other type of court.

1 %Also in subsection (a) of this section, the reference to "court" is substituted
2 for the former reference to the "judge presiding" for brevity.

3 In subsection (a)(4) of this section, the reference to "conditions of
4 probation" is substituted for the former reference to "terms" to conform to
5 terminology used throughout this article. Similarly, in subsection (b) of this
6 section, the former reference to "terms" is deleted as unnecessary in light
7 of the reference to "conditions".

8 Also in subsection (a)(4) of this section, the former clause "as she or he may
9 deem proper" is deleted as implicit in the reference to the court "pass[ing]
10 another order and impos[ing] other conditions of probation".

11 In the introductory language of subsection (b) of this section, the reference
12 to "any time thereafter", which formerly modified the reference to the
13 person being "brought before the court", is deleted as implicit in the
14 reference to being "brought before a circuit court".

15 Also in the introductory language of subsection (b) of this section, the
16 former reference to the original charge "of his conviction" is deleted as
17 unnecessary.

18 In subsection (b)(1)(ii) of this section, the former reference to the sentence
19 for the "crime for which that person was originally convicted" is deleted as
20 unnecessary.

21 The Criminal Procedure Article Review Committee notes, for consideration
22 by the General Assembly, that subsection (b) of this section specifies that
23 the presiding judge may determine whether the probationer or defendant
24 violated probation and, if so, sentence the probationer or defendant. This
25 provision varies from Md. Rules 4-347 and 4-361 and from subsection (c)
26 of this section, which substantively follows Md. Rule 4-361. Maryland Rule
27 4-347 requires that "[w]henever practicable, the hearing shall be held
28 before the sentencing judge or, if the sentence was imposed by a Review
29 Panel pursuant to Rule 4-344, before one of the judges who was on the
30 panel". Maryland Rule 4-361 states that if, by reason of some disability,
31 the trial judge "is unable to perform an act or duty of the court after verdict
32 or after acceptance of a plea, any other judge authorized to act in that
33 court may sentence the defendant and perform any other act or duty if
34 satisfied that he or she can properly do so".

35 6-225. CONDITIONS OF PROBATION AFTER JUDGMENT.

36 (A) IN GENERAL.

37 (1) (I) PROBATION MAY BE GRANTED WHETHER THE CRIME IS
38 PUNISHABLE BY FINE OR IMPRISONMENT OR BOTH.

1 (II) IF THE CRIME IS PUNISHABLE BY BOTH FINE AND
 2 IMPRISONMENT, THE COURT MAY IMPOSE A FINE AND PLACE THE DEFENDANT ON
 3 PROBATION AS TO THE IMPRISONMENT.

4 (III) PROBATION MAY BE LIMITED TO ONE OR MORE COUNTS OR
 5 INDICTMENTS BUT, IN THE ABSENCE OF EXPRESS LIMITATION, EXTENDS TO THE
 6 ENTIRE SENTENCE AND JUDGMENT.

7 (IV) THE COURT MAY REVOKE OR MODIFY A CONDITION OF
 8 PROBATION OR MAY REDUCE THE PERIOD OF PROBATION.

9 (2) IF A SENTENCE OF IMPRISONMENT IS IMPOSED AND A PART OF IT IS
 10 SUSPENDED WITH THE DEFENDANT PLACED ON PROBATION, THE COURT MAY
 11 IMPOSE AS A CONDITION OF PROBATION THAT THE PROBATION BEGIN ON THE DAY
 12 THE DEFENDANT IS RELEASED FROM IMPRISONMENT.

13 (B) PARTICIPATION IN TREATMENT AND EDUCATION PROGRAMS.

14 IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN
 15 CONVICTED OF A VIOLATION OF ANY PROVISION OF ARTICLE 27, §§ 276 THROUGH 303
 16 OF THE CODE, THE COURT SHALL REQUIRE AS A CONDITION THAT THE DEFENDANT
 17 PARTICIPATE IN A DRUG TREATMENT OR EDUCATION PROGRAM APPROVED BY THE
 18 DEPARTMENT OF HEALTH AND MENTAL HYGIENE, UNLESS THE COURT FINDS AND
 19 STATES ON THE RECORD THAT THE INTERESTS OF THE DEFENDANT AND THE
 20 PUBLIC DO NOT REQUIRE THE IMPOSITION OF THIS CONDITION.

21 (C) LOCAL PROVISIONS.

22 IN CALVERT COUNTY, CECIL COUNTY, CHARLES COUNTY, HARFORD COUNTY,
 23 AND ST. MARY'S COUNTY, THE COURT MAY IMPOSE A SENTENCE OF CONFINEMENT
 24 AS A CONDITION OF PROBATION.

25 REVISOR'S NOTE: This section is new language derived without substantive
 26 change from former Art. 27, § 641A(b), (c), (d), and (a)(2).

27 In subsection (a)(1)(i) and (ii) of this section, the references to a "crime" are
 28 substituted for the former references to an "offense" to avoid any ambiguity
 29 that "offense" could apply to an offense other than an offense that results
 30 in a criminal conviction and to conform to terminology used in the
 31 Correctional Services Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

32 In subsection (a)(2) of this section, the former reference to a person who is
 33 "actually" released from imprisonment is deleted as implicit in the
 34 reference to being "released".

35 In subsection (b) of this section, the former reference to a condition "of the
 36 suspension of sentence" is deleted as unnecessary in light of the reference
 37 to the court placing a defendant on probation.

38 Also in subsection (b) of this section, the former reference to a court that

1 "affirmatively" states on the record is deleted as implicit in the reference to
2 "states on the record".

3 6-226. FEES FOR PROBATION UNDER SUPERVISION OF DIVISION OF PAROLE AND
4 PROBATION.

5 (A) "SUPERVISEE" DEFINED.

6 IN THIS SECTION, "SUPERVISEE" MEANS A PERSON THAT THE COURT PLACES
7 UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND PROBATION.

8 (B) IN GENERAL.

9 UNLESS THE SUPERVISEE IS EXEMPT UNDER SUBSECTION (D) OF THIS
10 SECTION, THE COURT SHALL IMPOSE A MONTHLY FEE OF \$25 ON A SUPERVISEE.

11 (C) PAYMENT TO DIVISION OF PAROLE AND PROBATION.

12 (1) THE FEE IMPOSED UNDER THIS SECTION SHALL BE PAID TO THE
13 DIVISION OF PAROLE AND PROBATION.

14 (2) THE DIVISION OF PAROLE AND PROBATION SHALL PAY THE MONEY
15 COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

16 (D) EXEMPTIONS.

17 THE COURT MAY EXEMPT A SUPERVISEE AS A WHOLE OR IN PART FROM THE
18 FEE IMPOSED UNDER THIS SECTION IF:

19 (1) THE SUPERVISEE HAS DILIGENTLY TRIED BUT HAS BEEN UNABLE
20 TO OBTAIN EMPLOYMENT THAT PROVIDES SUFFICIENT INCOME FOR THE
21 SUPERVISEE TO PAY THE FEE;

22 (2) (I) THE SUPERVISEE IS A STUDENT IN A SCHOOL, COLLEGE, OR
23 UNIVERSITY OR IS ENROLLED IN A COURSE OF VOCATIONAL OR TECHNICAL
24 TRAINING DESIGNED TO PREPARE THE STUDENT FOR GAINFUL EMPLOYMENT; AND

25 (II) CERTIFICATION OF STUDENT STATUS IS SUPPLIED TO THE
26 COURT BY THE INSTITUTION IN WHICH THE SUPERVISEE IS ENROLLED;

27 (3) THE SUPERVISEE HAS A HANDICAP LIMITING EMPLOYMENT, AS
28 DETERMINED BY A PHYSICAL OR PSYCHOLOGICAL EXAMINATION ACCEPTED OR
29 ORDERED BY THE COURT;

30 (4) THE SUPERVISEE IS RESPONSIBLE FOR THE SUPPORT OF
31 DEPENDENTS AND THE PAYMENT OF THE FEE IS AN UNDUE HARDSHIP ON THE
32 SUPERVISEE; OR

33 (5) OTHER EXTENUATING CIRCUMSTANCES EXIST.

34 (E) FEE IN ADDITION TO COURT COSTS AND FINES.

1 THE FEE IMPOSED BY THIS SECTION IS IN ADDITION TO COURT COSTS AND
2 FINES.

3 (F) PENALTY FOR NONPAYMENT OF FEE.

4 (1) THE COURT MAY REVOKE PROBATION FOR FAILURE TO MAKE THE
5 REQUIRED PAYMENT OF THE FEE IMPOSED UNDER THIS SECTION.

6 (2) IF THE SUPERVISEE DOES NOT COMPLY WITH THE FEE
7 REQUIREMENT, THE DIVISION OF PAROLE AND PROBATION SHALL NOTIFY THE
8 COURT.

9 (3) THE COURT SHALL HOLD A HEARING TO DETERMINE IF THERE ARE
10 SUFFICIENT GROUNDS TO FIND THE SUPERVISEE IN VIOLATION.

11 (4) AT A HEARING UNDER THIS SUBSECTION, THE COURT MAY
12 CONSIDER:

13 (I) ANY MATERIAL CHANGE IN THE SUPERVISEE'S FINANCIAL
14 STATUS;

15 (II) GOOD FAITH EFFORTS OF THE SUPERVISEE TO PAY THE FEE;
16 AND

17 (III) ALTERNATIVE MEANS TO ENSURE PAYMENT OF THE FEE
18 BEFORE THE PERIOD OF SUPERVISION ENDS.

19 (G) PAYMENT FOR DRUG OR ALCOHOL ABUSE TESTING.

20 (1) IN ADDITION TO FEES IMPOSED UNDER THIS SECTION, THE DIVISION
21 OF PAROLE AND PROBATION MAY REQUIRE A SUPERVISEE TO PAY FOR DRUG OR
22 ALCOHOL ABUSE TESTING IF THE COURT ORDERS TESTING.

23 (2) FAILURE TO MAKE A PAYMENT REQUIRED FOR DRUG OR ALCOHOL
24 ABUSE TESTING MAY BE CONSIDERED GROUNDS FOR REVOCATION OF PROBATION
25 BY THE COURT.

26 (3) THE DIVISION OF PAROLE AND PROBATION MAY EXEMPT A
27 SUPERVISEE AS A WHOLE OR IN PART FROM A PAYMENT FOR TESTING IF THE
28 DIVISION DETERMINES THAT ANY OF THE CRITERIA IN SUBSECTION (D) OF THIS
29 SECTION APPLY.

30 (H) DUTIES OF DIVISION OF PAROLE AND PROBATION.

31 THE DIVISION OF PAROLE AND PROBATION SHALL:

32 (1) ADOPT GUIDELINES FOR COLLECTING THE SUPERVISION FEE;

33 (2) ADOPT GUIDELINES FOR COLLECTING THE COST OF DRUG AND
34 ALCOHOL TESTING;

1 (3) INVESTIGATE REQUESTS FOR AN EXEMPTION FROM PAYMENT, IF
2 THE COURT REQUESTS AN INVESTIGATION;

3 (4) KEEP RECORDS OF ALL PAYMENTS BY EACH SUPERVISEE; AND

4 (5) REPORT DELINQUENCIES TO THE COURT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 641B.

7 In subsections (b), (c)(1), and (f)(1) of this section, the reference to fees
8 "imposed" is substituted for the former reference to fees "assessed" to
9 conform to the terminology used throughout this section.

10 In subsection (b) of this section, the reference to the defined term
11 "supervisee" is substituted for the former reference to the "defendant" for
12 consistency within this section. Similarly, in subsection (h)(4) of this
13 section, the defined term "supervisee" is substituted for the former
14 reference to "person".

15 In subsection (f)(4) of this section, the reference to "the court" is added to
16 state that which was only implied in the former law - authorization is
17 given to the court to consider at a hearing the items listed in this
18 subsection.

19 In subsection (g)(2) of this section, the reference to revocation "of
20 probation" is added for clarity.

21 6-227. EXPIRATION DATE FOR SENTENCES TO IMPRISONMENT.

22 (A) IN GENERAL.

23 IN SENTENCING A DEFENDANT TO IMPRISONMENT, A COURT SHALL SENTENCE
24 THE DEFENDANT FOR A PERIOD THAT WILL EXPIRE BETWEEN THE FIRST DAY OF
25 APRIL AND THE LAST DAY OF AUGUST IF THE COURT CONSIDERS IT EXPEDIENT TO
26 DO SO.

27 (B) REDUCTION OF 2-YEAR SENTENCE TO 18 MONTHS.

28 IN SENTENCING A DEFENDANT TO IMPRISONMENT IN COMPLIANCE WITH
29 SUBSECTION (A) OF THIS SECTION, A COURT MAY SENTENCE THE DEFENDANT TO
30 IMPRISONMENT FOR NOT LESS THAN 18 MONTHS IF THE PUNISHMENT REQUIRED
31 FOR THE CRIME IS AT LEAST 2 YEARS.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, §§ 633 and 634.

34 Throughout this section, the references to "imprisonment" are substituted
35 for the former references to "the penitentiary" to reflect the requirement
36 under CS § 9-103 (formerly Art. 27, § 690(b) and (e)) that a judge who

1 sentences an individual to imprisonment shall sentence the individual to
 2 the jurisdiction of the Division of Correction and not to a specific
 3 correctional institution such as the penitentiary.

4 In subsection (a) of this section, the phrase "a court shall" is substituted for
 5 the former phrase "[i]t shall be the duty of the court of this State" for
 6 brevity.

7 In subsection (b) of this section, the reference to the "crime" is substituted
 8 for the former reference to the "offense" to avoid any ambiguity that
 9 "offense" could apply to an offense other than an offense that results in a
 10 criminal conviction and to conform to terminology used in the Correctional
 11 Services Article. *See, e.g.*, CS § 4-306(c)(1)(iii).

12 The Criminal Procedure Article Review Committee notes, for consideration
 13 by the General Assembly, that the General Assembly may wish to repeal
 14 this section as obsolete.

15 6-228. APPROVER.

16 APPROVER MAY NOT BE ADMITTED IN A CASE.

17 REVISOR'S NOTE: This section is new language derived without substantive
 18 change from the fourth clause of former Art. 27, § 635.

19 As to the first, second, and third clauses of former Art. 27, § 635, they are
 20 transferred to ET § 11-109. *See* Ch. _____, Acts of 2001, § _____ which
 21 also enacted this revision.

22 The fifth clause of former Art. 27, § 635, is deleted as obsolete.

23 TITLE 7. UNIFORM POSTCONVICTION PROCEDURE ACT.

24 SUBTITLE 1. IN GENERAL.

25 7-101. SCOPE OF TITLE.

26 THIS TITLE APPLIES TO A PERSON CONVICTED IN ANY COURT IN THE STATE
 27 WHO IS:

28 (1) CONFINED UNDER SENTENCE OF DEATH OR IMPRISONMENT; OR

29 (2) ON PAROLE OR PROBATION.

30 REVISOR'S NOTE: This section is new language derived without substantive
 31 change from former Art. 27, § 645A(a)(1), as it related to convicted persons
 32 who are confined, on parole, or on probation.

33 The former reference to a "person confined or on parole or probation as a
 34 result of a proceeding before the District Court" is deleted as included in

1 items (1) and (2) of this section.

2 Defined term: "Person" § 1-101

3 7-102. RIGHT TO BEGIN PROCEEDING.

4 (A) IN GENERAL.

5 SUBJECT TO SUBSECTION (B) OF THIS SECTION, §§ 7-103 AND 7-104 OF THIS
6 SUBTITLE AND SUBTITLE 2 OF THIS TITLE, A CONVICTED PERSON MAY BEGIN A
7 PROCEEDING UNDER THIS TITLE IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH
8 THE CONVICTION TOOK PLACE AT ANY TIME IF THE PERSON CLAIMS THAT:

9 (1) THE SENTENCE OR JUDGMENT WAS IMPOSED IN VIOLATION OF THE
10 CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OR LAWS OF THE
11 STATE;

12 (2) THE COURT LACKED JURISDICTION TO IMPOSE THE SENTENCE;

13 (3) THE SENTENCE EXCEEDS THE MAXIMUM ALLOWED BY LAW; OR

14 (4) THE SENTENCE IS OTHERWISE SUBJECT TO COLLATERAL ATTACK
15 ON A GROUND OF ALLEGED ERROR THAT WOULD OTHERWISE BE AVAILABLE UNDER
16 A WRIT OF HABEAS CORPUS, WRIT OF CORAM NOBIS, OR OTHER COMMON LAW OR
17 STATUTORY REMEDY.

18 (B) REQUIREMENTS TO BEGIN PROCEEDING.

19 A PERSON MAY BEGIN A PROCEEDING UNDER THIS TITLE IF:

20 (1) THE PERSON SEEKS TO SET ASIDE OR CORRECT THE JUDGMENT OR
21 SENTENCE; AND

22 (2) THE ALLEGED ERROR HAS NOT BEEN PREVIOUSLY AND FINALLY
23 LITIGATED OR WAIVED IN THE PROCEEDING RESULTING IN THE CONVICTION OR IN
24 ANY OTHER PROCEEDING THAT THE PERSON HAS TAKEN TO SECURE RELIEF FROM
25 THE PERSON'S CONVICTION.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 645A(a)(1), except as it related to convicted
28 persons who are confined, on parole, or on probation, and part of the
29 second sentence of (e), as that sentence related to the filing of a petition for
30 relief.

31 In the introductory language of subsections (a) and (b) of this section, the
32 reference to "begin" is substituted for the former references to "institute"
33 and "fil[e]" for conformity.

34 In the introductory language of subsection (a) of this section, the reference
35 to "Subtitle 2 of this title" is substituted for the former reference to
36 "paragraph[s] ... (3) of this subsection" to reflect the placement of the

1 provision applying only to death penalty cases in Subtitle 2 of this title.

2 Also in the introductory language of subsection (a) of this section, the
3 phrase "in which the conviction took place" is added for clarity.

4 Defined terms: "County" § 1-101

5 "Person" § 1-101

6 7-103. NUMBER AND TIME OF FILING OF PETITIONS.

7 (A) ONLY ONE PETITION ALLOWED.

8 FOR EACH TRIAL OR SENTENCE, A PERSON MAY FILE ONLY ONE PETITION FOR
9 RELIEF UNDER THIS TITLE.

10 (B) 10-YEAR FILING PERIOD.

11 (1) UNLESS EXTRAORDINARY CAUSE IS SHOWN, IN A CASE IN WHICH A
12 SENTENCE OF DEATH HAS NOT BEEN IMPOSED, A PETITION UNDER THIS SUBTITLE
13 MAY NOT BE FILED MORE THAN 10 YEARS AFTER THE SENTENCE WAS IMPOSED.

14 (2) IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED,
15 SUBTITLE 2 OF THIS TITLE GOVERNS THE TIME OF FILING A PETITION.

16 REVISOR'S NOTE: Subsections (a) and (b)(1) of this section are new language
17 derived without substantive change from former Art. 27, § 645A(a)(2)(i)
18 and (ii).

19 Subsection (b)(2) of this section is new language added for clarity.

20 In subsection (a) of this section, the reference to a trial "or sentence" is
21 added to reflect the holding of *Greco v. State*, 347 Md. 423 (1997) (after
22 being granted a timely request for modifications or reduction of sentence, a
23 defendant may file another request for modification or reduction of
24 sentence within 90 days). *See also, Webster v. State*, 359 Md. 465 (2000).

25 The Criminal Procedure Article Review Committee notes, for consideration
26 by the General Assembly, that in *Coley v. State*, 74 Md. App. 151 (1988) the
27 Maryland Court of Special Appeals held that when a probation is revoked
28 and resentencing occurs, the period in which the probationer may seek to
29 modify the sentence should run from the date the resentencing was
30 imposed. In subsection (b)(1) of this section, the General Assembly may
31 wish to clarify that in cases where a resentencing has been imposed, the
32 10-year filing period runs from the date of the resentencing.

33 Defined term: "Person" § 1-101

1 7-104. REOPENING POSTCONVICTION PROCEEDING.

2 THE COURT MAY REOPEN A POSTCONVICTION PROCEEDING THAT WAS
3 PREVIOUSLY CONCLUDED IF THE COURT DETERMINES THAT THE ACTION IS IN THE
4 INTERESTS OF JUSTICE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 645A(a)(2)(iii).

7 The former reference to the court may "in its discretion" reopen a
8 postconviction proceeding is deleted as surplusage.

9 7-105. VICTIM'S AND REPRESENTATIVE'S RIGHTS OF NOTICE AND ATTENDANCE.

10 (A) RIGHT OF NOTICE.

11 BEFORE A HEARING IS HELD ON A PETITION FILED UNDER THIS TITLE, THE
12 VICTIM OR VICTIM'S REPRESENTATIVE SHALL BE NOTIFIED OF THE HEARING AS
13 PROVIDED UNDER § 11-104 OR § 11-503 OF THIS ARTICLE.

14 (B) RIGHT OF ATTENDANCE.

15 A VICTIM OR VICTIM'S REPRESENTATIVE IS ENTITLED TO ATTEND ANY
16 HEARING UNDER THIS TITLE AS PROVIDED UNDER § 11-102 OF THIS ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 645A(h).

19 7-106. ALLEGATION OF ERROR.

20 (A) WHEN FINALLY LITIGATED.

21 FOR THE PURPOSES OF THIS TITLE, AN ALLEGATION OF ERROR IS FINALLY
22 LITIGATED WHEN:

23 (1) AN APPELLATE COURT OF THE STATE DECIDES ON THE MERITS OF
24 THE ALLEGATION:

25 (I) ON DIRECT APPEAL; OR

26 (II) ON ANY CONSIDERATION OF AN APPLICATION FOR LEAVE TO
27 APPEAL FILED UNDER § 7-109 OF THIS SUBTITLE; OR

28 (2) A COURT OF ORIGINAL JURISDICTION, AFTER A FULL AND FAIR
29 HEARING, DECIDES ON THE MERITS OF THE ALLEGATION IN A PETITION FOR A WRIT
30 OF HABEAS CORPUS OR A WRIT OF ERROR CORAM NOBIS, UNLESS THE DECISION ON
31 THE MERITS OF THE PETITION IS CLEARLY ERRONEOUS.

32 (B) WAIVER OF ALLEGATION OF ERROR.

1 (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH, AN ALLEGATION OF ERROR IS WAIVED WHEN A PETITIONER COULD
3 HAVE MADE BUT INTELLIGENTLY AND KNOWINGLY FAILED TO MAKE THE
4 ALLEGATION:

- 5 1. BEFORE TRIAL;
- 6 2. AT TRIAL;
- 7 3. ON DIRECT APPEAL, WHETHER OR NOT THE PETITIONER
8 TOOK AN APPEAL;
- 9 4. IN AN APPLICATION FOR LEAVE TO APPEAL A
10 CONVICTION BASED ON A GUILTY PLEA;
- 11 5. IN A HABEAS CORPUS OR CORAM NOBIS PROCEEDING
12 BEGAN BY THE PETITIONER;
- 13 6. IN A PRIOR PETITION UNDER THIS SUBTITLE; OR
- 14 7. IN ANY OTHER PROCEEDING THAT THE PETITIONER
15 BEGAN.

16 (II) 1. FAILURE TO MAKE AN ALLEGATION OF ERROR SHALL BE
17 EXCUSED IF SPECIAL CIRCUMSTANCES EXIST.

18 2. THE PETITIONER HAS THE BURDEN OF PROVING THAT
19 SPECIAL CIRCUMSTANCES EXIST.

20 (2) WHEN A PETITIONER COULD HAVE MADE AN ALLEGATION OF ERROR
21 AT A PROCEEDING SET FORTH IN PARAGRAPH (1)(I) OF THIS SUBSECTION BUT DID
22 NOT MAKE AN ALLEGATION OF ERROR, THERE IS A REBUTTABLE PRESUMPTION
23 THAT THE PETITIONER INTELLIGENTLY AND KNOWINGLY FAILED TO MAKE THE
24 ALLEGATION.

25 (C) EFFECT OF JUDICIAL DECISION THAT CONSTITUTION IMPOSES NEW
26 STANDARD.

27 (1) THIS SUBSECTION APPLIES AFTER A DECISION ON THE MERITS OF
28 AN ALLEGATION OF ERROR OR AFTER A PROCEEDING IN WHICH AN ALLEGATION OF
29 ERROR MAY HAVE BEEN WAIVED.

30 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN
31 ALLEGATION OF ERROR MAY NOT BE CONSIDERED TO HAVE BEEN FINALLY
32 LITIGATED OR WAIVED UNDER THIS TITLE IF A COURT WHOSE DECISIONS ARE
33 BINDING ON THE LOWER COURTS OF THE STATE HOLDS THAT:

34 (I) THE CONSTITUTION OF THE UNITED STATES OR THE
35 MARYLAND CONSTITUTION IMPOSES ON STATE CRIMINAL PROCEEDINGS A
36 PROCEDURAL OR SUBSTANTIVE STANDARD NOT PREVIOUSLY RECOGNIZED; AND

1 (II) THE STANDARD IS INTENDED TO BE APPLIED
2 RETROSPECTIVELY AND WOULD THEREBY AFFECT THE VALIDITY OF THE
3 PETITIONER'S CONVICTION OR SENTENCE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 645A(b), (c), and (d).

6 Throughout this section, the former references to an appeal, proceeding, or
7 allegation of error having "actually" or "in fact" been made are deleted as
8 surplusage.

9 In subsections (b)(1)(i) and (c)(2) of this section, the former phrase "[f]or
10 the purposes of this subtitle" is deleted as unnecessary.

11 In subsection (b)(1)(i)5 and 7 of this section, the references to "began" are
12 substituted for the former references to "instituted" to conform to the
13 terminology used throughout this title.

14 7-107. EFFECT OF POSTCONVICTION REMEDY ON TRIAL PROCEEDINGS AND
15 APPEALS.

16 (A) TRIAL PROCEEDINGS.

17 THE REMEDY PROVIDED UNDER THIS TITLE IS NOT A SUBSTITUTE FOR AND
18 DOES NOT AFFECT ANY REMEDY THAT IS INCIDENT TO THE PROCEEDINGS IN THE
19 TRIAL COURT OR ANY REMEDY OF DIRECT REVIEW OF THE SENTENCE OR
20 CONVICTION.

21 (B) APPEALS.

22 (1) IN A CASE IN WHICH A PERSON CHALLENGES THE VALIDITY OF
23 CONFINEMENT UNDER A SENTENCE OF DEATH OR IMPRISONMENT BY SEEKING THE
24 WRIT OF HABEAS CORPUS OR THE WRIT OF CORAM NOBIS OR BY INVOKING A
25 COMMON LAW OR STATUTORY REMEDY OTHER THAN THIS TITLE, A PERSON MAY
26 NOT APPEAL TO THE COURT OF APPEALS OR THE COURT OF SPECIAL APPEALS.

27 (2) THIS SUBTITLE DOES NOT BAR AN APPEAL TO THE COURT OF
28 SPECIAL APPEALS:

29 (I) IN A HABEAS CORPUS PROCEEDING BEGUN UNDER § 9-110 OF
30 THIS ARTICLE; OR

31 (II) IN ANY OTHER PROCEEDING IN WHICH A WRIT OF HABEAS
32 CORPUS IS SOUGHT FOR A PURPOSE OTHER THAN TO CHALLENGE THE LEGALITY OF
33 A CONVICTION OF A CRIME OR SENTENCE OF DEATH OR IMPRISONMENT FOR THE
34 CONVICTION OF THE CRIME, INCLUDING CONFINEMENT AS A RESULT OF A
35 PROCEEDING UNDER TITLE 4 OF THE CORRECTIONAL SERVICES ARTICLE.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from the first, third, and fourth sentences of former Art. 27, §

1 645A(e).

2 In subsection (a) of this section, the phrase "under this title" is added for
3 clarity.

4 In subsection (b)(1) of this section, the former reference to "appeals in such
5 cases pending in the Court of Appeals on June 1, 1958, ... [being] processed
6 in due course" is deleted as obsolete.

7 Also in subsection (b)(1) of this section, the former reference to appeals "in
8 habeas corpus or coram nobis cases, or from other common-law or
9 statutory remedies which have heretofore been available" is deleted as
10 implied in the reference to an "appeal".

11 Defined term: "Person" § 1-101

12 7-108. RIGHT TO COUNSEL AND HEARING.

13 (A) IN GENERAL.

14 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON IS
15 ENTITLED TO ASSISTANCE OF COUNSEL AND A HEARING ON A PETITION FILED
16 UNDER THIS TITLE.

17 (B) EXCEPTIONS.

18 (1) IF A PERSON SEEKS TO REOPEN A POSTCONVICTION PROCEEDING
19 UNDER § 7-104 OF THIS SUBTITLE, THE COURT SHALL DETERMINE WHETHER
20 ASSISTANCE FROM COUNSEL OR A HEARING SHOULD BE GRANTED.

21 (2) IF AN APPEAL HAS BEEN TAKEN FROM THE JUDGMENT OF
22 CONVICTION TO THE COURT OF SPECIAL APPEALS, UNTIL THE JUDGMENT OF
23 CONVICTION BECOMES FINAL IN THE COURT OF SPECIAL APPEALS, THE COURT
24 NEED NOT:

25 (I) APPOINT COUNSEL;

26 (II) HOLD A HEARING; OR

27 (III) ACT ON THE PETITION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 645A(f) and, as it related to appeals pending
30 in the Court of Special Appeals, the second sentence of (e).

31 In subsections (a) and (b) of this section, the term "person" is substituted
32 for the former references to "petitioner" and "defendant" to conform to the
33 terminology used throughout this title.

34 Defined term: "Person" § 1-101

1 7-109. APPEAL OF FINAL ORDER.

2 (A) APPLICATION.

3 WITHIN 30 DAYS AFTER THE COURT PASSES AN ORDER IN ACCORDANCE WITH
4 THIS SUBTITLE, A PERSON AGGRIEVED BY THE ORDER, INCLUDING THE ATTORNEY
5 GENERAL AND A STATE'S ATTORNEY, MAY APPLY TO THE COURT OF SPECIAL
6 APPEALS FOR LEAVE TO APPEAL THE ORDER.

7 (B) APPEAL PROCEDURE.

8 (1) THE APPLICATION FOR LEAVE TO APPEAL SHALL BE IN THE FORM
9 SET BY THE MARYLAND RULES.

10 (2) IF THE ATTORNEY GENERAL OR A STATE'S ATTORNEY STATES AN
11 INTENTION TO FILE AN APPLICATION FOR AN APPEAL UNDER THIS SECTION, THE
12 COURT MAY:

13 (I) STAY THE ORDER; AND

14 (II) SET BAIL FOR THE PETITIONER.

15 (3) IF THE APPLICATION FOR LEAVE TO APPEAL IS GRANTED:

16 (I) THE PROCEDURE FOR THE APPEAL SHALL MEET THE
17 REQUIREMENTS OF THE MARYLAND RULES; AND

18 (II) THE COURT OF SPECIAL APPEALS MAY:

19 1. AFFIRM, REVERSE, OR MODIFY THE ORDER APPEALED
20 FROM; OR

21 2. REMAND THE CASE FOR FURTHER PROCEEDINGS.

22 (4) IF THE APPLICATION FOR LEAVE TO APPEAL IS DENIED, THE ORDER
23 SOUGHT TO BE REVIEWED BECOMES FINAL.

24 (C) COSTS.

25 THE COURT OF SPECIAL APPEALS SHALL DIRECT THE POLITICAL SUBDIVISION
26 IN WHICH AN ORDER IS PASSED TO PAY THE NECESSARY COSTS AND EXPENSES
27 ASSOCIATED WITH A REVIEW UNDER THIS SECTION, INCLUDING ALL COURT COSTS,
28 STENOGRAPHIC SERVICES, AND PRINTING, IF:

29 (1) A PERSON SEEKS A REVIEW UNDER THIS SECTION WITHIN 30 DAYS
30 AFTER JUDGMENT;

31 (2) THE COURT OF SPECIAL APPEALS GRANTS LEAVE TO APPEAL UNDER
32 THIS SECTION; AND

1 (3) THE COURT OF SPECIAL APPEALS FINDS THAT THE PERSON IS
2 UNABLE TO PAY THE COSTS OF THE REVIEW.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, §§ 645E and 645-I.

5 In subsection (a) of this section, the reference to "passes an order" is
6 substituted for the former reference to its "passage" for consistency
7 throughout the revised articles of the Code. Correspondingly, in subsection
8 (c) of this section, the word "passed" is substituted for the former word
9 "rendered".

10 Also in subsection (a) of this section, the former reference to the State's
11 Attorney "for Baltimore City or any county, as the case may be," is deleted
12 as implied in the reference to a "State's Attorney".

13 In subsection (b)(2)(ii) of this section, the reference to "set bail for the
14 petitioner" is substituted for the former reference to "admit the petitioner
15 to bail for his appearance when required" for brevity and clarity.

16 As to the reference to the Maryland Rules in subsection (b)(1) of this
17 section, *see* Md. Rule 8-204.

18 As to the reference to the Maryland Rules in subsection (b)(3) of this
19 section, *see* Md. Rules 8-205 through 8-207.

20 In subsection (c)(1) and (3) of this section, the defined term "person" is
21 substituted for the former word "petitioner" to conform to the terminology
22 used throughout this title.

23 The Criminal Procedure Article Review Committee notes, for consideration
24 by the General Assembly, that subsection (a) of this section conflicts with
25 the Maryland Rules regarding all appellate proceedings in cases in which a
26 sentence of death was imposed. When a sentence of death is imposed, there
27 is an automatic appeal to the Court of Special Appeals of both the
28 determination of guilt and the sentence. *See* Md. Rule 8-306.

29 Defined term: "Person" § 1-101

30 SUBTITLE 2. PROCEEDINGS AFTER DEATH SENTENCES.

31 7-201. FILING OF PETITION.

32 (A) 210-DAY FILING PERIOD.

33 SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN A CASE IN WHICH A
34 SENTENCE OF DEATH HAS BEEN IMPOSED, THE CIRCUIT COURT MAY NOT EXERCISE
35 JURISDICTION OVER A PROCEEDING UNDER THIS TITLE UNLESS THE PETITION IS
36 FILED WITHIN 210 DAYS AFTER:

1 (1) THE SUPREME COURT OF THE UNITED STATES PASSES AN ORDER
2 DENYING A PETITION FOR A WRIT OF CERTIORARI;

3 (2) THE SUPREME COURT OF THE UNITED STATES MAKES A DECISION
4 AFFIRMING THE SENTENCE OF DEATH; OR

5 (3) IF NO REVIEW IS SOUGHT, THE TIME FOR SEEKING REVIEW BY THE
6 SUPREME COURT OF THE UNITED STATES EXPIRES.

7 (B) EXTENSION.

8 THE CIRCUIT COURT MAY EXTEND THE PERIOD WITHIN WHICH THE PETITION
9 SHALL BE FILED IF GOOD CAUSE FOR THE EXTENSION IS SHOWN.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 645A(a)(3).

12 7-202. STAY OF WARRANT OF EXECUTION.

13 NOTWITHSTANDING ANY OTHER LAW AND SUBJECT TO § 7-203 OF THIS
14 SUBTITLE, A WARRANT OF EXECUTION SHALL BE STAYED FOR 210 DAYS AFTER:

15 (1) THE SUPREME COURT OF THE UNITED STATES PASSES AN ORDER
16 DENYING ANY PETITION FOR A WRIT OF CERTIORARI;

17 (2) THE SUPREME COURT OF THE UNITED STATES MAKES A DECISION
18 AFFIRMING THE SENTENCE OF DEATH; OR

19 (3) IF NO REVIEW IS SOUGHT, THE TIME FOR SEEKING REVIEW BY THE
20 SUPREME COURT OF THE UNITED STATES EXPIRES.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 645A(a)(4).

23 7-203. WAIVER OF RIGHT TO FILE PETITION.

24 (A) CONDITIONS FOR WAIVER.

25 A DEFENDANT IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED
26 MAY WAIVE THE RIGHT TO FILE A PETITION UNDER THIS TITLE BEFORE THE
27 EXPIRATION OF THE 210-DAY PERIOD ESTABLISHED IN § 7-201 OF THIS SUBTITLE IF
28 THE WAIVER IS KNOWING, VOLUNTARY, INTELLIGENT, AND IN WRITING.

29 (B) REVOCATION OF WAIVER.

30 A DEFENDANT IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED
31 MAY REVOKE A WAIVER UNDER SUBSECTION (A) OF THIS SECTION NO LATER THAN
32 15 DAYS BEFORE THE SCHEDULED DATE OF EXECUTION BY:

33 (1) FILING A PETITION FOR POSTCONVICTION RELIEF UNDER THIS
34 TITLE; OR

1 (2) WITHDRAWING THE WAIVER IN WRITING.

2 (C) EFFECT OF WAIVER.

3 A WAIVER OF THE RIGHT TO FILE A PETITION UNDER THIS TITLE BEFORE THE
4 EXPIRATION OF THE 210-DAY PERIOD ESTABLISHED IN § 7-201 OF THIS SUBTITLE
5 ENDS THE STATE POSTCONVICTION REVIEW PROCESS FOR PURPOSES OF § 3-902 OF
6 THE CORRECTIONAL SERVICES ARTICLE.

7 (D) EFFECT OF REVOCATION OF WAIVER.

8 (1) THE REVOCATION OF A WAIVER UNDER SUBSECTION (B)(1) OF THIS
9 SECTION CONTINUES THE STATE POSTCONVICTION REVIEW PROCESS FOR
10 PURPOSES OF § 3-902 OF THE CORRECTIONAL SERVICES ARTICLE.

11 (2) THE REVOCATION OF A WAIVER UNDER SUBSECTION (B)(2) OF THIS
12 SECTION CONTINUES THE STATE POSTCONVICTION REVIEW PROCESS FOR
13 PURPOSES OF § 3-902 OF THE CORRECTIONAL SERVICES ARTICLE UNTIL THE
14 EARLIER OF:

15 (I) THE FILING OF A PETITION FOR POSTCONVICTION RELIEF; OR

16 (II) THE EXPIRATION OF THE 210-DAY PERIOD ESTABLISHED IN §
17 7-201 OF THIS SUBTITLE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 645A(a)(5).

20 In subsections (c) and (d)(1) and (2) of this section, the references to "§
21 3-902 of the Correctional Services Article" are substituted for the former
22 obsolete references to "§ 75 of this article" for clarity.

23 7-204. HEARING ON PETITION.

24 (A) DATE FOR HEARING.

25 (1) THE DATE FOR A HEARING ON A PETITION FILED IN A CASE IN
26 WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED SHALL:

27 (I) BE SET WITHIN 30 DAYS AFTER THE DAY ON WHICH THE
28 PETITION IS FILED; AND

29 (II) OCCUR WITHIN 90 DAYS AFTER THE DAY THE PETITION IS
30 FILED.

31 (2) AFTER THE HEARING DATE IS SET UNDER PARAGRAPH (1)(I) OF THIS
32 SUBSECTION, THE COURT MAY NOT CHANGE THE DATE UNLESS A PARTY FILES A
33 MOTION REQUESTING THE CHANGE AND SHOWS GOOD CAUSE FOR THE CHANGE.

1 (3) THE COURT SHALL ISSUE A DECISION ON A PETITION FILED IN A
2 CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED WITHIN 90 DAYS AFTER
3 THE HEARING ON THE PETITION.

4 (B) ENFORCEMENT.

5 A PARTY MAY ENFORCE THIS SECTION THROUGH THE FILING OF A PETITION
6 FOR WRIT OF MANDAMUS IN THE COURT OF APPEALS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 645A(g).

9 SUBTITLE 3. SHORT TITLE.

10 7-301. SHORT TITLE.

11 THIS TITLE IS THE UNIFORM POSTCONVICTION PROCEDURE ACT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 645J.

14 TITLE 8. SENTENCE REVIEW.

15 8-101. DEFINITIONS.

16 (A) IN GENERAL.

17 IN THIS TITLE THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

18 REVISOR'S NOTE: This subsection is new language substituted for the
19 introductory phrase of former Art. 27, § 645JF.

20 (B) REVIEW PANEL.

21 "REVIEW PANEL" MEANS A GROUP OF THREE OR MORE CIRCUIT COURT JUDGES
22 WHO CONDUCT A REVIEW PROCEEDING IN CONNECTION WITH AN APPLICATION FOR
23 A REVIEW OF A SENTENCE UNDER THIS TITLE.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 27, § 645JF(5).

26 The reference to "circuit court" judges is substituted for the former
27 reference to "trial" judges to conform to the terminology used throughout
28 this title.

29 (C) SENTENCING COURT.

30 "SENTENCING COURT" MEANS THE COURT IN WHICH THE SENTENCING JUDGE
31 IMPOSED THE SENTENCE OR REQUIRED THAT A SENTENCE THAT WAS WHOLLY OR
32 PARTLY SUSPENDED BE SERVED.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, § 645JF(4).

3 Defined term: "Sentencing judge" § 8-101

4 (D) SENTENCING JUDGE.

5 "SENTENCING JUDGE" MEANS THE JUDGE WHO IMPOSED A SENTENCE OR WHO
6 REQUIRED THAT A SENTENCE THAT WAS WHOLLY OR PARTLY SUSPENDED BE
7 SERVED.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 27, § 645JF(3).

10 REVISOR'S NOTE TO SECTION:

11 Former Art. 27, § 645JF(1), which defined the term "trial judge" to mean "a
12 judge of the circuit court of the county or of the judicial circuit of this State,
13 in which the sentencing court is located, whether the judge was elected or
14 appointed," is deleted as unnecessary, because the term "trial judge" is not
15 used in this title. The term as defined does not alter the inherent, ordinary
16 meaning of the term "circuit court judge", which is used in this title to
17 conform to the terminology used throughout this article.

18 Former Art. 27, § 645JF(2), which defined the term "trial court" to mean
19 "the circuit court for any county" is deleted as unnecessary because the
20 term "trial court" is not used in this title. The term as defined does not add
21 anything to the inherent, ordinary meaning of the term "circuit court",
22 which is used in this title to conform to the terminology used throughout
23 this article.

24 8-102. RIGHT TO SENTENCE REVIEW.

25 (A) PERSONS ENTITLED TO REVIEW.

26 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON
27 CONVICTED OF A CRIME BY A CIRCUIT COURT AND SENTENCED TO SERVE A
28 SENTENCE THAT EXCEEDS 2 YEARS IN A CORRECTIONAL FACILITY IS ENTITLED TO A
29 SINGLE SENTENCE REVIEW BY A REVIEW PANEL.

30 (B) EXCEPTION.

31 A PERSON IS NOT ENTITLED:

32 (1) TO A SENTENCE REVIEW IF THE SENTENCE WAS IMPOSED BY MORE
33 THAN ONE CIRCUIT COURT JUDGE; OR

34 (2) TO A REVIEW OF AN ORDER REQUIRING A SUSPENDED PART OF A
35 SENTENCE TO BE SERVED IF:

1 (I) THE SENTENCE ORIGINALLY WAS WHOLLY OR PARTLY
2 SUSPENDED;

3 (II) THE SENTENCE WAS REVIEWED; AND

4 (III) THE SUSPENDED SENTENCE OR SUSPENDED PART OF THAT
5 SENTENCE LATER WAS REQUIRED TO BE SERVED.

6 (C) SENTENCE EXCEEDING 2 YEARS.

7 FOR PURPOSES OF THIS TITLE, A SENTENCE THAT EXCEEDS 2 YEARS IS A
8 SENTENCE IN WHICH THE TOTAL PERIOD OF THE SENTENCE AND ANY UNSERVED
9 TIME OF A PRIOR OR SIMULTANEOUS SENTENCE EXCEEDS 2 YEARS, INCLUDING:

10 (1) A SENTENCE IMPOSED BY A CIRCUIT COURT;

11 (2) A REQUIREMENT BY A CIRCUIT COURT THAT ALL OR PART OF A
12 SUSPENDED SENTENCE BE SERVED; AND

13 (3) A PRIOR OR SIMULTANEOUS SENTENCE, SUSPENDED OR NOT
14 SUSPENDED, THAT HAS BEEN IMPOSED BY A COURT OR OTHER AUTHORITY OF THE
15 STATE OR OF ANOTHER JURISDICTION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 645JB and the second sentence and, as it
18 related to right to sentence review, the first sentence of § 645JA(a).

19 In subsection (a) of this section, the reference to a "circuit court" is
20 substituted for the former reference to "any trial court of this State" for
21 brevity.

22 Also in subsection (a) of this section, the defined term "correctional facility"
23 is substituted for the former reference to "any penal or correctional
24 institution in this State" to conform to the terminology used throughout
25 this article.

26 Also in subsection (a) of this section, the former phrase "with or without
27 suspension" is deleted as superfluous.

28 Defined terms: "Correctional facility" § 1-101

29 "Person" § 1-101

30 8-103. RIGHT TO COUNSEL.

31 (A) IN GENERAL.

32 A PERSON ENTITLED TO FILE AN APPLICATION FOR A SENTENCE REVIEW
33 UNDER THIS TITLE HAS THE RIGHT TO BE REPRESENTED BY COUNSEL:

34 (1) TO DETERMINE WHETHER TO SEEK A SENTENCE REVIEW; AND

1 (2) TO FILE AN APPLICATION FOR A SENTENCE REVIEW.

2 (B) OBTAINING COUNSEL.

3 THE COUNSEL REPRESENTING A PERSON FOR A SENTENCE REVIEW MAY BE:

4 (1) RETAINED BY A PERSON WHO IS ENTITLED TO FILE AN APPLICATION
5 FOR REVIEW UNDER THIS TITLE;

6 (2) APPOINTED BY THE SENTENCING JUDGE; OR

7 (3) PROVIDED UNDER ARTICLE 27A OF THE CODE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 645JE(a).

10 In subsection (a) of this section, the reference to a "sentence" review is
11 added for clarity.

12 Defined terms: "Person" § 1-101

13 "Sentencing judge" § 8-101

14 8-104. FILING OF APPLICATION FOR REVIEW.

15 (A) EFFECT OF FILING.

16 THE FILING OF AN APPLICATION FOR SENTENCE REVIEW UNDER THIS TITLE
17 DOES NOT:

18 (1) STAY THE EXECUTION OF THE SENTENCE;

19 (2) AFFECT THE TIME ALLOWED TO FILE AN APPEAL OR A MOTION FOR
20 A NEW TRIAL; OR

21 (3) AFFECT THE POWER OF THE SENTENCING JUDGE TO CHANGE THE
22 SENTENCE TO THE EXTENT ALLOWED BY THE MARYLAND RULES.

23 (B) STAY AFTER FILING.

24 AFTER AN APPLICATION IS FILED, THE SENTENCING JUDGE MAY GRANT A STAY
25 OF THE EXECUTION OF THE SENTENCE PENDING A DECISION UNDER THIS TITLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 645JD.

28 In subsection (a)(2) of this section, the former reference to an appeal "on
29 the merits of the case" is deleted as implied in the reference to an "appeal".

30 In subsection (a)(3) of this section, the reference to a "sentencing" judge is
31 substituted for the former reference to a "trial" judge to conform to the
32 terminology used in subsection (b) of this section.

1 % Also in subsection (a)(3) of this section, the reference to the "Maryland
2 Rules" is substituted for the former reference to "rules of the Court of
3 Appeals in force and effect from time to time" for brevity and to conform to
4 the terminology used in current practice.

5 In subsection (b) of this section, the reference to a stay "of the execution of
6 the sentence" is added for clarity.

7 Defined term: "Sentencing judge" § 8-101

8 8-105. REVIEW PANEL.

9 (A) MEMBERSHIP.

10 A REVIEW PANEL CONSISTS OF THREE OR MORE CIRCUIT COURT JUDGES OF
11 THE JUDICIAL CIRCUIT IN WHICH THE SENTENCING COURT IS LOCATED.

12 (B) ROLE OF SENTENCING JUDGE.

13 NOTWITHSTANDING ANY MARYLAND RULE, THE SENTENCING JUDGE MAY NOT
14 BE A MEMBER OF THE REVIEW PANEL, BUT ON REQUEST OF THE SENTENCING
15 JUDGE, THE SENTENCING JUDGE MAY SIT WITH THE REVIEW PANEL ONLY IN AN
16 ADVISORY CAPACITY.

17 (C) POWERS AND DUTIES.

18 (1) A REVIEW PANEL SHALL CONSIDER EACH APPLICATION FOR REVIEW
19 OF A SENTENCE.

20 (2) A REVIEW PANEL MAY REQUIRE THE DIVISION OF PAROLE AND
21 PROBATION TO MAKE INVESTIGATIONS, REPORTS, AND RECOMMENDATIONS.

22 (3) A REVIEW PANEL:

23 (I) WITH OR WITHOUT A HEARING, MAY DECIDE THAT THE
24 SENTENCE UNDER REVIEW SHOULD REMAIN UNCHANGED; OR

25 (II) AFTER A HEARING, MAY ORDER A DIFFERENT SENTENCE TO BE
26 IMPOSED OR SERVED, INCLUDING:

27 1. AN INCREASED SENTENCE;

28 2. SUBJECT TO § 8-107(C) OF THIS TITLE, A DECREASED
29 SENTENCE;

30 3. A SUSPENDED SENTENCE TO BE SERVED WHOLLY OR
31 PARTLY; OR

32 4. A SENTENCE TO BE SUSPENDED WITH OR WITHOUT
33 PROBATION.

1 (4) IN DECIDING TO ORDER A DIFFERENT SENTENCE, THE REVIEW
2 PANEL MAY IMPOSE CONDITIONS THAT THE REVIEW PANEL CONSIDERS JUST AND
3 THAT COULD HAVE BEEN IMPOSED LAWFULLY BY THE SENTENCING COURT WHEN
4 THE SENTENCE WAS IMPOSED.

5 (D) NOTIFICATION.

6 IF THE REVIEW PANEL ORDERS A DIFFERENT SENTENCE, THE REVIEW PANEL
7 SHALL RESENTENCE AND NOTIFY THE DEFENDANT IN ACCORDANCE WITH THE
8 ORDER OF THE PANEL.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 645JC(a), (b)(1) and (2)(i), (c), and (f) and the
11 third sentence of former § 645JA(a) and the first sentence, as it related to
12 membership of the review panel.

13 In subsection (b) of this section, the former phrase "to the contrary" is
14 deleted as surplusage. Similarly, the former reference to "the convicted
15 person" is deleted as unnecessary in light of the reference to the defined
16 term "sentencing judge".

17 In subsection (c)(1) of this section, the reference to a review "of a sentence"
18 is added for clarity.

19 In subsection (c)(2) of this section, the former reference to
20 recommendations "with regard to any such application for review" is
21 deleted as implied in the reference to "recommendations".

22 In subsection (c)(3)(ii) of this section, the former reference to including "by
23 way of illustration and not by way of limitation" is deleted in light of Art. 1,
24 § 30.

25 In subsection (c)(4) of this section, the former reference to "terms" is
26 deleted as unnecessary in light of the reference to "conditions".

27 In subsection (d) of this section, the reference to a "defendant" is
28 substituted for the former reference to a "convicted person" to conform to
29 the terminology used throughout this article.

30 The Criminal Procedure Article Review Committee notes, for consideration
31 by the General Assembly, that the procedure for a sentencing judge to sit
32 with the review panel in an advisory capacity set forth in subsection (b) of
33 this section differs from the procedure set forth in Md. Rule 4-344(d).
34 Subsection (b) of this section states that a sentencing judge may sit with
35 the review panel at the request of the sentencing judge. Md. Rule 4-344(d)
36 states that a sentencing judge may do so "if requested by a majority of the
37 Review Panel".

38 Defined terms: "Review panel" § 8-101

39 "Sentencing court" § 8-101

1 "Sentencing judge" § 8-101

2 8-106. RIGHTS TO NOTICE OF AND APPEARANCE AT HEARING.

3 (A) NOTICE.

4 A REVIEW PANEL MAY INCREASE, MODIFY, OR REDUCE A SENTENCE ONLY
5 AFTER NOTICE TO EACH PARTY AND NOTICE TO ANY VICTIM OR VICTIM'S
6 REPRESENTATIVE AS PROVIDED UNDER § 11-104 OR § 11-503 OF THIS ARTICLE.

7 (B) RIGHT TO BE HEARD.

8 BEFORE CHANGING A SENTENCE, A REVIEW PANEL SHALL ALLOW:

9 (1) EACH PARTY TO BE HEARD AT THE HEARING; AND

10 (2) THE VICTIM OR VICTIM'S REPRESENTATIVE TO ATTEND THE
11 HEARING, AS PROVIDED BY § 11-102 OF THIS ARTICLE, AND TO ADDRESS THE REVIEW
12 PANEL, AS PROVIDED BY § 11-403 OF THIS ARTICLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 645JE(b) and (c).

15 In subsection (a) of this section, the reference to "victim's representative" is
16 added to conform to subsection (b) of this section.

17 In subsection (b)(1) of this section, the reference to "each party" is
18 substituted for the former reference to "the State and the defendant" for
19 clarity.

20 In subsection (b)(2) of this section, the reference to a "hearing" is
21 substituted for the former reference to a "proceeding" for consistency
22 within this section.

23 Defined term: "Review panel" § 8-101

24 8-107. RULES FOR DECISION MAKING.

25 (A) MAJORITY VOTE NEEDED.

26 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A MAJORITY OF
27 THE MEMBERS OF THE REVIEW PANEL IS NECESSARY TO MAKE A DECISION.

28 (B) DECISION TO BE MADE WITHIN 30 DAYS.

29 THE REVIEW PANEL SHALL MAKE THE DECISION WITHIN 30 DAYS AFTER THE
30 FILING DATE OF THE APPLICATION FOR REVIEW.

31 (C) UNANIMITY REQUIRED TO DECREASE MANDATORY SENTENCE.

1 A REVIEW PANEL MAY NOT ORDER A DECREASE IN A MANDATORY MINIMUM
2 SENTENCE UNLESS THE DECISION OF THE REVIEW PANEL IS UNANIMOUS.

3 (D) TIME SERVED TO BE CONSIDERED IN SUBSTITUTED SENTENCE.

4 A REVIEW PANEL SHALL CONSIDER TIME SERVED ON THE SENTENCE UNDER
5 REVIEW TO BE TIME SERVED ON ANY SENTENCE THAT IS SUBSTITUTED.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 645JC(e), (g), and (b)(2)(ii).

8 In subsection (b) of this section, the reference to a "defendant" is
9 substituted for the former reference to the "convicted person" to conform to
10 the terminology used throughout this title.

11 Defined term: "Review panel" § 8-101

12 8-108. DEATH SENTENCES.

13 (A) REVIEW OF DEATH SENTENCE.

14 THE REVIEW OF A SENTENCE OF DEATH IS GOVERNED BY ARTICLE 27, § 414 OF
15 THE CODE.

16 (B) INCREASE OF SENTENCE TO DEATH SENTENCE -- PROHIBITED.

17 A REVIEW PANEL MAY NOT INCREASE A SENTENCE TO THE SENTENCE OF
18 DEATH.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, §§ 645JA(b) and 645JC(d).

21 The reference to "a sentence" is substituted for the former reference to "a
22 sentence for imprisonment for life, imprisonment for life without the
23 possibility of parole, or a term of years" for clarity.

24 Defined term: "Review panel" § 8-101

25 8-109. RULES OF PROCEDURE.

26 THE COURT OF APPEALS SHALL ADOPT RULES TO CARRY OUT THIS TITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 645JG.

29 The former reference to "appropriate" rules is deleted as surplusage.

30 The former reference to rules "of procedure" is deleted as implicit in the
31 word "rules".

32 As for the substitution of the reference to "carry out" this title for the

1 former reference to "implement" this subtitle, *see* General Revisor's Note to
2 article.

3 TITLE 9. EXTRADITION.

4 9-101. DEFINITIONS.

5 (A) IN GENERAL.

6 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

7 (B) EXECUTIVE AUTHORITY.

8 IN THIS TITLE, "EXECUTIVE AUTHORITY" INCLUDES THE GOVERNOR AND ANY
9 PERSON PERFORMING THE FUNCTIONS OF GOVERNOR IN A STATE OTHER THAN THIS
10 STATE.

11 (C) STATE.

12 (1) "STATE" MEANS A STATE OTHER THAN THIS STATE.

13 (2) "STATE" INCLUDES ANY OTHER STATE OR TERRITORY OF THE
14 UNITED STATES OF AMERICA.

15 REVISOR'S NOTE: Subsection (a) of this section is new language added as the
16 standard introduction to a definition section.

17 Subsections (b) and (c) of this section formerly were Art. 41, § 2-201.

18 The only changes are in style.

19 The Criminal Procedure Article Review Committee notes, for consideration
20 of the General Assembly, that the definition of "executive authority" does
21 not explicitly include a judge of the Superior Court of the District of
22 Columbia. In that jurisdiction, those judges act as the "executive
23 authority" for purposes of this subtitle. The General Assembly may wish to
24 clarify the definition of "executive authority".

25 Defined term: "Person" § 1-101

26 9-102. FUGITIVES FROM JUSTICE; DUTY OF GOVERNOR.

27 SUBJECT TO THE PROVISIONS OF THIS TITLE, THE PROVISIONS OF THE
28 CONSTITUTION OF THE UNITED STATES CONTROLLING, AND ANY AND ALL ACTS OF
29 CONGRESS ENACTED IN PURSUANCE THEREOF, IT IS THE DUTY OF THE GOVERNOR
30 OF THIS STATE TO HAVE ARRESTED AND DELIVERED UP TO THE EXECUTIVE
31 AUTHORITY OF ANY OTHER STATE ANY PERSON CHARGED IN THAT STATE WITH
32 TREASON, FELONY, OR OTHER CRIME, WHO HAS FLED FROM JUSTICE AND IS FOUND
33 IN THIS STATE.

34 REVISOR'S NOTE: This section formerly was Art. 41, § 2-202.

1 %The former reference to a state "of the United States" is deleted in light of
2 the definition of "state" in § 9-101 of this title.

3 No other changes are made.

4 Defined terms: "Executive authority" § 9-101

5 "Person" § 1-101

6 "State" § 9-101

7 9-103. FORM OF DEMAND.

8 (A) IN GENERAL.

9 A DEMAND FOR THE EXTRADITION OF A PERSON CHARGED WITH CRIME IN
10 ANOTHER STATE MAY NOT BE RECOGNIZED BY THE GOVERNOR UNLESS IT IS:

11 (1) IN WRITING AND ALLEGING, EXCEPT IN CASES ARISING UNDER §
12 9-106 OF THIS TITLE, THAT THE ACCUSED WAS PRESENT IN THE DEMANDING STATE
13 AT THE TIME OF THE COMMISSION OF THE ALLEGED CRIME, AND THAT THEREAFTER
14 THE ACCUSED FLED FROM THE STATE; AND

15 (2) ACCOMPANIED BY:

16 (I) A COPY OF AN INDICTMENT FOUND OR BY INFORMATION
17 SUPPORTED BY AFFIDAVIT IN THE STATE HAVING JURISDICTION OF THE CRIME, OR
18 BY A COPY OF AN AFFIDAVIT MADE BEFORE A JUSTICE OF THE PEACE OR
19 MAGISTRATE THERE, TOGETHER WITH A COPY OF ANY WARRANT WHICH WAS
20 ISSUED THEREUPON; OR

21 (II) A COPY OF A JUDGMENT OF CONVICTION OR OF A SENTENCE
22 IMPOSED IN EXECUTION THEREOF, TOGETHER WITH A STATEMENT BY THE
23 EXECUTIVE AUTHORITY OF THE DEMANDING STATE THAT THE PERSON CLAIMED
24 HAS ESCAPED FROM CONFINEMENT OR HAS BROKEN THE TERMS OF THE PERSON'S
25 BAIL, PROBATION, OR PAROLE.

26 (B) CONTENTS OF DEMAND.

27 (1) THE INDICTMENT, INFORMATION, OR AFFIDAVIT MADE BEFORE THE
28 MAGISTRATE OR JUSTICE OF THE PEACE MUST SUBSTANTIALLY CHARGE THE
29 PERSON DEMANDED WITH HAVING COMMITTED A CRIME UNDER THE LAW OF THAT
30 STATE.

31 (2) THE COPY OF INDICTMENT, INFORMATION, AFFIDAVIT, JUDGMENT
32 OF CONVICTION, OR SENTENCE MUST BE AUTHENTICATED BY THE EXECUTIVE
33 AUTHORITY MAKING THE DEMAND.

34 REVISOR'S NOTE: This section formerly was Art. 41, § 2-203.

35 The only changes are in style.

1 Defined terms: "Executive authority" § 9-101

2 "Person" § 1-101

3 "State" § 9-101

4 9-104. GOVERNOR MAY CALL FOR INVESTIGATION.

5 WHEN A DEMAND IS MADE UPON THE GOVERNOR OF THIS STATE BY THE
6 EXECUTIVE AUTHORITY OF ANOTHER STATE FOR THE SURRENDER OF A PERSON SO
7 CHARGED WITH CRIME, THE GOVERNOR MAY CALL UPON THE ATTORNEY GENERAL
8 OR ANY PROSECUTING OFFICER IN THIS STATE:

9 (1) TO INVESTIGATE OR ASSIST IN INVESTIGATING THE DEMAND; AND

10 (2) TO REPORT TO THE GOVERNOR THE SITUATION AND
11 CIRCUMSTANCES OF THE PERSON SO DEMANDED, AND WHETHER THE PERSON
12 OUGHT TO BE SURRENDERED.

13 REVISOR'S NOTE: This section formerly was Art. 41, § 2-204.

14 The only changes are in style.

15 Defined terms: "Executive authority" § 9-101

16 "Person" § 1-101

17 "State" § 9-101

18 9-105. EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL IN ANOTHER
19 STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER COMPULSION.

20 (A) ACCUSED HELD IN ANOTHER STATE.

21 WHEN IT IS DESIRED TO HAVE RETURNED TO THIS STATE A PERSON CHARGED
22 IN THIS STATE WITH A CRIME, AND THE PERSON IS IMPRISONED OR IS HELD UNDER
23 CRIMINAL PROCEEDINGS THEN PENDING IN ANOTHER STATE, THE GOVERNOR OF
24 THIS STATE MAY AGREE WITH THE EXECUTIVE AUTHORITY OF THE OTHER STATE
25 FOR THE EXTRADITION OF THE PERSON BEFORE THE CONCLUSION OF
26 PROCEEDINGS OR TERM OF SENTENCE IN THE OTHER STATE, UPON CONDITION
27 THAT THE PERSON BE RETURNED TO THE OTHER STATE AT THE EXPENSE OF THIS
28 STATE AS SOON AS THE PROSECUTION IN THIS STATE IS TERMINATED.

29 (B) ACCUSED HELD IN THIS STATE.

30 THE GOVERNOR OF THIS STATE MAY ALSO SURRENDER, ON DEMAND OF THE
31 EXECUTIVE AUTHORITY OF ANY OTHER STATE, ANY PERSON IN THIS STATE WHO IS
32 CHARGED IN THE MANNER PROVIDED IN § 9-123 OF THIS TITLE WITH HAVING
33 VIOLATED THE LAWS OF THE STATE WHOSE EXECUTIVE AUTHORITY IS MAKING THE
34 DEMAND, EVEN THOUGH THE PERSON LEFT THE DEMANDING STATE
35 INVOLUNTARILY.

36 REVISOR'S NOTE: This section formerly was Art. 41, § 2-205.

1 %The only changes are in style.

2 Defined terms: "Executive authority" § 9-101

3 "Person" § 1-101

4 "State" § 9-101

5 9-106. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING STATE AT TIME OF
6 COMMISSION OF CRIME.

7 (A) IN GENERAL.

8 THE GOVERNOR OF THIS STATE MAY ALSO SURRENDER, ON DEMAND OF THE
9 EXECUTIVE AUTHORITY OF ANY OTHER STATE, ANY PERSON IN THIS STATE
10 CHARGED IN THE OTHER STATE IN THE MANNER PROVIDED IN § 9-103 OF THIS TITLE
11 WITH COMMITTING AN ACT IN THIS STATE OR IN A THIRD STATE THAT
12 INTENTIONALLY RESULTS IN A CRIME IN THE STATE WHOSE EXECUTIVE AUTHORITY
13 IS MAKING THE DEMAND.

14 (B) APPLICATION.

15 THE PROVISIONS OF THIS TITLE THAT ARE NOT OTHERWISE INCONSISTENT
16 SHALL APPLY TO THOSE CASES, EVEN THOUGH THE ACCUSED WAS NOT IN THAT
17 STATE AT THE TIME OF THE COMMISSION OF THE CRIME AND HAS NOT FLED
18 THEREFROM.

19 REVISOR'S NOTE: This section formerly was Art. 41, § 2-206.

20 The only changes are in style.

21 Defined terms: "Executive authority" § 9-101

22 "Person" § 1-101

23 "State" § 9-101

24 9-107. GOVERNOR'S WARRANT OF ARREST.

25 (A) IN GENERAL.

26 IF THE GOVERNOR DECIDES THAT THE DEMAND SHOULD BE COMPLIED WITH,
27 THE GOVERNOR SHALL SIGN A WARRANT OF ARREST. THE WARRANT SHALL BE
28 SEALED WITH THE STATE SEAL AND BE DIRECTED TO ANY LAW ENFORCEMENT
29 OFFICER OR OTHER PERSON WHOM THE GOVERNOR MAY THINK FIT TO ENTRUST
30 WITH THE EXECUTION THEREOF.

31 (B) CONTENTS OF WARRANT.

32 THE WARRANT MUST SUBSTANTIALLY RECITE THE FACTS NECESSARY TO THE
33 VALIDITY OF ITS ISSUANCE.

34 REVISOR'S NOTE: This section formerly was Art. 41, § 2-207.

35 In subsection (a) of this section, the reference to any "law enforcement"

1 officer is substituted for the former reference to any "peace" officer for
2 consistency throughout this article.

3 The only other changes are in style.

4 Defined term: "Person" § 1-101

5 9-108. MANNER AND PLACE OF EXECUTION.

6 A WARRANT ISSUED UNDER § 9-107 OF THIS TITLE SHALL AUTHORIZE THE LAW
7 ENFORCEMENT OFFICER OR OTHER PERSON TO WHOM IT IS DIRECTED:

8 (1) TO ARREST THE ACCUSED AT ANY TIME AND ANY PLACE WHERE THE
9 ACCUSED IS FOUND WITHIN THE STATE;

10 (2) TO COMMAND THE AID OF ALL LAW ENFORCEMENT OFFICERS OR
11 OTHER PERSONS IN THE EXECUTION OF THE WARRANT; AND

12 (3) TO DELIVER THE ACCUSED, SUBJECT TO THE PROVISIONS OF THIS
13 TITLE, TO THE DULY AUTHORIZED AGENT OF THE DEMANDING STATE.

14 REVISOR'S NOTE: This section formerly was Art. 41, § 2-208.

15 In the introductory language and item (2) of this section, the reference to
16 "law enforcement" officers is substituted for the former reference to "peace"
17 officers for consistency throughout this article.

18 The only other changes are in style.

19 Defined terms: "Person" § 1-101

20 "State" § 9-101

21 9-109. AUTHORITY OF ARRESTING OFFICER.

22 A LAW ENFORCEMENT OFFICER OR OTHER PERSON EMPOWERED TO MAKE THE
23 ARREST UNDER § 9-108 OF THIS TITLE HAS THE SAME AUTHORITY IN ARRESTING THE
24 ACCUSED TO COMMAND ASSISTANCE AS LAW ENFORCEMENT OFFICERS HAVE BY
25 LAW IN THE EXECUTION OF ANY CRIMINAL PROCESS DIRECTED TO THEM, WITH LIKE
26 PENALTIES AGAINST THOSE WHO REFUSE THEIR ASSISTANCE.

27 REVISOR'S NOTE: This section formerly was Art. 41, § 2-209.

28 The references to "law enforcement" officers are substituted for the former
29 reference to "peace" officers for consistency throughout this article.

30 The only other changes are in style.

31 Defined term: "Person" § 1-101

1 9-110. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT OF HABEAS CORPUS.

2 (A) RIGHTS OF ACCUSED.

3 (1) A PERSON ARRESTED UPON A WARRANT ISSUED UNDER § 9-107 OF
4 THIS TITLE MAY NOT BE DELIVERED OVER TO THE AGENT WHOM THE EXECUTIVE
5 AUTHORITY DEMANDING THE PERSON HAS APPOINTED TO RECEIVE THE PERSON
6 UNLESS THE PERSON IS FIRST TAKEN FORTHWITH BEFORE A JUDGE OF A COURT OF
7 RECORD IN THIS STATE, WHO SHALL INFORM THE PERSON:

8 (I) OF THE DEMAND MADE FOR SURRENDER;

9 (II) OF THE CRIME CHARGED; AND

10 (III) OF THE RIGHT TO DEMAND AND PROCURE LEGAL COUNSEL.

11 (2) IF THE PERSON ARRESTED OR THE PERSON'S COUNSEL SHALL STATE
12 A DESIRE TO TEST THE LEGALITY OF THE ARREST, THE JUDGE SHALL FIX A
13 REASONABLE TIME WITHIN WHICH THE PERSON CAN APPLY FOR A WRIT OF HABEAS
14 CORPUS.

15 (B) NOTICE OF HEARING.

16 WHEN THE WRIT IS APPLIED FOR, NOTICE THEREOF AND OF THE TIME AND
17 PLACE OF HEARING THEREON SHALL BE GIVEN TO THE PROSECUTING OFFICER OF
18 THE COUNTY IN WHICH THE ARREST IS MADE AND IN WHICH THE ACCUSED IS IN
19 CUSTODY, AND TO THE AGENT OF THE DEMANDING STATE.

20 (C) JUDICIAL REVIEW.

21 IF THE APPLICATION FOR A WRIT OF HABEAS CORPUS AFTER AN EXTRADITION
22 HEARING ONLY IS DENIED BY THE TRIAL COURT, THE DENIAL MAY BE APPEALED TO
23 THE COURT OF SPECIAL APPEALS.

24 REVISOR'S NOTE: This section formerly was Art. 41, § 2-210.

25 In subsection (a)(2) of this section, the reference to the "person arrested" is
26 substituted for the former reference to the "prisoner" for consistency
27 within this section.

28 In subsection (b) of this section, the former reference to the "City of
29 Baltimore" is deleted in light of the definition of "county" in § 1-101 of this
30 article.

31 The only other changes are in style.

32 Defined terms: "County" § 1-101

33 "Executive authority" § 9-101

34 "Person" § 1-101

35 "State" § 9-101

1 9-111. NONCOMPLIANCE WITH DELIVERY PROCEDURES.

2 (A) IN GENERAL.

3 AN OFFICER MAY NOT DELIVER TO THE AGENT FOR EXTRADITION OF THE
4 DEMANDING STATE A PERSON IN THE OFFICER'S CUSTODY UNDER THE GOVERNOR'S
5 WARRANT IN WILLFUL DISOBEDIENCE TO § 9-110 OF THIS TITLE.

6 (B) PENALTY.

7 A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF A
8 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
9 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

10 (C) VENUE.

11 THE TRIAL OF A CASE BROUGHT FOR A VIOLATION OF THIS SECTION SHALL BE
12 CONDUCTED IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE VIOLATION WAS
13 COMMITTED.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 2-211.

16 This section is revised in the standard language used to express a
17 prohibition and a penalty.

18 The Criminal Procedure Article Review Committee notes, for consideration
19 of the General Assembly, that subsection (c) of this section does not give
20 jurisdiction to the District Court. Considering that the misdemeanor
21 created by this section carries relatively small penalties, the General
22 Assembly may wish to amend subsection (c) to allow cases to be brought in
23 the District Court.

24 Defined terms: "County" § 1-101

25 "Person" § 1-101

26 "State" § 9-101

27 9-112. CONFINEMENT IN CORRECTIONAL FACILITY WHEN NECESSARY.

28 (A) TEMPORARY CUSTODY OF PRISONER ARRESTED IN THIS STATE.

29 (1) THE OFFICER OR PERSON EXECUTING THE GOVERNOR'S WARRANT
30 OF ARREST OR THE AGENT OF THE DEMANDING STATE TO WHOM THE PRISONER
31 MAY HAVE BEEN DELIVERED MAY, WHEN NECESSARY, CONFINE THE PRISONER IN
32 THE CORRECTIONAL FACILITY OF ANY COUNTY OR MUNICIPAL CORPORATION
33 THROUGH WHICH THE OFFICER, PERSON, OR AGENT MAY PASS.

34 (2) THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY MUST
35 RECEIVE AND SAFELY KEEP THE PRISONER UNTIL THE OFFICER, PERSON, OR AGENT
36 HAVING CHARGE OF THE PRISONER IS READY TO PROCEED.

1 (3) THE OFFICER, PERSON, OR AGENT IS CHARGEABLE WITH THE
2 EXPENSE OF KEEPING THE PRISONER.

3 (B) TEMPORARY CUSTODY OF PRISONER ARRESTED IN ANOTHER STATE.

4 (1) THE OFFICER OR AGENT OF A DEMANDING STATE TO WHOM A
5 PRISONER MAY HAVE BEEN DELIVERED FOLLOWING EXTRADITION PROCEEDINGS IN
6 ANOTHER STATE, OR TO WHOM A PRISONER MAY HAVE BEEN DELIVERED AFTER
7 WAIVING EXTRADITION IN ANOTHER STATE, AND WHO IS PASSING THROUGH THIS
8 STATE WITH THE PRISONER FOR THE PURPOSE OF IMMEDIATELY RETURNING THE
9 PRISONER TO THE DEMANDING STATE MAY, WHEN NECESSARY, CONFINE THE
10 PRISONER IN THE CORRECTIONAL FACILITY OF ANY COUNTY OR MUNICIPAL
11 CORPORATION THROUGH WHICH THE OFFICER OR AGENT MAY PASS.

12 (2) THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY MUST
13 RECEIVE AND SAFELY KEEP THE PRISONER UNTIL THE OFFICER OR AGENT HAVING
14 CHARGE OF THE PRISONER IS READY TO PROCEED.

15 (3) THE OFFICER OR AGENT IS CHARGEABLE WITH THE EXPENSE OF
16 KEEPING THE PRISONER.

17 (4) THE OFFICER OR AGENT SHALL PRODUCE AND SHOW TO THE
18 MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY SATISFACTORY WRITTEN
19 EVIDENCE OF THE FACT THAT THE OFFICER OR AGENT IS ACTUALLY TRANSPORTING
20 THE PRISONER TO THE DEMANDING STATE AFTER A REQUISITION BY THE
21 EXECUTIVE AUTHORITY OF THE DEMANDING STATE.

22 (5) THE PRISONER IS NOT ENTITLED TO DEMAND A NEW REQUISITION
23 WHILE IN THIS STATE.

24 REVISOR'S NOTE: This section formerly was Art. 41, § 2-212.

25 In subsections (a)(1) and (2) and (b)(1), (2), and (4) of this section, the
26 references to a "correctional facility" are substituted for the former
27 references to a "jail" for consistency throughout this article.

28 In subsections (a)(1) and (b)(1) of this section, the references to "municipal
29 corporation" are substituted for the former references to a "city" to conform
30 to Md. Constitution, Art. XI-E.

31 In subsections (a)(2) and (b)(2) and (4) of this section, the references to a
32 "managing official" are substituted for the former references to a "keeper"
33 for consistency with current nomenclature.

34 In subsections (a)(2) and (b)(2) of this section, the former phrase "on his
35 route" is deleted as implicit in the reference to "proceed[ing]".

36 The only other changes are in style.

1 Defined terms: "Correctional facility" § 1-101

2 "County" § 1-101

3 "Executive authority" § 9-101

4 "Managing official" § 1-101

5 "Person" § 1-101

6 "State" § 9-101

7 9-113. ARREST BEFORE REQUISITION.

8 (A) SCOPE OF SECTION.

9 THIS SECTION APPLIES WHENEVER:

10 (1) IT IS CHARGED ON THE OATH OF A CREDIBLE WITNESS BEFORE A
11 JUDGE OR DISTRICT COURT COMMISSIONER THAT A PERSON IN THIS STATE:

12 (I) HAS COMMITTED A CRIME IN ANOTHER STATE AND, EXCEPT IN
13 CASES ARISING UNDER § 9-106 OF THIS TITLE, HAS FLED FROM JUSTICE; OR

14 (II) HAS BEEN CONVICTED OF A CRIME IN ANOTHER STATE AND
15 HAS ESCAPED FROM CONFINEMENT OR HAS BROKEN THE TERMS OF BAIL,
16 PROBATION, OR PAROLE; OR

17 (2) COMPLAINT IS MADE BEFORE A JUDGE OR DISTRICT COURT
18 COMMISSIONER IN THIS STATE SETTING FORTH ON THE AFFIDAVIT OF A CREDIBLE
19 PERSON IN ANOTHER STATE THAT A PERSON IS BELIEVED TO BE IN THIS STATE AND:

20 (I) THAT A CRIME HAS BEEN COMMITTED IN THE OTHER STATE,
21 THE PERSON HAS BEEN CHARGED IN THE OTHER STATE WITH COMMITTING THE
22 CRIME AND, EXCEPT IN CASES ARISING UNDER § 9-106 OF THIS TITLE, THE PERSON
23 HAS FLED FROM JUSTICE; OR

24 (II) THAT THE PERSON HAS BEEN CONVICTED OF A CRIME IN THE
25 OTHER STATE AND HAS ESCAPED FROM CONFINEMENT OR HAS BROKEN THE TERMS
26 OF BAIL, PROBATION, OR PAROLE.

27 (B) WARRANT.

28 A JUDGE OR DISTRICT COURT COMMISSIONER SHALL ISSUE A WARRANT
29 DIRECTED TO ANY LAW ENFORCEMENT OFFICER COMMANDING THE OFFICER TO
30 APPREHEND THE PERSON NAMED THEREIN, WHEREVER FOUND IN THIS STATE, AND
31 TO BRING THE PERSON BEFORE THE JUDGE, DISTRICT COURT COMMISSIONER, OR
32 ANY OTHER JUDGE OR COURT AVAILABLE IN OR CONVENIENT TO THE PLACE WHERE
33 THE ARREST MAY BE MADE, TO ANSWER THE CHARGE OR COMPLAINT AND
34 AFFIDAVIT.

35 (C) DOCUMENTS ATTACHED TO WARRANT.

36 A CERTIFIED COPY OF THE SWORN CHARGE OR COMPLAINT AND AFFIDAVIT
37 UPON WHICH THE WARRANT IS ISSUED SHALL BE ATTACHED TO THE WARRANT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 2-213.

3 Defined terms: "Person" § 1-101

4 "State" § 9-101

5 9-114. ARREST WITHOUT WARRANT.

6 (A) IN GENERAL.

7 THE ARREST OF A PERSON MAY BE LAWFULLY MADE ALSO BY ANY LAW
8 ENFORCEMENT OFFICER WITHOUT A WARRANT UPON REASONABLE INFORMATION
9 THAT THE ACCUSED STANDS CHARGED IN A COURT OF A STATE WITH A CRIME
10 PUNISHABLE BY DEATH OR IMPRISONMENT FOR A TERM EXCEEDING 1 YEAR.

11 (B) HEARING.

12 WHEN AN ACCUSED IS ARRESTED UNDER SUBSECTION (A) OF THIS SECTION:

13 (1) THE ACCUSED MUST BE TAKEN BEFORE A JUDGE OR DISTRICT
14 COURT COMMISSIONER WITH ALL PRACTICABLE SPEED;

15 (2) COMPLAINT MUST BE MADE AGAINST THE ACCUSED UNDER OATH
16 SETTING FORTH THE GROUND FOR THE ARREST AS IN § 9-113 OF THIS TITLE; AND

17 (3) THEREAFTER, THE ANSWER OF THE ACCUSED SHALL BE HEARD AS
18 IF THE ACCUSED HAD BEEN ARRESTED ON A WARRANT.

19 REVISOR'S NOTE: This section formerly was Art. 41, § 2-214.

20 In subsection (a) of this section, the reference to any "law enforcement"
21 officer is substituted for the former reference to any "peace" officer for
22 consistency throughout this article.

23 The only other changes are in style.

24 Defined terms: "Person" § 1-101

25 "State" § 9-101

26 9-115. COMMITMENT TO AWAIT REQUISITION; BAIL.

27 IF, FROM THE EXAMINATION BEFORE THE JUDGE OR DISTRICT COURT
28 COMMISSIONER, IT APPEARS THAT THE PERSON HELD IS THE PERSON CHARGED
29 WITH HAVING COMMITTED THE CRIME ALLEGED AND, EXCEPT IN CASES ARISING
30 UNDER § 9-106 OF THIS TITLE, THAT THE PERSON HAS FLED FROM JUSTICE, THE
31 JUDGE OR DISTRICT COURT COMMISSIONER MUST, BY A WARRANT RECITING THE
32 ACCUSATION, COMMIT THE PERSON TO THE LOCAL CORRECTIONAL FACILITY FOR A
33 TERM SPECIFIED IN THE WARRANT BUT NOT EXCEEDING 30 DAYS, AS WILL ENABLE
34 THE ARREST OF THE ACCUSED TO BE MADE UNDER A WARRANT OF THE GOVERNOR
35 ON A REQUISITION OF THE EXECUTIVE AUTHORITY OF THE STATE HAVING

1 JURISDICTION OF THE CRIME, UNLESS THE PERSON GIVES BAIL AS PROVIDED IN §
2 9-116 OF THIS TITLE OR UNTIL THE PERSON IS LEGALLY DISCHARGED.

3 REVISOR'S NOTE: This section formerly was Art. 41, § 2-215.

4 The reference to the "local correctional facility" is substituted for the
5 former reference to the "county jail" for consistency throughout this article.

6 The reference to "crime" is substituted for the former reference to "offense"
7 to conform to the terminology used throughout this article.

8 The only other changes are in style.

9 Defined terms: "Executive authority" § 9-101

10 "Local correctional facility" § 1-101

11 "Person" § 1-101

12 "State" § 9-101

13 9-116. BAIL BY BOND.

14 (A) IN GENERAL.

15 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AND UNLESS THE
16 CRIME WITH WHICH THE PERSON ARRESTED IS CHARGED IS SHOWN TO BE A CRIME
17 PUNISHABLE BY DEATH OR LIFE IMPRISONMENT UNDER THE LAWS OF THE STATE IN
18 WHICH IT WAS COMMITTED, A JUDGE IN THIS STATE MAY ADMIT THE PERSON
19 ARRESTED TO BAIL BY BOND, WITH SUFFICIENT SURETIES, AND IN THE SUM THE
20 JUDGE DEEMS PROPER, CONDITIONED FOR THE PERSON'S APPEARANCE BEFORE THE
21 JUDGE AT A TIME SPECIFIED IN THE BOND, AND FOR THE PERSON'S SURRENDER, TO
22 BE ARRESTED UPON THE WARRANT OF THE GOVERNOR OF THIS STATE.

23 (B) EXCEPTIONS.

24 A JUDGE MAY NOT ADMIT A PERSON TO BAIL BY BOND UNDER SUBSECTION (A)
25 OF THIS SECTION FOR THE FIRST 10 DAYS FOLLOWING THE PERSON'S:

26 (1) ARREST UNDER OR SERVICE WITH A GOVERNOR'S WARRANT UNDER
27 THIS TITLE; OR

28 (2) SIGNING A WAIVER OF EXTRADITION PROCEEDINGS UNDER THIS
29 TITLE.

30 REVISOR'S NOTE: This section formerly was Art. 41, § 2-216.

31 In subsection (a) of this section, the reference to a "crime" is substituted for
32 the former reference to an "offense" to conform to the terminology used
33 throughout this article.

34 Also in subsection (a) of this section, the defined term "person" is
35 substituted for the former reference to "prisoner" to conform to the
36 terminology used throughout this article.

1 %The only other changes are in style.

2 The Criminal Procedure Article Review Committee notes, for consideration
3 by the General Assembly, that, unlike other provisions of this title, in
4 subsection (a) of this section, a reference to "District Court commissioner"
5 does not appear with the reference to a "judge". The General Assembly may
6 wish to add that reference for consistency.

7 Defined terms: "Person" § 1-101

8 "State" § 9-101

9 9-117. DISCHARGE, RECOMMITMENT, OR RENEWAL OF BAIL.

10 IF THE ACCUSED IS NOT ARRESTED UNDER WARRANT OF THE GOVERNOR
11 WITHIN THE TIME SPECIFIED IN THE WARRANT OR BOND, A JUDGE OR DISTRICT
12 COURT COMMISSIONER MAY DISCHARGE THE ACCUSED OR RECOMMIT THE
13 ACCUSED FOR A FURTHER PERIOD NOT TO EXCEED 60 DAYS, OR A JUDGE OR
14 DISTRICT COURT COMMISSIONER MAY AGAIN TAKE BAIL FOR THE ACCUSED'S
15 APPEARANCE AND SURRENDER, AS PROVIDED IN § 9-116 OF THIS TITLE, BUT WITHIN
16 A PERIOD NOT TO EXCEED 60 DAYS AFTER THE DATE OF THE NEW BOND.

17 REVISOR'S NOTE: This section formerly was Art. 41, § 2-217.

18 The word "within" is substituted for the former phrase "by the expiration
19 of" for brevity.

20 The only other changes are in style.

21 9-118. FORFEITURE OF BAIL.

22 (A) IN GENERAL.

23 IF THE ACCUSED IS ADMITTED TO BAIL AND FAILS TO APPEAR AND SURRENDER
24 ACCORDING TO THE CONDITIONS OF THE BOND, THE JUDGE OR DISTRICT COURT
25 COMMISSIONER BY PROPER ORDER SHALL DECLARE THE BOND FORFEITED AND
26 ORDER THE IMMEDIATE ARREST OF THE ACCUSED WITHOUT WARRANT IF THE
27 ACCUSED IS WITHIN THIS STATE.

28 (B) PROCEDURE.

29 RECOVERY MAY BE HAD ON THE BOND IN THE NAME OF THE STATE AS IN THE
30 CASE OF OTHER BONDS GIVEN BY THE ACCUSED IN CRIMINAL PROCEEDINGS WITHIN
31 THIS STATE.

32 REVISOR'S NOTE: This section formerly was Art. 41, § 2-218.

33 In subsection (a) of this section, the references to the "accused" are
34 substituted for the former references to "the prisoner" for clarity and
35 consistency with § 9-117 of this title.

36 The only other changes are in style.

1 9-119. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT TIME OF
2 REQUISITION.

3 IF A CRIMINAL PROSECUTION HAS BEEN INSTITUTED AGAINST A PERSON
4 UNDER THE LAWS OF THIS STATE AND IS STILL PENDING, THE GOVERNOR MAY:

5 (1) SURRENDER THE PERSON ON DEMAND OF THE EXECUTIVE
6 AUTHORITY OF ANOTHER STATE; OR

7 (2) HOLD THE PERSON UNTIL THE PERSON HAS BEEN TRIED AND
8 DISCHARGED OR CONVICTED AND PUNISHED IN THIS STATE.

9 REVISOR'S NOTE: This section formerly was Art. 41, § 2-219.

10 The former reference to the Governor's "discretion" is deleted in light of the
11 phrase "the Governor may".

12 The only other changes are in style.

13 Defined terms: "Executive authority" § 9-101

14 "Person" § 1-101

15 "State" § 9-101

16 9-120. INQUIRY INTO GUILT OR INNOCENCE OF ACCUSED PROHIBITED.

17 THE GUILT OR INNOCENCE OF THE ACCUSED OF THE CRIME CHARGED MAY
18 NOT BE INQUIRED INTO BY THE GOVERNOR OR IN ANY PROCEEDING AFTER THE
19 DEMAND FOR EXTRADITION, ACCOMPANIED BY A CHARGE OF CRIME IN LEGAL FORM
20 AS PROVIDED IN THIS TITLE, HAS BEEN PRESENTED TO THE GOVERNOR, EXCEPT AS
21 IT MAY BE INVOLVED IN IDENTIFYING THE ACCUSED AS THE PERSON CHARGED
22 WITH THE CRIME.

23 REVISOR'S NOTE: This section formerly was Art. 41, § 2-220.

24 The reference to "identifying the accused" is substituted for the former
25 reference to "identifying the person held" for clarity and consistency.

26 The only other changes are in style.

27 Defined term: "Person" § 1-101

28 9-121. GOVERNOR MAY RECALL WARRANT.

29 THE GOVERNOR MAY RECALL A WARRANT OF ARREST OR MAY ISSUE ANOTHER
30 WARRANT WHENEVER THE GOVERNOR DEEMS PROPER.

31 REVISOR'S NOTE: This section formerly was Art. 41, § 2-221.

32 The only changes are in style.

1 9-122. FUGITIVES FROM THIS STATE; DUTY OF GOVERNOR.

2 WHENEVER THE GOVERNOR DEMANDS A PERSON CHARGED WITH CRIME OR
3 WITH ESCAPING FROM CONFINEMENT OR BREAKING THE TERMS OF BAIL,
4 PROBATION, OR PAROLE IN THIS STATE FROM THE EXECUTIVE AUTHORITY OF ANY
5 OTHER STATE, THE GOVERNOR SHALL ISSUE A WARRANT UNDER THE SEAL OF THIS
6 STATE TO AN AGENT, COMMANDING THE AGENT TO RECEIVE THE PERSON SO
7 CHARGED AND CONVEY THE PERSON TO THE PROPER OFFICER OF THE COUNTY IN
8 WHICH THE CRIME WAS COMMITTED.

9 REVISOR'S NOTE: This section formerly was Art. 41, § 2-222.

10 The former reference to "the chief justice or an associate justice of the
11 Supreme Court of the District of Columbia authorized to receive such
12 demand under the laws of the United States" is deleted in light of the
13 definition of "executive authority" in § 9-101 of this title and "state" in §
14 1-101 of this article.

15 The reference to a "crime" is substituted for the former reference to an
16 "offense" to conform to the terminology used throughout this article.

17 The former reference to the "City of Baltimore" is deleted in light of the
18 definition of "county" in § 1-101 of this article.

19 The only other changes are in style.

20 Defined terms: "Executive authority" § 9-101

21 "Person" § 1-101

22 "State" § 9-101

23 9-123. APPLICATION FOR ISSUANCE OF REQUISITION; BY WHOM MADE; CONTENTS.

24 (A) APPLICATION TO GOVERNOR FOR RETURN OF ACCUSED.

25 (1) WHEN THE RETURN TO THIS STATE OF A PERSON CHARGED WITH A
26 CRIME IN THIS STATE IS REQUIRED, THE STATE'S ATTORNEY SHALL PRESENT TO THE
27 GOVERNOR A WRITTEN APPLICATION FOR A REQUISITION FOR THE RETURN OF THE
28 PERSON CHARGED.

29 (2) THE APPLICATION SHALL STATE:

30 (I) THE NAME OF THE PERSON CHARGED;

31 (II) THE CRIME CHARGED AGAINST THE PERSON;

32 (III) THE APPROXIMATE TIME, PLACE, AND CIRCUMSTANCES OF ITS
33 COMMISSION; AND

34 (IV) THE STATE IN WHICH THE PERSON IS BELIEVED TO BE,
35 INCLUDING THE LOCATION OF THE ACCUSED THEREIN, WHEN THE APPLICATION IS
36 MADE.

1 (3) THE APPLICATION SHALL CERTIFY THAT IN THE OPINION OF THE
2 STATE'S ATTORNEY, THE ENDS OF JUSTICE REQUIRE THE ARREST AND RETURN OF
3 THE ACCUSED TO THIS STATE FOR TRIAL, AND THE PROCEEDING IS NOT INSTITUTED
4 TO ENFORCE A PRIVATE CLAIM.

5 (B) APPLICATION TO GOVERNOR FOR RETURN OF ESCAPEE.

6 (1) WHEN THE RETURN TO THIS STATE IS REQUIRED OF A PERSON WHO
7 HAS BEEN CONVICTED OF A CRIME IN THIS STATE AND HAS ESCAPED FROM
8 CONFINEMENT OR BROKEN THE TERMS OF BAIL, PROBATION, OR PAROLE, THE
9 STATE'S ATTORNEY OF THE COUNTY IN WHICH THE CRIME WAS COMMITTED, THE
10 PAROLE COMMISSION, OR THE MANAGING OFFICIAL OF THE CORRECTIONAL
11 FACILITY OR SHERIFF OF THE COUNTY FROM WHICH ESCAPE WAS MADE SHALL
12 PRESENT TO THE GOVERNOR A WRITTEN APPLICATION FOR A REQUISITION FOR THE
13 RETURN OF THE PERSON.

14 (2) THE APPLICATION SHALL STATE:

15 (I) THE NAME OF THE PERSON;

16 (II) THE CRIME OF WHICH THE PERSON WAS CONVICTED;

17 (III) THE CIRCUMSTANCES OF THE ESCAPE FROM CONFINEMENT
18 OR OF THE BREACH OF THE TERMS OF BAIL, PROBATION, OR PAROLE; AND

19 (IV) THE STATE IN WHICH THE PERSON IS BELIEVED TO BE,
20 INCLUDING THE LOCATION OF THE PERSON THEREIN WHEN APPLICATION IS MADE.

21 (C) PROCEDURE.

22 (1) THE APPLICATION SHALL BE VERIFIED BY AFFIDAVIT, BE EXECUTED
23 IN DUPLICATE, AND BE ACCOMPANIED BY TWO CERTIFIED COPIES OF:

24 (I) THE INDICTMENT RETURNED;

25 (II) THE INFORMATION AND AFFIDAVIT FILED;

26 (III) THE COMPLAINT MADE TO THE JUDGE OR DISTRICT COURT
27 COMMISSIONER, STATING THE CRIME WITH WHICH THE ACCUSED IS CHARGED; OR

28 (IV) THE JUDGMENT OF CONVICTION OR THE SENTENCE.

29 (2) THE APPLICANT MAY ALSO ATTACH FURTHER AFFIDAVITS AND
30 OTHER DOCUMENTS IN DUPLICATE.

31 (3) ONE COPY OF THE APPLICATION WITH THE ACTION OF THE
32 GOVERNOR INDICATED BY ENDORSEMENT THEREON, AND ONE OF THE CERTIFIED
33 COPIES OF THE INDICTMENT, COMPLAINT, INFORMATION, AFFIDAVITS, JUDGMENT
34 OF CONVICTION, OR SENTENCE SHALL BE FILED IN THE OFFICE OF THE SECRETARY
35 OF STATE, TO REMAIN OF RECORD IN THAT OFFICE.

1 (4) THE OTHER COPIES OF ALL PAPERS SHALL BE FORWARDED WITH
2 THE GOVERNOR'S REQUISITION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 2-223.

5 In subsection (a)(3) of this section, the reference to "the State's Attorney" is
6 substituted for the former reference to a "prosecuting attorney" for
7 consistency with current nomenclature.

8 In subsection (b)(1) of this section, the reference to the "managing official"
9 is substituted for the former reference to the "warden" for consistency
10 throughout this article.

11 Also in subsection (b)(1) of this section, the reference to a "correctional
12 facility" is substituted for the former reference to an "institution" for
13 consistency throughout this article.

14 Also in subsection (b)(1) of this section, the reference to a "crime" is
15 substituted for the former reference to an "offense" to conform to the
16 terminology used throughout this article.

17 Also in subsection (b)(1) of this section, the former references to "the City of
18 Baltimore" are deleted in light of the definition of "county" in § 1-101 of
19 this article.

20 In subsection (c)(2) of this section, the reference to an "applicant" is
21 substituted for the former reference to "[t]he prosecuting officer, parole
22 board, warden or sheriff" for brevity.

23 Also in subsection (c)(2) of this section, the former phrase "as he shall deem
24 proper to be submitted with such application" is deleted as implicit in the
25 grant of authority to attach the listed documents.

26 Defined terms: "Correctional facility" § 1-101

27 "County" § 1-101

28 "Managing official" § 1-101

29 "Person" § 1-101

30 "State" § 9-101

31 9-124. WAIVER OF EXTRADITION PROCEEDINGS.

32 (A) IN GENERAL.

33 (1) ANY PERSON ARRESTED IN THIS STATE CHARGED WITH HAVING
34 COMMITTED ANY CRIME IN ANOTHER STATE OR ALLEGED TO HAVE ESCAPED FROM
35 CONFINEMENT, OR BROKEN THE TERMS OF BAIL, PROBATION, OR PAROLE, MAY
36 WAIVE THE ISSUANCE AND SERVICE OF THE WARRANT PROVIDED FOR IN §§ 9-107
37 AND 9-108 OF THIS TITLE, AND ALL OTHER PROCEDURE INCIDENTAL TO
38 EXTRADITION PROCEEDINGS, BY EXECUTING OR SUBSCRIBING IN THE PRESENCE OF

1 A JUDGE OF ANY COURT OF RECORD WITHIN THIS STATE A WRITING THAT STATES
2 THAT THE PERSON CONSENTS TO RETURN TO THE DEMANDING STATE.

3 (2) BEFORE A WAIVER IS EXECUTED OR SUBSCRIBED BY THE PERSON, IT
4 SHALL BE THE DUTY OF THE JUDGE TO INFORM THE PERSON OF THE RIGHT TO THE
5 ISSUANCE AND SERVICE OF A WARRANT OF EXTRADITION AND THE RIGHT TO
6 OBTAIN A WRIT OF HABEAS CORPUS AS PROVIDED IN § 9-110 OF THIS TITLE.

7 (B) ACTION ON CONSENT.

8 (1) IF AND WHEN A CONSENT HAS BEEN DULY EXECUTED, IT SHALL
9 FORTHWITH BE FORWARDED TO THE OFFICE OF THE GOVERNOR OF THIS STATE AND
10 FILED THEREIN.

11 (2) THE JUDGE SHALL:

12 (I) DIRECT THE OFFICER HAVING THE PERSON IN CUSTODY TO
13 DELIVER FORTHWITH THE PERSON TO A DULY ACCREDITED AGENT OF THE
14 DEMANDING STATE; AND

15 (II) DELIVER OR CAUSE TO BE DELIVERED TO THE AGENT A COPY
16 OF THE CONSENT.

17 (C) CONSTRUCTION.

18 (1) THIS SECTION DOES NOT LIMIT THE RIGHTS OF THE ACCUSED
19 PERSON TO RETURN VOLUNTARILY AND WITHOUT FORMALITY TO THE DEMANDING
20 STATE.

21 (2) THIS WAIVER PROCEDURE IS NOT AN EXCLUSIVE PROCEDURE AND
22 DOES NOT LIMIT THE POWERS, RIGHTS, OR DUTIES OF THE OFFICERS OF THE
23 DEMANDING STATE OR OF THIS STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 2-224.

26 Defined terms: "Person" § 1-101

27 "State" § 9-101

28 9-125. NO WAIVER BY THIS STATE.

29 (A) IN GENERAL.

30 NOTHING IN THIS TITLE IS A WAIVER BY THIS STATE OF ITS RIGHT, POWER, OR
31 PRIVILEGE TO TRY A DEMANDED PERSON FOR A CRIME COMMITTED WITHIN THIS
32 STATE, OR OF ITS RIGHT, POWER, OR PRIVILEGE TO REGAIN CUSTODY OF A PERSON
33 BY EXTRADITION PROCEEDINGS OR OTHERWISE FOR THE PURPOSE OF TRIAL,
34 SENTENCE, OR PUNISHMENT FOR ANY CRIME COMMITTED WITHIN THIS STATE.

35 (B) RESULT OF PROCEEDING NOT A WAIVER.

1 A PROCEEDING UNDER THIS TITLE THAT RESULTS IN, OR FAILS TO RESULT IN,
2 EXTRADITION IS NOT A WAIVER BY THIS STATE OF ANY OF ITS RIGHTS, PRIVILEGES,
3 OR JURISDICTION.

4 REVISOR'S NOTE: This section formerly was Art. 41, § 2-225.

5 In subsection (b) of this section, the former reference to "in any way
6 whatsoever" is deleted as surplusage.

7 The only other changes are in style.

8 Defined term: "Person" § 1-101

9 9-126. NO RIGHT OF ASYLUM OR IMMUNITY FROM OTHER CRIMINAL
10 PROSECUTIONS WHILE IN THIS STATE.

11 AFTER A PERSON HAS BEEN BROUGHT BACK TO THIS STATE BY OR AFTER
12 WAIVER OF EXTRADITION PROCEEDINGS, THE PERSON MAY BE TRIED IN THIS STATE
13 FOR OTHER CRIMES THAT THE PERSON MAY BE CHARGED WITH HAVING COMMITTED
14 HERE, AS WELL AS THAT SPECIFIED IN THE REQUISITION FOR EXTRADITION.

15 REVISOR'S NOTE: This section formerly was Art. 41, § 2-226.

16 The only changes are in style.

17 Defined term: "Person" § 1-101

18 9-127. INTERPRETATION OF TITLE.

19 THIS TITLE SHALL BE INTERPRETED AND CONSTRUED TO EFFECTUATE ITS
20 GENERAL PURPOSES TO MAKE UNIFORM THE LAW OF THOSE STATES THAT ENACT IT.

21 REVISOR'S NOTE: This section formerly was Art. 41, § 2-227.

22 No changes are made.

23 Defined term: "State" § 9-101

24 9-128. SHORT TITLE.

25 THIS TITLE IS THE UNIFORM CRIMINAL EXTRADITION ACT.

26 REVISOR'S NOTE: This section formerly was the second sentence of Art. 41, §
27 2-228.

28 The only changes are in style.

29 The first sentence of former Art. 41, § 2-228, which provided for the
30 severability of the provisions in this title, is deleted in light of Art. 1, § 23
31 to the same effect.

1 TITLE 10. CRIMINAL RECORDS.

2 SUBTITLE 1. EXPUNGEMENT OF POLICE AND COURT RECORDS.

3 10-101. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR'S NOTE: This subsection formerly was Art. 27, § 735(a).

7 The only changes are in style.

8 (B) CENTRAL REPOSITORY.

9 "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION
10 SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT.

11 REVISOR'S NOTE: This subsection formerly was Art. 27, § 735(g).

12 The only changes are in style.

13 Defined term: "Department" § 1-101

14 (C) COURT RECORD.

15 (1) "COURT RECORD" MEANS AN OFFICIAL RECORD OF A COURT ABOUT
16 A CRIMINAL PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT
17 PERSONNEL KEEPS.

18 (2) "COURT RECORD" INCLUDES:

19 (I) A RECORD OF A VIOLATION OF THE TRANSPORTATION ARTICLE
20 FOR WHICH A TERM OF IMPRISONMENT MAY BE IMPOSED; AND

21 (II) AN INDEX, DOCKET ENTRY, CHARGING DOCUMENT, PLEADING,
22 MEMORANDUM, TRANSCRIPTION OF PROCEEDINGS, ELECTRONIC RECORDING,
23 ORDER, AND JUDGMENT.

24 REVISOR'S NOTE: This subsection formerly was Art. 27, § 735(b)(1) and (2).

25 In paragraph (2)(ii) of this subsection, the former erroneous reference to
26 "decrees" is deleted.

27 The only other changes are in style.

28 (D) EXPUNGE.

29 "EXPUNGE" MEANS TO REMOVE INFORMATION FROM PUBLIC INSPECTION IN
30 ACCORDANCE WITH THIS SUBTITLE.

1 REVISOR'S NOTE: This subsection is new language added for clarity.

2 (E) EXPUNGEMENT.

3 "EXPUNGEMENT" WITH RESPECT TO A COURT RECORD OR A POLICE RECORD
4 MEANS REMOVAL FROM PUBLIC INSPECTION:

5 (1) BY OBLITERATION;

6 (2) BY REMOVAL TO A SEPARATE SECURE AREA TO WHICH PERSONS
7 WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; OR

8 (3) IF ACCESS TO A COURT RECORD OR POLICE RECORD CAN BE
9 OBTAINED ONLY BY REFERENCE TO ANOTHER COURT RECORD OR POLICE RECORD,
10 BY THE EXPUNGEMENT OF IT OR THE PART OF IT THAT PROVIDES ACCESS.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27, § 735(c).

13 In the introductory language of this subsection and item (3) of this
14 subsection, the former references to the "effective" removal of court records
15 are deleted as surplusage.

16 In item (2) of this subsection, the former reference to the secure area to
17 which "the public" is denied access is deleted as unnecessary in light of the
18 introductory language of this subsection, which defined "expungement" as
19 the removal of records "from public inspection".

20 Defined terms: "Court record" § 10-101

21 "Person" § 1-101

22 (F) LAW ENFORCEMENT UNIT.

23 "LAW ENFORCEMENT UNIT" MEANS A STATE, COUNTY, OR MUNICIPAL POLICE
24 DEPARTMENT OR UNIT, THE OFFICE OF A SHERIFF, THE OFFICE OF A STATE'S
25 ATTORNEY, OR THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27, § 735(d).

28 In this subsection, the word "unit" is substituted for the former word
29 "agency". *See* General Revisor's Note to article.

30 The Criminal Procedure Article Review Committee notes, for consideration
31 by the General Assembly, that the former definition of "law enforcement
32 agency" did not include the State Prosecutor. The General Assembly may
33 wish to include the State Prosecutor in the definition of "law enforcement
34 unit".

35 Defined term: "County" § 1-101

1 (G) MINOR TRAFFIC VIOLATION.

2 "MINOR TRAFFIC VIOLATION" MEANS A NONINCARCERABLE VIOLATION OF THE
3 MARYLAND VEHICLE LAW OR ANY OTHER TRAFFIC LAW, ORDINANCE, OR
4 REGULATION.

5 REVISOR'S NOTE: This subsection is new language added to avoid repetition
6 of "a nonincarcerable violation of the Maryland Vehicle Law or any other
7 traffic law, ordinance or regulation".

8 (H) POLICE RECORD.

9 "POLICE RECORD" MEANS AN OFFICIAL RECORD THAT A LAW ENFORCEMENT
10 UNIT, BOOKING FACILITY, OR THE CENTRAL REPOSITORY MAINTAINS ABOUT THE
11 ARREST AND DETENTION OF, OR FURTHER PROCEEDING AGAINST, A PERSON FOR:

12 (1) A CRIMINAL CHARGE;

13 (2) A SUSPECTED VIOLATION OF A CRIMINAL LAW; OR

14 (3) A VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH A
15 TERM OF IMPRISONMENT MAY BE IMPOSED.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 27, § 735(e)(1).

18 Defined terms: "Central Repository" § 10-101

19 "Law enforcement unit" § 10-101

20 "Person" § 1-101

21 REVISOR'S NOTE TO SECTION:

22 Former Art. 27, § 735(f) which defined the term "crime of violence" as
23 having "the meaning stated in [Art. 27,] § 643B(a)" is deleted as
24 unnecessary because the term "crime of violence" is defined in § 1-101 of
25 this article.

26 10-102. SCOPE.

27 (A) IN GENERAL.

28 A POLICE RECORD OR A COURT RECORD MAY BE EXPUNGED UNDER THIS
29 SUBTITLE.

30 (B) RECORD BEFORE JULY 1, 1975.

31 (1) A COURT RECORD OR A POLICE RECORD THAT EXISTED BEFORE JULY
32 1, 1975, AND IS STILL MAINTAINED, MAY BE EXPUNGED UNDER THIS SUBTITLE.

1 (2) A PERSON WHO IS ENTITLED TO THE EXPUNGEMENT OF A COURT
2 RECORD OR A POLICE RECORD THAT EXISTED BEFORE JULY 1, 1975, MAY USE THE
3 PROCEDURES FOR EXPUNGEMENT PROVIDED UNDER THIS SUBTITLE.

4 (3) THE LIMITATION PERIODS PROVIDED IN §§ 10-103 AND 10-105 OF
5 THIS SUBTITLE BEGIN WHEN THE PERSON BECOMES ENTITLED TO EXPUNGEMENT
6 OF A COURT RECORD OR A POLICE RECORD THAT EXISTED BEFORE JULY 1, 1975.

7 (4) THE CUSTODIAN OF COURT RECORDS OR POLICE RECORDS THAT
8 WERE MADE BEFORE JULY 1, 1975, AND THAT MAY BE EXPUNGED UNDER THIS
9 SUBTITLE:

10 (I) SHALL MAKE A REASONABLE SEARCH FOR A RECORD
11 REQUESTED FOR EXPUNGEMENT; BUT

12 (II) NEED NOT EXPUNGE A COURT RECORD OR A POLICE RECORD
13 THAT IS NOT FOUND AFTER A REASONABLE SEARCH.

14 (C) EXCLUSIONS.

15 THIS SUBTITLE DOES NOT APPLY TO:

16 (1) A RECORD ABOUT A MINOR TRAFFIC VIOLATION;

17 (2) THE PUBLISHED OPINION OF A COURT;

18 (3) A CASH RECEIPT OR DISBURSEMENT RECORD THAT IS NECESSARY
19 FOR AUDIT PURPOSES;

20 (4) A TRANSCRIPT OF COURT PROCEEDINGS MADE BY A COURT
21 REPORTER IN A MULTIPLE DEFENDANT CASE;

22 (5) AN INVESTIGATORY FILE; OR

23 (6) A RECORD OF THE WORK PRODUCT OF A LAW ENFORCEMENT UNIT
24 THAT IS USED SOLELY FOR POLICE INVESTIGATION.

25 REVISOR'S NOTE: Subsection (a) of this section is new language added to
26 clarify that any court record or police record in existence may be subject to
27 expungement.

28 Subsection (b) of this section is new language derived without substantive
29 change from former Art. 27, § 741.

30 Subsection (c) of this section is new language derived without substantive
31 change from former Art. 27, § 735(b)(3) and (e)(2). It is revised as a scope
32 subsection rather than as part of a definition to avoid the illogical
33 assertion that police records and court records "do not include" materials
34 (*e.g.*, investigatory files and police work-product records) that by their
35 everyday meanings are police records and court records.

1 Defined terms: "Court record" § 10-101

2 "Expunge" § 10-101

3 "Expungement" § 10-101

4 "Minor traffic violation" § 10-101

5 "Person" § 1-101

6 "Police record" § 10-101

7 10-103. EXPUNGEMENT OF POLICE RECORD WHEN NO CHARGE IS FILED.

8 (A) NOTICE AND REQUEST FOR EXPUNGEMENT.

9 A PERSON WHO IS ARRESTED, DETAINED, OR CONFINED BY A LAW
10 ENFORCEMENT UNIT FOR THE SUSPECTED COMMISSION OF A CRIME AND THEN IS
11 RELEASED WITHOUT BEING CHARGED WITH THE COMMISSION OF A CRIME MAY:

12 (1) GIVE WRITTEN NOTICE OF THESE FACTS TO A LAW ENFORCEMENT
13 UNIT THAT THE PERSON BELIEVES MAY HAVE A POLICE RECORD ABOUT THE
14 MATTER; AND

15 (2) REQUEST THE EXPUNGEMENT OF THE POLICE RECORD.

16 (B) GENERAL WAIVER AND RELEASE.

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
18 PERSON MAY NOT GIVE NOTICE UNDER THIS SUBTITLE BEFORE THE STATUTE OF
19 LIMITATIONS EXPIRES FOR ALL TORT CLAIMS THAT ARISE FROM THE INCIDENT.

20 (2) (I) A PERSON MAY GIVE NOTICE BEFORE THE STATUTE OF
21 LIMITATIONS EXPIRES IF THE PERSON ATTACHES TO THE NOTICE A WRITTEN
22 GENERAL WAIVER AND RELEASE, IN LEGAL FORM, OF ALL TORT CLAIMS THAT THE
23 PERSON HAS ARISING FROM THE INCIDENT.

24 (II) THE NOTICE AND WAIVER ARE NOT SUBJECT TO
25 EXPUNGEMENT.

26 (3) THE LAW ENFORCEMENT UNIT SHALL KEEP THE NOTICE AND
27 WAIVER AT LEAST UNTIL ANY APPLICABLE STATUTE OF LIMITATIONS EXPIRES.

28 (4) THE PERSON SHALL GIVE THE NOTICE WITHIN 8 YEARS AFTER THE
29 DATE OF THE INCIDENT.

30 (C) INVESTIGATION.

31 (1) ON RECEIPT OF A TIMELY FILED NOTICE, THE LAW ENFORCEMENT
32 UNIT PROMPTLY SHALL INVESTIGATE AND TRY TO VERIFY THE FACTS STATED IN
33 THE NOTICE.

34 (2) IF THE LAW ENFORCEMENT UNIT FINDS THE FACTS ARE TRUE, THE
35 LAW ENFORCEMENT UNIT SHALL:

1 (I) SEARCH DILIGENTLY FOR EACH POLICE RECORD ABOUT THE
2 ARREST, DETENTION, OR CONFINEMENT OF THE PERSON;

3 (II) EXPUNGE EACH POLICE RECORD IT HAS ABOUT THE ARREST,
4 DETENTION, OR CONFINEMENT WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE;
5 AND

6 (III) SEND A COPY OF THE NOTICE AND THE LAW ENFORCEMENT
7 UNIT'S VERIFICATION OF THE FACTS IN THE NOTICE TO:

8 1. THE CENTRAL REPOSITORY;

9 2. EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT
10 THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A POLICE RECORD ABOUT
11 THE ARREST, DETENTION, OR CONFINEMENT; AND

12 3. THE PERSON REQUESTING EXPUNGEMENT.

13 (D) DUTIES OF OTHER UNITS.

14 WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL REPOSITORY,
15 BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT SHALL SEARCH
16 DILIGENTLY FOR AND EXPUNGE A POLICE RECORD ABOUT THE ARREST, DETENTION,
17 OR CONFINEMENT.

18 (E) DENIAL OF REQUEST.

19 IF THE LAW ENFORCEMENT UNIT TO WHICH THE PERSON HAS SENT NOTICE
20 FINDS THAT THE PERSON IS NOT ENTITLED TO AN EXPUNGEMENT OF THE POLICE
21 RECORD, THE LAW ENFORCEMENT UNIT, WITHIN 60 DAYS AFTER RECEIPT OF THE
22 NOTICE, SHALL ADVISE THE PERSON IN WRITING OF:

23 (1) THE DENIAL OF THE REQUEST FOR EXPUNGEMENT; AND

24 (2) THE REASONS FOR THE DENIAL.

25 (F) COURT ORDER.

26 (1) (I) IF A REQUEST BY THE PERSON FOR EXPUNGEMENT OF A
27 POLICE RECORD IS DENIED UNDER SUBSECTION (E) OF THIS SECTION, THE PERSON
28 MAY APPLY FOR AN ORDER OF EXPUNGEMENT IN THE DISTRICT COURT THAT HAS
29 PROPER VENUE AGAINST THE LAW ENFORCEMENT UNIT.

30 (II) THE PERSON SHALL FILE THE APPLICATION WITHIN 30 DAYS
31 AFTER THE WRITTEN NOTICE OF THE DENIAL IS MAILED OR DELIVERED TO THE
32 PERSON.

33 (2) AFTER NOTICE TO THE LAW ENFORCEMENT UNIT, THE COURT
34 SHALL HOLD A HEARING.

1 (3) IF THE COURT FINDS THAT THE PERSON IS ENTITLED TO
2 EXPUNGEMENT, THE COURT SHALL ORDER THE LAW ENFORCEMENT UNIT TO
3 EXPUNGE THE POLICE RECORD.

4 (4) IF THE COURT FINDS THAT THE PERSON IS NOT ENTITLED TO
5 EXPUNGEMENT OF THE POLICE RECORD, THE COURT SHALL DENY THE
6 APPLICATION.

7 (5) (I) THE LAW ENFORCEMENT UNIT IS A PARTY TO THE
8 PROCEEDING.

9 (II) EACH PARTY TO THE PROCEEDING IS ENTITLED TO APPELLATE
10 REVIEW ON THE RECORD, AS PROVIDED IN THE COURTS ARTICLE FOR APPEALS IN
11 CIVIL CASES FROM THE DISTRICT COURT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 736.

14 Throughout this section, the defined term "person" is substituted for the
15 former word "individual" to conform to the terminology used throughout
16 this article.

17 In subsection (a) of this section, the former reference to a violation of a
18 criminal law "other than a nonincarcerable violation of the vehicle laws of
19 the State or any other traffic law, ordinance, or regulation" is deleted as
20 unnecessary in light of § 10-102(c) of this subtitle, which states that those
21 items are not covered by this subtitle.

22 In subsections (b)(2) and (f)(2) of this section, the former references to
23 "proper" legal form and "proper" notice are deleted as unnecessary.

24 Defined terms: "Central Repository" § 10-101

25 "Expunge" § 10-101

26 "Expungement" § 10-101

27 "Law enforcement unit" § 10-101

28 "Person" § 1-101

29 "Police record" § 10-101

30 10-104. EXPUNGEMENT ON NOLLE PROSEQUI BEFORE SERVICE.

31 (A) IN GENERAL.

32 UNLESS THE STATE OBJECTS AND SHOWS CAUSE WHY A RECORD SHOULD NOT
33 BE EXPUNGED, IF THE STATE ENTERS A NOLLE PROSEQUI AS TO ALL CHARGES IN A
34 CRIMINAL CASE WITHIN THE JURISDICTION OF THE DISTRICT COURT WITH WHICH A
35 DEFENDANT HAS NOT BEEN SERVED, THE DISTRICT COURT MAY ORDER
36 EXPUNGEMENT OF EACH COURT RECORD, POLICE RECORD, OR OTHER RECORD THAT
37 THE STATE OR A POLITICAL SUBDIVISION OF THE STATE KEEPS AS TO THE CHARGES.

38 (B) COSTS.

1 THE DISTRICT COURT MAY NOT ASSESS ANY COSTS AGAINST A DEFENDANT FOR
2 A PROCEEDING UNDER SUBSECTION (A) OF THIS SECTION.

3 REVISOR'S NOTE: This section formerly was Art. 27, § 736A.

4 In subsection (a) of this section, references to "each" court record and
5 "other" record are substituted for the former references to "any" court
6 record and "any" other record, for clarity.

7 No other changes are made.

8 Defined terms: "Court record" § 10-101

9 "Expunge" § 10-101

10 "Expungement" § 10-101

11 "Nolle prosequi" § 1-101

12 "Police record" § 10-101

13 10-105. EXPUNGEMENT OF RECORD AFTER CHARGE IS FILED.

14 (A) PETITION FOR EXPUNGEMENT.

15 A PERSON WHO HAS BEEN CHARGED WITH THE COMMISSION OF A CRIME,
16 INCLUDING A VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH A TERM OF
17 IMPRISONMENT MAY BE IMPOSED, MAY FILE A PETITION LISTING RELEVANT FACTS
18 FOR EXPUNGEMENT OF A POLICE RECORD, COURT RECORD, OR OTHER RECORD
19 MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE IF:

20 (1) THE PERSON IS ACQUITTED;

21 (2) THE CHARGE IS OTHERWISE DISMISSED;

22 (3) A PROBATION BEFORE JUDGMENT IS ENTERED, UNLESS THE
23 PERSON IS CHARGED WITH A VIOLATION OF § 21-902 OF THE TRANSPORTATION
24 ARTICLE;

25 (4) A NOLLE PROSEQUI IS ENTERED;

26 (5) THE COURT INDEFINITELY POSTPONES TRIAL OF A CRIMINAL
27 CHARGE BY MARKING THE CRIMINAL CHARGE "STET" ON THE DOCKET;

28 (6) THE CASE IS COMPROMISED UNDER ARTICLE 27, § 12A-5 OF THE
29 CODE;

30 (7) THE CHARGE WAS TRANSFERRED TO THE JUVENILE COURT UNDER §
31 4-202 OF THIS ARTICLE; OR

32 (8) THE PERSON:

33 (I) IS CONVICTED OF ONLY ONE CRIMINAL ACT, AND THAT ACT IS
34 NOT A CRIME OF VIOLENCE; AND

1 (II) IS GRANTED A PARDON BY THE GOVERNOR.

2 (B) WHERE PETITION FILED.

3 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
4 SUBSECTION, A PERSON SHALL FILE A PETITION IN THE COURT IN WHICH THE
5 PROCEEDING BEGAN.

6 (2) IF THE PROCEEDING BEGAN IN ONE COURT AND WAS TRANSFERRED
7 TO ANOTHER COURT, THE PERSON SHALL FILE THE PETITION IN THE COURT TO
8 WHICH THE PROCEEDING WAS TRANSFERRED.

9 (3) (I) IF THE PROCEEDING IN A COURT OF ORIGINAL JURISDICTION
10 WAS APPEALED TO A COURT EXERCISING APPELLATE JURISDICTION, THE PERSON
11 SHALL FILE THE PETITION IN THE APPELLATE COURT.

12 (II) THE APPELLATE COURT MAY REMAND THE MATTER TO THE
13 COURT OF ORIGINAL JURISDICTION.

14 (C) TIME OF FILING.

15 (1) A PETITION FOR EXPUNGEMENT BASED ON AN ACQUITTAL, A NOLLE
16 PROSEQUI, OR A DISMISSAL MAY NOT BE FILED WITHIN 3 YEARS AFTER THE
17 DISPOSITION, UNLESS THE PETITIONER FILES WITH THE PETITION A WRITTEN
18 GENERAL WAIVER AND RELEASE OF ALL THE PETITIONER'S TORT CLAIMS ARISING
19 FROM THE CHARGE.

20 (2) A PETITION FOR EXPUNGEMENT BASED ON A PROBATION BEFORE
21 JUDGMENT MAY NOT BE FILED UNTIL EITHER:

22 (I) THE PETITIONER HAS BEEN DISCHARGED FROM PROBATION;
23 OR

24 (II) 3 YEARS HAVE PASSED SINCE THE PROBATION WAS GRANTED.

25 (3) A PETITION FOR EXPUNGEMENT BASED ON A PARDON BY THE
26 GOVERNOR MAY NOT BE FILED EARLIER THAN 5 YEARS OR LATER THAN 10 YEARS
27 AFTER THE PARDON WAS SIGNED BY THE GOVERNOR.

28 (4) A PETITION FOR EXPUNGEMENT BASED ON A STET OR A
29 COMPROMISE UNDER ARTICLE 27, § 12A-5 OF THE CODE MAY NOT BE FILED WITHIN 3
30 YEARS AFTER THE STET OR COMPROMISE.

31 (5) A COURT MAY GRANT A PETITION FOR EXPUNGEMENT AT ANY TIME
32 ON A SHOWING OF GOOD CAUSE.

33 (D) PERIOD FOR OBJECTION BY STATE'S ATTORNEY.

34 (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR EXPUNGEMENT
35 SERVED ON THE STATE'S ATTORNEY.

1 (2) UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION TO THE
2 PETITION FOR EXPUNGEMENT WITHIN 30 DAYS AFTER THE PETITION IS SERVED,
3 THE COURT SHALL PASS AN ORDER REQUIRING THE EXPUNGEMENT OF ALL POLICE
4 RECORDS AND COURT RECORDS ABOUT THE CHARGE.

5 (E) HEARING ON EXPUNGEMENT.

6 (1) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION TO THE
7 PETITION, THE COURT SHALL HOLD A HEARING.

8 (2) IF THE COURT AT THE HEARING FINDS THAT THE PERSON IS
9 ENTITLED TO EXPUNGEMENT, THE COURT SHALL ORDER THE EXPUNGEMENT OF
10 ALL POLICE RECORDS AND COURT RECORDS ABOUT THE CHARGE.

11 (3) IF THE COURT FINDS THAT THE PERSON IS NOT ENTITLED TO
12 EXPUNGEMENT, THE COURT SHALL DENY THE PETITION.

13 (4) THE PERSON IS NOT ENTITLED TO EXPUNGEMENT IF:

14 (I) THE PETITION IS BASED ON THE ENTRY OF PROBATION BEFORE
15 JUDGMENT, A NOLLE PROSEQUI, OR A STET, OR THE GRANT OF A PARDON BY THE
16 GOVERNOR; AND

17 (II) THE PERSON:

18 1. SINCE THE PARDON OR ENTRY, HAS BEEN CONVICTED OF
19 A CRIME OTHER THAN A MINOR TRAFFIC VIOLATION; OR

20 2. IS A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

21 (F) NOTICE OF COMPLIANCE.

22 UNLESS AN ORDER IS STAYED PENDING AN APPEAL, WITHIN 60 DAYS AFTER
23 ENTRY OF THE ORDER, EVERY CUSTODIAN OF THE POLICE RECORDS AND COURT
24 RECORDS THAT ARE SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE IN
25 WRITING THE COURT AND THE PERSON WHO IS SEEKING EXPUNGEMENT OF
26 COMPLIANCE WITH THE ORDER.

27 (G) APPELLATE REVIEW.

28 (1) THE STATE'S ATTORNEY IS A PARTY TO THE PROCEEDING.

29 (2) A PARTY AGGRIEVED BY THE DECISION OF THE COURT IS ENTITLED
30 TO APPELLATE REVIEW AS PROVIDED IN THE COURTS ARTICLE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 737(a) and (c) through (l).

33 In the introductory language of subsection (a) of this section, the former
34 reference to records "pertaining to the charge" is deleted as unnecessary in
35 light of the reference to "relevant facts".

1 %In subsections (a)(2) and (c)(1) of this section, the former references to a
2 charge that is "quashed" and to a "quashing" of a charge are deleted as
3 obsolete and unnecessary in light of the references to "dismissed" and
4 "dismissal".

5 In subsections (a)(3) and (e)(4)(i) of this section, the phrase "probation
6 before judgment" is substituted for the former phrase "judgment of
7 probation before judgment" for brevity.

8 In subsection (a)(6) of this section, the cross-reference to "Article 27, §
9 12A-5 of the Code" is substituted for the former cross-reference to "§ 766
10 of this article" for accuracy.

11 In subsections (a)(8)(ii), (c)(3), and (e)(4) of this section, the former
12 references to the "full and unconditional" character of a pardon are deleted
13 as unnecessary in light of subsection (a)(8) of this section.

14 In subsections (a)(8)(ii) and (c)(3) of this section, the former phrase "only
15 one criminal act[,] which is not a crime of violence" is deleted as
16 unnecessary in light of subsection (a)(8) of this section.

17 In subsection (c)(2)(ii) of this section, the former reference to the "entry of
18 judgment" is deleted as unnecessary in light of the reference to the
19 "grant[ing]" of probation before judgment.

20 In subsection (c)(4) of this section, the reference to "the compromise" is
21 substituted for the former reference to an "order" to conform to the
22 terminology used in this subsection.

23 In subsection (c)(5) of this section, the former phrase "[n]otwithstanding
24 any other provision of this section" is deleted for brevity.

25 Also in subsection (c)(5) of this section, the former reference to a showing of
26 good cause "by the petitioner" is deleted as implicit in the reference to a
27 "showing of good cause".

28 The Criminal Procedure Article Review Committee notes, for consideration
29 by the General Assembly, that subsection (b)(2) of this section, which states
30 that, if a proceeding is transferred, a person is required to file a petition in
31 the court to which the proceeding was transferred, apparently does not
32 contemplate a proceeding that is transferred to juvenile court.

33 Defined terms: "Court record" § 10-101

34 "Crime of violence" § 1-101

35 "Expungement" § 10-101

36 "Minor traffic violation" § 10-101

37 "Nolle prosequi" § 1-101

38 "Person" § 1-101

39 "Police record" § 10-101

1 10-106. EXPUNGEMENT OF CRIMINAL CHARGE TRANSFERRED TO JUVENILE COURT.

2 (A) WHEN ALLOWED.

3 A PERSON MAY FILE A PETITION FOR EXPUNGEMENT OF A CRIMINAL CHARGE
4 TRANSFERRED TO THE JUVENILE COURT UNDER § 4-202 OF THIS ARTICLE:

5 (1) AFTER THE DATE OF THE DECISION NOT TO FILE A PETITION UNDER
6 § 3-810 OF THE COURTS ARTICLE; OR

7 (2) IF A PETITION IS FILED UNDER § 3-810 OF THE COURTS ARTICLE,
8 AFTER A DECISION OF FACTS-NOT-SUSTAINED.

9 (B) DISCRETIONARY GRANTS OF EXPUNGEMENT.

10 THE COURT MAY GRANT A PETITION FOR EXPUNGEMENT TO A PERSON WHEN
11 THE PERSON BECOMES 21 YEARS OLD, IF A CHARGE TRANSFERRED UNDER § 4-202 OF
12 THIS ARTICLE RESULTED IN:

13 (1) THE FILING OF A PETITION UNDER § 3-810 OF THE COURTS ARTICLE;
14 AND

15 (2) THE ADJUDICATION OF THE PERSON AS A DELINQUENT CHILD.

16 (C) MANDATORY GRANTS OF EXPUNGEMENT.

17 A COURT SHALL GRANT A PETITION FOR EXPUNGEMENT OF A CRIMINAL
18 CHARGE THAT WAS TRANSFERRED TO THE JUVENILE COURT UNDER § 4-202 OF THIS
19 ARTICLE, IF:

20 (1) THE CHARGE THAT WAS TRANSFERRED UNDER § 4-202 OF THIS
21 ARTICLE DID NOT RESULT IN THE FILING OF A PETITION UNDER § 3-810 OF THE
22 COURTS ARTICLE; OR

23 (2) THE CHARGE DID RESULT IN THE FILING OF A PETITION UNDER §
24 3-810 OF THE COURTS ARTICLE AND THE DECISION ON THE PETITION WAS THAT
25 THERE WAS A FINDING OF FACTS-NOT-SUSTAINED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 737(b).

28 In the introductory language of this section, the former reference to the
29 ability of a person to file a petition "at any time" after a certain date is
30 deleted as unnecessary.

31 Defined terms: "Expungement" § 10-101

32 "Person" § 1-101

33 10-107. CHARGES ARISING FROM SAME INCIDENT, TRANSACTION, OR SET OF FACTS.

34 (A) MULTIPLE CHARGES AS UNIT.

1 (1) IN THIS SUBTITLE, IF TWO OR MORE CHARGES, OTHER THAN ONE
 2 FOR A MINOR TRAFFIC VIOLATION, ARISE FROM THE SAME INCIDENT, TRANSACTION,
 3 OR SET OF FACTS, THEY ARE CONSIDERED TO BE A UNIT.

4 (2) A CHARGE FOR A MINOR TRAFFIC VIOLATION THAT ARISES FROM
 5 THE SAME INCIDENT, TRANSACTION, OR SET OF FACTS AS A CHARGE IN THE UNIT IS
 6 NOT A PART OF THE UNIT.

7 (B) EFFECT ON RIGHT TO EXPUNGEMENT.

8 (1) IF A PERSON IS NOT ENTITLED TO EXPUNGEMENT OF ONE CHARGE
 9 IN A UNIT, THE PERSON IS NOT ENTITLED TO EXPUNGEMENT OF ANY OTHER
 10 CHARGE IN THE UNIT.

11 (2) THE DISPOSITION OF A CHARGE FOR A MINOR TRAFFIC VIOLATION
 12 THAT ARISES FROM THE SAME INCIDENT, TRANSACTION, OR SET OF FACTS AS A
 13 CHARGE IN THE UNIT DOES NOT AFFECT ANY RIGHT TO EXPUNGEMENT OF A
 14 CHARGE IN THE UNIT.

15 REVISOR'S NOTE: This section is new language derived without substantive
 16 change from former Art. 27, § 738.

17 In subsection (b)(2) of this section, the former reference to the fact that a
 18 disposition does not affect any right to expungement "if the person is
 19 otherwise entitled to an expungement of the charge" is deleted as implied
 20 in the reference to the "right to expungement".

21 Defined terms: "Expungement" § 10-101

22 "Minor traffic violation" § 10-101

23 "Person" § 1-101

24 10-108. OPENING, REVIEW, OR DISCLOSURE OF EXPUNGED RECORDS.

25 (A) GENERAL PROHIBITION; EXCEPTIONS.

26 A PERSON MAY NOT OPEN OR REVIEW AN EXPUNGED RECORD OR DISCLOSE TO
 27 ANOTHER PERSON ANY INFORMATION FROM THAT RECORD WITHOUT A COURT
 28 ORDER FROM:

29 (1) THE COURT THAT ORDERED THE RECORD EXPUNGED; OR

30 (2) THE DISTRICT COURT THAT HAS VENUE IN THE CASE OF A POLICE
 31 RECORD EXPUNGED UNDER § 10-103 OF THIS SUBTITLE.

32 (B) PROCEDURE FOR OPENING, REVIEW, OR DISCLOSURE.

33 A COURT MAY ORDER THE OPENING OR REVIEW OF AN EXPUNGED RECORD OR
 34 THE DISCLOSURE OF INFORMATION FROM THAT RECORD:

35 (1) AFTER NOTICE TO THE PERSON WHOM THE RECORD CONCERNS, A
 36 HEARING, AND THE SHOWING OF GOOD CAUSE; OR

1 (2) ON AN EX PARTE ORDER, AS PROVIDED IN SUBSECTION (C) OF THIS
2 SECTION.

3 (C) EX PARTE ORDER.

4 (1) THE COURT MAY PASS AN EX PARTE ORDER ALLOWING ACCESS TO
5 AN EXPUNGED RECORD, WITHOUT NOTICE TO THE PERSON WHO IS THE SUBJECT OF
6 THAT RECORD, ON A VERIFIED PETITION FILED BY A STATE'S ATTORNEY ALLEGING
7 THAT:

8 (I) THE EXPUNGED RECORD IS NEEDED BY A LAW ENFORCEMENT
9 UNIT FOR A PENDING CRIMINAL INVESTIGATION; AND

10 (II) THE INVESTIGATION WILL BE JEOPARDIZED OR LIFE OR
11 PROPERTY WILL BE ENDANGERED WITHOUT IMMEDIATE ACCESS TO THE EXPUNGED
12 RECORD.

13 (2) IN AN EX PARTE ORDER, THE COURT MAY NOT ALLOW A COPY OF THE
14 EXPUNGED RECORD TO BE MADE.

15 (D) PENALTIES.

16 (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
17 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
18 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

19 (2) IN ADDITION TO THE PENALTIES PROVIDED IN PARAGRAPH (1) OF
20 THIS SUBSECTION, AN OFFICIAL OR EMPLOYEE OF THE STATE OR A POLITICAL
21 SUBDIVISION OF THE STATE WHO IS CONVICTED UNDER THIS SECTION MAY BE
22 REMOVED OR DISMISSED FROM PUBLIC SERVICE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 739.

25 In subsection (a) of this section, the former reference to a person "having or
26 acquiring access to an expunged record" is deleted as implicit.

27 In subsection (d)(2) of this section, the former reference to removal or
28 dismissal from public service "on grounds of misconduct in office" is
29 deleted as unnecessary.

30 Defined terms: "Expunge" § 10-101

31 "Law enforcement unit" § 10-101

32 "Person" § 1-101

33 10-109. PROHIBITED ACTS.

34 (A) APPLICATIONS FOR EMPLOYMENT OR ADMISSION.

1 (1) DISCLOSURE OF EXPUNGED INFORMATION ABOUT CRIMINAL
2 CHARGES IN AN APPLICATION, INTERVIEW, OR OTHER MEANS MAY NOT BE
3 REQUIRED:

4 (I) BY AN EMPLOYER OR EDUCATIONAL INSTITUTION OF A
5 PERSON WHO APPLIES FOR EMPLOYMENT OR ADMISSION; OR

6 (II) BY A UNIT, OFFICIAL, OR EMPLOYEE OF THE STATE OR A
7 POLITICAL SUBDIVISION OF THE STATE OF A PERSON WHO APPLIES FOR A LICENSE,
8 PERMIT, REGISTRATION, OR GOVERNMENTAL SERVICE.

9 (2) A PERSON NEED NOT REFER TO OR GIVE INFORMATION
10 CONCERNING AN EXPUNGED CHARGE WHEN ANSWERING A QUESTION
11 CONCERNING:

12 (I) A CRIMINAL CHARGE THAT DID NOT RESULT IN A CONVICTION;
13 OR

14 (II) A CONVICTION THAT THE GOVERNOR PARDONED.

15 (3) REFUSAL BY A PERSON TO DISCLOSE INFORMATION ABOUT
16 CRIMINAL CHARGES THAT HAVE BEEN EXPUNGED MAY NOT BE THE SOLE REASON
17 FOR:

18 (I) AN EMPLOYER TO DISCHARGE OR REFUSE TO HIRE THE
19 PERSON; OR

20 (II) A UNIT, OFFICIAL, OR EMPLOYEE OF THE STATE OR A
21 POLITICAL SUBDIVISION OF THE STATE TO DENY THE PERSON'S APPLICATION.

22 (B) PENALTIES.

23 (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
24 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
25 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH FOR EACH VIOLATION.

26 (2) IN ADDITION TO THE PENALTIES PROVIDED IN PARAGRAPH (1) OF
27 THIS SUBSECTION, AN OFFICIAL OR EMPLOYEE OF THE STATE OR A POLITICAL
28 SUBDIVISION OF THE STATE WHO IS CONVICTED UNDER THIS SECTION MAY BE
29 REMOVED OR DISMISSED FROM PUBLIC SERVICE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 740.

32 In subsections (a)(3)(ii) and (b)(2) of this section, the phrase "political
33 subdivision of the State" is substituted for the former phrase "local
34 governments" to conform to the terminology used elsewhere in this article.

35 In subsection (a) of this section, the defined term "person" is substituted
36 for the former, narrow reference to "applicant" to clarify that all of the

1 provisions of this subsection apply also to persons already employed. This
2 clarification is supported by subsection (a)(3)(i) of this section, which
3 prohibits an employer to "discharge" a person.

4 In subsection (a)(1)(ii) and (3)(ii) of this section, the word "unit" is
5 substituted for the former word "agency". *See* General Revisor's Note to
6 article.

7 In subsection (a)(1) of this section, the former reference to "concerning
8 criminal charges against him" is deleted as surplusage.

9 The Criminal Procedure Article Review Committee notes, for consideration
10 by the General Assembly, that in subsection (a)(3) of this section, there is
11 no prohibition concerning educational institutions that is analogous to the
12 prohibition in subsection (a)(3)(i) of this section, which bars employers
13 from discharging or refusing to hire persons for failure to disclose criminal
14 charges that have been expunged.

15 Defined terms: "Expunge" § 10-101

16 "Person" § 1-101

17 SUBTITLE 2. CRIMINAL JUSTICE INFORMATION SYSTEM.

18 PART I. DEFINITIONS; GENERAL PROVISIONS.

19 10-201. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR'S NOTE: This subsection formerly was Art. 27, § 743(a).

23 The only changes are in style.

24 (B) ADVISORY BOARD.

25 "ADVISORY BOARD" MEANS THE CRIMINAL JUSTICE INFORMATION ADVISORY
26 BOARD.

27 REVISOR'S NOTE: This subsection formerly was Art. 27, § 743(b).

28 No changes are made.

29 (C) CENTRAL REPOSITORY.

30 "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION
31 SYSTEM CENTRAL REPOSITORY ESTABLISHED UNDER § 10-213 OF THIS SUBTITLE.

32 REVISOR'S NOTE: This subsection formerly was Art. 27, § 743(c).

1 %The only changes are in style.

2 Defined terms: "Central Repository" § 10-201

3 "Criminal justice information system" § 10-201

4 (D) CRIMINAL HISTORY RECORD INFORMATION.

5 (1) "CRIMINAL HISTORY RECORD INFORMATION" MEANS DATA THAT
6 ARE DEVELOPED OR COLLECTED BY A CRIMINAL JUSTICE UNIT ABOUT A PERSON
7 AND THAT PERTAIN TO A REPORTABLE EVENT.

8 (2) "CRIMINAL HISTORY RECORD INFORMATION" INCLUDES:

9 (I) DATA FROM A UNIT THAT IS REQUIRED TO REPORT TO THE
10 CENTRAL REPOSITORY UNDER TITLE 3 OF THIS ARTICLE;

11 (II) DATA ABOUT A PERSON FOLLOWING WAIVER OF JURISDICTION
12 BY A JUVENILE COURT; AND

13 (III) DATA DESCRIBED UNDER §§ 10-215(A)(21) AND (22) AND 10-216
14 OF THIS SUBTITLE.

15 (3) "CRIMINAL HISTORY RECORD INFORMATION" DOES NOT INCLUDE:

16 (I) DATA CONTAINED IN INTELLIGENCE OR INVESTIGATORY FILES
17 OR POLICE WORK PRODUCT RECORDS USED ONLY FOR POLICE INVESTIGATIONS;

18 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) AND (III) OF THIS
19 SUBSECTION, DATA ABOUT A PROCEEDING UNDER TITLE 3, SUBTITLE 8 OF THE
20 COURTS ARTICLE;

21 (III) WANTED POSTERS, POLICE BLOTTER ENTRIES, COURT
22 RECORDS OF PUBLIC JUDICIAL PROCEEDINGS, OR PUBLISHED COURT OPINIONS;

23 (IV) DATA ABOUT A VIOLATION OF:

24 1. A TRAFFIC LAW OF THIS STATE OR ANY OTHER TRAFFIC
25 LAW, ORDINANCE, OR REGULATION;

26 2. A LOCAL ORDINANCE OR A STATE OR LOCAL REGULATION;
27 OR

28 3. THE NATURAL RESOURCES ARTICLE OR A PUBLIC LOCAL
29 LAW;

30 (V) DATA ABOUT THE POINT SYSTEM ESTABLISHED BY THE MOTOR
31 VEHICLE ADMINISTRATION UNDER TITLE 16 OF THE TRANSPORTATION ARTICLE; OR

32 (VI) A PRESENTENCE INVESTIGATION REPORT OR OTHER REPORT
33 THAT A PROBATION DEPARTMENT PREPARES FOR A COURT TO USE IN THE EXERCISE
34 OF CRIMINAL JURISDICTION OR FOR THE GOVERNOR TO USE IN THE EXERCISE OF

1 THE GOVERNOR'S POWER TO GRANT A PARDON, REPRIEVE, COMMUTATION, OR
2 NOLLE PROSEQUI.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 27, § 743(e).

5 In paragraph (3)(ii) of this subsection, the phrase, "except as provided in
6 paragraph (2)(ii) and (iii) of this subsection", is added for clarity.

7 Defined terms: "Central Repository" § 10-201

8 "Criminal justice unit" § 10-201

9 "Nolle prosequi" § 1-101

10 "Person" § 1-101

11 "Reportable event" § 10-201

12 (E) CRIMINAL JUSTICE INFORMATION SYSTEM.

13 (1) "CRIMINAL JUSTICE INFORMATION SYSTEM" MEANS EQUIPMENT,
14 FACILITIES, PROCEDURES, AGREEMENTS, AND PERSONNEL THAT ARE USED TO
15 COLLECT, PROCESS, PRESERVE, AND DISSEMINATE CRIMINAL HISTORY RECORD
16 INFORMATION.

17 (2) "CRIMINAL JUSTICE INFORMATION SYSTEM" INCLUDES COMPUTER
18 HARDWARE AND SOFTWARE.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 27, § 743(g).

21 Defined term: "Criminal history record information" § 10-201

22 (F) CRIMINAL JUSTICE UNIT.

23 (1) "CRIMINAL JUSTICE UNIT" MEANS A GOVERNMENT UNIT OR
24 SUBUNIT THAT ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO ANY
25 OF THE FOLLOWING FUNCTIONS AND THAT BY LAW:

26 (I) MAY ARREST, DETAIN, PROSECUTE, OR ADJUDICATE PERSONS
27 SUSPECTED OF OR CHARGED WITH A CRIME;

28 (II) IS RESPONSIBLE FOR THE CUSTODIAL TREATMENT OR
29 CONFINEMENT UNDER TITLE 3 OF THIS ARTICLE OF PERSONS CHARGED OR
30 CONVICTED OF A CRIME OR RELIEVED OF CRIMINAL PUNISHMENT BY REASON OF A
31 VERDICT OF NOT CRIMINALLY RESPONSIBLE;

32 (III) IS RESPONSIBLE FOR THE CORRECTIONAL SUPERVISION,
33 REHABILITATION, OR RELEASE OF PERSONS CONVICTED OF A CRIME; OR

34 (IV) IS RESPONSIBLE FOR CRIMINAL IDENTIFICATION ACTIVITIES
35 AND THE COLLECTION, STORAGE, AND DISSEMINATION OF CRIMINAL HISTORY
36 RECORD INFORMATION.

1 (2) "CRIMINAL JUSTICE UNIT" INCLUDES, WHEN EXERCISING
 2 JURISDICTION OVER CRIMINAL MATTERS, ALTERNATIVE DISPOSITIONS OF
 3 CRIMINAL MATTERS, OR CRIMINAL HISTORY RECORD INFORMATION:

4 (I) A STATE, COUNTY, OR MUNICIPAL POLICE UNIT, SHERIFF'S
 5 OFFICE, OR CORRECTIONAL FACILITY;

6 (II) A UNIT REQUIRED TO REPORT TO THE CENTRAL REPOSITORY
 7 UNDER § 3-107 OR § 3-112 OF THIS ARTICLE;

8 (III) THE OFFICES OF THE ATTORNEY GENERAL, STATE'S
 9 ATTORNEYS, AND ANY OTHER PERSON OR UNIT THAT BY LAW MAY PROSECUTE
 10 PERSONS ACCUSED OF A CRIME; AND

11 (IV) THE ADMINISTRATIVE OFFICE OF THE COURTS, THE COURT OF
 12 APPEALS, THE COURT OF SPECIAL APPEALS, THE CIRCUIT COURTS, THE DISTRICT
 13 COURT OF MARYLAND, AND THE OFFICES OF THE CLERKS OF THESE COURTS.

14 (3) EXCEPT AS PROVIDED IN §§ 10-215(A)(21) AND (22) AND 10-216(E) OF
 15 THIS SUBTITLE, "CRIMINAL JUSTICE UNIT" DOES NOT INCLUDE:

16 (I) THE DEPARTMENT OF JUVENILE JUSTICE; OR

17 (II) A JUVENILE COURT.

18 REVISOR'S NOTE: This subsection is new language derived without
 19 substantive change from former Art. 27, § 743(f).

20 In paragraph (1)(i) of this subsection, the former reference to a government
 21 agency's authority to "exercise the power" to arrest, detain, prosecute, or
 22 adjudicate is deleted in light of the agency's discretionary authority that it
 23 "may" exercise those powers.

24 Also in paragraph (1)(i) of this subsection, the reference to "persons
 25 suspected of or charged with a crime" is added to state explicitly that
 26 which formerly was only implied as to the references to "arrest, detain ... or
 27 adjudicate".

28 In paragraphs (1), the introductory language of (2), (2)(i) and (ii) of this
 29 subsection, the references to a "unit" are substituted for the former
 30 references to "agency" or "departments and agencies" to conform to the
 31 terminology used throughout this article. *See* General Revisor's Note to
 32 article.

33 Defined terms: "Central Repository" § 10-201

34 "Correctional facility" § 1-101

35 "County" § 1-101

36 "Criminal history record information" § 10-201

37 "Person" § 1-101

1 (G) DISSEMINATE.

2 (1) "DISSEMINATE", WITH RESPECT TO RECORDS, MEANS TO TRANSMIT
3 CRIMINAL HISTORY RECORD INFORMATION IN ANY FORM.

4 (2) "DISSEMINATE" DOES NOT INCLUDE:

5 (I) TRANSMITTING CRIMINAL HISTORY RECORD INFORMATION
6 WITHIN A CRIMINAL JUSTICE UNIT;

7 (II) REPORTING CRIMINAL HISTORY RECORD INFORMATION AS
8 REQUIRED UNDER § 10-214 OF THIS SUBTITLE; OR

9 (III) TRANSMITTING CRIMINAL HISTORY RECORD INFORMATION
10 BETWEEN CRIMINAL JUSTICE UNITS TO ALLOW THE INITIATION OF SUBSEQUENT
11 CRIMINAL JUSTICE PROCEEDINGS AGAINST A PERSON RELATING TO THE SAME
12 CRIME.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 27, § 743(h).

15 In paragraph (1) of this subsection, the reference to "any" form is
16 substituted for the former reference to "oral or written" form for brevity.

17 Defined terms: "Criminal history record information" § 10-201

18 "Criminal justice unit" § 10-201

19 "Person" § 1-101

20 (H) REPORTABLE EVENT.

21 "REPORTABLE EVENT" MEANS AN EVENT SPECIFIED OR PROVIDED FOR IN §
22 10-215 OF THIS SUBTITLE.

23 REVISOR'S NOTE: This subsection formerly was Art. 27, § 743(i).

24 The only changes are in style.

25 10-202. LEGISLATIVE FINDINGS.

26 THE GENERAL ASSEMBLY FINDS THAT THERE IS A NEED:

27 (1) TO CREATE A CENTRAL REPOSITORY FOR CRIMINAL HISTORY
28 RECORD INFORMATION;

29 (2) TO REQUIRE THE REPORTING OF ACCURATE, RELEVANT, AND
30 CURRENT CRIMINAL HISTORY RECORD INFORMATION TO THE CENTRAL REPOSITORY
31 BY ALL CRIMINAL JUSTICE UNITS;

32 (3) TO ENSURE THAT CRIMINAL HISTORY RECORD INFORMATION IS
33 KEPT ACCURATE AND CURRENT; AND

1 (4) TO PROHIBIT THE IMPROPER DISSEMINATION OF CRIMINAL HISTORY
2 RECORD INFORMATION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 742(b).

5 In item (2) of this section, the defined term "criminal history record
6 information" is substituted for the former reference to "information" for
7 consistency and clarity.

8 The former introductory phrase "[i]n order to achieve this result", is
9 deleted as unnecessary in light of the reorganization of material in this
10 revision of former Art. 27, § 742.

11 Defined terms: "Criminal history record information" § 10-201

12 "Criminal justice unit" § 10-201

13 10-203. PURPOSE OF SUBTITLE.

14 THE PURPOSE OF THIS SUBTITLE IS:

15 (1) TO CREATE AND MAINTAIN AN ACCURATE AND EFFICIENT CRIMINAL
16 JUSTICE INFORMATION SYSTEM IN THE STATE CONSISTENT WITH:

17 (I) APPLICABLE FEDERAL LAW AND REGULATIONS;

18 (II) THE NEED OF CRIMINAL JUSTICE UNITS IN THE STATE FOR
19 ACCURATE AND CURRENT CRIMINAL HISTORY RECORD INFORMATION; AND

20 (III) THE RIGHT OF PERSONS TO BE FREE FROM IMPROPER AND
21 UNWARRANTED INTRUSIONS INTO THEIR PRIVACY; AND

22 (2) TO PROVIDE A BASIC STATUTORY FRAMEWORK WITHIN WHICH THE
23 OBJECTIVES OF § 10-202 OF THIS SUBTITLE CAN BE ATTAINED.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 742(a) and (c).

26 In item (1)(iii) of this section, the reference "persons" is substituted for the
27 former reference to "individuals" to conform to the terminology used
28 throughout this subtitle.

29 Defined terms: "Criminal history record information" § 10-201

30 "Criminal justice information system" § 10-201

31 "Criminal justice unit" § 10-201

32 "Person" § 1-101

1 10-204. EFFECT OF SUBTITLE.

2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A PERSON MAY
3 NOT MAINTAIN OR DISSEMINATE CRIMINAL HISTORY RECORD INFORMATION IN A
4 WAY INCONSISTENT WITH SUBTITLE 1 OF THIS TITLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 750.

7 In this section, the defined term "criminal history record information" is
8 substituted for the former reference to "record" for consistency and clarity.

9 Defined terms: "Criminal history record information" § 10-201

10 "Disseminate" § 10-201

11 "Person" § 1-101

12 10-205. RESERVED.

13 10-206. RESERVED.

14 PART II. CRIMINAL JUSTICE INFORMATION ADVISORY BOARD.

15 10-207. ESTABLISHED.

16 (A) IN GENERAL.

17 THERE IS A CRIMINAL JUSTICE INFORMATION ADVISORY BOARD.

18 (B) STATUS.

19 THE ADVISORY BOARD IS IN THE DEPARTMENT FOR ADMINISTRATIVE AND
20 BUDGETARY PURPOSES ONLY.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the first sentence of former Art. 27, § 744(a).

23 Defined terms: "Advisory Board" § 10-201

24 "Department" § 1-101

25 10-208. MEMBERSHIP.

26 (A) COMPOSITION.

27 THE ADVISORY BOARD CONSISTS OF THE FOLLOWING 18 MEMBERS:

28 (1) ONE MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT;

29 (2) ONE MEMBER OF THE HOUSE OF DELEGATES APPOINTED BY THE
30 SPEAKER;

1 (3) THREE MEMBERS FROM THE JUDICIAL BRANCH OF STATE
2 GOVERNMENT APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

3 (4) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME
4 CONTROL AND PREVENTION;

5 (5) THREE MEMBERS RECOMMENDED BY THE SECRETARY;

6 (6) TWO MEMBERS WHO ARE EXECUTIVE OFFICIALS FROM STATE,
7 COUNTY, OR MUNICIPAL POLICE UNITS;

8 (7) THE DIRECTOR OF THE MARYLAND JUSTICE ANALYSIS CENTER OF
9 THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE OF THE UNIVERSITY
10 OF MARYLAND;

11 (8) TWO ELECTED COUNTY OFFICIALS;

12 (9) THE ATTORNEY GENERAL;

13 (10) ONE ELECTED OFFICIAL OF A MUNICIPAL CORPORATION;

14 (11) ONE STATE'S ATTORNEY; AND

15 (12) ONE MEMBER FROM THE PUBLIC.

16 (B) APPOINTMENT OF MEMBERS.

17 EXCEPT FOR EX OFFICIO MEMBERS AND MEMBERS APPOINTED BY THE
18 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF DELEGATES, OR THE
19 CHIEF JUDGE OF THE COURT OF APPEALS, THE GOVERNOR SHALL APPOINT THE
20 MEMBERS OF THE ADVISORY BOARD.

21 (C) CHAIRMAN.

22 THE GOVERNOR SHALL DESIGNATE A MEMBER OF THE ADVISORY BOARD AS
23 THE CHAIRMAN.

24 (D) TENURE; VACANCIES.

25 (1) SUBJECT TO § 10-209 OF THIS SUBTITLE, THE TERM OF A MEMBER IS
26 3 YEARS.

27 (2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
28 SUCCESSOR IS APPOINTED AND QUALIFIES.

29 (3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
30 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
31 QUALIFIES.

32 (E) DESIGNEES.

1 (1) EXCEPT FOR THE MEMBER OF THE ADVISORY BOARD FROM THE
2 PUBLIC, EACH MEMBER MAY DESIGNATE A PERSON TO REPRESENT THE MEMBER AT
3 ANY MEETING OR OTHER ACTIVITY OF THE ADVISORY BOARD.

4 (2) A PERSON DESIGNATED BY A VOTING MEMBER UNDER PARAGRAPH
5 (1) OF THIS SUBSECTION MAY VOTE ON BEHALF OF THE VOTING MEMBER.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 744(c), the second, third, fourth, fifth, and
8 seventh sentences of (a), and the first sentence of (b).

9 In subsection (a)(6) of this section, the reference to police "units" is
10 substituted for the former reference to police "agencies" to conform to the
11 terminology used throughout this article. *See* General Revisor's Note to
12 article.

13 In subsection (a)(7) of this section, the reference to the "Department of
14 Criminology and Criminal Justice" is substituted for the former, obsolete
15 reference to the "Institute of Criminal Justice and Criminology" for clarity.

16 In subsections (b), (c), (d), and (e)(1) of this section, the reference to a
17 member "of the Advisory Board" is added for clarity.

18 In subsection (d)(2) of this section, the introductory phrase, "[a]t the end of
19 a term", is added for consistency with language used in similar provisions
20 in other revised articles of the Code.

21 In subsection (e)(2) of this section, the phrase, "on behalf of the member", is
22 added to clarify that a person designated to represent the member at an
23 Advisory Board activity or meeting may vote for that member.

24 Defined terms: "Advisory Board" § 10-201

25 "County" § 1-101

26 "Person" § 1-101

27 "Secretary" § 1-101

28 10-209. QUORUM; EX OFFICIO MEMBERS; MEETINGS; EXPENSES; STAFF.

29 (A) QUORUM.

30 A MAJORITY OF THE MEMBERS OF THE ADVISORY BOARD THEN SERVING IS A
31 QUORUM.

32 (B) EX OFFICIO MEMBERS.

33 (1) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME
34 CONTROL AND PREVENTION, THE ATTORNEY GENERAL, AND TWO OF THE MEMBERS
35 OF THE ADVISORY BOARD THAT THE SECRETARY RECOMMENDS SHALL SERVE ON
36 THE ADVISORY BOARD AS EX OFFICIO MEMBERS.

1 (2) FROM THE PERSONS THE SECRETARY RECOMMENDS TO THE
2 GOVERNOR TO SERVE ON THE ADVISORY BOARD, THE SECRETARY SHALL DESIGNATE
3 THE VOTING MEMBER.

4 (C) MEETINGS.

5 THE ADVISORY BOARD SETS THE TIMES AND PLACES OF ITS MEETINGS.

6 (D) REIMBURSEMENT FOR EXPENSES.

7 A MEMBER OF THE ADVISORY BOARD:

8 (1) SHALL SERVE WITHOUT COMPENSATION; BUT

9 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
10 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

11 (E) STAFF.

12 SUBJECT TO THE APPROVAL OF THE HEAD OF THE APPROPRIATE UNIT, THE
13 ADVISORY BOARD MAY USE THE STAFF AND FACILITIES OF THE DEPARTMENT, THE
14 ADMINISTRATIVE OFFICE OF THE COURTS, AND THE GOVERNOR'S OFFICE OF CRIME
15 CONTROL AND PREVENTION IN THE PERFORMANCE OF ITS FUNCTIONS.

16 REVISOR'S NOTE: Subsections (a), (b), (d), and (e) of this section are new
17 language derived without substantive change from former Art. 27, §
18 744(d), (e), the sixth sentence of (a) and the second and third sentences of
19 (b).

20 Subsection (c) of this section is new language added for clarity.

21 In subsections (a) and (b)(1) of this section, the references to members "of
22 the Advisory Board" are added for clarity.

23 In subsection (a) of this section, the reference to a majority of the members
24 "then serving" on the Advisory Board is added for clarity.

25 In subsection (a) of this section, the former reference to "their designees" is
26 deleted to avoid ambiguity as to what constitutes a "majority".

27 Also in subsection (a) of this section, the former phrase "for the transaction
28 of business" is deleted in light of the word "quorum".

29 In subsection (b)(2) of this section, the introductory phrase, "[f]rom the
30 persons the Secretary recommends to the Governor to serve on the
31 Advisory Board", is added for clarity.

32 In subsection (e) of this section, the reference to the "appropriate unit" is
33 substituted for the former reference to the "respective department or
34 agency" to conform to the terminology used throughout this article. *See*
35 General Revisor's Note to article.

1 %The Criminal Procedure Article Review Committee notes, for consideration
2 by the General Assembly, that in subsection (b)(1) of this section, the
3 meaning of the requirement that the Executive Director of the Governor's
4 Office of Crime Control and Prevention, the Attorney General, and two
5 members of the Advisory Board serve on the Advisory Board as "ex officio
6 members" is unclear. The term is not used in § 10-208(a) of this subtitle,
7 which sets forth the composition of the Advisory Board.

8 Defined terms: "Advisory Board" § 10-201

9 "Department" § 1-101

10 "Person" § 1-101

11 "Secretary" § 1-101

12 10-210. DUTIES.

13 THE ADVISORY BOARD SHALL:

14 (1) ADVISE THE SECRETARY, THE COURT OF APPEALS, AND THE CHIEF
15 JUDGE OF THE COURT OF APPEALS ON THE DEVELOPMENT, OPERATION, AND
16 MAINTENANCE OF THE CRIMINAL JUSTICE INFORMATION SYSTEM;

17 (2) PROPOSE AND RECOMMEND REGULATIONS TO THE SECRETARY
18 NECESSARY TO DEVELOP, OPERATE, AND MAINTAIN THE CRIMINAL JUSTICE
19 INFORMATION SYSTEM;

20 (3) PROPOSE AND RECOMMEND RULES, IN CONJUNCTION WITH THE
21 STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE OF THE COURT OF
22 APPEALS, TO THE COURT OF APPEALS AND THE CHIEF JUDGE OF THE COURT OF
23 APPEALS NECESSARY TO DEVELOP, OPERATE, AND MAINTAIN THE CRIMINAL
24 JUSTICE INFORMATION SYSTEM;

25 (4) MONITOR THE OPERATION OF THE CRIMINAL JUSTICE
26 INFORMATION SYSTEM; AND

27 (5) RECOMMEND:

28 (I) PROCEDURES AND METHODS FOR CRIMINAL HISTORY RECORD
29 INFORMATION TO BE USED IN THE RESEARCH, EVALUATION, AND STATISTICAL
30 ANALYSIS OF CRIMINAL ACTIVITY; AND

31 (II) ANY LEGISLATION NECESSARY TO IMPLEMENT, OPERATE, AND
32 MAINTAIN THE CRIMINAL JUSTICE INFORMATION SYSTEM.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 745(b), (c), and (d).

35 In item (2) of this section, the reference to the "Standing Committee on
36 Rules of Practice and Procedure" is substituted for the former reference to
37 the "Standing Committee on Rules" to reflect the current name of that
38 committee.

1 %Former Art. 27, § 745(a), which stated that the Advisory Board shall
2 "perform the duties set forth in this section and those of an advisory nature
3 that may otherwise be delegated to it in accordance with law", is deleted as
4 implied in light of the rules of statutory interpretation.

5 Defined terms: "Advisory Board" § 10-201

6 "Criminal history record information" § 10-201

7 "Criminal justice information system" § 10-201

8 "Secretary" § 1-101

9 10-211. RESERVED.

10 10-212. RESERVED.

11 PART III. CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY.

12 10-213. ESTABLISHMENT AND ADMINISTRATION.

13 (A) ESTABLISHMENT.

14 THERE IS A CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY
15 IN THE DEPARTMENT.

16 (B) ADMINISTRATION BY SECRETARY.

17 THE SECRETARY:

18 (1) HAS ADMINISTRATIVE CONTROL OF THE CENTRAL REPOSITORY; AND

19 (2) SHALL OPERATE THE CENTRAL REPOSITORY WITH THE ADVICE OF
20 THE ADVISORY BOARD.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 747(b).

23 Defined terms: "Advisory Board" § 10-201

24 "Central Repository" § 10-201

25 "Criminal justice information system" § 10-201

26 "Department" § 1-101

27 "Secretary" § 1-101

28 10-214. REPORTING DATA TO CENTRAL REPOSITORY.

29 (A) IN GENERAL.

30 EACH CRIMINAL JUSTICE UNIT SHALL REPORT IN ACCORDANCE WITH THIS
31 SECTION THE CRIMINAL HISTORY RECORD INFORMATION THAT IT COLLECTS TO THE
32 CENTRAL REPOSITORY.

33 (B) REPORTING DEADLINES.

1 SUBJECT TO SUBSECTION (C) OF THIS SECTION:

2 (1) THE DATA PERTAINING TO AN ARREST OR THE ISSUANCE OF AN
3 ARREST WARRANT SHALL BE REPORTED WITHIN 72 HOURS AFTER THE EARLIER OF
4 THE ARREST OR THE ISSUANCE OF THE ARREST WARRANT;

5 (2) THE DATA PERTAINING TO THE RELEASE OF A PERSON AFTER AN
6 ARREST WITHOUT THE FILING OF A CHARGE SHALL BE REPORTED WITHIN 30 DAYS
7 AFTER THE PERSON IS RELEASED; AND

8 (3) THE DATA PERTAINING TO ANY OTHER REPORTABLE EVENT SHALL
9 BE REPORTED WITHIN 60 DAYS AFTER THE REPORTABLE EVENT OCCURS.

10 (C) EXCEPTION.

11 THE SECRETARY BY REGULATION OR THE COURT OF APPEALS BY RULE MAY
12 REDUCE THE TIME FOR REPORTING THE CRIMINAL HISTORY RECORD INFORMATION
13 SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

14 (D) METHOD.

15 THE CRIMINAL HISTORY RECORD INFORMATION MAY BE REPORTED UNDER
16 SUBSECTION (B) OF THIS SECTION TO THE CENTRAL REPOSITORY:

17 (1) DIRECTLY BY THE CRIMINAL JUSTICE UNIT;

18 (2) IF THE CRIMINAL HISTORY RECORD INFORMATION CAN BE READILY
19 COLLECTED AND REPORTED THROUGH THE COURT SYSTEM, BY THE
20 ADMINISTRATIVE OFFICE OF THE COURTS; OR

21 (3) IF THE CRIMINAL HISTORY RECORD INFORMATION CAN BE READILY
22 COLLECTED AND REPORTED THROUGH CRIMINAL JUSTICE UNITS THAT ARE PART OF
23 A GEOGRAPHICALLY BASED INFORMATION SYSTEM, BY THOSE CRIMINAL JUSTICE
24 UNITS.

25 (E) MAINTENANCE AND DISSEMINATION OF INFORMATION.

26 (1) A CRIMINAL JUSTICE UNIT MAY MAINTAIN CRIMINAL HISTORY
27 RECORD INFORMATION THAT IS MORE DETAILED THAN REQUIRED FOR REPORTING
28 TO THE CENTRAL REPOSITORY.

29 (2) A CRIMINAL JUSTICE UNIT MAY DISSEMINATE CRIMINAL HISTORY
30 RECORD INFORMATION MAINTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION
31 ONLY IN ACCORDANCE WITH § 10-219 OF THIS SUBTITLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 747(c), (d), and (e).

34 In subsection (a) of this section, the former reference to information
35 "whether collected manually or by means of an automated system" is
36 deleted because each criminal justice unit must submit all of the criminal

1 history record information it collects regardless of the manner by which
2 the information is collected.

3 Subsection (c) of this section is revised to distinguish between regulations
4 and rules. The Secretary is head of an executive unit, *i.e.*, Department of
5 Public Safety and Correctional Services, and may adopt regulations in
6 accordance with Title 10, Subtitle 1 of the State Government Article
7 (Administrative Procedure Act - Regulations). The Court of Appeals,
8 however, is not an executive unit and, therefore, does not come under Title
9 10, Subtitle 1 of the State Government Article. Instead, the Court of
10 Appeals may adopt rules under Md. Constitution, Art. IV, § 18.

11 In subsection (d)(2) and (3) of this section, the defined term "criminal
12 history record information" is substituted for the former references to
13 "information" for consistency and clarity.

14 In subsection (e)(2) of this section, the word "only" is added to clarify that
15 criminal history record information maintained by a criminal justice unit
16 that is more detailed than that required in this subtitle is subject to the
17 dissemination requirements of § 10-215 of this subtitle.

18 Defined terms: "Central Repository" § 10-201

19 "Criminal history record information" § 10-201

20 "Criminal justice unit" § 10-201

21 "Disseminate" § 10-201

22 "Person" § 1-101

23 "Reportable event" § 10-201

24 "Secretary" § 1-101

25 10-215. REPORTABLE EVENTS.

26 (A) IN GENERAL.

27 THE FOLLOWING EVENTS ARE REPORTABLE EVENTS UNDER THIS SUBTITLE
28 THAT MUST BE REPORTED TO THE CENTRAL REPOSITORY IN ACCORDANCE WITH §
29 10-214 OF THIS SUBTITLE:

- 30 (1) THE ISSUANCE OR WITHDRAWAL OF AN ARREST WARRANT;
- 31 (2) AN ARREST;
- 32 (3) THE RELEASE OF A PERSON AFTER ARREST WITHOUT THE FILING OF
33 A CHARGE;
- 34 (4) THE FILING OF A CHARGING DOCUMENT;
- 35 (5) A RELEASE PENDING TRIAL OR AN APPEAL;
- 36 (6) A COMMITMENT TO AN INSTITUTION OF PRETRIAL DETENTION;

- 1 (7) THE DISMISSAL OF AN INDICTMENT OR CRIMINAL INFORMATION;
- 2 (8) A NOLLE PROSEQUI;
- 3 (9) THE MARKING OF A CHARGE "STET" ON THE DOCKET;
- 4 (10) AN ACQUITTAL, CONVICTION, VERDICT OF NOT CRIMINALLY
5 RESPONSIBLE, OR ANY OTHER DISPOSITION OF A CASE AT OR FOLLOWING TRIAL,
6 INCLUDING A FINDING OF PROBATION BEFORE JUDGMENT;
- 7 (11) THE IMPOSITION OF A SENTENCE;
- 8 (12) A COMMITMENT TO A STATE CORRECTIONAL FACILITY OR LOCAL
9 CORRECTIONAL FACILITY;
- 10 (13) A COMMITMENT TO THE DEPARTMENT OF HEALTH AND MENTAL
11 HYGIENE UNDER § 3-105 OR § 3-111 OF THIS ARTICLE AS INCOMPETENT TO STAND
12 TRIAL OR NOT CRIMINALLY RESPONSIBLE;
- 13 (14) A RELEASE FROM DETENTION OR CONFINEMENT;
- 14 (15) A CONDITIONAL RELEASE, REVOCATION OF CONDITIONAL RELEASE,
15 OR DISCHARGE OF A PERSON COMMITTED TO THE DEPARTMENT OF HEALTH AND
16 MENTAL HYGIENE UNDER § 3-105 OR § 3-111 OF THIS ARTICLE AS INCOMPETENT TO
17 STAND TRIAL OR NOT CRIMINALLY RESPONSIBLE;
- 18 (16) AN ESCAPE FROM CONFINEMENT OR COMMITMENT;
- 19 (17) A PARDON, REPRIEVE, COMMUTATION OF A SENTENCE, OR OTHER
20 CHANGE IN A SENTENCE, INCLUDING A CHANGE IN A SENTENCE THAT A COURT
21 ORDERS;
- 22 (18) AN ENTRY OF AN APPEAL TO AN APPELLATE COURT;
- 23 (19) A JUDGMENT OF AN APPELLATE COURT;
- 24 (20) AN ORDER OF A COURT IN A COLLATERAL PROCEEDING THAT
25 AFFECTS A PERSON'S CONVICTION, SENTENCE, OR CONFINEMENT;
- 26 (21) AN ADJUDICATION OF A CHILD AS DELINQUENT:
- 27 (I) IF THE CHILD IS AT LEAST 14 YEARS OLD, FOR AN ACT
28 DESCRIBED IN § 3-804(E)(1) OF THE COURTS ARTICLE; OR
- 29 (II) IF THE CHILD IS AT LEAST 16 YEARS OLD, FOR AN ACT
30 DESCRIBED IN § 3-804(E)(4) OR (5) OF THE COURTS ARTICLE;
- 31 (22) THE ISSUANCE OR WITHDRAWAL OF A WRIT OF ATTACHMENT BY A
32 JUVENILE COURT; AND

1 (23) ANY OTHER EVENT ARISING OUT OF OR OCCURRING DURING THE
2 COURSE OF A CRIMINAL PROCEEDING THAT THE SECRETARY BY REGULATION OR
3 THE COURT OF APPEALS BY RULE MAKES A REPORTABLE EVENT.

4 (B) SPECIFIED BY RULE OR REGULATION.

5 TO AVOID DUPLICATION IN THE REPORTING OF CRIMINAL HISTORY RECORD
6 INFORMATION, THE SECRETARY BY REGULATION AND THE COURT OF APPEALS BY
7 RULE MAY DETERMINE THOSE REPORTABLE EVENTS DESCRIBED UNDER
8 SUBSECTION (A) OF THIS SECTION TO BE REPORTED BY EACH CRIMINAL JUSTICE
9 UNIT TO THE CENTRAL REPOSITORY.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 747(a) and (f).

12 In the introductory language of subsection (a) of this section, the phrase,
13 "that must be reported to the Central Repository in accordance with §
14 10-214 of this subtitle", is added for clarity.

15 In subsection (a)(4) of this section, the reference to the "filing" of a
16 charging document is substituted for the former reference to the
17 "presentment of an indictment, filing of a criminal information, or filing of
18 a statement of charges after arrest" to conform to the terminology of this
19 subsection.

20 In subsection (a)(2) of this section, the defined term "person" is substituted
21 for the former reference to "individual" to conform to the terminology used
22 throughout this article. *See* General Revisor's Note to article.

23 In subsection (a)(7) of this section, the former reference to the "quashing"
24 of an indictment is deleted in light of the reference to the "dismissal" of an
25 indictment.

26 In subsection (a)(21) of this section, the reference to the "Courts Article" is
27 substituted for the former reference to the "Courts and Judicial
28 Proceedings Article" in light of Art. 1, § 25(g).

29 Subsections (a)(23) and (b) of this section are revised to distinguish
30 between regulations and rules. The Secretary is head of an executive unit,
31 *i.e.*, Department of Public Safety and Correctional Services, and may adopt
32 regulations in accordance with Title 10, Subtitle 1 of the State Government
33 Article (Administrative Procedure Act - Regulations). The Court of
34 Appeals, however, is not an executive unit and, therefore, does not come
35 under Title 10, Subtitle 1 of the State Government Article. Instead, the
36 Court of Appeals may adopt rules under Md. Constitution, Art. IV, § 18.

37 In subsection (b) of this section, the reference to reportable events
38 "described under subsection (a) of this section" is added for clarity.

39 Also in subsection (b) of this section, the reference to the "Central

1 Repository" is added for clarity.

2 Defined terms: "Central Repository" § 10-201

3 "Charging document" § 1-101

4 "Criminal history record information" § 10-201

5 "Criminal justice unit" § 10-201

6 "Local correctional facility" § 1-101

7 "Person" § 1-101

8 "Reportable event" § 10-201

9 "Secretary" § 1-101

10 "State correctional facility" § 1-101

11 10-216. FINGERPRINTING.

12 (A) "LAW ENFORCEMENT UNIT" DEFINED.

13 IN THIS SECTION, "LAW ENFORCEMENT UNIT" MEANS:

14 (1) A STATE, COUNTY, OR MUNICIPAL POLICE UNIT; OR

15 (2) A SHERIFF'S OFFICE.

16 (B) FINGERPRINTING ON ORDER OF COURT.

17 SUBJECT TO SUBSECTION (C) OF THIS SECTION:

18 (1) IF A DEFENDANT WAS NOT FINGERPRINTED AT THE TIME OF ARREST
19 FOR THE SENTENCED CRIME, THE SENTENCING JUDGE SHALL ORDER THE
20 DEFENDANT TO BE FINGERPRINTED BY THE APPROPRIATE AND AVAILABLE LAW
21 ENFORCEMENT UNIT WHEN THE DEFENDANT:

22 (I) IS FOUND GUILTY OR PLEADS GUILTY OR NOLO CONTENDERE
23 TO A CRIME THAT IS REPORTABLE AS CRIMINAL HISTORY RECORD INFORMATION
24 UNDER THIS SUBTITLE; AND

25 (II) IS SENTENCED TO COMMITMENT IN A LOCAL CORRECTIONAL
26 FACILITY OR RECEIVES A SUSPENDED SENTENCE, PROBATION OTHER THAN
27 PROBATION BEFORE JUDGMENT UNDER § 6-220 OF THIS ARTICLE, OR A FINE; AND

28 (2) IF THE DEFENDANT CANNOT BE FINGERPRINTED AT THE TIME OF
29 SENTENCING, THE SENTENCING JUDGE SHALL ORDER THE DEFENDANT TO REPORT
30 TO A DESIGNATED LAW ENFORCEMENT UNIT TO BE FINGERPRINTED WITHIN 3 DAYS
31 AFTER THE DATE OF THE SENTENCING.

32 (C) EXCEPTION.

33 IF THE CRIME CHARGED IS A CRIME DEFINED BY LAW OR A RULE OF COURT AS
34 A "PETTY OFFENSE", A SENTENCING JUDGE MAY ORDER THAT THE DEFENDANT BE
35 FINGERPRINTED UNDER SUBSECTION (B) OF THIS SECTION.

36 (D) EFFECT OF FAILURE TO APPEAR.

1 IF A DEFENDANT FAILS TO REPORT TO THE DESIGNATED LAW ENFORCEMENT
2 UNIT AS ORDERED UNDER SUBSECTION (B)(2) OF THIS SECTION, THE DEFENDANT IS
3 IN CONTEMPT OF COURT.

4 (E) ADJUDICATION OF DELINQUENCY.

5 (1) THIS SUBSECTION ONLY APPLIES TO AN ADJUDICATION OF
6 DELINQUENCY OF A CHILD:

7 (I) FOR AN ACT DESCRIBED IN § 3-804(E)(1) OF THE COURTS
8 ARTICLE IF THE CHILD IS AT LEAST 14 YEARS OLD; OR

9 (II) FOR AN ACT DESCRIBED IN § 3-804(E)(4) OR (5) OF THE COURTS
10 ARTICLE IF THE CHILD IS AT LEAST 16 YEARS OLD.

11 (2) IF A CHILD HAS NOT BEEN PREVIOUSLY FINGERPRINTED AS A
12 RESULT OF ARREST FOR THE DELINQUENT ACT, THE COURT THAT HELD THE
13 DISPOSITION HEARING OF THE CHILD ADJUDICATED DELINQUENT SHALL ORDER
14 THE CHILD TO BE FINGERPRINTED BY THE APPROPRIATE AND AVAILABLE LAW
15 ENFORCEMENT UNIT.

16 (3) IF THE CHILD CANNOT BE FINGERPRINTED AT THE TIME OF THE
17 DISPOSITION HEARING HELD UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE
18 COURT SHALL ORDER THE CHILD TO REPORT TO A DESIGNATED LAW ENFORCEMENT
19 UNIT TO BE FINGERPRINTED WITHIN 3 DAYS AFTER MAKING A DISPOSITION ON AN
20 ADJUDICATION OF DELINQUENCY.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 747A.

23 In subsection (a) of this section, the defined term "law enforcement unit" is
24 substituted for the former reference to "law enforcement agency" to
25 conform to the terminology used throughout this article. Similarly, the
26 reference to municipal police "unit" is substituted for the former reference
27 to municipal police "department or agency". *See* General Revisor's Note to
28 article.

29 In subsection (b)(1) of this section, the reference to a sentenced "crime" is
30 substituted for the former reference to a sentenced "offense" to conform to
31 the terminology used throughout this article.

32 In subsections (b)(2) and (e)(3) of this section, the reference to "the time of
33 sentencing" and "the time of the disposition", respectively, are substituted
34 for the former word "immediately" for clarity.

35 In subsection (c) of this section, the former reference to the power of a
36 judge to "exercise discretion" in ordering a person to be fingerprinted is
37 deleted as unnecessary in light of the use of the word "may".

38 In subsection (e)(2) of this section, the former references to "a child

1 described under paragraph (1) of this subsection" and "an offense described
2 in this subsection" is deleted as redundant in light of subsection (e)(1) of
3 this section.

4 Defined terms: "County" § 1-101

5 "Criminal history record information" § 10-201

6 "Local correctional facility" § 1-101

7 "Nolo contendere" § 1-101

8 10-217. AGREEMENTS BETWEEN CENTRAL REPOSITORY AND CRIMINAL JUSTICE
9 UNITS.

10 (A) IN GENERAL.

11 THE SECRETARY AND THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL
12 DEVELOP AGREEMENTS BETWEEN THE CENTRAL REPOSITORY AND EACH CRIMINAL
13 JUSTICE UNIT.

14 (B) CONTENTS.

15 THE AGREEMENTS REQUIRED BY THIS SECTION SHALL INCLUDE PROVISIONS
16 ON:

17 (1) THE METHOD THE CRIMINAL JUSTICE UNIT WILL USE TO REPORT
18 CRIMINAL HISTORY RECORD INFORMATION, INCLUDING A METHOD OF IDENTIFYING
19 AN OFFENDER IN A WAY THAT ALLOWS OTHER CRIMINAL JUSTICE UNITS TO LOCATE
20 THE OFFENDER AT ANY STAGE IN THE CRIMINAL JUSTICE SYSTEM, THE TIME OF
21 REPORTING, THE SPECIFIC DATA TO BE REPORTED, AND THE PLACE OF REPORTING;

22 (2) THE SERVICES THE CENTRAL REPOSITORY IS TO PROVIDE TO THE
23 CRIMINAL JUSTICE UNIT;

24 (3) THE CONDITIONS AND LIMITATIONS ON DISSEMINATION OF
25 CRIMINAL HISTORY RECORD INFORMATION BY THE CRIMINAL JUSTICE UNIT;

26 (4) THE MAINTENANCE OF SECURITY IN ALL TRANSACTIONS BETWEEN
27 THE CENTRAL REPOSITORY AND THE CRIMINAL JUSTICE UNIT;

28 (5) THE METHOD OF COMPLYING WITH THE RIGHT OF A PERSON TO
29 INSPECT, CHALLENGE, AND CORRECT CRIMINAL HISTORY RECORD INFORMATION
30 THAT THE CRIMINAL JUSTICE UNIT KEEPS;

31 (6) THE AUDIT REQUIREMENTS TO BE USED TO ENSURE THE ACCURACY
32 OF CRIMINAL HISTORY RECORD INFORMATION REPORTED OR DISSEMINATED;

33 (7) THE TIMETABLE TO CARRY OUT THE AGREEMENT;

34 (8) THE PENALTIES TO BE IMPOSED IF A CRIMINAL JUSTICE UNIT FAILS
35 TO COMPLY WITH THIS SUBTITLE, INCLUDING THE REVOCATION OF THE
36 AGREEMENT BETWEEN THE UNIT AND THE CENTRAL REPOSITORY AND

1 APPROPRIATE JUDICIAL OR ADMINISTRATIVE PROCEEDINGS TO ENFORCE
2 COMPLIANCE; AND

3 (9) ANY OTHER MATTER THAT THE SECRETARY AND THE CHIEF JUDGE
4 OF THE COURT OF APPEALS CONSIDER NECESSARY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 748(a).

7 In subsection (b)(7) of this section, the reference to "carry out" the
8 agreement is substituted for the former reference to "implement[ation]" of
9 the agreement to conform to the terminology used throughout this article.
10 *See* General Revisor's Note to article.

11 In subsection (b)(8) of this section, the reference to penalties "to be
12 imposed" on a criminal justice unit for failure to comply with this subtitle,
13 is added for clarity.

14 Defined terms: "Central Repository" § 10-201

15 "Criminal history record information" § 10-201

16 "Criminal justice unit" § 10-201

17 "Person" § 1-101

18 "Secretary" § 1-101

19 10-218. PROCEDURES FOR SHARING CRIMINAL HISTORY RECORD INFORMATION.

20 THE SECRETARY AND THE CHIEF JUDGE OF THE COURT OF APPEALS MAY
21 DEVELOP PROCEDURES CONSISTENT WITH THIS SUBTITLE TO SHARE CRIMINAL
22 HISTORY RECORD INFORMATION WITH FEDERAL CRIMINAL JUSTICE UNITS AND
23 CRIMINAL JUSTICE UNITS OF OTHER STATES AND COUNTRIES.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 748(b).

26 Defined terms: "Criminal history record information" § 10-201

27 "Criminal justice unit" § 10-201

28 "Secretary" § 1-101

29 "State" § 1-101

30 10-219. DISSEMINATING CRIMINAL HISTORY RECORD INFORMATION -- IN
31 GENERAL.

32 EXCEPT IN ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS,
33 A CRIMINAL JUSTICE UNIT AND THE CENTRAL REPOSITORY MAY NOT DISSEMINATE
34 CRIMINAL HISTORY RECORD INFORMATION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 27, § 749.

37 The defined term "criminal history record information" is substituted for

1 the former reference to "information" for consistency and clarity.

2 Defined terms: "Central Repository" § 10-201

3 "Criminal history record information" § 10-201

4 "Criminal justice unit" § 10-201

5 "Disseminate" § 10-201

6 10-220. MAINTAINING AND DISSEMINATING OF CRIMINAL HISTORY RECORD
7 INFORMATION ABOUT CHILDREN.

8 (A) COMPLIANCE WITH COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

9 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
10 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A CRIMINAL JUSTICE
11 UNIT AND THE CENTRAL REPOSITORY MAY NOT MAINTAIN OR DISSEMINATE
12 CRIMINAL HISTORY RECORD INFORMATION IN A WAY THAT IS INCONSISTENT WITH §
13 3-828 OF THE COURTS ARTICLE.

14 (B) SEPARATION OF RECORDS ON CHILDREN NOT REQUIRED.

15 NOTWITHSTANDING § 3-828(A) OF THE COURTS ARTICLE, CRIMINAL HISTORY
16 RECORD INFORMATION ON A CHILD AND A RECORD OF THE FINGERPRINTING OF A
17 CHILD REQUIRED UNDER § 10-216(E) OF THIS SUBTITLE NEED NOT BE MAINTAINED
18 SEPARATE FROM SUCH RECORDS ON ADULTS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 750A.

21 Subsection (a) of this section is revised in the active voice to clarify that
22 this section applies to the Central Repository and criminal justice units.

23 In subsection (a) of this section, the defined term "criminal history record
24 information" is substituted for the former reference to "record" for clarity
25 and consistency. Similarly, in subsection (b) of this section, the defined
26 term "criminal history record information" is substituted for the former
27 reference to "a reportable event described under § 747(a)(21) and (22) of
28 this subtitle".

29 Defined terms: "Central Repository" § 10-201

30 "Criminal history record information" § 10-201

31 "Criminal justice unit" § 10-201

32 "Disseminate" § 10-201

33 10-221. REGULATIONS AND RULES.

34 (A) IN GENERAL.

35 TO CARRY OUT THIS SUBTITLE AND TO ESTABLISH, OPERATE, AND MAINTAIN
36 THE CRIMINAL JUSTICE INFORMATION SYSTEM:

1 (1) THE SECRETARY SHALL ADOPT REGULATIONS CONSISTENT WITH
2 THIS SUBTITLE FOR:

3 (I) UNITS IN THE EXECUTIVE BRANCH OF GOVERNMENT; AND

4 (II) CRIMINAL JUSTICE UNITS THAT ARE NOT IN THE JUDICIAL
5 BRANCH OF GOVERNMENT; AND

6 (2) THE COURT OF APPEALS AND THE CHIEF JUDGE OF THE COURT OF
7 APPEALS UNDER ARTICLE IV, § 18 OF THE MARYLAND CONSTITUTION SHALL ADOPT
8 RULES CONSISTENT WITH THIS SUBTITLE FOR THE JUDICIAL BRANCH OF
9 GOVERNMENT.

10 (B) CONTENTS.

11 SUBJECT TO TITLE 3, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT
12 ARTICLE, THE REGULATIONS ADOPTED BY THE SECRETARY UNDER SUBSECTION
13 (A)(1) OF THIS SECTION AND THE RULES ADOPTED BY THE COURT OF APPEALS
14 UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL:

15 (1) REGULATE THE COLLECTION, REPORTING, AND DISSEMINATION OF
16 CRIMINAL HISTORY RECORD INFORMATION BY A COURT AND CRIMINAL JUSTICE
17 UNITS;

18 (2) ENSURE THE SECURITY OF THE CRIMINAL JUSTICE INFORMATION
19 SYSTEM AND CRIMINAL HISTORY RECORD INFORMATION REPORTED TO AND
20 COLLECTED FROM IT;

21 (3) REGULATE THE DISSEMINATION OF CRIMINAL HISTORY RECORD
22 INFORMATION IN ACCORDANCE WITH SUBTITLE 1 OF THIS TITLE AND THIS
23 SUBTITLE;

24 (4) REGULATE THE PROCEDURES FOR INSPECTING AND CHALLENGING
25 OF CRIMINAL HISTORY RECORD INFORMATION;

26 (5) REGULATE THE AUDITING OF CRIMINAL JUSTICE UNITS TO ENSURE
27 THAT CRIMINAL HISTORY RECORD INFORMATION IS:

28 (I) ACCURATE AND COMPLETE; AND

29 (II) COLLECTED, REPORTED, AND DISSEMINATED IN ACCORDANCE
30 WITH SUBTITLE 1 OF THIS TITLE AND THIS SUBTITLE;

31 (6) REGULATE THE DEVELOPMENT AND CONTENT OF AGREEMENTS
32 BETWEEN THE CENTRAL REPOSITORY AND CRIMINAL JUSTICE UNITS AND
33 NONCRIMINAL JUSTICE UNITS; AND

34 (7) REGULATE THE DEVELOPMENT OF A FEE SCHEDULE AND PROVIDE
35 FOR THE COLLECTION OF THE FEES FOR OBTAINING CRIMINAL HISTORY RECORD
36 INFORMATION FOR OTHER THAN CRIMINAL JUSTICE PURPOSES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 746(a) and (b)(1) through (6) and (8).

3 In subsection (a) of this section, the former reference to the Secretary
4 adopting "appropriate" regulations is deleted as unnecessary in light of the
5 use of the reference to adopting regulations "consistent with this subtitle"
6 and in light of the comprehensive requirements regarding the adoption of
7 regulations set forth in Title 10, Subtitle 1 of the State Government Article
8 (Administrative Procedure Act - Regulations).

9 In subsection (a)(1) of this section, the former reference to "rules" is deleted
10 as unnecessary in light of the reference to "regulations". *See* General
11 Revisor's Note to article.

12 In subsection (a)(2) of this section, the former reference to "regulations" is
13 deleted because the Court of Appeals is a unit in the Judicial Branch of
14 State government and, therefore, is not subject to the provisions of Title
15 10, Subtitle 1 of the State Government Article (Administrative Procedure
16 Act - Regulations), which applies, for the most part, to units in the
17 Executive Branch of State government.

18 Also in subsection (a)(2) of this section, the former reference to
19 "appropriate" rules is deleted as implied in the reference to "rules".

20 Former Art. 27, § 746(b)(7), which required the rules and regulations
21 adopted by the Secretary or the Court or its Chief Judge to include
22 "[g]overning the exercise of the rights of inspection and challenge provided
23 for in §§ 751 through 755", is deleted as included in subsection (b)(4) of this
24 section.

25 Former Art. 27, § 746(c), which required the "[r]ules and regulations
26 adopted by the Secretary or the Court or its Chief Judge" to be consistent
27 with the provisions of this subtitle, is deleted as included in subsection (a)
28 of this section.

29 The Criminal Procedure Article Review Committee notes, for consideration
30 by the General Assembly, that subsection (a)(2) of this section refers to the
31 Chief Judge of the Court of Appeals adopting rules and regulations. Under
32 Md. Constitution, Art. IV, § 18, rulemaking authority is given only to the
33 Court of Appeals. The Chief Judge of the Court of Appeals has no express
34 rulemaking authority.

35 Defined terms: "Central Repository" § 10-201

36 "Criminal history record information" § 10-201

37 "Criminal justice information system" § 10-201

38 "Criminal justice unit" § 10-201

39 "Secretary" § 1-101

1 10-222. INSPECTION OF CRIMINAL HISTORY RECORD INFORMATION.

2 (A) IN GENERAL.

3 SUBJECT TO § 10-226 OF THIS SUBTITLE, A PERSON OR A PERSON'S ATTORNEY
4 HAVING SATISFACTORY IDENTIFICATION AND WRITTEN AUTHORIZATION FROM THE
5 PERSON MAY INSPECT CRIMINAL HISTORY RECORD INFORMATION ON THE PERSON
6 THAT IS MAINTAINED BY A CRIMINAL JUSTICE UNIT.

7 (B) NOTES.

8 A PERSON WITH THE RIGHT TO INSPECT CRIMINAL HISTORY RECORD
9 INFORMATION UNDER THIS SECTION MAY MAKE NOTES OF THE INFORMATION.

10 (C) EFFECT OF SECTION.

11 THIS SECTION DOES NOT:

12 (1) REQUIRE A CRIMINAL JUSTICE UNIT TO COPY ANY CRIMINAL
13 HISTORY RECORD INFORMATION; OR

14 (2) ALLOW A PERSON TO REMOVE A DOCUMENT FOR COPYING.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 751.

17 In subsection (b) of this section, the reference to a person with a right to
18 inspect "criminal history record information under this section" is added
19 for clarity.

20 Defined terms: "Criminal history record information" § 10-201

21 "Criminal justice unit" § 10-201

22 "Person" § 1-101

23 10-223. CHALLENGE OF CRIMINAL HISTORY RECORD INFORMATION.

24 (A) ALLOWED.

25 A PERSON WHO HAS INSPECTED THE PERSON'S OWN CRIMINAL HISTORY
26 RECORD INFORMATION MAY CHALLENGE THE COMPLETENESS, CONTENTS,
27 ACCURACY, OR DISSEMINATION OF THE INFORMATION.

28 (B) NOTICE.

29 A PERSON CHALLENGING CRIMINAL HISTORY RECORD INFORMATION UNDER
30 SUBSECTION (A) OF THIS SECTION SHALL GIVE WRITTEN NOTICE OF THE
31 CHALLENGE TO THE CENTRAL REPOSITORY AND, IF THE INSPECTION WAS NOT AT
32 THE CENTRAL REPOSITORY, TO THE CRIMINAL JUSTICE UNIT WHERE THE PERSON
33 INSPECTED THE INFORMATION.

34 (C) CONTENTS OF NOTICE.

1 THE NOTICE UNDER SUBSECTION (B) OF THIS SECTION SHALL:

2 (1) STATE:

3 (I) THE PART OF THE CRIMINAL HISTORY RECORD INFORMATION
4 BEING CHALLENGED;

5 (II) THE REASON FOR THE CHALLENGE; AND

6 (III) THE CHANGE REQUESTED TO CORRECT OR COMPLETE THE
7 CRIMINAL HISTORY RECORD INFORMATION OR ITS DISSEMINATION;

8 (2) INCLUDE ANY AVAILABLE CERTIFIED DOCUMENTATION OR OTHER
9 EVIDENCE SUPPORTING THE CHALLENGE; AND

10 (3) CONTAIN A SWORN STATEMENT, UNDER PENALTY OF PERJURY,
11 THAT THE INFORMATION IN OR SUPPORTING THE CHALLENGE IS ACCURATE AND
12 THE CHALLENGE IS MADE IN GOOD FAITH.

13 (D) AUDIT.

14 (1) AFTER RECEIVING THE NOTICE UNDER SUBSECTION (B) OF THIS
15 SECTION, THE CENTRAL REPOSITORY SHALL AUDIT THAT PART OF THE CRIMINAL
16 HISTORY RECORD INFORMATION THAT IS NECESSARY TO DETERMINE THE VALIDITY
17 OF THE CHALLENGE.

18 (2) AS PART OF THE AUDIT, THE CENTRAL REPOSITORY MAY REQUIRE
19 THE CRIMINAL JUSTICE UNIT THAT WAS THE SOURCE OF THE CHALLENGED
20 CRIMINAL HISTORY RECORD INFORMATION TO VERIFY THE INFORMATION.

21 (E) NOTICE OF AUDIT RESULTS AND DECISION.

22 WITHIN 90 DAYS AFTER RECEIVING NOTICE OF THE CHALLENGE, THE CENTRAL
23 REPOSITORY SHALL NOTIFY THE PERSON CHALLENGING THE CRIMINAL HISTORY
24 RECORD INFORMATION IN WRITING OF THE AUDIT RESULTS AND ITS DECISION.

25 (F) NOTICE OF APPEAL RIGHT.

26 IF THE CHALLENGE IS DENIED AS A WHOLE OR IN PART, THE NOTICE REQUIRED
27 UNDER SUBSECTION (E) OF THIS SECTION SHALL INFORM THE PERSON OF THE
28 RIGHT TO APPEAL THE DECISION.

29 (G) NOTICE TO CRIMINAL JUSTICE UNITS OF DENIAL OF CHALLENGE.

30 IF THE CHALLENGE IS DENIED AS A WHOLE OR IN PART, THE CENTRAL
31 REPOSITORY SHALL SEND WRITTEN NOTICE OF THIS DECISION TO EACH CRIMINAL
32 JUSTICE UNIT THAT WAS SENT A COPY OF THE CHALLENGE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 752(a), (b), and (e).

1 %In subsection (c) of this section, the reference to "criminal history record
2 information" is added to avoid confusion with the word "information".

3 In subsection (d)(1) of this section, the word "valid[ity]" is substituted for
4 the former word "accuracy" for consistency with § 10-224 of this subtitle
5 and to avoid confusion with the reasons under which a person may
6 challenge criminal history record information.

7 In subsection (e) of this section, the reference to notifying the person
8 "challenging the criminal history record information" in writing of the
9 audit results is added for clarity.

10 In subsections (e) and (g) of this section, the references to a "decision" are
11 substituted for the former references to a "determination" for consistency
12 with § 10-227 of this subtitle.

13 In subsection (f) of this section, the reference to "denied" is substituted for
14 the former reference to "rejected" to conform to the terminology used in
15 subsection (g) of this section.

16 Former Art. 27, § 752(g), which authorized a delayed starting date for the
17 Central Repository not later than July 1, 1977, is deleted as obsolete.

18 Defined terms: "Central Repository" § 10-201

19 "Criminal history record information" § 10-201

20 "Criminal justice unit" § 10-201

21 "Person" § 1-101

22 10-224. CORRECTION OF CRIMINAL HISTORY RECORD INFORMATION.

23 (A) DUTY OF CENTRAL REPOSITORY.

24 IF A CHALLENGE OF CRIMINAL HISTORY RECORD INFORMATION UNDER §
25 10-223 OF THIS SUBTITLE IS DETERMINED AS A WHOLE OR IN PART TO BE VALID, THE
26 CENTRAL REPOSITORY SHALL:

27 (1) CORRECT ITS RECORDS; AND

28 (2) GIVE NOTICE OF THE CORRECTION TO EACH CRIMINAL JUSTICE
29 UNIT THAT HAS CUSTODY OF THE INCOMPLETE OR INACCURATE CRIMINAL HISTORY
30 RECORD INFORMATION OR ANY PART OF THAT INFORMATION.

31 (B) CORRECTION AND CERTIFICATION OF CORRECTION BY CRIMINAL
32 JUSTICE UNIT.

33 A CRIMINAL JUSTICE UNIT NOTIFIED UNDER SUBSECTION (A) OF THIS SECTION
34 SHALL:

35 (1) CORRECT ITS RECORDS; AND

1 (2) CERTIFY TO THE CENTRAL REPOSITORY THAT THE CORRECTION
2 WAS MADE.

3 (C) NOTICE OF CORRECTION BY CRIMINAL JUSTICE UNIT.

4 (1) A CRIMINAL JUSTICE UNIT REQUIRED BY SUBSECTION (B) OF THIS
5 SECTION TO CORRECT CRIMINAL HISTORY RECORD INFORMATION SHALL GIVE
6 WRITTEN NOTICE OF THE CORRECTION TO EACH UNIT OR PERSON TO WHICH THE
7 CRIMINAL JUSTICE UNIT HAD DISSEMINATED THE INFORMATION BEFORE THE
8 CORRECTION.

9 (2) THE UNIT OR PERSON THAT RECEIVES THE NOTICE OF CORRECTION
10 UNDER PARAGRAPH (1) OF THIS SUBSECTION PROMPTLY SHALL CORRECT ITS
11 RECORDS AND CERTIFY TO THE DISSEMINATING CRIMINAL JUSTICE UNIT THAT THE
12 CORRECTION WAS MADE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 752(c) and (d).

15 In subsection (a)(2) of this section, the defined term "criminal history
16 record information" is substituted for the former reference to "information"
17 for clarity and consistency.

18 In subsection (b)(1) of this section, the former reference to a criminal
19 justice unit to "take appropriate steps" to correct its records is deleted as
20 unnecessary.

21 Defined terms: "Central Repository" § 10-201

22 "Criminal history record information" § 10-201

23 "Criminal justice unit" § 10-201

24 "Disseminate" § 10-201

25 "Person" § 1-101

26 10-225. INSPECTION OR CHALLENGE OF CRIMINAL HISTORY RECORD INFORMATION
27 RECORDED BEFORE JULY 1, 1976.

28 (A) SCOPE.

29 THIS SECTION APPLIES ONLY TO CRIMINAL HISTORY RECORD INFORMATION
30 RECORDED BEFORE JULY 1, 1976.

31 (B) IN GENERAL.

32 SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON HAS A RIGHT TO
33 INSPECT AND CHALLENGE CRIMINAL HISTORY RECORD INFORMATION IN
34 ACCORDANCE WITH THIS SUBTITLE.

35 (C) DUTY TO MAKE REASONABLE SEARCH.

1 ON REQUEST BY A PERSON TO INSPECT CRIMINAL HISTORY RECORD
2 INFORMATION, A CRIMINAL JUSTICE UNIT:

3 (1) SHALL MAKE A REASONABLE SEARCH FOR THE INFORMATION; BUT

4 (2) NEED NOT PROVIDE FOR THE INSPECTION OF INFORMATION THAT IS
5 NOT FOUND AFTER A REASONABLE SEARCH.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 755.

8 Subsection (a) of this section is revised as a scope provision to clarify the
9 application of this section.

10 Subsection (b) of this section is revised in the active voice for clarity and
11 consistency with other provisions of this subtitle.

12 In the introductory language of subsection (b) of this section, the phrase
13 "[s]ubject to subsection (c) of this section" is added for clarity.

14 In subsection (b) of this section, the word "inspect" is substituted for the
15 former word "access" for consistency with other provisions in this subtitle.

16 In the introductory language of subsection (c) of this section, the clause
17 "[o]n request by a person to inspect criminal history record information" is
18 added for clarity.

19 In subsection (c)(2) of this section, the reference to providing for the
20 "inspection" is substituted for the former reference to "access" for
21 consistency with other provisions of this subtitle.

22 Defined terms: "Criminal history record information" § 10-201

23 "Criminal justice unit" § 10-201

24 "Person" § 1-101

25 10-226. INSPECTION OR CHALLENGE OF CRIMINAL HISTORY RECORD INFORMATION
26 RELEVANT TO PENDING CRIMINAL PROCEEDING.

27 (A) PROHIBITED.

28 A PERSON MAY NOT INSPECT OR CHALLENGE CRIMINAL HISTORY RECORD
29 INFORMATION UNDER THIS SUBTITLE IF ANY OF THE CRIMINAL HISTORY RECORD
30 INFORMATION IS RELEVANT TO A PENDING CRIMINAL PROCEEDING.

31 (B) EFFECT OF SECTION.

32 THIS SECTION DOES NOT AFFECT A PERSON'S RIGHT OF INSPECTION OR
33 DISCOVERY ALLOWED UNDER THE MARYLAND RULES OR UNDER ANY STATUTE,
34 RULE, OR REGULATION NOT A PART OF OR ADOPTED UNDER THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 752(f).

3 In subsection (a) of this section, the defined term "criminal history record
4 information" is substituted for the former reference to "information" for
5 clarity and consistency.

6 Defined terms: "Criminal history record information" § 10-201

7 "Person" § 1-101

8 10-227. APPEAL RIGHTS.

9 (A) IN GENERAL.

10 A PERSON AGGRIEVED BY A DECISION OF A CRIMINAL JUSTICE UNIT
11 CONCERNING THE INSPECTION OF OR A CHALLENGE TO CRIMINAL HISTORY RECORD
12 INFORMATION UNDER THIS SUBTITLE MAY FILE AN ADMINISTRATIVE APPEAL OF
13 THE DECISION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY
14 AND RULES ADOPTED BY THE COURT OF APPEALS UNDER SUBSECTION (B) OF THIS
15 SECTION.

16 (B) ADOPTION OF RULES AND REGULATIONS.

17 THE SECRETARY BY REGULATION AND THE COURT OF APPEALS BY RULE SHALL
18 ADOPT APPROPRIATE PROCEDURES FOR ADMINISTRATIVE APPEALS FROM A
19 DECISION BY A CRIMINAL JUSTICE UNIT TO DENY A PERSON THE RIGHT TO INSPECT
20 OR CHALLENGE CRIMINAL HISTORY RECORD INFORMATION.

21 (C) CONTENTS.

22 THE RULES AND REGULATIONS ADOPTED UNDER SUBSECTION (B) OF THIS
23 SECTION SHALL INCLUDE PROVISIONS FOR:

24 (1) THE FORMS, WAY, AND TIME FOR FILING AN APPEAL;

25 (2) THE OFFICIAL OR PANEL THAT WILL HEAR THE APPEAL;

26 (3) HEARING AND MAKING A DECISION ON THE APPEAL; AND

27 (4) CARRYING OUT THE DECISION ON THE APPEAL.

28 (D) JUDICIAL REVIEW.

29 A PERSON, THE CENTRAL REPOSITORY, OR A CRIMINAL JUSTICE UNIT THAT IS
30 AGGRIEVED BY A DECISION ON AN ADMINISTRATIVE APPEAL MAY SEEK JUDICIAL
31 REVIEW OF THE DECISION IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE
32 STATE GOVERNMENT ARTICLE (ADMINISTRATIVE PROCEDURE ACT - CONTESTED
33 CASES) AND THE MARYLAND RULES.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 753.

1 %This section is revised to distinguish between regulations and rules. The
 2 Secretary is head of a unit in the Executive Branch of State government,
 3 *i.e.*, Department of Public Safety and Correctional Services, and may adopt
 4 regulations in accordance with Title 10, Subtitle 1 of the State Government
 5 Article (Administrative Procedure Act - Regulations). The Court of
 6 Appeals, however, is a unit in the Judicial Branch of State government
 7 and, therefore, is not subject to Title 10, Subtitle 1 of the State
 8 Government Article (Administrative Procedure Act -- Regulations).
 9 Instead, the Court of Appeals may adopt rules under Md. Constitution, Art.
 10 IV, § 18.

11 In subsection (b) of this section, the term "person" is added for clarity and
 12 consistency with other provisions of this subtitle.

13 In subsection (c) of this section, the reference to "regulations" is added for
 14 consistency with other provisions in this section because the Secretary is
 15 authorized to adopt regulations under Title 10, Subtitle 1 of the State
 16 Government Article (Administrative Procedure Act - Regulations). *See*
 17 General Revisor's Note to article.

18 In subsection (d) of this section, the phrase "of the decision", as it relates to
 19 the subject of the judicial review, is added for clarity.

20 Also in subsection (d) of this section, the reference to "Title 10, Subtitle 2 of
 21 the State Government Article" is added for clarity.

22 Defined terms: "Central Repository" § 10-201

23 "Criminal history record information" § 10-201

24 "Criminal justice unit" § 10-201

25 "Person" § 1-101

26 "Secretary" § 1-101

27 10-228. PROHIBITED ACT; PENALTY.

28 (A) PROHIBITED ACT.

29 AN EMPLOYER OR PROSPECTIVE EMPLOYER MAY NOT REQUIRE A PERSON TO
 30 INSPECT OR CHALLENGE ANY CRIMINAL HISTORY RECORD INFORMATION RELATING
 31 TO THAT PERSON FOR THE PURPOSE OF OBTAINING A COPY OF THE PERSON'S
 32 RECORD TO QUALIFY FOR EMPLOYMENT.

33 (B) PENALTY.

34 A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
 35 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT
 36 NOT EXCEEDING 6 MONTHS OR BOTH FOR EACH VIOLATION.

37 REVISOR'S NOTE: This section is new language derived without substantive
 38 change from former Art. 27, § 754.

1 Defined terms: "Criminal history record information" § 10-201

2 "Person" § 1-101

3 10-229. RESERVED.

4 10-230. RESERVED.

5 PART IV. CRIMINAL HISTORY RECORDS CHECK REQUESTS -- COUNTIES.

6 10-231. REQUESTS FOR CRIMINAL HISTORY RECORDS CHECK -- ANNE ARUNDEL
7 COUNTY.

8 (A) PROSPECTIVE EMPLOYEE.

9 IN ACCORDANCE WITH GUIDELINES THAT THE ANNE ARUNDEL COUNTY
10 COUNCIL ADOPTS BY RESOLUTION, THE DIRECTOR OF ADMINISTRATION OF ANNE
11 ARUNDEL COUNTY MAY REQUEST A STATE AND NATIONAL CRIMINAL HISTORY
12 RECORDS CHECK FROM THE CENTRAL REPOSITORY FOR A PROSPECTIVE EMPLOYEE
13 OF ANNE ARUNDEL COUNTY.

14 (B) FEE.

15 THE DIRECTOR OF ADMINISTRATION SHALL PAY TO THE DEPARTMENT THE FEE
16 IMPOSED BY THE DEPARTMENT FOR EACH REQUEST MADE UNDER SUBSECTION (A)
17 OF THIS SECTION.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 754A(b).

20 In subsection (a) of this section, the reference to "national" criminal history
21 records check is substituted for the former reference to "federal" criminal
22 record check to include checks by other states as well as from the federal
23 government.

24 In subsection (b) of this section, the reference to the fee imposed "by the
25 Department" is added for clarity.

26 Defined terms: "Central Repository" § 10-201

27 "Department" § 1-101

28 10-232. SAME -- CARROLL COUNTY.

29 (A) APPLICATION OF SECTION.

30 THIS SECTION DOES NOT APPLY TO A PERSON WHO PROVIDES SERVICES OR
31 PERFORMS DUTIES VOLUNTARILY AND WITHOUT COMPENSATION FOR THE
32 GOVERNMENT OF CARROLL COUNTY.

33 (B) CURRENT OR PROSPECTIVE EMPLOYEE.

1 THE COUNTY COMMISSIONERS OF CARROLL COUNTY MAY REQUEST A STATE
 2 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL
 3 REPOSITORY FOR:

4 (1) A CURRENT OR PROSPECTIVE EMPLOYEE OF CARROLL COUNTY WHO
 5 IS OR WILL BE ASSIGNED TO A POSITION THAT INVOLVES:

6 (I) INSPECTIONS;

7 (II) APPROVAL OR DENIAL OF A PERMIT, LICENSE, OR OTHER
 8 GRANT OF AUTHORITY;

9 (III) WORK IN THE OFFICES OF THE COUNTY COMMISSIONERS,
 10 SHERIFF, STATE'S ATTORNEY, CIRCUIT COURT, OR COUNTY ATTORNEY; OR

11 (IV) COLLECTING OR HANDLING MONEY; OR

12 (2) A CURRENT OR PROSPECTIVE EMPLOYEE OF A PERSON THAT HAS A
 13 CONTRACT WITH CARROLL COUNTY IF THE CONTRACT INVOLVES WORK IN A PLACE
 14 THAT REQUIRES SECURITY OF PERSONNEL OR FILES, INCLUDING THE COUNTY
 15 COURTHOUSE, THE LOCAL CORRECTIONAL FACILITY, THE STATE'S ATTORNEY'S
 16 OFFICE, A COUNTY COMMISSIONER'S OFFICE, AND THE COUNTY ATTORNEY'S
 17 OFFICE.

18 (C) FEE.

19 THE COMPTROLLER OF CARROLL COUNTY SHALL PAY TO THE DEPARTMENT
 20 THE FEE THAT THE DEPARTMENT IMPOSES FOR EACH REQUEST MADE UNDER
 21 SUBSECTION (B) OF THIS SECTION.

22 (D) FINGERPRINTING.

23 IF THE REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UNDER
 24 SUBSECTION (B) OF THIS SECTION REQUIRES THAT INFORMATION BE OBTAINED
 25 FROM THE FEDERAL BUREAU OF INVESTIGATION, THE PERSON WHO IS THE
 26 SUBJECT OF THE REQUEST SHALL SUBMIT TO THE DEPARTMENT A COMPLETE AND
 27 LEGIBLE SET OF THE PERSON'S FINGERPRINTS ON STANDARD FINGERPRINT CARDS.

28 REVISOR'S NOTE: This section is new language derived without substantive
 29 change from former Art. 27, § 754A(c), (d), and (e).

30 In the introductory language of subsection (b) of this section, the reference
 31 to a "national criminal history records" check is substituted for the former
 32 reference to a "federal criminal record" check for consistency and clarity.
 33 Similarly, in subsection (d) of this section, the reference to "criminal
 34 history records" check is substituted for the former reference to "criminal
 35 record" check.

36 In subsection (c) of this section, the reference to the fee "that the
 37 Department imposes for each request" is added for clarity.

1 % Also in subsection (c) of this section, the former reference to the defined
2 term "criminal history record information" is deleted in light of subsection
3 (b) of this section.

4 In subsection (d) of this section, the reference to "subsection (b) of this
5 section" is substituted for the former reference to "this subsection" to
6 correct an erroneous codification under former Art. 27, § 754A(e), which
7 referred to "a request for a criminal record check under this subsection".
8 The County Commissioners in fact made such requests under former Art.
9 27, § 754A(c)(2) - now subsection (b) of this section.

10 Defined terms: "Central Repository" § 10-201

11 "Department" § 1-101

12 "Local correctional facility" § 1-101

13 "Person" § 1-101

14 10-233. SAME -- HOWARD COUNTY.

15 (A) PROSPECTIVE EMPLOYEE.

16 THE COUNTY ADMINISTRATOR OF HOWARD COUNTY MAY REQUEST A STATE
17 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL
18 REPOSITORY FOR A PROSPECTIVE EMPLOYEE OF HOWARD COUNTY.

19 (B) FEE.

20 THE COUNTY ADMINISTRATOR OF HOWARD COUNTY SHALL PAY TO THE
21 DEPARTMENT THE FEE THAT THE DEPARTMENT IMPOSES FOR EACH REQUEST MADE
22 UNDER SUBSECTION (A) OF THIS SECTION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 754A(a).

25 In subsection (a) of this section, the reference to a "national criminal
26 history records" check is substituted for the former reference to a "criminal
27 record" check for consistency and clarity.

28 In subsection (b) of this section, the reference to the fee "that the
29 Department imposes for each request" is added for clarity.

30 Also in subsection (b) of this section, the former reference to the defined
31 term "criminal history record information" is deleted in light of subsection
32 (a) of this section.

33 Defined terms: "Central Repository" § 10-201

34 "Department" § 1-101

35 10-234. SAME -- MONTGOMERY COUNTY.

36 (A) "TAXICAB LICENSE" DEFINED.

1 IN THIS SECTION, "TAXICAB LICENSE":

2 (1) MEANS A LICENSE OR SIMILAR DOCUMENT THAT WOULD ALLOW A
3 PERSON TO DRIVE A TAXICAB IN MONTGOMERY COUNTY; AND

4 (2) INCLUDES ANY RENEWAL OF A LICENSE AS DESCRIBED IN ITEM (1)
5 OF THIS SUBSECTION.

6 (B) REQUEST FOR CRIMINAL HISTORY RECORDS CHECK.

7 IN ACCORDANCE WITH THIS SUBTITLE, MONTGOMERY COUNTY MAY REQUEST
8 A CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL REPOSITORY OR
9 THROUGH THE DEPARTMENT FROM THE FEDERAL BUREAU OF INVESTIGATION ON
10 AN APPLICANT FOR A TAXICAB LICENSE OR LICENSEE SEEKING A RENEWAL OF A
11 TAXICAB LICENSE.

12 (C) FEE.

13 MONTGOMERY COUNTY SHALL PAY TO THE DEPARTMENT THE FEE AND
14 ADMINISTRATIVE COST THAT THE DEPARTMENT IMPOSES FOR EACH REQUEST MADE
15 UNDER SUBSECTION (B) OF THIS SECTION.

16 (D) FINGERPRINTS.

17 IF THE REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UNDER
18 SUBSECTION (B) OF THIS SECTION INCLUDES A REQUEST FOR CRIMINAL HISTORY
19 RECORD INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION, THE
20 APPLICANT FOR A TAXICAB LICENSE OR RENEWAL OF A TAXICAB LICENSE SHALL
21 SUBMIT TO THE DEPARTMENT A COMPLETE SET OF LEGIBLE FINGERPRINTS ON
22 STANDARD FINGERPRINT CARDS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 754C.

25 In subsection (a)(1) of this section, the defined term "person" is substituted
26 for the former reference to an "individual" to conform to the terminology
27 used throughout this article.

28 In subsections (b) and (d) of this section, the reference to a "criminal
29 history records" check is substituted for the former reference to a "criminal
30 background record" check for consistency and clarity.

31 In subsection (b) of this section, the reference to a "licensee seeking a
32 renewal of a taxicab license" is added for clarity.

33 In subsection (c) of this section, the former reference to "criminal
34 background record check" is deleted as unnecessary in light of subsection
35 (b) of this section.

36 Also in subsection (c) of this section, the reference to the fee "that the

1 Department imposes for each request" is added for clarity.
2 In subsection (d) of this section, the reference to the "renewal of a taxicab
3 license" is added for clarity.

4 Defined terms: "Central Repository" § 10-201

5 "Department" § 1-101

6 "Person" § 1-101

7 TITLE 11. VICTIMS AND WITNESSES.

8 SUBTITLE 1. GENERAL PROVISIONS.

9 PART I. DEFINITIONS; RIGHTS AVAILABLE THROUGHOUT PROCEEDINGS.

10 11-101. DEFINITIONS.

11 (A) IN GENERAL.

12 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13 REVISOR'S NOTE: This subsection is new language added as the standard
14 introductory language to a definition section.

15 (B) CHILD RESPONDENT.

16 "CHILD RESPONDENT" MEANS A PERSON WHO:

17 (1) IN A PETITION FILED IN JUVENILE COURT, IS ALLEGED TO HAVE
18 COMMITTED A DELINQUENT ACT; OR

19 (2) HAS COMMITTED A DELINQUENT ACT.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from former Art. 27, §§ 781(a)(2), 805A(f)(2), and
22 773(a)(2)(ii).

23 The defined term "child respondent" is substituted for the former defined
24 term "defendant" to avoid the erroneous implication that a child who is
25 alleged to have committed a delinquent act is involved in a criminal
26 proceeding and to conform to the terminology of Title 11 of the Maryland
27 Rules.

28 Former Art. 27, §§ 773(a)(2)(i) and 781(a)(1), which defined "defendant" in
29 part to mean a person who is charged with a crime, are deleted as
30 unnecessary because they did not add anything to the ordinary meaning of
31 "defendant".

32 Defined terms: "Delinquent act" § 11-101

33 "Person" § 1-101

1 (C) DELINQUENT ACT.

2 "DELINQUENT ACT" HAS THE MEANING STATED IN § 3-801 OF THE COURTS
3 ARTICLE.

4 REVISOR'S NOTE: This subsection is new language added to state expressly
5 what was only implied in the former law - that the term "delinquent act"
6 as used in this title has the meaning stated in § 3-801 of the Courts
7 Article.

8 (D) PROSECUTING ATTORNEY.

9 "PROSECUTING ATTORNEY" MEANS:

10 (1) THE STATE'S ATTORNEY;

11 (2) THE STATE'S ATTORNEY'S DESIGNEE; OR

12 (3) WHEN PERFORMING A PROSECUTORIAL FUNCTION AT THE TRIAL
13 LEVEL, THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 27, § 770(a)(4).

16 The defined term "prosecuting attorney" is added to provide a
17 comprehensive term encompassing the State's Attorney, the State's
18 Attorney's designee, and the Attorney General or the Attorney General's
19 designee, to avoid ambiguity. Consequently, in the introductory language of
20 this subsection, the reference to "means", which is normally used to
21 introduce an exhaustive list, is substituted for the former reference to
22 "includes", which is normally used to introduce a nonexhaustive list.

23 11-102. VICTIM'S RIGHT TO ATTEND PROCEEDINGS.

24 (A) IN GENERAL.

25 IF PRACTICABLE, A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS FILED A
26 NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS SUBTITLE HAS THE RIGHT
27 TO ATTEND ANY PROCEEDING IN WHICH THE RIGHT TO APPEAR HAS BEEN GRANTED
28 TO A DEFENDANT.

29 (B) EMPLOYMENT PROTECTION.

30 AS PROVIDED IN § 9-205 OF THE COURTS ARTICLE, A PERSON MAY NOT BE
31 DEPRIVED OF EMPLOYMENT SOLELY BECAUSE OF JOB TIME LOST BECAUSE THE
32 PERSON ATTENDED A PROCEEDING THAT THE PERSON HAS A RIGHT TO ATTEND
33 UNDER THIS SECTION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, §§ 857 and 778, except for the references to
36 former § 3-812 of the Courts Article and former Art. 27, § 773.

1 %The Criminal Procedure Article Review Committee notes, for consideration
2 by the General Assembly, that the right to attend proceedings under
3 subsection (a) of this section does not apply to proceedings that a child
4 respondent has a right to attend. The General Assembly may wish to
5 amend this section to cover child respondents.

6 As to the revision of the rest of former Art. 27, § 778, *see* § 11-302(f) of this
7 title.

8 Defined term: "Person" § 1-101

9 11-103. APPLICATION FOR LEAVE TO APPEAL DENIAL OF VICTIM'S RIGHTS.

10 (A) "VIOLENT CRIME" DEFINED.

11 (1) IN THIS SECTION, "VIOLENT CRIME" MEANS:

12 (I) A CRIME OF VIOLENCE; OR

13 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
14 A CRIME INVOLVING, CAUSING, OR RESULTING IN DEATH OR SERIOUS BODILY
15 INJURY.

16 (2) "VIOLENT CRIME" DOES NOT INCLUDE AN OFFENSE UNDER THE
17 MARYLAND VEHICLE LAW OR UNDER TITLE 8, SUBTITLE 7 OF THE NATURAL
18 RESOURCES ARTICLE UNLESS THE OFFENSE IS PUNISHABLE BY IMPRISONMENT.

19 (B) RIGHT TO FILE FOR LEAVE TO APPEAL.

20 ALTHOUGH NOT A PARTY TO A CRIMINAL PROCEEDING, A VICTIM OF A VIOLENT
21 CRIME FOR WHICH THE DEFENDANT IS CHARGED MAY FILE AN APPLICATION FOR
22 LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS FROM AN INTERLOCUTORY
23 OR FINAL ORDER THAT DENIES OR FAILS TO CONSIDER A RIGHT SECURED TO THE
24 VICTIM BY § 11-302(C), § 11-402, § 11-403, OR § 11-404 OF THIS TITLE OR § 6-112 OF THE
25 CORRECTIONAL SERVICES ARTICLE.

26 (C) STAY OF OTHER PROCEEDINGS.

27 THE FILING OF AN APPLICATION FOR LEAVE TO APPEAL UNDER THIS SECTION
28 DOES NOT STAY OTHER PROCEEDINGS IN A CRIMINAL CASE UNLESS ALL PARTIES
29 CONSENT.

30 (D) VICTIM'S REPRESENTATIVE.

31 (1) FOR PURPOSES OF THIS SECTION, A VICTIM'S REPRESENTATIVE,
32 INCLUDING THE VICTIM'S SPOUSE OR SURVIVING SPOUSE, PARENT OR LEGAL
33 GUARDIAN, CHILD, OR SIBLING, MAY REPRESENT A VICTIM OF A VIOLENT CRIME
34 WHO DIES OR IS DISABLED.

35 (2) IF THERE IS A DISPUTE OVER WHO SHALL BE THE VICTIM'S
36 REPRESENTATIVE, THE COURT SHALL DESIGNATE THE VICTIM'S REPRESENTATIVE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 776.

3 In subsection (a) of this section, the defined term "violent crime" is
4 substituted for the former defined term "victim of a violent crime" for
5 clarity.

6 In subsection (a)(1)(i) of this section, the former reference to a crime of
7 violence "as defined under § 643B of this article" is deleted as unnecessary
8 in light of the revision of the definition in § 1-101 of this article.

9 In subsection (d) of this section, the reference to a "victim's representative"
10 is substituted for the former reference to "the term `victim of a violent
11 crime'" for clarity.

12 Defined term: "Crime of violence" § 1-101

13 11-104. VICTIM NOTIFICATION.

14 (A) DEFINITIONS.

15 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "VICTIM" MEANS A PERSON WHO SUFFERS ACTUAL OR THREATENED
18 PHYSICAL, EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT OF A CRIME OR
19 DELINQUENT ACT.

20 (3) "VICTIM'S REPRESENTATIVE" INCLUDES A FAMILY MEMBER OR
21 GUARDIAN OF A VICTIM WHO IS:

22 (I) A MINOR;

23 (II) DECEASED; OR

24 (III) DISABLED.

25 (B) DUTY OF LAW ENFORCEMENT OFFICER, COMMISSIONER, OR INTAKE
26 OFFICER.

27 ON FIRST CONTACT WITH A VICTIM OR VICTIM'S REPRESENTATIVE, A LAW
28 ENFORCEMENT OFFICER, DISTRICT COURT COMMISSIONER, OR JUVENILE INTAKE
29 OFFICER SHALL GIVE THE VICTIM OR THE VICTIM'S REPRESENTATIVE THE
30 PAMPHLET DESCRIBED IN § 11-914(9)(I) OF THIS TITLE.

31 (C) DUTIES OF PROSECUTING ATTORNEY.

32 (1) WITHIN 10 DAYS AFTER THE FILING OR THE UNSEALING OF AN
33 INDICTMENT OR INFORMATION IN CIRCUIT COURT, WHICHEVER IS LATER, THE
34 PROSECUTING ATTORNEY SHALL:

1 (I) MAIL OR DELIVER TO THE VICTIM OR VICTIM'S
2 REPRESENTATIVE THE PAMPHLET DESCRIBED IN § 11-914(9)(II) OF THIS TITLE AND
3 THE NOTIFICATION REQUEST FORM DESCRIBED IN § 11-914(10) OF THIS TITLE; AND

4 (II) CERTIFY TO THE CLERK OF THE COURT THAT THE
5 PROSECUTING ATTORNEY HAS COMPLIED WITH THIS PARAGRAPH OR IS UNABLE TO
6 IDENTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE.

7 (2) IF THE PROSECUTING ATTORNEY FILES A PETITION ALLEGING THAT
8 A CHILD IS DELINQUENT FOR COMMITTING AN ACT THAT COULD ONLY BE TRIED IN
9 THE CIRCUIT COURT IF COMMITTED BY AN ADULT, THE PROSECUTING ATTORNEY
10 SHALL:

11 (I) INFORM THE VICTIM OR VICTIM'S REPRESENTATIVE OF THE
12 RIGHT TO REQUEST RESTITUTION UNDER § 11-606 OF THIS TITLE;

13 (II) MAIL OR DELIVER TO THE VICTIM OR VICTIM'S
14 REPRESENTATIVE THE NOTIFICATION REQUEST FORM DESCRIBED IN § 11-914(10) OF
15 THIS TITLE; AND

16 (III) CERTIFY TO THE CLERK OF THE JUVENILE COURT THAT THE
17 PROSECUTING ATTORNEY HAS COMPLIED WITH THIS PARAGRAPH OR IS UNABLE TO
18 IDENTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE.

19 (3) FOR CASES DESCRIBED UNDER THIS SUBSECTION, THE
20 PROSECUTING ATTORNEY MAY PROVIDE A STATE'S WITNESS IN THE CASE WITH THE
21 GUIDELINES FOR VICTIMS, VICTIMS' REPRESENTATIVES, AND WITNESSES
22 AVAILABLE UNDER §§ 11-1001 THROUGH 11-1004 OF THIS TITLE.

23 (D) NOTIFICATION REQUEST FORM -- FILING WITH PROSECUTING ATTORNEY.

24 (1) A VICTIM OR VICTIM'S REPRESENTATIVE MAY FILE A COMPLETED
25 NOTIFICATION REQUEST FORM WITH THE PROSECUTING ATTORNEY.

26 (2) THE PROSECUTING ATTORNEY SHALL SEND A COPY OF THE
27 COMPLETED NOTIFICATION REQUEST FORM TO THE CLERK OF THE CIRCUIT COURT
28 OR JUVENILE COURT.

29 (3) BY FILING A COMPLETED NOTIFICATION REQUEST FORM, A VICTIM
30 OR VICTIM'S REPRESENTATIVE COMPLIES WITH ARTICLE 47 OF THE MARYLAND
31 DECLARATION OF RIGHTS AND EACH PROVISION OF THE CODE THAT REQUIRES A
32 VICTIM OR VICTIM'S REPRESENTATIVE TO REQUEST NOTICE.

33 (4) TO KEEP THE ADDRESS OF A VICTIM OR VICTIM'S REPRESENTATIVE
34 CONFIDENTIAL, THE VICTIM OR VICTIM'S REPRESENTATIVE SHALL DESIGNATE IN
35 THE NOTIFICATION REQUEST FORM A PERSON WHO HAS AGREED TO RECEIVE
36 NOTICE FOR THE VICTIM OR VICTIM'S REPRESENTATIVE.

37 (E) SAME -- NOTICE OF COURT PROCEEDINGS.

1 (1) THE PROSECUTING ATTORNEY SHALL SEND A VICTIM OR VICTIM'S
2 REPRESENTATIVE PRIOR NOTICE OF EACH COURT PROCEEDING IN THE CASE, OF
3 THE TERMS OF ANY PLEA AGREEMENT, AND OF THE RIGHT OF THE VICTIM OR
4 VICTIM'S REPRESENTATIVE TO SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT
5 UNDER § 11-402 OF THIS TITLE IF:

6 (I) PRIOR NOTICE IS PRACTICABLE; AND

7 (II) THE VICTIM OR VICTIM'S REPRESENTATIVE HAS FILED A
8 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION.

9 (2) IF THE CASE IS IN A JURISDICTION IN WHICH THE OFFICE OF THE
10 CLERK OF THE CIRCUIT COURT OR JUVENILE COURT HAS AN AUTOMATED FILING
11 SYSTEM, THE PROSECUTING ATTORNEY MAY ASK THE CLERK TO SEND THE NOTICE
12 REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION.

13 (3) AS SOON AFTER A PROCEEDING AS PRACTICABLE, THE
14 PROSECUTING ATTORNEY SHALL TELL THE VICTIM OR VICTIM'S REPRESENTATIVE
15 OF THE TERMS OF ANY PLEA AGREEMENT, JUDICIAL ACTION, AND PROCEEDING
16 THAT AFFECTS THE INTERESTS OF THE VICTIM OR VICTIM'S REPRESENTATIVE,
17 INCLUDING A BAIL HEARING, CHANGE IN THE DEFENDANT'S PRETRIAL RELEASE
18 ORDER, DISMISSAL, NOLLE PROSEQUI, STETTING OF CHARGES, TRIAL, DISPOSITION,
19 AND POSTSENTENCING COURT PROCEEDING IF:

20 (I) THE VICTIM OR VICTIM'S REPRESENTATIVE HAS FILED A
21 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION AND PRIOR
22 NOTICE TO THE VICTIM OR VICTIM'S REPRESENTATIVE IS NOT PRACTICABLE; OR

23 (II) THE VICTIM OR VICTIM'S REPRESENTATIVE IS NOT PRESENT AT
24 THE PROCEEDING.

25 (4) WHETHER OR NOT THE VICTIM OR VICTIM'S REPRESENTATIVE HAS
26 FILED A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION,
27 THE PROSECUTING ATTORNEY MAY GIVE THE VICTIM OR VICTIM'S REPRESENTATIVE
28 INFORMATION ABOUT THE STATUS OF THE CASE IF THE VICTIM OR VICTIM'S
29 REPRESENTATIVE ASKS FOR THE INFORMATION.

30 (F) SAME -- COMMITMENT ORDERS, PROBATION ORDERS, AND APPEALS.

31 IF A VICTIM OR VICTIM'S REPRESENTATIVE HAS FILED A NOTIFICATION
32 REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE CLERK OF THE
33 CIRCUIT COURT OR JUVENILE COURT:

34 (1) SHALL INCLUDE A COPY OF THE FORM WITH ANY COMMITMENT
35 ORDER OR PROBATION ORDER THAT IS PASSED; AND

36 (2) IF AN APPEAL IS FILED, SHALL SEND A COPY OF THE FORM TO THE
37 ATTORNEY GENERAL AND THE COURT TO WHICH THE CASE HAS BEEN APPEALED.

38 (G) SAME -- FILING WITH COMMITMENT UNIT.

1 THIS SECTION DOES NOT PROHIBIT A VICTIM OR VICTIM'S REPRESENTATIVE
2 FROM FILING A NOTIFICATION REQUEST FORM WITH A UNIT TO WHICH A
3 DEFENDANT OR CHILD RESPONDENT HAS BEEN COMMITTED.

4 (H) TERMINATION OF NOTIFICATION.

5 AFTER FILING A NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF
6 THIS SECTION, A VICTIM OR VICTIM'S REPRESENTATIVE MAY DISCONTINUE
7 FURTHER NOTICES BY FILING A WRITTEN REQUEST WITH:

8 (1) THE PROSECUTING ATTORNEY, IF THE CASE IS STILL IN A CIRCUIT
9 COURT OR JUVENILE COURT; OR

10 (2) THE UNIT TO WHICH THE DEFENDANT OR CHILD RESPONDENT HAS
11 BEEN COMMITTED, IF A COMMITMENT ORDER HAS BEEN ISSUED IN THE CASE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 770(b) through (i) and (a)(1), (2), and (3).

14 In subsection (a)(2) of this section, the defined term "person" is substituted
15 for the former reference to "individual" to conform to the terminology used
16 throughout this article.

17 Also in subsection (a)(2) of this section, the reference to "actual" harm is
18 substituted for the former reference to "direct" harm for clarity.

19 In subsections (b) and (c)(1)(i), (2)(ii), and (3) of this section, the former
20 references to "a copy of" a pamphlet, form, or guidelines are deleted as
21 surplusage.

22 In subsection (c)(1)(ii) and (2)(iii) of this section, the former references to
23 compliance with "the requirements in items (i) and (ii)" are deleted as
24 surplusage.

25 In subsection (d)(4) of this section, the former reference to an
26 "organization" is deleted as included in the reference to the defined term
27 "person".

28 In subsection (e)(1) and (3) of this section, the former references to
29 "conditions" are deleted as unnecessary in light of the references to
30 "terms".

31 In subsections (g) and (h)(2) of this section, the defined term "child
32 respondent" is added to clarify that these provisions apply to children in
33 juvenile court.

34 Also in subsections (g) and (h)(2) of this section, the term "unit" is
35 substituted for the former terms "department" and "facility" to conform to
36 the terminology used in revised articles of the Code. *See* General Revisor's
37 Note to article.

1 %In the introductory language of subsection (h) of this section, the former
2 phrase "[a]t any time" is deleted as surplusage.

3 In subsection (h)(2) of this section, the former reference to the department
4 or facility "specified in the commitment order" is deleted as surplusage.

5 Defined terms: "Child respondent" § 11-101

6 "Nolle prosequi" § 1-101

7 "Person" § 1-101

8 "Prosecuting attorney" § 11-101

9 11-105. RESERVED.

10 11-106. RESERVED.

11 PART II. RIGHT TO HIV TESTING.

12 11-107. DEFINITIONS.

13 (A) IN GENERAL.

14 IN PART II OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 REVISOR'S NOTE: This subsection formerly was Art. 27, § 855(a)(1).

17 The only changes are in style.

18 (B) CHARGED.

19 "CHARGED" MEANS TO BE THE SUBJECT OF AN INDICTMENT, AN INFORMATION,
20 OR A PETITION ALLEGING A DELINQUENT ACT.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 27, § 855(a)(4).

23 In this subsection, the term "charged" is defined to mean "to be the subject"
24 of an indictment, information, or petition. This phrase is substituted for
25 the former reference that defined "charged" to mean "the filing" of an
26 indictment, information, or petition. This substitution is made to reflect
27 that "charged" is used in Part II of this subtitle to describe a person who is
28 accused in the charging document and not the act of filing the document.

29 The Criminal Procedure Article Review Committee notes, for consideration
30 by the General Assembly, that charging documents in most District Court
31 cases are excluded from the definition under subsection (b) of this section,
32 yet the documents could cover criminal conduct warranting HIV testing.

33 Defined term: "Delinquent act" § 11-101

34 (C) HEALTH OFFICER.

1 "HEALTH OFFICER" HAS THE MEANING STATED IN § 1-101 OF THE
2 HEALTH - GENERAL ARTICLE.

3 REVISOR'S NOTE: This subsection formerly was Art. 27, § 855(a)(8).

4 The only changes are in style.

5 (D) HIV.

6 "HIV" MEANS ANY HUMAN IMMUNODEFICIENCY VIRUS THAT CAUSES
7 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).

8 REVISOR'S NOTE: This subsection formerly was Art. 27, § 855(a)(9).

9 No changes are made.

10 (E) PROHIBITED EXPOSURE.

11 (1) "PROHIBITED EXPOSURE" MEANS A CRIME OR DELINQUENT ACT
12 THAT MAY HAVE CAUSED OR RESULTED IN EXPOSURE TO HIV.

13 (2) "PROHIBITED EXPOSURE" INCLUDES:

14 (I) CONTACT THAT OCCURS ON PENETRATION, HOWEVER SLIGHT,
15 BETWEEN THE PENIS AND THE VULVA OR ANUS; AND

16 (II) CONTACT BETWEEN THE MOUTH AND THE PENIS, VULVA, OR
17 ANUS.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from former Art. 27, § 855(a)(10).

20 The defined term "prohibited exposure" is substituted for the former
21 defined term "offense" for clarity and to avoid the erroneous implication
22 that a delinquent act is criminal activity.

23 The former reference to "[a]ny prohibited activity involving a sexual act" is
24 deleted as unnecessary in light of the reference to "a crime or delinquent
25 act that may have caused or resulted in exposure to HIV".

26 In paragraph (1) of this subsection, the former reference to a criminal
27 offense or delinquent act "the commission of which" may have caused or
28 resulted in exposure is deleted as unnecessary in light of the reference to
29 "crime or delinquent act".

30 Also in paragraph (1) of this subsection, the phrase "exposure to HIV" is
31 added for clarity.

32 Defined term: "Delinquent act" § 11-101

33 (F) VICTIM.

1 (1) "VICTIM" MEANS THE VICTIM OF A PROHIBITED EXPOSURE.

2 (2) "VICTIM" INCLUDES:

3 (I) A LAW ENFORCEMENT OFFICER WHO IS EXPOSED TO HIV
4 WHILE ACTING IN THE PERFORMANCE OF DUTY; AND

5 (II) A PAID OR VOLUNTEER FIREFIGHTER, AN EMERGENCY
6 MEDICAL TECHNICIAN, OR RESCUE SQUAD MEMBER WHO IS EXPOSED TO HIV WHILE
7 ACTING IN THE PERFORMANCE OF DUTY.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 27, § 855(a)(11)(i) and (ii)4 and 5.

10 In paragraph (2)(i) of this subsection, the reference to a law enforcement
11 officer who is exposed "to HIV" is added for clarity.

12 Also in paragraph (2)(i) of this subsection, the former reference to "official"
13 is deleted as included in the reference to "duty".

14 Defined terms: "HIV" § 11-107

15 "Prohibited exposure" § 11-107

16 (G) VICTIM'S REPRESENTATIVE.

17 "VICTIM'S REPRESENTATIVE" MEANS:

18 (1) THE PARENT OF A VICTIM WHO IS A MINOR;

19 (2) THE LEGAL GUARDIAN OF A VICTIM; OR

20 (3) THE PERSON AUTHORIZED TO GIVE CONSENT FOR THE VICTIM
21 UNDER § 5-605 OF THE HEALTH - GENERAL ARTICLE.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 27, § 855(a)(11)(ii)1 through 3.

24 In this subsection and in subsection (f) of this section, the former defined
25 term "victim" is revised as two defined terms -- "victim" and "victim's
26 representative". This bifurcation allows independent reference to be made
27 to persons with an actual involvement in a prohibited exposure -- *i.e.*, the
28 victim, including certain law enforcement and fire fighting personnel --
29 without invoking certain persons with only a legal relationship with a
30 victim -- *i.e.*, the parent of a victim who is a minor, the legal guardian of a
31 victim, or the person authorized to give consent. Thus, for references in the
32 former law to "victim" in which only actual victims were obviously
33 intended, reference to persons with only a legal relationship with a victim
34 is not made in this revision. *See* § 11-115(a) -- which refers to "the victim,
35 the victim's sexual partner, or the victim's family". In all other instances,
36 references both to actual victims and persons with a legal relationship to a

1 victim are apparently intended; thus, both defined terms, "victim" and
2 "victim's representative" are used.

3 In item (3) of this subsection, the former reference to "substituted" consent
4 for the victim is deleted as implied in the word "consent".

5 Defined terms: "Person" § 1-101

6 "Victim" § 11-107

7 11-108. ELEMENTS OF CONVICTION.

8 FOR THE PURPOSES OF PART II OF THIS SUBTITLE, A PERSON IS CONVICTED
9 WHEN IN A CRIMINAL PROCEEDING THE PERSON:

10 (1) IS FOUND GUILTY; OR

11 (2) ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE AND THE PLEA IS
12 ACCEPTED BY THE COURT.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 855(a)(5)(i) and (iii).

15 It is revised as a general provision rather than as part of a definition
16 section for clarity.

17 In item (1) of this section, the former reference to a "receipt of a verdict" is
18 deleted as included in the reference to "found guilty".

19 In item (2) of this section, the phrase "by the court" is added for clarity.

20 Defined terms: "Nolo contendere" § 1-101

21 "Person" § 1-101

22 11-109. ELEMENTS OF EXPOSURE.

23 (A) "BODY FLUIDS" DEFINED.

24 IN THIS SECTION, "BODY FLUIDS" HAS THE MEANING STATED IN § 18-338.1 OF
25 THE HEALTH - GENERAL ARTICLE.

26 (B) OCCURRENCES OF EXPOSURE.

27 EXPOSURE TO HIV BETWEEN A VICTIM AND A PERSON CHARGED WITH A
28 PROHIBITED EXPOSURE OCCURS:

29 (1) BY PERCUTANEOUS OR MUCOCUTANEOUS CONTACT WITH BLOOD
30 OR BODY FLUIDS;

31 (2) BY CONTACT FOR A PROLONGED PERIOD WITH BLOOD OR BODY
32 FLUIDS OF AN OPEN WOUND, INCLUDING DERMATITIS, EXUDATIVE LESIONS, AND
33 CHAPPED SKIN;

1 (3) BY INTACT SKIN CONTACT FOR A PROLONGED PERIOD WITH LARGE
2 AMOUNTS OF BLOOD OR BODY FLUIDS; OR

3 (4) UNDER ANY OTHER CONDITION OR CIRCUMSTANCE UNDER WHICH A
4 PERSON MAY BE EXPOSED TO HIV.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 855(a)(3) and (7).

7 In subsection (a) of this section, the phrase "in this section" is added to
8 reflect that the term "body fluids" appears nowhere else in Part II of this
9 subtitle.

10 In the introductory language of subsection (b) of this section, the phrase
11 relating to a victim and a person charged "with a prohibited exposure" is
12 added for clarity.

13 Defined terms: "Charged" § 11-107

14 "HIV" § 11-107

15 "Person" § 1-101

16 "Prohibited exposure" § 11-107

17 "Victim" § 11-107

18 11-110. HIV TESTING OF CHARGED PERSON.

19 IN ADDITION TO TESTING ALLOWED UNDER § 11-112 OF THIS SUBTITLE, THE
20 COURT MAY ORDER A PERSON CHARGED WITH A PROHIBITED EXPOSURE TO GIVE A
21 BLOOD SAMPLE TO BE TESTED FOR THE PRESENCE OF HIV IF:

22 (1) THE PERSON IS CHARGED WITH A PROHIBITED EXPOSURE WITHIN 1
23 YEAR AFTER THE PROHIBITED EXPOSURE OCCURRED;

24 (2) A VICTIM OR VICTIM'S REPRESENTATIVE REQUESTS THE TESTING IN
25 WRITING TO THE STATE'S ATTORNEY IN THE COUNTY WHERE THE PROHIBITED
26 EXPOSURE OCCURRED; AND

27 (3) THE COURT FINDS PROBABLE CAUSE TO BELIEVE THAT A
28 PROHIBITED EXPOSURE OCCURRED.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 855(c)(1).

31 In the introductory language to this section and in item (1) of this section,
32 the defined term "person" is substituted for the former reference to an
33 "individual" to conform to the terminology of this article.

34 In item (2) of this section, the reference to "county" is substituted for the
35 former reference to "jurisdiction" for clarity.

1 Defined terms: "Charged" § 11-107

2 "County" § 1-101

3 "HIV" § 11-107

4 "Person" § 1-101

5 "Prohibited exposure" § 11-107

6 "Victim" § 11-107

7 "Victim's representative" § 11-107

8 11-111. HEARING.

9 (A) REQUIRED BEFORE TESTING.

10 (1) BEFORE ORDERING A TEST UNDER § 11-110 OF THIS SUBTITLE, THE
11 COURT SHALL HOLD A HEARING AT WHICH BOTH THE VICTIM OR VICTIM'S
12 REPRESENTATIVE AND THE PERSON CHARGED WITH A PROHIBITED EXPOSURE HAVE
13 THE RIGHT TO BE PRESENT.

14 (2) THE COURT SHALL NOTIFY BOTH THE VICTIM OR VICTIM'S
15 REPRESENTATIVE AND THE PERSON CHARGED WITH A PROHIBITED EXPOSURE OF:

16 (I) THE DATE, TIME, AND LOCATION OF THE HEARING; AND

17 (II) THEIR RIGHT TO BE PRESENT AT THE HEARING.

18 (B) ADMISSIBLE EVIDENCE.

19 DURING THE HEARING, A COURT MAY ADMIT INTO EVIDENCE ONLY
20 AFFIDAVITS, COUNTER-AFFIDAVITS, AND MEDICAL RECORDS THAT:

21 (1) RELATE TO THE MATERIAL FACTS OF THE CASE; AND

22 (2) SUPPORT OR REBUT A FINDING OF PROBABLE CAUSE TO ISSUE A
23 COURT ORDER.

24 (C) REQUEST TO BE FILED AND SEALED.

25 THE WRITTEN REQUEST OF THE VICTIM OR VICTIM'S REPRESENTATIVE SHALL
26 BE FILED BY THE STATE'S ATTORNEY WITH THE COURT AND SEALED BY THE COURT.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 855(c)(2), (3), and (4).

29 In subsection (a)(1) of this section, the phrase "charged with a prohibited
30 exposure" is added to reflect that this subsection applies to proceedings in
31 juvenile court.

32 In subsection (a)(2) of this section, reference to the obligation of "the court"
33 to notify certain persons is added to reflect current practice.

34 In the introductory language of subsection (b) of this section, the clause "a
35 court may admit into evidence" is substituted for the former reference to

1 affidavits, counter-affidavits, and medical records that "may be
2 admissible", for clarity.

3 In subsection (b)(2) of this section, the former reference to a finding of
4 probable cause "by a court" is deleted as unnecessary because all findings
5 of probable cause are made by a court.

6 Defined terms: "Charged" § 11-107

7 "Person" § 1-101

8 "Prohibited exposure" § 11-107

9 "Victim" § 11-107

10 "Victim's representative" § 11-107

11 11-112. HIV TESTING AFTER CONVICTION, PROBATION BEFORE JUDGMENT, OR
12 ADJUDICATION.

13 (A) IN GENERAL.

14 ON THE WRITTEN REQUEST OF A VICTIM OR VICTIM'S REPRESENTATIVE TO THE
15 STATE'S ATTORNEY IN THE COUNTY WHERE A PROHIBITED EXPOSURE OCCURRED,
16 THE COURT SHALL ORDER A TEST OF A BLOOD SAMPLE FOR HIV AND ANY OTHER
17 IDENTIFIED CAUSATIVE AGENT OF AIDS.

18 (B) WHO MUST GIVE BLOOD SAMPLE.

19 THE BLOOD SAMPLE SHALL BE GIVEN BY:

20 (1) A PERSON WHO HAS BEEN CONVICTED OF A CRIME THAT INCLUDES
21 A PROHIBITED EXPOSURE;

22 (2) A PERSON WHO HAS BEEN GRANTED PROBATION BEFORE
23 JUDGMENT UNDER § 6-220 OF THIS ARTICLE IN A CASE INVOLVING A PROHIBITED
24 EXPOSURE; OR

25 (3) A CHILD RESPONDENT WHO HAS BEEN FOUND TO HAVE COMMITTED
26 A DELINQUENT ACT THAT INCLUDES A PROHIBITED EXPOSURE.

27 (C) REQUEST TO BE FILED AND SEALED.

28 THE WRITTEN REQUEST SHALL BE FILED BY THE STATE'S ATTORNEY WITH THE
29 COURT AND SEALED BY THE COURT.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 855(b) and (a)(5)(ii).

32 In subsection (a) of this section, the former reference to "the office of" the
33 State's Attorney is deleted as implied in the reference to "State's Attorney".

34 Also in subsection (a) of this section, the word "county" is substituted for
35 the former reference to "jurisdiction" to precisely state the extent of the
36 jurisdiction of a State's Attorney.

1 Defined terms: "Child respondent" § 11-101

2 "County" § 1-101

3 "Delinquent act" § 11-101

4 "HIV" § 11-107

5 "Person" § 1-101

6 "Prohibited exposure" § 11-107

7 "Victim" § 11-107

8 "Victim's representative" § 11-107

9 11-113. NOTIFICATION.

10 (A) TO HEALTH OFFICER OF TESTING REQUEST.

11 (1) AFTER CONVICTION OR A FINDING OF A PROHIBITED EXPOSURE, A
12 FINDING OF PROBABLE CAUSE UNDER § 11-110(3) OF THIS SUBTITLE, OR A GRANTING
13 OF PROBATION BEFORE JUDGMENT UNDER § 11-112 OF THIS SUBTITLE, THE STATE'S
14 ATTORNEY SHALL PROMPTLY NOTIFY THE LOCAL HEALTH OFFICER OF THE
15 WRITTEN REQUEST BY THE VICTIM OR VICTIM'S REPRESENTATIVE FOR TESTING.

16 (2) ON RECEIPT OF A COURT ORDER FOR TESTING ISSUED UNDER §
17 11-110(3) OR § 11-112 OF THIS SUBTITLE, THE LOCAL HEALTH OFFICER OR THE LOCAL
18 HEALTH OFFICER'S DESIGNEE FROM ANY OTHER GOVERNMENTAL UNIT SHALL:

19 (I) PROMPTLY COLLECT THE BLOOD SAMPLE FROM THE PERSON
20 WHO IS CHARGED WITH, CONVICTED OF, OR FOUND TO HAVE COMMITTED A
21 PROHIBITED EXPOSURE;

22 (II) TEST THE BLOOD SAMPLE; AND

23 (III) GIVE PRETEST AND POSTTEST COUNSELING TO THE VICTIM OR
24 VICTIM'S REPRESENTATIVE AND THE PERSON SUBJECT TO TESTING IN ACCORDANCE
25 WITH TITLE 18, SUBTITLE 3, PART VI OF THE HEALTH - GENERAL ARTICLE.

26 (B) TO VICTIM OR VICTIM'S REPRESENTATIVE AND TESTED PERSON.

27 (1) AFTER RECEIVING THE RESULTS OF A TEST CONDUCTED UNDER
28 SUBSECTION (A) OF THIS SECTION, THE LOCAL HEALTH OFFICER SHALL PROMPTLY
29 SEND NOTICE OF THE TEST RESULTS TO:

30 (I) THE VICTIM OR VICTIM'S REPRESENTATIVE; AND

31 (II) THE PERSON CHARGED WITH, CONVICTED OF, OR FOUND TO
32 HAVE COMMITTED A PROHIBITED EXPOSURE.

33 (2) THE LOCAL HEALTH OFFICER MAY NOT DISCLOSE POSITIVE TEST
34 RESULTS TO A VICTIM OR VICTIM'S REPRESENTATIVE OR A PERSON CHARGED WITH,
35 CONVICTED OF, OR FOUND TO HAVE COMMITTED A PROHIBITED EXPOSURE
36 WITHOUT ALSO GIVING, OFFERING, OR ARRANGING FOR APPROPRIATE COUNSELING
37 TO:

1 (I) THE VICTIM OR VICTIM'S REPRESENTATIVE; AND

2 (II) THE PERSON.

3 (C) TO VICTIM OR VICTIM'S REPRESENTATIVE OF PROVISIONS OF PART II.

4 THE FOLLOWING SHALL NOTIFY A VICTIM OF PROHIBITED EXPOSURE OR THE
5 VICTIM'S REPRESENTATIVE OF THE PROVISIONS OF PART II OF THIS SUBTITLE:

6 (1) A SEXUAL ASSAULT CRISIS PROGRAM ESTABLISHED UNDER § 11-923
7 OF THIS TITLE WHEN A VICTIM OR VICTIM'S REPRESENTATIVE CONTACTS THE
8 PROGRAM;

9 (2) AN INTAKE OFFICER WHO RECEIVES A COMPLAINT FOR THE
10 ALLEGED PROHIBITED EXPOSURE UNDER § 3-810 OF THE COURTS ARTICLE; OR

11 (3) ON THE FILING OF A CHARGING DOCUMENT OR DELINQUENCY
12 PETITION FOR THE ALLEGED PROHIBITED EXPOSURE:

13 (I) THE DEPARTMENT OF STATE POLICE;

14 (II) THE POLICE DEPARTMENT OF BALTIMORE CITY;

15 (III) THE POLICE UNIT OF A COUNTY;

16 (IV) THE POLICE UNIT OF A MUNICIPAL CORPORATION;

17 (V) THE OFFICE OF THE SHERIFF OF A COUNTY;

18 (VI) THE OFFICE OF THE STATE'S ATTORNEY OF A COUNTY;

19 (VII) THE OFFICE OF THE ATTORNEY GENERAL;

20 (VIII) THE OFFICE OF THE STATE PROSECUTOR;

21 (IX) THE DEPARTMENT OF JUVENILE JUSTICE; OR

22 (X) THE POLICE UNIT OF A BICOUNTY UNIT OR THE UNIVERSITY OF
23 MARYLAND.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 855(d), (e), and (g) and (a)(2) and (5)(ii).

26 In subsections (a)(2)(i) and (b) of this section, the defined term "person" is
27 substituted for the former reference to an "individual" to conform to the
28 terminology used throughout this article.

29 In subsection (a)(2) of this section, the reference to a governmental "unit"
30 is substituted for the former reference to a governmental "entity" to
31 conform to the terminology used in this and other revised articles of the
32 Code. Similarly, in subsection (c)(3)(x) of this section, the reference to a

1 bicounty "unit" is substituted for the former reference to a bicounty
2 "agency". *See* General Revisor's Note to article.

3 In subsection (a)(2)(iii) of this section, the reference to "person subject to
4 testing" is substituted for the former reference to "convicted individual" for
5 clarity.

6 In subsection (c)(3) of this section, the former reference to the filing "with
7 a court" of a charging document is deleted as unnecessary because those
8 items are filed only with a court.

9 Also in subsection (c)(3) of this section, the defined term "charging
10 document" is substituted for the former reference to "statement of charges
11 or indictment or information" for brevity.

12 Also in subsection (c)(3) of this section, the former phrase "[a]gency means
13 any of the following" is deleted as unnecessary in light of the list of
14 governmental units in subsection (c)(3)(i) through (x) of this section.

15 In subsection (c)(3)(iv) of this section, the reference to a "municipal
16 corporation" is substituted for the former reference to an "incorporated city
17 or town" to conform to the terminology used in the Md. Constitution, Art.
18 XI-E.

19 In subsection (c)(3)(ii) and (iv) of this section, the reference to a "unit" is
20 substituted for the former reference to a "department, bureau, or force".

21 Defined terms: "Charged" § 11-107

22 "Charging document" § 1-101

23 "County" § 1-101

24 "Health officer" § 11-107

25 "Person" § 1-101

26 "Prohibited exposure" § 11-107

27 "Victim" § 11-107

28 "Victim's representative" § 11-107

29 11-114. DISCLOSURE OF TEST RESULTS.

30 (A) ALLOWED.

31 A VICTIM OR VICTIM'S REPRESENTATIVE WHO RECEIVES NOTIFICATION UNDER
32 § 11-113(B) OF THIS SUBTITLE MAY DISCLOSE THE RESULTS OF THE TEST TO
33 ANOTHER PERSON TO PROTECT THE HEALTH AND SAFETY OF, OR TO SEEK
34 COMPENSATION FOR, THE VICTIM, THE VICTIM'S SEXUAL PARTNER, OR THE VICTIM'S
35 FAMILY.

36 (B) PROHIBITED ACT; PENALTY.

37 (1) EXCEPT AS OTHERWISE PROVIDED IN PART II OF THIS SUBTITLE, A
38 PERSON WHO RECEIVES NOTIFICATION OR DISCLOSURE OF THE RESULTS OF THE

1 TEST UNDER SUBSECTION (A) OF THIS SECTION MAY NOT KNOWINGLY DISCLOSE
2 THE RESULTS OF THAT TEST.

3 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
4 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
5 EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 855(h).

8 Defined terms: "Person" § 1-101

9 "Victim" § 11-107

10 "Victim's representative" § 11-107

11 11-115. TEST RESULTS NOT ADMISSIBLE AS EVIDENCE.

12 THE RESULTS OF A TEST HELD UNDER PART II OF THIS SUBTITLE ARE NOT
13 ADMISSIBLE AS EVIDENCE OF GUILT OR INNOCENCE IN A CRIMINAL PROCEEDING
14 ARISING OUT OF THE ALLEGED PROHIBITED EXPOSURE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 855(i).

17 The Criminal Procedure Article Review Committee notes, for consideration
18 by the General Assembly, that this section does not apply to a juvenile
19 proceeding.

20 Defined term: "Prohibited exposure" § 11-107

21 11-116. IMMUNITY FOR STATE EMPLOYEES AND AGENTS.

22 AN AGENT OR EMPLOYEE OF THE DEPARTMENT OF HEALTH AND MENTAL
23 HYGIENE OR ANY OTHER STATE EMPLOYEE WHO COMPLIES WITH PART II OF THIS
24 SUBTITLE HAS THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-522 OF THE
25 COURTS ARTICLE FOR ACTIONS TAKEN IN ACCORDANCE WITH PART II OF THIS
26 SUBTITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 855(j) and (a)(6).

29 The Criminal Procedure Article Review Committee notes, for consideration
30 by the General Assembly, that this section does not extend immunity from
31 liability to local government employees.

32 11-117. REGULATIONS.

33 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ADOPT
34 REGULATIONS TO CARRY OUT PART II OF THIS SUBTITLE, INCLUDING REGULATIONS
35 ON:

36 (1) THE CONFIDENTIALITY OF HIV TEST RESULTS; AND

1 (2) GIVING THE VICTIM OR VICTIM'S REPRESENTATIVE COUNSELING
2 REGARDING HIV DISEASE, HIV TESTING, AND REFERRAL FOR APPROPRIATE HEALTH
3 CARE AND SUPPORT SERVICES.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 855(f) and (a)(6).

6 Regulations adopted by the Department of Health and Mental Hygiene
7 under this section must conform to federal government requirements
8 under 42 U.S.C. § 3756(f). *See* Section 2, Chapters 90 and 91, Acts of 1992.

9 In the introductory language of this section, the reference to the adoption
10 of regulations by the Department of Health and Mental Hygiene "to carry
11 out" this section is substituted for the former reference to the adoption of
12 regulations "to implement" this section to conform to the terminology used
13 throughout this article. *See* General Revisor's Note to article.

14 SUBTITLE 2. PRETRIAL RIGHTS.

15 11-201. RIGHTS OF VICTIM OF ASSAULT.

16 A VICTIM OF AN ASSAULT HAS THE RIGHTS PROVIDED UNDER ARTICLE 27, §
17 12A-5 OF THE CODE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 766.

20 In this section, the former phrase "concerning compromising cases of
21 assault" is deleted as surplusage.

22 11-202. VICTIM OF DELINQUENT ACT.

23 (A) DEFINITION.

24 IN THIS SECTION, "VICTIM" HAS THE MEANING STATED IN § 3-801 OF THE
25 COURTS ARTICLE.

26 (B) IN GENERAL.

27 A VICTIM OF A DELINQUENT ACT HAS THE RIGHTS PROVIDED UNDER § 3-810 OF
28 THE COURTS ARTICLE.

29 REVISOR'S NOTE: Subsection (a) of this section is new language added for
30 clarity.

31 Subsection (b) of this section is new language derived without substantive
32 change from former Art. 27, § 767.

33 Defined term: "Delinquent act" § 11-101

1 11-203. PROTECTION OF VICTIM BEFORE TRIAL OR HEARING.

2 AS PROVIDED UNDER § 5-201 OF THIS ARTICLE, THE COURT, A JUVENILE
3 INTAKE OFFICER, OR A DISTRICT COURT COMMISSIONER SHALL CONSIDER THE
4 SAFETY OF THE ALLEGED VICTIM IN SETTING CONDITIONS OF:

5 (1) THE PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH
6 STALKING OR A FELONY; OR

7 (2) THE PREHEARING RELEASE OF A CHILD RESPONDENT WHO IS
8 ALLEGED TO HAVE COMMITTED A DELINQUENT ACT THAT WOULD BE STALKING OR
9 A FELONY IF COMMITTED BY AN ADULT.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 768.

12 In item (2) of this section, the reference to "prehearing release" is added to
13 describe accurately the type of release to which a child respondent in
14 juvenile court is entitled.

15 Also in item (2) of this section, the defined term "child respondent" is
16 substituted for the former reference to "child" to conform to the
17 terminology used in this title describing children who appear before
18 juvenile court.

19 Defined terms: "Child respondent" § 11-101

20 "Delinquent act" § 11-101

21 11-204. COMPETENCE EXAMINATION NOTIFICATION.

22 AS PROVIDED UNDER § 3-122 OF THIS ARTICLE, THE DEPARTMENT OF HEALTH
23 AND MENTAL HYGIENE SHALL NOTIFY A VICTIM OF A CRIME OF VIOLENCE OR A
24 VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS FILED A NOTIFICATION REQUEST
25 FORM UNDER § 11-104 OF THIS TITLE WHENEVER THE DEPARTMENT RECEIVES A
26 COURT ORDER TO EXAMINE A DEFENDANT TO DETERMINE WHETHER THE
27 DEFENDANT WAS CRIMINALLY RESPONSIBLE FOR THE ALLEGED CRIME OR IS
28 COMPETENT TO STAND TRIAL.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 769.

31 Defined term: "Crime of violence" § 1-101

32 11-205. RESTRICTIONS ON RELEASE OF INFORMATION.

33 ON REQUEST OF THE STATE, A VICTIM OF OR WITNESS TO A FELONY OR
34 DELINQUENT ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, OR A
35 VICTIM'S REPRESENTATIVE, A JUDGE, STATE'S ATTORNEY, DISTRICT COURT
36 COMMISSIONER, INTAKE OFFICER, OR LAW ENFORCEMENT OFFICER MAY WITHHOLD
37 THE ADDRESS OR TELEPHONE NUMBER OF THE VICTIM, VICTIM'S REPRESENTATIVE,

1 OR WITNESS BEFORE THE TRIAL OR ADJUDICATORY HEARING IN A JUVENILE
2 DELINQUENCY PROCEEDING, UNLESS A JUDGE DETERMINES THAT GOOD CAUSE
3 HAS BEEN SHOWN FOR THE RELEASE OF THE INFORMATION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 771.

6 Defined term: "Delinquent act" § 11-101

7 SUBTITLE 3. TRIAL PROCEDURES.

8 11-301. RELEASE OF ADDRESS OR PHONE NUMBER OF VICTIM OR WITNESS.

9 ON MOTION OF THE STATE OR ON REQUEST OF A VICTIM OR WITNESS, DURING
10 A CRIMINAL TRIAL OR A JUVENILE DELINQUENCY ADJUDICATORY HEARING, A
11 COURT MAY PROHIBIT THE RELEASE OF THE ADDRESS OR TELEPHONE NUMBER OF
12 THE VICTIM OR WITNESS UNLESS THE COURT DETERMINES THAT GOOD CAUSE IS
13 SHOWN FOR THE RELEASE OF THE INFORMATION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 772.

16 The reference to a "juvenile delinquency" adjudicatory hearing is added to
17 conform to the terminology used in § 11-302 of this subtitle.

18 The reference to a "court" is substituted for the former reference to a
19 "judge" to conform to the terminology used throughout this article.

20 11-302. PRESENCE OF VICTIM OR REPRESENTATIVE AT TRIAL.

21 (A) DEFINITIONS.

22 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "REPRESENTATIVE" MEANS A PERSON WHO IS DESIGNATED BY:

25 (I) THE NEXT OF KIN OR GUARDIAN OF A VICTIM WHO IS
26 DECEASED OR DISABLED; OR

27 (II) THE COURT IN A DISPUTE OVER WHO WILL BE THE
28 REPRESENTATIVE.

29 (3) "VICTIM" MEANS A PERSON WHO IS THE VICTIM OF A CRIME OR
30 DELINQUENT ACT.

31 (B) SCOPE OF SECTION.

32 THIS SECTION APPLIES TO:

33 (1) A CRIMINAL TRIAL; AND

1 (2) A JUVENILE DELINQUENCY ADJUDICATORY HEARING THAT IS HELD
2 IN OPEN COURT OR THAT A VICTIM OR REPRESENTATIVE MAY ATTEND UNDER § 3-812
3 OF THE COURTS ARTICLE.

4 (C) RIGHT TO BE PRESENT.

5 EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION:

6 (1) A REPRESENTATIVE HAS THE RIGHT TO BE PRESENT AT THE TRIAL
7 OF THE DEFENDANT OR JUVENILE DELINQUENCY ADJUDICATORY HEARING OF THE
8 CHILD RESPONDENT; AND

9 (2) AFTER INITIALLY TESTIFYING, A VICTIM HAS THE RIGHT TO BE
10 PRESENT AT THE TRIAL OF THE DEFENDANT OR JUVENILE DELINQUENCY
11 ADJUDICATORY HEARING OF THE CHILD RESPONDENT.

12 (D) SEQUESTRATION OF REPRESENTATIVE OR VICTIM.

13 THE COURT MAY SEQUESTER A REPRESENTATIVE OR, AFTER A VICTIM HAS
14 INITIALLY TESTIFIED, THE VICTIM FROM ANY PART OF THE TRIAL OR JUVENILE
15 DELINQUENCY ADJUDICATORY HEARING ON REQUEST OF THE DEFENDANT, CHILD
16 RESPONDENT, OR THE STATE ONLY AFTER THE COURT DETERMINES, WITH SPECIFIC
17 FINDINGS OF FACT ON THE RECORD, THAT:

18 (1) THERE IS REASON TO BELIEVE THAT THE VICTIM WILL BE
19 RECALLED OR THE REPRESENTATIVE WILL BE CALLED TO TESTIFY AT THE TRIAL OR
20 JUVENILE DELINQUENCY ADJUDICATORY HEARING; AND

21 (2) THE PRESENCE OF THE VICTIM OR REPRESENTATIVE WOULD
22 INFLUENCE THE VICTIM'S OR REPRESENTATIVE'S FUTURE TESTIMONY IN A MANNER
23 THAT WOULD MATERIALLY AFFECT A DEFENDANT'S RIGHT TO A FAIR TRIAL OR A
24 CHILD RESPONDENT'S RIGHT TO A FAIR HEARING.

25 (E) REMOVAL OF REPRESENTATIVE OR VICTIM.

26 THE COURT MAY REMOVE A VICTIM OR REPRESENTATIVE FROM THE TRIAL OR
27 JUVENILE DELINQUENCY ADJUDICATORY HEARING FOR THE SAME CAUSES AND IN
28 THE SAME MANNER AS THE LAW PROVIDES FOR THE EXCLUSION OR REMOVAL OF A
29 DEFENDANT OR A CHILD RESPONDENT.

30 (F) EMPLOYMENT PROTECTION.

31 AS PROVIDED IN § 9-205 OF THE COURTS ARTICLE, A PERSON MAY NOT BE
32 DEPRIVED OF EMPLOYMENT SOLELY BECAUSE OF JOB TIME LOST BECAUSE THE
33 PERSON ATTENDED A PROCEEDING THAT THE PERSON HAS A RIGHT TO ATTEND
34 UNDER THIS SECTION.

35 (G) CONSTRUCTION OF SECTION.

1 THIS SECTION DOES NOT LIMIT A VICTIM'S OR REPRESENTATIVE'S RIGHT TO
2 ATTEND A TRIAL OR JUVENILE DELINQUENCY ADJUDICATORY HEARING AS
3 PROVIDED IN § 3-812 OF THE COURTS ARTICLE OR § 11-102 OF THIS ARTICLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 773(b) through (f) and (a)(1), (3), and (4) and,
6 except for the reference to former Art. 27, § 857, § 778.

7 In subsection (a)(3) of this section, the former reference to a crime or
8 delinquent act "for which the defendant is being tried or adjudicated" is
9 deleted as surplusage.

10 In subsection (d)(2) of this section, the former reference to testimony "at
11 the trial or adjudicatory hearing" is deleted as implicit in the reference to
12 "testimony".

13 In subsection (e) of this section, the former reference to "rules of court" is
14 deleted as unnecessary in light of the comprehensive reference to "law",
15 which includes the Maryland Rules. *See* Md. Constitution, Art. IV, § 18.

16 The balance of former Art. 27, § 778, is revised at § 11-102(b) of this title.

17 As for the addition of the reference to "child respondent" throughout this
18 section, *see* General Revisor's Note to title.

19 Defined terms: "Child respondent" § 11-101

20 "Delinquent act" § 11-101

21 "Person" § 1-101

22 11-303. TESTIMONY OF CHILD VICTIM BY CLOSED CIRCUIT TELEVISION.

23 (A) SCOPE OF SECTION.

24 THIS SECTION APPLIES TO A CASE OF ABUSE OF A CHILD UNDER TITLE 5,
25 SUBTITLE 7 OF THE FAMILY LAW ARTICLE OR ARTICLE 27, § 35C OF THE CODE.

26 (B) IN GENERAL.

27 A COURT MAY ORDER THAT THE TESTIMONY OF A CHILD VICTIM BE TAKEN
28 OUTSIDE THE COURTROOM AND SHOWN IN THE COURTROOM BY CLOSED CIRCUIT
29 TELEVISION IF:

30 (1) THE COURT DETERMINES THAT TESTIMONY BY THE CHILD VICTIM
31 IN THE PRESENCE OF A DEFENDANT OR A CHILD RESPONDENT WILL RESULT IN THE
32 CHILD VICTIM'S SUFFERING SERIOUS EMOTIONAL DISTRESS SUCH THAT THE CHILD
33 VICTIM CANNOT REASONABLY COMMUNICATE; AND

34 (2) THE TESTIMONY IS TAKEN DURING THE PROCEEDING.

35 (C) DETERMINATION BY COURT.

1 (1) IN DETERMINING WHETHER TESTIMONY BY THE CHILD VICTIM IN
2 THE PRESENCE OF THE DEFENDANT OR CHILD RESPONDENT WILL RESULT IN THE
3 CHILD VICTIM'S SUFFERING SUCH SERIOUS EMOTIONAL DISTRESS THAT THE CHILD
4 CANNOT REASONABLY COMMUNICATE, THE COURT MAY:

5 (I) OBSERVE AND QUESTION THE CHILD VICTIM INSIDE OR
6 OUTSIDE THE COURTROOM; AND

7 (II) HEAR TESTIMONY OF A PARENT OR CUSTODIAN OF THE CHILD
8 VICTIM OR OTHER PERSON, INCLUDING A PERSON WHO HAS DEALT WITH THE CHILD
9 VICTIM IN A THERAPEUTIC SETTING.

10 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
11 PARAGRAPH, EACH DEFENDANT OR CHILD RESPONDENT, ONE ATTORNEY FOR A
12 DEFENDANT OR CHILD RESPONDENT, ONE PROSECUTING ATTORNEY, AND ONE
13 ATTORNEY FOR THE CHILD VICTIM MAY BE PRESENT WHEN THE COURT HEARS
14 TESTIMONY ON WHETHER TO ALLOW A CHILD VICTIM TO TESTIFY BY CLOSED
15 CIRCUIT TELEVISION.

16 (II) IF THE COURT DECIDES TO OBSERVE OR QUESTION THE CHILD
17 VICTIM IN CONNECTION WITH THE DETERMINATION TO ALLOW TESTIMONY BY
18 CLOSED CIRCUIT TELEVISION:

19 1. THE COURT MAY NOT ALLOW THE DEFENDANT OR CHILD
20 RESPONDENT TO BE PRESENT; BUT

21 2. ONE ATTORNEY FOR EACH DEFENDANT OR CHILD
22 RESPONDENT, ONE PROSECUTING ATTORNEY, AND ONE ATTORNEY FOR THE CHILD
23 VICTIM MAY BE PRESENT.

24 (D) PROCEDURES DURING TESTIMONY.

25 (1) ONLY THE FOLLOWING PERSONS MAY BE IN THE ROOM WITH THE
26 CHILD VICTIM WHEN THE CHILD VICTIM TESTIFIES BY CLOSED CIRCUIT
27 TELEVISION:

28 (I) ONE PROSECUTING ATTORNEY;

29 (II) ONE ATTORNEY FOR EACH DEFENDANT OR CHILD
30 RESPONDENT;

31 (III) ONE ATTORNEY FOR THE CHILD VICTIM;

32 (IV) THE OPERATORS OF THE CLOSED CIRCUIT TELEVISION
33 EQUIPMENT; AND

34 (V) SUBJECT TO THE MARYLAND RULES, ANY PERSON WHOSE
35 PRESENCE, IN THE OPINION OF THE COURT, CONTRIBUTES TO THE WELL-BEING OF
36 THE CHILD VICTIM, INCLUDING A PERSON WHO HAS DEALT WITH THE CHILD VICTIM
37 IN A THERAPEUTIC SETTING CONCERNING THE ABUSE.

1 (2) DURING THE CHILD VICTIM'S TESTIMONY BY CLOSED CIRCUIT
2 TELEVISION, THE COURT AND THE DEFENDANT OR CHILD RESPONDENT SHALL BE IN
3 THE COURTROOM.

4 (3) THE COURT AND THE DEFENDANT OR CHILD RESPONDENT SHALL
5 BE ALLOWED TO COMMUNICATE WITH THE PERSONS IN THE ROOM WHERE THE
6 CHILD VICTIM IS TESTIFYING BY ANY APPROPRIATE ELECTRONIC METHOD.

7 (4) (I) IN A JUVENILE DELINQUENCY PROCEEDING OR CRIMINAL
8 PROCEEDING, ONLY ONE PROSECUTING ATTORNEY, ONE ATTORNEY FOR EACH
9 DEFENDANT OR CHILD RESPONDENT, AND THE COURT MAY QUESTION THE CHILD
10 VICTIM.

11 (II) IN A CHILD IN NEED OF ASSISTANCE CASE, ONLY ONE
12 ATTORNEY FOR EACH PARTY AND THE COURT MAY QUESTION THE CHILD VICTIM.

13 (E) APPLICABILITY.

14 THIS SECTION DOES NOT APPLY IF A DEFENDANT OR CHILD RESPONDENT IS
15 WITHOUT COUNSEL.

16 (F) IDENTIFICATION OF DEFENDANT.

17 THIS SECTION MAY NOT BE INTERPRETED TO PREVENT A CHILD VICTIM AND A
18 DEFENDANT OR CHILD RESPONDENT FROM BEING IN THE COURTROOM AT THE
19 SAME TIME WHEN THE CHILD VICTIM IS ASKED TO IDENTIFY THE DEFENDANT OR
20 CHILD RESPONDENT.

21 (G) TWO-WAY CLOSED CIRCUIT TELEVISION.

22 THIS SECTION DOES NOT ALLOW THE USE OF TWO-WAY CLOSED CIRCUIT
23 TELEVISION OR OTHER PROCEDURE THAT WOULD LET A CHILD VICTIM SEE OR HEAR
24 A DEFENDANT OR CHILD RESPONDENT.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 774.

27 Throughout this section, the reference to "court" is substituted for the
28 former reference to "judge" to conform to the terminology used throughout
29 this title.

30 As for the addition of the reference to "child respondent" in subsections (c),
31 (d), (e), and (f) of this section, *see* General Revisor's Note to title.

32 In subsections (d) and (f) of this section, the references to a child "victim"
33 are added for clarity.

34 In subsection (d)(4)(i) of this section, the reference to a juvenile
35 delinquency "proceeding or criminal proceeding" is substituted for the
36 former reference to "criminal or juvenile delinquency case" for consistency

1 throughout this subtitle.

2 In subsection (e) of this section, the reference to a defendant or child
3 respondent who "is without counsel" is substituted for the former reference
4 to a defendant "appearing pro se" for clarity.

5 The Criminal Procedure Article Review Committee notes, for consideration
6 by the General Assembly, that subsection (g) of this section is revised to
7 protect a child victim from seeing or hearing a defendant or child
8 respondent.

9 Defined terms: "Child respondent" § 11-101

10 "Person" § 1-101

11 "Prosecuting attorney" § 11-101

12 11-304. OUT OF COURT STATEMENTS OF CERTAIN CHILD VICTIMS.

13 (A) "STATEMENT" DEFINED.

14 IN THIS SECTION, "STATEMENT" MEANS:

15 (1) AN ORAL OR WRITTEN ASSERTION; OR

16 (2) NONVERBAL CONDUCT INTENDED AS AN ASSERTION, INCLUDING
17 SOUNDS, GESTURES, DEMONSTRATIONS, DRAWINGS, AND SIMILAR ACTIONS.

18 (B) ADMISSIBILITY.

19 SUBJECT TO SUBSECTIONS (C), (D), AND (E) OF THIS SECTION, THE COURT MAY
20 ADMIT INTO EVIDENCE IN A JUVENILE COURT PROCEEDING OR IN A CRIMINAL
21 PROCEEDING AN OUT OF COURT STATEMENT TO PROVE THE TRUTH OF THE MATTER
22 ASSERTED IN THE STATEMENT MADE BY A CHILD VICTIM WHO:

23 (1) IS UNDER THE AGE OF 12 YEARS; AND

24 (2) IS THE ALLEGED VICTIM OR THE CHILD ALLEGED TO NEED
25 ASSISTANCE IN THE CASE BEFORE THE COURT CONCERNING:

26 (I) CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE;

27 (II) RAPE OR SEXUAL OFFENSE UNDER ARTICLE 27, §§ 462
28 THROUGH 464B OF THE CODE;

29 (III) ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN THE
30 FIRST DEGREE OR IN THE SECOND DEGREE UNDER ARTICLE 27, § 464F OF THE CODE;
31 OR

32 (IV) IN A JUVENILE COURT PROCEEDING, ABUSE OR NEGLECT AS
33 DEFINED IN § 5-701 OF THE FAMILY LAW ARTICLE.

34 (C) RECIPIENTS AND OFFERORS OF STATEMENT.

1 AN OUT OF COURT STATEMENT MAY BE ADMISSIBLE UNDER THIS SECTION
2 ONLY IF THE STATEMENT WAS MADE TO AND IS OFFERED BY A PERSON ACTING
3 LAWFULLY IN THE COURSE OF THE PERSON'S PROFESSION WHEN THE STATEMENT
4 WAS MADE WHO IS:

5 (1) A PHYSICIAN;

6 (2) A PSYCHOLOGIST;

7 (3) A NURSE;

8 (4) A SOCIAL WORKER; OR

9 (5) A PRINCIPAL, VICE PRINCIPAL, TEACHER, OR SCHOOL COUNSELOR
10 AT A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL, OR SECONDARY
11 SCHOOL.

12 (D) CONDITIONS PRECEDENT.

13 (1) UNDER THIS SECTION, AN OUT OF COURT STATEMENT BY A CHILD
14 VICTIM MAY COME INTO EVIDENCE TO PROVE THE TRUTH OF THE MATTER
15 ASSERTED IN THE STATEMENT:

16 (I) IF THE STATEMENT IS NOT ADMISSIBLE UNDER ANY OTHER
17 HEARSAY EXCEPTION; AND

18 (II) REGARDLESS OF WHETHER THE CHILD VICTIM TESTIFIES.

19 (2) IF THE CHILD VICTIM DOES NOT TESTIFY, THE CHILD VICTIM'S OUT
20 OF COURT STATEMENT WILL BE ADMISSIBLE ONLY IF THERE IS CORROBORATIVE
21 EVIDENCE THAT:

22 (I) THE DEFENDANT HAD THE OPPORTUNITY TO COMMIT THE
23 ALLEGED CRIME; OR

24 (II) THE CHILD RESPONDENT HAD THE OPPORTUNITY TO COMMIT
25 THE ALLEGED ABUSE OR NEGLECT.

26 (3) TO PROVIDE THE DEFENDANT OR CHILD RESPONDENT WITH AN
27 OPPORTUNITY TO PREPARE A RESPONSE TO THE STATEMENT, THE PROSECUTING
28 ATTORNEY SHALL SERVE ON THE DEFENDANT OR CHILD RESPONDENT AND THE
29 ATTORNEY FOR THE DEFENDANT OR CHILD RESPONDENT, WITHIN A REASONABLE
30 TIME BEFORE THE JUVENILE COURT PROCEEDING AND AT LEAST 20 DAYS BEFORE
31 THE CRIMINAL PROCEEDING IN WHICH THE STATEMENT IS TO BE OFFERED INTO
32 EVIDENCE, NOTICE OF:

33 (I) THE STATE'S INTENTION TO INTRODUCE THE STATEMENT; AND

34 (II) THE CONTENT OF THE STATEMENT.

1 (4) (I) THE DEFENDANT OR CHILD RESPONDENT MAY DEPOSE A
2 WITNESS WHO WILL TESTIFY UNDER THIS SECTION.

3 (II) UNLESS THE STATE AND THE DEFENDANT OR CHILD
4 RESPONDENT AGREE OR THE COURT ORDERS OTHERWISE, THE DEFENDANT OR
5 CHILD RESPONDENT SHALL FILE A NOTICE OF DEPOSITION:

6 1. IN A CRIMINAL PROCEEDING, AT LEAST 5 DAYS BEFORE
7 THE DATE OF THE DEPOSITION; OR

8 2. IN A JUVENILE COURT PROCEEDING, WITHIN A
9 REASONABLE TIME BEFORE THE DATE OF THE DEPOSITION.

10 (III) EXCEPT WHERE INCONSISTENT WITH THIS PARAGRAPH,
11 MARYLAND RULE 4-261 APPLIES TO A DEPOSITION TAKEN UNDER THIS PARAGRAPH.

12 (E) PARTICULARIZED GUARANTEES OF TRUSTWORTHINESS.

13 (1) A CHILD VICTIM'S OUT OF COURT STATEMENT IS ADMISSIBLE UNDER
14 THIS SECTION ONLY IF THE STATEMENT HAS PARTICULARIZED GUARANTEES OF
15 TRUSTWORTHINESS.

16 (2) TO DETERMINE WHETHER THE STATEMENT HAS PARTICULARIZED
17 GUARANTEES OF TRUSTWORTHINESS UNDER THIS SECTION, THE COURT SHALL
18 CONSIDER, BUT IS NOT LIMITED TO, THE FOLLOWING FACTORS:

19 (I) THE CHILD VICTIM'S PERSONAL KNOWLEDGE OF THE EVENT;

20 (II) THE CERTAINTY THAT THE STATEMENT WAS MADE;

21 (III) ANY APPARENT MOTIVE TO FABRICATE OR EXHIBIT
22 PARTIALITY BY THE CHILD VICTIM, INCLUDING INTEREST, BIAS, CORRUPTION, OR
23 COERCION;

24 (IV) WHETHER THE STATEMENT WAS SPONTANEOUS OR DIRECTLY
25 RESPONSIVE TO QUESTIONS;

26 (V) THE TIMING OF THE STATEMENT;

27 (VI) WHETHER THE CHILD VICTIM'S YOUNG AGE MAKES IT
28 UNLIKELY THAT THE CHILD VICTIM FABRICATED THE STATEMENT THAT
29 REPRESENTS A GRAPHIC, DETAILED ACCOUNT BEYOND THE CHILD VICTIM'S
30 EXPECTED KNOWLEDGE AND EXPERIENCE;

31 (VII) THE APPROPRIATENESS OF THE TERMINOLOGY OF THE
32 STATEMENT TO THE CHILD VICTIM'S AGE;

33 (VIII) THE NATURE AND DURATION OF THE ABUSE OR NEGLECT;

34 (IX) THE INNER CONSISTENCY AND COHERENCE OF THE
35 STATEMENT;

1 (X) WHETHER THE CHILD VICTIM WAS SUFFERING PAIN OR
2 DISTRESS WHEN MAKING THE STATEMENT;

3 (XI) WHETHER EXTRINSIC EVIDENCE EXISTS TO SHOW THE
4 DEFENDANT OR CHILD RESPONDENT HAD AN OPPORTUNITY TO COMMIT THE ACT
5 COMPLAINED OF IN THE CHILD VICTIM'S STATEMENT;

6 (XII) WHETHER THE STATEMENT WAS SUGGESTED BY THE USE OF
7 LEADING QUESTIONS; AND

8 (XIII) THE CREDIBILITY OF THE PERSON TESTIFYING ABOUT THE
9 STATEMENT.

10 (F) ROLE OF COURT.

11 IN A HEARING OUTSIDE OF THE PRESENCE OF THE JURY OR BEFORE THE
12 JUVENILE COURT PROCEEDING, THE COURT SHALL:

13 (1) MAKE A FINDING ON THE RECORD AS TO THE SPECIFIC
14 GUARANTEES OF TRUSTWORTHINESS THAT ARE IN THE STATEMENT; AND

15 (2) DETERMINE THE ADMISSIBILITY OF THE STATEMENT.

16 (G) EXAMINATION OF CHILD VICTIM.

17 (1) IN MAKING A DETERMINATION UNDER SUBSECTION (F) OF THIS
18 SECTION, THE COURT SHALL EXAMINE THE CHILD VICTIM IN A PROCEEDING IN THE
19 JUDGE'S CHAMBERS, THE COURTROOM, OR ANOTHER SUITABLE LOCATION THAT
20 THE PUBLIC MAY NOT ATTEND UNLESS THE CHILD VICTIM:

21 (I) IS DECEASED; OR

22 (II) IS ABSENT FROM THE JURISDICTION FOR GOOD CAUSE SHOWN
23 OR THE STATE HAS BEEN UNABLE TO PROCURE THE CHILD VICTIM'S PRESENCE BY
24 SUBPOENA OR OTHER REASONABLE MEANS.

25 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, ANY
26 DEFENDANT OR CHILD RESPONDENT, ATTORNEY FOR A DEFENDANT OR CHILD
27 RESPONDENT, AND THE PROSECUTING ATTORNEY MAY BE PRESENT WHEN THE
28 COURT HEARS TESTIMONY ON WHETHER TO ADMIT INTO EVIDENCE THE OUT OF
29 COURT STATEMENT OF A CHILD VICTIM UNDER THIS SECTION.

30 (3) WHEN THE COURT EXAMINES THE CHILD VICTIM AS PARAGRAPH (1)
31 OF THIS SUBSECTION REQUIRES:

32 (I) ONE ATTORNEY FOR EACH DEFENDANT OR CHILD
33 RESPONDENT, ONE ATTORNEY FOR THE CHILD VICTIM, AND ONE PROSECUTING
34 ATTORNEY MAY BE PRESENT AT THE EXAMINATION; AND

35 (II) THE COURT MAY NOT ALLOW A DEFENDANT OR CHILD
36 RESPONDENT TO BE PRESENT AT THE EXAMINATION.

1 (H) CONSTRUCTION OF SECTION.

2 (1) THIS SECTION DOES NOT LIMIT THE ADMISSIBILITY OF A
3 STATEMENT UNDER ANY OTHER APPLICABLE HEARSAY EXCEPTION OR RULE OF
4 EVIDENCE.

5 (2) THIS SECTION DOES NOT PROHIBIT THE COURT IN A JUVENILE
6 COURT PROCEEDING FROM HEARING TESTIMONY IN THE JUDGE'S CHAMBERS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 775.

9 In subsections (d), (e), and (g) of this section, the reference to a child
10 "victim" is added for clarity.

11 In subsections (d)(3) and (g)(2) and (3)(i) of this section, the references to a
12 "child respondent" are added to the reference to "defendant" to clarify that
13 these provisions apply to juvenile court as well as to criminal court.

14 In subsection (d)(3) of this section, the reference to the attorney "for the
15 defendant or child respondent" is added to state expressly what formerly
16 was merely implied - that an attorney for a defendant or child respondent
17 is entitled to receive notice.

18 In subsection (d)(4)(i) of this section, the reference to a "defendant" is
19 added to clarify that this provision applies to criminal court.

20 In subsection (d)(4)(ii) of this section, the reference to a "child respondent"
21 is added for clarity.

22 In subsection (e)(2)(vi) of this section, the reference to a child victim's
23 "expected" knowledge is added for clarity.

24 In subsection (e)(2)(viii) of this section, the reference to the nature and
25 duration of the abuse "or neglect" is added to conform to the standards
26 used in the Family Law Article. *See, e.g.,* FL §§ 5-702 and 5-704.

27 In subsections (e)(2)(xi) and (g)(3)(ii) of this section, the references to a
28 "child respondent" are added. *See* General Revisor's Note to title.

29 In subsection (g)(1) of this section, the phrase "that the public may not
30 attend" is substituted for the former phrase "in camera" for clarity.

31 Also in subsection (g)(1) of this section, the reference to an examination "in
32 the judge's chambers, the courtroom, or another suitable location" is added
33 to clarify that the former reference to "in camera" was meant to exclude the
34 public and not to limit where the examination occurred.

35 In subsection (g)(2) of this section, the reference to an attorney for a "child
36 respondent" is added to state what formerly was merely implied - an

1 attorney for a child respondent may be present when the court hears
2 testimony.

3 Defined terms: "Child respondent" § 11-101

4 "Person" § 1-101

5 "Prosecuting attorney" § 11-101

6 SUBTITLE 4. SENTENCING PROCEDURES.

7 11-401. "VICTIM'S REPRESENTATIVE" DEFINED.

8 IN THIS SUBTITLE, "VICTIM'S REPRESENTATIVE" MEANS:

9 (1) A MEMBER OF THE VICTIM'S IMMEDIATE FAMILY; OR

10 (2) ANOTHER FAMILY MEMBER, THE PERSONAL REPRESENTATIVE, OR
11 GUARDIAN OF THE VICTIM IF THE VICTIM IS:

12 (I) DECEASED;

13 (II) UNDER A MENTAL, PHYSICAL, OR LEGAL DISABILITY; OR

14 (III) OTHERWISE UNABLE TO PROVIDE THE REQUIRED
15 INFORMATION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, §§ 780A(a) and 780(a)(1) and (3).

18 The Criminal Procedure Article Review Committee notes, for consideration
19 by the General Assembly, that the language of this section differs from the
20 definition of "victim's representative" under § 11-705 of this title, which
21 was based on the provisions enacted by Ch. 392, Acts of 2000.

22 11-402. VICTIM IMPACT STATEMENT IN PRESENTENCE INVESTIGATION.

23 (A) WHEN REQUIRED.

24 A PRESENTENCE INVESTIGATION THAT THE DIVISION OF PAROLE AND
25 PROBATION COMPLETES UNDER § 6-112 OF THE CORRECTIONAL SERVICES ARTICLE
26 OR A PREDISPOSITION INVESTIGATION THAT THE DEPARTMENT OF JUVENILE
27 JUSTICE COMPLETES SHALL INCLUDE A VICTIM IMPACT STATEMENT IF:

28 (1) THE DEFENDANT OR CHILD RESPONDENT CAUSED PHYSICAL,
29 PSYCHOLOGICAL, OR ECONOMIC INJURY TO THE VICTIM IN COMMITTING A FELONY
30 OR DELINQUENT ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT; OR

31 (2) THE DEFENDANT CAUSED SERIOUS PHYSICAL INJURY OR DEATH TO
32 THE VICTIM IN COMMITTING A MISDEMEANOR.

33 (B) ABSENCE OF PRESENTENCE INVESTIGATION ORDER.

1 IF THE COURT DOES NOT ORDER A PRESENTENCE INVESTIGATION OR
2 PREDISPOSITION INVESTIGATION, THE PROSECUTING ATTORNEY OR THE VICTIM
3 MAY PREPARE A VICTIM IMPACT STATEMENT TO BE SUBMITTED TO THE COURT AND
4 THE DEFENDANT OR CHILD RESPONDENT IN ACCORDANCE WITH THE MARYLAND
5 RULES.

6 (C) NOTIFICATION BY PROSECUTING ATTORNEY.

7 (1) THE PROSECUTING ATTORNEY SHALL NOTIFY A VICTIM WHO HAS
8 FILED A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS TITLE OF THE
9 VICTIM'S RIGHT TO SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT IN A
10 TRANSFER HEARING UNDER § 4-202 OF THIS ARTICLE OR A WAIVER HEARING UNDER
11 § 3-817 OF THE COURTS ARTICLE.

12 (2) THIS SUBSECTION DOES NOT PRECLUDE A VICTIM WHO HAS NOT
13 FILED A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS TITLE FROM
14 SUBMITTING A VICTIM IMPACT STATEMENT TO THE COURT.

15 (3) THE COURT MAY CONSIDER A VICTIM IMPACT STATEMENT IN
16 DETERMINING WHETHER TO TRANSFER JURISDICTION UNDER § 4-202 OF THIS
17 ARTICLE OR WAIVE JURISDICTION UNDER § 3-817 OF THE COURTS ARTICLE.

18 (D) CONSIDERATION OF STATEMENT.

19 THE COURT SHALL CONSIDER THE VICTIM IMPACT STATEMENT IN
20 DETERMINING THE APPROPRIATE SENTENCE OR DISPOSITION AND IN ENTERING A
21 JUDGMENT OF RESTITUTION FOR THE VICTIM UNDER § 11-603 OF THIS TITLE.

22 (E) STATEMENT OF CONTENTS.

23 A VICTIM IMPACT STATEMENT FOR A CRIME OR DELINQUENT ACT SHALL:

24 (1) IDENTIFY THE VICTIM;

25 (2) ITEMIZE ANY ECONOMIC LOSS SUFFERED BY THE VICTIM;

26 (3) IDENTIFY ANY PHYSICAL INJURY SUFFERED BY THE VICTIM AND
27 DESCRIBE THE SERIOUSNESS AND ANY PERMANENT EFFECTS OF THE INJURY;

28 (4) DESCRIBE ANY CHANGE IN THE VICTIM'S PERSONAL WELFARE OR
29 FAMILIAL RELATIONSHIPS;

30 (5) IDENTIFY ANY REQUEST FOR PSYCHOLOGICAL SERVICES INITIATED
31 BY THE VICTIM OR THE VICTIM'S FAMILY;

32 (6) IDENTIFY ANY REQUEST BY THE VICTIM TO PROHIBIT THE
33 DEFENDANT OR CHILD RESPONDENT FROM HAVING CONTACT WITH THE VICTIM AS
34 A CONDITION OF PROBATION, PAROLE, MANDATORY SUPERVISION, WORK RELEASE,
35 OR ANY OTHER JUDICIAL OR ADMINISTRATIVE RELEASE OF THE DEFENDANT OR
36 CHILD RESPONDENT; AND

1 (7) CONTAIN ANY OTHER INFORMATION RELATED TO THE IMPACT ON
2 THE VICTIM OR THE VICTIM'S FAMILY THAT THE COURT REQUIRES.

3 (F) DECEASED OR DISABLED VICTIM.

4 IF THE VICTIM IS DECEASED, UNDER A MENTAL, PHYSICAL, OR LEGAL
5 DISABILITY, OR OTHERWISE UNABLE TO PROVIDE THE INFORMATION REQUIRED
6 UNDER THIS SECTION, THE INFORMATION MAY BE OBTAINED FROM THE VICTIM'S
7 REPRESENTATIVE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 781(b) through (g).

10 In subsections (b) and (c) of this section, the defined term "prosecuting
11 attorney" is substituted for the former narrower reference to a "State's
12 Attorney" to reflect that, in practice, attorneys other than a State's
13 Attorney may prosecute cases and thus have victim notification
14 responsibilities.

15 In subsection (e) of this section, the reference to a "crime" is substituted for
16 the former reference to an "offense" to conform to the terminology used in
17 this section.

18 In subsection (f) of this section, the former phrase "as may be necessary" is
19 deleted as surplusage.

20 Also in subsection (f) of this section, the former reference to a "committee"
21 is deleted as obsolete.

22 Also in subsection (f) of this section, the former references to "guardian"
23 and "family members" are deleted as included in the defined term "victim's
24 representative".

25 Defined terms: "Child respondent" § 11-101

26 "Delinquent act" § 11-101

27 "Prosecuting attorney" § 11-101

28 "Victim's representative" § 11-401

29 11-403. RIGHT OF VICTIM OR VICTIM'S REPRESENTATIVE TO ADDRESS COURT
30 DURING SENTENCING OR DISPOSITION HEARING.

31 (A) "SENTENCING OR DISPOSITION HEARING" DEFINED.

32 IN THIS SECTION, "SENTENCING OR DISPOSITION HEARING" MEANS A HEARING
33 AT WHICH THE IMPOSITION OF A SENTENCE, DISPOSITION IN A JUVENILE COURT
34 PROCEEDING, OR ALTERATION OF A SENTENCE OR DISPOSITION IN A JUVENILE
35 COURT PROCEEDING IS CONSIDERED.

36 (B) IN GENERAL.

1 IN THE SENTENCING OR DISPOSITION HEARING THE COURT:

2 (1) IF PRACTICABLE, SHALL ALLOW THE VICTIM OR THE VICTIM'S
3 REPRESENTATIVE TO ADDRESS THE COURT UNDER OATH BEFORE THE IMPOSITION
4 OF SENTENCE OR OTHER DISPOSITION:

5 (I) AT THE REQUEST OF THE PROSECUTING ATTORNEY; OR

6 (II) IF THE VICTIM HAS FILED A NOTIFICATION REQUEST FORM
7 UNDER § 11-104 OF THIS TITLE; AND

8 (2) MAY ALLOW THE VICTIM OR THE VICTIM'S REPRESENTATIVE TO
9 ADDRESS THE COURT UNDER OATH BEFORE THE IMPOSITION OF SENTENCE OR
10 OTHER DISPOSITION AT THE REQUEST OF THE VICTIM OR THE VICTIM'S
11 REPRESENTATIVE.

12 (C) CROSS-EXAMINATION OF VICTIM OR VICTIM'S REPRESENTATIVE.

13 (1) IF THE VICTIM OR THE VICTIM'S REPRESENTATIVE IS ALLOWED TO
14 ADDRESS THE COURT, THE DEFENDANT OR CHILD RESPONDENT MAY
15 CROSS-EXAMINE THE VICTIM OR THE VICTIM'S REPRESENTATIVE.

16 (2) THE CROSS-EXAMINATION IS LIMITED TO THE FACTUAL
17 STATEMENTS MADE TO THE COURT.

18 (D) RIGHT NOT TO ADDRESS COURT.

19 (1) A VICTIM OR THE VICTIM'S REPRESENTATIVE HAS THE RIGHT NOT TO
20 ADDRESS THE COURT AT THE SENTENCING OR DISPOSITION HEARING.

21 (2) A PERSON MAY NOT ATTEMPT TO COERCE A VICTIM OR THE VICTIM'S
22 REPRESENTATIVE TO ADDRESS THE COURT AT THE SENTENCING OR DISPOSITION
23 HEARING.

24 (E) DENIAL OF RIGHTS.

25 A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS BEEN DENIED A RIGHT
26 PROVIDED UNDER THIS SECTION MAY FILE AN APPLICATION FOR LEAVE TO APPEAL
27 IN THE MANNER PROVIDED UNDER § 11-103 OF THIS TITLE.

28 REVISOR'S NOTE: Subsections (a), (b), (c), and (d) are new language derived
29 without substantive change from former Art. 27, § 780(b), (c), (d), and (a)(1)
30 and (2).

31 Subsection (e) of this section is new language added to provide a
32 cross-reference to the victim's right to file a leave to appeal a denial of a
33 right provided in this section.

34 In subsection (a) of this section, the reference to a juvenile "court"
35 proceeding is substituted for the former reference to a juvenile
36 "delinquency" proceeding to conform to the terminology used throughout

1 this subtitle.

2 In the introductory language of subsection (b) of this section, the references
3 to a criminal "proceeding" or a juvenile court "proceeding" are substituted
4 for the former reference to a criminal or juvenile "case" to conform to the
5 terminology used throughout this title.

6 In subsection (b)(1) and (2) of this section, the former references to an
7 "affirmation" are deleted in light of Art. 1, § 9, which provides that if an
8 oath is required in the Code, an affirmation made by a person
9 conscientiously scrupulous of taking an oath is sufficient.

10 In subsection (b)(1)(i) of this section, the defined term "prosecuting
11 attorney" is substituted for the former narrower reference to "State's
12 Attorney" to reflect that, in practice, attorneys other than a State's
13 Attorney may prosecute cases and thus may request a victim or victim's
14 representative to address the court.

15 In subsection (c) of this section, the reference to "court" is substituted for
16 the former reference to a "judge" to conform to the terminology used
17 throughout this title.

18 Also in subsection (c) of this section, the former references to a "jury" are
19 deleted because, with the exception of death penalty cases, a court does the
20 sentencing or disposition. *See* § 11-404 of this subtitle for provisions on
21 addressing the jury in a death penalty case.

22 Defined terms: "Child respondent" § 11-101

23 "Person" § 1-101

24 "Prosecuting attorney" § 11-101

25 "Victim's representative" § 11-401

26 11-404. RIGHT OF VICTIM'S REPRESENTATIVE TO ADDRESS JURY IN DEATH PENALTY
27 PROCEEDING.

28 (A) IN GENERAL.

29 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A VICTIM'S
30 REPRESENTATIVE HAS THE SAME RIGHT TO ADDRESS THE JURY IN A DEATH
31 PENALTY SENTENCING AS A VICTIM'S REPRESENTATIVE HAS TO ADDRESS A COURT
32 UNDER § 11-403 OF THIS SUBTITLE.

33 (B) HEARINGS; LIMITATIONS.

34 (1) ON MOTION OF A DEFENDANT OR THE STATE OR ON THE COURT'S
35 OWN INITIATIVE, THE COURT IN A DEATH PENALTY SENTENCING MAY HOLD A
36 HEARING OUTSIDE OF THE PRESENCE OF THE JURY TO DETERMINE WHETHER A
37 VICTIM'S REPRESENTATIVE MAY PRESENT AN ORAL ADDRESS TO THE JURY.

1 (2) IF THE COURT DETERMINES THAT PART OF A VICTIM'S
2 REPRESENTATIVE'S ORAL ADDRESS WILL BE SO UNDULY PREJUDICIAL THAT IT
3 RENDERS THE JURY SENTENCING PROCEEDING FUNDAMENTALLY UNFAIR, THE
4 COURT MAY LIMIT THE PREJUDICIAL PORTION OF THE ORAL ADDRESS.

5 (C) RIGHT TO HEARING DENIED.

6 A VICTIM'S REPRESENTATIVE WHO HAS BEEN DENIED A RIGHT PROVIDED
7 UNDER THIS SECTION MAY FILE AN APPLICATION FOR LEAVE TO APPEAL IN THE
8 MANNER PROVIDED UNDER § 11-103 OF THIS TITLE.

9 REVISOR'S NOTE: Subsections (a) and (b) of this section are new language
10 derived without substantive change from former Art. 27, § 780A(b) and (c).

11 Subsection (c) of this section is new language added to provide a
12 cross-reference to the right of a victim's representative to file a leave to
13 appeal a denial of a right provided in this section.

14 In subsection (b)(1) of this section, the reference to the court's "initiative" is
15 substituted for the former reference to a "request", because the court is not
16 requesting that a hearing be held but rather, using its own discretion, has
17 decided to hold a hearing.

18 Defined term: "Victim's representative" § 11-401

19 SUBTITLE 5. POSTSENTENCING PROCEDURES.

20 11-501. DEFINITIONS.

21 (A) IN GENERAL.

22 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 27, § 783A(a).

25 (B) VICTIM.

26 "VICTIM" MEANS A PERSON WHO SUFFERS DIRECT OR THREATENED PHYSICAL,
27 EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT OF A CRIME OR
28 DELINQUENT ACT.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 27, § 783A(c), as it related to an
31 individual who suffers harm.

32 The reference to a "crime" is substituted for the former references to a
33 "felony" to avoid giving the term "victim" an unnaturally narrow meaning.
34 Similarly, the former reference to a delinquent act "that would be a felony
35 if committed by an adult" is deleted. The restrictive quality that the

1 references to "felony" and to "felony if committed by an adult" signify is
2 more properly expressed as scope provisions. *See* § 11-502 of this subtitle.

3 The defined term "person" is substituted for the former reference to
4 "individual" to conform to the terminology used throughout this article.

5 Defined terms: "Delinquent act" § 11-101

6 "Person" § 1-101

7 (C) VICTIM'S REPRESENTATIVE.

8 "VICTIM'S REPRESENTATIVE" INCLUDES:

9 (1) A FAMILY MEMBER OF A VICTIM WHO IS A MINOR, AN INCOMPETENT,
10 OR A VICTIM OF HOMICIDE; OR

11 (2) A GUARDIAN OF A MINOR OR AN INCOMPETENT.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 27, § 783A(c), as it related to family
14 members and guardians of certain victims.

15 The defined term "victim's representative" is added for clarity.

16 The Criminal Procedure Article Review Committee notes, for consideration
17 by the General Assembly, that the language of subsection (c) of this section
18 differs from the definition of "victim's representative" under § 11-104 of
19 this title, which was based on the provisions enacted by Ch. 392, Acts of
20 2000.

21 Defined term: "Victim" § 11-501

22 11-502. SCOPE OF SUBTITLE.

23 THIS SUBTITLE APPLIES ONLY TO A DEFENDANT WHO IS CHARGED WITH A
24 FELONY OR TO A CHILD RESPONDENT WHO IS ALLEGED TO HAVE COMMITTED A
25 DELINQUENT ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 783A(b).

28 This section is revised as a restriction on the applicability of this subtitle
29 on defendants and child respondents to avoid defining "defendant" in
30 misleadingly narrow terms.

31 The Criminal Procedure Article Review Committee notes, for consideration
32 by the General Assembly, that this section is not consistent with provisions
33 that this subtitle cross-references. The cross-referenced provisions
34 provide rights in cases of misdemeanors as well as in cases of felonies. This
35 section applies only to a defendant who is charged with a felony or to a
36 child respondent who is alleged to have committed a delinquent act that

1 would be a felony if committed by an adult.

2 Defined terms: "Child respondent" § 11-101

3 "Delinquent act" § 11-101

4 11-503. NOTICE OF SUBSEQUENT PROCEEDINGS.

5 (A) "SUBSEQUENT PROCEEDING" DEFINED.

6 IN THIS SECTION, "SUBSEQUENT PROCEEDING" INCLUDES:

7 (1) A SENTENCE REVIEW UNDER § 8-102 OF THIS ARTICLE;

8 (2) A HEARING ON A REQUEST TO HAVE A SENTENCE MODIFIED OR
9 VACATED UNDER THE MARYLAND RULES;

10 (3) IN A JUVENILE DELINQUENCY PROCEEDING, A REVIEW OF A
11 COMMITMENT ORDER OR OTHER DISPOSITION UNDER THE MARYLAND RULES;

12 (4) AN APPEAL TO THE COURT OF SPECIAL APPEALS;

13 (5) AN APPEAL TO THE COURT OF APPEALS; AND

14 (6) ANY OTHER POSTSENTENCING COURT PROCEEDING.

15 (B) REQUEST REQUIRED FROM VICTIM OR VICTIM'S REPRESENTATIVE.

16 FOLLOWING CONVICTION OR ADJUDICATION AND SENTENCING OR
17 DISPOSITION OF A DEFENDANT OR CHILD RESPONDENT, THE STATE'S ATTORNEY
18 SHALL NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE OF A SUBSEQUENT
19 PROCEEDING IN ACCORDANCE WITH § 11-104(E) OF THIS TITLE IF:

20 (1) BEFORE THE STATE'S ATTORNEY DISTRIBUTES NOTIFICATION
21 REQUEST FORMS UNDER § 11-104(C) OF THIS TITLE, THE VICTIM OR VICTIM'S
22 REPRESENTATIVE SUBMITTED TO THE STATE'S ATTORNEY A WRITTEN REQUEST TO
23 BE NOTIFIED OF SUBSEQUENT PROCEEDINGS; OR

24 (2) AFTER THE STATE'S ATTORNEY DISTRIBUTES NOTIFICATION
25 REQUEST FORMS UNDER § 11-104(C) OF THIS TITLE, THE VICTIM OR VICTIM'S
26 REPRESENTATIVE SUBMITS A NOTIFICATION REQUEST FORM IN ACCORDANCE WITH
27 § 11-104(D) OF THIS TITLE.

28 (C) DUTIES OF STATE'S ATTORNEY.

29 (1) THE STATE'S ATTORNEY'S OFFICE SHALL:

30 (I) NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE OF ALL
31 APPEALS TO THE COURT OF SPECIAL APPEALS AND THE COURT OF APPEALS; AND

32 (II) SEND AN INFORMATION COPY OF THE NOTIFICATION TO THE
33 OFFICE OF THE ATTORNEY GENERAL.

1 (2) AFTER THE INITIAL NOTIFICATION TO THE VICTIM OR VICTIM'S
 2 REPRESENTATIVE OR RECEIPT OF A NOTIFICATION REQUEST FORM, AS DEFINED IN §
 3 11-104 OF THIS TITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL:

4 (I) NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE OF EACH
 5 SUBSEQUENT DATE PERTINENT TO THE APPEAL, INCLUDING DATES OF HEARINGS,
 6 POSTPONEMENTS, AND DECISIONS OF THE APPELLATE COURTS; AND

7 (II) SEND AN INFORMATION COPY OF THE NOTIFICATION TO THE
 8 STATE'S ATTORNEY'S OFFICE.

9 (D) CONTENT OF NOTICE.

10 A NOTICE SENT UNDER THIS SECTION SHALL INCLUDE THE DATE, THE TIME,
 11 THE LOCATION, AND A BRIEF DESCRIPTION OF THE SUBSEQUENT PROCEEDING.

12 REVISOR'S NOTE: This section is new language derived without substantive
 13 change from former Art. 27, § 784.

14 In subsection (a)(3) of this section, the reference to a juvenile delinquency
 15 "proceeding" is substituted for the former reference to a juvenile
 16 delinquency "case" to conform to the terminology used throughout this
 17 title.

18 In the introductory language of subsection (b) of this section, the reference
 19 to "the State's Attorney" is added to make explicit that which only was
 20 implied in the former law -- the State's Attorney must make notification of
 21 a subsequent proceeding under certain circumstances.

22 In subsection (b) of this section, the former reference to "a felony or
 23 delinquent act that would be a felony if committed by an adult" is deleted
 24 as unnecessary. *See* § 11-502 of this subtitle.

25 Also in subsection (b) of this section, the former reference to "in the case of
 26 a homicide, a designated family member," is deleted as unnecessary in
 27 light of the definition of "victim's representative". *See* § 11-501(c) of this
 28 subtitle. Correspondingly, in subsection (c) of this section, the former
 29 references to "designated family member" are deleted.

30 In subsection (b)(2) of this section, the reference to "submits" is substituted
 31 for the former reference to "filed" to conform to the terminology used in
 32 subsection (b)(1) of this section.

33 Defined terms: "Child respondent" § 11-101

34 "Victim" § 11-501

35 "Victim's representative" § 11-501

36 11-504. PROCEEDINGS AT PATUXENT INSTITUTION -- NOTICE AND COMMENT.

37 (A) WORK RELEASE AND LEAVE OF ABSENCE.

1 BEFORE THE BOARD OF REVIEW FOR PATUXENT INSTITUTION GRANTS WORK
2 RELEASE OR LEAVE OF ABSENCE TO AN ELIGIBLE PERSON, THE BOARD SHALL GIVE
3 THE VICTIM OR VICTIM'S REPRESENTATIVE NOTICE AND OPPORTUNITY FOR
4 COMMENT AS PROVIDED UNDER § 4-303(B) OF THE CORRECTIONAL SERVICES
5 ARTICLE.

6 (B) RELEASE.

7 (1) BEFORE THE BOARD OF REVIEW FOR PATUXENT INSTITUTION
8 DECIDES WHETHER TO GRANT PAROLE TO AN ELIGIBLE PERSON, THE BOARD SHALL
9 GIVE THE VICTIM OR VICTIM'S REPRESENTATIVE NOTICE AND THE OPPORTUNITY
10 FOR COMMENT AS PROVIDED UNDER § 4-305(D) OF THE CORRECTIONAL SERVICES
11 ARTICLE.

12 (2) IF THE BOARD OF REVIEW FOR PATUXENT INSTITUTION PETITIONS A
13 COURT TO SUSPEND OR VACATE THE SENTENCE OF A PERSON WHO HAS
14 SUCCESSFULLY COMPLETED 3 YEARS ON PAROLE WITHOUT VIOLATION AND WHO
15 THE BOARD CONCLUDES IS SAFE TO BE PERMANENTLY RELEASED, THE BOARD
16 SHALL NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE AS PROVIDED UNDER §
17 4-305(F) OF THE CORRECTIONAL SERVICES ARTICLE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 785.

20 In subsection (a) of this section, the former reference to leave or release
21 "from Patuxent Institution" is deleted as unnecessary since the Board of
22 Review only has authority in these matters over eligible persons in the
23 Patuxent Institution.

24 As to the definition of "eligible person", *see* CS § 4-101(e).

25 Defined terms: "Person" § 1-101

26 "Victim" § 11-501

27 "Victim's representative" § 11-501

28 11-505. DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES -- NOTICE
29 AND COMMENT.

30 (A) SCOPE OF SECTION.

31 THIS SECTION APPLIES TO A VICTIM OR VICTIM'S REPRESENTATIVE WHO:

32 (1) HAS MADE A WRITTEN REQUEST TO THE DEPARTMENT FOR
33 NOTIFICATION; OR

34 (2) HAS FILED A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS
35 TITLE.

36 (B) PAROLE RELEASE HEARING.

1 (1) IF A PAROLE RELEASE HEARING IS SCHEDULED FOR AN INMATE
2 WHO HAS BEEN CONVICTED OF AND SENTENCED FOR A CRIME, THE VICTIM OR
3 VICTIM'S REPRESENTATIVE HAS THE RIGHTS PROVIDED UNDER § 7-801 OF THE
4 CORRECTIONAL SERVICES ARTICLE.

5 (2) AT A PAROLE RELEASE HEARING, A VICTIM OR VICTIM'S
6 REPRESENTATIVE HAS THE RIGHTS PROVIDED UNDER § 7-304 OF THE
7 CORRECTIONAL SERVICES ARTICLE.

8 (C) VIOLATION OF PAROLE.

9 (1) WHENEVER A PERSON WHO WAS CONVICTED OF A VIOLENT CRIME
10 AS DEFINED IN § 7-101 OF THE CORRECTIONAL SERVICES ARTICLE IS FOUND GUILTY
11 OF VIOLATING A CONDITION OF PAROLE, THE DEPARTMENT SHALL NOTIFY THE
12 VICTIM OR VICTIM'S REPRESENTATIVE AS PROVIDED UNDER § 7-804 OF THE
13 CORRECTIONAL SERVICES ARTICLE.

14 (2) WHENEVER A WARRANT OR SUBPOENA IS ISSUED FOR A PERSON
15 WHO WAS CONVICTED OF A VIOLENT CRIME AS DEFINED IN § 7-101 OF THE
16 CORRECTIONAL SERVICES ARTICLE FOR AN ALLEGED VIOLATION OF A CONDITION
17 OF PAROLE, THE DEPARTMENT SHALL NOTIFY THE VICTIM OR VICTIM'S
18 REPRESENTATIVE AS PROVIDED UNDER § 7-804 OF THE CORRECTIONAL SERVICES
19 ARTICLE.

20 (D) COMMUTATION, PARDON, OR REMISSION OF SENTENCE.

21 (1) WHENEVER A PERSON WHO IS SENTENCED IS CONSIDERED FOR A
22 COMMUTATION, PARDON, OR REMISSION OF SENTENCE, THE DEPARTMENT SHALL
23 NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE AS PROVIDED UNDER § 7-805(B)
24 AND (F) OF THE CORRECTIONAL SERVICES ARTICLE.

25 (2) IF THE PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION
26 WAS CONVICTED OF A VIOLENT CRIME AS DEFINED IN § 7-101 OF THE
27 CORRECTIONAL SERVICES ARTICLE, A VICTIM OR VICTIM'S REPRESENTATIVE HAS
28 THE ADDITIONAL RIGHTS REGARDING SUBMISSION AND CONSIDERATION OF A
29 VICTIM IMPACT STATEMENT PROVIDED UNDER § 7-805(C) AND (D) OF THE
30 CORRECTIONAL SERVICES ARTICLE.

31 (E) VIOLATION OF MANDATORY SUPERVISION.

32 (1) WHENEVER A PERSON CONVICTED OF A CRIME OF VIOLENCE IS
33 FOUND GUILTY OF VIOLATING A CONDITION OF MANDATORY SUPERVISION, THE
34 DEPARTMENT SHALL NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE AS
35 PROVIDED UNDER § 7-505(B) OF THE CORRECTIONAL SERVICES ARTICLE.

36 (2) WHENEVER A WARRANT OR SUBPOENA IS ISSUED FOR A PERSON
37 CONVICTED OF A VIOLENT CRIME AS DEFINED IN § 7-101 OF THE CORRECTIONAL
38 SERVICES ARTICLE FOR AN ALLEGED VIOLATION OF A CONDITION OF MANDATORY
39 SUPERVISION, THE DEPARTMENT SHALL NOTIFY THE VICTIM OR VICTIM'S

1 REPRESENTATIVE AS PROVIDED UNDER § 7-804 OF THE CORRECTIONAL SERVICES
2 ARTICLE.

3 (F) NOTIFICATION TO VICTIM OF PREDETERMINED PAROLE RELEASE
4 AGREEMENT.

5 BEFORE ENTERING INTO A PREDETERMINED PAROLE RELEASE AGREEMENT
6 WITH AN INMATE, THE MARYLAND PAROLE COMMISSION SHALL NOTIFY THE VICTIM
7 OR VICTIM'S REPRESENTATIVE AS PROVIDED UNDER § 7-803 OF THE CORRECTIONAL
8 SERVICES ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 786.

11 In subsections (c)(1), (d)(2), and (e)(2) of this section, the reference to a
12 violent crime "as defined in § 7-101(l) of the Correctional Services Article"
13 is added for clarity.

14 The Criminal Procedure Article Review Committee notes, for consideration
15 by the General Assembly, that subsection (e)(1) refers to "a crime of
16 violence", which is defined in § 1-101 of this article to have the meaning
17 found in Art. 27, § 643B. Most of the other provisions dealing with parole
18 and probation matters, however, use the term "violent crime", a defined
19 term in CS § 7-101. The term "violent crime" is broader than Art. 27, §
20 643B because "violent crime" includes burglary in the first, second, and
21 third degree. The General Assembly may wish to substitute the broader
22 term "violent crime" for "crime of violence" in this section.

23 Defined terms: "Crime of violence" § 1-101

24 "Department" § 1-101

25 "Inmate" § 1-101

26 "Victim" § 11-501

27 "Victim's representative" § 11-501

28 11-506. VICTIM'S RIGHTS AFTER FINDING OF NOT CRIMINALLY RESPONSIBLE.

29 WHENEVER A PERSON HAS BEEN COMMITTED TO THE DEPARTMENT OF
30 HEALTH AND MENTAL HYGIENE UNDER § 3-112 OF THIS ARTICLE FOR A CRIME OF
31 VIOLENCE AND A VICTIM OF THE CRIME OR A VICTIM'S REPRESENTATIVE HAS
32 SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT OF HEALTH AND MENTAL
33 HYGIENE FOR NOTIFICATION OR SUBMITTED A NOTIFICATION REQUEST FORM
34 UNDER § 11-104 OF THIS TITLE, THE VICTIM OR VICTIM'S REPRESENTATIVE HAS THE
35 RIGHTS PROVIDED UNDER § 3-123 OF THIS ARTICLE.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 27, § 787.

38 The reference to commitment "to the Department of Health and Mental
39 Hygiene" is added to state expressly what was only implied in the former
40 law.

1 Defined terms: "Crime of violence" § 1-101

2 "Person" § 1-101

3 "Victim" § 11-501

4 "Victim's representative" § 11-501

5 11-507. NOTIFICATION OF PROBATION VIOLATION.

6 THE DEPARTMENT OR THE DEPARTMENT OF JUVENILE JUSTICE SHALL NOTIFY
7 THE VICTIM OR VICTIM'S REPRESENTATIVE OF AN ALLEGED VIOLATION OF A
8 CONDITION OF PROBATION WHENEVER:

9 (1) A WARRANT, SUBPOENA, OR WRIT OF ATTACHMENT IS ISSUED FOR
10 THE ALLEGED VIOLATION FOR A PERSON WHO WAS CONVICTED OF A VIOLENT
11 CRIME OR WHO WAS ADJUDGED TO HAVE COMMITTED A DELINQUENT ACT THAT
12 WOULD BE A VIOLENT CRIME IF COMMITTED BY AN ADULT; AND

13 (2) A VICTIM OF THE CRIME OR DELINQUENT ACT OR A VICTIM'S
14 REPRESENTATIVE HAS SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT FOR
15 NOTIFICATION OR HAS SUBMITTED A NOTIFICATION REQUEST FORM UNDER § 11-104
16 OF THIS TITLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 788.

19 The references to a victim "of the crime or delinquent act" are added to
20 conform to the terminology of this subtitle.

21 The reference to a "writ of attachment" is added to describe accurately the
22 document issued for persons brought before juvenile court.

23 The Criminal Procedure Article Review Committee notes, for consideration
24 by the General Assembly, that this section was enacted by Chapters 311
25 and 312 of 1997. The meaning of "violent crime" is uncertain, because
26 there is no definition of "violent crime" in the Article 27 subheading in
27 which these chapters were placed. It seems likely, however, that the
28 definition in CS § 7-101 was intended, but this cannot be proven. "Violent
29 crime" is broader than "crime of violence" as defined in § 1-101 of this
30 article. Besides including any crime listed as a "crime of violence", "violent
31 crime" includes burglary in the first, second, or third degree. The General
32 Assembly may wish to clarify this matter.

33 Defined terms: "Delinquent act" § 11-101

34 "Department" § 1-101

35 "Person" § 1-101

36 "Victim" § 11-501

37 "Victim's representative" § 11-501

38 11-508. NOTIFICATION OF RELEASE FROM CONFINEMENT.

39 (A) DEFINITIONS.

1 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "COMMITMENT UNIT" MEANS A UNIT THAT A COURT ORDERS TO
4 RETAIN CUSTODY OF A DEFENDANT OR A CHILD RESPONDENT AND THAT RECEIVES
5 A NOTIFICATION REQUEST FORM UNDER § 11-104(F)(1) OR (G) OF THIS TITLE.

6 (3) "RELEASE FROM CONFINEMENT" MEANS WORK RELEASE, HOME
7 DETENTION, OR OTHER ADMINISTRATIVE OR STATUTORILY AUTHORIZED RELEASE
8 OF A DEFENDANT OR CHILD RESPONDENT FROM A CONFINEMENT FACILITY.

9 (4) "WITNESS" MEANS A PERSON WHO:

10 (I) KNOWS OF FACTS RELATING TO A CRIME OF VIOLENCE OR
11 CONSPIRACY OR SOLICITATION TO COMMIT A CRIME OF VIOLENCE; AND

12 (II) 1. MAKES A DECLARATION UNDER OATH THAT IS RECEIVED AS
13 EVIDENCE FOR ANY PURPOSE; OR

14 2. HAS BEEN SERVED WITH A SUBPOENA ISSUED UNDER
15 THE AUTHORITY OF A COURT OF THIS OR ANY OTHER STATE OR OF THE UNITED
16 STATES.

17 (B) SCOPE OF SECTION.

18 THIS SECTION APPLIES TO A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS
19 SUBMITTED A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS TITLE.

20 (C) WRITTEN REQUEST FOR NOTIFICATION BY WITNESS.

21 THIS SECTION APPLIES IF A WITNESS REQUESTS IN WRITING THAT A
22 COMMITMENT UNIT NOTIFY THE WITNESS IN WRITING OF THE RELEASE FROM
23 CONFINEMENT OF A DEFENDANT OR CHILD RESPONDENT.

24 (D) REQUIREMENTS OF NOTIFICATION.

25 ON RECEIPT OF A NOTIFICATION REQUEST FORM UNDER § 11-104(F)(1) OR (G) OF
26 THIS TITLE OR A WRITTEN REQUEST FROM A WITNESS FOR NOTIFICATION, A
27 COMMITMENT UNIT, IF PRACTICABLE, SHALL NOTIFY THE VICTIM, VICTIM'S
28 REPRESENTATIVE, OR WITNESS OF:

29 (1) RECEIPT OF THE NOTIFICATION REQUEST FORM;

30 (2) THE DATE WHEN THE DEFENDANT OR CHILD RESPONDENT WAS
31 PLACED IN THE CUSTODY OF THE COMMITMENT UNIT;

32 (3) HOW TO CHANGE THE ADDRESS TO RECEIVE NOTICE FOR THE
33 VICTIM, VICTIM'S REPRESENTATIVE, WITNESS, OR THE PERSON TO RECEIVE NOTICE
34 FOR THE VICTIM; AND

35 (4) HOW TO ELECT NOT TO RECEIVE FUTURE NOTICES.

1 (E) WHEN NOTICE REQUIRED.

2 THE COMMITMENT UNIT SHALL NOTIFY A VICTIM, VICTIM'S REPRESENTATIVE,
3 OR WITNESS, IN ADVANCE IF PRACTICABLE, IF ANY OF THE FOLLOWING EVENTS
4 OCCUR CONCERNING THE DEFENDANT OR CHILD RESPONDENT:

5 (1) AN ESCAPE;

6 (2) A RECAPTURE;

7 (3) A TRANSFER TO ANOTHER COMMITMENT UNIT;

8 (4) A RELEASE FROM CONFINEMENT AND ANY CONDITIONS ATTACHED
9 TO THE RELEASE; AND

10 (5) THE DEATH OF THE DEFENDANT OR CHILD RESPONDENT.

11 (F) DISCLOSURE OF ADDRESS OR PHONE NUMBER PROHIBITED.

12 A COMMITMENT UNIT MAY NOT DISCLOSE TO A DEFENDANT OR CHILD
13 RESPONDENT THE ADDRESS OR TELEPHONE NUMBER OF A WITNESS, VICTIM,
14 VICTIM'S REPRESENTATIVE, OR PERSON WHO RECEIVES NOTICE FOR THE VICTIM.

15 (G) IMMUNITY FROM LIABILITY.

16 AN ELECTED PUBLIC OFFICIAL, PUBLIC EMPLOYEE, OR PUBLIC UNIT HAS THE
17 IMMUNITY DESCRIBED IN §§ 5-302 AND 5-522 OF THE COURTS ARTICLE REGARDING
18 CIVIL LIABILITY FOR DAMAGES ARISING OUT OF AN ACTION RELATING TO THIS
19 SECTION, UNLESS THE OFFICIAL, EMPLOYEE, OR UNIT ACTS WITH GROSS
20 NEGLIGENCE OR IN BAD FAITH.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 789.

23 In subsection (a)(2) of this section, the defined term "[c]ommitment unit" is
24 substituted for the former defined term commitment "agency" to conform
25 to the terminology of other revised articles of the Code. Correspondingly,
26 the reference to a "unit" is substituted for the former reference to a
27 "department or facility". Similarly, in subsection (g) of this section, the
28 reference to public "unit" is substituted for the former reference to public
29 "agency".

30 In subsection (a)(4) of this section, the former references to a crime of
31 violence "as defined under § 643B of this article [former Article 27]" are
32 deleted as surplusage in light of the definition of crime of violence in §
33 1-101 of this article.

34 In subsection (a)(4)(i) of this section, the former reference to "the existence"
35 of facts is deleted as unnecessary in light of the reference to "facts".

36 Subsection (b) of this section is revised as a restriction on the applicability

1 of this section on victims to avoid confusion resulting from the fact that
 2 "victim" is already defined for this subtitle. *See* § 11-501(b) of this subtitle.

3 The Criminal Procedure Article Review Committee notes, for consideration
 4 by the General Assembly, that subsection (c) of this section is silent as to
 5 whether a witness who seeks notification of a defendant's release from
 6 confinement may use the victim's notification request form and, if so, who
 7 distributes the forms to witnesses. The General Assembly may wish to
 8 clarify this matter.

9 Defined terms: "Child respondent" § 11-101

10 "Crime of violence" § 1-101

11 "Defendant" § 11-101

12 "Victim" § 11-501

13 "Victim's representative" § 11-501

14 SUBTITLE 6. RESTITUTION AND OTHER PAYMENTS.

15 PART I. RESTITUTION.

16 11-601. DEFINED TERMS.

17 (A) IN GENERAL.

18 IN PART I OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 19 INDICATED.

20 REVISOR'S NOTE: This subsection is new language derived without
 21 substantive change from former Art. 27, § 805A(a).

22 The former qualification "unless the context of their use indicates
 23 otherwise" is deleted as an unnecessary statement of a standard rule of
 24 statutory construction that applies to all definitions.

25 (B) CENTRAL COLLECTION UNIT.

26 "CENTRAL COLLECTION UNIT" MEANS THE CENTRAL COLLECTION UNIT IN THE
 27 DEPARTMENT OF BUDGET AND MANAGEMENT.

28 REVISOR'S NOTE: This subsection is new language derived without
 29 substantive change from former Art. 27, § 810(a).

30 (C) CHILD.

31 "CHILD" MEANS A PERSON UNDER THE AGE OF 18 YEARS.

32 REVISOR'S NOTE: This subsection is new language derived without
 33 substantive change from former Art. 27, § 805A(c).

34 (D) CRIME.

1 (1) "CRIME" MEANS AN ACT COMMITTED BY A PERSON IN THE STATE
2 THAT IS A CRIME AS DEFINED:

3 (I) AT COMMON LAW;

4 (II) IN ARTICLE 27;

5 (III) IN THIS ARTICLE; OR

6 (IV) UNDER § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B), §
7 3-807(I), § 3-808(D), § 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(B)(8), § 11-703(D)(5)(III),
8 § 11-706(B)(8), § 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), § 11-714(C)(6), §
9 11-715(G)(2), § 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE CORRECTIONAL SERVICES
10 ARTICLE.

11 (2) "CRIME" INCLUDES A VIOLATION OF THE TRANSPORTATION ARTICLE
12 THAT IS PUNISHABLE BY A TERM OF CONFINEMENT.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 27, § 805A(e), except as it related to
15 delinquent acts.

16 In item (1)(iii) of this subsection, the phrase "in this article" is added to
17 reflect that some provisions that formerly were in Article 27 are revised in
18 this article.

19 The Criminal Procedure Article Review Committee notes, for consideration
20 by the General Assembly, that the definition of "crime" in this subsection is
21 cumbersome and too narrow. Some serious prohibited acts do not fall under
22 the definition of crime in this subsection because they appear elsewhere in
23 the Code. Child abduction by a relative, for example, appears at FL §
24 9-304. The General Assembly may wish to substantively revise the
25 definition of "crime".

26 Defined term: "Person" § 1-101

27 (E) DEFENDANT.

28 "DEFENDANT" MEANS A PERSON:

29 (1) WHO HAS RECEIVED PROBATION BEFORE JUDGMENT;

30 (2) WHO HAS BEEN FOUND GUILTY OF A CRIME, EVEN IF THE
31 DEFENDANT HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE; OR

32 (3) WHOSE PLEA OF NOLO CONTENDERE TO A CRIME HAS BEEN
33 ACCEPTED BY THE COURT.

34 REVISOR'S NOTE: This subsection is new language derived without
35 substantive change from former Art. 27, § 805A(f), except as it related to
36 delinquent acts.

1 Defined terms: "Crime" § 11-601

2 "Nolo contendere" § 1-101

3 (F) DIVISION.

4 "DIVISION" MEANS THE DIVISION OF PAROLE AND PROBATION.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 27, § 805A(g).

7 (G) JUDGMENT OF RESTITUTION.

8 "JUDGMENT OF RESTITUTION" MEANS A DIRECT ORDER FOR PAYMENT OF
9 RESTITUTION OR AN ORDER FOR PAYMENT OF RESTITUTION THAT IS A CONDITION
10 OF PROBATION IN AN ORDER OF PROBATION.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27, § 805A(i).

13 (H) LIABLE PARENT.

14 "LIABLE PARENT" MEANS A PARENT:

15 (1) WHOSE CHILD HAS COMMITTED A CRIME OR DELINQUENT ACT; AND

16 (2) WHO HAS BEEN ORDERED TO PAY RESTITUTION UNDER § 11-604 OF
17 THIS TITLE.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from former Art. 27, § 805A(j).

20 In item (1) of this subsection, the defined term "delinquent act" is added for
21 clarity. *See* General Revisor's Note to this title.

22 Defined terms: "Child" § 11-601

23 "Delinquent act" § 11-101

24 (I) RESTITUTION OBLIGOR.

25 "RESTITUTION OBLIGOR" MEANS A DEFENDANT, CHILD RESPONDENT, OR
26 LIABLE PARENT AGAINST WHOM A JUDGMENT OF RESTITUTION HAS BEEN ENTERED.

27 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
28 the phrase "defendant, child respondent, or liable parent".

29 Defined terms: "Child respondent" § 11-101

30 "Defendant" § 11-601

31 "Liable parent" 11-601

32 (J) VICTIM.

1 "VICTIM" MEANS:

2 (1) A PERSON WHO SUFFERS PERSONAL INJURY OR PROPERTY DAMAGE
3 OR LOSS AS A DIRECT RESULT OF A CRIME OR DELINQUENT ACT; OR

4 (2) IF THE PERSON IS DECEASED, THE PERSONAL REPRESENTATIVE OF
5 THE ESTATE OF THE PERSON.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 27, § 805A(1)(1).

8 Item (2) of this subsection states expressly what was only implied in the
9 former law, a personal representative of the estate of a deceased person
10 acts in the place of the person.

11 As for the addition of the defined term "delinquent act" to the defined term
12 "crime", *see* General Revisor's Note to title.

13 Defined terms: "Crime" § 11-601

14 "Delinquent act" § 11-101

15 "Person" § 1-101

16 REVISOR'S NOTE TO SECTION:

17 Former Art. 27, § 805A(d), which defined "[c]ourt" to mean the Court of
18 Appeals, Court of Special Appeals, circuit court, juvenile court, and District
19 Court of Maryland, or any of them, unless the context clearly requires a
20 contrary meaning, is deleted as unnecessary because that definition did
21 not add to the meaning of the word "court" as it is commonly understood.

22 Former Art. 27, § 805A(h), which defined "[j]udge" to mean a judge of a
23 court, is deleted as unnecessary because that definition did not add to the
24 meaning of the word "judge" as it is commonly understood.

25 Former Art. 27, § 805A(k), which defined "[p]roperty" to mean both real
26 and personal property, is deleted as unnecessary because that definition
27 did not add to the meaning of the word "property" as it is commonly
28 understood.

29 11-602. PERSONS WHO MAY ACT ON BEHALF OF VICTIM.

30 ON CONVICTION, THE FINDING OF A DELINQUENT ACT, ACCEPTANCE OF A PLEA
31 OF NOLO CONTENDERE, OR IMPOSITION OF PROBATION BEFORE JUDGMENT FOR A
32 CRIME UNDER ARTICLE 27, § 267 OF THE CODE, THE FOLLOWING PERSONS MAY ACT
33 ON BEHALF OF A VICTIM:

34 (1) THE OWNER OF THE BURIAL SITE; AND

35 (2) A PERSON RELATED BY BLOOD OR MARRIAGE TO THE PERSON
36 BURIED IN THE BURIAL SITE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 805A(1)(2).

3 This section, which formerly was part of a definition, is revised as a section
4 granting power to certain persons to act on behalf of victims, for clarity.

5 In item (2) of this section, the defined term "person" is substituted for the
6 former reference to an "individual" to conform to the terminology used
7 throughout this article.

8 Defined terms: "Delinquent act" § 11-101

9 "Nolo contendere" § 1-101

10 "Person" § 1-101

11 "Victim" § 11-601

12 11-603. RESTITUTION DETERMINATION.

13 (A) CONDITIONS FOR JUDGMENT OF RESTITUTION.

14 A COURT MAY ENTER A JUDGMENT OF RESTITUTION THAT ORDERS A
15 DEFENDANT OR CHILD RESPONDENT TO MAKE RESTITUTION IN ADDITION TO ANY
16 OTHER PENALTY FOR THE COMMISSION OF A CRIME OR DELINQUENT ACT, IF:

17 (1) AS A DIRECT RESULT OF THE CRIME OR DELINQUENT ACT,
18 PROPERTY OF THE VICTIM WAS STOLEN, DAMAGED, DESTROYED, CONVERTED, OR
19 UNLAWFULLY OBTAINED, OR ITS VALUE SUBSTANTIALLY DECREASED;

20 (2) AS A DIRECT RESULT OF THE CRIME OR DELINQUENT ACT, THE
21 VICTIM SUFFERED:

22 (I) ACTUAL MEDICAL, DENTAL, HOSPITAL, COUNSELING,
23 FUNERAL, OR BURIAL EXPENSES;

24 (II) ANY OTHER DIRECT OUT-OF-POCKET LOSS; OR

25 (III) LOSS OF EARNINGS;

26 (3) THE VICTIM INCURRED MEDICAL EXPENSES THAT WERE PAID BY
27 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR ANY OTHER
28 GOVERNMENTAL UNIT;

29 (4) A GOVERNMENTAL UNIT INCURRED EXPENSES IN REMOVING,
30 TOWING, TRANSPORTING, PRESERVING, STORING, SELLING, OR DESTROYING AN
31 ABANDONED VEHICLE AS DEFINED IN § 25-201 OF THE TRANSPORTATION ARTICLE;

32 (5) THE CRIMINAL INJURIES COMPENSATION BOARD PAID BENEFITS TO
33 A VICTIM; OR

34 (6) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR OTHER
35 GOVERNMENTAL UNIT PAID EXPENSES INCURRED UNDER SUBTITLE 2, PART II OF
36 THIS TITLE.

1 (B) RIGHT OF VICTIMS TO RESTITUTION.

2 A VICTIM IS PRESUMED TO HAVE A RIGHT TO RESTITUTION UNDER
3 SUBSECTION (A) OF THIS SECTION IF:

4 (1) THE VICTIM OR THE STATE REQUESTS RESTITUTION; AND

5 (2) THE COURT IS PRESENTED WITH COMPETENT EVIDENCE OF ANY
6 ITEM LISTED IN SUBSECTION (A) OF THIS SECTION.

7 (C) EFFECT OF JUDGMENT OF RESTITUTION.

8 (1) A JUDGMENT OF RESTITUTION DOES NOT PRECLUDE THE PROPERTY
9 OWNER OR THE VICTIM WHO SUFFERED PERSONAL PHYSICAL OR MENTAL INJURY,
10 OUT-OF-POCKET LOSS OF EARNINGS, OR SUPPORT FROM BRINGING A CIVIL ACTION
11 TO RECOVER DAMAGES FROM THE RESTITUTION OBLIGOR.

12 (2) A CIVIL VERDICT SHALL BE REDUCED BY THE AMOUNT PAID UNDER
13 THE CRIMINAL JUDGMENT OF RESTITUTION.

14 (D) ACTS OF GRAFFITI.

15 IN MAKING A DISPOSITION ON A FINDING THAT A CHILD AT LEAST 13 YEARS
16 OLD HAS COMMITTED AN ACT OF GRAFFITI UNDER ARTICLE 27, § 111(F) OF THE CODE,
17 THE COURT SHALL ORDER THE CHILD TO PERFORM COMMUNITY SERVICE OR PAY
18 RESTITUTION OR BOTH.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, §§ 813, 805A(b), and 807(a) and (e).

21 In subsection (a)(3), (4), and (6) of this section, the reference to a
22 governmental "unit" is substituted for the former reference to a
23 governmental "entity" to conform to the terminology used in other revised
24 articles of the Code.

25 Throughout this section, the defined term "delinquent act" and the defined
26 term "child respondent" are added for clarity. *See* General Revisor's Note to
27 title.

28 Defined terms: "Child" § 11-601

29 "Child respondent" § 11-101

30 "Crime" § 11-601

31 "Defendant" § 11-601

32 "Delinquent act" § 11-101

33 "Judgment of restitution" § 11-601

34 "Restitution obligor" § 11-601

35 "Victim" § 11-601

1 11-604. PAYERS OF RESTITUTION.

2 (A) RESTITUTION ALLOWED AGAINST CHILD, PARENT, OR BOTH.

3 NOTWITHSTANDING ANY OTHER LAW, IF A CHILD IS THE DEFENDANT OR CHILD
4 RESPONDENT, THE COURT MAY ORDER THE CHILD, THE CHILD'S PARENT, OR BOTH
5 TO PAY RESTITUTION TO A VICTIM.

6 (B) \$10,000 LIMIT.

7 A JUDGMENT OF RESTITUTION FOR \$10,000 ISSUED UNDER PART I OF THIS
8 SUBTITLE IS THE ABSOLUTE LIMIT FOR ALL ACTS ARISING OUT OF A SINGLE
9 INCIDENT AND IS THE ABSOLUTE LIMIT AGAINST ONE CHILD, THE CHILD'S PARENT,
10 OR BOTH.

11 (C) RIGHTS OF PARENTS.

12 (1) A COURT MAY NOT ENTER A JUDGMENT OF RESTITUTION AGAINST A
13 PARENT UNDER PART I OF THIS SUBTITLE UNLESS THE PARENT HAS BEEN
14 AFFORDED A REASONABLE OPPORTUNITY TO BE HEARD AND TO PRESENT
15 EVIDENCE.

16 (2) A HEARING UNDER THIS SUBSECTION MAY BE HELD AS PART OF THE
17 SENTENCING OR DISPOSITION HEARING.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 807(a)(3).

20 In subsection (a) of this section, the defined term "child respondent" is
21 added. *See* General Revisor's Note to title.

22 In subsections (b) and (c)(1) of this section, the references to "Part I of this
23 subtitle" are substituted for the former references to this "section" to
24 reflect the reorganization of former Art. 27, § 807, in the revision of Part I
25 of this subtitle.

26 In subsection (b) of this section, the former phrase "may not exceed" is
27 deleted as unnecessary in light of the reference to an "absolute limit".

28 In subsection (c)(1) of this section, the former references to "appropriate"
29 evidence and to evidence "on the parent's behalf" are deleted as
30 surplusage.

31 In subsection (c)(2) of this section, the reference to this "subsection" is
32 substituted for the former overly broad reference to this "section" for
33 clarity.

34 Defined terms: "Child" § 11-601

35 "Child respondent" § 11-101

36 "Defendant" § 11-601

1 "Judgment of restitution" § 11-601

2 "Victim" § 11-601

3 11-605. WHEN RESTITUTION NEED NOT BE ORDERED.

4 (A) IN GENERAL.

5 A COURT NEED NOT ISSUE A JUDGMENT OF RESTITUTION UNDER PART I OF
6 THIS SUBTITLE IF THE COURT FINDS:

7 (1) THAT THE RESTITUTION OBLIGOR DOES NOT HAVE THE ABILITY TO
8 PAY THE JUDGMENT OF RESTITUTION; OR

9 (2) THAT THERE ARE EXTENUATING CIRCUMSTANCES THAT MAKE A
10 JUDGMENT OF RESTITUTION INAPPROPRIATE.

11 (B) REFUSAL OF RESTITUTION.

12 A COURT THAT REFUSES TO ORDER RESTITUTION THAT IS REQUESTED UNDER
13 PART I OF THIS SUBTITLE SHALL STATE ON THE RECORD THE REASONS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 807(a)(4) and (8).

16 In subsection (a)(2) of this section, the former reference to a judgment of
17 restitution inappropriate "in a case" is deleted as implicit in the reference
18 to "judgment".

19 Also in subsection (a)(2) of this section, the former reference to "[g]ood
20 cause to establish" extenuating circumstances is deleted as implicit in the
21 reference to a court finding "that there are" extenuating circumstances.

22 Defined terms: "Judgment of restitution" § 11-601

23 "Restitution obligor" § 11-601

24 11-606. PAYMENT OF RESTITUTION.

25 (A) RESTITUTION RECIPIENTS.

26 THE COURT MAY ORDER THAT RESTITUTION BE PAID TO:

27 (1) THE VICTIM;

28 (2) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE
29 CRIMINAL INJURIES COMPENSATION BOARD, OR ANY OTHER GOVERNMENTAL UNIT;
30 OR

31 (3) A THIRD-PARTY PAYOR, INCLUDING AN INSURER, OR ANY OTHER
32 PERSON THAT HAS COMPENSATED THE VICTIM FOR A PROPERTY OR PECUNIARY
33 LOSS UNDER PART I OF THIS SUBTITLE.

1 (B) PRIORITY OF RESTITUTION PAYMENTS.

2 (1) PAYMENT OF RESTITUTION TO THE VICTIM HAS PRIORITY OVER:

3 (I) PAYMENT OF RESTITUTION TO THE DEPARTMENT OF HEALTH
4 AND MENTAL HYGIENE OR OTHER GOVERNMENTAL UNIT; AND

5 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PAYMENT
6 OF RESTITUTION TO A THIRD-PARTY PAYOR.

7 (2) IF THE VICTIM HAS BEEN FULLY COMPENSATED FOR THE VICTIM'S
8 LOSS BY A THIRD-PARTY PAYOR, THE COURT MAY ISSUE A JUDGMENT OF
9 RESTITUTION THAT DIRECTS THE RESTITUTION OBLIGOR TO PAY RESTITUTION TO
10 THE THIRD-PARTY PAYOR.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 807(a)(5) through (7).

13 In subsections (a)(2) and (b)(1)(i) of this section, the references to a
14 governmental "unit" are substituted for the former references to a
15 governmental "entity". *See* General Revisor's Note to article.

16 In subsection (a)(3) of this section, the reference to "Part I of this subtitle"
17 is substituted for the former reference to this "subsection" to reflect the
18 reorganization of former Art. 27, § 807, in the revision of Part I of this
19 subtitle.

20 In subsection (a)(3) of this section, the former reference to a payor "which
21 has made payment to the victim" is deleted as unnecessary in light of the
22 phrase "compensated the victim".

23 In subsection (b)(1) of this section, the former reference to restitution to
24 the victim "under this subsection" is deleted as surplusage.

25 Defined terms: "Judgment of restitution" § 11-601

26 "Person" § 1-101

27 "Restitution obligor" § 11-601

28 "Victim" § 11-601

29 11-607. COMPLIANCE WITH RESTITUTION JUDGMENT.

30 (A) COMPLIANCE AS REQUIREMENT OR CONDITION.

31 (1) WHEN A JUDGMENT OF RESTITUTION HAS BEEN ENTERED UNDER §
32 11-603 OF THIS SUBTITLE, COMPLIANCE WITH THE JUDGMENT OF RESTITUTION:

33 (I) MAY BE A REQUIREMENT IN THE JUDGMENT OF CONVICTION
34 OR DISPOSITION IN A JUVENILE DELINQUENCY PROCEEDING;

35 (II) IF WORK RELEASE IS ORDERED, SHALL BE A CONDITION OF
36 WORK RELEASE;

1 (III) IF PROBATION IS ORDERED, SHALL BE A CONDITION OF
2 PROBATION:

3 1. IN ADDITION TO A SENTENCE OR DISPOSITION; OR

4 2. INSTEAD OF A SENTENCE IF THE PROBATION IS ORDERED
5 BEFORE JUDGMENT UNDER § 6-220 OF THIS ARTICLE.

6 (2) SUBJECT TO FEDERAL LAW, THE DEPARTMENT OR THE
7 DEPARTMENT OF JUVENILE JUSTICE SHALL OBTAIN THE SOCIAL SECURITY NUMBER
8 OF THE RESTITUTION OBLIGOR TO FACILITATE THE COLLECTION OF RESTITUTION.

9 (B) ADMINISTRATION OF PAYMENTS.

10 (1) THE RESTITUTION OBLIGOR SHALL MAKE RESTITUTION TO THE
11 DIVISION OR THE DEPARTMENT OF JUVENILE JUSTICE UNDER THE TERMS AND
12 CONDITIONS OF THE JUDGMENT OF RESTITUTION.

13 (2) THE DIVISION OR THE DEPARTMENT OF JUVENILE JUSTICE:

14 (I) SHALL KEEP RECORDS OF PAYMENTS OR RETURN OF
15 PROPERTY IN SATISFACTION OF THE JUDGMENT OF RESTITUTION;

16 (II) SHALL FORWARD PROPERTY OR PAYMENTS IN ACCORDANCE
17 WITH THE JUDGMENT OF RESTITUTION AND PART I OF THIS SUBTITLE TO:

18 1. THE VICTIM;

19 2. THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR
20 OTHER GOVERNMENTAL UNIT; OR

21 3. THE THIRD-PARTY PAYOR; AND

22 (III) MAY REQUIRE THE RESTITUTION OBLIGOR TO PAY ADDITIONAL
23 FEES NOT EXCEEDING 2% OF THE AMOUNT OF THE JUDGMENT OF RESTITUTION TO
24 PAY FOR THE ADMINISTRATIVE COSTS OF COLLECTING PAYMENTS OR PROPERTY.

25 (C) FAILURE TO MAKE RESTITUTION.

26 (1) WHENEVER A RESTITUTION OBLIGOR FAILS TO MAKE RESTITUTION
27 AS ORDERED, THE DIVISION OR THE DEPARTMENT OF JUVENILE JUSTICE SHALL
28 NOTIFY THE COURT.

29 (2) THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER THE
30 RESTITUTION OBLIGOR IS IN CONTEMPT OF COURT OR HAS VIOLATED THE TERMS OF
31 THE PROBATION.

32 (3) IF THE COURT FINDS THAT THE RESTITUTION OBLIGOR
33 INTENTIONALLY BECAME IMPOVERISHED TO AVOID PAYMENT OF THE RESTITUTION,
34 THE COURT MAY FIND THE DEFENDANT OR CHILD RESPONDENT IN CONTEMPT OF
35 COURT OR IN VIOLATION OF PROBATION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 807(b) through (d).

3 In subsection (a)(1)(i) of this section, the reference to a juvenile
4 delinquency "proceeding" is substituted for the former reference to a
5 juvenile delinquency "case" to conform to the terminology used throughout
6 this title.

7 In subsection (b)(2)(iii) of this section, the reference to the authority of the
8 Division or the Department of Juvenile Justice to "require the restitution
9 obligor to pay additional fees" is substituted for the former reference to the
10 authority to assess fees that "shall be paid by the defendant or liable
11 parent" for brevity.

12 As for the addition of the defined term "child respondent" in subsection
13 (c)(3) of this section, *see* General Revisor's Note to title.

14 The Criminal Procedure Article Review Committee notes, for consideration
15 by the General Assembly, that subsection (c)(3) of this section does not
16 state that the court may find a liable parent in contempt. The General
17 Assembly may wish to add a reference to "liable parent".

18 Defined terms: "Child respondent" § 11-101

19 "Defendant" § 11-601

20 "Department" § 1-101

21 "Division" § 11-601

22 "Judgment of restitution" § 11-601

23 "Restitution obligor" § 11-601

24 11-608. RECORDING AND INDEXING OF JUDGMENT.

25 IF A JUDGMENT OF RESTITUTION THAT REQUIRES THE PAYMENT OF MONEY IS
26 RECORDED AND INDEXED IN THE CIVIL JUDGMENT INDEX:

27 (1) THE JUDGMENT OF RESTITUTION IS A MONEY JUDGMENT IN FAVOR
28 OF THE PERSON, GOVERNMENTAL UNIT, OR THIRD-PARTY PAYOR TO WHOM THE
29 RESTITUTION OBLIGOR HAS BEEN ORDERED TO PAY RESTITUTION;

30 (2) THE JUDGMENT OF RESTITUTION MAY BE ENFORCED BY THE
31 PERSON, GOVERNMENTAL UNIT, OR THIRD-PARTY PAYOR TO WHOM THE
32 RESTITUTION OBLIGOR HAS BEEN ORDERED TO PAY RESTITUTION IN THE SAME
33 MANNER AS A MONEY JUDGMENT IN A CIVIL ACTION; AND

34 (3) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED UNDER PART I OF
35 THIS SUBTITLE, A PERSON, GOVERNMENTAL UNIT, OR THIRD-PARTY PAYOR TO
36 WHOM A RESTITUTION OBLIGOR HAS BEEN ORDERED TO PAY RESTITUTION HAS ALL
37 THE RIGHTS AND OBLIGATIONS OF A MONEY JUDGMENT CREDITOR UNDER THE
38 MARYLAND RULES, INCLUDING THE OBLIGATION UNDER MARYLAND RULE 2-626 OR
39 3-626 ON RECEIVING ALL AMOUNTS DUE UNDER THE JUDGMENT TO FILE A
40 STATEMENT THAT THE JUDGMENT HAS BEEN SATISFIED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 807(f).

3 The references to a governmental "unit" are substituted for the former
4 references to a governmental "entity" to conform to the terminology of
5 other revised articles.

6 The defined term "person" is substituted for the former reference to an
7 "individual" to conform to the terminology used throughout this article.

8 The former reference to a judgment of restitution that is second and
9 indexed "under subsection (g) or subsection (h) of this section" is deleted as
10 unnecessary.

11 Defined terms: "Judgment of restitution" § 11-601

12 "Person" § 1-101

13 "Restitution obligor" § 11-601

14 11-609. JUDGMENT OF CIRCUIT COURT.

15 (A) RECORDING AND INDEXING REQUIREMENTS.

16 A JUDGMENT OF RESTITUTION THAT A CIRCUIT COURT ORDERS UNDER PART I
17 OF THIS SUBTITLE SHALL BE RECORDED AND INDEXED IN THE CIVIL JUDGMENT
18 INDEX BY THE CLERK OF THE CIRCUIT COURT AS A MONEY JUDGMENT AS THE
19 MARYLAND RULES PROVIDE.

20 (B) JUDGMENT AS LIEN.

21 A JUDGMENT OF RESTITUTION THAT IS RECORDED AND INDEXED IN THE CIVIL
22 JUDGMENT INDEX AS A MONEY JUDGMENT UNDER SUBSECTION (A) OF THIS
23 SECTION:

24 (1) IN THE COUNTY OF ENTRY OF THE JUDGMENT, IS A LIEN FROM THE
25 DATE OF ENTRY IN THE AMOUNT OF THE JUDGMENT ON THE RESTITUTION
26 OBLIGOR'S INTEREST IN LAND LOCATED IN THE COUNTY OF THE ENTRY OF THE
27 JUDGMENT; BUT

28 (2) IN A COUNTY OTHER THAN THE COUNTY OF ENTRY OF THE
29 JUDGMENT, IS A LIEN FROM THE DATE OF RECORDING IN THE AMOUNT OF THE
30 JUDGMENT ON THE RESTITUTION OBLIGOR'S INTEREST IN LAND LOCATED IN THAT
31 COUNTY.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 807(g).

34 Defined terms: "County" § 1-101

35 "Judgment of restitution" § 11-601

36 "Restitution obligor" § 11-601

1 11-610. JUDGMENT OF DISTRICT COURT.

2 (A) REQUIREMENTS FOR RECORDING AND INDEXING.

3 A JUDGMENT OF RESTITUTION THAT THE DISTRICT COURT ORDERS UNDER
4 PART I OF THIS SUBTITLE MAY NOT BE RECORDED AND INDEXED AS A MONEY
5 JUDGMENT IN THE DISTRICT COURT UNTIL THE PERSON OR GOVERNMENTAL UNIT
6 TO WHOM THE RESTITUTION OBLIGOR HAS BEEN ORDERED TO PAY RESTITUTION
7 FILES WITH THE CLERK OF THE DISTRICT COURT A WRITTEN REQUEST FOR THE
8 RECORDING AND INDEXING.

9 (B) REQUIREMENTS FOR CLERK OF COURT.

10 IF A JUDGMENT OF RESTITUTION IS RECORDED AND INDEXED AS A MONEY
11 JUDGMENT UNDER SUBSECTION (A) OF THIS SECTION:

12 (1) THE CLERK OF THE DISTRICT COURT SHALL IMMEDIATELY
13 FORWARD A NOTICE OF LIEN OF JUDGMENT TO THE CIRCUIT COURT FOR THE
14 COUNTY OF ENTRY OF JUDGMENT; AND

15 (2) ON THE RECEIPT OF THE WRITTEN STATEMENT FROM THE PERSON
16 OR GOVERNMENTAL UNIT TO WHOM A RESTITUTION OBLIGOR HAS BEEN ORDERED
17 TO PAY RESTITUTION, THE CLERK OF THE DISTRICT COURT SHALL FORWARD A
18 NOTICE OF LIEN OF JUDGMENT TO THE CIRCUIT COURT OF ANY OTHER COUNTY AS
19 THE MARYLAND RULES PROVIDE.

20 (C) RECORDING AND INDEXING OF LIEN NOTICE.

21 WHENEVER THE CLERK OF THE DISTRICT COURT FORWARDS A NOTICE OF LIEN
22 UNDER SUBSECTION (B) OF THIS SECTION TO A CIRCUIT COURT, THE CLERK OF THE
23 CIRCUIT COURT SHALL RECORD AND INDEX THE NOTICE OF LIEN AS THE MARYLAND
24 RULES PROVIDE.

25 (D) JUDGMENT AS LIEN.

26 (1) A JUDGMENT OF RESTITUTION THAT IS ISSUED BY THE DISTRICT
27 COURT AND IS RECORDED AND INDEXED AS A MONEY JUDGMENT AS ALLOWED BY
28 SUBSECTION (A) OF THIS SECTION IS A LIEN IN THE AMOUNT OF THE JUDGMENT ON
29 THE RESTITUTION OBLIGOR'S INTEREST IN LAND IN A COUNTY.

30 (2) THE LIEN IS IN EFFECT FROM THE DATE THAT A NOTICE OF LIEN IS
31 RECORDED AND INDEXED IN THE CIRCUIT COURT OF THE COUNTY.

32 (E) CONTENTS OF NOTICE OF RESTITUTION.

33 (1) IF THE DISTRICT COURT ENTERS A JUDGMENT OF RESTITUTION
34 UNDER PART I OF THIS SUBTITLE, THE CLERK OF THE DISTRICT COURT SHALL SEND
35 A WRITTEN NOTICE TO THE PERSON OR GOVERNMENTAL UNIT IN WHOSE FAVOR THE
36 JUDGMENT OF RESTITUTION IS ENTERED.

1 (2) THE NOTICE SHALL SAY IN SUBSTANCE:

2 "THE DISTRICT COURT HAS AWARDED YOU A JUDGMENT OF RESTITUTION.

3 "THE JUDGMENT OF RESTITUTION IS NOT A MONEY JUDGMENT UNTIL IT IS
4 RECORDED AND INDEXED IN THE CIVIL JUDGMENT RECORDS OF THE DISTRICT
5 COURT.

6 "ON YOUR WRITTEN REQUEST AND WITHOUT CHARGE, THE CLERK OF THE
7 DISTRICT COURT WILL RECORD AND INDEX THE JUDGMENT OF RESTITUTION AS A
8 MONEY JUDGMENT. THEN, WITHOUT CHARGE, THE CLERK OF THE DISTRICT COURT
9 WILL ALSO SEND A NOTICE OF LIEN TO THE CIRCUIT COURT FOR THE COUNTY, AND,
10 WITHOUT CHARGE, THE NOTICE OF LIEN WILL BE RECORDED AND INDEXED IN THE
11 CIRCUIT COURT FOR THE COUNTY.

12 "ON YOUR FURTHER WRITTEN REQUEST, THE CLERK OF THE DISTRICT COURT
13 WILL SEND A NOTICE OF LIEN TO THE CIRCUIT COURT FOR ANY OTHER COUNTY
14 THAT YOU SPECIFY."

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 807(h).

17 Throughout this section, the reference to a governmental "unit" is
18 substituted for the former reference to a governmental "entity". *See*
19 General Revisor's Note to article. In addition, the former reference to a
20 "third-party payor" is deleted as included in the defined term "person".

21 In subsection (b)(1) of this section, the reference to the county "of entry of
22 judgment" is substituted for the former reference to "that" county for
23 clarity.

24 In subsection (d)(2) of this section, the reference to the lien that "is in
25 effect" is added for clarity.

26 The Criminal Procedure Article Review Committee notes, for consideration
27 by the General Assembly, that in subsection (a) of this section the reference
28 to a "person" is substituted for the former reference to an "individual" so
29 that this subsection applies to corporate entities as well as individuals who
30 are to receive restitution from restitution obligors.

31 Defined terms: "County" § 1-101

32 "Judgment of restitution" § 11-601

33 "Person" § 1-101

34 "Restitution obligor" § 11-601

35 11-611. NO COSTS FOR RECORDING OR INDEXING.

36 A COURT MAY NOT ASSESS COSTS ON A PERSON OR GOVERNMENTAL UNIT TO
37 WHOM A RESTITUTION OBLIGOR HAS BEEN ORDERED TO PAY RESTITUTION:

1 (1) FOR RECORDING AND INDEXING AN ORDER OF RESTITUTION AS A
2 MONEY JUDGMENT IN THE COURT IN WHICH THE JUDGMENT OF RESTITUTION WAS
3 ISSUED; OR

4 (2) FOR RECORDING AND INDEXING A NOTICE OF LIEN THAT THE
5 DISTRICT COURT FORWARDS TO A CIRCUIT COURT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 807(i).

8 In the introductory language of this section, the word "unit" is substituted
9 for the former reference to "entity". *See* General Revisor's Note to article.

10 Also in the introductory language of this section, the former reference to
11 "third-party payor" is deleted as included in the defined term "person".

12 Defined terms: "Judgment of restitution" § 11-601

13 "Person" § 1-101

14 "Restitution obligor" § 11-601

15 11-612. TERMINATION OF JUDGMENT OR PROBATION.

16 (A) REQUIREMENTS OF CLERK OF COURT.

17 (1) IF A DISTRICT COURT DECIDES TO TERMINATE A JUDGMENT OF
18 RESTITUTION THAT HAS NOT BEEN RECORDED AND INDEXED AS A MONEY
19 JUDGMENT OR TO TERMINATE A PROBATION BEFORE A JUDGMENT OF RESTITUTION
20 HAS BEEN RECORDED AND INDEXED AS A MONEY JUDGMENT, THE COURT SHALL
21 DIRECT THE CLERK OF THE COURT:

22 (I) TO RECORD AND INDEX THE JUDGMENT OF RESTITUTION AS A
23 MONEY JUDGMENT AND FORWARD A NOTICE OF LIEN TO THE CIRCUIT COURT OF
24 THE COUNTY OF ENTRY OF JUDGMENT BEFORE TERMINATING THE JUDGMENT OF
25 RESTITUTION AND PROBATION; AND

26 (II) TO FORWARD A WRITTEN NOTICE TO THE PERSON OR
27 GOVERNMENTAL UNIT TO WHOM THE RESTITUTION OBLIGOR WAS ORDERED TO PAY
28 RESTITUTION.

29 (2) THE WRITTEN NOTICE SHALL STATE THAT:

30 (I) THE JUDGMENT OF RESTITUTION HAS BEEN RECORDED AND
31 INDEXED AS A MONEY JUDGMENT IN THE DISTRICT COURT; AND

32 (II) A NOTICE OF LIEN HAS BEEN FORWARDED TO THE CIRCUIT
33 COURT OF THE COUNTY OF ENTRY OF JUDGMENT.

34 (B) EFFECT OF TERMINATION OR PROBATION.

35 SUBJECT TO THE MARYLAND RULES, UNLESS A RESTITUTION OBLIGOR PAYS
36 COMPLETE RESTITUTION, TERMINATION OF A JUDGMENT OF RESTITUTION OR

1 PROBATION BY A COURT DOES NOT AFFECT A MONEY JUDGMENT THAT HAS BEEN
2 RECORDED AND INDEXED UNDER PART I OF THIS SUBTITLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 807(j).

5 In subsection (a)(1) of this section, the former references to a money
6 judgment "under subsection (h) of this section" are deleted as unnecessary.

7 In subsection (a)(1)(i) and (2)(ii) of this section, the reference to the county
8 "of entry of judgment" is substituted for the former reference to "that"
9 county for clarity.

10 In subsection (a)(1)(ii) of this section, the reference to a governmental
11 "unit" is substituted for the former reference to a governmental "entity".
12 *See* General Revisor's Note to article.

13 Also in subsection (a)(1)(ii) of this section, the former reference to a
14 "third-party payor" is deleted as included in the defined term "person".

15 Defined terms: "County" § 1-101

16 "Judgment of restitution" § 11-601

17 "Person" § 1-101

18 "Restitution obligor" § 11-601

19 11-613. STAY OF EXECUTION OF SENTENCE.

20 (A) IN GENERAL.

21 NOTWITHSTANDING ANY OTHER PROVISION OF PART I OF THIS SUBTITLE AND
22 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A VICTIM OR OTHER
23 PERSON OR GOVERNMENTAL UNIT MAY NOT EXECUTE ON A JUDGMENT RECORDED
24 AND INDEXED UNDER PART I OF THIS SUBTITLE IF THE RESTITUTION OBLIGOR:

25 (1) FILES A MOTION UNDER THE MARYLAND RULES TO STAY
26 EXECUTION OF SENTENCE OR THE JUDGMENT OF RESTITUTION THAT HAS NOT
27 BEEN DETERMINED BY THE COURT; AND

28 (2) CHALLENGES THE CONVICTION, SENTENCE, OR JUDGMENT OF
29 RESTITUTION BY:

30 (I) FILING AN APPEAL IN A STATE COURT OR IN FEDERAL COURT;

31 (II) APPLYING FOR LEAVE TO APPEAL FOLLOWING A PLEA OF
32 GUILTY IN A CIRCUIT COURT;

33 (III) FILING A MOTION FOR EXERCISE OF REVISORY POWER BY THE
34 SENTENCING COURT UNDER THE MARYLAND RULES;

35 (IV) FILING AN APPLICATION FOR REVIEW OF CRIMINAL SENTENCE
36 UNDER TITLE 8 OF THIS ARTICLE; OR

1 (V) FILING A NOTICE FOR IN BANC REVIEW UNDER THE MARYLAND
2 RULES.

3 (B) DELAY ON EXECUTION ON JUDGMENT.

4 IF A RESTITUTION OBLIGOR FILES AN ACTION DESCRIBED IN SUBSECTION (A)
5 OF THIS SECTION, A PERSON OR GOVERNMENTAL UNIT MAY NOT EXECUTE ON A
6 JUDGMENT RECORDED AND INDEXED UNDER PART I OF THIS SUBTITLE UNTIL A
7 COURT ISSUES A FINAL JUDGMENT THAT UPHOLDS THE CONVICTION, SENTENCE, OR
8 JUDGMENT OF RESTITUTION.

9 (C) REQUIREMENTS FOR EXECUTION.

10 A PERSON OR GOVERNMENTAL UNIT MAY NOT EXECUTE ON A JUDGMENT
11 RECORDED AND INDEXED UNDER PART I OF THIS SUBTITLE UNTIL THE TIME HAS
12 EXPIRED IN WHICH A RESTITUTION OBLIGOR MAY FILE ANY OF THE ACTIONS LISTED
13 UNDER SUBSECTION (A)(2)(I) THROUGH (V) OF THIS SECTION.

14 (D) ENFORCEMENT OF JUDGMENT.

15 THE JUDGMENT OF RESTITUTION MAY BE ENFORCED IN THE SAME WAY THAT A
16 MONETARY JUDGMENT IS ENFORCED.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 807(k).

19 Throughout this section, the reference to a governmental "unit" is
20 substituted for the former reference to a governmental "entity". *See*
21 General Revisor's Note to article.

22 In subsections (b) and (c) of this section, the defined term "person" is
23 substituted for the former references to an "individual" and "third-party
24 payor" to conform to the terminology used throughout this article.

25 In the introductory language of subsection (a) of this section, the reference
26 to a "governmental unit" is added to conform to the terminology of
27 subsections (b) and (c) of this section.

28 Defined terms: "Judgment of restitution" § 11-601

29 "Person" § 1-101

30 "Restitution obligor" § 11-601

31 "Victim" § 11-601

32 11-614. NOTIFICATION OF VICTIMS OF RIGHT TO RESTITUTION.

33 (A) IN GENERAL.

34 IF PRACTICABLE, THE STATE'S ATTORNEY SHOULD:

35 (1) NOTIFY AN ELIGIBLE VICTIM OF THE VICTIM'S RIGHT TO REQUEST
36 RESTITUTION; AND

1 (2) HELP THE VICTIM TO PREPARE THE REQUEST AND ADVISE THE
2 VICTIM AS TO THE STEPS FOR COLLECTING RESTITUTION THAT IS AWARDED.

3 (B) VICTIMS UNABLE TO BE LOCATED.

4 IF A VICTIM CANNOT BE LOCATED, ALL MONEY COLLECTED FROM A JUDGMENT
5 OF RESTITUTION SHALL BE TREATED AS ABANDONED PROPERTY UNDER TITLE 17 OF
6 THE COMMERCIAL LAW ARTICLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 807(l) and (m).

9 Defined terms: "Judgment of restitution" § 11-601

10 "Victim" § 11-601

11 11-615. LEGALLY SUFFICIENT EVIDENCE AT RESTITUTION HEARING.

12 (A) FAIR AND REASONABLE CHARGES.

13 IN A RESTITUTION HEARING HELD UNDER § 11-603 OF THIS SUBTITLE, A
14 WRITTEN STATEMENT OR BILL FOR MEDICAL, DENTAL, HOSPITAL, COUNSELING,
15 FUNERAL, OR BURIAL EXPENSES IS LEGALLY SUFFICIENT EVIDENCE THAT A
16 CHARGE SHOWN ON THE WRITTEN STATEMENT OR BILL IS A FAIR AND REASONABLE
17 CHARGE FOR THE SERVICES OR MATERIALS PROVIDED.

18 (B) BURDEN OF PROOF.

19 A PERSON WHO CHALLENGES THE FAIRNESS AND REASONABLENESS OF THE
20 AMOUNT ON THE STATEMENT OR BILL HAS THE BURDEN OF PROVING THAT THE
21 AMOUNT IS NOT FAIR AND REASONABLE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 808.

24 In subsection (a) of this section, the phrase "legally sufficient" evidence is
25 substituted for the former reference to "prima facie" evidence for clarity.

26 Defined term: "Person" § 1-101

27 11-616. OVERDUE RESTITUTION.

28 (A) REFERRAL OF OVERDUE ACCOUNTS.

29 THE DIVISION OR THE DEPARTMENT OF JUVENILE JUSTICE:

30 (1) IN ADDITION TO OTHER ACTIONS AUTHORIZED UNDER PART I OF
31 THIS SUBTITLE, MAY REFER AN OVERDUE RESTITUTION ACCOUNT FOR COLLECTION
32 TO THE CENTRAL COLLECTION UNIT; AND

1 (2) IF PROBATION OR OTHER SUPERVISION IS TERMINATED AND
2 RESTITUTION IS STILL OWED, SHALL REFER THE OVERDUE RESTITUTION ACCOUNT
3 FOR COLLECTION TO THE CENTRAL COLLECTION UNIT.

4 (B) CENTRAL COLLECTION UNIT.

5 SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE CENTRAL COLLECTION
6 UNIT MAY:

7 (1) COLLECT OVERDUE RESTITUTION IN ACCORDANCE WITH TITLE 3,
8 SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

9 (2) CERTIFY A RESTITUTION OBLIGOR WHO IS IN ARREARS ON
10 RESTITUTION PAYMENTS EXCEEDING \$30 UNDER THE JUDGMENT OF RESTITUTION
11 TO:

12 (I) THE COMPTROLLER FOR INCOME TAX REFUND INTERCEPTION
13 IN ACCORDANCE WITH TITLE 13, SUBTITLE 9, PART III OF THE TAX - GENERAL
14 ARTICLE; AND

15 (II) THE STATE LOTTERY AGENCY FOR STATE LOTTERY PRIZE
16 INTERCEPTION IN ACCORDANCE WITH § 11-618 OF THIS SUBTITLE.

17 (C) VICTIM CONSENT REQUIRED FOR COMPROMISE AND SETTLEMENT.

18 (1) THE CENTRAL COLLECTION UNIT MAY NOT COMPROMISE AND
19 SETTLE A JUDGMENT OF RESTITUTION UNLESS THE DIVISION OR THE DEPARTMENT
20 OF JUVENILE JUSTICE OBTAINS THE CONSENT OF THE VICTIM.

21 (2) THE DIVISION OR THE DEPARTMENT OF JUVENILE JUSTICE SHALL
22 CONTACT THE VICTIM TO DETERMINE WHETHER THE VICTIM CONSENTS TO
23 COMPROMISE AND SETTLE A JUDGMENT OF RESTITUTION.

24 (D) NOTIFICATION OF PAYMENT OR COMPROMISE AND SETTLEMENT.

25 IF COMPLETE RESTITUTION AND INTEREST HAVE BEEN PAID OR A JUDGMENT
26 OF RESTITUTION HAS BEEN COMPROMISED AND SETTLED AS PROVIDED IN
27 SUBSECTION (C) OF THIS SECTION, THE DIVISION, THE DEPARTMENT OF JUVENILE
28 JUSTICE, OR THE CENTRAL COLLECTION UNIT IMMEDIATELY SHALL NOTIFY:

29 (1) THE COURT THAT ISSUED THE JUDGMENT BY FILING THE
30 STATEMENT AS PROVIDED UNDER § 11-608(3) OF THIS SUBTITLE THAT THE
31 JUDGMENT HAS BEEN SATISFIED; AND

32 (2) THE LAST KNOWN EMPLOYER OF A RESTITUTION OBLIGOR TO
33 TERMINATE AN EARNINGS WITHHOLDING ORDER ISSUED UNDER § 11-617 OF THIS
34 SUBTITLE.

35 (E) DETERMINATION OF OVERDUE PAYMENTS.

1 (1) RESTITUTION IS OVERDUE IF THE RESTITUTION OR A RESTITUTION
2 PAYMENT IS NOT PAID:

3 (I) BY THE DATE THAT THE COURT ORDERS; OR

4 (II) IF NO DATE IS ORDERED, BY THE LATER OF:

5 1. THE DATE THE DIVISION OR THE DEPARTMENT OF
6 JUVENILE JUSTICE DIRECTS THE RESTITUTION OBLIGOR TO PAY RESTITUTION OR
7 MAKE A RESTITUTION PAYMENT; OR

8 2. 30 DAYS AFTER THE COURT ENTERS A JUDGMENT OF
9 RESTITUTION.

10 (2) IF RESTITUTION IS OVERDUE, THE AMOUNT OF THE ARREARAGE IS
11 THE AMOUNT OF RESTITUTION ORDERED AND ANY INTEREST ALLOWED BY LAW,
12 MINUS ANY AMOUNT PREVIOUSLY PAID OR RECEIVED UNDER THE JUDGMENT OF
13 RESTITUTION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 809.

16 In subsections (a), (b)(1), and (e)(1) of this section, the reference to
17 "overdue" restitution is substituted for the former reference to "delinquent"
18 restitution to avoid confusion with meanings applicable in juvenile law,
19 *e.g.*, "delinquent act".

20 Subsection (a)(2) of this section is revised to clarify that it is the obligation
21 of the Division or the Department of Juvenile Justice to refer overdue
22 restitution accounts if probation or other supervision is terminated.

23 Defined terms: "Central Collection Unit" § 11-601

24 "Division" § 11-601

25 "Judgment of restitution" § 11-601

26 "Restitution obligor" § 11-601

27 "Victim" § 11-601

28 11-617. EARNINGS WITHHOLDING ORDERS.

29 (A) ISSUANCE OF ORDER.

30 (1) IF A COURT ISSUES A JUDGMENT OF RESTITUTION UNDER § 11-603
31 OF THIS SUBTITLE, THE COURT MAY ENTER AN IMMEDIATE AND CONTINUING
32 EARNINGS WITHHOLDING ORDER IN AN AMOUNT SUFFICIENT TO PAY THE
33 RESTITUTION.

34 (2) THE COURT MAY ENTER THE ORDER:

35 (I) AT THE SENTENCING OR DISPOSITION HEARING;

1 (II) WHEN THE DEFENDANT OR CHILD RESPONDENT IS PLACED ON
2 WORK RELEASE OR PROBATION; OR

3 (III) WHEN THE PAYMENT OF RESTITUTION IS OVERDUE.

4 (B) PRIORITY OF EXECUTION.

5 SUBJECT TO FEDERAL LAW, THE ORDER OF PRIORITY OF EXECUTION OF AN
6 EARNINGS WITHHOLDING ORDER IS:

7 (1) FIRST, AN EARNINGS WITHHOLDING ORDER ISSUED UNDER § 10-126
8 OF THE FAMILY LAW ARTICLE;

9 (2) SECOND, AN EARNINGS WITHHOLDING ORDER ISSUED UNDER THIS
10 SECTION; AND

11 (3) LASTLY, ANY OTHER LIEN OR LEGAL PROCESS.

12 (C) EXECUTION OF ORDER.

13 (1) THIS SUBSECTION APPLIES WHENEVER A COURT ORDERS AN
14 EARNINGS WITHHOLDING ORDER UNDER THIS SECTION.

15 (2) ON ENTRY OF THE ORDER, THE CLERK OF THE COURT IMMEDIATELY
16 SHALL:

17 (I) SERVE A COPY ON ANY CURRENT OR SUBSEQUENT EMPLOYER
18 OF THE RESTITUTION OBLIGOR, IF KNOWN; AND

19 (II) MAIL A COPY TO THE RESTITUTION OBLIGOR AT THE LAST
20 KNOWN ADDRESS OR PLACE OF INCARCERATION OR COMMITMENT OF THE
21 RESTITUTION OBLIGOR.

22 (3) A RESTITUTION OBLIGOR IMMEDIATELY SHALL NOTIFY THE COURT
23 AND THE DIVISION OR DEPARTMENT OF JUVENILE JUSTICE OF:

24 (I) ANY OBJECTION TO AN EARNINGS WITHHOLDING ORDER;

25 (II) THE CURRENT HOME ADDRESS OF THE RESTITUTION OBLIGOR;

26 (III) THE NAME OF THE EMPLOYER;

27 (IV) THE WORK ADDRESS OF THE RESTITUTION OBLIGOR; AND

28 (V) ANY CHANGE OF EMPLOYER, HOME ADDRESS, OR WORK
29 ADDRESS OF THE RESTITUTION OBLIGOR.

30 (4) AN EMPLOYER WHO IS SERVED WITH AN EARNINGS WITHHOLDING
31 ORDER UNDER THIS SECTION IMMEDIATELY SHALL NOTIFY THE COURT AND THE
32 DIVISION OR DEPARTMENT OF JUVENILE JUSTICE OF:

1 (I) ANY JUSTIFICATION FOR THE EMPLOYER'S INABILITY TO
2 COMPLY WITH THE EARNINGS WITHHOLDING ORDER;

3 (II) THE HOME ADDRESS OF THE RESTITUTION OBLIGOR ON THE
4 TERMINATION OF EMPLOYMENT;

5 (III) INFORMATION REGARDING THE NEW PLACE OF EMPLOYMENT
6 OF THE RESTITUTION OBLIGOR; OR

7 (IV) THE EMPLOYER'S REEMPLOYMENT OF THE RESTITUTION
8 OBLIGOR.

9 (5) UNLESS THE INFORMATION HAS BEEN PROVIDED TO THE COURT,
10 THE DIVISION, DEPARTMENT OF JUVENILE JUSTICE, OR THE CENTRAL COLLECTION
11 UNIT SHALL NOTIFY THE COURT OF A CURRENT OR SUBSEQUENT HOME ADDRESS OF
12 THE RESTITUTION OBLIGOR AND THE EMPLOYER AND WORK ADDRESS OF THE
13 RESTITUTION OBLIGOR.

14 (D) CONTENTS OF ORDER.

15 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN EARNINGS
16 WITHHOLDING ORDER ISSUED UNDER THIS SECTION SHALL:

17 (I) COMPLY WITH THE REQUIREMENTS OF §§ 10-126(A) AND
18 10-127(A) THROUGH (C) OF THE FAMILY LAW ARTICLE; AND

19 (II) SET FORTH THE OBLIGATIONS AND RESPONSIBILITIES OF AN
20 EMPLOYER AND A RESTITUTION OBLIGOR UNDER AN EARNINGS WITHHOLDING
21 ORDER AND THE CONSEQUENCES OF VIOLATING THIS SECTION.

22 (2) EACH AMOUNT WITHHELD IN AN EARNINGS WITHHOLDING ORDER
23 UNDER THIS SECTION IS PAYABLE TO THE DIVISION OR DEPARTMENT OF JUVENILE
24 JUSTICE.

25 (3) AN EARNINGS WITHHOLDING ORDER IS BINDING ON EACH PRESENT
26 AND FUTURE EMPLOYER OF THE RESTITUTION OBLIGOR WHO IS SERVED WITH THE
27 ORDER.

28 (E) PAYMENT.

29 (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE
30 PAYMENT AMOUNT UNDER AN EARNINGS WITHHOLDING ORDER UNDER THIS
31 SECTION IS 20% OF THE EARNINGS OF A RESTITUTION OBLIGOR.

32 (2) IF THE RESTITUTION OBLIGATION OF THE RESTITUTION OBLIGOR IS
33 OVERDUE, THE COURT MAY IMPOSE A PAYMENT EXCEEDING THE AMOUNT ALLOWED
34 IN PARAGRAPH (1) OF THIS SUBSECTION.

1 (3) (I) THE AMOUNT OF AN EARNINGS WITHHOLDING ORDER ISSUED
2 UNDER THIS SECTION MAY NOT EXCEED THE LIMITS OF THE FEDERAL CONSUMER
3 CREDIT PROTECTION ACT.

4 (II) THE COURT SHALL REDUCE AN AMOUNT OF AN EARNINGS
5 WITHHOLDING ORDER THAT EXCEEDS THE LIMITS OF THE FEDERAL CONSUMER
6 CREDIT PROTECTION ACT TO THE MAXIMUM ALLOWED UNDER THE ACT.

7 (F) PENALTY.

8 (1) THIS SUBSECTION APPLIES TO A RESTITUTION OBLIGOR AND THE
9 EMPLOYER OF A RESTITUTION OBLIGOR.

10 (2) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A FINE NOT
11 EXCEEDING \$250.

12 (3) A FINE COLLECTED UNDER THIS SECTION SHALL BE DISTRIBUTED
13 IN THE SAME WAY AS COSTS ARE DISTRIBUTED UNDER § 7-409 OF THE COURTS
14 ARTICLE.

15 (4) IN ADDITION TO A FINE IMPOSED UNDER THIS SUBSECTION, AN
16 EMPLOYER IS LIABLE FOR DAMAGES FOR THE FAILURE TO DEDUCT THE EARNINGS
17 OF A RESTITUTION OBLIGOR OR FAILURE TO MAKE A TIMELY PAYMENT AS
18 REQUIRED IN THE EARNINGS WITHHOLDING ORDER.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 811.

21 In subsections (a)(2)(iii) and (e)(2) of this section, the word "overdue" which
22 modifies restitution, is substituted for the former reference to "delinquent"
23 restitution to avoid confusion with meanings applicable in juvenile law,
24 *e.g.*, "delinquent act".

25 In subsection (a)(2)(ii) of this section, the defined term "child respondent"
26 is added for clarity. *See* General Revisor's Note to title.

27 In subsection (c)(2) of this section, the phrase "[o]n entry of the order" is
28 added to clarify when the clerk of the court must serve and mail copies of
29 the earnings withholding order to specified persons.

30 In subsection (c)(2)(ii) of this section, the phrase "place of commitment" of
31 the child respondent is added for accuracy.

32 In subsection (e)(3)(i) of this section, the reference to "limits" of the federal
33 Consumer Protection Act is substituted for the former reference to the
34 "requirements" of this Act to conform to the terminology of FL § 10-131.

35 Former Art. 27, § 806(a), which stated that if restitution or reparation is
36 not immediately and fully made the court must order execution against
37 certain property or restitution not exceeding a certain amount, is deleted

1 as unnecessary in light of subsection (e) of this section.

2 Former Art. 27, § 806(b), which stated that a victim is not prevented from
3 bringing a civil action against a person, is deleted as unnecessary in light
4 of § 11-603(c) of this subtitle.

5 Defined terms: "Central Collection Unit" § 11-601

6 "Child respondent" § 11-101

7 "Defendant" § 11-601

8 "Division" § 11-601

9 "Judgment of restitution" § 11-601

10 "Liable parent" § 11-601

11 "Person" § 1-101

12 "Restitution obligor" § 11-601

13 11-618. STATE LOTTERY INTERCEPTION.

14 (A) CONTENTS OF CERTIFICATION.

15 A CERTIFICATION OF ARREARAGE ON RESTITUTION PAYMENTS THAT THE
16 CENTRAL COLLECTION UNIT SENDS TO THE STATE LOTTERY AGENCY UNDER § 11-616
17 OF THIS SUBTITLE SHALL CONTAIN:

18 (1) THE FULL NAME OF THE RESTITUTION OBLIGOR AND ANY OTHER
19 NAME KNOWN TO BE USED BY THE RESTITUTION OBLIGOR;

20 (2) THE SOCIAL SECURITY NUMBER OF THE RESTITUTION OBLIGOR;
21 AND

22 (3) THE AMOUNT OF THE ARREARAGE.

23 (B) NOTICE OF INTERCEPTION.

24 IF A RESTITUTION OBLIGOR WHO IS OVERDUE IN RESTITUTION PAYMENTS
25 WINS A LOTTERY PRIZE TO BE PAID BY CHECK DIRECTLY BY THE STATE LOTTERY
26 AGENCY, THE STATE LOTTERY AGENCY SHALL SEND A NOTICE TO THE RESTITUTION
27 OBLIGOR THAT:

28 (1) THE RESTITUTION OBLIGOR HAS WON A PRIZE TO BE PAID BY THE
29 STATE LOTTERY AGENCY;

30 (2) THE STATE LOTTERY AGENCY HAS RECEIVED NOTICE FROM THE
31 CENTRAL COLLECTION UNIT OF THE RESTITUTION OBLIGOR'S RESTITUTION
32 ARREARAGE IN THE SPECIFIED AMOUNT;

33 (3) STATE LAW REQUIRES THE STATE LOTTERY AGENCY TO WITHHOLD
34 THE PRIZE AND TO PAY IT TOWARDS THE RESTITUTION OBLIGOR'S RESTITUTION
35 ARREARAGE;

1 (4) THE RESTITUTION OBLIGOR MAY APPEAL TO THE CENTRAL
2 COLLECTION UNIT IF THE RESTITUTION OBLIGOR DISPUTES THE EXISTENCE OR THE
3 AMOUNT OF THE ARREARAGE; AND

4 (5) IF AN APPEAL IS NOT FILED WITHIN 15 DAYS AFTER THE DATE OF
5 THE NOTICE, THE STATE LOTTERY AGENCY WILL TRANSFER THE PRIZE OR THE PART
6 OF THE PRIZE THAT EQUALS THE RESTITUTION ARREARAGE TO THE CENTRAL
7 COLLECTION UNIT.

8 (C) WITHHOLDING ARREARAGE; PRIORITIES.

9 (1) THE STATE LOTTERY AGENCY SHALL WITHHOLD ALL OR PART OF
10 THE PRIZE UP TO THE AMOUNT OF THE ARREARAGE UNTIL THE CENTRAL
11 COLLECTION UNIT NOTIFIES THE STATE LOTTERY AGENCY AS TO WHOM THE
12 WITHHELD PRIZE MONEY IS TO BE PAID.

13 (2) THE STATE LOTTERY AGENCY SHALL HONOR LOTTERY PRIZE
14 INTERCEPTION REQUESTS IN THE FOLLOWING ORDER:

15 (I) AN INTERCEPTION REQUEST UNDER § 10-113.1 OF THE FAMILY
16 LAW ARTICLE; AND

17 (II) AN INTERCEPTION REQUEST UNDER THIS SECTION.

18 (D) APPEALS.

19 (1) ON RECEIPT OF A NOTICE FROM THE STATE LOTTERY AGENCY, A
20 RESTITUTION OBLIGOR WHO DISPUTES THE EXISTENCE OR AMOUNT OF THE
21 ARREARAGE MAY APPEAL THE PROPOSED TRANSFER.

22 (2) IF AN APPEAL IS NOT FILED WITHIN 15 DAYS AFTER THE DATE OF
23 THE NOTICE, THE STATE LOTTERY AGENCY SHALL TRANSFER THE AMOUNT OF THE
24 PRIZE WITHHELD TO THE CENTRAL COLLECTION UNIT.

25 (3) IF THE RESTITUTION OBLIGOR APPEALS THE PROPOSED TRANSFER,
26 AFTER A HEARING THE CENTRAL COLLECTION UNIT SHALL NOTIFY THE STATE
27 LOTTERY AGENCY THAT THE WITHHELD PRIZE SHALL BE:

28 (I) PAID TO THE RESTITUTION OBLIGOR;

29 (II) TRANSFERRED TO THE CENTRAL COLLECTION UNIT; OR

30 (III) IN SPECIFIED AMOUNTS, PARTLY PAID TO THE RESTITUTION
31 OBLIGOR AND PARTLY TRANSFERRED TO THE CENTRAL COLLECTION UNIT.

32 (E) REGULATIONS.

33 THE SECRETARY OF BUDGET AND MANAGEMENT AND THE DIRECTOR OF THE
34 STATE LOTTERY AGENCY MAY JOINTLY ADOPT REGULATIONS TO CARRY OUT THIS
35 SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 810(b) through (i).

3 In the introductory language of subsection (b) of this section, the word
4 "overdue", which modifies restitution, is substituted for the former
5 reference to "delinquent" restitution to avoid confusion with meanings
6 applicable in juvenile law, *e.g.*, "delinquent act".

7 In the introductory language of subsection (a) of this section, the reference
8 to a certification "of arrearage on restitution payments that the Central
9 Collection Unit sends" is added for clarity.

10 In subsection (b) of this section, the former reference to the provision in a
11 notice to a winner stating that the State Lottery Agency proposes to
12 transfer the prize, or that part of it that is equal to the restitution
13 arrearage, to the Central Collection Unit if no appeal is filed within 15
14 days is deleted as unnecessary in light of subsection (b)(5) of this section,
15 which states that the State Lottery Agency will make the transfer if an
16 appeal is not filed.

17 In subsection (e) of this section, as to the substitution of the phrase "carry
18 out" for the former reference to "implement", *see* General Revisor's Note to
19 article.

20 Defined terms: "Central Collection Unit" § 11-601

21 "Restitution obligor" § 11-601

22 11-619. RESERVED.

23 11-620. RESERVED.

24 PART II. NOTORIETY OF CRIMES CONTRACTS.

25 11-621. DEFINITIONS.

26 (A) IN GENERAL.

27 IN PART II OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 27, § 854(a)(1).

31 (B) DEFENDANT.

32 (1) "DEFENDANT" MEANS A PERSON CHARGED WITH OR CONVICTED OF
33 A CRIME IN THE STATE THAT INVOLVES OR CAUSES PERSONAL INJURY, DEATH, OR
34 PROPERTY LOSS AS A DIRECT RESULT OF THE CRIME.

1 (2) "DEFENDANT" INCLUDES A PERSON FOUND NOT CRIMINALLY
2 RESPONSIBLE FOR CRIMINAL CONDUCT UNDER § 3-109 OF THIS ARTICLE.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 27, § 854(a)(2).

5 Defined term: "Person" § 1-101

6 (C) NOTORIETY OF CRIMES CONTRACT.

7 "NOTORIETY OF CRIMES CONTRACT" MEANS A CONTRACT OR OTHER
8 AGREEMENT WITH A DEFENDANT, OR A REPRESENTATIVE OR ASSIGNEE OF A
9 DEFENDANT, WITH RESPECT TO:

10 (1) THE REENACTMENT OF A CRIME IN A MOVIE, BOOK, MAGAZINE
11 ARTICLE, TAPE RECORDING, PHONOGRAPH RECORD, RADIO OR TELEVISION
12 PRESENTATION, OR LIVE ENTERTAINMENT OF ANY KIND;

13 (2) THE EXPRESSION OF THE DEFENDANT'S THOUGHTS, FEELINGS,
14 OPINIONS, OR EMOTIONS REGARDING A CRIME INVOLVING OR CAUSING PERSONAL
15 INJURY, DEATH, OR PROPERTY LOSS AS A DIRECT RESULT OF THE CRIME; OR

16 (3) THE PAYMENT OR EXCHANGE OF MONEY OR OTHER CONSIDERATION
17 OR THE PROCEEDS OR PROFITS THAT DIRECTLY OR INDIRECTLY RESULT FROM A
18 CRIME, A SENTENCE, OR THE NOTORIETY OF A CRIME OR SENTENCE.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 27, § 854(a)(5).

21 The Criminal Procedure Article Review Committee notes, for consideration
22 by the General Assembly, that the media listed in item (1) of this
23 subsection in which a crime may be reenacted do not include the Internet.

24 Defined term: "Defendant" § 11-621

25 (D) VICTIM.

26 "VICTIM" MEANS A PERSON WHO SUFFERS PERSONAL INJURY, DEATH, OR
27 PROPERTY LOSS AS A DIRECT RESULT OF CRIME.

28 REVISOR'S NOTE: This subsection is new language derived without
29 substantive change from former Art. 27, § 854(a)(4)(i).

30 Defined term: "Person" § 1-101

31 (E) VICTIM'S REPRESENTATIVE.

32 "VICTIM'S REPRESENTATIVE" INCLUDES THE PERSONAL REPRESENTATIVE OF
33 THE ESTATE OF A DECEASED VICTIM AND A BENEFICIARY UNDER A WRONGFUL
34 DEATH ACTION.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, § 854(a)(4)(ii).

3 The reference to "the personal representative" is added for clarity.

4 The former reference to "Title 3, Subtitle 9 of the Courts Article" is deleted
5 as unnecessarily specific.

6 Defined term: "Victim" § 11-621

7 11-622. SUBMISSIONS TO ATTORNEY GENERAL.

8 A PERSON WHO MAKES A NOTORIETY OF CRIMES CONTRACT WITH A
9 DEFENDANT OR A REPRESENTATIVE OR ASSIGNEE OF THAT DEFENDANT SHALL:

10 (1) SUBMIT TO THE ATTORNEY GENERAL A COPY OF ALL WRITTEN
11 TERMS AND A SUMMARY OF ALL ORAL TERMS OF THE NOTORIETY OF CRIMES
12 CONTRACT; AND

13 (2) PAY OVER TO THE ATTORNEY GENERAL ANY MONEY OR OTHER
14 CONSIDERATION NOT SUBJECT TO AN ORDER OF RESTITUTION UNDER § 11-603 OF
15 THIS SUBTITLE THAT BY THE TERMS OF THE NOTORIETY OF CRIMES CONTRACT
16 OTHERWISE WOULD BE OWED TO THE DEFENDANT OR A REPRESENTATIVE OR
17 ASSIGNEE OF THE DEFENDANT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 854(b).

20 In item (1) of this section, the reference to "all written terms and a
21 summary of all oral terms" of the notoriety of crimes contract is
22 substituted for the former reference to "summary of the terms of an oral
23 agreement" to avoid the erroneous implication that an oral agreement
24 would not be part of a notoriety of crimes contract.

25 Defined terms: "Defendant" § 11-621

26 "Notoriety of crimes contract" § 11-621

27 "Person" § 1-101

28 11-623. DECISION BY ATTORNEY GENERAL.

29 (A) NOTICE OF RECEIPT OF COPY.

30 ON RECEIPT OF A SUBMISSION UNDER § 11-622 OF PART II OF THIS SUBTITLE,
31 THE ATTORNEY GENERAL SHALL MAIL NOTICE OF THE RECEIPT TO EACH VICTIM OR
32 VICTIM'S REPRESENTATIVE AT THE LAST KNOWN ADDRESS OF THE VICTIM OR
33 VICTIM'S REPRESENTATIVE.

34 (B) DEADLINE FOR DECISION.

35 THE ATTORNEY GENERAL SHALL DECIDE WHETHER A CONTRACT IS A
36 NOTORIETY OF CRIMES CONTRACT:

1 (1) AFTER 30 DAYS BUT BEFORE 180 DAYS FOLLOWING RECEIPT OF THE
2 SUBMISSION UNDER § 11-622 OF PART II OF THIS SUBTITLE; OR

3 (2) AFTER 180 DAYS, FOR CAUSE.

4 (C) REBUTTABLE PRESUMPTION.

5 (1) FOR A DECISION UNDER THIS SECTION, THERE IS A REBUTTABLE
6 PRESUMPTION THAT THE CONTRACT IS A NOTORIETY OF CRIMES CONTRACT.

7 (2) THE DEFENDANT OR DEFENDANT'S ASSIGNEE MAY REBUT THIS
8 PRESUMPTION BY ESTABLISHING TO THE SATISFACTION OF THE ATTORNEY
9 GENERAL THAT THE SUBJECT MATTER OF THE CONTRACT ONLY TANGENTIALLY OR
10 INCIDENTALLY RELATES TO THE CRIME.

11 (D) NOTIFICATION OF DECISION.

12 THE ATTORNEY GENERAL:

13 (1) SHALL NOTIFY THE DEFENDANT OR DEFENDANT'S ASSIGNEE AND
14 THE VICTIM OR VICTIM'S REPRESENTATIVE OF THE DECISION UNDER THIS SECTION;
15 AND

16 (2) MAY NOT DISBURSE MONEY COLLECTED UNDER § 11-622 OF PART II
17 OF THIS SUBTITLE UNTIL 60 DAYS AFTER THE DEFENDANT OR DEFENDANT'S
18 ASSIGNEE AND THE VICTIM OR VICTIM'S REPRESENTATIVE HAVE BEEN NOTIFIED OF
19 THE DECISION.

20 (E) APPEAL.

21 (1) THE DECISION OF THE ATTORNEY GENERAL UNDER THIS SECTION IS
22 A FINAL DECISION AND MAY BE APPEALED BY A DEFENDANT OR DEFENDANT'S
23 ASSIGNEE OR A VICTIM OR VICTIM'S REPRESENTATIVE ONLY IN ACCORDANCE WITH §
24 11-630 OF PART II OF THIS SUBTITLE AND WITHIN 60 DAYS AFTER RECEIVING NOTICE
25 OF THE DECISION.

26 (2) IF THE DECISION IS APPEALED, THE ATTORNEY GENERAL SHALL
27 KEEP ANY MONEY COLLECTED IN ESCROW UNTIL THE ATTORNEY GENERAL
28 RECEIVES A FINAL ORDER OF THE COURT.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 854(c).

31 In subsections (c)(2), (d), and (e)(1) of this section, references to
32 "defendant's assignee" are added to conform to the language of § 11-622 of
33 Part II of this subtitle.

34 In subsection (c)(1) of this section, the former reference to "the purposes
35 of" a decision is deleted as surplusage.

1 Defined terms: "Defendant" § 11-621

2 "Notoriety of crimes contract" § 11-621

3 "Victim" § 11-621

4 "Victim's representative" § 11-621

5 11-624. ESCROW ACCOUNT.

6 (A) DEPOSIT BY ATTORNEY GENERAL.

7 THE ATTORNEY GENERAL SHALL DEPOSIT MONEY RECEIVED UNDER THIS
8 SUBTITLE IN AN INTEREST BEARING ESCROW ACCOUNT.

9 (B) MONEY FOR VICTIMS.

10 EXCEPT AS PROVIDED IN § 11-625 OF PART II OF THIS SUBTITLE AND
11 SUBSECTION (E) OF THIS SECTION, THE ATTORNEY GENERAL SHALL HOLD MONEY
12 FOR THE BENEFIT OF AND PAYABLE TO THE VICTIM OR VICTIM'S REPRESENTATIVE,
13 AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

14 (C) MONEY JUDGMENT OR RESTITUTION AWARD TO BE PAID FROM ESCROW
15 MONEY.

16 (1) SUBJECT TO THE PRIORITY OF CLAIMS STATED IN § 11-628 OF PART II
17 OF THIS SUBTITLE, THE ATTORNEY GENERAL SHALL PAY TO THE VICTIM OR VICTIM'S
18 REPRESENTATIVE MONEY FROM THE ESCROW ACCOUNT TO THE EXTENT OF THE
19 MONEY JUDGMENT OR THE AMOUNT OF RESTITUTION IF, WITHIN 5 YEARS AFTER
20 THE ESCROW ACCOUNT IS ESTABLISHED, THE VICTIM OR VICTIM'S
21 REPRESENTATIVE:

22 (I) BRINGS OR HAS PENDING A CIVIL ACTION AGAINST THE
23 DEFENDANT IN A COURT OF COMPETENT JURISDICTION;

24 (II) HAS RECOVERED A MONEY JUDGMENT FOR DAMAGES AGAINST
25 THE DEFENDANT; OR

26 (III) HAS BEEN AWARDED RESTITUTION.

27 (2) ANY MONEY THAT THEN REMAINS IN THE ESCROW ACCOUNT SHALL
28 BE PAID AS THIS SECTION PROVIDES.

29 (3) MONEY MAY NOT BE PAID UNDER THIS SUBSECTION UNTIL THE
30 DEFENDANT:

31 (I) HAS BEEN FOUND GUILTY;

32 (II) HAS PLEADED NOLO CONTENDERE;

33 (III) HAS BEEN PLACED ON PROBATION BEFORE JUDGMENT; OR

34 (IV) HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE FOR
35 CRIMINAL CONDUCT UNDER § 3-109 OF THIS ARTICLE.

1 (D) NOTICE OF AVAILABILITY OF MONEY.

2 (1) AT LEAST ONCE EVERY 6 MONTHS FOR 5 YEARS AFTER THE DATE
3 THE ATTORNEY GENERAL RECEIVES MONEY OR OTHER CONSIDERATION UNDER
4 THIS SUBTITLE, THE ATTORNEY GENERAL SHALL PUBLISH A LEGAL NOTICE IN A
5 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE CRIME WAS
6 COMMITTED AND IN COUNTIES CONTIGUOUS TO THAT COUNTY.

7 (2) THE NOTICE SHALL ADVISE THE VICTIM OR VICTIM'S
8 REPRESENTATIVE THAT ESCROW MONEY IS AVAILABLE TO SATISFY MONEY
9 JUDGMENTS UNDER THIS SUBTITLE.

10 (3) THE ATTORNEY GENERAL MAY PROVIDE FOR ANY FURTHER NOTICE
11 THAT THE ATTORNEY GENERAL CONSIDERS NECESSARY.

12 (E) CONDITIONS FOR PAYMENT.

13 EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE ATTORNEY
14 GENERAL SHALL PAY OVER TO THE DEFENDANT ALL OF THE MONEY FROM THE
15 ESCROW ACCOUNT IF:

16 (1) THE CHARGES AGAINST THE DEFENDANT ARE DISMISSED;

17 (2) A NOLLE PROSEQUI IS ENTERED;

18 (3) THE DEFENDANT IS ACQUITTED;

19 (4) THE DEFENDANT IS FOUND TO BE INCOMPETENT TO STAND TRIAL
20 UNDER § 3-106 OF THIS ARTICLE AND AT LEAST 5 YEARS HAVE PASSED SINCE THAT
21 FINDING WITHOUT A FURTHER DISPOSITION OF THE CHARGE; OR

22 (5) THE CHARGES AGAINST THE DEFENDANT ARE PLACED ON THE STET
23 DOCKET, AND AT LEAST 3 YEARS HAVE PASSED.

24 (F) MONEY TO BE PAID TO DEFENDANT.

25 NOTWITHSTANDING § 11-628 OF PART II OF THIS SUBTITLE, IF A DEFENDANT
26 WAS CONVICTED BEFORE JULY 1, 1987, THE ATTORNEY GENERAL SHALL PAY OVER
27 TO THE DEFENDANT:

28 (1) ALL MONEY IN THE ESCROW ACCOUNT IF:

29 (I) AT LEAST 5 YEARS HAVE PASSED SINCE THE ESCROW ACCOUNT
30 WAS ESTABLISHED; AND

31 (II) NO ACTION BY THE VICTIM OR VICTIM'S REPRESENTATIVE IS
32 PENDING AGAINST THE DEFENDANT; OR

33 (2) ALL MONEY REMAINING IN THE ESCROW ACCOUNT AFTER PAYMENT
34 OF THE CLAIMS DESCRIBED IN § 11-628 OF PART II OF THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 854(e).

3 Throughout this section, the word "money" is substituted for the former
4 reference to "funds" for consistency and to avoid confusion with entities
5 that have been established as funds.

6 In subsection (d)(1) of this section, the phrase "under this subtitle" is added
7 for clarity.

8 In subsection (e)(5) of this section, the former reference to "a period of" at
9 least 3 years is deleted as unnecessary.

10 Defined terms: "County" § 1-101

11 "Defendant" § 11-621

12 "Nolle prosequi" § 1-101

13 "Nolo contendere" § 1-101

14 "Victim" § 11-621

15 "Victim's representative" § 11-621

16 11-625. PAYMENTS FROM ESCROW ACCOUNT.

17 (A) PAYMENTS TO HIRE LEGAL COUNSEL.

18 THE ATTORNEY GENERAL SHALL PAY THE DEFENDANT FROM THE ESCROW
19 ACCOUNT THE MONEY THAT A COURT OF COMPETENT JURISDICTION:

20 (1) FINDS WILL BE USED TO HIRE LEGAL COUNSEL AT ANY STAGE OF
21 THE CRIMINAL CASE, INCLUDING AN APPEAL; AND

22 (2) ORDERS TO BE PAID TO THE DEFENDANT.

23 (B) FOR PRODUCTION EXPENSES.

24 AFTER NOTICE TO EACH VICTIM OR VICTIM'S REPRESENTATIVE, THE ATTORNEY
25 GENERAL SHALL PAY MONEY FROM THE ESCROW ACCOUNT TO A REPRESENTATIVE
26 OF A DEFENDANT FOR THE NECESSARY EXPENSES OF PRODUCTION OF THE MONEY
27 PAID INTO THE ESCROW ACCOUNT IF THE ATTORNEY GENERAL FINDS THAT THE
28 PAYMENTS ARE NECESSARY AND ARE NOT CONTRARY TO PUBLIC POLICY.

29 (C) FOR LEGAL NOTICES.

30 THE ATTORNEY GENERAL MAY PAY FROM THE ESCROW ACCOUNT THE COSTS
31 OF LEGAL NOTICES REQUIRED UNDER § 11-624 OF PART II OF THIS SUBTITLE.

32 (D) LIMIT ON PAYMENTS.

33 THE TOTAL OF ALL PAYMENTS MADE FROM THE ESCROW ACCOUNT UNDER
34 THIS SECTION MAY NOT EXCEED 25% OF THE TOTAL PAYMENTS THAT ARE:

35 (1) MADE INTO THE ESCROW ACCOUNT; AND

1 (2) AVAILABLE TO SATISFY JUDGMENTS OBTAINED BY THE VICTIM OR
2 VICTIM'S REPRESENTATIVE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 854(f).

5 In subsection (a) of this section, the word "money" is substituted for the
6 former reference to "funds" for consistency and to avoid confusion with
7 entities that have been established as funds.

8 In subsections (b) and (d) of this section, the former references to victims
9 "of the crime" and "of crime" are deleted in light of the defined term
10 "victim".

11 Defined terms: "Defendant" § 11-621

12 "Victim" § 11-621

13 "Victim's representative" § 11-621

14 11-626. LIMITATIONS ON BRINGING CIVIL ACTION.

15 NOTWITHSTANDING ANY OTHER LAW, INCLUDING THE STATUTE OF
16 LIMITATIONS FOR A WRONGFUL DEATH ACTION, A VICTIM OR VICTIM'S
17 REPRESENTATIVE WHO SEEKS TO BRING A CIVIL ACTION UNDER PART II OF THIS
18 SUBTITLE SHALL BRING THE ACTION AGAINST A DEFENDANT WITHIN 5 YEARS
19 AFTER THE ATTORNEY GENERAL ESTABLISHES AN ESCROW ACCOUNT.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 854(g).

22 The reference to a victim "who seeks to bring a civil action" under Part II of
23 this subtitle is added for clarity.

24 Defined terms: "Defendant" § 11-621

25 "Victim" § 11-621

26 "Victim's representative" § 11-621

27 11-627. ACTIONS VOID AS AGAINST PUBLIC POLICY.

28 ANY ACTION THAT A DEFENDANT TAKES TO DEFEAT THE PURPOSE OF PART II
29 OF THIS SUBTITLE, INCLUDING AN EXECUTION OF A POWER OF ATTORNEY,
30 CREATION OF A CORPORATE ENTITY, OR DESIGNATION OF THE DEFENDANT'S
31 INTEREST, IS VOID AS AGAINST PUBLIC POLICY.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 854(h).

34 Defined term: "Defendant" § 11-621

35 11-628. PRIORITIES FOR CLAIMS.

36 (A) CLAIMS.

1 NOTWITHSTANDING ANY OTHER LAW, A CLAIM ON MONEY IN THE ESCROW
2 ACCOUNT HAS THE FOLLOWING PRIORITIES IN THIS ORDER:

3 (1) PAYMENTS ORDERED BY THE ATTORNEY GENERAL OR A COURT
4 UNDER § 11-625 OF PART II OF THIS SUBTITLE;

5 (2) SUBROGATION CLAIMS OF THE STATE UNDER § 11-817 OF THIS TITLE;

6 (3) A COURT ORDER OF RESTITUTION UNDER § 11-603 OF THIS SUBTITLE;

7 (4) A CIVIL JUDGMENT OF A VICTIM OR VICTIM'S REPRESENTATIVE; AND

8 (5) A CIVIL JUDGMENT OF A PERSON, OTHER THAN A VICTIM OR
9 VICTIM'S REPRESENTATIVE, ARISING OUT OF THE CRIME.

10 (B) INTERPLEADER OR DECLARATORY JUDGMENT ALLOWED.

11 THE ATTORNEY GENERAL MAY BRING AN ACTION OF INTERPLEADER OR AN
12 ACTION FOR DECLARATORY JUDGMENT WHEN THE ATTORNEY GENERAL IS UNABLE
13 TO DETERMINE THE PRIORITY OF CLAIMS AND THE PROPER DISPOSITION OF THE
14 ESCROW ACCOUNT.

15 (C) REMAINING MONEY INTO ESCROW ACCOUNT.

16 AFTER PAYMENT OF THE CLAIMS DESCRIBED IN SUBSECTION (A) OF THIS
17 SECTION, THE ATTORNEY GENERAL SHALL DEPOSIT THE MONEY REMAINING IN THE
18 ESCROW ACCOUNT IN THE STATE VICTIMS OF CRIME FUND THAT IS ESTABLISHED
19 UNDER § 11-916 OF THIS TITLE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 854(i) and (l).

22 In the introductory language of subsection (a) of this section, the phrase "in
23 this order" is added for clarity.

24 In subsection (a)(4) and (5) of this section, the former reference to the
25 victim "of the crime" is deleted as included in the definition of "victim".

26 In subsection (c) of this section, the former reference to the State Victims of
27 Crime Fund "Account" is deleted to conform to the terminology used in
28 practice and throughout this title.

29 Defined terms: "Person" § 1-101

30 "Victim" § 11-621

31 "Victim's representative" § 11-621

32 11-629. POWERS OF ATTORNEY GENERAL.

33 (A) EXCLUSIVE JURISDICTION AND CONTROL.

1 NOTWITHSTANDING ANY OTHER LAW, THE ATTORNEY GENERAL HAS
2 EXCLUSIVE JURISDICTION AND CONTROL AS ESCROW AGENT OVER MONEY OR
3 OTHER CONSIDERATION SUBJECT TO PART II OF THIS SUBTITLE.

4 (B) DISTRIBUTION OF MONEY.

5 MONEY IN AN ESCROW ACCOUNT MAY BE DISTRIBUTED ONLY BY A
6 DETERMINATION AND ORDER OF THE ATTORNEY GENERAL UNDER PART II OF THIS
7 SUBTITLE.

8 (C) REGULATIONS.

9 THE ATTORNEY GENERAL MAY ADOPT REGULATIONS TO CARRY OUT PART II OF
10 THIS SUBTITLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 854(m).

13 As for the substitution of the phrase "carry out" for the former reference to
14 "implement", *see* General Revisor's Note to article.

15 11-630. APPEALS.

16 A PERSON AGGRIEVED BY A FINAL DETERMINATION AND ORDER OF THE
17 ATTORNEY GENERAL UNDER PART II OF THIS SUBTITLE MAY SEEK JUDICIAL
18 REVIEW.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 854(n).

21 Defined term: "Person" § 1-101

22 11-631. CIVIL PENALTIES.

23 (A) PROHIBITED ACTS.

24 A PERSON MAY NOT WILLFULLY FAIL:

25 (1) TO SUBMIT TO THE ATTORNEY GENERAL A COPY OF ALL WRITTEN
26 TERMS AND A SUMMARY OF ALL ORAL TERMS OF A NOTORIETY OF CRIMES
27 CONTRACT DESCRIBED IN § 11-622 OF PART II OF THIS SUBTITLE; OR

28 (2) TO PAY OVER TO THE ATTORNEY GENERAL ANY MONEY OR OTHER
29 CONSIDERATION AS THIS SUBTITLE REQUIRES.

30 (B) PENALTY.

31 (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
32 PENALTY OF NOT LESS THAN \$10,000 FOR EACH OFFENSE AND NOT EXCEEDING 3
33 TIMES THE NOTORIETY OF CRIMES CONTRACT AMOUNT.

1 (2) IF TWO OR MORE PERSONS ARE SUBJECT TO THE PENALTIES
2 PROVIDED IN THIS SECTION, THOSE PERSONS SHALL BE JOINTLY AND SEVERALLY
3 LIABLE FOR THE PAYMENT OF THE PENALTY IMPOSED.

4 (3) AFTER NOTICE AND OPPORTUNITY TO BE HEARD IS PROVIDED, THE
5 ATTORNEY GENERAL BY ORDER MAY ASSESS THE PENALTIES DESCRIBED IN THIS
6 SUBSECTION.

7 (4) A PENALTY ASSESSED UNDER THIS SUBSECTION THAT IS NOT PAID
8 WITHIN 30 DAYS AFTER THE DATE OF THE ORDER SHALL BEAR INTEREST AT THE
9 RATE OF 1% PER MONTH, COMPOUNDED MONTHLY.

10 (5) (I) AN ACTION TO RECOVER A CIVIL PENALTY ASSESSED UNDER
11 THIS SUBSECTION MAY BE BROUGHT BY THE ATTORNEY GENERAL IN A COURT OF
12 COMPETENT JURISDICTION WITHIN 6 YEARS AFTER THE CAUSE OF ACTION
13 ACCRUES.

14 (II) ANY MONEY RECOVERED UNDER SUBPARAGRAPH (I) OF THIS
15 PARAGRAPH SHALL BE PAID INTO THE STATE VICTIMS OF CRIME FUND THAT IS
16 ESTABLISHED UNDER § 11-916 OF THIS TITLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 854(o).

19 In subsection (a)(1) of this section, the reference to "all written terms and
20 a summary of all oral terms" of a notoriety of crimes contract is added to
21 conform to the terminology used in § 11-622 of this subtitle.

22 Defined terms: "Notoriety of crimes contract" § 11-621

23 "Person" § 1-101

24 11-632. RESTRAINING ORDERS AND INJUNCTIONS.

25 (A) PROCEEDING BROUGHT BY ATTORNEY GENERAL.

26 THE ATTORNEY GENERAL MAY BRING A PROCEEDING IN A COURT OF
27 COMPETENT JURISDICTION AGAINST A PERSON WHO VIOLATES OR THREATENS TO
28 VIOLATE PART II OF THIS SUBTITLE TO RESTRAIN THE PERSON FROM CONTINUING
29 THE VIOLATION OR CARRYING OUT THE THREAT.

30 (B) JURISDICTION OF COURT.

31 IN A PROCEEDING UNDER THIS SECTION, A COURT HAS JURISDICTION TO
32 GRANT TO THE ATTORNEY GENERAL, WITHOUT BOND OR OTHER UNDERTAKING, A
33 PROHIBITORY OR MANDATORY INJUNCTION AS THE FACTS MAY WARRANT,
34 INCLUDING TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS TO
35 PREVENT PAYMENTS UNDER A NOTORIETY OF CRIMES CONTRACT THAT VIOLATES
36 PART II OF THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 854(p).

3 Defined terms: "Notoriety of crimes contract" § 11-621

4 "Person" § 1-101

5 11-633. PROHIBITED ACTS.

6 A PERSON MAY NOT:

7 (1) CONCEAL THE EXISTENCE OF A NOTORIETY OF CRIMES CONTRACT;
8 OR

9 (2) EXCEPT AS OTHERWISE PROVIDED IN PART II OF THIS SUBTITLE,
10 MAKE OR RECEIVE PAYMENTS UNDER A NOTORIETY OF CRIMES CONTRACT.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 854(d).

13 In this section, the former references to a contract "described in subsection
14 (b) of this section" are deleted in light of the defined term "notoriety of
15 crimes contract".

16 The Criminal Procedure Article Review Committee notes, for consideration
17 by the General Assembly, that the prohibited acts of concealing the
18 existence of and making or receiving payments under a notoriety of crimes
19 contract do not carry a penalty.

20 Defined terms: "Notoriety of crimes contract" § 11-621

21 "Person" § 1-101

22 GENERAL REVISOR'S NOTE TO PART: The Criminal Procedure Article Review

23 Committee notes, for consideration by the General Assembly, that this Part
24 revises Art. 27, § 854 of the Code, which is based on New York's "Son of Sam"
25 law. The U.S. Supreme Court found the New York law to be unconstitutional in
26 *Simon and Schuster v. New York Crime Victims Board*, 112 S. Ct. 501 (1991),
27 and § 854 was subsequently amended to address the concerns raised by the
28 Supreme Court.

29 In *Curran v. Price*, 334 Md. 149 (1991), however, the Maryland Court of
30 Appeals strongly suggested that § 854 still suffered from many constitutional
31 flaws.

32 First, the Court noted that a notoriety of crimes contract is defined in terms of
33 "the reenactment of a crime or the expression of the defendant's thoughts,
34 feelings, opinions, or emotions regarding a crime". These terms require the
35 Attorney General to consider the subject matter of the work in determining
36 whether the contract falls under the statute. Content-based statutes are
37 presumptively inconsistent with the First Amendment because they raise the
38 specter that the Government may effectively drive certain ideas or viewpoints

1 from the marketplace.

2 The Court further hinted that the Maryland statute is overbroad to the extent
3 that a substantial portion of the burden it places on speech does not advance
4 the State's interests -- preventing criminals from profiting from crimes and
5 compensating victims of crimes. Under the statute, works that are only
6 remotely related to the crime would have to be submitted to the Attorney
7 General.

8 Further, the Court said the statute failed to meet the standards for testing the
9 constitutionality of prior restraint that were set out in *Freedman v. State of*
10 *Maryland*, 380 U.S. 51 (1965). The statute fails in three ways: (1) it imposes on
11 the defendant the burden of proving that his or her speech falls outside the
12 statute; (2) by making any restraint imposed by the Attorney General final, it
13 imposes on the defendant or publisher the onus to seek judicial review; and (3)
14 by setting a 180-day period for the court to grant review, the statute opens the
15 possibility that a judicial review, if sought, would not take place within a time
16 frame that would be acceptable under past Supreme Court decisions.

17 Finally, the Maryland Court found that the statute could not require a
18 defendant to submit at the State's behest a contract that meets the description
19 of a notoriety of crimes contract without thereby implicitly acknowledging the
20 commission of a crime and thus violating the Fifth Amendment.

21 SUBTITLE 7. REGISTRATION OF CERTAIN OFFENDERS.

22 11-701. DEFINITIONS.

23 (A) IN GENERAL.

24 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 27, § 792(a)(1).

27 (B) CHILD SEXUAL OFFENDER.

28 "CHILD SEXUAL OFFENDER" MEANS A PERSON WHO:

29 (1) HAS BEEN CONVICTED OF VIOLATING THE ABUSE OF CHILDREN
30 STATUTE UNDER ARTICLE 27, § 35C OF THE CODE FOR A CRIME INVOLVING SEXUAL
31 ABUSE OF A CHILD UNDER THE AGE OF 18 YEARS;

32 (2) HAS BEEN CONVICTED OF VIOLATING ANY OF THE PROVISIONS OF
33 THE RAPE OR SEXUAL OFFENSE STATUTES UNDER ARTICLE 27, §§ 462 THROUGH 464B
34 OF THE CODE FOR A CRIME INVOLVING A CHILD UNDER THE AGE OF 15 YEARS;

35 (3) HAS BEEN CONVICTED OF VIOLATING THE FOURTH DEGREE SEXUAL
36 OFFENSE STATUTE UNDER ARTICLE 27, § 464C OF THE CODE FOR A CRIME INVOLVING

1 A CHILD UNDER THE AGE OF 15 YEARS AND HAS BEEN ORDERED BY THE COURT TO
2 REGISTER UNDER THIS SUBTITLE; OR

3 (4) HAS BEEN CONVICTED IN ANOTHER STATE OR IN A FEDERAL,
4 MILITARY, OR NATIVE AMERICAN TRIBAL COURT OF A CRIME THAT, IF COMMITTED IN
5 THIS STATE, WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEMS (1) AND (2)
6 OF THIS SUBSECTION.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 27, § 792(a)(2).

9 In this subsection, the reference to a "crime" is substituted for the former
10 reference to an "offense" to conform to the terminology used throughout
11 this article.

12 In item (1) of this subsection, the reference to sexual abuse "of a child
13 under the age of 18 years" is added for clarity.

14 In items (2) and (3) of this subsection, the references to a "child" are
15 substituted for the former references to an "individual" to conform to the
16 terminology of item (1) of this subsection.

17 As for the substitution of the reference to "person" for the reference to
18 "individual", *see* General Revisor's Note to article.

19 Defined terms: "Person" § 1-101

20 "State" § 1-101

21 (C) LOCAL LAW ENFORCEMENT UNIT.

22 "LOCAL LAW ENFORCEMENT UNIT" MEANS THE LAW ENFORCEMENT UNIT IN A
23 COUNTY THAT HAS BEEN DESIGNATED BY RESOLUTION OF THE COUNTY
24 GOVERNING BODY OR CREATED BY LAW AS THE PRIMARY LAW ENFORCEMENT UNIT
25 IN THE COUNTY.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27, § 792(a)(5).

28 As for the substitution of the reference to "unit" for the former reference to
29 "agency", *see* General Revisor's Note to article.

30 The reference to a law enforcement unit that has been "created by law" as
31 the primary law enforcement unit in the county is added for clarity and to
32 reflect the practice of county governing bodies.

33 The Criminal Procedure Article Review Committee notes, for consideration
34 by the General Assembly, that, in practice, county governing bodies do not
35 designate primary law enforcement units by resolution.

36 Defined term: "County" § 1-101

1 (D) OFFENDER.

2 "OFFENDER" MEANS A PERSON WHO IS ORDERED BY A COURT TO REGISTER
3 UNDER THIS SUBTITLE AND WHO:

4 (1) HAS BEEN CONVICTED OF VIOLATING CHILD ABDUCTION OR
5 KIDNAPPING STATUTES UNDER ARTICLE 27, § 1, § 2, OR § 338 OF THE CODE;

6 (2) HAS BEEN CONVICTED OF VIOLATING THE KIDNAPPING STATUTE
7 UNDER ARTICLE 27, § 337 OF THE CODE OR THE FOURTH DEGREE SEXUAL OFFENSE
8 STATUTE UNDER ARTICLE 27, § 464C OF THE CODE, IF THE VICTIM IS UNDER THE AGE
9 OF 18 YEARS;

10 (3) HAS BEEN CONVICTED OF THE COMMON LAW CRIME OF FALSE
11 IMPRISONMENT, IF THE VICTIM IS UNDER THE AGE OF 18 YEARS AND THE PERSON IS
12 NOT THE VICTIM'S PARENT;

13 (4) HAS BEEN CONVICTED OF A CRIME THAT INVOLVES SOLICITING A
14 PERSON UNDER THE AGE OF 18 YEARS TO ENGAGE IN SEXUAL CONDUCT;

15 (5) HAS BEEN CONVICTED OF VIOLATING THE CHILD PORNOGRAPHY
16 STATUTE UNDER ARTICLE 27, § 419A OF THE CODE;

17 (6) HAS BEEN CONVICTED OF VIOLATING THE PROSTITUTION STATUTE
18 UNDER ARTICLE 27, § 15 OF THE CODE OR ANY OF THE PANDERING STATUTES UNDER
19 ARTICLE 27, §§ 426 THROUGH 433 OF THE CODE IF THE INTENDED PROSTITUTE IS
20 UNDER THE AGE OF 18 YEARS;

21 (7) HAS BEEN CONVICTED OF A CRIME THAT INVOLVES CONDUCT THAT
22 BY ITS NATURE IS A SEXUAL OFFENSE AGAINST A PERSON UNDER THE AGE OF 18
23 YEARS;

24 (8) HAS BEEN CONVICTED OF AN ATTEMPT TO COMMIT A CRIME LISTED
25 IN ITEMS (1) THROUGH (7) OF THIS SUBSECTION; OR

26 (9) HAS BEEN CONVICTED IN ANOTHER STATE OR IN A FEDERAL,
27 MILITARY, OR NATIVE AMERICAN TRIBAL COURT OF A CRIME THAT, IF COMMITTED IN
28 THIS STATE, WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEMS (1)
29 THROUGH (8) OF THIS SUBSECTION.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 27, § 792(a)(6).

32 In item (4) of this subsection, the reference to "a person under the age of 18
33 years" is substituted for the former reference to a "minor" to conform to the
34 terminology used throughout this subsection.

35 In item (9) of this subsection, the reference to a "crime" is substituted for
36 the former reference to an "offense" to conform to the terminology used
37 throughout this article.

1 % As for the substitution of the reference to a "person" for the former
2 reference to an "individual", *see* General Revisor's Note to article.

3 Defined terms: "Person" § 1-101

4 "State" § 1-101

5 (E) RELEASE.

6 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, "RELEASE"
7 MEANS ANY TYPE OF RELEASE FROM THE CUSTODY OF A SUPERVISING AUTHORITY.

8 (2) "RELEASE" INCLUDES:

9 (I) RELEASE ON PAROLE, MANDATORY SUPERVISION, AND WORK
10 RELEASE; AND

11 (II) EXCEPT FOR LEAVE THAT IS GRANTED ON AN EMERGENCY
12 BASIS, ANY TYPE OF TEMPORARY LEAVE.

13 (3) "RELEASE" DOES NOT INCLUDE AN ESCAPE.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 27, § 792(a)(8).

16 Defined term: "Supervising authority" § 11-701

17 (F) SEXUALLY VIOLENT OFFENDER.

18 "SEXUALLY VIOLENT OFFENDER" MEANS A PERSON WHO:

19 (1) HAS BEEN CONVICTED OF A SEXUALLY VIOLENT OFFENSE;

20 (2) HAS BEEN CONVICTED OF AN ATTEMPT TO COMMIT A SEXUALLY
21 VIOLENT OFFENSE; OR

22 (3) HAS BEEN CONVICTED IN ANOTHER STATE OR IN A FEDERAL,
23 MILITARY, OR NATIVE AMERICAN TRIBAL COURT OF A CRIME THAT, IF COMMITTED IN
24 THIS STATE, WOULD CONSTITUTE A SEXUALLY VIOLENT OFFENSE.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 27, § 792(a)(10).

27 In item (3) of this subsection, the reference to a "crime" is substituted for
28 the former reference to an "offense" to conform to the terminology used
29 throughout this article.

30 As for the substitution of the reference to a "person" for the former
31 reference to an "individual", *see* General Revisor's Note to article.

32 Defined terms: "Person" § 1-101

33 "Sexually violent offense" § 11-701

1 "State" § 1-101

2 (G) SEXUALLY VIOLENT OFFENSE.

3 "SEXUALLY VIOLENT OFFENSE" MEANS:

4 (1) A VIOLATION OF ARTICLE 27, § 462, § 463, § 464, § 464A, § 464B, OR § 464F
5 OF THE CODE; OR

6 (2) ASSAULT WITH INTENT TO COMMIT RAPE IN THE FIRST OR SECOND
7 DEGREE OR A SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE AS PROHIBITED
8 ON OR BEFORE SEPTEMBER 30, 1996, UNDER FORMER ARTICLE 27, § 12 OF THE CODE.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 27, § 792(a)(11).

11 In item (2) of this subsection, the reference to an assault or sexual offense
12 "as prohibited on or before September 30, 1996, under former Article 27, §
13 12 of the Code" is substituted for the former reference to an assault or
14 offense "as previously proscribed under former § 12 of this article" for
15 clarity. Section 1 of Chapter 632, Acts of the General Assembly of 1996,
16 repealed former Article 27, § 12 and enacted a new statute in its place. The
17 new statute became effective on October 1, 1996.

18 (H) SEXUALLY VIOLENT PREDATOR.

19 "SEXUALLY VIOLENT PREDATOR" MEANS A PERSON WHO:

20 (1) IS CONVICTED OF A SUBSEQUENT SEXUALLY VIOLENT OFFENSE;
21 AND

22 (2) HAS BEEN DETERMINED IN ACCORDANCE WITH THIS SUBTITLE TO
23 BE AT RISK OF COMMITTING ANOTHER SEXUALLY VIOLENT OFFENSE.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 27, § 792(a)(12).

26 In item (1) of this subsection, the former reference to a "second" offense is
27 deleted as unnecessary in light of the reference to a "subsequent" offense.

28 As for the substitution of the reference to a "person" for the former
29 reference to an "individual", *see* General Revisor's Note to article.

30 Defined terms: "Person" § 1-101

31 "Sexually violent offense" § 11-701

32 (I) SUPERVISING AUTHORITY.

33 "SUPERVISING AUTHORITY" MEANS:

1 (1) THE SECRETARY, IF THE REGISTRANT IS IN THE CUSTODY OF A
2 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT;

3 (2) THE ADMINISTRATOR OF A LOCAL CORRECTIONAL FACILITY, IF THE
4 REGISTRANT, INCLUDING A PARTICIPANT IN A HOME DETENTION PROGRAM, IS IN
5 THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY;

6 (3) THE COURT THAT GRANTED THE PROBATION OR SUSPENDED
7 SENTENCE, EXCEPT AS PROVIDED IN ITEM (11) OF THIS SUBSECTION, IF THE
8 REGISTRANT IS GRANTED PROBATION BEFORE JUDGMENT, PROBATION AFTER
9 JUDGMENT, OR A SUSPENDED SENTENCE;

10 (4) THE DIRECTOR OF THE PATUXENT INSTITUTION, IF THE
11 REGISTRANT IS IN THE CUSTODY OF THE PATUXENT INSTITUTION;

12 (5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, IF THE
13 REGISTRANT IS IN THE CUSTODY OF A FACILITY OPERATED BY THE DEPARTMENT OF
14 HEALTH AND MENTAL HYGIENE;

15 (6) THE COURT IN WHICH THE REGISTRANT WAS CONVICTED, IF THE
16 REGISTRANT'S SENTENCE DOES NOT INCLUDE A TERM OF IMPRISONMENT;

17 (7) THE SECRETARY, IF THE REGISTRANT IS IN THE STATE UNDER
18 TERMS AND CONDITIONS OF THE UNIFORM ACT FOR OUT-OF-STATE PAROLEE
19 SUPERVISION, SET FORTH IN TITLE 6, SUBTITLE 2 OF THE CORRECTIONAL SERVICES
20 ARTICLE, OR THE INTERSTATE CORRECTIONS COMPACT, SET FORTH IN TITLE 8,
21 SUBTITLE 6 OF THE CORRECTIONAL SERVICES ARTICLE;

22 (8) THE SECRETARY, IF THE REGISTRANT MOVES TO THIS STATE AND
23 WAS CONVICTED IN ANOTHER STATE OF A CRIME THAT WOULD REQUIRE THE
24 REGISTRANT TO REGISTER IF THE CRIME WAS COMMITTED IN THIS STATE;

25 (9) THE SECRETARY, IF THE REGISTRANT MOVES TO THIS STATE FROM
26 ANOTHER STATE WHERE THE REGISTRANT WAS REQUIRED TO REGISTER;

27 (10) THE SECRETARY, IF THE REGISTRANT IS NOT A RESIDENT OF THIS
28 STATE; OR

29 (11) THE DIRECTOR OF PAROLE AND PROBATION, IF THE REGISTRANT IS
30 UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND PROBATION.

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 27, § 792(a)(13).

33 In item (2) of this subsection, the defined term "local correctional facility"
34 is substituted for the former reference to a "local or regional detention
35 center" to conform to the terminology used throughout this article.

36 In item (8) of this subsection, the reference to a "crime" is substituted for
37 the former reference to an "offense" to conform to the terminology used

1 throughout this article.

2 The Criminal Procedure Article Review Committee notes, for consideration
3 by the General Assembly, that items (6) and (10) of this subsection may
4 conflict. If the registrant is not a resident of this State, then according to
5 item (10) the Secretary is the supervising authority. However, according to
6 item (6), if a Maryland Court was the venue in which the registrant was
7 convicted, that court is the supervising authority.

8 Defined terms: "Correctional facility" § 1-101

9 "Department" § 1-101

10 "Local correctional facility" § 1-101

11 "Secretary" § 1-101

12 "State" § 1-101

13 11-702. ELEMENTS OF CONVICTION.

14 FOR THE PURPOSES OF THIS SUBTITLE, A PERSON IS CONVICTED WHEN THE
15 PERSON:

16 (1) IS FOUND GUILTY OF A CRIME BY A JURY OR JUDICIAL OFFICER;

17 (2) ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE;

18 (3) IS GRANTED A PROBATION BEFORE JUDGMENT AFTER A FINDING OF
19 GUILT FOR A CRIME IF THE COURT, AS A CONDITION OF PROBATION, ORDERS
20 COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; OR

21 (4) IS FOUND NOT CRIMINALLY RESPONSIBLE FOR A CRIME.

22 REVISOR'S NOTE: Items (1) and (2) of this section are new language added for
23 clarity.

24 Items (3) and (4) of this section are new language derived without
25 substantive change from former Art. 27, § 792(a)(3).

26 In this section, the reference to a "crime" is substituted for the former
27 reference to an "offense" to conform to the terminology used throughout
28 this article.

29 Defined terms: "Nolo contendere" § 1-101

30 "Person" § 1-101

31 11-703. DETERMINATION OF PREDATOR STATUS.

32 (A) REQUEST FOR DETERMINATION.

33 (1) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, IF A
34 PERSON IS CONVICTED OF A SUBSEQUENT SEXUALLY VIOLENT OFFENSE, THE
35 STATE'S ATTORNEY BEFORE SENTENCING MAY ASK THE COURT TO DETERMINE
36 WHETHER THE PERSON IS A SEXUALLY VIOLENT PREDATOR.

1 (2) IF THE STATE'S ATTORNEY MAKES A REQUEST UNDER PARAGRAPH
 2 (1) OF THIS SUBSECTION, THE COURT SHALL DETERMINE, BEFORE OR AT
 3 SENTENCING, WHETHER THE PERSON IS A SEXUALLY VIOLENT PREDATOR.

4 (B) FACTORS IN DETERMINATION.

5 IN MAKING A DETERMINATION UNDER SUBSECTION (A) OF THIS SECTION, THE
 6 COURT SHALL CONSIDER:

7 (1) EVIDENCE THAT THE COURT CONSIDERS APPROPRIATE TO THE
 8 DETERMINATION OF WHETHER THE PERSON IS A SEXUALLY VIOLENT PREDATOR,
 9 INCLUDING THE PRESENTENCING INVESTIGATION AND SEXUALLY VIOLENT
 10 OFFENDER'S INMATE RECORD;

11 (2) EVIDENCE INTRODUCED BY THE PERSON CONVICTED; AND

12 (3) AT THE REQUEST OF THE STATE'S ATTORNEY, EVIDENCE THAT A
 13 VICTIM OF THE SEXUALLY VIOLENT OFFENSE PRESENTS.

14 (C) NOTICE REQUIRED.

15 THE STATE'S ATTORNEY MAY NOT ASK A COURT TO DETERMINE WHETHER A
 16 PERSON IS A SEXUALLY VIOLENT PREDATOR UNDER THIS SECTION UNLESS THE
 17 STATE'S ATTORNEY SERVES WRITTEN NOTICE OF INTENT TO MAKE THE REQUEST ON
 18 THE DEFENDANT OR THE DEFENDANT'S COUNSEL AT LEAST 30 DAYS BEFORE TRIAL.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 27, § 792(b).

21 In subsection (a)(1) of this section, the former reference to a "second"
 22 sexually violent offense is deleted in light of the reference to a
 23 "subsequent" offense.

24 As for the substitution of the reference to a "person" for the former
 25 reference to an "individual", *see* General Revisor's Note to article.

26 Defined terms: "Inmate" § 1-101

27 "Person" § 1-101

28 "Sexually violent offender" § 11-701

29 "Sexually violent offense" § 11-701

30 "Sexually violent predator" § 11-701

31 11-704. REGISTRATION REQUIRED.

32 A PERSON SHALL REGISTER WITH THE PERSON'S SUPERVISING AUTHORITY IF
 33 THE PERSON IS:

34 (1) A CHILD SEXUAL OFFENDER;

35 (2) AN OFFENDER;

1 (3) A SEXUALLY VIOLENT OFFENDER;

2 (4) A SEXUALLY VIOLENT PREDATOR;

3 (5) A CHILD SEXUAL OFFENDER WHO, BEFORE MOVING INTO THIS
4 STATE, WAS REQUIRED TO REGISTER IN ANOTHER STATE OR BY A FEDERAL,
5 MILITARY, OR NATIVE AMERICAN TRIBAL COURT FOR A CRIME THAT OCCURRED
6 BEFORE OCTOBER 1, 1995;

7 (6) AN OFFENDER, SEXUALLY VIOLENT OFFENDER, OR SEXUALLY
8 VIOLENT PREDATOR WHO, BEFORE MOVING INTO THIS STATE, WAS REQUIRED TO
9 REGISTER IN ANOTHER STATE OR BY A FEDERAL, MILITARY, OR NATIVE AMERICAN
10 TRIBAL COURT FOR A CRIME THAT OCCURRED BEFORE JULY 1, 1997; OR

11 (7) A CHILD SEXUAL OFFENDER, OFFENDER, SEXUALLY VIOLENT
12 OFFENDER, OR SEXUALLY VIOLENT PREDATOR WHO IS REQUIRED TO REGISTER IN
13 ANOTHER STATE, WHO IS NOT A RESIDENT OF THIS STATE, AND WHO ENTERS THIS
14 STATE:

15 (I) TO CARRY ON EMPLOYMENT OR A VOCATION THAT IS
16 FULL-TIME OR PART-TIME FOR A PERIOD EXCEEDING 14 DAYS OR FOR AN
17 AGGREGATE PERIOD EXCEEDING 30 DAYS DURING A CALENDAR YEAR, WHETHER
18 FINANCIALLY COMPENSATED, VOLUNTARY, OR FOR A GOVERNMENTAL OR
19 EDUCATIONAL BENEFIT; OR

20 (II) TO ATTEND A PUBLIC OR PRIVATE EDUCATIONAL INSTITUTION,
21 INCLUDING A SECONDARY SCHOOL, TRADE OR PROFESSIONAL INSTITUTION, OR
22 INSTITUTION OF HIGHER EDUCATION, AS A FULL-TIME OR PART-TIME STUDENT.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 792(a)(7) and the introductory language of
25 (c)(1).

26 This section, which in large part is a revision of a former definition
27 provision, conforms to the format used in other revised articles by stating
28 a licensing or registration requirement in a substantive provision.

29 In items (5) and (6) of this section, the references to a "crime" are
30 substituted for the former references to an "offense" to conform to the
31 terminology used throughout this article.

32 Defined terms: "Child sexual offender" § 11-701

33 "Offender" § 11-701

34 "Sexually violent offender" § 11-701

35 "Sexually violent predator" § 11-701

36 "State" § 1-101

37 "Supervising authority" § 11-701

1 11-705. DEADLINE FOR REGISTRATION.

2 (A) "RESIDENT" DEFINED.

3 IN THIS SECTION, "RESIDENT" MEANS A PERSON WHO LIVES IN THIS STATE
4 WHEN THE PERSON:

5 (1) IS RELEASED;

6 (2) IS GRANTED PROBATION BEFORE JUDGMENT;

7 (3) IS GRANTED PROBATION AFTER JUDGMENT;

8 (4) IS GRANTED A SUSPENDED SENTENCE; OR

9 (5) RECEIVES A SENTENCE THAT DOES NOT INCLUDE A TERM OF
10 IMPRISONMENT.

11 (B) REGISTRATION WITH SUPERVISING AUTHORITY.

12 A REGISTRANT SHALL REGISTER WITH THE SUPERVISING AUTHORITY:

13 (1) IF THE REGISTRANT IS A RESIDENT, ON OR BEFORE THE DATE THAT
14 THE REGISTRANT:

15 (I) IS RELEASED;

16 (II) IS GRANTED PROBATION BEFORE JUDGMENT;

17 (III) IS GRANTED PROBATION AFTER JUDGMENT;

18 (IV) IS GRANTED A SUSPENDED SENTENCE; OR

19 (V) RECEIVES A SENTENCE THAT DOES NOT INCLUDE A TERM OF
20 IMPRISONMENT;

21 (2) IF THE REGISTRANT MOVES INTO THE STATE, WITHIN 7 DAYS AFTER
22 THE EARLIER OF THE DATE THAT THE REGISTRANT:

23 (I) ESTABLISHES A TEMPORARY OR PERMANENT RESIDENCE IN
24 THE STATE; OR

25 (II) APPLIES FOR A DRIVER'S LICENSE IN THE STATE; OR

26 (3) IF THE REGISTRANT IS NOT A RESIDENT, WITHIN 14 DAYS AFTER THE
27 REGISTRANT:

28 (I) BEGINS EMPLOYMENT IN THE STATE; OR

29 (II) REGISTERS AS A STUDENT IN THE STATE.

30 (C) ADDITIONAL REGISTRATION FOR CHILD SEXUAL OFFENDERS.

1 (1) A CHILD SEXUAL OFFENDER SHALL ALSO REGISTER IN PERSON
 2 WITH THE LOCAL LAW ENFORCEMENT UNIT OF THE COUNTY WHERE THE CHILD
 3 SEXUAL OFFENDER WILL RESIDE:

4 (I) WITHIN 7 DAYS AFTER RELEASE, IF THE CHILD SEXUAL
 5 OFFENDER IS A RESIDENT; OR

6 (II) WITHIN 7 DAYS AFTER REGISTERING WITH THE SUPERVISING
 7 AUTHORITY, IF THE REGISTRANT IS MOVING INTO THIS STATE.

8 (2) WITHIN 7 DAYS AFTER REGISTERING WITH THE SUPERVISING
 9 AUTHORITY, A CHILD SEXUAL OFFENDER WHO IS NOT A RESIDENT AND WHO WORKS
 10 OR ATTENDS SCHOOL IN THIS STATE SHALL ALSO REGISTER IN PERSON WITH THE
 11 LOCAL LAW ENFORCEMENT UNIT OF THE COUNTY WHERE THE CHILD SEXUAL
 12 OFFENDER WILL WORK OR ATTEND SCHOOL.

13 (3) A CHILD SEXUAL OFFENDER MAY BE REQUIRED TO GIVE TO THE
 14 LOCAL LAW ENFORCEMENT UNIT MORE INFORMATION THAN REQUIRED UNDER §
 15 11-706 OF THIS SUBTITLE.

16 (D) CHANGE OF REGISTRANT'S RESIDENCE.

17 A REGISTRANT WHO CHANGES RESIDENCES SHALL SEND WRITTEN NOTICE OF
 18 THE CHANGE TO THE DEPARTMENT WITHIN 7 DAYS AFTER THE CHANGE OCCURS.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 27, § 792(a)(9) and (c).

21 In subsection (a) of this section, as for the substitution of the reference to a
 22 "person" for the former reference to an "individual", *see* General Revisor's
 23 Note to article.

24 Defined terms: "Child sexual offender" § 11-701

25 "County" § 1-101

26 "Department" § 1-101

27 "Law enforcement unit" § 11-701

28 "Person" § 1-101

29 "Supervising authority" § 11-701

30 11-706. REGISTRATION STATEMENTS.

31 (A) CONTENTS GENERALLY.

32 A REGISTRATION STATEMENT SHALL INCLUDE:

33 (1) THE REGISTRANT'S NAME AND ADDRESS;

34 (2) (I) FOR A REGISTRANT UNDER § 11-704(7)(I) OF THIS SUBTITLE, THE
 35 REGISTRANT'S PLACE OF EMPLOYMENT; OR

1 (II) FOR A REGISTRANT UNDER § 11-704(7)(II) OF THIS SUBTITLE,
2 THE REGISTRANT'S PLACE OF EDUCATIONAL INSTITUTION OR SCHOOL
3 ENROLLMENT;

4 (3) A DESCRIPTION OF THE CRIME FOR WHICH THE REGISTRANT WAS
5 CONVICTED, GRANTED PROBATION BEFORE JUDGMENT, OR FOUND NOT
6 CRIMINALLY RESPONSIBLE;

7 (4) THE DATE THAT THE REGISTRANT WAS CONVICTED, GRANTED
8 PROBATION BEFORE JUDGMENT, OR FOUND NOT CRIMINALLY RESPONSIBLE;

9 (5) THE JURISDICTION IN WHICH THE REGISTRANT WAS CONVICTED,
10 GRANTED PROBATION BEFORE JUDGMENT, OR FOUND NOT CRIMINALLY
11 RESPONSIBLE;

12 (6) A LIST OF ANY ALIASES THAT THE REGISTRANT HAS USED;

13 (7) THE REGISTRANT'S SOCIAL SECURITY NUMBER; AND

14 (8) THE REGISTRANT'S SIGNATURE AND DATE SIGNED.

15 (B) FURTHER CONTENTS FOR PREDATORS.

16 IF THE REGISTRANT IS A SEXUALLY VIOLENT PREDATOR, THE REGISTRATION
17 STATEMENT SHALL ALSO INCLUDE:

18 (1) IDENTIFYING FACTORS, INCLUDING A PHYSICAL DESCRIPTION;

19 (2) ANTICIPATED FUTURE RESIDENCE, IF KNOWN AT THE TIME OF
20 REGISTRATION;

21 (3) OFFENSE HISTORY; AND

22 (4) DOCUMENTATION OF TREATMENT RECEIVED FOR A MENTAL
23 ABNORMALITY OR PERSONALITY DISORDER.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 792(e).

26 In subsection (a)(2) of this section, the former references to an "individual
27 who qualifies as" a registrant are deleted in light of the term "registrant".

28 Defined term: "Sexually violent predator" § 11-701

29 11-707. TERM OF REGISTRATION.

30 (A) IN GENERAL.

31 (1) A CHILD SEXUAL OFFENDER SHALL REGISTER ANNUALLY IN PERSON
32 WITH A LOCAL LAW ENFORCEMENT UNIT FOR THE TERM PROVIDED UNDER
33 PARAGRAPH (4) OF THIS SUBSECTION.

1 (2) AN OFFENDER AND A SEXUALLY VIOLENT OFFENDER SHALL
2 REGISTER ANNUALLY WITH THE DEPARTMENT IN ACCORDANCE WITH § 11-711(A) OF
3 THIS SUBTITLE AND FOR THE TERM PROVIDED UNDER PARAGRAPH (4) OF THIS
4 SUBSECTION.

5 (3) A SEXUALLY VIOLENT PREDATOR SHALL REGISTER EVERY 90 DAYS
6 IN ACCORDANCE WITH § 11-711(B) OF THIS SUBTITLE AND FOR THE TERM PROVIDED
7 UNDER PARAGRAPH (4)(II) OF THIS SUBSECTION.

8 (4) THE TERM OF REGISTRATION IS:

9 (I) 10 YEARS; OR

10 (II) LIFE, IF:

11 1. THE REGISTRANT HAS BEEN DETERMINED TO BE A
12 SEXUALLY VIOLENT PREDATOR IN ACCORDANCE WITH THE PROCEDURES
13 DESCRIBED IN § 11-703 OF THIS SUBTITLE;

14 2. THE REGISTRANT HAS BEEN CONVICTED OF ANY
15 VIOLATION OF ARTICLE 27, §§ 462 THROUGH 464B OF THE CODE; OR

16 3. THE REGISTRANT HAS BEEN PREVIOUSLY REQUIRED TO
17 REGISTER AND HAS BEEN CONVICTED OF A SUBSEQUENT CRIME AS A CHILD SEXUAL
18 OFFENDER OR AN OFFENDER OR HAS BEEN CONVICTED OF A SUBSEQUENT
19 SEXUALLY VIOLENT OFFENSE.

20 (5) A REGISTRANT WHO IS NOT A RESIDENT OF THE STATE SHALL
21 REGISTER FOR THE APPROPRIATE TIME SPECIFIED IN THIS SUBSECTION OR UNTIL
22 THE REGISTRANT'S EMPLOYMENT OR STUDENT ENROLLMENT IN THE STATE ENDS.

23 (B) COMPUTATION OF TERMS.

24 A TERM OF REGISTRATION DESCRIBED IN THIS SECTION SHALL BE COMPUTED
25 FROM:

26 (1) THE LAST DATE OF RELEASE; OR

27 (2) THE DATE GRANTED PROBATION OR A SUSPENDED SENTENCE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 792(d).

30 In subsection (b)(2) of this section, the former references to "probation
31 before judgment" and "probation after judgment" are deleted as included
32 in the reference to "probation". In addition, the former reference to "[t]he
33 date of receiving a sentence that does not include a term of imprisonment"
34 is deleted as included in the reference to "a suspended sentence".

35 The Criminal Procedure Article Review Committee notes, for consideration
36 by the General Assembly, that subsection (b)(2) of this section is unclear as

1 to the starting date of the term of registration: the date granted probation
2 or the date granted a suspended sentence?

3 Defined terms: "Child sexual offender" § 11-701

4 "Local law enforcement unit" § 11-701

5 "Offender" § 11-701

6 "Person" § 1-101

7 "Sexually violent offense" § 11-701

8 "Sexually violent predator" § 11-701

9 11-708. DUTIES OF SUPERVISING AUTHORITY.

10 (A) AT TIME OF REGISTRATION.

11 WHEN A REGISTRANT REGISTERS, THE SUPERVISING AUTHORITY SHALL:

12 (1) GIVE WRITTEN NOTICE TO THE REGISTRANT OF THE REQUIREMENTS
13 OF THIS SUBTITLE;

14 (2) EXPLAIN THE REQUIREMENTS OF THIS SUBTITLE TO THE
15 REGISTRANT, INCLUDING:

16 (I) THE DUTIES OF A REGISTRANT WHEN THE REGISTRANT
17 CHANGES RESIDENCE ADDRESS IN THIS STATE;

18 (II) THE REQUIREMENT FOR A CHILD SEXUAL OFFENDER TO
19 REGISTER IN PERSON WITH THE LOCAL LAW ENFORCEMENT UNIT OF THE COUNTY
20 WHERE THE CHILD SEXUAL OFFENDER WILL RESIDE OR WHERE THE CHILD SEXUAL
21 OFFENDER WHO IS NOT A RESIDENT OF THIS STATE WILL WORK OR ATTEND SCHOOL;
22 AND

23 (III) THE REQUIREMENT THAT IF THE REGISTRANT CHANGES
24 RESIDENCE ADDRESS, EMPLOYMENT, OR SCHOOL ENROLLMENT TO ANOTHER STATE
25 THAT HAS A REGISTRATION REQUIREMENT, THE REGISTRANT SHALL REGISTER
26 WITH THE DESIGNATED LAW ENFORCEMENT UNIT OF THAT STATE WITHIN 7 DAYS
27 AFTER THE CHANGE; AND

28 (3) OBTAIN A STATEMENT SIGNED BY THE REGISTRANT
29 ACKNOWLEDGING THAT THE SUPERVISING AUTHORITY EXPLAINED THE
30 REQUIREMENTS OF THIS SUBTITLE AND GAVE WRITTEN NOTICE OF THE
31 REQUIREMENTS TO THE REGISTRANT.

32 (B) PHOTOGRAPH AND FINGERPRINTS TO BE OBTAINED.

33 THE SUPERVISING AUTHORITY SHALL OBTAIN A PHOTOGRAPH AND
34 FINGERPRINTS OF THE REGISTRANT AND ATTACH THE PHOTOGRAPH AND
35 FINGERPRINTS TO THE REGISTRATION STATEMENT.

36 (C) COPY TO LOCAL LAW ENFORCEMENT UNIT.

1 WITHIN 5 DAYS AFTER OBTAINING A REGISTRATION STATEMENT, THE
2 SUPERVISING AUTHORITY SHALL SEND A COPY OF THE REGISTRATION STATEMENT
3 WITH THE ATTACHED FINGERPRINTS AND PHOTOGRAPH OF THE REGISTRANT TO
4 THE LOCAL LAW ENFORCEMENT UNIT IN THE COUNTY WHERE THE REGISTRANT
5 WILL RESIDE OR WHERE A REGISTRANT WHO IS NOT A RESIDENT WILL WORK OR
6 ATTEND SCHOOL.

7 (D) REGISTRATION STATEMENT TO BE SUBMITTED TO DEPARTMENT.

8 AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS AFTER THE
9 REGISTRATION IS COMPLETE, A SUPERVISING AUTHORITY THAT IS NOT A UNIT OF
10 THE DEPARTMENT SHALL SEND THE REGISTRATION STATEMENT TO THE
11 DEPARTMENT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 792(f).

14 Defined terms: "Child sexual offender" § 11-701

15 "County" § 1-101

16 "Department" § 1-101

17 "Local law enforcement unit" § 11-701

18 "State" § 1-101

19 "Supervising authority" § 11-701

20 11-709. NOTIFICATION REQUIREMENTS OF LOCAL LAW ENFORCEMENT UNIT.

21 (A) NOTICE TO DEPARTMENT.

22 EACH YEAR WITHIN 5 DAYS AFTER A CHILD SEXUAL OFFENDER COMPLETES
23 THE REGISTRATION REQUIREMENTS OF § 11-707(A) OF THIS SUBTITLE, A LOCAL LAW
24 ENFORCEMENT UNIT SHALL SEND NOTICE OF THE CHILD SEXUAL OFFENDER'S
25 ANNUAL REGISTRATION TO THE DEPARTMENT.

26 (B) NOTICE TO SUPERINTENDENTS AND PRINCIPALS.

27 (1) AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS
28 AFTER RECEIVING A REGISTRATION STATEMENT OF A CHILD SEXUAL OFFENDER, A
29 LOCAL LAW ENFORCEMENT UNIT SHALL SEND WRITTEN NOTICE OF THE
30 REGISTRATION STATEMENT TO THE COUNTY SUPERINTENDENT, AS DEFINED IN §
31 1-101 OF THE EDUCATION ARTICLE, IN THE COUNTY WHERE THE CHILD SEXUAL
32 OFFENDER IS TO RESIDE OR WHERE A CHILD SEXUAL OFFENDER WHO IS NOT A
33 RESIDENT OF THE STATE WILL WORK OR ATTEND SCHOOL.

34 (2) AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS
35 AFTER RECEIVING NOTICE FROM THE LOCAL LAW ENFORCEMENT UNIT UNDER
36 PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTY SUPERINTENDENT SHALL SEND
37 WRITTEN NOTICE OF THE REGISTRATION STATEMENT TO PRINCIPALS OF THE
38 SCHOOLS UNDER THE SUPERINTENDENT'S SUPERVISION THAT THE
39 SUPERINTENDENT CONSIDERS NECESSARY TO PROTECT THE STUDENTS OF A
40 SCHOOL FROM A CHILD SEXUAL OFFENDER.

1 (C) NOTICE AFTER REGISTRANT'S RELEASE OR ESCAPE.

2 A LOCAL LAW ENFORCEMENT UNIT THAT RECEIVES A NOTICE FROM A
3 SUPERVISING AUTHORITY UNDER THIS SECTION SHALL SEND A COPY OF THE
4 NOTICE TO THE POLICE DEPARTMENT, IF ANY, OF A MUNICIPAL CORPORATION IF
5 THE REGISTRANT:

6 (1) IS TO RESIDE IN THE MUNICIPAL CORPORATION AFTER RELEASE; OR

7 (2) ESCAPES FROM A CORRECTIONAL FACILITY BUT RESIDED IN THE
8 MUNICIPAL CORPORATION BEFORE BEING COMMITTED TO THE CUSTODY OF A
9 SUPERVISING AUTHORITY.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 792(g)(1), (2), and (4).

12 Defined terms: "Child sexual offender" § 11-701

13 "Correctional facility" § 1-101

14 "County" § 1-101

15 "Department" § 1-101

16 "Local law enforcement unit" § 11-701

17 "Supervising authority" § 11-701

18 11-710. NOTICE OF REGISTRANT'S CHANGE OF ADDRESS.

19 AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS AFTER RECEIPT
20 OF NOTICE OF A REGISTRANT'S CHANGE OF ADDRESS, THE DEPARTMENT SHALL
21 GIVE NOTICE OF THE CHANGE:

22 (1) IF THE REGISTRATION IS PREMISED ON A CONVICTION UNDER
23 FEDERAL, MILITARY, OR NATIVE AMERICAN TRIBAL LAW, TO THE DESIGNATED
24 FEDERAL UNIT; AND

25 (2) (I) TO THE LOCAL LAW ENFORCEMENT UNIT IN WHOSE COUNTY
26 THE NEW RESIDENCE IS LOCATED; OR

27 (II) IF THE NEW RESIDENCE IS IN A DIFFERENT STATE THAT HAS A
28 REGISTRATION REQUIREMENT, TO THE DESIGNATED LAW ENFORCEMENT UNIT IN
29 THAT STATE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 792(h)(2).

32 In item (1) of this section, as for the substitution of the word federal "unit"
33 for the former reference to "agency", *see* General Revisor's Note to article.

34 In item (2)(i) of this section, the conjunction "or" is substituted for the
35 former conjunction "and" to reflect that a new residence will be located
36 either in a county of this State or in a different state.

1 Defined terms: "Department" § 1-101

2 "Local law enforcement unit" § 11-701

3 11-711. VERIFICATION FORMS.

4 (A) OFFENDERS AND SEXUALLY VIOLENT OFFENDERS.

5 (1) THE DEPARTMENT SHALL MAIL ANNUALLY A VERIFICATION FORM
6 TO THE LAST REPORTED ADDRESS OF EACH OFFENDER AND SEXUALLY VIOLENT
7 OFFENDER.

8 (2) THE VERIFICATION FORM MAY NOT BE FORWARDED.

9 (3) WITHIN 10 DAYS AFTER RECEIVING THE VERIFICATION FORM, THE
10 OFFENDER OR SEXUALLY VIOLENT OFFENDER SHALL SIGN THE VERIFICATION
11 FORM AND MAIL IT TO THE DEPARTMENT.

12 (B) SEXUALLY VIOLENT PREDATORS.

13 (1) A LOCAL LAW ENFORCEMENT UNIT SHALL MAIL A VERIFICATION
14 FORM EVERY 90 DAYS TO THE LAST REPORTED ADDRESS OF A SEXUALLY VIOLENT
15 PREDATOR.

16 (2) THE VERIFICATION FORM MAY NOT BE FORWARDED.

17 (3) WITHIN 10 DAYS AFTER RECEIVING THE VERIFICATION FORM, THE
18 SEXUALLY VIOLENT PREDATOR SHALL SIGN THE FORM AND MAIL IT TO THE LOCAL
19 LAW ENFORCEMENT UNIT.

20 (4) WITHIN 5 DAYS AFTER RECEIVING A VERIFICATION FORM FROM A
21 SEXUALLY VIOLENT PREDATOR, A LOCAL LAW ENFORCEMENT UNIT SHALL SEND A
22 COPY OF THE VERIFICATION FORM TO THE DEPARTMENT.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 792(g)(3) and (h)(3).

25 Defined terms: "Department" § 1-101

26 "Local law enforcement unit" § 11-701

27 "Offender" § 11-701

28 "Sexually violent offender" § 11-701

29 "Sexually violent predator" § 11-701

30 11-712. NOTICE OF ESCAPE AND RECAPTURE.

31 (A) ESCAPE.

32 IF A REGISTRANT ESCAPES FROM A CORRECTIONAL FACILITY, THE
33 SUPERVISING AUTHORITY OF THE CORRECTIONAL FACILITY BY THE MOST
34 REASONABLE AND EXPEDIENT MEANS AVAILABLE SHALL IMMEDIATELY NOTIFY:

1 (1) THE LOCAL LAW ENFORCEMENT UNIT IN THE JURISDICTION WHERE
2 THE REGISTRANT RESIDED BEFORE THE REGISTRANT WAS COMMITTED TO THE
3 CUSTODY OF THE SUPERVISING AUTHORITY; AND

4 (2) EACH PERSON WHO IS ENTITLED TO RECEIVE NOTICE UNDER §
5 11-715(A) OF THIS SUBTITLE.

6 (B) RECAPTURE.

7 IF THE REGISTRANT IS RECAPTURED, THE SUPERVISING AUTHORITY SHALL
8 SEND NOTICE, AS SOON AS POSSIBLE BUT NOT LATER THAN 2 WORKING DAYS AFTER
9 THE SUPERVISING AUTHORITY LEARNS OF THE RECAPTURE, TO:

10 (1) THE LOCAL LAW ENFORCEMENT UNIT IN THE JURISDICTION WHERE
11 THE REGISTRANT RESIDED BEFORE THE REGISTRANT WAS COMMITTED TO THE
12 CUSTODY OF THE SUPERVISING AUTHORITY; AND

13 (2) EACH PERSON WHO IS ENTITLED TO RECEIVE NOTICE UNDER §
14 11-715(A) OF THIS SUBTITLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 792(i).

17 As for the substitution of the reference to a "person" for the former
18 reference to an "individual", *see* General Revisor's Note to article.

19 Defined terms: "Correctional facility" § 1-101

20 "Local law enforcement unit" § 11-701

21 "Person" § 1-101

22 "Supervising authority" § 11-701

23 11-713. DUTIES OF DEPARTMENT.

24 THE DEPARTMENT:

25 (1) AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS
26 AFTER RECEIVING THE CONVICTION DATA AND FINGERPRINTS OF A REGISTRANT,
27 SHALL TRANSMIT THE DATA AND FINGERPRINTS TO THE FEDERAL BUREAU OF
28 INVESTIGATION IF THE BUREAU DOES NOT HAVE THAT INFORMATION;

29 (2) SHALL KEEP A CENTRAL REGISTRY OF REGISTRANTS;

30 (3) SHALL REIMBURSE SUPERVISING AUTHORITIES FOR THE COST OF
31 PROCESSING THE REGISTRATION STATEMENTS OF REGISTRANTS, INCLUDING THE
32 COST OF TAKING FINGERPRINTS AND PHOTOGRAPHS.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 792(h)(1).

35 Defined term: "Department" § 1-101

1 11-714. PROVIDING REGISTRATION STATEMENTS -- IN GENERAL.

2 A REGISTRATION STATEMENT GIVEN TO A PERSON UNDER THIS SUBTITLE
3 SHALL INCLUDE A COPY OF THE COMPLETED REGISTRATION FORM AND A COPY OF
4 THE REGISTRANT'S PHOTOGRAPH, BUT NEED NOT INCLUDE THE FINGERPRINTS OF
5 THE REGISTRANT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 792(j)(1).

8 Defined term: "Person" § 1-101

9 11-715. SAME -- SUPERVISING AUTHORITY.

10 (A) COPIES TO BE SENT ON WRITTEN REQUEST.

11 (1) ON REQUEST FOR A COPY OF A REGISTRATION STATEMENT ABOUT A
12 SPECIFIC PERSON, THE SUPERVISING AUTHORITY SHALL SEND A COPY TO:

13 (I) EACH WITNESS WHO TESTIFIED AGAINST THE REGISTRANT IN
14 A COURT PROCEEDING INVOLVING THE CRIME; AND

15 (II) EACH PERSON SPECIFIED IN WRITING BY THE STATE'S
16 ATTORNEY.

17 (2) SUBJECT TO ITEM (3) OF THIS SUBSECTION, THE SUPERVISING
18 AUTHORITY SHALL SEND A COPY OF A REGISTRATION STATEMENT TO EACH:

19 (I) VICTIM OF THE CRIME FOR WHICH THE REGISTRANT WAS
20 CONVICTED; OR

21 (II) VICTIM'S REPRESENTATIVE AS DEFINED IN § 11-104 OF THIS
22 TITLE.

23 (3) A COPY OF THE REGISTRATION STATEMENT SHALL BE SENT IF:

24 (I) A REQUEST IS MADE IN WRITING ABOUT A SPECIFIC
25 REGISTRANT; OR

26 (II) A NOTIFICATION REQUEST FORM HAS BEEN FILED UNDER §
27 11-104 OF THIS TITLE.

28 (B) CONFIDENTIALITY OF INFORMATION.

29 INFORMATION ABOUT A PERSON WHO RECEIVES A COPY OF A REGISTRATION
30 STATEMENT UNDER THIS SECTION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED
31 TO THE REGISTRANT OR ANY OTHER PERSON.

32 (C) ADDRESS FOR NOTICE.

1 A SUPERVISING AUTHORITY SHALL SEND A NOTICE REQUIRED UNDER
2 SUBSECTION (A)(2) OF THIS SECTION OR § 11-712(A)(2) OR (B)(2) OF THIS SUBTITLE TO
3 THE LAST ADDRESS GIVEN TO THE SUPERVISING AUTHORITY.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 792(j)(2), (3), and (4).

6 In subsection (a)(2)(ii) of this section, the reference to a "victim's
7 representative as defined in § 11-104 of this title" is substituted for the
8 narrow former reference to "if the victim is a minor, the parents or legal
9 guardian of the victim" in light of the former requirement that, to receive a
10 copy of a registration statement, a victim must file a form "under § 770 of
11 this article". The provisions of former § 770 - now § 11-104 of this title -
12 apply to victim's representatives.

13 As for the substitution of the reference to "person" for the former reference
14 to an "individual", *see* General Revisor's Note to article.

15 Defined terms: "Person" § 1-101

16 "Supervising authority" § 11-701

17 11-716. SAME -- TO LOCAL LAW ENFORCEMENT UNIT.

18 (A) COPIES TO BE SENT ON WRITTEN REQUEST.

19 SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON WRITTEN REQUEST TO A
20 LOCAL LAW ENFORCEMENT UNIT, THE UNIT:

21 (1) SHALL SEND TO THE PERSON WHO SUBMITTED THE REQUEST ONE
22 COPY OF THE REGISTRATION STATEMENT OF EACH CHILD SEXUAL OFFENDER AND
23 EACH SEXUALLY VIOLENT PREDATOR ON RECORD WITH THE UNIT; AND

24 (2) MAY SEND TO THE PERSON WHO SUBMITTED THE REQUEST ONE
25 COPY OF THE REGISTRATION STATEMENT OF ANY REGISTRANT NOT DESCRIBED IN
26 ITEM (1) OF THIS SUBSECTION ON RECORD WITH THE UNIT.

27 (B) CONTENTS OF REQUEST.

28 A REQUEST UNDER SUBSECTION (A) OF THIS SECTION SHALL CONTAIN:

29 (1) THE NAME AND ADDRESS OF THE PERSON WHO SUBMITS THE
30 REQUEST; AND

31 (2) THE REASON FOR THE REQUEST.

32 (C) LOCAL LAW ENFORCEMENT UNIT TO KEEP RECORDS.

33 A LOCAL LAW ENFORCEMENT UNIT SHALL KEEP RECORDS OF ALL WRITTEN
34 REQUESTS RECEIVED UNDER SUBSECTION (A) OF THIS SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 792(j)(5).

3 As for the substitution of the reference to a "person" for the former
4 reference to an "individual", *see* General Revisor's Note to article.

5 Defined terms: "Child sexual offender" § 11-701

6 "Local law enforcement unit" § 11-701

7 "Person" § 1-101

8 "Sexually violent predator" § 11-701

9 11-717. REGISTRATION STATEMENTS TO BE MADE AVAILABLE TO PUBLIC; POSTING
10 ON INTERNET.

11 (A) DEPARTMENT TO MAKE AVAILABLE REGISTRATION STATEMENTS.

12 THE DEPARTMENT SHALL MAKE AVAILABLE TO THE PUBLIC REGISTRATION
13 STATEMENTS OR INFORMATION ABOUT REGISTRATION STATEMENTS.

14 (B) POSTING ON INTERNET.

15 THE DEPARTMENT MAY POST ON THE INTERNET A CURRENT LISTING OF EACH
16 REGISTRANT'S NAME, CRIME, AND OTHER IDENTIFYING INFORMATION.

17 (C) REGULATIONS.

18 THE DEPARTMENT SHALL ESTABLISH REGULATIONS TO CARRY OUT THIS
19 SECTION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 792(j)(6).

22 In subsection (b) of this section, the reference to a "crime" is substituted for
23 the former reference to an "offense" for consistency throughout this article.

24 In subsection (c) of this section, the reference to the Department's duty to
25 establish regulations "to carry out this section" is added for clarity.

26 Defined term: "Department" § 1-101

27 11-718. NOTICE TO PROTECT PUBLIC.

28 (A) IN GENERAL.

29 (1) IF THE DEPARTMENT OR A LOCAL LAW ENFORCEMENT UNIT FINDS
30 THAT, TO PROTECT THE PUBLIC FROM A SPECIFIC REGISTRANT, IT IS NECESSARY TO
31 GIVE NOTICE OF A REGISTRATION STATEMENT TO A PARTICULAR PERSON, THEN THE
32 DEPARTMENT OR A LOCAL LAW ENFORCEMENT UNIT SHALL GIVE NOTICE OF THE
33 REGISTRATION STATEMENT TO THAT PERSON.

1 (2) THIS NOTICE IS IN ADDITION TO THE NOTICE REQUIRED UNDER §
2 11-709(B)(1) OF THIS SUBTITLE.

3 (B) NOTIFICATION PROCEDURES.

4 THE DEPARTMENT AND LOCAL LAW ENFORCEMENT UNITS SHALL ESTABLISH
5 PROCEDURES TO CARRY OUT THE NOTIFICATION REQUIREMENTS OF THIS SECTION,
6 INCLUDING THE CIRCUMSTANCES UNDER AND MANNER IN WHICH NOTIFICATION
7 SHALL BE PROVIDED.

8 (C) RELEASE OF IDENTITY OF VICTIM PROHIBITED.

9 A LOCAL LAW ENFORCEMENT UNIT AND THE DEPARTMENT MAY NOT RELEASE
10 THE IDENTITY OF A VICTIM OF A CRIME THAT REQUIRES REGISTRATION UNDER THIS
11 SUBTITLE.

12 (D) EFFECT OF SECTION.

13 A DISCLOSURE UNDER THIS SECTION DOES NOT LIMIT OR PROHIBIT ANY
14 OTHER DISCLOSURE ALLOWED OR REQUIRED UNDER LAW.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 792(j)(7) and (8).

17 In subsection (a)(1) of this section, the former reference to a notification
18 that may "serve to" protect the public is deleted as implicit in the word
19 "protect".

20 In subsection (c) of this section, the reference to a "crime" is substituted for
21 the former reference to an "offense" to conform to the terminology used
22 throughout this article.

23 Defined terms: "Department" § 1-101

24 "Local law enforcement unit" § 11-701

25 "Person" § 1-101

26 11-719. IMMUNITY FOR PUBLIC OFFICIALS, EMPLOYEES, AND UNITS.

27 AN ELECTED PUBLIC OFFICIAL, PUBLIC EMPLOYEE, OR PUBLIC UNIT HAS THE
28 IMMUNITY DESCRIBED IN §§ 5-302 AND 5-522 OF THE COURTS ARTICLE REGARDING
29 CIVIL LIABILITY FOR DAMAGES ARISING OUT OF ANY ACTION RELATING TO THE
30 PROVISIONS OF THIS SUBTITLE, UNLESS IT IS PROVEN THAT THE OFFICIAL,
31 EMPLOYEE, OR UNIT ACTED WITH GROSS NEGLIGENCE OR IN BAD FAITH.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 792(k).

34 As for the substitution of the word "unit" for the former reference to an
35 "agency", *see* General Revisor's Note to article.

1 11-720. REGULATIONS.

2 WITH ADVICE FROM THE CRIMINAL JUSTICE INFORMATION ADVISORY BOARD
3 ESTABLISHED UNDER § 10-207 OF THIS ARTICLE, THE SECRETARY SHALL ADOPT
4 REGULATIONS TO CARRY OUT THIS SUBTITLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 792(m).

7 As for the substitution of the phrase "carry out" for the former reference to
8 "implement", *see* General Revisor's Note to article.

9 Defined term: "Secretary" § 1-101

10 11-721. PROHIBITED ACT; PENALTY.

11 (A) PROHIBITED ACT.

12 A REGISTRANT MAY NOT KNOWINGLY FAIL TO REGISTER OR KNOWINGLY
13 PROVIDE FALSE INFORMATION OF A MATERIAL FACT AS REQUIRED BY THIS
14 SUBTITLE.

15 (B) PENALTY.

16 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
17 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
18 NOT EXCEEDING \$5,000 OR BOTH.

19 (C) STATUTE OF LIMITATIONS AND IN BANC REVIEW.

20 A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B) OF THE
21 COURTS ARTICLE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 792(l).

24 Subsection (c) of this section is substituted for the former statement that a
25 violation of this section subjects the registrant to imprisonment "in the
26 penitentiary", for clarity and consistency within this article. *See* General
27 Revisor's Note to article.

28 Defined term: "Person" § 1-101

29 SUBTITLE 8. CRIMINAL INJURIES COMPENSATION BOARD.

30 11-801. DEFINITIONS.

31 (A) IN GENERAL.

32 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

1 REVISOR'S NOTE: This subsection formerly was Art. 27, § 815(a).

2 The only changes are in style.

3 (B) BOARD.

4 "BOARD" MEANS THE CRIMINAL INJURIES COMPENSATION BOARD.

5 REVISOR'S NOTE: This subsection formerly was Art. 27, § 815(b).

6 No changes are made.

7 (C) CLAIMANT.

8 "CLAIMANT" MEANS THE PERSON FILING A CLAIM UNDER THIS SUBTITLE.

9 REVISOR'S NOTE: This subsection formerly was Art. 27, § 815(c).

10 The reference to this "subtitle" is substituted for the former overly broad
11 reference to this "article" to reflect the appropriate statutory unit
12 governing the criminal injuries compensation law.

13 The only other changes are in style.

14 Defined term: "Person" § 1-101

15 (D) CRIME.

16 (1) "CRIME" MEANS:

17 (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
18 A CRIMINAL OFFENSE UNDER STATE, FEDERAL, OR COMMON LAW THAT IS
19 COMMITTED IN:

20 1. THIS STATE; OR

21 2. ANOTHER STATE AGAINST A RESIDENT OF THIS STATE; OR

22 (II) AN ACT OF INTERNATIONAL TERRORISM AS DEFINED IN TITLE
23 18, § 2331 OF THE UNITED STATES CODE THAT IS COMMITTED OUTSIDE OF THE
24 UNITED STATES AGAINST A RESIDENT OF THIS STATE.

25 (2) "CRIME" DOES NOT INCLUDE AN ACT INVOLVING THE OPERATION OF
26 A VESSEL OR MOTOR VEHICLE UNLESS THE ACT IS:

27 (I) OPERATING A MOTOR VEHICLE IN VIOLATION OF § 21-902 OF
28 THE TRANSPORTATION ARTICLE; OR

29 (II) OPERATING A MOTOR VEHICLE OR VESSEL THAT RESULTS IN
30 AN INTENTIONAL INJURY.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, § 815(d)(2) and (1)(i) through (v).

3 The Criminal Procedure Article Review Committee notes, for consideration
4 by the General Assembly, that in paragraph (1) of this subsection, the
5 references to "state" are substituted for the former reference to "State" to
6 clarify that this definition extends to the laws of any state in the United
7 States and not only to the laws of Maryland.

8 Defined term: "State" § 1-101

9 (E) DEPENDENT.

10 "DEPENDENT" MEANS:

11 (1) A SURVIVING SPOUSE OR CHILD OF A PERSON; OR

12 (2) A PERSON WHO IS DEPENDENT ON ANOTHER PERSON FOR
13 PRINCIPAL SUPPORT.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 27, § 819(a)(2), (3), (5), and (6).

16 The term "dependent" is defined for purposes of this subtitle to allow
17 concise and consistent reference to persons who, because of relationship or
18 dependence on a victim who dies, may be eligible for an award under this
19 subtitle.

20 The former law specified that persons eligible for awards include:

21 (1) a surviving spouse or child of "a victim of a crime who died as a direct
22 result of a crime" or "a person who dies as a direct result of trying to
23 prevent a crime or an attempted crime from occurring in the person's
24 presence or trying to apprehend a person who had committed a crime in
25 the person's presence or had, in fact, committed a felony"; and

26 (2) a person dependent for principal support upon "a victim of a crime who
27 died as a result of a crime" or "any person who dies as a direct result of
28 trying to prevent a crime or an attempted crime from occurring in the
29 person's presence or trying to apprehend a person who had committed a
30 crime in the person's presence or had, in fact, committed a felony".

31 This subsection deletes as redundant these descriptions of victims and
32 other persons to whom dependents are attached because the defined term
33 "dependent" is always used in connection with the defined term "victim", in
34 whose definition the identical descriptions appear.

35 Defined term: "Person" § 1-101

36 (F) VICTIM.

1 "VICTIM" MEANS A PERSON:

2 (1) WHO SUFFERS PHYSICAL INJURY OR DEATH AS A RESULT OF A
3 CRIME OR DELINQUENT ACT;

4 (2) WHO SUFFERS PSYCHOLOGICAL INJURY AS A DIRECT RESULT OF:

5 (I) A FOURTH DEGREE SEXUAL OFFENSE OR A DELINQUENT ACT
6 THAT WOULD BE A FOURTH DEGREE SEXUAL OFFENSE IF COMMITTED BY AN ADULT;

7 (II) A FELONY OR A DELINQUENT ACT THAT WOULD BE A FELONY
8 IF COMMITTED BY AN ADULT; OR

9 (III) PHYSICAL INJURY OR DEATH DIRECTLY RESULTING FROM A
10 CRIME OR DELINQUENT ACT; OR

11 (3) WHO SUFFERS PHYSICAL INJURY OR DEATH AS A DIRECT RESULT OF:

12 (I) TRYING TO PREVENT A CRIME OR DELINQUENT ACT OR AN
13 ATTEMPTED CRIME OR DELINQUENT ACT FROM OCCURRING IN THE PERSON'S
14 PRESENCE;

15 (II) TRYING TO APPREHEND AN OFFENDER WHO HAD COMMITTED
16 A CRIME OR DELINQUENT ACT IN THE PERSON'S PRESENCE OR HAD COMMITTED A
17 FELONY OR A DELINQUENT ACT THAT WOULD BE A FELONY IF COMMITTED BY AN
18 ADULT; OR

19 (III) HELPING A LAW ENFORCEMENT OFFICER IN THE
20 PERFORMANCE OF THE OFFICER'S DUTIES OR HELPING A MEMBER OF A FIRE
21 DEPARTMENT WHO IS BEING OBSTRUCTED FROM PERFORMING THE MEMBER'S
22 DUTIES.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 27, §§ 815(f) and 819(a)(4) and (7).

25 In this subsection, the definition of "victim" is revised for purposes of this
26 subtitle to include those persons who, while not included in the definition
27 of "victim" under former law, were eligible, and whose surviving spouses,
28 children, and dependents were eligible, for criminal injuries compensation
29 awards as a result of the person being injured or killed as a direct result of
30 crime or delinquent act.

31 As for the addition in items (2) and (3) of this subsection of the defined
32 term "delinquent act" to the defined term "crime", *see* General Revisor's
33 Note to this title.

34 The Criminal Procedure Article Review Committee notes, for consideration
35 by the General Assembly, that in item (3) of this subsection, the phrase
36 "who suffers physical injury or death as a direct result of" is substituted
37 for the former phrase "who is injured or killed while" for accuracy and

1 consistency to expressly state the implied requirement under former law
2 that there be a causal link between the injury or death and the criminal
3 activity.

4 The Criminal Procedure Article Review Committee also notes, for
5 consideration by the General Assembly, that apparently subsection (f)(1) of
6 this section does not apply to a person who:

7 (1) suffers a psychological injury but does not personally suffer physical
8 injury or death as a result of a crime or delinquent act; or

9 (2) is not the intended victim of the crime or delinquent act, *e.g.*, the rape
10 or robbery victim.

11 For example, a person would not be a "victim" under this subtitle by
12 suffering psychological injury because the person was a victim of stalking,
13 because a spouse was murdered, or because a daughter was raped.
14 Additionally, a person would not be a "victim" by suffering psychological
15 injury after witnessing a crime in which a stranger was brutally injured or
16 killed.

17 Defined terms: "Crime" § 11-801

18 "Delinquent act" § 11-101

19 GENERAL REVISOR'S NOTE TO SECTION:

20 Former Art. 27, § 815(d)(1)(vi), which defined "crime" in part to mean a
21 "delinquent act", is deleted as unnecessary in light of the defined term "delinquent
22 act" that is used throughout this title. *See* § 11-101 to title.

23 Former Art. 27, § 815(e), which defined "family" for purposes of this subtitle, is
24 deleted as obsolete and unnecessary because, although the term "family" appeared in
25 the former law, the term was not used in a context indicating the definition stated in
26 Art. 27, § 815(e).

27 11-802. LEGISLATIVE POLICY.

28 (A) LEGISLATIVE POLICY.

29 THE GENERAL ASSEMBLY FINDS:

30 (1) THAT MANY INNOCENT PERSONS SUFFER PERSONAL PHYSICAL OR
31 PSYCHOLOGICAL INJURY OR DIE BECAUSE OF CRIMES OR DELINQUENT ACTS OR IN
32 THEIR EFFORTS TO PREVENT THEM OR APPREHEND PERSONS COMMITTING OR
33 ATTEMPTING TO COMMIT THEM;

34 (2) THAT THESE PERSONS OR THEIR DEPENDENTS MAY AS A RESULT
35 SUFFER DISABILITY, INCUR FINANCIAL HARDSHIPS, OR BECOME RELIANT ON
36 PUBLIC ASSISTANCE; AND

1 (3) THAT THERE IS A NEED FOR GOVERNMENT FINANCIAL ASSISTANCE
2 FOR THESE VICTIMS.

3 (B) STATEMENT OF POLICY.

4 THE POLICY OF THE STATE IS THAT HELP, CARE, AND SUPPORT BE PROVIDED
5 BY THE STATE, AS A MATTER OF MORAL RESPONSIBILITY, FOR THESE VICTIMS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 816.

8 The defined term "delinquent act" is added. *See* General Revisor's Note to
9 title.

10 Defined terms: "Crime" § 11-801

11 "Delinquent act" § 11-101

12 "Dependent" § 11-801

13 "Victim" § 11-801

14 11-803. SECRETARY'S DESIGNEE.

15 THE SECRETARY MAY DESIGNATE A PERSON TO CARRY OUT THE DUTIES OF
16 THE SECRETARY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 815(g).

19 The former definition provision is revised as a general provision for clarity.

20 Defined terms: "Person" § 1-101

21 "Secretary" § 1-101

22 11-804. CRIMINAL INJURIES COMPENSATION BOARD.

23 (A) ESTABLISHED.

24 THERE IS A CRIMINAL INJURIES COMPENSATION BOARD IN THE DEPARTMENT.

25 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

26 (1) THE BOARD CONSISTS OF FIVE MEMBERS.

27 (2) OF THE FIVE MEMBERS OF THE BOARD:

28 (I) NO MORE THAN FOUR MAY BELONG TO THE SAME POLITICAL
29 PARTY; AND

30 (II) ONE SHALL HAVE BEEN ADMITTED TO PRACTICE LAW IN THE
31 STATE FOR AT LEAST 5 YEARS IMMEDIATELY PRECEDING THE APPOINTMENT.

1 (3) THE SECRETARY SHALL APPOINT THE MEMBERS OF THE BOARD,
2 WITH THE APPROVAL OF THE GOVERNOR AND THE ADVICE AND CONSENT OF THE
3 SENATE.

4 (C) TENURE.

5 (1) THE TERM OF A MEMBER IS 5 YEARS.

6 (2) A MEMBER WHO IS APPOINTED TO FILL A VACANCY OCCURRING
7 OTHER THAN BY EXPIRATION OF A TERM SERVES FOR THE REST OF THE UNEXPIRED
8 TERM.

9 (D) CHAIRMAN.

10 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL
11 DESIGNATE ONE MEMBER OF THE BOARD AS CHAIRMAN.

12 (2) THE CHAIRMAN SERVES AT THE PLEASURE OF THE SECRETARY.

13 (E) COMPENSATION.

14 (1) EACH MEMBER OF THE BOARD SHALL DEVOTE THE TIME
15 NECESSARY TO PERFORM THE DUTIES LISTED UNDER THIS SUBTITLE.

16 (2) EACH MEMBER OF THE BOARD IS ENTITLED TO:

17 (I) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;
18 AND

19 (II) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
20 STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 817.

23 In subsection (b)(2)(ii) of this section, the reference to 5 years
24 "immediately" preceding the appointment is substituted for the former
25 reference to 5 years "next" preceding the appointment for clarity.

26 Subsection (e)(2)(ii) of this section is standard language added to reflect
27 that, under SF § 10-203, the Board of Public Works has adopted
28 regulations for reimbursement of expenses. *See* COMAR 23.02.01.01
29 through 12.

30 Defined terms: "Board" § 11-801

31 "Department" § 1-101

32 "Secretary" § 1-101

33 11-805. POWERS AND DUTIES OF BOARD.

34 (A) IN GENERAL.

1 SUBJECT TO THE AUTHORITY OF THE SECRETARY AS SET FORTH IN TITLE 2,
2 SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE, THE BOARD HAS THE
3 FOLLOWING POWERS AND DUTIES:

4 (1) TO ESTABLISH AND MAINTAIN AN OFFICE AND TO APPOINT AND
5 PRESCRIBE THE DUTIES OF A CLAIMS EXAMINER, A SECRETARY, CLERKS, AND ANY
6 OTHER EMPLOYEES AND AGENTS AS MAY BE NECESSARY;

7 (2) TO ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS AND
8 PURPOSES OF THIS SUBTITLE, INCLUDING PROCEDURES FOR THE REVIEW AND
9 EVALUATION OF CLAIMS AND REGULATIONS FOR THE APPROVAL OF ATTORNEYS'
10 FEES FOR REPRESENTATION BEFORE THE BOARD OR BEFORE THE COURT ON
11 JUDICIAL REVIEW;

12 (3) TO REQUEST FROM THE STATE'S ATTORNEY, THE DEPARTMENT OF
13 STATE POLICE, OR COUNTY OR MUNICIPAL POLICE DEPARTMENTS ANY
14 INVESTIGATION AND INFORMATION THAT WILL HELP THE BOARD TO DETERMINE:

15 (I) WHETHER A CRIME OR A DELINQUENT ACT WAS COMMITTED
16 OR ATTEMPTED; AND

17 (II) WHETHER AND TO WHAT EXTENT THE VICTIM OR CLAIMANT
18 WAS RESPONSIBLE FOR THE VICTIM'S OR CLAIMANT'S OWN INJURY;

19 (4) TO HEAR AND DETERMINE EACH CLAIM FOR AN AWARD FILED WITH
20 THE BOARD UNDER THIS SUBTITLE AND TO REINVESTIGATE OR REOPEN A CASE AS
21 THE BOARD DETERMINES TO BE NECESSARY;

22 (5) TO DIRECT MEDICAL EXAMINATION OF VICTIMS;

23 (6) TO HOLD HEARINGS, ADMINISTER OATHS, EXAMINE ANY PERSON
24 UNDER OATH, AND ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND
25 TESTIMONY OF WITNESSES OR REQUIRING THE PRODUCTION OF DOCUMENTS OR
26 OTHER EVIDENCE;

27 (7) TO TAKE OR CAUSE TO BE TAKEN AFFIDAVITS OR DEPOSITIONS
28 WITHIN OR OUTSIDE THE STATE; AND

29 (8) TO SUBMIT EACH YEAR TO THE GOVERNOR, TO THE SECRETARY,
30 AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL
31 ASSEMBLY A WRITTEN REPORT OF THE ACTIVITIES OF THE BOARD.

32 (B) EMPLOYEES.

33 EXCEPT AS OTHERWISE PROVIDED BY LAW, AN EMPLOYEE OF THE BOARD IS
34 SUBJECT TO THE STATE PERSONNEL AND PENSIONS ARTICLE.

35 (C) DELEGATION OF HEARING POWERS; APPLICATION OF MARYLAND RULES
36 TO SUBPOENAS.

1 (1) THE BOARD MAY DELEGATE TO A MEMBER OR EMPLOYEE OF THE
2 BOARD ITS POWERS UNDER THIS SECTION TO HOLD HEARINGS, ADMINISTER OATHS,
3 EXAMINE A PERSON UNDER OATH, AND ISSUE SUBPOENAS.

4 (2) A SUBPOENA ISSUED UNDER THIS SECTION IS SUBJECT TO THE
5 MARYLAND RULES.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 818.

8 In subsections (a)(6) and (c) of this section, the term "subpoena[s]" is
9 substituted for the former term "summons" to reflect the appropriate use of
10 those terms under the Maryland Rules.

11 In subsections (a)(6) and (c)(1) of this section, the former references to
12 "affirmation[s]" are deleted in light of the term "oath", which includes
13 affirmation. *See* Art. 1, § 9.

14 In subsection (a) of this section, the former references to "rules" are deleted
15 in light of the term "regulations". *See* General Revisor's Note to article.

16 Also in subsection (a) of this section, the former requirement that rules be
17 "suitable" is deleted as implicit in Title 10, Subtitle 1 of the State
18 Government Article, which requires that regulations be adopted according
19 to a procedure designed to ensure suitability. *See, e.g.,* SG § 10-111.1(b).

20 In subsection (a)(3)(i) of this section, the defined term "delinquent act" is
21 added. *See* General Revisor's Note to title.

22 Defined terms: "Board" § 11-801

23 "Claimant" § 11-801

24 "County" § 1-101

25 "Crime" § 11-801

26 "Delinquent act" § 11-101

27 "Secretary" § 1-101

28 "Victim" § 11-801

29 11-806. RECORDS OF PROCEEDINGS.

30 (A) IN GENERAL.

31 EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, THE RECORD
32 OF A PROCEEDING BEFORE THE BOARD OR A BOARD MEMBER IS A PUBLIC RECORD.

33 (B) CONFIDENTIAL RECORDS OR REPORTS.

34 IF THE CONFIDENTIALITY OF A RECORD OR REPORT THAT THE BOARD OBTAINS
35 IS PROTECTED BY LAW OR REGULATION, THE RECORD OR REPORT SHALL REMAIN
36 CONFIDENTIAL, SUBJECT TO THE LAW OR REGULATION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 827.

3 Defined term: "Board" § 11-801

4 11-807. CRIMINAL INCIDENT REPORT.

5 (A) "LAW ENFORCEMENT UNIT" DEFINED.

6 IN THIS SECTION, "LAW ENFORCEMENT UNIT" MEANS:

7 (1) THE DEPARTMENT OF STATE POLICE;

8 (2) THE POLICE DEPARTMENT OF BALTIMORE CITY;

9 (3) THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A COUNTY;

10 (4) THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A MUNICIPAL
11 CORPORATION;

12 (5) THE OFFICE OF THE SHERIFF OF A COUNTY;

13 (6) THE OFFICE OF THE STATE'S ATTORNEY FOR A COUNTY;

14 (7) THE OFFICE OF THE ATTORNEY GENERAL; OR

15 (8) THE OFFICE OF THE STATE PROSECUTOR.

16 (B) INFORMING VICTIMS ABOUT COMPENSATION.

17 WHEN A REPORT OF A VIOLENT CRIME IS FILED WITH A LAW ENFORCEMENT
18 UNIT, THE LAW ENFORCEMENT UNIT SHALL GIVE TO A VICTIM OF THAT VIOLENT
19 CRIME WRITTEN INFORMATION THAT THE BOARD SUPPLIES ABOUT COMPENSATION
20 FOR VICTIMS.

21 (C) FAILURE TO COMPLY WITH SECTION NOT GROUNDS FOR ACTION.

22 A FAILURE TO COMPLY WITH THIS SECTION IS NOT GROUNDS FOR ANY CIVIL OR
23 CRIMINAL ACTION AGAINST A LAW ENFORCEMENT UNIT.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 832.

26 In subsection (b) of this section, the reference to a report filed "with a law
27 enforcement unit" is added to state expressly the implication under former
28 law that the law enforcement unit that receives the report of the crime has
29 the duty to provide information concerning compensation for crime victims
30 to victims.

31 Defined terms: "Board" § 11-801

32 "County" § 1-101

1 "Crime" § 11-801

2 "Victim" § 11-801

3 11-808. ELIGIBILITY FOR AWARDS.

4 (A) IN GENERAL.

5 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
6 FOLLOWING PERSONS ARE ELIGIBLE FOR AWARDS UNDER THIS SUBTITLE:

7 (I) A VICTIM;

8 (II) A DEPENDENT OF A VICTIM WHO DIED AS A DIRECT RESULT OF:

9 1. A CRIME OR DELINQUENT ACT;

10 2. TRYING TO PREVENT A CRIME OR DELINQUENT ACT OR
11 AN ATTEMPTED CRIME OR DELINQUENT ACT FROM OCCURRING IN THE VICTIM'S
12 PRESENCE OR TRYING TO APPREHEND A PERSON WHO HAD COMMITTED A CRIME OR
13 DELINQUENT ACT IN THE VICTIM'S PRESENCE OR HAD COMMITTED A FELONY OR A
14 DELINQUENT ACT THAT WOULD BE CONSIDERED A FELONY IF COMMITTED BY AN
15 ADULT; OR

16 3. HELPING A LAW ENFORCEMENT OFFICER PERFORM THE
17 OFFICER'S DUTIES OR HELPING A MEMBER OF A FIRE DEPARTMENT WHO IS
18 OBSTRUCTED FROM PERFORMING THE MEMBER'S DUTIES; AND

19 (III) ANY PERSON WHO PAID OR ASSUMED RESPONSIBILITY FOR
20 THE FUNERAL EXPENSES OF A VICTIM WHO DIED AS A DIRECT RESULT OF:

21 1. A CRIME OR DELINQUENT ACT;

22 2. TRYING TO PREVENT A CRIME OR DELINQUENT ACT OR
23 AN ATTEMPTED CRIME OR DELINQUENT ACT FROM OCCURRING IN THE VICTIM'S
24 PRESENCE OR TRYING TO APPREHEND A PERSON WHO HAD COMMITTED A CRIME OR
25 DELINQUENT ACT IN THE VICTIM'S PRESENCE OR HAD COMMITTED A FELONY; OR

26 3. HELPING A LAW ENFORCEMENT OFFICER PERFORM THE
27 OFFICER'S DUTIES OR HELPING A MEMBER OF A FIRE DEPARTMENT WHO IS
28 OBSTRUCTED FROM PERFORMING THE MEMBER'S DUTIES.

29 (2) A PERSON WHO COMMITS THE CRIME OR DELINQUENT ACT THAT IS
30 THE BASIS OF A CLAIM, OR AN ACCOMPLICE OF THE PERSON, IS NOT ELIGIBLE TO
31 RECEIVE AN AWARD WITH RESPECT TO THE CLAIM.

32 (B) STATE RESIDENTS AS VICTIMS IN OTHER STATES.

33 A RESIDENT OF THE STATE IS ELIGIBLE FOR AN AWARD UNDER THIS SUBTITLE
34 IF THE RESIDENT BECOMES A VICTIM IN ANOTHER STATE OTHER THAN THIS STATE
35 THAT:

1 (1) DOES NOT OPERATE A CRIMINAL INJURIES COMPENSATION
2 PROGRAM;

3 (2) OPERATES A CRIMINAL INJURIES COMPENSATION PROGRAM FOR
4 WHICH THE VICTIM IS INELIGIBLE; OR

5 (3) OPERATES A CRIMINAL INJURIES COMPENSATION PROGRAM FOR
6 WHICH MONEY HAS NOT BEEN APPROPRIATED OR MADE AVAILABLE.

7 (C) WHO MAY FILE CLAIM.

8 (1) A PERSON ELIGIBLE TO RECEIVE AN AWARD UNDER SUBSECTION (A)
9 OR (B) OF THIS SECTION MAY FILE A CLAIM UNDER THIS SUBTITLE.

10 (2) IF A PERSON ELIGIBLE TO RECEIVE AN AWARD IS UNDER 18 YEARS
11 OF AGE, THE PERSON'S PARENT OR GUARDIAN MAY FILE A CLAIM UNDER THIS
12 SUBTITLE.

13 (3) IF A PERSON ELIGIBLE TO RECEIVE AN AWARD IS MENTALLY
14 INCOMPETENT, THE PERSON'S GUARDIAN OR OTHER PERSON AUTHORIZED TO
15 ADMINISTER THE PERSON'S ESTATE MAY FILE THE CLAIM ON THE PERSON'S
16 BEHALF.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, §§ 819(a), (b)(1), and (c) and 820(a).

19 In subsection (a) of this section, the defined term "delinquent act" is added
20 for clarity. *See* General Revisor's Note to title.

21 In subsection (a)(2) of this section, the reference to a person who "commits"
22 an act is substituted for the former reference to a person who "is criminally
23 responsible" to encompass "delinquent acts".

24 Also in subsection (a)(2) of this section, the former phrase "except as
25 provided in paragraph (2) of this subsection" is deleted because former
26 paragraph (2), now § 11-809(e) of this subtitle, did not provide an
27 exception to the ineligibility for awards of criminally responsible persons
28 and their accomplices.

29 In subsection (b) of this section, the former reference to eligibility for an
30 award if a resident "[m]eets the requirements of this subheading" is
31 deleted to avoid the potential implication that eligibility under this subtitle
32 is limited to residents of Maryland. The Federal Victims of Crime Act (42
33 U.S.C. § 10602) provides that for a state crime victim compensation
34 program to be eligible for annual federal grants, the program must, "as to
35 compensable crimes occurring within the state, [make] compensation
36 awards to victims who are nonresidents of the state on the basis of the
37 same criteria used to make awards to victims who are residents".

38 In subsection (b)(3) of this section, the reference to "money" is substituted

1 for the former reference to "funds" to conform to the terminology used
2 throughout this article.

3 The Criminal Procedure Article Review Committee notes, for consideration
4 by the General Assembly, that subsection (b) of this section literally applies
5 only to residents who become victims. It does not apply to a resident
6 *dependent* on a victim of a crime occurring in another state.

7 Defined terms: "Crime" § 11-801

8 "Delinquent act" § 11-101

9 "Dependent" § 11-801

10 "Person" § 1-101

11 "State" § 1-101

12 "Victim" § 11-801

13 11-809. FILING OF CLAIMS.

14 (A) TIME OF FILING.

15 (1) A CLAIMANT SHALL FILE A CLAIM NOT LATER THAN:

16 (I) 180 DAYS AFTER THE OCCURRENCE OF THE CRIME OR
17 DELINQUENT ACT ON WHICH THE CLAIM IS BASED; OR

18 (II) 180 DAYS AFTER THE DEATH OF THE VICTIM.

19 (2) FOR GOOD CAUSE, THE BOARD MAY EXTEND THE TIME FOR FILING
20 UP TO 2 YEARS AFTER THE OCCURRENCE OF THE CRIME OR DELINQUENT ACT OR
21 THE DEATH OF THE VICTIM.

22 (3) IN A CASE OF CHILD ABUSE, A CLAIMANT MAY FILE A CLAIM UP TO 2
23 YEARS AFTER THE CLAIMANT KNEW OR SHOULD HAVE KNOWN OF THE CHILD
24 ABUSE.

25 (B) PLACE OF FILING; ACCEPTANCE REQUIRED.

26 (1) CLAIMS SHALL BE FILED IN THE OFFICE OF THE BOARD IN PERSON
27 OR BY MAIL.

28 (2) THE BOARD SHALL:

29 (I) ACCEPT FOR FILING EACH CLAIM THAT MEETS THE
30 REQUIREMENTS OF THIS SUBTITLE AND THE REGULATIONS OF THE BOARD; AND

31 (II) NOTIFY THE CLAIMANT WITHIN 10 DAYS AFTER RECEIPT OF
32 THE CLAIM.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 820(b), (c), and (d).

35 In subsection (b) of this section, the former reference to "rules" is deleted in

1 light of the term "regulations". *See* General Revisor's Note to article.

2 As for the addition of the defined term "delinquent act" to the defined term
3 "crime", *see* General Revisor's Note to this title.

4 Defined terms: "Board" § 11-101

5 "Claimant" § 11-801

6 "Crime" § 11-801

7 "Delinquent act" § 11-101

8 "Victim" § 11-801

9 11-810. CONDITIONS FOR AWARDS ON CLAIMS.

10 (A) IN GENERAL.

11 (1) THE BOARD MAY MAKE AN AWARD ONLY IF THE BOARD FINDS THAT:

12 (I) A CRIME OR DELINQUENT ACT WAS COMMITTED;

13 (II) 1. THE CRIME OR DELINQUENT ACT DIRECTLY RESULTED IN
14 PHYSICAL INJURY TO OR DEATH OF THE VICTIM; OR

15 2. A FOURTH DEGREE SEXUAL OFFENSE, A FELONY, OR A
16 DELINQUENT ACT THAT WOULD BE A FOURTH DEGREE SEXUAL OFFENSE OR A
17 FELONY IF COMMITTED BY AN ADULT DIRECTLY RESULTED IN PSYCHOLOGICAL
18 INJURY TO THE VICTIM;

19 (III) POLICE, OTHER LAW ENFORCEMENT, OR JUDICIAL RECORDS
20 SHOW THAT THE CRIME OR DELINQUENT ACT OR THE DISCOVERY OF CHILD ABUSE
21 WAS REPORTED TO THE PROPER AUTHORITIES WITHIN 48 HOURS AFTER THE
22 OCCURRENCE OF THE CRIME OR DELINQUENT ACT OR THE DISCOVERY OF THE
23 CHILD ABUSE; AND

24 (IV) THE VICTIM HAS COOPERATED FULLY WITH ALL LAW
25 ENFORCEMENT UNITS.

26 (2) FOR GOOD CAUSE, THE BOARD MAY WAIVE THE REQUIREMENTS OF
27 PARAGRAPH (1)(III) AND (IV) OF THIS SUBSECTION.

28 (B) SERIOUS FINANCIAL HARDSHIP.

29 (1) (I) THE BOARD MAY MAKE AN AWARD UNDER THIS SUBTITLE
30 ONLY IF THE BOARD DETERMINES THAT, WITHOUT THE AWARD, THE CLAIMANT
31 WILL SUFFER SERIOUS FINANCIAL HARDSHIP FROM THE LOSS OF EARNINGS OR
32 SUPPORT AND MEDICAL AND OTHER EXPENSES INCURRED AS A RESULT OF THE
33 INJURY OR DEATH.

34 (II) 1. IN DETERMINING WHETHER THE CLAIMANT WILL SUFFER
35 SERIOUS FINANCIAL HARDSHIP, THE BOARD SHALL CONSIDER ALL OF THE
36 FINANCIAL RESOURCES OF THE CLAIMANT.

1 (2) A CLAIMANT FILING FOR INJURIES INCURRED AS THE OCCUPANT OF
 2 A MOTOR VEHICLE OR A DEPENDENT OF AN OCCUPANT OF A MOTOR VEHICLE
 3 OPERATED IN VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE MAY NOT
 4 RECEIVE AN AWARD UNLESS THE CLAIMANT PROVES THAT THE OCCUPANT DID NOT
 5 KNOW OR COULD NOT HAVE KNOWN OF THE CONDITION OF THE OPERATOR OF THE
 6 VEHICLE.

7 (3) A CLAIMANT MAY NOT RECEIVE AN AWARD IF:

8 (I) THE VICTIM INITIATED, CONSENTED TO, PROVOKED, OR
 9 UNREASONABLY FAILED TO AVOID A PHYSICAL CONFRONTATION WITH THE
 10 OFFENDER; OR

11 (II) THE VICTIM WAS PARTICIPATING IN A CRIME OR DELINQUENT
 12 ACT WHEN THE INJURY WAS INFLICTED.

13 (E) FAMILY AND HOUSEHOLD MEMBERS.

14 (1) A VICTIM OR DEPENDENT MAY NOT BE DENIED COMPENSATION
 15 SOLELY BECAUSE THE VICTIM:

16 (I) IS A RELATIVE OF THE OFFENDER; OR

17 (II) WAS LIVING WITH THE OFFENDER AS A FAMILY MEMBER OR
 18 HOUSEHOLD MEMBER AT THE TIME OF THE INJURY OR DEATH.

19 (2) IF THE BOARD CAN REASONABLY DETERMINE THAT THE OFFENDER
 20 WILL NOT RECEIVE ANY ECONOMIC BENEFIT OR UNDUE ENRICHMENT FROM THE
 21 COMPENSATION, THE BOARD MAY AWARD COMPENSATION TO A VICTIM OR
 22 DEPENDENT WHO IS A RELATIVE, FAMILY MEMBER, OR HOUSEHOLD MEMBER OF
 23 THE OFFENDER.

24 REVISOR'S NOTE: This section is new language derived without substantive
 25 change from former Art. 27, §§ 819(b)(2) and (3), 821, 825(a)(1) and (2), (e),
 26 and (f).

27 In subsection (b)(1)(i) of this section, the former requirement that the
 28 Board "shall deny an award [if the Board finds the claimant will *not* suffer]
 29 serious financial hardship" is restated as a requirement that the Board
 30 "may make an award ... only if the Board [finds that] the claimant *will*
 31 suffer serious financial hardship" (italics added) for clarity.

32 Also in subsection (b)(1)(i) of this section, the phrase "medical and other
 33 expenses incurred as a result of the injury or death" is substituted for the
 34 former phrase "out-of-pocket expenses" for clarity.

35 In subsections (b)(1)(ii)2 and (e) of this section, the term "family", formerly
 36 defined in Art. 27, § 815(e) for purposes of the subheading that included
 37 Art. 27, §§ 819(b) and 825(f)(1), is now used as an undefined term. The
 38 context in which the term "family member" was used in former Art. 27, §§

1 819(b) and 825(f)(1) clearly indicated a more narrow definition than the
2 definition formerly stated in Art. 27, § 815(e). No substantive change is
3 intended.

4 The defined term "delinquent act" is added for clarity. *See* General
5 Revisor's Note to title.

6 The Criminal Procedure Article Review Committee notes, for consideration
7 by the General Assembly, that in subsection (a)(1)(ii)2 of this section, the
8 reference to "a fourth degree sexual offense, a felony, or a delinquent act
9 that would be a fourth degree sexual offense if committed by an adult
10 directly resulted in psychological injury to the victim" is substituted for the
11 former narrower reference to a "sexual assault or child abuse, [that
12 directly resulted in] psychological or emotional injury" to conform to the
13 terminology used in the definition of "victim" in § 11-801(f) of this subtitle.
14 The Committee made this change to ensure that a person who qualifies as
15 a "victim" under this subtitle will be entitled to an award.

16 Defined terms: "Board" § 11-801

17 "Claimant" § 11-801

18 "Crime" § 11-801

19 "Delinquent act" § 11-101

20 "Dependent" § 11-801

21 "Victim" § 11-801

22 11-811. AMOUNT OF AWARD.

23 (A) IN GENERAL.

24 (1) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
25 AWARD UNDER THIS SUBTITLE SHALL BE MADE IN ACCORDANCE WITH THE
26 SCHEDULE OF BENEFITS, AS IT EXISTED ON JANUARY 1, 1989, AND DEGREE OF
27 DISABILITY AS SPECIFIED IN TITLE 9, SUBTITLE 6 OF THE LABOR AND EMPLOYMENT
28 ARTICLE AND ANY OTHER APPLICABLE PROVISIONS OF THE LABOR AND
29 EMPLOYMENT ARTICLE, EXCEPT FOR TITLE 9, SUBTITLE 8 OF THE LABOR AND
30 EMPLOYMENT ARTICLE.

31 (II) FOR DETERMINING THE AMOUNT OF AN AWARD UNDER THIS
32 SUBTITLE, THE TERM "AVERAGE WEEKLY WAGES" DOES NOT INCLUDE TIPS,
33 GRATUITIES, AND WAGES THAT ARE UNDECLARED ON THE CLAIMANT'S STATE OR
34 FEDERAL INCOME TAX RETURNS FOR THE APPLICABLE YEARS.

35 (III) IF A CLAIMANT DOES NOT HAVE "AVERAGE WEEKLY WAGES" TO
36 QUALIFY UNDER THE FORMULA IN TITLE 9, SUBTITLE 6 OF THE LABOR AND
37 EMPLOYMENT ARTICLE, THE AWARD SHALL BE IN AN AMOUNT EQUAL TO THE
38 AVERAGE OF THE MAXIMUM AND MINIMUM AWARDS LISTED IN THE APPLICABLE
39 PORTION OF THAT SUBTITLE.

40 (2) AN AWARD FOR LOSS OF EARNINGS OR SUPPORT MADE UNDER THIS
41 SUBTITLE MAY BE UP TO TWO-THIRDS OF THE VICTIM'S GROSS AVERAGE WAGE, BUT

1 MAY NOT BE LESS THAN THE AMOUNT PROVIDED IN PARAGRAPH (1) OF THIS
2 SUBSECTION.

3 (3) AN AWARD FOR FUNERAL EXPENSES MAY NOT EXCEED \$5,000.

4 (4) SUBJECT TO THE LIMITATION UNDER SUBSECTION (B)(3) OF THIS
5 SECTION AND § 11-812 OF THIS TITLE, A PERSON WHO IS ELIGIBLE FOR AN AWARD AS
6 THE RESULT OF THE DEATH OF A VICTIM OR PSYCHOLOGICAL INJURY MAY BE
7 ELIGIBLE, UNDER THE REGULATIONS THAT THE BOARD ADOPTS, TO RECEIVE
8 PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL HEALTH COUNSELING.

9 (B) LIMITS.

10 COMPENSATION AWARDED UNDER THIS SUBTITLE MAY NOT EXCEED:

11 (1) \$25,000 FOR A DISABILITY-RELATED OR DEPENDENCY-RELATED
12 CLAIM;

13 (2) \$45,000 FOR A MEDICAL CLAIM;

14 (3) \$5,000 FOR EACH CLAIMANT FOR PSYCHIATRIC, PSYCHOLOGICAL, OR
15 MENTAL HEALTH COUNSELING; OR

16 (4) A TOTAL OF \$45,000, INCLUDING ANY SUBSEQUENT AND
17 SUPPLEMENTAL AWARDS.

18 (C) REQUIRED REDUCTIONS.

19 AN AWARD MADE UNDER THIS SUBTITLE SHALL BE REDUCED BY THE AMOUNT
20 OF ANY PAYMENTS RECEIVED OR TO BE RECEIVED AS A RESULT OF THE INJURY:

21 (1) FROM OR ON BEHALF OF THE OFFENDER;

22 (2) FROM ANY OTHER PUBLIC OR PRIVATE SOURCE, INCLUDING AN
23 AWARD OF THE STATE WORKERS' COMPENSATION COMMISSION UNDER THE
24 MARYLAND WORKERS' COMPENSATION ACT; OR

25 (3) AS AN EMERGENCY AWARD UNDER § 11-813 OF THIS SUBTITLE.

26 (D) APPORTIONMENT AMONG CLAIMANTS.

27 IF THERE ARE TWO OR MORE PERSONS ENTITLED TO AN AWARD AS A RESULT
28 OF THE DEATH OF A VICTIM, THE AWARD SHALL BE APPORTIONED AMONG THE
29 CLAIMANTS.

30 (E) NEGOTIATION WITH HEALTH CARE PROVIDERS.

31 THE BOARD MAY NEGOTIATE A SETTLEMENT WITH A HEALTH CARE PROVIDER
32 FOR THE MEDICAL AND MEDICALLY RELATED EXPENSES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 825(a)(3)(iv), (4), and (5), (b), (c), and (d).

3 In subsection (a)(1)(iii) of this section, the former reference to an
4 "arithmetic" average of maximum and minimum awards is deleted as
5 surplusage.

6 In subsections (a)(4) and (d) of this section, the former references to the
7 death of a victim which is "the direct result of a crime" are deleted as
8 included in the defined term "victim".

9 The Criminal Procedure Article Review Committee notes, for consideration
10 by the General Assembly, that, in subsection (a)(1) of this section, an award
11 of benefits is made in accordance with a schedule as it existed on January
12 1, 1989. The General Assembly may wish to consider whether it is
13 appropriate to state that date and allow benefits to be modified without
14 reference to a particular year.

15 Defined terms: "Board" § 11-801

16 "Claimant" § 11-801

17 "Person" § 1-101

18 "Victim" § 11-801

19 11-812. FUNDING, LENGTH, AND TERMINATION OF AWARDS.

20 (A) APPROPRIATION AND AVAILABILITY OF FUNDS.

21 THE BOARD MAY NOT MAKE AN AWARD UNLESS MONEY IS APPROPRIATED AND
22 AVAILABLE FOR THE FULL AMOUNT OF THE AWARD.

23 (B) MULTIYEAR AWARDS.

24 IF A MULTIYEAR AWARD IS MADE, THE TOTAL AMOUNT OF THE AWARD SHALL
25 BE OBLIGATED AND HELD FOR THE TIME NECESSARY TO COMPLETE PAYMENT IN
26 ACCORDANCE WITH THE PROVISIONS OF THE AWARD.

27 (C) TERMINATED AWARDS.

28 IF PAYMENT OF AN AWARD IS TERMINATED FOR ANY REASON AFTER JUNE 30
29 OF THE FISCAL YEAR IN WHICH THE AWARD WAS MADE, THE REST OF THE AWARD
30 SHALL REVERT TO THE CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED
31 UNDER § 11-819 OF THIS SUBTITLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 825(a)(3)(i) through (iii).

34 Defined term: "Board" § 11-801

35 11-813. EMERGENCY AWARD PENDING FINAL DECISION.

36 (A) WHEN AUTHORIZED.

1 THE BOARD MAY MAKE AN EMERGENCY AWARD TO THE CLAIMANT BEFORE
 2 MAKING A FINAL DECISION IN THE CASE, IF THE BOARD DETERMINES, BEFORE
 3 TAKING ACTION ON THE CLAIM, THAT:

4 (1) AN AWARD LIKELY WILL BE MADE ON THE CLAIM; AND

5 (2) THE CLAIMANT WILL SUFFER UNDUE HARDSHIP UNLESS
 6 IMMEDIATE PAYMENT IS MADE.

7 (B) LIMITATION ON AMOUNT; DEDUCTION FROM FINAL AWARD; REPAYMENT
 8 OF EXCESS.

9 (1) THE AMOUNT OF AN EMERGENCY AWARD UNDER THIS SECTION:

10 (I) MAY NOT EXCEED \$1,000; AND

11 (II) SHALL BE DEDUCTED FROM ANY FINAL AWARD MADE TO THE
 12 CLAIMANT.

13 (2) A CLAIMANT SHALL REPAY THE BOARD:

14 (I) THE EXCESS OF THE AMOUNT OF THE EMERGENCY AWARD
 15 OVER ANY FINAL AWARD; OR

16 (II) IF A FINAL AWARD IS NOT MADE, ALL OF THE EMERGENCY
 17 AWARD.

18 REVISOR'S NOTE: This section is new language derived without substantive
 19 change from former Art. 27, § 824.

20 In the introductory language of subsection (a) of this section, the phrase "if
 21 the Board determines" is substituted for the former phrase "if it appears to
 22 the Board" to conform to the terminology used throughout this article.

23 In subsection (a) of this section, the former phrase "[n]otwithstanding the
 24 provisions of §§ 820 and 822 of this subheading" is deleted as surplusage,
 25 because former Art. 27, §§ 820 and 822, which now appear in §§ 11-808,
 26 11-809, and 11-814 of this subtitle, did not forbid the granting of
 27 emergency awards.

28 Defined terms: "Board" § 11-801

29 "Claimant" § 11-801

30 11-814. BOARD DECISIONS ON CLAIMS; REVIEW BY SECRETARY.

31 (A) NOTIFICATION IF ADDITIONAL MATERIAL IS REQUIRED.

32 WITHIN 30 DAYS AFTER THE RECEIPT OF A CLAIM, THE BOARD SHALL NOTIFY
 33 THE CLAIMANT IF ADDITIONAL MATERIAL IS REQUIRED.

34 (B) REPORT OF BOARD DECISION.

1 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
2 WITHIN 90 DAYS AFTER THE RECEIPT OF A CLAIM AND ALL NECESSARY SUPPORTING
3 MATERIAL, THE BOARD SHALL:

4 (I) COMPLETE THE REVIEW AND EVALUATION OF EACH CLAIM;
5 AND

6 (II) FILE WITH THE SECRETARY A WRITTEN REPORT SETTING
7 FORTH THE DECISION AND THE REASONS IN SUPPORT OF THE DECISION.

8 (2) FOR GOOD CAUSE SHOWN, FOR A PERIOD NOT TO EXCEED 1 YEAR
9 THE BOARD MAY EXTEND THE TIME TO FILE ITS REPORT WITH THE SECRETARY
10 AFTER RECEIPT OF THE CLAIM AND ALL NECESSARY SUPPORTING MATERIAL UNTIL
11 THE FIRST TO OCCUR OF THE FOLLOWING EVENTS:

12 (I) THE CLAIMANT NO LONGER HAS EXPENSES RELATED TO THE
13 CRIME; OR

14 (II) THE CLAIMANT HAS BEEN AWARDED THE MAXIMUM AMOUNT
15 AUTHORIZED UNDER §§ 11-811(B) AND 11-812 OF THIS SUBTITLE.

16 (C) SECRETARY REVIEW OF BOARD DECISION.

17 WITHIN 30 DAYS AFTER THE RECEIPT OF A WRITTEN REPORT FROM THE BOARD,
18 THE SECRETARY SHALL MODIFY, AFFIRM, OR REVERSE THE DECISION OF THE
19 BOARD.

20 (D) FINALITY OF SECRETARY'S ACTION.

21 THE DECISION OF THE SECRETARY TO AFFIRM, MODIFY, OR REVERSE THE
22 DECISION OF THE BOARD IS FINAL.

23 (E) COPY TO CLAIMANT.

24 THE CLAIMANT SHALL BE GIVEN A COPY OF THE FINAL REPORT ON REQUEST.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 822.

27 The Criminal Procedure Article Review Committee notes, for consideration
28 by the General Assembly, that in subsection (e) of this section, it is unclear
29 what document is meant by the "final report" and who is responsible for
30 giving it out.

31 Defined terms: "Board" § 11-801

32 "Claimant" § 11-801

33 "Crime" § 11-801

34 "Secretary" § 1-101

1 11-815. JUDICIAL REVIEW.

2 WITHIN 30 DAYS AFTER THE FINAL DECISION OF THE SECRETARY, A CLAIMANT
3 AGGRIEVED BY THAT DECISION MAY APPEAL THE DECISION UNDER §§ 10-222 AND
4 10-223 OF THE STATE GOVERNMENT ARTICLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 823.

7 The reference to the final decision "of the Secretary" is added for clarity.

8 The former reference to "the applicable provisions of the Administrative
9 Procedure Act" is deleted in light of the specific reference to §§ 10-222 and
10 10-223 of the State Government Article.

11 Defined terms: "Claimant" § 11-801

12 "Secretary" § 1-101

13 11-816. PAYMENT OF AWARD.

14 (A) IN GENERAL.

15 AN AWARD UNDER THIS SUBTITLE SHALL BE PAID IN THE MANNER THAT THE
16 BOARD SPECIFIES IN ITS DECISION.

17 (B) EXECUTION OR ATTACHMENT OF AWARD.

18 AN AWARD UNDER THIS SUBTITLE IS NOT SUBJECT TO EXECUTION OR
19 ATTACHMENT OTHER THAN FOR EXPENSES RESULTING FROM THE INJURY THAT IS
20 THE BASIS FOR THE CLAIM.

21 (C) LUMP SUM PAYMENT.

22 IN EACH CASE UNDER THIS SUBTITLE THAT PROVIDES FOR COMPENSATION,
23 THE BOARD MAY CONVERT THE COMPENSATION TO BE PAID IN A PARTIAL OR TOTAL
24 LUMP SUM WITHOUT DISCOUNT, IF IN THE BOARD'S OPINION THE FACTS AND
25 CIRCUMSTANCES OF THE CASE WARRANT.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 826.

28 In subsection (c) of this section, the former reference to a case that provides
29 compensation to "an employee or the employee's dependent" is deleted as
30 too narrow. The Criminal Procedure Article Review Committee calls this
31 deletion to the attention of the General Assembly.

32 Defined term: "Board" § 11-801

1 11-817. SUBROGATION.

2 ACCEPTANCE OF AN AWARD MADE UNDER THIS SUBTITLE SUBROGATES THE
3 STATE, TO THE EXTENT OF THE AWARD, TO ANY RIGHT OR RIGHT OF ACTION OF THE
4 CLAIMANT OR THE VICTIM TO RECOVER PAYMENTS ON ACCOUNT OF LOSSES
5 RESULTING FROM THE CRIME OR DELINQUENT ACT WITH RESPECT TO WHICH THE
6 AWARD IS MADE, INCLUDING THE RIGHT TO RECOVER RESTITUTION ORDERED
7 UNDER § 11-603 OF THIS TITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 828.

10 Defined terms: "Claimant" § 11-801

11 "Crime" § 11-801

12 "Delinquent act" § 11-101

13 "Victim" § 11-801

14 11-818. FALSE CLAIMS.

15 (A) IN GENERAL.

16 A PERSON MAY NOT ASSERT A FALSE CLAIM UNDER THIS SUBTITLE.

17 (B) PENALTY.

18 A PERSON WHO VIOLATES THIS SECTION:

19 (1) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
20 A FINE NOT LESS THAN \$500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH;
21 AND

22 (2) SHALL FORFEIT ANY BENEFIT RECEIVED AND REIMBURSE THE
23 STATE FOR PAYMENTS RECEIVED OR PAID ON THE PERSON'S BEHALF UNDER THIS
24 SUBTITLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 829.

27 The Criminal Procedure Article Review Committee notes, for consideration
28 by the General Assembly, that subsection (b)(1) of this section indicates
29 that the minimum fine for a violation of this section is \$500 but that the
30 subsection does not specify the maximum fine.

31 Defined term: "Person" § 1-101

32 11-819. CRIMINAL INJURIES COMPENSATION FUND.

33 (A) IN GENERAL.

34 (1) THERE IS A CRIMINAL INJURIES COMPENSATION FUND.

1 (2) THE FUND CONSISTS OF:

2 (I) MONEYS DISTRIBUTED TO THE FUND FROM THE ADDITIONAL
3 COURT COSTS COLLECTED FROM DEFENDANTS UNDER § 7-409 OF THE COURTS
4 ARTICLE;

5 (II) ANY INVESTMENT EARNINGS OR FEDERAL MATCHING FUNDS
6 RECEIVED BY THE STATE FOR CRIMINAL INJURIES COMPENSATION; AND

7 (III) FUNDS MADE AVAILABLE TO THE FUND FROM ANY OTHER
8 SOURCE.

9 (3) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
10 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 (4) THE TREASURER SHALL SEPARATELY HOLD THE FUND AND THE
12 COMPTROLLER SHALL ACCOUNT FOR IT.

13 (5) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
14 MANNER AS OTHER STATE FUNDS.

15 (6) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE
16 AUDITS AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

17 (B) USES.

18 THE CRIMINAL INJURIES COMPENSATION FUND:

19 (1) SHALL BE USED TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;
20 AND

21 (2) MAY BE USED FOR:

22 (I) ANY AWARD GIVEN UNDER THIS SUBTITLE; AND

23 (II) THE COSTS OF CARRYING OUT THIS SUBTITLE.

24 (C) EFFECT OF SECTION.

25 THIS SECTION DOES NOT PROHIBIT THE FUND FROM RECEIVING MONEY FROM
26 ANY OTHER SOURCE.

27 REVISOR'S NOTE: Subsection (a)(1), (2)(ii), (3), and (4), (b), and (c) of this
28 section are new language derived without substantive change from former
29 Art. 27, § 831.

30 Subsection (a)(2)(i) of this section is added to state explicitly what was only
31 implied in the former law, that moneys from additional court costs are
32 sources of the Fund. *See* CJ § 7-409(e)(4) in Chapter_____, Acts of 2001,
33 which enacted this article.

1 %Subsection (a)(2)(iii) of this section is added to state in standard language
2 a source of funds for the Criminal Injuries Compensation Fund.

3 SUBTITLE 9. VICTIMS AND WITNESSES -- SERVICES.

4 PART I. PROTECTION AND RELOCATION OF VICTIMS AND WITNESSES.

5 11-901. DEFINITIONS.

6 (A) IN GENERAL.

7 IN PART I OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 REVISOR'S NOTE: This subsection is new language used as the standard
10 introductory language to a definition section.

11 (B) PROGRAM.

12 "PROGRAM" MEANS THE VICTIM AND WITNESS PROTECTION AND RELOCATION
13 PROGRAM.

14 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
15 the full title of the Victim and Witness Protection and Relocation Program.

16 (C) FUND.

17 "FUND" MEANS THE VICTIM AND WITNESS PROTECTION AND RELOCATION
18 FUND.

19 REVISOR'S NOTE: This subsection is new language added to avoid repetition
20 of the full title of the Victim and Witness Protection and Relocation Fund.

21 11-902. VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM.

22 THERE IS A VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM.

23 REVISOR'S NOTE: This section formerly was Art. 27, § 835(a).

24 No changes are made.

25 11-903. ADMINISTRATION.

26 THE STATE'S ATTORNEYS' COORDINATOR SHALL CARRY OUT THE PROGRAM IN
27 ACCORDANCE WITH REGULATIONS THAT THE STATE'S ATTORNEYS' COORDINATION
28 COUNCIL ADOPTS UNDER ARTICLE 10, § 41D OF THE CODE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 835(b).

31 The reference to the requirement that the State's Attorneys' Coordinator

1 shall "carry out" the Program is substituted for the former requirement
2 that the Coordinator "administer[ed]" the Program to conform to the
3 terminology used throughout this article. *See* General Revisor's Note to
4 article.

5 The former reference to the State's Attorneys' Coordinator "under Article
6 10, § 41B of the Code" is deleted as unnecessary.

7 The former requirement to consult "with the State Board of Victim
8 Services" is deleted in light of Art. 10, § 41D(f), which requires the State's
9 Attorneys' Coordination Council to consult with the State Board of Victim
10 Services before adopting regulations for the Program.

11 Defined term: "Program" § 11-901

12 11-904. PURPOSE; FEDERAL FUNDS; EXPENDITURES.

13 (A) PURPOSE.

14 MONEY APPROPRIATED TO THE PROGRAM SHALL BE USED:

15 (1) TO PROTECT VICTIMS AND WITNESSES AND THE FAMILIES OF
16 VICTIMS AND WITNESSES;

17 (2) TO RELOCATE VICTIMS AND WITNESSES TO PROTECT THEM OR TO
18 FACILITATE THEIR PARTICIPATION IN COURT PROCEEDINGS; AND

19 (3) TO PAY THE COSTS OF CARRYING OUT THE PROGRAM.

20 (B) FEDERAL FUNDS AND PROGRAMS.

21 TO THE EXTENT POSSIBLE, THE PROGRAM SHALL BE USED TO MAXIMIZE THE
22 USE OF FEDERAL MATCHING FUNDS OR PROGRAMS.

23 (C) EXPENDITURES.

24 EXPENDITURES UNDER THIS SECTION SHALL BE MADE IN ACCORDANCE WITH
25 THE STATE BUDGET.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 835(c), (d), and (e).

28 In subsection (a)(3) of this section, the reference to "carrying out" the
29 Program is substituted for the former reference to "administering" the
30 Program to conform to the terminology used throughout this article. *See*
31 General Revisor's Note to article.

32 In subsection (b) of this section, the former reference to an "appropriation
33 approved by the General Assembly in the annual" budget is deleted in light
34 of the comprehensive requirement that expenditures be made "in
35 accordance with the State budget".

1 Defined term: "Program" § 11-901

2 11-905. VICTIM AND WITNESS PROTECTION AND RELOCATION FUND.

3 (A) ESTABLISHED.

4 THERE IS A VICTIM AND WITNESS PROTECTION AND RELOCATION FUND.

5 (B) PURPOSE.

6 THE FUND SHALL BE USED TO PAY FOR THE PROGRAM.

7 REVISOR'S NOTE: This section formerly was Art. 27, § 836(a)(1) and (b).

8 The only changes are in style.

9 Defined terms: "Fund" § 11-901

10 "Program" § 11-901

11 11-906. STATUS; INVESTMENTS; CONSTRUCTION.

12 (A) STATUS.

13 (1) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
14 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 (2) THE TREASURER SHALL SEPARATELY HOLD THE FUND AND THE
16 COMPTROLLER SHALL ACCOUNT FOR IT.

17 (B) INVESTMENTS AND FEDERAL MATCHING FUNDS.

18 (1) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
19 MANNER AS OTHER STATE FUNDS.

20 (2) ANY INVESTMENT EARNINGS OR FEDERAL MATCHING FUNDS
21 RECEIVED BY THE STATE FOR VICTIM AND WITNESS PROTECTION OR RELOCATION
22 SHALL BE CREDITED TO THE FUND.

23 (C) CONSTRUCTION.

24 THIS SECTION DOES NOT PROHIBIT THE FUND FROM RECEIVING MONEY FROM
25 ANY SOURCE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 836(a)(2) through (5) and (7).

28 In subsection (c) of this section, the reference to "money" is substituted for
29 the former reference to "funds" to avoid confusion with the defined term
30 "Fund". See § 11-901 of this subtitle.

31 Defined term: "Fund" § 11-901

1 11-907. AUDITS.

2 BOTH THE PROGRAM AND THE FUND ARE SUBJECT TO AN AUDIT BY THE
3 OFFICE OF LEGISLATIVE AUDITS UNDER § 2-1220 OF THE STATE GOVERNMENT
4 ARTICLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, §§ 835(f) and 836(a)(6).

7 Defined terms: "Fund" § 11-901

8 "Program" § 11-901

9 11-908. RESERVED.

10 11-909. RESERVED.

11 PART II. STATE BOARD OF VICTIM SERVICES.

12 11-910. DEFINITIONS.

13 (A) IN GENERAL.

14 IN PART II OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 27, § 837(a).

18 (B) BOARD.

19 "BOARD" MEANS THE STATE BOARD OF VICTIM SERVICES.

20 REVISOR'S NOTE: This subsection formerly was Art. 27, § 837(b).

21 No changes are made.

22 (C) CRIME.

23 "CRIME" MEANS CONDUCT THAT IS A CRIME UNDER:

24 (1) COMMON LAW;

25 (2) THIS ARTICLE;

26 (3) ARTICLE 27 OF THE CODE; OR

27 (4) § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B), § 3-807(I), § 3-808(D), §
28 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(B)(8), § 11-703(D)(5)(III), § 11-706(B)(8), §
29 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), § 11-714(C)(6), § 11-715(G)(2), §
30 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE CORRECTIONAL SERVICES ARTICLE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, § 837(c).

3 In this subsection, the former reference to conduct "that is committed by
4 any person in the State" is deleted as implied in the word "crime".

5 The Criminal Procedure Article Review Committee notes, for consideration
6 by the General Assembly, that the definition of "crime" in this subsection is
7 cumbersome and too narrow. The definition does not apply to some crimes
8 that are in articles other than those listed.

9 (D) EXECUTIVE DIRECTOR.

10 "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE
11 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

12 REVISOR'S NOTE: This subsection formerly was Art. 27, § 837(d).

13 No changes are made.

14 (E) FUND.

15 "FUND" MEANS THE STATE VICTIMS OF CRIME FUND.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 27, § 837(e).

18 In this subsection, the name of the Fund is conformed to the substantive
19 provision that creates the Fund. *See* § 11-916 of this subtitle.

20 The former reference to the Fund "established under [former Art. 27,] § 854
21 of this subtitle" is deleted as obsolete.

22 (F) VICTIM.

23 "VICTIM" MEANS A PERSON WHO SUFFERS DIRECT OR THREATENED PHYSICAL,
24 EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT OF A CRIME OR OF A
25 VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27, § 837(f), except as it related to a
28 family member of a minor, incompetent, or homicide victim.

29 The reference to "§ 21-902 of the Transportation Article" concerns driving
30 a vehicle while intoxicated or while under the influence of drugs or alcohol.

31 The defined term "person" is substituted for the former reference to
32 "individual" to conform to the terminology used throughout this article.

33 Defined terms: "Crime" § 11-910

34 "Person" § 1-101

1 (G) VICTIM'S REPRESENTATIVE.

2 "VICTIM'S REPRESENTATIVE" INCLUDES A FAMILY MEMBER OR GUARDIAN OF A
3 VICTIM WHO IS:

4 (1) A MINOR;

5 (2) DECEASED; OR

6 (3) DISABLED.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 27, § 837(f), as it related to a family
9 member of a minor, incompetent, or homicide victim.

10 The reference to a victim who is "deceased" or "disabled" is substituted for
11 the former narrower references to an "incompetent" and a "homicide
12 victim" to conform to the terminology used in § 11-105 of this title.

13 The defined term "[v]ictim's representative" is added for clarity.

14 Defined term: "Victim" § 11-910

15 REVISOR'S NOTE TO SECTION:

16 This revision incorporates former Art. 27, § 854(j) and (k) into Part II of
17 this subtitle. *See* §§ 11-916 through 11-918 of this Part II. Thus, the
18 defined terms of Part II apply to provisions to which those defined terms
19 formerly did not apply. However, the defined terms are merely convenient,
20 short labels, and no substantive change results.

21 Former Art. 27, § 837(g), which defined "Victim Services Coordinator", is
22 deleted in light of § 11-915 of this subtitle, which establishes the position
23 of "Victim Services Coordinator".

24 The Criminal Procedure Article Review Committee notes, for consideration
25 by the General Assembly, that the definitions of "crime" and "victim" fail to
26 use the term "delinquent act". In practice, the State Board of Victim
27 Services does serve victims of delinquent acts. The General Assembly may
28 wish to add "delinquent act" to these definitions.

29 11-911. STATE BOARD OF VICTIM SERVICES -- ESTABLISHED.

30 THERE IS A STATE BOARD OF VICTIM SERVICES IN THE GOVERNOR'S OFFICE OF
31 CRIME CONTROL AND PREVENTION CREATED BY EXECUTIVE ORDER 01.01.1995.18.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 839.

34 The former reference to "any successor unit" is deleted as implicit in the
35 reference to "the Governor's Office of Crime Control and Prevention".

1 11-912. SAME -- MEMBERSHIP.

2 (A) COMPOSITION.

3 THE BOARD CONSISTS OF THE FOLLOWING 22 MEMBERS:

4 (1) AS EX OFFICIO MEMBERS:

5 (I) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;

6 (II) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
7 DESIGNEE;

8 (III) THE CHAIRMAN OF THE MARYLAND CRIMINAL INJURIES
9 COMPENSATION BOARD;

10 (IV) THE SECRETARY OF HUMAN RESOURCES OR THE SECRETARY'S
11 DESIGNEE;

12 (V) THE SECRETARY OF JUVENILE JUSTICE OR THE SECRETARY'S
13 DESIGNEE;

14 (VI) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
15 SERVICES OR THE SECRETARY'S DESIGNEE; AND

16 (VII) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S
17 DESIGNEE; AND

18 (2) 14 PERSONS APPOINTED BY THE GOVERNOR AS FOLLOWS:

19 (I) TWO STATE'S ATTORNEYS, RECOMMENDED BY THE ATTORNEY
20 GENERAL;

21 (II) SIX MEMBERS OF THE PUBLIC, RECOMMENDED BY THE
22 EXECUTIVE DIRECTOR;

23 (III) FOUR PROFESSIONAL VICTIM SERVICE PROVIDERS,
24 RECOMMENDED BY THE EXECUTIVE DIRECTOR;

25 (IV) ONE REPRESENTATIVE OF THE MARYLAND CHIEFS OF POLICE;

26 (V) ONE REPRESENTATIVE OF THE MARYLAND STATE SHERIFF'S
27 ASSOCIATION; AND

28 (3) ONE MEMBER OF THE JUDICIARY OF THE STATE, APPOINTED BY THE
29 CHIEF JUDGE OF THE COURT OF APPEALS.

30 (B) TENURE; VACANCIES.

31 (1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

1 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
2 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1,
3 2001.

4 (3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO
5 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

6 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
7 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
8 QUALIFIES.

9 (C) REMOVAL.

10 THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
11 MISCONDUCT.

12 (D) CHAIRMAN.

13 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL SERVE AS CHAIRMAN.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 840(b) and (c) and except as it related to
16 compensation, (a) which is now addressed in § 11-913 of this subtitle.

17 In subsection (b) of this section, the former reference to the terms of the
18 members serving on July 1, 1988, is deleted as obsolete. As to subsection
19 (b)(2) of this section, the terms of the appointed members serving as of
20 October 1, 2001, expire as follows: 3 in 2002; 3 in 2003; 3 in 2004; 3 in 2005;
21 and 3 in 2006.

22 Defined terms: "Board" § 11-910

23 "Executive Director" § 11-910

24 11-913. SAME -- QUORUM; MEETINGS; COMPENSATION.

25 (A) QUORUM.

26 A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

27 (B) MEETINGS.

28 THE BOARD SETS THE TIMES AND PLACES OF ITS MEETINGS.

29 (C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

30 A MEMBER OF THE BOARD:

31 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
32 BUT

1 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 REVISOR'S NOTE: Subsection (a) of this section is new language added as an
4 express provision establishing the number of members that constitutes a
5 quorum. In the absence of an express provision, case law indicates that a
6 majority of members of a body is a quorum and a majority of the quorum
7 can act if all members have notice and an opportunity to be present. *See*
8 *Gemeny v. Prince George's County*, 264 Md. 85, 285 A.2d 602 (1972); *Zeiler*
9 *v. Central Ry.*, 84 Md. 304, 35 A. 932 (1896); and *Heiskell v. Mayor of*
10 *Baltimore*, 65 Md. 125, 4 A. 116 (1886).

11 Subsection (b) of this section is new language added for clarity.

12 Subsection (c)(1) of this section is new language derived without
13 substantive change from former Art. 27, § 840(a)(1), as it related to
14 compensation.

15 Subsection (c)(2) of this section is new language added to reflect that,
16 under SF § 10-203, the Board of Public Works has adopted regulations for
17 reimbursement of expenses. *See* COMAR 23.02.01.01 through .12.

18 Defined term: "Board" § 11-910

19 11-914. SAME -- DUTIES.

20 SUBJECT TO THE AUTHORITY OF THE EXECUTIVE DIRECTOR, THE BOARD
21 SHALL:

22 (1) SUBMIT TO THE GOVERNOR AN ANNUAL WRITTEN REPORT OF ITS
23 ACTIVITIES, INCLUDING ITS ADMINISTRATION OF THE FUND;

24 (2) MONITOR THE SERVICE NEEDS OF VICTIMS;

25 (3) ADVISE THE GOVERNOR ON THE NEEDS OF VICTIMS;

26 (4) RECOMMEND THE APPOINTMENT OF THE VICTIM SERVICES
27 COORDINATOR TO THE EXECUTIVE DIRECTOR;

28 (5) REVIEW AND APPROVE THE VICTIM SERVICES COORDINATOR'S
29 PLANS AND ANNUAL REPORTS, AND THE VICTIM SERVICES COORDINATOR'S
30 IMPLEMENTATION, OPERATION, AND REVISION OF PROGRAMS;

31 (6) APPROVE OR DISAPPROVE EACH GRANT APPLICATION SUBMITTED
32 BY THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION;

33 (7) ADVISE THE STATE'S ATTORNEYS' COORDINATION COUNCIL ON THE
34 ADOPTION OF REGULATIONS GOVERNING THE ADMINISTRATION OF THE VICTIM AND
35 WITNESS PROTECTION AND RELOCATION PROGRAM ESTABLISHED UNDER § 11-902
36 OF THIS SUBTITLE;

1 (8) ADVISE THE STATE'S ATTORNEYS' COORDINATOR ON THE
2 ADMINISTRATION OF THE VICTIM AND WITNESS PROTECTION AND RELOCATION
3 PROGRAM;

4 (9) DEVELOP PAMPHLETS TO NOTIFY VICTIMS OF THE RIGHTS,
5 SERVICES, AND PROCEDURES PROVIDED UNDER ARTICLE 47 OF THE MARYLAND
6 DECLARATION OF RIGHTS OR STATE LAW, INCLUDING:

7 (I) ONE PAMPHLET RELATING TO THE TIME BEFORE AND AFTER
8 THE FILING OF A CHARGING DOCUMENT OTHER THAN AN INDICTMENT OR
9 INFORMATION IN CIRCUIT COURT; AND

10 (II) A SECOND PAMPHLET RELATING TO THE TIME AFTER THE
11 FILING OF AN INDICTMENT OR INFORMATION IN CIRCUIT COURT; AND

12 (10) DEVELOP A NOTIFICATION REQUEST FORM IN CONSULTATION WITH
13 THE ADMINISTRATIVE OFFICE OF THE COURTS, THROUGH WHICH A VICTIM MAY
14 REQUEST TO BE NOTIFIED UNDER § 11-104 OF THIS TITLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 841.

17 The Criminal Procedure Article Review Committee notes, for consideration
18 by the General Assembly, that the meaning of item (5) of this section is
19 unclear. In this item, the Board is required to "review and approve" plans,
20 annual reports, program revisions, etc. of the Victim Services Coordinator.
21 The General Assembly may wish to decide whether this "approval" power
22 precludes the Victim Services Coordinator from instituting a plan or
23 program before obtaining the Board's approval.

24 Furthermore, in § 11-915 of this subtitle, there is no complementary
25 requirement that the Victim Services Coordinator submit plans, program
26 revisions, or any other materials to the Board, except for the requirement
27 that the Victim Services Coordinator submit an annual report to the
28 Board.

29 Defined terms: "Board" § 11-910

30 "Charging document" § 1-101

31 "Executive Director" § 11-910

32 "Fund" § 11-910

33 "Victim" § 11-910

34 11-915. VICTIM SERVICES COORDINATOR.

35 (A) APPOINTMENT.

36 THE EXECUTIVE DIRECTOR SHALL APPOINT A VICTIM SERVICES COORDINATOR.

37 (B) DUTIES.

1 SUBJECT TO THE AUTHORITY OF THE EXECUTIVE DIRECTOR, THE VICTIM
2 SERVICES COORDINATOR SHALL:

3 (1) PROVIDE STAFF SUPPORT TO THE BOARD ON VICTIM SERVICES
4 MATTERS;

5 (2) MONITOR, ASSESS, AND MAKE RECOMMENDATIONS ON STATE AND
6 LOCAL VICTIM COMPENSATION PROGRAMS AND PROCEDURES;

7 (3) PROVIDE TECHNICAL ASSISTANCE TO LOCAL PUBLIC AND PRIVATE
8 PROGRAMS THAT PROVIDE VICTIM ASSISTANCE;

9 (4) RESEARCH AND GATHER DATA ON VICTIMS AND VICTIM ASSISTANCE
10 PROGRAMS, AND DISSEMINATE THE DATA TO THE PUBLIC;

11 (5) SUBMIT TO THE GOVERNOR, THE ATTORNEY GENERAL, THE
12 SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, AND THE BOARD AN
13 ANNUAL REPORT THAT INCLUDES RECOMMENDATIONS ON HOW TO IMPROVE
14 VICTIM ASSISTANCE PROGRAMS;

15 (6) ENSURE THAT THE RIGHTS OF VICTIMS ARE OBSERVED;

16 (7) HELP VICTIMS TO GET THE INFORMATION TO WHICH THEY HAVE A
17 RIGHT; AND

18 (8) MONITOR COMPLIANCE WITH THE GUIDELINES FOR TREATMENT OF
19 AND ASSISTANCE TO VICTIMS AND WITNESSES UNDER §§ 11-1002 AND 11-1003 OF
20 THIS TITLE.

21 (C) COMPENSATION.

22 THE VICTIM SERVICES COORDINATOR IS ENTITLED TO COMPENSATION AS
23 PROVIDED IN THE STATE BUDGET.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, §§ 842 and 843.

26 In subsection (b)(4) of this section, the former reference to "perform"
27 research is deleted as surplusage.

28 In subsection (c) of this section, the phrase "is entitled to compensation" is
29 substituted for the former phrase "shall receive an annual salary" for
30 accuracy. *See* General Revisor's Note to article.

31 The Criminal Procedure Article Review Committee notes, for consideration
32 by the General Assembly, that subsection (b)(2) of this section is vague.
33 This paragraph provides that the Victim Services Coordinator must make
34 recommendations on State and victim compensation programs and
35 procedures without specifying who should receive these recommendations.

36 Subsection (b)(5) of this section may provide some guidance to this issue

1 because it requires the Victim Services Coordinator to submit an annual
2 report, including recommendations on how to improve victim assistance
3 programs, to the Governor, the Attorney General, the Secretary of Public
4 Safety and Correctional Services, and the Board. If these are the same
5 entities who should receive the recommendations, the General Assembly
6 may wish to combine these two paragraphs.

7 The Criminal Procedure Article Review Committee also notes, for
8 consideration by the General Assembly, that subsection (b)(5) of this
9 section does not include a requirement that the Victim Services
10 Coordinator's plan and annual reports be approved by the Board.

11 Defined terms: "Board" § 11-910

12 "Executive Director" § 11-910

13 "Victim" § 11-910

14 11-916. STATE VICTIMS OF CRIME FUND -- IN GENERAL.

15 (A) ESTABLISHED.

16 THERE IS A STATE VICTIMS OF CRIME FUND.

17 (B) PURPOSE.

18 (1) THE FUND SHALL BE USED TO PAY FOR CARRYING OUT:

19 (I) ARTICLE 47 OF THE MARYLAND DECLARATION OF RIGHTS;

20 (II) THE GUIDELINES FOR THE TREATMENT AND ASSISTANCE FOR
21 VICTIMS AND WITNESSES OF CRIMES AND DELINQUENT ACTS PROVIDED IN §§
22 11-1002 AND 11-1003 OF THIS TITLE; AND

23 (III) ANY LAWS ENACTED TO BENEFIT VICTIMS AND WITNESSES OF
24 CRIMES AND DELINQUENT ACTS.

25 (2) THE FUND MAY PAY FOR THE ADMINISTRATIVE COSTS OF THE FUND.

26 (C) ADMINISTRATION.

27 THE BOARD SHALL ADMINISTER THE FUND.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 854(k) and (j)(1).

30 In subsection (a) of this section, the reference to the "State" is substituted
31 for the former reference to "Maryland" to avoid the use of duplicative terms
32 "Maryland" and "State" and to correspond with other designations used in
33 this article. In addition, the former reference to an "Account" is deleted to
34 conform to practice and to § 11-910 of this subtitle and other designations
35 used in this article when referring to the Fund.

1 %In subsection (b)(1) of this section, as to the substitution of the reference to
 2 "carrying out" for the former reference to "implementation of", *see* General
 3 Revisor's Note to article.

4 In subsection (b)(1)(ii) and (iii) of this section, the defined term "delinquent
 5 act[s]" is added to reflect that, in practice, the Fund is used for both victims
 6 and witnesses of delinquent acts as well as crimes.

7 In subsection (c) of this section, the former reference to "[former] §§ 837
 8 through 844 of this subtitle" is deleted as surplusage.

9 The Criminal Procedure Article Review Committee notes, for consideration
 10 by the General Assembly, that, in subsection (a) of this section, the former
 11 reference to a State Victims of Crime Fund "in the General Fund of the
 12 State" is deleted to conform to § 11-917 of this subtitle (former Art. 27, §
 13 854(j)(2) and (3)), which provides that the Fund is a special continuing,
 14 nonlapsing fund.

15 Defined terms: "Board" § 11-910

16 "Crime" § 11-910

17 "Delinquent act" § 11-101

18 "Fund" § 11-910

19 "Victim" § 11-910

20 11-917. SAME -- STATUS; INVESTMENTS; CONSTRUCTION.

21 (A) STATUS.

22 (1) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
 23 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24 (2) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
 25 SHALL ACCOUNT FOR THE FUND.

26 (3) THE COMPTROLLER SHALL MAKE PAYMENTS FROM THE FUND THAT
 27 THE BOARD APPROVES.

28 (B) INVESTMENTS.

29 (1) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
 30 MANNER AS OTHER STATE FUNDS.

31 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

32 (C) CONSTRUCTION.

33 THIS SECTION DOES NOT PROHIBIT THE FUND FROM RECEIVING MONEY FROM
 34 ANY SOURCE.

35 REVISOR'S NOTE: This section is new language derived without substantive
 36 change from former Art. 27, §§ 854(j)(2), (3), (4), (5), and (8) and 830(e)(5).

1 %In subsection (c) of this section, the word "money" is substituted for the
2 former reference to "funds" to avoid confusion with the defined term
3 "Fund". See § 11-910 of this subtitle. Also the former reference to money
4 from any "other" source is deleted because a source of money is not
5 identified in this section.

6 Defined terms: "Board" § 11-910

7 "Fund" § 11-910

8 11-918. SAME -- AUDIT; DISBURSEMENTS.

9 (A) AUDIT.

10 THE FUND IS SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS
11 UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

12 (B) DISBURSEMENTS.

13 DISBURSEMENTS FROM THE FUND SHALL SUPPLEMENT AND MAY NOT BE A
14 SUBSTITUTE FOR ANY STATE, LOCAL GOVERNMENT, OR OTHER FUNDS EXISTING ON
15 JULY 1, 1991, FOR ASSISTANCE TO CRIME VICTIMS OR WITNESSES.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 854(j)(6) and (7).

18 Defined term: "Fund" § 11-910

19 11-919. GRANT PROGRAM.

20 (A) ESTABLISHED.

21 THERE IS A GRANT PROGRAM.

22 (B) REGULATIONS; SUBMISSION OF APPLICATIONS.

23 THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL:

24 (1) ADOPT REGULATIONS FOR THE ADMINISTRATION AND AWARD OF
25 GRANTS UNDER PART II OF THIS SUBTITLE; AND

26 (2) SUBMIT ALL APPROVED GRANT APPLICATIONS TO THE BOARD.

27 (C) BOARD ACTION REQUIRED.

28 THE BOARD SHALL APPROVE EACH GRANT APPLICATION RECEIVED BY THE
29 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION BEFORE ANY MONEY IS
30 RELEASED FROM THE FUND.

31 REVISOR'S NOTE: Subsection (a) of this section is new language added to
32 state expressly what was only implied in the former law -- a grant
33 program exists.

1 %Subsections (b) and (c) of this section are new language derived without
2 substantive change from former Art. 27, § 844.

3 Defined terms: "Board" § 11-908

4 "Fund" § 11-908

5 11-920. RESERVED.

6 11-921. RESERVED.

7 PART III. HELP FOR VICTIMS OF SEXUAL ASSAULT OFFENSES.

8 11-922. "SEXUAL ASSAULT" DEFINED.

9 IN THIS PART, "SEXUAL ASSAULT" MEANS RAPE OR A SEXUAL OFFENSE IN ANY
10 DEGREE THAT IS SPECIFIED IN THE SEXUAL OFFENSES SUBHEADING IN ARTICLE 27
11 OF THE CODE.

12 REVISOR'S NOTE: This section is new language added to provide a convenient,
13 brief reference to "rape and sexual offenses".

14 11-923. SEXUAL ASSAULT CRISIS PROGRAMS.

15 (A) LEGISLATIVE FINDINGS.

16 THE GENERAL ASSEMBLY FINDS THAT AN INCREASING NUMBER OF SEXUAL
17 ASSAULT OFFENSE VICTIMS IN THE STATE:

18 (1) LACK NECESSARY COUNSELING AND FOLLOW-UP SERVICES; AND

19 (2) IN SOME PARTS OF THE STATE, HAVE ONLY THE HELP OF
20 EXTREMELY LIMITED SUPPORT SERVICES.

21 (B) STATEMENT OF PURPOSE.

22 THE PURPOSE OF THIS SECTION IS TO PROVIDE FOR SEXUAL ASSAULT CRISIS
23 PROGRAMS THAT ADDRESS THE SPECIAL NEEDS OF SEXUAL ASSAULT VICTIMS.

24 (C) DEPARTMENT OF HUMAN RESOURCES TO HELP ESTABLISH PROGRAM.

25 (1) THE DEPARTMENT OF HUMAN RESOURCES SHALL HELP ESTABLISH
26 SEXUAL ASSAULT CRISIS PROGRAMS IN THE STATE.

27 (2) THE PROGRAMS SHALL BE DEVELOPED AND LOCATED TO
28 FACILITATE THEIR USE BY ALLEGED VICTIMS RESIDING IN SURROUNDING AREAS.

29 (3) THE PROGRAMS SHALL:

30 (I) PROVIDE SPECIALIZED SUPPORT SERVICES TO ADULT AND
31 MINOR ALLEGED VICTIMS OF SEXUAL ASSAULT CRIMES; AND

1 (II) INCLUDE A HOTLINE AND COUNSELING SERVICE.

2 (D) PROGRAM CONTRACTS.

3 THE DEPARTMENT OF HUMAN RESOURCES MAY CONTRACT WITH PUBLIC OR
4 PRIVATE NONPROFIT ORGANIZATIONS TO OPERATE THE SEXUAL ASSAULT CRISIS
5 PROGRAMS.

6 (E) FUNDING.

7 MONEY FOR THE SEXUAL ASSAULT CRISIS PROGRAMS SHALL BE AS PROVIDED
8 IN THE ANNUAL STATE BUDGET AND SHALL BE USED TO SUPPLEMENT, BUT NOT
9 SUPPLANT, MONEY THAT THE PROGRAMS RECEIVE FROM OTHER SOURCES.

10 (F) REPORTING REQUIREMENT.

11 THE SECRETARY OF HUMAN RESOURCES SHALL INCLUDE A REPORT ON THE
12 SEXUAL ASSAULT CRISIS PROGRAMS IN THE DEPARTMENT OF HUMAN RESOURCES
13 ANNUAL REPORT TO THE GENERAL ASSEMBLY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 793.

16 In subsection (f) of this section, the references to the Secretary "of Human
17 Resources" and "the Department of Human Resources" annual report are
18 added for clarity.

19 Defined term: "Sexual assault" § 11-922

20 11-924. TRANSPORTING ALLEGED SEXUAL ASSAULT VICTIMS.

21 (A) DESIGNATION OF NEAREST FACILITY.

22 THE NEAREST FACILITY TO WHICH A VICTIM OF SEXUAL ASSAULT MAY BE
23 TAKEN SHALL BE DESIGNATED BY THE DEPARTMENT OF HEALTH AND MENTAL
24 HYGIENE IN COOPERATION WITH:

25 (1) THE MEDICAL AND CHIRURGICAL FACULTY OF THE STATE OF
26 MARYLAND; AND

27 (2) THE STATE'S ATTORNEY IN THE SUBDIVISION WHERE THE SEXUAL
28 ASSAULT OCCURRED.

29 (B) DUTY OF POLICE AND SHERIFFS.

30 (1) A POLICE OFFICER, SHERIFF, OR DEPUTY SHERIFF WHO RECEIVES A
31 REPORT OF AN ALLEGED SEXUAL ASSAULT SHALL OFFER THE ALLEGED VICTIM THE
32 OPPORTUNITY TO BE TAKEN IMMEDIATELY TO THE NEAREST FACILITY.

33 (2) THE OFFER SHALL BE MADE WITHOUT REGARD FOR THE PLACE OF
34 THE ALLEGED SEXUAL ASSAULT OR WHERE IT IS REPORTED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 790.

3 Defined term: "Sexual assault" § 11-922

4 11-925. HEALTH CARE SERVICES.

5 APPLICABLE HEALTH CARE SERVICES SHALL BE GIVEN WITHOUT CHARGE TO A
6 VICTIM OF SEXUAL ABUSE, AS PROVIDED UNDER § 15-127 OF THE HEALTH - GENERAL
7 ARTICLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 795.

10 Defined term: "Sexual assault" § 11-922

11 GENERAL REVISOR'S NOTE TO SUBTITLE:

12 Former Art. 27, § 794, which cross-referenced the requirement that each
13 institution of higher education must adopt a written policy on sexual assault, is
14 deleted in light of ED § 11-601 to the same effect.

15 Former Art. 27, § 838, which provided legislative findings for the establishment
16 of the Board of Victim Services and the transfer of the Victim Services Program, is
17 deleted as obsolete.

18 SUBTITLE 10. TREATMENT AND HELP.

19 11-1001. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 27, § 847(a).

24 The reference to this "subtitle" is substituted for the former reference to
25 "§§ 847 through 850 of this subheading". This subtitle also includes the
26 revision of former Art. 27, § 856; thus, this new subsection makes the
27 definitions applicable to provisions to which those definitions formerly did
28 not apply. No substantive change is intended.

29 (B) CRIME.

30 "CRIME" MEANS CONDUCT THAT IS A CRIME UNDER THE LAW OF THIS STATE OR
31 FEDERAL LAW.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 27, § 847(b).

1 %The former reference to conduct that "would be considered a crime except
2 for the fact that the perpetrator was found to be not criminally responsible
3 or not competent to stand trial" is deleted as unnecessary to the definition
4 of "crime".

5 (C) DISPOSITION.

6 (1) "DISPOSITION" MEANS THE SENTENCING OR DETERMINATION OF
7 PENALTY OR PUNISHMENT TO BE IMPOSED ON A PERSON CONVICTED OF A CRIME OR
8 AGAINST WHOM A FINDING OF SUFFICIENT FACTS FOR CONVICTION IS MADE.

9 (2) "DISPOSITION" INCLUDES DISMISSAL OF CHARGES OR OTHER
10 DISPOSITION UNDER A PLEA BARGAIN AGREEMENT.

11 REVISOR'S NOTE: This subsection formerly was Art. 27, § 847(d).

12 No changes are made.

13 Defined terms: "Crime" § 11-1001

14 "Person" § 1-101

15 (D) RESTITUTION.

16 "RESTITUTION" MEANS MONEY OR SERVICES THAT A DEFENDANT IS ORDERED
17 TO PAY OR RENDER TO A VICTIM OR VICTIM'S REPRESENTATIVE.

18 REVISOR'S NOTE: This subsection formerly was Art. 27, § 847(f).

19 The only changes are in style.

20 Defined terms: "Victim" § 11-1001

21 "Victim's representative" § 11-1001

22 (E) VICTIM.

23 "VICTIM" MEANS A PERSON WHO SUFFERS DIRECT OR THREATENED PHYSICAL,
24 EMOTIONAL, OR FINANCIAL HARM AS A RESULT OF A CRIME.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 27, § 847(c), except as it related to
27 family members of a minor, incompetent, or homicide victim.

28 The former reference to a "[c]rime victim" is deleted as unnecessary.

29 Defined terms: "Crime" § 11-1001

30 "Person" § 1-101

31 (F) VICTIM'S REPRESENTATIVE.

32 "VICTIM'S REPRESENTATIVE" INCLUDES:

1 (1) A SPOUSE, CHILD, SIBLING, OR A PARENT OF A VICTIM WHO IS A
2 MINOR, INCOMPETENT, OR A VICTIM OF A HOMICIDE; OR

3 (2) A GUARDIAN OF A MINOR OR AN INCOMPETENT.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 27, § 847(e) and, as it related to
6 family members of a minor, incompetent, or homicide victim (c).

7 The defined term "[v]ictim's representative" is added for clarity.

8 (G) WITNESS.

9 "WITNESS" MEANS A PERSON WHO IS OR EXPECTS TO BE A STATE'S WITNESS.

10 REVISOR'S NOTE: This subsection formerly was Art. 27, § 847(g).

11 The only changes are in style.

12 Defined term: "Person" § 1-101

13 11-1002. GUIDELINES FOR TREATMENT OF VICTIM OF CRIME, VICTIM'S
14 REPRESENTATIVE, OR WITNESS.

15 (A) RESPONSIBILITY OF CRIMINAL JUSTICE UNITS.

16 THE APPROPRIATE CRIMINAL JUSTICE UNIT SHOULD INFORM A VICTIM OF A
17 CRIME, A VICTIM'S REPRESENTATIVE, OR A WITNESS OF THE GUIDELINES LISTED IN
18 SUBSECTION (B) OF THIS SECTION.

19 (B) GUIDELINES.

20 A VICTIM OF A CRIME, VICTIM'S REPRESENTATIVE, OR WITNESS:

21 (1) SHOULD BE TREATED WITH DIGNITY, RESPECT, COURTESY, AND
22 SENSITIVITY;

23 (2) SHOULD RECEIVE CRISIS INTERVENTION HELP, IF NEEDED, OR BE
24 TOLD BY THE APPROPRIATE CRIMINAL JUSTICE UNIT WHERE CRISIS INTERVENTION
25 HELP, EMERGENCY MEDICAL TREATMENT, CREDITOR INTERCESSION SERVICES, OR
26 OTHER SOCIAL SERVICES AND COUNSELING MAY BE OBTAINED;

27 (3) SHOULD BE NOTIFIED IN ADVANCE OF DATES AND TIMES OF TRIAL
28 COURT PROCEEDINGS IN THE CASE AND, ON WRITTEN REQUEST, OF
29 POSTSENTENCING PROCEEDINGS, AND BE NOTIFIED IF THE COURT PROCEEDINGS
30 TO WHICH THE VICTIM OF A CRIME, VICTIM'S REPRESENTATIVE, OR WITNESS HAS
31 BEEN SUBPOENAED WILL NOT PROCEED AS SCHEDULED;

32 (4) SHOULD BE TOLD OF THE PROTECTION AVAILABLE, AND, ON
33 REQUEST, BE PROTECTED BY A CRIMINAL JUSTICE UNIT, TO THE EXTENT
34 REASONABLE, PRACTICABLE, AND, IN THE UNIT'S DISCRETION, NECESSARY, FROM

1 HARM OR THREATS OF HARM ARISING OUT OF THE CRIME VICTIM'S OR WITNESS'S
2 COOPERATION WITH LAW ENFORCEMENT AND PROSECUTION EFFORTS;

3 (5) DURING EACH PHASE OF THE INVESTIGATIVE OR COURT
4 PROCEEDINGS, SHOULD BE PROVIDED, TO THE EXTENT PRACTICABLE, WITH A
5 WAITING AREA THAT IS SEPARATE FROM A SUSPECT AND THE FAMILY AND FRIENDS
6 OF A SUSPECT;

7 (6) SHOULD BE TOLD BY THE APPROPRIATE CRIMINAL JUSTICE UNIT OF
8 FINANCIAL ASSISTANCE, CRIMINAL INJURIES COMPENSATION, AND ANY OTHER
9 SOCIAL SERVICES AVAILABLE TO THE VICTIM OF A CRIME OR VICTIM'S
10 REPRESENTATIVE AND RECEIVE HELP OR INFORMATION ON HOW TO APPLY FOR
11 SERVICES;

12 (7) SHOULD BE TOLD OF AND, ON REQUEST, SHOULD BE GIVEN
13 EMPLOYER INTERCESSION SERVICES, WHEN APPROPRIATE, BY THE STATE'S
14 ATTORNEY'S OFFICE OR OTHER AVAILABLE RESOURCE TO SEEK EMPLOYER
15 COOPERATION IN MINIMIZING AN EMPLOYEE'S LOSS OF PAY OR OTHER BENEFITS
16 RESULTING FROM PARTICIPATION IN THE CRIMINAL JUSTICE PROCESS;

17 (8) ON WRITTEN REQUEST, SHOULD BE KEPT REASONABLY INFORMED
18 BY THE POLICE OR THE STATE'S ATTORNEY OF THE ARREST OF A SUSPECT AND
19 CLOSING OF THE CASE, AND SHOULD BE TOLD WHICH OFFICE TO CONTACT FOR
20 INFORMATION ABOUT THE CASE;

21 (9) SHOULD BE TOLD OF THE RIGHT TO HAVE STOLEN OR OTHER
22 PROPERTY PROMPTLY RETURNED AND, ON WRITTEN REQUEST, SHOULD HAVE THE
23 PROPERTY PROMPTLY RETURNED BY A LAW ENFORCEMENT UNIT WHEN
24 EVIDENTIARY REQUIREMENTS FOR PROSECUTION CAN BE SATISFIED BY OTHER
25 MEANS, UNLESS THERE IS A COMPELLING LAW ENFORCEMENT REASON FOR
26 KEEPING IT;

27 (10) FOR A CRIME OF VIOLENCE, ON WRITTEN REQUEST, SHOULD BE
28 KEPT INFORMED BY PRETRIAL RELEASE PERSONNEL, THE STATE'S ATTORNEY, OR
29 THE ATTORNEY GENERAL, AS APPROPRIATE, OF EACH PROCEEDING THAT AFFECTS
30 THE CRIME VICTIM'S INTEREST, INCLUDING:

31 (I) BAIL HEARING;

32 (II) DISMISSAL;

33 (III) NOLLE PROSEQUI;

34 (IV) SETTING OF CHARGES;

35 (V) TRIAL; AND

36 (VI) DISPOSITION;

1 (11) ON REQUEST OF THE STATE'S ATTORNEY AND IN THE DISCRETION
2 OF THE COURT, SHOULD BE ALLOWED TO ADDRESS THE COURT OR JURY OR HAVE A
3 VICTIM IMPACT STATEMENT READ BY THE COURT OR JURY AT:

4 (I) SENTENCING BEFORE THE IMPOSITION OF THE SENTENCE; OR

5 (II) ANY HEARING TO CONSIDER ALTERING THE SENTENCE;

6 (12) SHOULD BE TOLD, IN APPROPRIATE CASES, BY THE STATE'S
7 ATTORNEY OF THE RIGHT TO REQUEST RESTITUTION AND, ON REQUEST, SHOULD BE
8 HELPED TO PREPARE THE REQUEST AND SHOULD BE GIVEN ADVICE AS TO THE
9 COLLECTION OF THE PAYMENT OF ANY RESTITUTION AWARDED;

10 (13) SHOULD BE ENTITLED TO A SPEEDY DISPOSITION OF THE CASE TO
11 MINIMIZE THE LENGTH OF TIME THE PERSON MUST ENDURE RESPONSIBILITY AND
12 STRESS IN CONNECTION WITH THE CASE;

13 (14) ON WRITTEN REQUEST TO THE PAROLE AUTHORITY, SHOULD BE
14 TOLD EACH TIME THERE IS TO BE A HEARING ON PROVISIONAL RELEASE FROM
15 CUSTODY AND EACH TIME THE CRIMINAL WILL RECEIVE A PROVISIONAL RELEASE;

16 (15) ON WRITTEN REQUEST TO THE PATUXENT INSTITUTION, DIVISION
17 OF CORRECTION, OR PAROLE COMMISSION, AS APPROPRIATE, SHOULD HAVE A
18 VICTIM IMPACT STATEMENT READ AT A HEARING TO CONSIDER TEMPORARY LEAVE
19 STATUS OR A PROVISIONAL RELEASE; AND

20 (16) ON WRITTEN REQUEST TO THE UNIT THAT HAS CUSTODY OF THE
21 OFFENDER AFTER SENTENCING, SHOULD BE TOLD BY THE UNIT WHENEVER THE
22 CRIMINAL ESCAPES OR RECEIVES A MANDATORY SUPERVISION RELEASE.

23 (C) AVAILABILITY OF GUIDELINES.

24 (1) THE DEPARTMENT SHALL MAKE THE GUIDELINES IN SUBSECTION
25 (B) OF THIS SECTION AVAILABLE TO THE UNITS INVOLVED WITH CARRYING OUT THE
26 GUIDELINES.

27 (2) TO THE EXTENT FEASIBLE, THE GUIDELINES IN SUBSECTION (B) OF
28 THIS SECTION SHALL BE PRINTED BY STATE USE INDUSTRIES.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, §§ 848 and 849.

31 In subsection (b)(3) of this section, the reference to "subpoenaed" is
32 substituted for the former reference to "summoned" for accuracy. Unlike a
33 summons, which requires a defendant to appear in court, a subpoena is
34 issued to require a witness to testify in court.

35 In subsection (b)(8) of this section, the reference to the "arrest" of a suspect
36 is substituted for the former reference to the "apprehension" of a suspect
37 for clarity.

1 %In subsection (b)(10) of this section, the former specific reference to each
2 proceeding "at hearing, trial, or appellate level" is deleted in light of the
3 comprehensive reference to "each" proceeding.

4 In subsection (b)(13) of this section, the former reference to an "individual
5 [who] is involved as a crime victim or witness" is deleted as implicit in the
6 reference to a "person".

7 In subsection (b)(14) and (16) of this section, the references to "criminal"
8 are substituted for the former references to "offender" to conform to the
9 terminology used throughout this article.

10 In subsection (c)(1) of this section, the reference to units that are involved
11 "with carrying out the guidelines" is added to state expressly what
12 formerly was only implied.

13 In subsection (c)(2) of this section, the former reference to "the inmates
14 employed by" State Use Industries is deleted as implicit in the reference to
15 "State Use Industries".

16 Throughout this section, the references to a "unit" are substituted for the
17 former references to an "agency" for consistency with other revised articles
18 of the Code. *See* General Revisor's Note to article.

19 Defined terms: "Crime" § 11-1001

20 "Crime of violence" § 1-101

21 "Department" § 1-101

22 "Disposition" § 11-1001

23 "Nolle prosequi" § 1-101

24 "Person" § 1-101

25 "Restitution" § 11-1001

26 "Victim" § 11-1001

27 "Victim's representative" § 11-1001

28 "Witness" § 11-1001

29 11-1003. GUIDELINES FOR TREATMENT OF VICTIM OF DELINQUENT ACT, VICTIM'S
30 REPRESENTATIVE, OR WITNESS.

31 (A) RESPONSIBILITY OF JUVENILE JUSTICE UNITS.

32 THE APPROPRIATE JUVENILE JUSTICE UNIT SHOULD TELL A VICTIM OF A
33 DELINQUENT ACT, VICTIM'S REPRESENTATIVE, OR WITNESS OF THE GUIDELINES
34 LISTED IN SUBSECTION (B) OF THIS SECTION.

35 (B) GUIDELINES.

36 A VICTIM OF A DELINQUENT ACT, VICTIM'S REPRESENTATIVE, OR WITNESS:

37 (1) SHOULD BE TREATED WITH DIGNITY, RESPECT, COURTESY, AND
38 SENSITIVITY;

1 (2) SHOULD BE TOLD IN ADVANCE OF DATES AND TIMES OF JUVENILE
2 COURT PROCEEDINGS IN THE CASE AND SHOULD BE TOLD IF THE COURT
3 PROCEEDINGS TO WHICH THE VICTIM OR WITNESS HAS BEEN SUMMONED WILL NOT
4 PROCEED AS SCHEDULED;

5 (3) DURING ANY PHASE OF THE INVESTIGATIVE OR COURT
6 PROCEEDINGS, SHOULD BE PROVIDED, TO THE EXTENT PRACTICABLE, WITH A
7 WAITING AREA THAT IS SEPARATE FROM A CHILD RESPONDENT AND THE FAMILY
8 AND FRIENDS OF THE CHILD RESPONDENT;

9 (4) SHOULD BE TOLD BY THE APPROPRIATE JUVENILE JUSTICE UNIT OF
10 FINANCIAL HELP, CRIMINAL INJURIES COMPENSATION, AND ANY OTHER SOCIAL
11 SERVICES AVAILABLE TO THE VICTIM AND RECEIVE HELP OR INFORMATION ON HOW
12 TO APPLY FOR SERVICES;

13 (5) ON WRITTEN REQUEST, SHOULD BE KEPT REASONABLY INFORMED
14 BY THE POLICE OR THE STATE'S ATTORNEY OF THE APPREHENSION OF A CHILD
15 RESPONDENT AND OF THE CLOSING OF THE CASE, AND SHOULD BE TOLD WHICH
16 OFFICE TO CONTACT FOR INFORMATION ABOUT THE CASE;

17 (6) SHOULD BE TOLD OF THE RIGHT TO HAVE STOLEN OR OTHER
18 PROPERTY PROMPTLY RETURNED AND, ON WRITTEN REQUEST, HAVE THE PROPERTY
19 PROMPTLY RETURNED BY A LAW ENFORCEMENT UNIT WHEN EVIDENTIARY
20 REQUIREMENTS FOR PROSECUTION CAN BE SATISFIED BY OTHER MEANS UNLESS
21 THERE IS A COMPELLING LAW ENFORCEMENT REASON FOR KEEPING IT;

22 (7) SHOULD BE TOLD, IN APPROPRIATE CASES, BY THE STATE'S
23 ATTORNEY OF THE RIGHT TO REQUEST RESTITUTION AND, ON REQUEST, SHOULD BE
24 HELPED TO PREPARE THE REQUEST AND SHOULD BE GIVEN ADVICE AS TO THE
25 COLLECTION OF THE PAYMENT OF ANY RESTITUTION AWARDED; AND

26 (8) ON WRITTEN REQUEST TO THE APPROPRIATE UNIT, SHOULD BE
27 TOLD ANY TIME THAT THE CHILD RESPONDENT IS TO BE RELEASED OR ESCAPES.

28 (C) AVAILABILITY OF GUIDELINES.

29 THE DEPARTMENT OF JUVENILE JUSTICE SHALL MAKE THE GUIDELINES IN
30 SUBSECTION (B) OF THIS SECTION AVAILABLE TO THE UNITS INVOLVED WITH
31 CARRYING OUT THE GUIDELINES.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 851(a) and (b).

34 In subsection (c) of this section, the reference to units involved "with
35 carrying out the guidelines" is added to state expressly what formerly was
36 only implied.

37 Throughout this section, the references to a "unit" are substituted for the
38 former references to an "agency" for consistency with other revised articles
39 of the Code. *See* General Revisor's Note to article.

1 Defined terms: "Child respondent" § 11-101

2 "Delinquent act" § 11-1001

3 "Restitution" § 11-1001

4 "Victim" § 11-1001

5 "Victim's representative" § 11-1001

6 "Witness" § 11-1001

7 11-1004. EFFECT OF SUBTITLE.

8 THIS SUBTITLE DOES NOT CREATE A CAUSE OF ACTION ON BEHALF OF A
9 PERSON AGAINST A PUBLIC OFFICIAL, PUBLIC EMPLOYEE, A STATE OR LOCAL
10 GOVERNMENT, OR UNIT, INCLUDING A UNIT RESPONSIBLE FOR THE GUIDELINES
11 SET FORTH IN THIS SUBTITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, §§ 850 and 851(c).

14 The references to "unit" are substituted for the former references to an
15 "agency" for consistency with other revised articles of the Code. *See*
16 General Revisor's Note to article.

17 Defined term: "Person" § 1-101

18 11-1005. VICTIM AND RESPONSIBLE RELATIVE; COST OF HEALTH SERVICES.

19 AS PROVIDED UNDER § 16-203(A)(4) OF THE HEALTH - GENERAL ARTICLE, A
20 VICTIM OF SEXUAL ABUSE, PHYSICAL ABUSE, OR A CRIME OF VIOLENCE WHO IS A
21 RESPONSIBLE RELATIVE OF THE PERPETRATOR MAY NOT BE HELD LIABLE FOR THE
22 COST OF HEALTH SERVICES PROVIDED TO THE PERPETRATOR OF THE OFFENSE BY
23 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 856.

26 Defined term: "Crime of violence" § 1-101

27 GENERAL REVISOR'S NOTE TO TITLE:

28 The term "delinquent act" is added to each reference to a "crime" and the
29 reference to a "child respondent" is added to each reference to a "defendant" to reflect
30 that this title applies to juvenile court as well as criminal court.

31 TITLE 12. FORFEITURE -- CONTROLLED DANGEROUS SUBSTANCES VIOLATIONS.

32 SUBTITLE 1. DEFINITIONS; PROPERTY SUBJECT TO FORFEITURE.

33 12-101. DEFINITIONS.

34 (A) IN GENERAL.

1 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2 REVISOR'S NOTE: This subsection is new language derived without
3 substantive change from former Art. 27, § 297(a)(1).

4 (B) CHIEF EXECUTIVE OFFICER.

5 "CHIEF EXECUTIVE OFFICER" MEANS:

6 (1) FOR BALTIMORE CITY, THE MAYOR;

7 (2) FOR A CHARTER COUNTY, THE COUNTY EXECUTIVE OR, IF THERE IS
8 NO COUNTY EXECUTIVE, THE COUNTY COUNCIL;

9 (3) FOR A CODE COUNTY, THE COUNTY COMMISSIONERS OR COUNTY
10 COUNCIL;

11 (4) FOR A COUNTY COMMISSIONER COUNTY, THE COUNTY
12 COMMISSIONERS; OR

13 (5) FOR A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY
14 ESTABLISHED BY MUNICIPAL CHARTER.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 27, § 297(a)(2).

17 (C) CONTROLLED DANGEROUS SUBSTANCES LAW.

18 "CONTROLLED DANGEROUS SUBSTANCES LAW" MEANS THE HEALTH -
19 CONTROLLED DANGEROUS SUBSTANCES SUBHEADING OF ARTICLE 27 OF THE CODE.

20 REVISOR'S NOTE: This subsection is new language added to avoid the
21 necessity of repeating the phrase "the Health - Controlled Dangerous
22 Substances Subheading of Article 27 of the Code".

23 (D) CONVICTED.

24 "CONVICTED" MEANS FOUND GUILTY.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 27, § 297(a)(3).

27 The former reference to a finding of guilt "by a court of competent
28 jurisdiction" is deleted as surplusage.

29 (E) FINAL DISPOSITION.

30 "FINAL DISPOSITION" MEANS A DISMISSAL, ENTRY OF A NOLLE PROSEQUI, THE
31 MARKING OF A CRIMINAL CHARGE "STET" ON THE DOCKET, ENTRY OF A NOT GUILTY
32 VERDICT, THE PRONOUNCEMENT OF SENTENCE, OR IMPOSITION OF PROBATION
33 UNDER § 6-220 OF THIS ARTICLE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, § 297(a)(4).

3 The reference to "the marking of a criminal charge `stet' on the docket" is
4 substituted for the former reference to "stet" for clarity.

5 The former reference to "the date on which any criminal charge giving rise
6 to a forfeiture under this section is terminated" is deleted as misleading
7 and unnecessary, because "final disposition" in its ordinary meaning does
8 not mean a date but does imply the termination of a criminal charge.

9 Defined term: "Nolle prosequi" § 1-101

10 (F) FORFEITING AUTHORITY.

11 "FORFEITING AUTHORITY" MEANS:

12 (1) THE UNIT OR PERSON DESIGNATED BY AGREEMENT BETWEEN THE
13 STATE'S ATTORNEY FOR A COUNTY AND THE CHIEF EXECUTIVE OFFICER OF THE
14 GOVERNING BODY HAVING JURISDICTION OVER ASSETS SUBJECT TO FORFEITURE
15 TO ACT ON BEHALF OF THE GOVERNING BODY REGARDING THOSE ASSETS; OR

16 (2) IF THE SEIZING AUTHORITY IS A UNIT OF THE STATE, A UNIT OR
17 PERSON THAT THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE
18 DESIGNATES BY AGREEMENT WITH A STATE'S ATTORNEY, COUNTY ATTORNEY, OR
19 MUNICIPAL ATTORNEY TO ACT ON BEHALF OF THE STATE REGARDING ASSETS
20 SUBJECT TO FORFEITURE BY THE STATE.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 27, § 297(a)(5).

23 In item (1) of this subsection, the phrase "to act on behalf of the governing
24 body regarding those assets" is added for clarity.

25 Also in item (1) of this subsection, the former reference to "from time to
26 time" is deleted as unnecessary in determining who is the forfeiting
27 authority.

28 Defined terms: "Chief executive officer" § 12-101

29 "County" § 1-101

30 "Person" § 1-101

31 "Seizing authority" § 12-101

32 (G) GOVERNING BODY.

33 "GOVERNING BODY" INCLUDES:

34 (1) THE STATE, IF THE SEIZING AUTHORITY IS A UNIT OF THE STATE;

35 (2) A COUNTY, IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY;

1 (3) A MUNICIPAL CORPORATION, IF THE SEIZING AUTHORITY IS A UNIT
2 OF A MUNICIPALITY; AND

3 (4) BALTIMORE CITY, IF THE SEIZING AUTHORITY IS THE POLICE
4 DEPARTMENT OF BALTIMORE CITY.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 27, § 297(a)(6).

7 In item (3) of this subsection, the reference to a "municipal corporation" is
8 substituted for the former reference to a "municipality" to conform to the
9 terminology used in the Md. Constitution, Art. XI-E.

10 Defined terms: "County" § 1-101

11 "Seizing authority" § 12-101

12 (H) LIEN.

13 "LIEN" INCLUDES A MORTGAGE, DEED OF TRUST, PLEDGE, SECURITY INTEREST,
14 ENCUMBRANCE, OR RIGHT OF SETOFF.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 27, § 297(a)(7).

17 The Criminal Procedure Article Review Committee notes, for consideration
18 by the General Assembly, that a right of setoff is not normally included in
19 the definition of "lien".

20 (I) LIENHOLDER.

21 "LIENHOLDER" MEANS A PERSON WHO HAS A LIEN OR A SECURED INTEREST ON
22 PROPERTY CREATED BEFORE THE SEIZURE.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 27, § 297(a)(8).

25 Defined terms: "Lien" § 12-101

26 "Person" § 1-101

27 "Property" § 12-101

28 (J) LOCAL FINANCIAL AUTHORITY.

29 "LOCAL FINANCIAL AUTHORITY" MEANS:

30 (1) IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY, THE
31 TREASURER OR DIRECTOR OF FINANCE OF THE COUNTY; OR

32 (2) IF THE SEIZING AUTHORITY IS A UNIT OF A MUNICIPAL
33 CORPORATION, THE TREASURER OR DIRECTOR OF FINANCE OF THAT MUNICIPAL
34 CORPORATION.

1 REVISOR'S NOTE: This subsection is new language added to avoid the
2 necessity of repeating the phrase "the treasurer or director of finance of a
3 county, or the treasurer or director of finance of a municipal corporation".

4 Defined terms: "County" § 1-101

5 "Seizing authority" § 12-101

6 (K) OWNER.

7 (1) "OWNER" MEANS A PERSON HAVING A LEGAL, EQUITABLE, OR
8 POSSESSORY INTEREST IN PROPERTY.

9 (2) "OWNER" INCLUDES:

10 (I) A CO-OWNER;

11 (II) A LIFE TENANT;

12 (III) A REMAINDERMAN TO A LIFE TENANCY IN REAL PROPERTY;

13 (IV) A HOLDER OF AN INCHOATE INTEREST IN REAL PROPERTY;

14 AND

15 (V) A BONA FIDE PURCHASER FOR VALUE.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 27, § 297(a)(9).

18 Defined term: "Real property" § 12-101

19 (L) PROCEEDS.

20 "PROCEEDS" INCLUDES PROPERTY DERIVED DIRECTLY OR INDIRECTLY IN
21 CONNECTION WITH OR AS A RESULT OF A CRIME UNDER THE CONTROLLED
22 DANGEROUS SUBSTANCES LAW.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 27, § 297(a)(10).

25 The Criminal Procedure Article Review Committee notes, for consideration
26 by the General Assembly, that this subsection refers to a "crime" under the
27 Controlled Dangerous Substances law but does not refer to a delinquent
28 act that, if committed by an adult, would be a crime.

29 Defined terms: "Controlled Dangerous Substances law" § 12-101

30 "Property" § 12-101

31 (M) PROPERTY.

32 (1) "PROPERTY" INCLUDES:

1 (I) REAL PROPERTY AND ANYTHING GROWING ON OR ATTACHED
2 TO REAL PROPERTY;

3 (II) TANGIBLE AND INTANGIBLE PERSONAL PROPERTY,
4 INCLUDING:

- 5 1. SECURITIES;
- 6 2. NEGOTIABLE AND NONNEGOTIABLE INSTRUMENTS;
- 7 3. VEHICLES AND CONVEYANCES OF ANY TYPE;
- 8 4. PRIVILEGES;
- 9 5. INTERESTS;
- 10 6. CLAIMS; AND
- 11 7. RIGHTS;

12 (III) AN ITEM, OBJECT, TOOL, SUBSTANCE, DEVICE, OR WEAPON
13 USED IN CONNECTION WITH A CRIME UNDER THE CONTROLLED DANGEROUS
14 SUBSTANCES LAW; AND

15 (IV) MONEY.

16 (2) "PROPERTY" DOES NOT INCLUDE:

17 (I) AN ITEM UNLAWFULLY IN THE POSSESSION OF A PERSON
18 OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH A CRIME UNDER THE
19 CONTROLLED DANGEROUS SUBSTANCES LAW; OR

20 (II) A LESSOR'S INTEREST IN PROPERTY SUBJECT TO A BONA FIDE
21 LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT THE LESSOR
22 PARTICIPATED IN A CRIME UNDER THE CONTROLLED DANGEROUS SUBSTANCES
23 LAW OR THAT THE PROPERTY WAS THE PROCEEDS OF A CRIME UNDER THE
24 CONTROLLED DANGEROUS SUBSTANCES LAW.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 27, § 297(a)(11).

27 In this subsection, the reference to a "crime" is substituted for the former
28 reference to an "offense" to conform to the terminology used throughout
29 this title.

30 In paragraph (1)(iii) of this subsection, the reference to a crime "under the
31 Controlled Dangerous Substances law" is added for clarity.

32 Defined terms: "Controlled Dangerous Substances law" § 12-101

33 "Forfeiting authority" § 12-101

34 "Person" § 12-101

1 "Proceeds" § 12-101

2 "Real property" § 12-101

3 (N) REAL PROPERTY.

4 (1) "REAL PROPERTY" MEANS LAND OR AN IMPROVEMENT TO LAND.

5 (2) "REAL PROPERTY" INCLUDES:

6 (I) A LEASEHOLD OR OTHER LIMITED INTEREST IN REAL
7 PROPERTY;

8 (II) AN EASEMENT; AND

9 (III) A REVERSIONARY INTEREST IN A 99-YEAR GROUND LEASE
10 RENEWABLE FOREVER.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27, § 297(a)(12).

13 (O) SEIZING AUTHORITY.

14 "SEIZING AUTHORITY" MEANS A LAW ENFORCEMENT UNIT IN THE STATE THAT
15 IS AUTHORIZED TO INVESTIGATE VIOLATIONS OF THE CONTROLLED DANGEROUS
16 SUBSTANCES LAW AND THAT HAS SEIZED PROPERTY UNDER THIS TITLE.

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 27, § 297(a)(13).

19 Defined terms: "Controlled Dangerous Substances law" § 12-101

20 "Property" § 12-101

21 REVISOR'S NOTE TO SECTION: Throughout this section, the reference to a
22 State "unit" is substituted for the former terms "authority" and
23 "instrumentality" to conform to the terminology used throughout this
24 article. *See* General Revisor's Note to article.

25 12-102. PROPERTY SUBJECT TO FORFEITURE.

26 (A) IN GENERAL.

27 THE FOLLOWING ARE SUBJECT TO FORFEITURE:

28 (1) CONTROLLED DANGEROUS SUBSTANCES MANUFACTURED,
29 DISTRIBUTED, DISPENSED, ACQUIRED, OR POSSESSED IN VIOLATION OF THE
30 CONTROLLED DANGEROUS SUBSTANCES LAW;

31 (2) RAW MATERIALS, PRODUCTS, AND EQUIPMENT USED, OR INTENDED
32 FOR USE, IN MANUFACTURING, COMPOUNDING, PROCESSING, DELIVERING,
33 IMPORTING, OR EXPORTING A CONTROLLED DANGEROUS SUBSTANCE IN VIOLATION
34 OF THE CONTROLLED DANGEROUS SUBSTANCES LAW;

1 (3) PROPERTY USED OR INTENDED FOR USE AS A CONTAINER FOR
2 PROPERTY DESCRIBED IN ITEM (1) OR (2) OF THIS SUBSECTION;

3 (4) EXCEPT AS PROVIDED IN § 12-103 OF THIS SUBTITLE, CONVEYANCES,
4 INCLUDING AIRCRAFT, VEHICLES, OR VESSELS USED OR INTENDED TO BE USED TO
5 TRANSPORT, OR FACILITATE THE TRANSPORTATION, SALE, RECEIPT, POSSESSION,
6 OR CONCEALMENT OF PROPERTY DESCRIBED IN ITEM (1) OR (2) OF THIS
7 SUBSECTION;

8 (5) BOOKS, RECORDS, AND RESEARCH, INCLUDING FORMULAS,
9 MICROFILM, TAPES, AND DATA USED OR INTENDED FOR USE IN VIOLATION OF THE
10 CONTROLLED DANGEROUS SUBSTANCES LAW;

11 (6) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MONEY OR
12 WEAPONS USED OR INTENDED TO BE USED IN CONNECTION WITH THE UNLAWFUL
13 MANUFACTURE, DISTRIBUTION, DISPENSING, OR POSSESSION OF A CONTROLLED
14 DANGEROUS SUBSTANCE OR CONTROLLED PARAPHERNALIA;

15 (7) DRUG PARAPHERNALIA UNDER ARTICLE 27, § 287A OF THE CODE;

16 (8) CONTROLLED PARAPHERNALIA UNDER ARTICLE 27, § 287 OF THE
17 CODE;

18 (9) EXCEPT AS PROVIDED IN § 12-103 OF THIS SUBTITLE, THE
19 REMAINING BALANCE OF THE PROCEEDS OF A SALE BY A HOLDER OF AN
20 INSTALLMENT SALE AGREEMENT UNDER § 12-626 OF THE COMMERCIAL LAW
21 ARTICLE OF GOODS SEIZED UNDER THIS SUBTITLE;

22 (10) EXCEPT AS PROVIDED IN § 12-103 OF THIS SUBTITLE, REAL
23 PROPERTY; AND

24 (11) EVERYTHING OF VALUE FURNISHED, OR INTENDED TO BE
25 FURNISHED, IN EXCHANGE FOR A CONTROLLED DANGEROUS SUBSTANCE IN
26 VIOLATION OF THE CONTROLLED DANGEROUS SUBSTANCES LAW, ALL PROCEEDS
27 TRACEABLE TO THE EXCHANGE, AND ALL NEGOTIABLE INSTRUMENTS AND
28 SECURITIES USED, OR INTENDED TO BE USED, TO FACILITATE ANY VIOLATION OF
29 THE CONTROLLED DANGEROUS SUBSTANCES LAW.

30 (B) MONEY AND WEAPONS.

31 (1) (I) MONEY OR WEAPONS THAT ARE FOUND IN CLOSE PROXIMITY
32 TO A CONTRABAND CONTROLLED DANGEROUS SUBSTANCE, CONTROLLED
33 PARAPHERNALIA, OR FORFEITABLE RECORDS OF THE IMPORTATION,
34 MANUFACTURE, OR DISTRIBUTION OF CONTROLLED DANGEROUS SUBSTANCES ARE
35 CONTRABAND AND PRESUMED TO BE FORFEITABLE.

36 (II) A CLAIMANT OF MONEY OR WEAPONS HAS THE BURDEN TO
37 REBUT THE PRESUMPTION.

1 (2) ALL RIGHTS IN, TITLE TO, AND INTEREST IN THE MONEY OR
2 WEAPONS IMMEDIATELY SHALL VEST IN:

3 (I) THE STATE, IF THE SEIZING AUTHORITY WAS A STATE UNIT;

4 (II) THE COUNTY IN WHICH THE MONEY OR WEAPONS WERE
5 SEIZED, IF THE SEIZING AUTHORITY WAS A COUNTY LAW ENFORCEMENT UNIT,
6 INCLUDING A SHERIFF'S OFFICE; OR

7 (III) THE MUNICIPAL CORPORATION IN WHICH THE MONEY OR
8 WEAPONS WERE SEIZED, IF THE SEIZING AUTHORITY WAS A LAW ENFORCEMENT
9 UNIT OF A MUNICIPAL CORPORATION.

10 (3) THE MONEY OR WEAPONS MAY BE RETURNED TO THE CLAIMANT
11 ONLY AS THIS TITLE PROVIDES.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 297(b)(1) through the introductory language
14 of (4) and (5) through (10).

15 In this section, the former references to "coin" and "currency" are deleted
16 in light of the reference to "money".

17 In subsection (a)(9) of this section, the former reference to goods seized by
18 a "department, bureau or force" is deleted in light of the reference to "goods
19 seized under this subtitle".

20 In subsection (b)(3) of this section, the former reference to the prohibition
21 against returning money or weapons to a person claiming it "or to any
22 other person" is deleted as meaningless because each person who seeks
23 possession of seized property must notify the clerk of the proper court or
24 make a request. *See* §§ 12-208(a) and 12-304(c) of this title.

25 In subsection (b)(2)(iii) of this section, the reference to the municipal
26 corporation "in which the money or weapons were seized" is added to state
27 what was only implied in the former reference to "if seized by municipal
28 authorities".

29 The Criminal Procedure Article Review Committee notes, for consideration
30 by the General Assembly, that in subsection (b)(3) of this section, money or
31 weapons may be returned to the claimant of the property rather than to
32 the owner of the property.

33 Defined terms: "Controlled Dangerous Substances law" § 12-101

34 "County" § 1-101

35 "Proceeds" § 12-101

36 "Property" § 12-101

37 "Real property" § 12-101

38 "Seizing authority" § 12-101

1 12-103. CONDITIONS EXCLUDING PROPERTY FROM FORFEITURE.

2 (A) NO KNOWLEDGE OF VIOLATION.

3 PROPERTY OR AN INTEREST IN PROPERTY DESCRIBED IN § 12-102(A)(4), (10), AND
4 (11) OF THIS SUBTITLE MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A
5 PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION OF THE CONTROLLED
6 DANGEROUS SUBSTANCES LAW WAS COMMITTED WITHOUT THE OWNER'S ACTUAL
7 KNOWLEDGE.

8 (B) NO CONSENT OR PRIVITY TO VIOLATION.

9 (1) A CONVEYANCE USED AS A COMMON CARRIER OR VEHICLE FOR HIRE
10 IN THE TRANSACTION OF BUSINESS AS A COMMON CARRIER OR VEHICLE FOR HIRE
11 MAY NOT BE SEIZED OR FORFEITED UNDER THIS TITLE UNLESS IT APPEARS THAT
12 THE OWNER OR OTHER PERSON IN CHARGE OF THE CONVEYANCE WAS A
13 CONSENTING PARTY OR PRIVY TO A VIOLATION OF THE CONTROLLED DANGEROUS
14 SUBSTANCES LAW.

15 (2) A CONVEYANCE MAY NOT BE FORFEITED UNDER THIS TITLE FOR AN
16 ACT OR OMISSION THAT THE OWNER SHOWS WAS COMMITTED OR OMITTED BY A
17 PERSON OTHER THAN THE OWNER WHILE THE PERSON OTHER THAN THE OWNER
18 POSSESSED THE CONVEYANCE IN CRIMINAL VIOLATION OF FEDERAL LAW OR THE
19 LAW OF ANY STATE.

20 (C) NO FORFEITURE OF REAL PROPERTY FOR DRUG OR DRUG
21 PARAPHERNALIA VIOLATION.

22 AN OWNER'S INTEREST IN REAL PROPERTY MAY NOT BE FORFEITED FOR A
23 VIOLATION OF ARTICLE 27, § 287 OR § 287A OF THE CODE.

24 (D) PRINCIPAL FAMILY RESIDENCE -- IN GENERAL.

25 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, REAL
26 PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED
27 UNDER THIS SUBTITLE UNLESS ONE OF THE OWNERS OF THE REAL PROPERTY WAS
28 CONVICTED OF A VIOLATION OF ARTICLE 27, § 286, § 286A, § 286B, § 286C, OR § 290 OF
29 THE CODE.

30 (2) WITHOUT A CONVICTION, A COURT MAY ORDER A FORFEITURE OF
31 REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IF THE OWNER OF THE
32 FAMILY RESIDENCE:

33 (I) FAILS TO APPEAR FOR A REQUIRED COURT APPEARANCE; AND

34 (II) FAILS TO SURRENDER TO THE JURISDICTION OF THE COURT
35 WITHIN 180 DAYS AFTER THE REQUIRED COURT APPEARANCE.

36 (E) SAME -- USE BY SPOUSES.

1 REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE BY A HUSBAND
2 AND WIFE AND HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY
3 MAY NOT BE FORFEITED UNLESS:

4 (1) THE PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF
5 ARTICLE 27, § 286, § 286A, § 286B, § 286C, OR § 290 OF THE CODE; AND

6 (2) BOTH THE HUSBAND AND WIFE ARE CONVICTED OF A VIOLATION OF
7 ARTICLE 27, § 286, § 286A, § 286B, § 286C, OR § 290 OF THE CODE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 297(c), (b)(4)(i) and (ii), (m)(1)(ii) and (2),
10 (n)(2) and (l)(1), as it related to violations of Article 27, and (2).

11 In subsection (b) of this section, the reference to "this title" is substituted
12 for the former overly broad reference to "this subheading" for clarity.

13 In subsection (d) of this section, the former phrase "it is shown" is deleted
14 for brevity and clarity.

15 In subsection (e) of this section, the former introductory language "[e]xcept
16 as provided in subsections (l)(2) and (n)(2) of this section" is deleted as
17 erroneous. If given full weight, the former language would void the effect of
18 this subsection because the conditions of former subsections (l)(2) and
19 (n)(2) - now subsection (d) of this section - would encompass the situation
20 contemplated by this subsection.

21 Defined terms: "Controlled Dangerous Substances law" § 12-101

22 "Owner" § 12-101

23 "Person" § 1-101

24 "Property" § 12-101

25 "Real property" § 12-101

26 SUBTITLE 2. SEIZURE.

27 12-201. SEIZURE AND SUMMARY FORFEITURE OF CONTRABAND.

28 (A) SCHEDULE I SUBSTANCES -- POSSESSION, TRANSFERENCE, AND SALE.

29 A SCHEDULE I SUBSTANCE LISTED IN ARTICLE 27, § 279 OF THE CODE SHALL BE
30 SEIZED AND SUMMARILY FORFEITED TO THE STATE IF THE SUBSTANCE IS:

31 (1) POSSESSED, TRANSFERRED, SOLD, OR OFFERED FOR SALE IN
32 VIOLATION OF THE CONTROLLED DANGEROUS SUBSTANCES LAW; OR

33 (2) POSSESSED BY THE STATE AND ITS OWNER IS NOT KNOWN.

34 (B) SCHEDULE I OR II SUBSTANCES -- PLANTING OR CULTIVATION.

1 A PLANT MAY BE SEIZED AND SUMMARILY FORFEITED TO THE STATE IF THE
2 PLANT:

3 (1) IS ONE FROM WHICH A SCHEDULE I OR SCHEDULE II SUBSTANCE
4 LISTED IN ARTICLE 27, § 279 OF THE CODE MAY BE DERIVED; AND

5 (2) (I) HAS BEEN PLANTED OR CULTIVATED IN VIOLATION OF THE
6 CONTROLLED DANGEROUS SUBSTANCES LAW;

7 (II) HAS AN UNKNOWN OWNER OR CULTIVATOR; OR

8 (III) IS A WILD GROWTH.

9 (C) FAILURE TO PROVIDE REGISTRATION OR PROOF OF IDENTITY.

10 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAY SEIZE AND
11 SUBJECT A PLANT TO FORFEITURE IF THE PERSON THAT OCCUPIES OR CONTROLS
12 THE PLACE WHERE THE PLANT IS GROWING OR BEING STORED FAILS, ON DEMAND
13 FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, TO PRODUCE AN
14 APPROPRIATE REGISTRATION OR PROOF THAT THE PERSON IS THE HOLDER OF A
15 REGISTRATION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 297(g).

18 In subsection (a) of this section, the former reference to substances that
19 "shall be deemed contraband" is deleted in light of the requirement that
20 the substances be seized and summarily forfeited to the State.

21 In subsection (a)(2) of this section, the former reference to substances that
22 are "seized [by the State]" is deleted as included in the reference to
23 substances that are "possessed" by the State.

24 In subsections (b) and (c) of this section, the former reference to a "species
25 of" plant is deleted as unnecessary.

26 In subsection (c) of this section, the former reference to a "duly authorized
27 agent" is deleted as implicit in the reference to the Department of Health
28 and Mental Hygiene.

29 The Criminal Procedure Article Review Committee notes, for consideration
30 by the General Assembly, that in subsection (c) of this section, the meaning
31 of the reference to an "appropriate" registration is unclear.

32 Defined terms: "Controlled Dangerous Substances law" § 12-101

33 "Owner" § 12-101

34 "Person" § 1-101

35 12-202. SEIZURE OF PROPERTY SUBJECT TO FORFEITURE.

36 (A) SEIZURE WITH OR WITHOUT WARRANT.

1 PROPERTY SUBJECT TO FORFEITURE UNDER THIS TITLE MAY BE SEIZED:

2 (1) ON A WARRANT ISSUED BY A COURT THAT HAS JURISDICTION OVER
3 THE PROPERTY; AND

4 (2) WITHOUT A WARRANT WHEN:

5 (I) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER
6 A SEARCH WARRANT;

7 (II) THE SEIZURE IS INCIDENT TO AN INSPECTION UNDER AN
8 ADMINISTRATIVE INSPECTION WARRANT;

9 (III) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT
10 OF A PRIOR JUDGMENT IN FAVOR OF THE STATE IN A CRIMINAL INJUNCTION OR
11 FORFEITURE PROCEEDING UNDER THIS TITLE;

12 (IV) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
13 IS DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY; OR

14 (V) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
15 HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE CONTROLLED
16 DANGEROUS SUBSTANCES LAW OR THIS TITLE.

17 (B) PHOTOGRAPHING OF CONTRABAND MONEY.

18 THE SEIZING AUTHORITY THAT SEIZES MONEY THAT IS CONTRABAND SHALL
19 IMMEDIATELY:

20 (1) PHOTOGRAPH THE CONTRABAND MONEY AND RECORD THE
21 QUANTITY OF EACH DENOMINATION OF COIN OR CURRENCY SEIZED; AND

22 (2) DEPOSIT THE MONEY TO THE ACCOUNT OF THE APPROPRIATE
23 LOCAL FINANCIAL AUTHORITY.

24 (C) PHOTOGRAPHS AS EVIDENCE.

25 A PHOTOGRAPH TAKEN UNDER SUBSECTION (B) OF THIS SECTION MAY BE
26 SUBSTITUTED FOR MONEY AS EVIDENCE IN A CRIMINAL OR FORFEITURE
27 PROCEEDING.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 297(d)(1) and, as it related to seizure with or
30 without process, § 297A.

31 Throughout this section, the references to "money" are substituted for the
32 former references to "coin and currency" for brevity.

33 In subsection (a) of this section, the reference to a "warrant" is substituted
34 for the former reference to a "process" for clarity.

1 %In subsection (b) of this section, the former reference to a seizing authority
2 being required to "cause it [money] to be" immediately photographed is
3 deleted for brevity.

4 The Criminal Procedure Article Review Committee notes, for consideration
5 by the General Assembly, that in subsection (b) of this section, the State
6 Treasurer is not included along with local financial authorities to whose
7 account contraband money is to be deposited.

8 Defined terms: "Controlled Dangerous Substances law" § 12-101

9 "Local financial authority" § 12-101

10 "Property" § 12-101

11 "Seizing authority" § 12-101

12 12-203. SEIZED PROPERTY NOT REPLEVIABLE; SEQUESTERING AND REMOVING
13 SEIZED PROPERTY.

14 (A) PROPERTY NOT REPLEVIABLE.

15 PROPERTY SEIZED UNDER THIS TITLE:

16 (1) IS NOT REPLEVIABLE; BUT

17 (2) IS IN THE CUSTODY OF THE SEIZING AUTHORITY, SUBJECT ONLY TO
18 THE ORDERS, JUDGMENTS, AND DECREES OF THE COURT OR THE OFFICIAL HAVING
19 JURISDICTION OVER THE PROPERTY.

20 (B) SEQUESTERING AND REMOVING PROPERTY.

21 A SEIZING AUTHORITY MAY PLACE SEIZED PROPERTY UNDER SEAL AND
22 REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 297(e).

25 In subsection (a) of this section, the reference to "this title" is substituted
26 for the former reference to "this section" in light of this revision, which has
27 revised former Art. 27, § 297 as Title 12 of this article.

28 Also in subsection (a) of this section, the reference to property that is
29 "seized" is substituted for the former reference to property that is "taken or
30 detained" to conform to the terminology used in subsection (b) of this
31 section.

32 In subsection (b) of this section, the former reference to property seized
33 "under the provisions of this subheading" is deleted as unnecessary.

34 Also in subsection (b) of this section, the defined term "seizing authority" is
35 substituted for the former reference to a seizing "agency" to conform to the
36 terminology used throughout this title.

1 Defined terms: "Property" § 12-101

2 "Seizing authority" § 12-101

3 12-204. SEIZURE OF MOTOR VEHICLES -- IN GENERAL.

4 (A) SEIZING AUTHORITY TO APPLY STANDARDS.

5 IN EXERCISING THE AUTHORITY TO SEIZE MOTOR VEHICLES UNDER THIS
6 TITLE, A SEIZING AUTHORITY SHALL APPLY THE STANDARDS LISTED IN SUBSECTION
7 (B) OF THIS SECTION.

8 (B) APPLICABLE STANDARDS.

9 A MOTOR VEHICLE USED IN VIOLATION OF THE CONTROLLED DANGEROUS
10 SUBSTANCES LAW OR THIS TITLE SHALL BE SEIZED AND FORFEITURE SHALL BE
11 RECOMMENDED TO THE FORFEITING AUTHORITY IF:

12 (1) ANY QUANTITY OF A CONTROLLED DANGEROUS SUBSTANCE IS SOLD
13 OR ATTEMPTED TO BE SOLD IN VIOLATION OF THE CONTROLLED DANGEROUS
14 SUBSTANCES LAW OR THIS TITLE;

15 (2) AN AMOUNT OF THE CONTROLLED DANGEROUS SUBSTANCE OR
16 PARAPHERNALIA IS FOUND THAT REASONABLY SHOWS THAT THE VIOLATOR
17 INTENDED TO SELL THE CONTROLLED DANGEROUS SUBSTANCE IN VIOLATION OF
18 THE CONTROLLED DANGEROUS SUBSTANCES LAW; OR

19 (3) THE TOTAL CIRCUMSTANCES OF THE CASE AS LISTED IN
20 SUBSECTION (C) OF THIS SECTION DICTATE THAT SEIZURE AND FORFEITURE ARE
21 JUSTIFIED.

22 (C) CIRCUMSTANCES OF CASE.

23 CIRCUMSTANCES TO BE CONSIDERED IN DECIDING WHETHER SEIZURE AND
24 FORFEITURE ARE JUSTIFIED INCLUDE:

25 (1) THE POSSESSION OF CONTROLLED DANGEROUS SUBSTANCES;

26 (2) AN EXTENSIVE CRIMINAL RECORD OF THE VIOLATOR;

27 (3) A PREVIOUS CONVICTION OF THE VIOLATOR FOR A CONTROLLED
28 DANGEROUS SUBSTANCES CRIME;

29 (4) EVIDENCE THAT THE MOTOR VEHICLE WAS ACQUIRED BY USE OF
30 PROCEEDS FROM A TRANSACTION INVOLVING A CONTROLLED DANGEROUS
31 SUBSTANCE;

32 (5) CIRCUMSTANCES OF THE ARREST; AND

33 (6) THE WAY IN WHICH THE MOTOR VEHICLE WAS USED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 297(i)(1).

3 In subsection (b)(2) of this section, the former clause "[a]lthough the
4 violator has not sold or attempted to sell controlled dangerous substances
5 in violation of this subtitle" is deleted as unnecessary because it does not
6 restrain the operation of this subsection.

7 In subsection (c) of this section, the reference to circumstances "to be
8 considered in deciding whether seizure and forfeiture are justified" is
9 added for clarity.

10 Also in subsection (c) of this section, the former reference to circumstances
11 that may include "but are not limited to" factors is deleted as unnecessary
12 because the word "include" is used by way of illustration and not by way of
13 limitation. *See* Art. 1, § 30.

14 The Criminal Procedure Article Review Committee notes, for consideration
15 by the General Assembly, that: (1) in subsection (b)(1) of this section, the
16 sale of or the attempt to sell controlled dangerous substances is said to be
17 a standard used in determining whether a motor vehicle should be seized,
18 but the subsection fails to characterize the distribution of or attempt to
19 distribute a controlled dangerous substance as a similar standard; and (2)
20 in subsection (c)(2) and (3) of this section, the identity of "the violator" is
21 unclear.

22 Defined terms: "Controlled Dangerous Substances law" § 12-101

23 "Forfeiting authority" § 12-101

24 "Proceeds" § 12-101

25 "Seizing authority" § 12-101

26 12-205. SAME -- EXCEPTIONS.

27 A MOTOR VEHICLE USED IN VIOLATION OF THIS TITLE MAY NOT BE SEIZED AND
28 FORFEITURE MAY NOT BE RECOMMENDED TO THE FORFEITING AUTHORITY IF:

29 (1) THE MOTOR VEHICLE FALLS WITHIN § 12-103(B) OF THIS TITLE;

30 (2) (I) AN INNOCENT REGISTERED OWNER LENDS THE MOTOR
31 VEHICLE TO ANOTHER PERSON; AND

32 (II) THAT PERSON, OR SOMEONE INVITED INTO THE MOTOR
33 VEHICLE BY THAT PERSON, BRINGS A CONTROLLED DANGEROUS SUBSTANCE OR
34 PARAPHERNALIA INTO THE MOTOR VEHICLE WITHOUT THE REGISTERED OWNER'S
35 KNOWLEDGE; OR

36 (3) (I) A MEMBER OF THE FAMILY OTHER THAN THE REGISTERED
37 OWNER USES THE MOTOR VEHICLE, AND A CONTROLLED DANGEROUS SUBSTANCE
38 OR PARAPHERNALIA IS IN THE MOTOR VEHICLE IN AN AMOUNT INSUFFICIENT TO
39 SUGGEST A SALE IS CONTEMPLATED;

1 (II) A SALE WAS NOT MADE OR ATTEMPTED; AND

2 (III) THE REGISTERED OWNER DID NOT KNOW THAT THE
3 CONTROLLED DANGEROUS SUBSTANCE OR PARAPHERNALIA WAS IN THE MOTOR
4 VEHICLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 297(i)(2).

7 Defined terms: "Forfeiting authority" § 12-101

8 "Owner" § 12-101

9 "Person" § 1-101

10 12-206. RECOMMENDATION OF FORFEITURE BY SEIZING AUTHORITY.

11 (A) REQUIREMENTS FOR RECOMMENDATION.

12 THE CHIEF LAW ENFORCEMENT OFFICER OF THE SEIZING AUTHORITY THAT
13 SEIZES A MOTOR VEHICLE USED IN VIOLATION OF THIS TITLE SHALL RECOMMEND
14 TO THE APPROPRIATE FORFEITING AUTHORITY IN WRITING THAT THE MOTOR
15 VEHICLE BE FORFEITED ONLY IF THE OFFICER:

16 (1) DETERMINES FROM THE RECORDS OF THE MOTOR VEHICLE
17 ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND
18 SECURED PARTIES AS DEFINED IN THE CODE;

19 (2) PERSONALLY REVIEWS THE FACTS AND CIRCUMSTANCES OF THE
20 SEIZURE; AND

21 (3) PERSONALLY DETERMINES, ACCORDING TO THE STANDARDS LISTED
22 IN § 12-204(B) OF THIS SUBTITLE, AND REPRESENTS IN WRITING THAT FORFEITURE IS
23 WARRANTED.

24 (B) CHIEF LAW ENFORCEMENT OFFICER.

25 (1) A SWORN AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT OFFICER
26 THAT THE OFFICER FOLLOWED THE REQUIREMENTS OF THIS PARAGRAPH IS
27 ADMISSIBLE IN EVIDENCE IN A PROCEEDING UNDER THIS SECTION.

28 (2) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED
29 OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER
30 WITH PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES SURROUNDING
31 THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE APPEARS AND
32 TESTIFIES AT THE PROCEEDING.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 297(i)(3).

35 In subsection (a)(3) of this section, the reference to "standards listed in §
36 12-204(b) of this subtitle" is substituted for the former reference to "the

1 above guidelines" for clarity.

2 Defined terms: "Forfeiting authority" § 12-101

3 "Seizing authority" § 12-101

4 12-207. RETURN OF VEHICLE TO OWNER AFTER SEIZURE.

5 (A) SURRENDER OF MOTOR VEHICLE TO OWNER.

6 THE FORFEITING AUTHORITY SHALL SURRENDER THE MOTOR VEHICLE ON
7 REQUEST TO THE OWNER IF THE FORFEITING AUTHORITY DETERMINES,
8 INDEPENDENT OF THE DECISION OF THE SEIZING AUTHORITY, THAT:

9 (1) THE MOTOR VEHICLE FALLS WITHIN THE PURVIEW OF § 12-205 OF
10 THIS SUBTITLE; OR

11 (2) THE STANDARDS LISTED UNDER § 12-204(B) OF THIS SUBTITLE WERE
12 NOT MET.

13 (B) COURT REVIEW.

14 IN A PROCEEDING UNDER THIS TITLE, THE COURT MAY DETERMINE, BASED ON
15 THE STANDARDS LISTED IN § 12-204(B) OF THIS SUBTITLE, WHETHER THE SEIZING
16 AUTHORITY OR FORFEITING AUTHORITY ABUSED ITS DISCRETION OR WAS CLEARLY
17 ERRONEOUS:

18 (1) IN RECOMMENDING THE FORFEITURE OF A MOTOR VEHICLE; OR

19 (2) IN NOT SURRENDERING ON REQUEST A MOTOR VEHICLE TO AN
20 OWNER.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 297(j) and (k)(1).

23 In subsection (b) of this section, the defined term seizing "authority" is
24 substituted for the former reference to a "seizing agency" to conform to the
25 terminology used throughout this title.

26 Defined terms: "Forfeiting authority" § 12-101

27 "Owner" § 12-101

28 "Seizing authority" § 12-101

29 12-208. OWNER OBTAINING POSSESSION OF SEIZED PROPERTY.

30 (A) NOTICE REQUIRED.

31 (1) EXCEPT AS PROVIDED IN §§ 12-209 AND 12-210 OF THIS SUBTITLE, AN
32 OWNER OF SEIZED PROPERTY WHO WISHES TO OBTAIN POSSESSION OF THE
33 PROPERTY, TO CONVEY AN INTEREST IN REAL PROPERTY, OR TO REMOVE A BUILDING
34 OR FIXTURE FROM REAL PROPERTY SHALL NOTIFY THE CLERK OF THE PROPER
35 COURT.

1 (2) IF FORFEITURE PROCEEDINGS HAVE BEGUN, THE PROPER COURT IS
2 THE COURT WHERE THE PROCEEDINGS HAVE BEGUN.

3 (3) IF CRIMINAL PROCEEDINGS HAVE BEGUN BUT FORFEITURE
4 PROCEEDINGS HAVE NOT BEGUN, THE PROPER COURT IS THE COURT WHERE THE
5 CRIMINAL PROCEEDINGS HAVE BEGUN.

6 (4) IF NEITHER FORFEITURE NOR CRIMINAL PROCEEDINGS HAVE
7 BEGUN, THE PROPER COURT IS THE CIRCUIT COURT FOR THE COUNTY WHERE THE
8 PROPERTY WAS SEIZED.

9 (B) APPRAISAL FOR MOTOR VEHICLE.

10 (1) UNLESS THE FORFEITING AUTHORITY AND THE OWNER AGREE TO A
11 BOND IN ANOTHER AMOUNT, IF A MOTOR VEHICLE IS NOT NEEDED FOR
12 EVIDENTIARY PURPOSES IN A JUDICIAL PROCEEDING:

13 (I) THE COURT SHALL APPRAISE THE VALUE OF THE MOTOR
14 VEHICLE ON THE BASIS OF THE AVERAGE VALUE OF THE MOTOR VEHICLE SET
15 FORTH IN THE NATIONAL AUTOMOBILE DEALER'S ASSOCIATION OFFICIAL USED CAR
16 GUIDE; OR

17 (II) IF THE OWNER SHOWS THAT A LIEN IS ON THE MOTOR VEHICLE
18 AND THE OWNER AGREES TO MAKE THE REQUIRED PAYMENTS TO THE LIENHOLDER,
19 THE COURT SHALL REQUIRE A BOND IN AN AMOUNT OF THE AVERAGE VALUE OF
20 THE MOTOR VEHICLE SET FORTH IN THE NATIONAL AUTOMOBILE DEALER'S
21 ASSOCIATION OFFICIAL USED CAR GUIDE, LESS THE AMOUNT OWED ON THE LIEN.

22 (2) FOR A MOTOR VEHICLE, THE COURT SHALL APPRAISE THE VALUE IN
23 THE MANNER PROVIDED IN THIS SUBSECTION AND PROVIDE THE APPRAISAL IN
24 WRITING TO THE CLERK OF THE COURT.

25 (C) APPRAISAL FOR PROPERTY OTHER THAN MOTOR VEHICLE.

26 (1) IF PROPERTY OTHER THAN A MOTOR VEHICLE IS NOT NEEDED FOR
27 EVIDENTIARY PURPOSES IN A JUDICIAL PROCEEDING, THE CLERK SHALL OBTAIN AN
28 INDEPENDENT APPRAISAL OF THE VALUE OF THE PROPERTY.

29 (2) THE SHERIFF OR OTHER PERSON RESPONSIBLE FOR AN APPRAISAL
30 UNDER THIS SUBSECTION SHALL PROMPTLY:

31 (I) INSPECT AND APPRAISE THE VALUE OF THE PROPERTY; AND

32 (II) RETURN THE APPRAISAL IN WRITING UNDER OATH TO THE
33 CLERK OF THE COURT.

34 (D) NOTICE TO LIENHOLDERS.

35 NOTICE OF THE APPRAISAL SHALL BE SENT TO ALL LIENHOLDERS SHOWN IN
36 THE RECORDS REQUIRED BY LAW FOR NOTICE OR THE PERFECTION OF THE LIEN.

1 (E) BONDS.

2 (1) ON THE FILING OF AN APPRAISAL, THE OWNER MAY GIVE BOND
3 PAYABLE TO THE CLERK OF THE COURT IN AN AMOUNT EQUAL TO THE GREATER OF:

4 (I) THE APPRAISED VALUE OF THE PROPERTY PLUS ANY ACCRUED
5 COSTS; OR

6 (II) THE AGGREGATE AMOUNT OF THE LIENS ON THE PROPERTY
7 THAT ARE SHOWN IN THE RECORDS REQUIRED BY LAW FOR THE NOTICE OR
8 PERFECTION OF LIENS.

9 (2) A PERSON MAY GIVE A BOND UNDER THIS SECTION BY CASH,
10 THROUGH A SURETY, THROUGH A LIEN ON REAL PROPERTY, OR BY OTHER MEANS
11 THAT THE CLERK APPROVES.

12 (3) A BOND AUTHORIZED UNDER THIS SECTION:

13 (I) SHALL BE CONDITIONED FOR PERFORMANCE ON FINAL
14 JUDGMENT BY THE COURT;

15 (II) SHALL BE FILED IN THE DISTRICT COURT OR CIRCUIT COURT
16 WHERE THE CRIMINAL ACTION THAT GAVE RISE TO THE SEIZURE IS PENDING; AND

17 (III) UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED,
18 SHALL BE PART OF THE SAME CRIMINAL PROCEEDING.

19 (4) IF A CRIMINAL ACTION IS NOT PENDING OR A FORFEITURE
20 COMPLAINT HAS NOT BEEN FILED, THE BOND SHALL BE FILED IN THE CIRCUIT
21 COURT OR DISTRICT COURT WHERE THE PROPERTY WAS SEIZED.

22 (F) JUDGMENT TO BE ENTERED AGAINST OBLIGORS.

23 (1) IF THE COURT ORDERS THAT PROPERTY OR AN INTEREST OR EQUITY
24 IN THE PROPERTY OR PROCEEDS BE FORFEITED UNDER THIS TITLE, THE COURT
25 SHALL ENTER JUDGMENT IN THE AMOUNT OF THE BOND AGAINST THE OBLIGORS
26 ON THE BOND WITHOUT FURTHER PROCEEDINGS.

27 (2) PAYMENT OF THE AMOUNT OF THE BOND SHALL BE APPLIED AS
28 PROVIDED UNDER § 12-402(D)(2) OF THIS TITLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 297(o).

31 In subsection (a)(1) of this section, the former references to real property
32 "regardless of whether the forfeiture proceedings have been commenced"
33 and real property "where forfeiture proceedings have been commenced
34 against the real property" are deleted in light of subsection (a)(2), (3), and
35 (4) of this section.

36 In subsection (f) of this section, as for the substitutions of the references to

1 "this title" for the former references to "this section", *see* General Revisor's
2 Note to this title.

3 Also in subsection (f) of this section, the reference to "§ 12-402(d)(2) of this
4 title" - which revises former Art. 27, § 297(k)(3)(iv) - is substituted for the
5 former erroneous reference to "(k)(2)(iv) of this section" for accuracy.

6 Also in subsection (f) of this section, the former reference to a forfeiture "to
7 be discharged by payment of the amount of the bond, on which judgment
8 may issue" is deleted as implicit in this subsection.

9 The Criminal Procedure Article Review Committee notes, for consideration
10 by the General Assembly, that subsection (e)(4) of this section varies from
11 subsection (a)(4) of this section. Subsection (e)(4) of this section states that
12 "[i]f a criminal action is not pending or a forfeiture complaint has not been
13 filed, the bond shall be filed in the circuit court or District Court where the
14 property was seized". Under the same conditions, however, subsection
15 (a)(4) of this section requires that an owner who wishes to obtain
16 possession of property must notify only the circuit court.

17 Defined terms: "County" § 1-101

18 "Forfeiting authority" § 12-101

19 "Lien" § 12-101

20 "Lienholder" § 12-101

21 "Owner" § 12-101

22 "Person" § 1-101

23 "Proceeds" § 12-101

24 "Property" § 12-101

25 "Real property" § 12-101

26 12-209. SEIZURE OF REAL PROPERTY.

27 SEIZURE OF REAL PROPERTY OCCURS ON THE EARLIER OF THE FILING:

28 (1) OF A COMPLAINT FOR FORFEITURE UNDER THIS TITLE; OR

29 (2) OF A NOTICE OF PENDING LITIGATION IN THE CIRCUIT COURT OF
30 THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 297(m)(4).

33 In item (2) of this section, the reference to a "notice of pending litigation" is
34 substituted for the former reference to "lis pendens" for clarity.

35 Also in item (2) of this section, the reference to the circuit court of the
36 "county" is substituted for the former reference to the circuit court of the
37 "jurisdiction" for clarity.

1 Defined terms: "County" § 1-101

2 "Real property" § 12-101

3 12-210. POSSESSION OF SEIZED REAL PROPERTY BY OWNERS OR TENANTS.

4 (A) RIGHT TO POSSESS UNTIL FORFEITURE.

5 SUBJECT TO THE RIGHTS OF A LIENHOLDER TO SELL THE REAL PROPERTY, AN
6 OWNER OR OWNER'S TENANT MAY REMAIN IN POSSESSION OF SEIZED REAL
7 PROPERTY UNTIL FORFEITURE IS ORDERED.

8 (B) APPOINTMENT OF RECEIVER ALLOWED.

9 THE FORFEITING AUTHORITY MAY APPLY TO THE COURT FOR THE
10 APPOINTMENT OF A RECEIVER TO APPLY INCOME FROM INCOME-PRODUCING
11 PROPERTY.

12 (C) SURRENDER OF PROPERTY.

13 IF A PERSON WHO IS AN OWNER OR OWNER'S TENANT AND REMAINS IN
14 POSSESSION OF THE REAL PROPERTY AND THE PERSON'S INTEREST IN THE REAL
15 PROPERTY IS FORFEITED, THE PERSON SHALL IMMEDIATELY SURRENDER THE REAL
16 PROPERTY TO THE SEIZING AUTHORITY IN SUBSTANTIALLY THE SAME CONDITION
17 AS WHEN SEIZED.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 297(p).

20 The defined term "seizing authority" is substituted for the former
21 reference to a seizing "agency" to conform to the terminology used
22 throughout this title.

23 Defined terms: "Forfeiting authority" § 12-101

24 "Lienholder" § 12-101

25 "Owner" § 12-101

26 "Person" § 1-101

27 "Property" § 12-101

28 "Real property" § 12-101

29 "Seizing authority" § 12-101

30 12-211. PROHIBITED ACTS.

31 (A) SCOPE.

32 THIS SECTION DOES NOT APPLY IF:

33 (1) AN ACT IS AGREED TO BY A FORFEITING AUTHORITY OR IS ORDERED
34 BY THE COURT; OR

35 (2) AN OWNER POSTS A BOND UNDER § 12-208 OF THIS SUBTITLE.

1 (B) IN GENERAL.

2 SUBJECT TO SUBSECTION (A) OF THIS SECTION, UNTIL THE COURT ENTERS
3 JUDGMENT IN FAVOR OF THE OWNER, AN OWNER MAY NOT ATTEMPT:

4 (1) TO CONVEY OR ENCUMBER AN INTEREST IN SEIZED REAL
5 PROPERTY; OR

6 (2) TO REMOVE A BUILDING OR FIXTURE ON SEIZED REAL PROPERTY.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 297(m)(5).

9 Defined terms: "Forfeiting authority" § 12-101

10 "Owner" § 12-101

11 "Real property" § 12-101

12 SUBTITLE 3. FORFEITURE PROCEEDINGS.

13 12-301. IN GENERAL.

14 EXCEPT AS PROVIDED IN § 12-304(C) OF THIS SUBTITLE, IF PROPERTY IS SEIZED
15 UNDER § 12-202(A)(2)(IV) AND (V) OF THIS TITLE BECAUSE THERE IS PROBABLE CAUSE
16 TO BELIEVE THAT THE PROPERTY IS DIRECTLY OR INDIRECTLY DANGEROUS TO
17 HEALTH OR SAFETY AND THAT THE PROPERTY WAS OR WILL BE USED TO VIOLATE
18 THIS TITLE, FORFEITURE PROCEEDINGS UNDER THIS SUBTITLE SHALL BE FILED
19 PROMPTLY.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from the first clause of former Art. 27, § 297(d)(2)(i).

22 In this section, the phrase "because there is probable cause to believe that
23 the property is directly or indirectly dangerous to health or safety and that
24 the property was or will be used to violate this title" is added for clarity.
25 Similarly, the reference to "forfeiture" proceedings under this "subtitle" is
26 added for clarity.

27 Defined term: "Property" § 12-101

28 12-302. FORFEITURE OF MONEY.

29 (A) FORFEITURE APPLICATION.

30 TO APPLY FOR THE FORFEITURE OF MONEY, THE APPROPRIATE LOCAL
31 FINANCIAL AUTHORITY OR THE ATTORNEY GENERAL SHALL FILE A COMPLAINT AND
32 AFFIDAVIT IN THE DISTRICT COURT OR THE CIRCUIT COURT FOR THE COUNTY IN
33 WHICH THE MONEY WAS SEIZED.

34 (B) SERVICE OF COMPLAINT AND AFFIDAVIT.

1 THE COMPLAINT AND AFFIDAVIT SHALL BE SERVED IN ACCORDANCE WITH THE
2 MARYLAND RULES OF PROCEDURE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 297(d)(2)(ii) and (iii).

5 In subsection (a) of this section, the reference to the circuit court of the
6 county "in which the money was seized" is added for clarity.

7 Also in subsection (a) of this section, the former reference to "currency" is
8 deleted as included in the reference to "money".

9 In subsection (b) of this section, the reference to a complaint and affidavit
10 that are served "in accordance with the Maryland Rules of Procedure" is
11 substituted for the former reference to service "in the first instance
12 pursuant to Md. Rule 2-121 or 3-121(a), and thereafter, the summons
13 having been returned non est, the director of finance of Baltimore City,
14 county treasurer or appropriate county finance officer, municipal
15 treasurer, or Attorney General may proceed pursuant to Md. Rule 2-122 or
16 3-121(b) or (c)" for brevity.

17 The Criminal Procedure Article Review Committee notes, for consideration
18 by the General Assembly, that in subsection (a)(1) of this section, the
19 Attorney General applies for forfeiture of money in connection with the
20 controlled dangerous substances. In the matter of cash seized in connection
21 with gambling operations, however, the State Treasurer -- not the
22 Attorney General -- is the State official charged with applying for
23 forfeiture. *See* former Art. 27, § 264(c)(1) now § 13-105(b) of this article.

24 Defined terms: "County" § 1-101

25 "Financial authority" § 12-101

26 12-303. PROCEEDINGS FILED BY FORFEITING AUTHORITY.

27 EXCEPT AS PROVIDED IN § 12-302 OF THIS TITLE AND § 4-401(9) OF THE COURTS
28 ARTICLE, THE APPROPRIATE FORFEITING AUTHORITY SHALL FILE PROCEEDINGS
29 UNDER THIS TITLE IN THE CIRCUIT COURT.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 297(h)(1).

32 In this section, the reference to "this title" is substituted for the former
33 reference to "this section" in light of this revision, which has revised former
34 Art. 27, § 297 as Title 12 of this article.

35 Defined term: "Forfeiting authority" § 12-101

36 12-304. DEADLINES FOR FILING COMPLAINT SEEKING FORFEITURE.

37 (A) IN GENERAL.

1 EXCEPT AS PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, A
2 COMPLAINT SEEKING FORFEITURE SHALL BE FILED WITHIN THE EARLIER OF:

3 (1) 90 DAYS AFTER THE SEIZURE; OR

4 (2) 1 YEAR AFTER THE FINAL DISPOSITION OF THE CRIMINAL CHARGE
5 FOR THE VIOLATION GIVING RISE TO THE FORFEITURE.

6 (B) FORFEITURE OF MOTOR VEHICLE.

7 A COMPLAINT FOR THE FORFEITURE OF A MOTOR VEHICLE SHALL BE FILED
8 WITHIN 45 DAYS AFTER THE MOTOR VEHICLE IS SEIZED.

9 (C) PROCEEDINGS ABOUT MONEY.

10 (1) A PROCEEDING ABOUT MONEY SHALL BE FILED WITHIN 90 DAYS
11 AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS THAT ARISE OUT OF
12 THE CONTROLLED DANGEROUS SUBSTANCES LAW.

13 (2) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT FILE
14 PROCEEDINGS ABOUT MONEY WITHIN THE 90-DAY PERIOD, THE MONEY SEIZED
15 UNDER THIS TITLE SHALL BE RETURNED TO THE OWNER ON REQUEST BY THE
16 OWNER.

17 (3) IF THE OWNER FAILS TO ASK THE RETURN OF THE MONEY WITHIN 1
18 YEAR AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS, AS PROVIDED
19 UNDER § 12-403 OF THIS TITLE, THE MONEY SHALL REVERT TO:

20 (I) THE POLITICAL SUBDIVISION IN WHICH THE MONEY WAS
21 SEIZED; OR

22 (II) THE STATE, IF THE MONEY WAS SEIZED BY STATE
23 AUTHORITIES.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 297(h)(2) and (d)(3) and, as it related to
26 proceedings about money, (2)(i).

27 In subsection (a)(2) of this section, the former reference to a violation "for a
28 violation under this subheading" giving rise to the forfeiture is deleted as
29 unnecessary.

30 In subsection (c)(1) of this section, the former reference to "currency" is
31 deleted as included in the reference to "money".

32 In subsection (c)(2) and (3) of this section, the reference to an "owner" is
33 substituted for the former reference to a "defendant" for clarity.

34 In subsection (c)(3)(i) and (ii) of this section, the reference to "the political
35 subdivision in which the money was seized; or ... the State, if the money
36 was seized by State authorities" is substituted for the former erroneous

1 reference to a "treasury as provided by subsection (f) of this section". The
2 reference to a "treasury" did not appear in former Art. 27, § 297(f).

3 The Criminal Procedure Article Review Committee notes, for consideration
4 by the General Assembly, that in subsections (a) and (b) of this section,
5 there is no indication regarding the consequences of the failure to meet the
6 deadline for filing a complaint.

7 Defined terms: "Controlled Dangerous Substances law" § 12-101

8 "Final disposition" § 12-101

9 "Owner" § 12-101

10 12-305. CONTENTS AND DISTRIBUTION OF COMPLAINT.

11 (A) CONTENTS.

12 A COMPLAINT SEEKING FORFEITURE SHALL CONTAIN:

13 (1) A DESCRIPTION OF THE PROPERTY SEIZED;

14 (2) THE DATE AND PLACE OF THE SEIZURE;

15 (3) THE NAME OF THE OWNER, IF KNOWN;

16 (4) THE NAME OF THE PERSON IN POSSESSION, IF KNOWN;

17 (5) THE NAME OF EACH LIENHOLDER, IF KNOWN OR REASONABLY
18 SUBJECT TO DISCOVERY;

19 (6) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO FORFEITURE;

20 (7) IF THE FORFEITING AUTHORITY SEEKS TO FORFEIT A LIENHOLDER'S
21 INTEREST IN PROPERTY, AN ALLEGATION THAT THE LIEN WAS CREATED WITH
22 ACTUAL KNOWLEDGE THAT THE PROPERTY WAS BEING OR WAS TO BE USED IN
23 VIOLATION OF THE CONTROLLED DANGEROUS SUBSTANCES LAW;

24 (8) A STATEMENT OF THE FACTS AND CIRCUMSTANCES SURROUNDING
25 THE SEIZURE;

26 (9) A STATEMENT SETTING FORTH THE SPECIFIC GROUNDS FOR
27 FORFEITURE; AND

28 (10) AN OATH OR AFFIRMATION BY THE FORFEITING AUTHORITY THAT
29 THE CONTENTS OF THE COMPLAINT ARE TRUE TO THE BEST OF THE FORFEITING
30 AUTHORITY'S KNOWLEDGE, INFORMATION, AND BELIEF.

31 (B) SERVICE.

32 WITHIN 20 DAYS AFTER THE FILING OF THE COMPLAINT, COPIES OF THE
33 SUMMONS AND COMPLAINT SHALL BE SENT BY CERTIFIED MAIL REQUESTING
34 "RESTRICTED DELIVERY - SHOW TO WHOM, DATE, ADDRESS OF DELIVERY" AND

1 FIRST CLASS MAIL TO ALL KNOWN OWNERS AND LIENHOLDERS WHOSE IDENTITIES
2 ARE REASONABLY SUBJECT TO DISCOVERY, INCLUDING ALL REAL PROPERTY
3 OWNERS AND LIENHOLDERS SHOWN IN THE RECORDS REQUIRED BY LAW FOR
4 NOTICE OR PERFECTION OF THE LIEN.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 297(h)(3) and (4)(i).

7 In subsection (a) of this section, the reference to a complaint "seeking
8 forfeiture" is added for clarity.

9 In subsection (a)(2) of this section, the reference to a "date" is substituted
10 for the former reference to a "time" to conform to the terminology used in §
11 12-306(a)(3) of this subtitle.

12 In subsection (a)(3) and (4) of this section, the references to "the name" of
13 the owner and "the name" of the person in possession are added for clarity
14 and to conform to the language of subsection (a)(5) of this section.

15 In subsection (a)(9) of this section, the former reference to "causes" is
16 deleted in light of reference to "grounds".

17 Defined terms: "Controlled Dangerous Substances law" § 12-101

18 "Forfeiting authority" § 12-101

19 "Lien" § 12-101

20 "Lienholder" § 12-101

21 "Owner" § 12-101

22 "Person" § 1-101

23 "Property" § 12-101

24 12-306. NOTICE.

25 (A) CONTENTS OF NOTICE.

26 A NOTICE SHALL BE SIGNED BY THE CLERK AND SHALL:

27 (1) INCLUDE THE CAPTION OF THE CASE;

28 (2) DESCRIBE THE SUBSTANCE OF THE COMPLAINT AND THE RELIEF
29 SOUGHT;

30 (3) STATE THE LATEST DATE ON WHICH A RESPONSE MAY BE FILED;

31 (4) STATE THAT THE PROPERTY SHALL BE FORFEITED IF A RESPONSE IS
32 NOT FILED ON TIME;

33 (5) STATE THAT THE OWNER OF THE PROPERTY MAY HAVE POSSESSION
34 OF THE PROPERTY PENDING FORFEITURE BY POSTING A BOND AS PROVIDED IN §
35 12-208 OF THIS TITLE; AND

1 (6) TELL WHERE TO FILE A RESPONSE AND WHOM TO CONTACT FOR
2 MORE INFORMATION CONCERNING THE FORFEITURE.

3 (B) POSTING AND PUBLISHING OF NOTICE.

4 WITHIN 20 DAYS AFTER THE FILING OF THE COMPLAINT, THE NOTICE SHALL
5 BE:

6 (1) POSTED BY THE SHERIFF ON THE DOOR OF THE COURTHOUSE
7 WHERE THE ACTION IS PENDING OR ON A BULLETIN BOARD WITHIN THE IMMEDIATE
8 VICINITY OF THE DOOR;

9 (2) POSTED BY THE SHERIFF IN A CONSPICUOUS PLACE ON THE LAND,
10 IF FORFEITURE OF REAL PROPERTY IS SOUGHT; AND

11 (3) PUBLISHED AT LEAST ONCE A WEEK IN EACH OF 3 SUCCESSIVE
12 WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY IN
13 WHICH THE ACTION IS PENDING, UNLESS THE PROPERTY IS A BOAT OR MOTOR
14 VEHICLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 297(h)(4)(ii).

17 In subsection (a)(1) and (2) of this section, the references to "the caption of
18 the case" and "substance of the complaint and the relief sought" are
19 substituted for the former reference to "a description of the property, the
20 date and place of seizure, the known owners and lienholders of the
21 property, the violation or violations of law alleged to be the basis for
22 forfeiture" for clarity and to conform to terminology used in Md. Rule
23 2-122(c). Similarly, throughout this subsection, the reference to a
24 "response" is substituted for the former reference to an "answer".

25 In subsection (a)(3) of this section, the reference to the "latest date on
26 which a response may be filed" is added to clarify the former reference to
27 an answer that is "timely filed".

28 Defined terms: "County" § 1-101

29 "Property" § 12-101

30 "Real property" § 12-101

31 12-307. ANSWER TO COMPLAINT.

32 THE ANSWER TO A COMPLAINT SHALL:

33 (1) COMPLY WITH THE MARYLAND RULES;

34 (2) STATE THE NATURE AND EXTENT OF THE PERSON'S RIGHT IN, TITLE
35 TO, OR INTEREST IN THE PROPERTY;

1 (3) STATE HOW AND WHEN THE PERSON ACQUIRED A RIGHT IN, TITLE
2 TO, OR INTEREST IN THE PROPERTY; AND

3 (4) CONTAIN A REQUEST FOR RELIEF AND A REQUEST FOR A PROMPT
4 HEARING.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 297(h)(5).

7 The reference to an answer "to a complaint" is added for clarity.

8 As for the specific Md. Rules that apply to item (1) of this section, *see* Md.
9 Rules 2-321, 2-322, and 2-323.

10 Defined terms: "Person" § 1-101

11 "Property" § 12-101

12 12-308. HEARING ON FORFEITURE CLAIM.

13 (A) HEARING TO BE SET BY COURT.

14 IF AN ANSWER HAS BEEN FILED ON TIME, THE COURT SHALL SET A HEARING
15 ON THE FORFEITURE CLAIM WITHIN 60 DAYS AFTER THE LATER OF:

16 (1) POSTING OF NOTICE UNDER § 12-306(B)(1) OR (2) OF THIS SUBTITLE;
17 OR

18 (2) FINAL PUBLICATION OF NOTICE UNDER § 12-306(B)(3) OF THIS
19 SUBTITLE.

20 (B) FORFEITURE WITHOUT HEARING.

21 WITHOUT A HEARING, THE COURT MAY ORDER FORFEITURE OF THE PROPERTY
22 INTEREST OF A PERSON WHO FAILS TO TIMELY FILE AN ANSWER.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 297(h)(6).

25 The Criminal Procedure Article Review Committee notes, for consideration
26 by the General Assembly, that in subsection (a) of this section, the court is
27 required only to set a hearing date within 60 days after the later of two
28 events. The General Assembly may wish to require that a hearing actually
29 be held within those 60 days.

30 Defined terms: "Person" § 1-101

31 "Property" § 12-101

32 12-309. FORFEITURE OF INTEREST IN REAL PROPERTY.

33 EXCEPT AS PROVIDED IN §§ 12-103(E) AND 12-312 OF THIS TITLE, AN OWNER'S
34 INTEREST IN REAL PROPERTY MAY BE FORFEITED IF THE REAL PROPERTY WAS USED

1 IN CONNECTION WITH A VIOLATION OF § 286, § 286A, § 286B, § 286C, OR § 290 OF
2 ARTICLE 27 OF THE CODE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 297(m)(1)(i).

5 The former reference to real property that was used in connection with a
6 violation of certain sections of Article 27 "in relation to these offenses" is
7 deleted as unnecessary.

8 Defined terms: "Owner" § 12-101

9 "Real property" § 12-101

10 12-310. FORFEITURE PROCEEDINGS FOR REAL PROPERTY.

11 (A) VENUE OF PROCEEDINGS.

12 FORFEITURE PROCEEDINGS FOR REAL PROPERTY MAY BE BROUGHT IN THE
13 JURISDICTION WHERE:

14 (1) THE CRIMINAL CHARGES ARE PENDING;

15 (2) THE OWNER RESIDES; OR

16 (3) THE REAL PROPERTY IS LOCATED.

17 (B) NOTICE OF PENDING LITIGATION.

18 (1) IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE BROUGHT
19 IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS LOCATED, A
20 NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE JURISDICTION WHERE
21 THE PROPERTY IS LOCATED.

22 (2) A NOTICE OF PENDING LITIGATION REQUIRED UNDER THIS
23 SUBSECTION SHALL INCLUDE AT LEAST:

24 (I) THE NAME AND ADDRESS OF THE OWNER OF THE REAL
25 PROPERTY;

26 (II) A DESCRIPTION OF THE REAL PROPERTY; AND

27 (III) A DESCRIPTION OF THE REASONS FOR THE FILING OF THE
28 FORFEITURE PROCEEDINGS AND NOTICE OF PENDING LITIGATION.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 297(m)(3).

31 In subsection (b) of this section, the reference to a "notice of pending
32 litigation" is substituted for the former reference to "lis pendens" for
33 clarity.

1 Defined terms: "Owner" § 12-101

2 "Property" § 12-101

3 "Real property" § 12-101

4 12-311. STAY OF FORFEITURE OF PRINCIPAL FAMILY RESIDENCE.

5 IF AN OWNER OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE
6 IS CONVICTED UNDER § 286, § 286A, § 286B, § 286C, OR § 290 OF ARTICLE 27 OF THE
7 CODE AND THE OWNER FILES AN APPEAL OF THE CONVICTION, THE COURT SHALL
8 STAY FORFEITURE PROCEEDINGS UNDER § 12-103(E) OR § 12-312(B) OF THIS TITLE
9 AGAINST THE REAL PROPERTY DURING THE PENDENCY OF THE APPEAL.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 297(n)(1).

12 Defined terms: "Owner" § 12-101

13 "Real property" § 12-101

14 12-312. FORFEITURE OF OWNERSHIP INTEREST IN PROPERTY.

15 (A) REBUTTABLE PRESUMPTION THAT PROPERTY IS SUBJECT TO
16 FORFEITURE.

17 (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THERE
18 IS A REBUTTABLE PRESUMPTION THAT PROPERTY OR PART OF A PROPERTY IN
19 WHICH A PERSON HAS AN OWNERSHIP INTEREST IS SUBJECT TO FORFEITURE AS
20 PROCEEDS, IF THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE
21 THAT:

22 (I) THE PERSON HAS VIOLATED § 286, § 286A, § 286B, § 286C, OR § 290
23 OF ARTICLE 27 OF THE CODE;

24 (II) THE PROPERTY WAS ACQUIRED BY THE PERSON DURING THE
25 VIOLATION OR WITHIN A REASONABLE TIME AFTER THE VIOLATION; AND

26 (III) THERE WAS NO OTHER LIKELY SOURCE FOR THE PROPERTY.

27 (2) A CLAIMANT OF THE PROPERTY HAS THE BURDEN OF PROOF TO
28 REBUT THE PRESUMPTION IN PARAGRAPH (1) OF THIS SUBSECTION.

29 (B) EXCEPTION -- PROPERTY USED AS PRINCIPAL FAMILY RESIDENCE.

30 REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE
31 FORFEITED UNDER THIS SECTION UNLESS:

32 (1) AN OWNER OF THE REAL PROPERTY WAS CONVICTED OF A CRIME
33 DESCRIBED UNDER SUBSECTION (A)(1) OF THIS SECTION; OR

34 (2) THE REAL PROPERTY IS COVERED BY § 12-103(D)(2) OF THIS TITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 297(l).

3 In subsection (a)(1)(iii) of this section, the former reference to real property
4 that was used in connection with a violation of "§ 286, § 286A, § 286B, §
5 286C, or § 290 [of Article 27 of the Code] in relation to these offenses" is
6 deleted as unnecessary.

7 Defined terms: "Owner" § 12-101

8 "Person" § 1-101

9 "Proceeds" § 12-101

10 "Property" § 12-101

11 "Real property" § 12-101

12 SUBTITLE 4. DISPOSITION.

13 12-401. POWERS OF COURT.

14 IN A PROCEEDING UNDER THIS TITLE, A COURT:

15 (1) MAY GRANT REQUESTS FOR MITIGATION OR REMISSION OF
16 FORFEITURE OR TAKE OTHER ACTION THAT PROTECTS THE RIGHTS OF INNOCENT
17 PERSONS, IS CONSISTENT WITH THIS TITLE, AND IS IN THE INTEREST OF JUSTICE;

18 (2) MAY RESOLVE CLAIMS ARISING UNDER THIS TITLE; AND

19 (3) MAY TAKE APPROPRIATE MEASURES TO SAFEGUARD AND MAINTAIN
20 PROPERTY FORFEITED UNDER THIS TITLE PENDING THE DISPOSITION OF THE
21 PROPERTY.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 297(s).

24 In this section, the reference to "this title" is substituted for the former
25 reference to "this section" in light of this revision, which has revised former
26 Art. 27, § 297 as Title 12 of this article.

27 In item (3) of this section, the former reference to measures that are
28 "necessary" to maintain property is deleted in light of the reference to
29 "appropriate" measures.

30 Defined terms: "Person" § 1-101

31 "Property" § 12-101

32 12-402. POSTHEARING ORDERS.

33 (A) ORDER FOR RELEASE.

1 AFTER A FULL HEARING, IF THE COURT DETERMINES THAT THE PROPERTY
2 SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE
3 RELEASED.

4 (B) ORDER FOR FORFEITURE.

5 SUBJECT TO § 12-403(B) OF THIS SUBTITLE, IF THE COURT DETERMINES THAT
6 THE PROPERTY SHOULD BE FORFEITED, THE COURT SHALL ORDER THAT THE
7 PROPERTY BE FORFEITED TO THE APPROPRIATE GOVERNING BODY.

8 (C) PROPERTY SUBJECT TO LIEN.

9 IF THE COURT DETERMINES THAT THE FORFEITED PROPERTY IS SUBJECT TO A
10 VALID LIEN CREATED WITHOUT ACTUAL KNOWLEDGE OF THE LIENHOLDER THAT
11 THE PROPERTY WAS BEING OR WAS TO BE USED IN VIOLATION OF THE CONTROLLED
12 DANGEROUS SUBSTANCES LAW, THE COURT SHALL ORDER THAT THE PROPERTY BE
13 RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

14 (D) APPLICATION OF PROCEEDS FROM SALE.

15 (1) THE LIENHOLDER SHALL SELL THE PROPERTY IN A COMMERCIALY
16 REASONABLE MANNER.

17 (2) THE PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:

18 (I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;

19 (II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL
20 REASONABLE COSTS INCIDENT TO THE SALE;

21 (III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS
22 FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF
23 CUSTODY; AND

24 (IV) EXCEPT AS PROVIDED IN § 12-403(B) OF THIS SUBTITLE, TO THE
25 GENERAL FUND OF THE STATE OR OF THE POLITICAL SUBDIVISION THAT SEIZED
26 THE PROPERTY.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 297(k)(2) and (3)(i) through (iv) and (r)(4)(ii).

29 Defined terms: "Controlled Dangerous Substances law" § 12-101

30 "Governing body" § 12-101

31 "Lien" § 12-101

32 "Lienholder" § 12-101

33 "Proceeds" § 12-101

34 "Property" § 12-101

35 12-403. DISPOSITION OF FORFEITED PROPERTY.

36 (A) OPTIONS FOR GOVERNING BODY.

1 (1) WHENEVER PROPERTY IS FORFEITED UNDER THIS TITLE, THE
2 GOVERNING BODY WHERE THE PROPERTY WAS SEIZED MAY:

3 (I) KEEP THE PROPERTY FOR OFFICIAL USE;

4 (II) REQUIRE AN APPROPRIATE UNIT TO TAKE CUSTODY OF THE
5 PROPERTY AND DESTROY OR OTHERWISE DISPOSE OF IT; OR

6 (III) SELL THE PROPERTY IF:

7 1. THE LAW DOES NOT REQUIRE THE PROPERTY TO BE
8 DESTROYED; AND

9 2. THE PROPERTY IS NOT HARMFUL TO THE PUBLIC.

10 (2) THE PROCEEDS OF A SALE UNDER THIS SUBSECTION SHALL FIRST
11 BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE
12 AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY,
13 ADVERTISING, AND COURT COSTS.

14 (B) PROPERTY SEIZED BY STATE LAW ENFORCEMENT UNIT.

15 IF THE SEIZING AUTHORITY WAS A STATE LAW ENFORCEMENT UNIT:

16 (1) UNDER § 12-402(B) OF THIS SUBTITLE, THE COURT SHALL ORDER THE
17 PROPERTY TO BE FORFEITED TO THE STATE LAW ENFORCEMENT UNIT; OR

18 (2) UNDER § 12-402(D)(2)(IV) OF THIS SUBTITLE, THE PROCEEDS OF THE
19 SALE SHALL BE PAID TO THE STATE LAW ENFORCEMENT UNIT.

20 (C) DUTY OF STATE LAW ENFORCEMENT UNIT.

21 EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE STATE LAW
22 ENFORCEMENT UNIT THAT RECEIVES FORFEITED PROPERTY OR PROCEEDS FROM A
23 SALE OF FORFEITED PROPERTY UNDER THIS SECTION SHALL:

24 (1) DISPOSE OF THE FORFEITED PROPERTY AS PROVIDED IN
25 SUBSECTION (A) OF THIS SECTION; AND

26 (2) PAY TO THE GENERAL FUND OF THE STATE ANY PROCEEDS OF THE
27 SALE OF THE FORFEITED PROPERTY.

28 (D) SHARING OF PROCEEDS BETWEEN LAW ENFORCEMENT UNITS.

29 EXCEPT AS OTHERWISE PROVIDED UNDER FEDERAL LAW, A LAW
30 ENFORCEMENT UNIT OTHER THAN A STATE LAW ENFORCEMENT UNIT THAT
31 PARTICIPATED WITH A STATE LAW ENFORCEMENT UNIT IN SEIZING PROPERTY
32 FORFEITED UNDER THIS SECTION:

1 (1) SHALL BE PAID BY THE STATE LAW ENFORCEMENT UNIT THE SHARE
2 OF THE PROCEEDS FROM THE SALE OF THE FORFEITED PROPERTY AS AGREED BY
3 THE LAW ENFORCEMENT UNITS; OR

4 (2) MAY ASK THE GOVERNOR'S OFFICE OF CRIME CONTROL AND
5 PREVENTION TO DETERMINE ITS SHARE.

6 (E) PROCEEDS TO BE DEPOSITED INTO GENERAL FUND OF APPROPRIATE
7 POLITICAL SUBDIVISION.

8 PROCEEDS THAT A LAW ENFORCEMENT UNIT OTHER THAN A STATE LAW
9 ENFORCEMENT UNIT RECEIVES UNDER SUBSECTION (D) OF THIS SECTION SHALL BE
10 DEPOSITED IN THE GENERAL FUND OF THE POLITICAL SUBDIVISION OF THAT LAW
11 ENFORCEMENT UNIT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 297(f) and (k)(3)(v) through (viii).

14 Throughout this section, the references to a "unit" are substituted for the
15 former references to an "agency" to conform to the terminology used
16 throughout this article. *See* General Revisor's Note to article.

17 In subsection (a) of this section, the defined term "governing body" is
18 substituted for the former reference to "the political subdivision in which
19 such property was seized, or, if the property was seized by State
20 authorities, the State" for brevity.

21 Also in subsection (a) of this section, the former requirement that
22 "whenever coin, currency, or property is seized by the Baltimore City
23 police, and forfeited under this subheading, it shall be surrendered to the
24 City of Baltimore for disposition according to this section" is deleted as
25 redundant in light of the term "governing body", which is defined in part to
26 mean "Baltimore City, if the seizing authority is the Police Department of
27 Baltimore City".

28 Also in subsection (a) of this section, the former phrase "[e]xcept as
29 provided under subsection (k) of this section" is deleted because former
30 subsection (k) did not create an exception to subsection (a) of this section.

31 In subsection (a)(1) of this section, the precise reference to "title" is
32 substituted for the former overly broad reference to "subheading" for
33 clarity.

34 In subsection (d) of this section, the former reference to the option of a law
35 enforcement unit to apply to the Governor's Office of Crime Control and
36 Prevention for a determination of the share "of the proceeds of the forfeited
37 property to be paid to that law enforcement agency and the State law
38 enforcement agency shall pay that amount to the other law enforcement
39 agency" is deleted as unnecessary in light of the reference to the option
40 that the Governor's Office of Crime Control and Prevention may be asked

1 by the law enforcement unit "to determine its share".

2 Defined terms: "Governing body" § 12-101

3 "Proceeds" § 12-101

4 "Property" § 12-101

5 "Seizing authority" § 12-101

6 12-404. TERMS OF SALE OF FORFEITED PROPERTY.

7 A SALE OF PROPERTY ORDERED UNDER THIS TITLE SHALL BE MADE FOR CASH
8 AND GIVES THE PURCHASER CLEAR AND ABSOLUTE TITLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 297(q).

11 Defined term: "Property" § 12-101

12 SUBTITLE 5. LIENHOLDERS.

13 12-501. LIENHOLDER SALE OF SEIZED PROPERTY.

14 (A) NOTICE REQUIRED.

15 BEFORE EXERCISING THE RIGHT TO SELL PROPERTY THAT HAS BEEN SEIZED
16 UNDER THIS TITLE, A LIENHOLDER SHALL GIVE TO THE FORFEITING AUTHORITY:

17 (1) WRITTEN NOTICE OF THE INTENTION TO SELL;

18 (2) COPIES OF DOCUMENTS GIVING RISE TO THE LIEN;

19 (3) AN AFFIDAVIT UNDER OATH BY THE LIENHOLDER:

20 (I) STATING THAT THE UNDERLYING OBLIGATION IS IN DEFAULT;

21 AND

22 (II) STATING THE REASONS FOR THE DEFAULT.

23 (B) RELEASE OF PROPERTY ON REQUEST.

24 ON REQUEST OF THE LIENHOLDER, THE FORFEITING AUTHORITY SHALL
25 RELEASE THE PROPERTY TO THE LIENHOLDER.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 297(r)(2).

28 In subsection (a) of this section, the reference to "this title" is substituted
29 for the former reference to "this section" in light of this revision, which has
30 revised former Art. 27, § 297 as Title 12 of this article.

31 Subsection (b) of this section makes explicit what was only implied in the
32 former law - that the forfeiting authority has the duty to release the

1 property to the lienholder.

2 Defined terms: "Forfeiting authority" § 12-101

3 "Lienholder" § 12-101

4 "Property" § 12-101

5 12-502. GOVERNING LAW.

6 (A) DEFAULT SALES LAW TO APPLY.

7 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE LAW
8 GOVERNING THE SALE OF COLLATERAL SECURING AN OBLIGATION IN DEFAULT
9 GOVERNS A LIENHOLDER'S REPOSSESSION AND SALE OF PROPERTY THAT HAS BEEN
10 SEIZED UNDER THIS TITLE.

11 (B) POSSESSION BEFORE SALE NOT REQUIRED.

12 A LIENHOLDER MAY NOT BE REQUIRED TO TAKE POSSESSION OF THE
13 PROPERTY BEFORE THE SALE OF THE PROPERTY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 297(r)(3) and (4)(i).

16 In subsection (a) of this section, the reference to "the law governing the
17 sale of collateral" is substituted for the former reference to the "rights and
18 duties provided under law to the lienholder for the sale of collateral" for
19 brevity.

20 Also in subsection (a) of this section, the reference to property "that has
21 been seized under this title" is added for clarity.

22 Defined terms: "Lienholder" § 12-101

23 "Property" § 12-101

24 12-503. PROCEEDS OF SALE.

25 (A) SEIZING AUTHORITY TO BE PAID OWNER'S PROCEEDS.

26 ANY PART OF THE PROCEEDS FROM A SALE OF PROPERTY THAT HAS BEEN
27 SEIZED UNDER THIS TITLE THAT WOULD BE PAID TO AN OWNER OF THE PROPERTY
28 UNDER THE APPLICABLE LAW RELATING TO DISTRIBUTION OF PROCEEDS:

29 (1) SHALL BE PAID TO THE SEIZING AUTHORITY; AND

30 (2) SHALL BE PROPERTY SUBJECT TO FORFEITURE.

31 (B) RETURN OF PROCEEDS TO OWNER.

32 IF AN ORDER OF FORFEITURE IS NOT ENTERED, THE STATE SHALL RETURN TO
33 THE OWNER THAT PART OF THE PROCEEDS AND ANY COSTS OF THE FORFEITURE
34 PROCEEDINGS PAID FROM THE PROCEEDS OF THE SALE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 297(r)(4)(iii).

3 In the introductory language of subsection (a) of this section, the reference
4 to proceeds "from a sale of property that has been seized under this title" is
5 added for clarity.

6 In subsection (a)(1) of this section, the reference to the defined term
7 "seizing authority" is substituted for the former reference to the "seizing
8 agency" to conform to the terminology used throughout this subtitle.

9 The Criminal Procedure Article Review Committee notes, for consideration
10 by the General Assembly, that in subsection (b) of this section, the
11 requirement that only "the State" return part of the proceeds and any costs
12 to the owner may be too narrow. The General Assembly may wish to apply
13 this requirement to other governing bodies as well.

14 Defined terms: "Owner" § 12-101

15 "Proceeds" § 12-101

16 "Property" § 12-101

17 "Seizing authority" § 12-101

18 12-504. REDEMPTION OF INTEREST OR REPOSSESSION OF PROPERTY.

19 (A) NOTICE OF REDEMPTION.

20 IF THE INTEREST OF THE OWNER IN PROPERTY THAT HAS BEEN SEIZED UNDER
21 THIS TITLE IS REDEEMED, THE LIENHOLDER SHALL MAIL A NOTICE OF THE
22 REDEMPTION TO THE FORFEITING AUTHORITY WITHIN 10 DAYS AFTER THE
23 REDEMPTION.

24 (B) PROPERTY RETURNED TO SEIZING AUTHORITY BEFORE FORFEITURE.

25 (1) IF PROPERTY THAT HAS BEEN SEIZED UNDER THIS TITLE HAS BEEN
26 REPOSSESSED OR OTHERWISE LAWFULLY TAKEN BY THE LIENHOLDER, THE
27 LIENHOLDER SHALL RETURN THE PROPERTY TO THE SEIZING AUTHORITY WITHIN 21
28 DAYS AFTER THE REDEMPTION.

29 (2) THE SEIZING AUTHORITY AND THE FORFEITING AUTHORITY MAY
30 THEN PROCEED WITH THE FORFEITURE OF THE PROPERTY OR THE PROCEEDS FROM
31 THE SALE OF THE PROPERTY.

32 (C) TIME LIMITATIONS.

33 TIME LIMITATIONS REQUIRED UNDER THIS TITLE FOR NOTICE AND FILING OF
34 THE COMPLAINT FOR FORFEITURE RUN FROM THE DATE OF REDEMPTION OR
35 PURCHASE OF THE PROPERTY THAT HAS BEEN SEIZED UNDER THIS TITLE.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 27, § 297(r)(5).

1 %In subsections (a), (b)(1), and (c) of this section, the references to property
2 "that has been seized under this title" are added for clarity. Similarly, in
3 subsection (b)(2) of this section, the reference to the proceeds "from the
4 sale of the property" is added.

5 In subsection (b) of this section, the references to the defined term "seizing
6 authority" are substituted for the former references to the "seizing agency"
7 to conform to the terminology used throughout this title.

8 Defined terms: "Forfeiting authority" § 12-101

9 "Lienholder" § 12-101

10 "Owner" § 12-101

11 "Property" § 12-101

12 "Seizing authority" § 12-101

13 12-505. EFFECT OF TITLE.

14 THIS TITLE DOES NOT PROHIBIT A LIENHOLDER FROM EXERCISING RIGHTS
15 UNDER APPLICABLE LAW, INCLUDING THE RIGHT TO SELL PROPERTY THAT HAS
16 BEEN SEIZED UNDER THIS TITLE, IF A DEFAULT OCCURS IN THE OBLIGATION GIVING
17 RISE TO THE LIEN.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 297(r)(1).

20 The reference to "[t]his title" is substituted for the former reference to
21 "[t]his section" in light of this revision, which has revised former Art. 27, §
22 297 as Title 12 of this article.

23 Defined terms: "Lien" § 12-101

24 "Lienholder" § 12-101

25 "Property" § 12-101

26 TITLE 13. OTHER FORFEITURES.

27 SUBTITLE 1. GAMBLING VIOLATIONS.

28 13-101. DEFINED TERMS.

29 (A) IN GENERAL.

30 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

31 REVISOR'S NOTE: This subsection formerly was Art. 27, § 264(e)(1).

32 No changes are made.

33 (B) FINAL DISPOSITION.

1 "FINAL DISPOSITION" INCLUDES AN ACQUITTAL, DISMISSAL, NOLLE PROSEQUI,
 2 FINDING OF GUILTY, PROBATION BEFORE JUDGMENT, PLEA OF GUILTY OR OF NOLLO
 3 CONTENDERE, MARKING THE CHARGE "STET" ON THE DOCKET, AND AN ORDER OF
 4 AN APPELLATE COURT ENDING A CRIMINAL CASE.

5 REVISOR'S NOTE: This subsection is new language derived without
 6 substantive change from former Art. 27, § 264(e)(2).

7 The reference to "marking the charge `stet' on the docket" is substituted for
 8 the former reference to "a stet", for clarity.

9 The former reference to a final disposition "of charges and of indictments"
 10 is deleted as implicit in the reference to "an acquittal, dismissal, nolle
 11 prosequi, finding of guilty, probation before judgment, plea of guilty or of
 12 nolo contendere, marking the charge `stet' on the docket, and an order of an
 13 appellate court ending a criminal case".

14 Defined terms: "Nolle prosequi" § 1-101

15 "Nolo contendere" § 1-101

16 (C) FINANCIAL AUTHORITY.

17 "FINANCIAL AUTHORITY" MEANS:

18 (1) IF THE SEIZING AUTHORITY IS THE STATE, THE STATE TREASURER;

19 (2) IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY, THE
 20 TREASURER OR DIRECTOR OF FINANCE OF THAT COUNTY; OR

21 (3) IF THE SEIZING AUTHORITY IS A UNIT OF A MUNICIPAL
 22 CORPORATION, THE TREASURER OR DIRECTOR OF FINANCE OF THAT MUNICIPAL
 23 CORPORATION.

24 REVISOR'S NOTE: This subsection is new language added to avoid the
 25 repetition of the phrase "the State Treasurer, the treasurer or director of
 26 finance of a county, or the treasurer or director of finance of a municipal
 27 corporation".

28 Defined term: "County" § 1-101

29 13-102. MONEY PRESUMED TO BE CONTRABAND.

30 (A) IN GENERAL.

31 MONEY IS PRIMA FACIE CONTRABAND IF A LAW ENFORCEMENT OFFICER IN
 32 THE STATE SEIZES THE MONEY IN CONNECTION WITH AN ARREST FOR:

33 (1) UNLAWFULLY PLAYING OR OPERATING A BOOKMAKING SCHEME;

34 (2) UNLAWFULLY BETTING ON A HORSE RACE, ATHLETIC EVENT,
 35 LOTTERY, OR GAME; OR

1 (3) USING AN UNLAWFUL GAMING TABLE OR GAMING DEVICE.

2 (B) VESTING OF MONEY.

3 (1) FOR PURPOSES OF THIS SUBSECTION, THE POLICE DEPARTMENT OF
4 BALTIMORE CITY IS NOT A STATE AUTHORITY.

5 (2) ALL RIGHTS IN, TITLE TO, AND INTEREST IN MONEY SEIZED UNDER
6 SUBSECTION (A) OF THIS SECTION SHALL IMMEDIATELY VEST IN AND TO:

7 (I) THE COUNTY OR THE MUNICIPAL CORPORATION, IF THE
8 MONEY IS SEIZED BY THE POLICE OF THE LOCAL GOVERNMENT, INCLUDING A
9 SHERIFF'S DEPARTMENT THAT IS THE LOCAL LAW ENFORCEMENT UNIT; OR

10 (II) THE STATE, IF THE MONEY IS SEIZED BY A STATE AUTHORITY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from the first, third, and as it related to money as contraband, the
13 second sentences of former Art. 27, § 264(a).

14 Throughout this section, the former references to "currency" and "cash" are
15 deleted as included in the reference to "money".

16 In the introductory language of subsection (a) of this section, the former
17 reference to contraband "of law as a gambling device or as a part of a
18 gambling operation" is deleted as unnecessary in light of the reference to
19 "contraband".

20 Also in the introductory language of subsection (a) of this section, the
21 reference to a "law enforcement" officer is substituted for the narrow
22 former reference to a "police" officer for clarity.

23 In subsection (a)(1) and (2) of this section, the references to "unlawfully"
24 playing or operating and "unlawfully" betting are added to state explicitly
25 what is merely implied in the reference to an "arrest".

26 In subsection (a)(2) of this section, the former reference to "wagering" is
27 deleted as redundant in light of the reference to "betting".

28 In subsection (b)(1) of this section, the phrase "[f]or purposes of this
29 subsection" is substituted for the former phrase "for purposes of this
30 section" because the term "State authority" appears only in this
31 subsection.

32 In subsection (b)(2)(i) of this section, the reference to a "municipal
33 corporation" is substituted for the former reference to a "municipality" to
34 conform to the terminology of Article 23A of the Code.

35 Also in subsection (b)(2)(i) of this section, the former reference to a "local"
36 sheriff's department is deleted as redundant in light of the reference to

1 "the local law enforcement unit".

2 Also in subsection (b)(2)(i) of this section, the reference to a local law
3 enforcement "unit" is substituted for the former reference to "agency" to
4 conform to the terminology used throughout this article. *See* General
5 Revisor's Note to article.

6 Defined term: "County" § 1-101

7 13-103. CONTRABAND TO BE PHOTOGRAPHED AND RECORDED.

8 (A) DUTIES OF SEIZING AUTHORITY.

9 THE SEIZING AUTHORITY THAT SEIZES MONEY THAT IS CONTRABAND SHALL
10 IMMEDIATELY:

11 (1) PHOTOGRAPH THE MONEY AND RECORD THE QUANTITY OF EACH
12 DENOMINATION OF COIN OR CURRENCY SEIZED; AND

13 (2) DEPOSIT THE MONEY TO THE ACCOUNT OF THE FINANCIAL
14 AUTHORITY.

15 (B) PHOTOGRAPHS AS EVIDENCE.

16 A PHOTOGRAPH TAKEN UNDER SUBSECTION (A) OF THIS SECTION MAY BE
17 SUBSTITUTED FOR MONEY AS EVIDENCE IN A CRIMINAL OR FORFEITURE
18 PROCEEDING.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 297A, except for the reference to § 297.

21 In this section, the reference to "money" is substituted for the former
22 references to "coin" and "currency" for brevity.

23 In subsection (a) of this section, the former reference to "pursuant to §
24 264 ... of this article" is deleted as unnecessary because former Art. 27, §
25 264 is revised in this subtitle.

26 Also in subsection (a) of this section, the former reference to the "Director
27 of Finance of Baltimore City or the municipal treasurer or director of
28 finance of the municipality", is deleted in light of the use of the defined
29 term "financial authority".

30 The Criminal Procedure Article Review Committee notes, for consideration
31 by the General Assembly, that the defined term "financial authority"
32 includes the State Treasurer, if the seizing authority is the State. Use of
33 this term conforms to the terminology used in §§ 13-105 and 13-106 of this
34 subtitle.

35 Defined term: "Financial authority" § 13-101

1 13-104. SEIZED MONEY TO BE DEPOSITED OR INVESTED.

2 PENDING FINAL DISPOSITION, THE FINANCIAL AUTHORITY SHALL ACCOUNT
3 FOR AND DEPOSIT SEIZED MONEY IN AN INTEREST-BEARING BANK ACCOUNT OR
4 INVEST THE SEIZED MONEY IN ACCORDANCE WITH ARTICLE 95 OF THE CODE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 264(b).

7 The former reference to pending "trial" is deleted as unnecessary in light of
8 the reference to pending "final disposition".

9 The former reference to the final disposition "of the charge or charges,
10 indictment or indictments, growing out of any arrest in connection with
11 which any such money, currency or cash may have been so seized or
12 captured" is deleted as unnecessary in light of the defined term "final
13 disposition".

14 The Criminal Procedure Article Review Committee notes, for consideration
15 by the General Assembly, that the defined term "financial authority"
16 includes the State Treasurer, if the seizing authority is the State. Use of
17 this term conforms to the terminology used in §§ 13-105 and 13-106 of this
18 subtitle.

19 Defined terms: "Final disposition" § 13-101

20 "Financial authority" § 13-101

21 13-105. COMPLAINT FOR FORFEITURE.

22 (A) APPLICATION.

23 (1) EACH APPLICATION FOR THE FORFEITURE OF CONTRABAND SHALL
24 BE BY COMPLAINT.

25 (2) A COPY OF THE COMPLAINT AND SHOW CAUSE ORDER SHALL BE
26 SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

27 (B) REQUEST FROM FINANCIAL AUTHORITY.

28 (1) IF A CONVICTION, INCLUDING A PLEA OF GUILTY OR PLEA OF NOLO
29 CONTENDERE, IS ENTERED AGAINST A PERSON ARRESTED IN CONNECTION WITH
30 THE SEIZURE OF THE MONEY, THE FINANCIAL AUTHORITY SHALL APPLY TO THE
31 DISTRICT COURT OR CIRCUIT COURT FOR AN ORDER FORFEITING THE MONEY TO
32 THE JURISDICTION THAT THE FINANCIAL AUTHORITY SERVES.

33 (2) THE FINANCIAL AUTHORITY SHALL APPLY FOR THE ORDER WITHIN
34 90 DAYS AFTER ENTRY OF THE CONVICTION OR PLEA, UNLESS THE CASE IS
35 APPEALED.

1 (C) FORFEITURE CONDITIONED ON ABSENCE OF PENDING OR
2 UNDETERMINED SUITS.

3 BEFORE ORDERING A FORFEITURE OF THE MONEY, THE COURT MUST BE
4 SATISFIED THAT NO UNDETERMINED PROCEEDING TO RECOVER THE MONEY IS
5 PENDING IN COURT AGAINST THE FINANCIAL AUTHORITY.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 264(c) and (e)(3).

8 Throughout this section, the former references to "coin" and "currency" are
9 deleted as unnecessary in light of the reference to "money".

10 In subsection (a) of this section, the reference to a "complaint" is
11 substituted for the former reference to a "petition" to conform to the
12 terminology used in the Maryland Rules.

13 In subsection (a)(2) of this section, the former reference to "in the first
14 instance" is deleted as surplusage.

15 In subsection (b) of this section, the former reference to the possibility that
16 "the trial or other ultimate disposition of such charge or charges,
17 indictment or indictments, results in a record of conviction being entered
18 against the person or persons so arrested" is deleted as unnecessary in
19 light of the reference to "conviction, plea of guilty, or plea of nolo
20 contendere".

21 Also in subsection (b) of this section, the former reference to "such money,
22 currency or cash in the custody of the State Treasurer, director of finance,
23 or county or municipal treasurer" is deleted as unnecessary in light of §
24 13-104 of this subtitle, which requires that the authority that seizes
25 money that is contraband deposit the money to the account of the financial
26 authority.

27 In subsection (b)(1) of this section, the former reference to money that may
28 have been "captured" is deleted as unnecessary in light of the reference to
29 "the seizure of the money".

30 Also in subsection (b)(1) of this section, the reference to an order "forfeiting
31 the money to the jurisdiction that the financial authority serves" is
32 substituted for the former reference to an order "declaring and ordering
33 that such money, currency or cash in the custody of the State Treasurer,
34 director of finance, or county or municipal treasurer shall be forfeited to
35 the sole use and gain of the State, county or city" for brevity.

36 Also in subsection (b)(1) of this section, the former reference to a "record
37 of" conviction is deleted as implied in the reference to "conviction".

38 In subsection (b)(2) of this section, the former reference to a case that is
39 appealed "to an appellate court" is deleted as implicit in the word

1 "appealed".

2 In subsection (c) of this section, the former reference to a forfeiture "to the
3 State, county or Baltimore City" is deleted as unnecessary in light of
4 subsection (b)(1) of this section, which refers to the "jurisdiction that the
5 financial authority serves".

6 Also in subsection (c) of this section, the former reference to an application
7 seeking "a return" of the money is deleted as included in the reference to
8 an undetermined proceeding "to recover" the money.

9 Also in subsection (c) of this section, the former reference to a court "of
10 competent jurisdiction" is deleted as implied in the reference to "court".

11 Defined terms: "Financial authority" § 13-101

12 "Nolo contendere" § 1-101

13 "Person" § 1-101

14 13-106. COMPLAINT FOR RETURN OF MONEY.

15 (A) IN GENERAL.

16 SEIZED MONEY MAY BE RETURNED ONLY AS PROVIDED IN THIS SECTION.

17 (B) RIGHT TO FILE.

18 SUBJECT TO SUBSECTION (C) OF THIS SECTION, ON A FINAL DISPOSITION A
19 CLAIMANT MAY ASK THE APPROPRIATE COURT FOR A DETERMINATION THAT THE
20 MONEY IS THE PROPERTY OF THE CLAIMANT AND AN ORDER THAT THE MONEY BE
21 RETURNED.

22 (C) DEADLINES FOR FILING COMPLAINT.

23 A CLAIMANT UNDER SUBSECTION (B) OF THIS SECTION MUST:

24 (1) APPLY WITHIN 1 YEAR AFTER THE JUDGMENT OR ORDER WAS
25 ENTERED OR THE FINAL DISPOSITION WAS TAKEN; AND

26 (2) GIVE WRITTEN NOTICE TO THE FINANCIAL AUTHORITY AT LEAST 10
27 DAYS BEFORE FILING THE COMPLAINT.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 264(d)(1) and the last clause of the second
30 sentence of (a).

31 Throughout this section, the former references to "currency" and "cash" are
32 deleted as unnecessary in light of the reference to "money".

33 In subsection (a) of this section, the former reference to money to be
34 returned "to any person claiming the same, or to any other person" is
35 deleted as surplusage.

1 %In subsection (c)(2) of this section, the reference to a "complaint" is
2 substituted for the former reference to a "petition" to conform to the
3 terminology used in the Maryland Rules.

4 Defined terms: "Final disposition" § 13-101

5 "Financial authority" § 13-101

6 13-107. PRIMA FACIE EVIDENCE -- CONTRABAND.

7 (A) PRIMA FACIE EVIDENCE THAT MONEY IS NOT CONTRABAND.

8 IN A PROCEEDING ON A COMPLAINT FOR A RETURN OF MONEY, AN ACQUITTAL,
9 DISMISSAL, OR NOLLE PROSEQUI WITH RESPECT TO THE GAMBLING CHARGES OR
10 INDICTMENTS INVOLVED IN THE SEIZURE OF THE MONEY IS PRIMA FACIE EVIDENCE
11 THAT THE MONEY IS NOT CONTRABAND.

12 (B) PRIMA FACIE EVIDENCE THAT MONEY IS CONTRABAND.

13 A CONVICTION, PLEA OF GUILTY OR OF NOLO CONTENDERE, OR PROBATION
14 UNDER § 6-220 OF THIS ARTICLE IS PRIMA FACIE EVIDENCE THAT THE MONEY IS
15 CONTRABAND.

16 (C) MARKING OF "STET".

17 MARKING A CHARGE "STET" ON THE DOCKET DOES NOT CREATE ANY
18 PRESUMPTION AS TO WHETHER MONEY IS CONTRABAND.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 264(d)(2).

21 In subsection (a) of this section, the reference to a "complaint" is
22 substituted for the former reference to a "petition" to conform to the
23 terminology used in the Maryland Rules.

24 Also in subsection (a) of this section, the former references to "currency"
25 and "cash" are deleted as unnecessary in light of the reference to "money".

26 In subsection (c) of this section, the reference to the "[m]arking a charge
27 `stet' on the docket" is substituted for the former reference to "entry of stet"
28 for clarity.

29 Defined terms: "Nolle prosequi" § 1-101

30 "Nolo contendere" § 1-101

31 13-108. GROUNDS FOR FORFEITURE.

32 (A) IN GENERAL.

33 SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF A COMPLAINT IS NOT TIMELY
34 AND PROPERLY FILED OR IF THE ACTION IS FINALLY DECIDED AGAINST THE

1 CLAIMANT, THE SEIZED MONEY NOT DISPOSED OF SHALL BE FORFEITED TO THE
2 CUSTODIAN WITHOUT FURTHER JUDICIAL ACTION.

3 (B) TIMELY NOTICE REQUIRED.

4 FOR THE SEIZED MONEY TO BE FORFEITED, TIMELY NOTICE MUST BE GIVEN BY
5 CERTIFIED MAIL OR OTHER APPROPRIATE MEANS TO ANY KNOWN CLAIMANTS, AT
6 THEIR LAST KNOWN ADDRESSES, OF THE REQUIREMENTS OF THIS SECTION FOR
7 MAKING CLAIM FOR THE RETURN OF SEIZED MONEY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 264(d)(3) and (4).

10 In subsection (a) of this section, the reference to a "complaint" is
11 substituted for the former reference to a "petition" to conform to the
12 terminology used in the Maryland Rules.

13 In subsection (b) of this section, the former reference to the consequence
14 that, if timely notice is not given, "the seized moneys shall not be forfeited
15 as provided by paragraph (3) of this subsection" is deleted as unnecessary
16 in light of the phrase "[f]or the seized money to be forfeited".

17 13-109. EFFECT OF SUBTITLE.

18 THIS SUBTITLE DOES NOT PROHIBIT THE TRIAL JUDGE, AFTER AN ACQUITTAL
19 OR DISMISSAL, FROM ORDERING THE IMMEDIATE RETURN OF ALL PROPERTY
20 SEIZED.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 264(e)(4).

23 SUBTITLE 2. VIOLATIONS OF GUN LAWS.

24 13-201. PROPERTY SUBJECT TO SEIZURE AND FORFEITURE.

25 THE FOLLOWING PROPERTY IS SUBJECT TO SEIZURE AND FORFEITURE:

26 (1) A HANDGUN WORN, CARRIED, OR TRANSPORTED IN VIOLATION OF
27 ARTICLE 27, § 36B OF THE CODE OR SOLD, RENTED, TRANSFERRED, OR POSSESSED IN
28 VIOLATION OF ARTICLE 27, § 442, § 442A, OR § 445 OF THE CODE; AND

29 (2) AMMUNITION, HANDGUN PARTS, OR HANDGUN APPURTENANCES
30 THAT ARE:

31 (I) WORN, CARRIED, OR TRANSPORTED IN VIOLATION OF ARTICLE
32 27, § 36B OF THE CODE; OR

33 (II) FOUND IN THE IMMEDIATE VICINITY OF A HANDGUN WORN,
34 CARRIED, OR TRANSPORTED IN VIOLATION OF ARTICLE 27, § 36B OF THE CODE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 36C(a).

3 In item (1) of this section, the former reference to property that "upon
4 forfeiture, no property right shall exist in them" is deleted as unnecessary
5 as included in the common meaning of the word "forfeiture".

6 In item (2) of this section, the reference to ammunition, handgun parts, or
7 handgun appurtenances that are worn, carried, or transported "in
8 violation of Article 27, § 36B of the Code" is substituted for the former
9 phrase "by such person" for clarity and to conform to the terminology used
10 in item (1) of this section.

11 13-202. SEIZURE OF PROPERTY.

12 (A) SEIZURE AS INCIDENT TO ARREST.

13 AN AUTHORIZED LAW ENFORCEMENT OFFICER MAY SEIZE PROPERTY LISTED
14 UNDER § 13-201 OF THIS SUBTITLE AS AN INCIDENT TO AN ARREST OR SEARCH AND
15 SEIZURE.

16 (B) PROPERTY AFTER SEIZURE.

17 AN OFFICER WHO SEIZES PROPERTY UNDER THIS SECTION SHALL PLACE THE
18 PROPERTY UNDER SEAL OR REMOVE THE PROPERTY TO A LOCATION DESIGNATED BY
19 THE DEPARTMENT OF STATE POLICE OR BY THE LAW ENFORCEMENT UNIT HAVING
20 JURISDICTION IN THE LOCALITY.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 36C(b).

23 In subsection (a) of this section, the former reference to a "duly" authorized
24 law enforcement officer is deleted as surplusage.

25 In subsection (b) of this section, the reference to "law enforcement unit" is
26 substituted for the former reference to "law enforcement agency" to
27 conform to the terminology used throughout this article. *See* General
28 Revisor's Note to article.

29 13-203. PROCEDURES AFTER SEIZURE.

30 (A) RETURNING HANDGUN TO OWNER OR APPROPRIATE UNIT.

31 (1) BY AN APPROPRIATE INQUIRY AND INVESTIGATION, THE SEIZING
32 AUTHORITY SHALL ATTEMPT TO IDENTIFY AND LOCATE THE OWNER OF A HANDGUN
33 THAT IS SEIZED.

34 (2) IF THE OWNER IS A RESIDENT OF THE STATE, THE SEIZING
35 AUTHORITY MAY RETURN THE HANDGUN TO THE OWNER.

1 (3) IF THE OWNER OF THE HANDGUN IS NOT A RESIDENT OF THE STATE,
 2 THE SEIZING AUTHORITY SHALL SEND THE HANDGUN FOR DISPOSITION TO THE
 3 APPROPRIATE LAW ENFORCEMENT UNIT WHERE THE OWNER IS A RESIDENT IF THE
 4 HANDGUN:

5 (I) IS NOT NEEDED FOR INVESTIGATION OR EVIDENCE; OR

6 (II) IS NOT DISPOSED OF UNDER SUBSECTION (B) OF THIS SECTION.

7 (B) NOTICE OF OPTION TO REVIEW SEIZURE.

8 (1) IF THE SEIZING AUTHORITY UNDER SUBSECTION (A) OF THIS
 9 SECTION DOES NOT RETURN THE HANDGUN TO ITS OWNER, THE SEIZING
 10 AUTHORITY SHALL PROMPTLY NOTIFY THE OWNER THAT THE OWNER MAY APPLY
 11 WITHIN 30 DAYS TO THE SEIZING AUTHORITY FOR A REVIEW TO DETERMINE
 12 WHETHER THE OWNER KNEW OR SHOULD HAVE KNOWN THAT THE HANDGUN WAS
 13 WORN, CARRIED, TRANSPORTED, OR USED IN VIOLATION OF ARTICLE 27, § 36B OF THE
 14 CODE, AND WHETHER THE OWNER IS QUALIFIED TO POSSESS THE HANDGUN.

15 (2) QUALIFICATION FOR POSSESSION OF A HANDGUN IS THE SAME AS
 16 FOR SALE OR TRANSFER OF A HANDGUN UNDER ARTICLE 27, § 442 OF THE CODE.

17 (C) PENALTY FOR FALSE INFORMATION IN APPLICATION.

18 A PERSON WHO KNOWINGLY GIVES FALSE INFORMATION OR MAKES A
 19 MATERIAL MISSTATEMENT IN AN APPLICATION FOR REVIEW OR AN INVESTIGATION
 20 RELATING TO AN APPLICATION IS SUBJECT TO THE PENALTIES UNDER ARTICLE 27, §
 21 449 OF THE CODE.

22 REVISOR'S NOTE: This section is new language derived without substantive
 23 change from former Art. 27, § 36C(c)(1).

24 In subsection (a) of this section, the former reference to a "reputed" owner
 25 is deleted as unnecessary.

26 In subsection (a)(1) of this section, the former reference to the "address" of
 27 the owner of a handgun is deleted in light of the reference to the
 28 requirement of the seizing authority to "locate" the owner.

29 In subsection (a)(3) of this section, the former phrase "as a result of an
 30 inquiry or investigation" is deleted as implicit in light of subsection (a)(1)
 31 of this section. Similarly, the former reference to the requirement that the
 32 seizing authority shall "notify the appropriate law enforcement agency of
 33 the jurisdiction of which the owner is a resident" is deleted as included in
 34 the reference to the requirement that the seizing authority shall "send the
 35 handgun ... for disposition" to the appropriate law enforcement unit where
 36 the owner is a resident.

37 Defined term: "Person" § 1-101

1 13-204. DETERMINING OWNER'S KNOWLEDGE OF HANDGUN VIOLATION.

2 (A) INFORMAL REVIEW REQUIRED.

3 (1) ON TIMELY RECEIPT OF AN APPLICATION, THE SEIZING AUTHORITY
4 SHALL HOLD AN INFORMAL REVIEW TO DETERMINE WHETHER THE OWNER KNEW
5 OR SHOULD HAVE KNOWN OF THE USE OR INTENDED USE OF A HANDGUN THAT IS
6 SEIZED IN VIOLATION OF ARTICLE 27, § 36B OF THE CODE.

7 (2) THE REVIEW IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURE
8 ACT.

9 (B) DECISION IN FAVOR OF OWNER.

10 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE HANDGUN
11 THAT IS SEIZED SHALL BE RELEASED TO THE OWNER IF THE SEIZING AUTHORITY
12 DECIDES IN FAVOR OF THE OWNER AND THE OWNER IS QUALIFIED TO POSSESS THE
13 HANDGUN.

14 (2) IF THE HANDGUN IS NEEDED AS EVIDENCE IN A CRIMINAL CASE OR
15 INVESTIGATION, THE HANDGUN SHALL BE PROMPTLY RETURNED WHEN THE CASE
16 OR INVESTIGATION ENDS.

17 (C) DECISION IN FAVOR OF FORFEITURE.

18 (1) AFTER REVIEW, IF THE SEIZING AUTHORITY DETERMINES THAT THE
19 HANDGUN SHOULD BE FORFEITED TO THE STATE, THE OWNER SHALL BE NOTIFIED
20 AT THE OWNER'S LAST KNOWN ADDRESS.

21 (2) WITHIN 30 DAYS AFTER NOTIFICATION, THE OWNER MAY ASK THE
22 APPROPRIATE DISTRICT COURT FOR RELEASE OF THE HANDGUN.

23 (3) THE STATE'S ATTORNEY SHALL REPRESENT THE STATE IN THE
24 ACTION.

25 (4) THE DISTRICT COURT SHALL HEAR THE MATTER AND GRANT
26 PROPER RELIEF IN ACCORDANCE WITH THIS SUBTITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 36C(c)(2) and (3).

29 13-205. SEIZED HANDGUNS IN CRIMINAL CASES.

30 (A) IN GENERAL.

31 (1) IN A PROCEEDING IN A CRIMINAL CAUSE INVOLVING A SEIZED
32 HANDGUN, A COURT MAY ORDER FORFEITURE OR RELEASE OF THE SEIZED
33 HANDGUN IN ACCORDANCE WITH THIS SUBSECTION.

34 (2) A PERSON WHO HAS MADE A WRITTEN CLAIM OF OWNERSHIP OF A
35 HANDGUN TO THE SEIZING AUTHORITY OR THE STATE'S ATTORNEY SHALL BE

1 NOTIFIED OF THE PROCEEDING AND OF THE CLAIMANT'S RIGHT TO PRESENT THE
2 CLAIM AT THE PROCEEDING.

3 (3) A CLAIMANT WHO HAS COMPLETED THE REVIEW PROCEDURE
4 PROVIDED FOR BY THIS SUBTITLE IS NOT ENTITLED TO A SECOND REVIEW UNDER
5 THIS SUBSECTION.

6 (B) IF APPLICATION REVIEW, PETITION, OR RELEASE DOES NOT OCCUR.

7 IF A TIMELY APPLICATION FOR A REVIEW OR A COMPLAINT TO THE COURT
8 UNDER § 13-204 OF THIS SUBTITLE DOES NOT OCCUR, AND AN ORDER FOR RELEASE
9 UNDER SUBSECTION (A) OF THIS SECTION IS NOT ISSUED, THE HANDGUN SHALL BE:

10 (1) FORFEITED TO THE STATE WITHOUT FURTHER PROCEEDINGS; AND

11 (2) DESTROYED BY THE SEIZING AUTHORITY OR DISPOSED OF IN
12 ACCORDANCE WITH § 13-206 OF THIS SUBTITLE.

13 (C) IF OWNER IS NOT LOCATED.

14 IF AN OWNER OF A SEIZED HANDGUN IS NOT IDENTIFIED AND LOCATED, THE
15 HANDGUN IS FORFEITED TO THE STATE WITHOUT FURTHER PROCEEDINGS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 36C(c)(4), (5), and (6).

18 In subsection (b) of this section, the reference to a "complaint" is
19 substituted for the former reference to a "petition" to conform to the
20 terminology used in the Maryland Rules.

21 In subsection (c) of this section, the former phrase "pursuant to inquiry or
22 investigation conducted under paragraph (1) of this subsection" is deleted
23 as implicit in light of § 13-201 of this subtitle.

24 Also in subsection (c) of this section, the former reference to a "reputed"
25 owner is deleted as unnecessary.

26 Defined term: "Person" § 1-101

27 13-206. DISPOSITION OF FORFEITED PROPERTY.

28 (A) OPTIONS FOR LAW ENFORCEMENT UNIT.

29 WHENEVER PROPERTY IS FORFEITED UNDER THIS SUBTITLE, THE LAW
30 ENFORCEMENT UNIT THAT SOUGHT FORFEITURE OF THE PROPERTY MAY ONLY:

31 (1) ORDER THE PROPERTY RETAINED FOR THE OFFICIAL USE OF THE
32 LAW ENFORCEMENT UNIT;

33 (2) DESTROY THE FORFEITED PROPERTY; OR

1 (3) SELL, EXCHANGE, OR TRANSFER THE FORFEITED PROPERTY TO
2 ANOTHER LAW ENFORCEMENT UNIT FOR OFFICIAL USE BY THAT UNIT.

3 (B) NOTICE TO STATE POLICE.

4 WITHIN 30 DAYS AFTER DISPOSING OF FORFEITED PROPERTY, A LAW
5 ENFORCEMENT UNIT SHALL SEND TO THE SECRETARY OF THE STATE POLICE:

6 (1) A DESCRIPTION OF THE PROPERTY FORFEITED;

7 (2) THE TYPE OF DISPOSITION MADE; AND

8 (3) THE IDENTITY OF THE PERSON TO WHOM THE PROPERTY WAS
9 TRANSFERRED FOR DISPOSAL, RETENTION, OR OFFICIAL USE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 36C(d).

12 In subsection (a) of this section, the reference to "law enforcement unit" is
13 substituted for the former reference to "law enforcement agency" to
14 conform to the terminology used throughout this article. *See* General
15 Revisor's Note to article.

16 Defined term: "Person" § 1-101

17 GENERAL REVISOR'S NOTE TO ARTICLE:

18 The Department of Legislative Services is charged with revising the law in a
19 clear, concise, and organized manner, without changing the effect of the law. One
20 precept of revision has been that, once something is said, it should be said in the same
21 way every time. To that end, the Criminal Procedure Article Review Committee
22 conformed the language and organization of this article to that of previously enacted
23 revised articles to the extent possible.

24 Noted below are conventions frequently observed for material revised in this
25 article. To avoid confusion, however, these conventions are not always observed for
26 material that formerly appeared in other revised articles in the Maryland Code or
27 that are part of a national uniform law.

28 -- The word "regulations" is substituted for former references to "rules and
29 regulations" to distinguish, to the extent possible, between regulations of executive
30 units and rules of judicial or legislative units and to establish consistency in the use
31 of the words. This substitution conforms to the practice of the Division of State
32 Documents. The word "rules" is used only in connection with some entity that has the
33 authority to pass rules, for example, the Maryland Court of Appeals.

34 -- For consistency and to avoid unnecessary confusion, the singular verb "adopt"
35 is used in relation to rules or regulations, and verbs such as "prescribe" and
36 "promulgate" are deleted. The procedures to be followed in adopting regulations are
37 set forth in Title 10, Subtitle 1 of the State Government Article.

1 -- Also, for consistency, references to adopting regulations or rules to "carry out"
2 particular provisions of this article are substituted for former references to adopting
3 regulations for "the implementation of" or to "administer", "implement", "accomplish
4 the purpose of", or "accomplish the objectives of" the relevant provisions.

5 -- The word "law" is substituted for former phrases such as "law or regulation"
6 because the broad reference to a "law" includes a "regulation" adopted under the
7 authority of a law. *See, e.g., Maryland Port Administration v. Brawner Contracting*
8 *Co.*, 303 Md. 44, 60 (1985).

9 -- The term "unit" is substituted for former references such as "agency",
10 "department", "administration", "commission", and "office", except when a former
11 reference indicated a specific entity or was included as part of a defined term. The
12 term "unit" is used as the general term for an organization in the State government
13 because it is broad enough to include all such entities.

14 -- The term "correctional facility" is defined broadly in Title 1 of this article and,
15 for consistency, is used throughout the article as a substitute for former references
16 such as "reformatory", "jail", "prison", "penal institution", "institution", "lock-up", and
17 "detention center". The term "correctional facility" includes former references to more
18 specific terms such as "community correctional facility", "work-release facility", and
19 "prerelease facility". The terms "State correctional facility" and "local correctional
20 facility" are also defined in Title 1 of this article.

21 -- For consistency, the terms "confined" and "confinement" are substituted for
22 former references such as "incarcerated", "incarceration", "detained", "detention",
23 "imprisoned", and "imprisonment" when referring to an inmate who is being held in a
24 correctional facility.

25 -- For accuracy and consistency, the term "crime" is substituted for former
26 references to an "offense" when referring to a misdemeanor or felony under State or
27 federal law, unless it: (1) is not punishable by imprisonment; or (2) is widely known or
28 categorized under law as an "offense". Thus, for example, references to any of the
29 group of criminal acts categorized under Article 27 of the Code as "sexual offenses"
30 remain unchanged.

31 References to current units and positions are substituted for obsolete references
32 to entities and positions that have been abolished or have otherwise ceased to exist.

33 A reference to a person found guilty of a misdemeanor being "subject to §
34 5-106(b) of the Courts Article" is substituted for the former reference to a person
35 "subject to imprisonment in the penitentiary". Besides not conforming to the term
36 "correctional facility" that is used throughout this article, provisions that make
37 persons who are convicted of certain crimes liable for imprisonment "in the
38 penitentiary" are obsolete in light of the superseding law that commits all persons
39 convicted of crimes to "the jurisdiction of the Division of Correction", notwithstanding
40 any law requiring the imprisonment to be served at a specific State correctional
41 facility. *See* CS § 9-103(a). Two elements of penitentiary misdemeanors should be
42 noted: (1) although most misdemeanors are subject to a 1-year limitation period,

1 prosecution of those which specify a punishment of imprisonment in the penitentiary
2 is not limited; and (2) penitentiary misdemeanors are subject to the right of in banc
3 review under Md. Constitution, Art. IV, § 22. These two elements are retained by the
4 revision of § 5-106(b) of the Courts Article that is included in this Act.

5 Former Art. 27, § 618 is deleted. The former statute, with certain exceptions,
6 barred a citizen of the State committed to the custody of an "officer" for a criminal
7 matter from being transferred into the custody of another officer. Exceptions to this
8 rule included the delivery of a prisoner "to a constable or other inferior officer ... or
9 from one place to another within the said county or an adjoining county, in order to
10 his discharge or trial in due course of law, or in case of sudden fire or infection, or
11 other necessity". Finally, a prisoner could be removed if the prisoner was charged
12 "with treason, felony, or other crime alleged to be done" in another state.

13 The statute, which was first enacted in 1809, is obsolete. If read literally, the
14 statute would have barred, for example, a transfer of a prisoner from Baltimore
15 County to Frederick County, because the two counties are not adjoining and therefore
16 would not fall under an exception to the no-transfer rule. In addition, in its use of the
17 word "officer", the statute apparently contemplated a sheriff, who has statutory
18 authority to receive individuals and place them under custody until they are
19 discharged by law. However, current law authorizes others to have custody over
20 prisoners. *See, e.g.*, CS § 5-201 (giving the Division of Pretrial Detention and Services
21 of the Department of Public Safety and Correctional Services the same custodial
22 authority as sheriffs), and Art. 87, § 48 (Anne Arundel County Council may provide
23 for the transportation of prisoners by certified law enforcement officers other than the
24 Sheriff). Finally, the removal of prisoners to other states is governed by the Uniform
25 Criminal Extradition Act. *See* Title 9 of this article.

26 Title 12 of this article concerns forfeiture of property involved with controlled
27 dangerous substance violations, and Title 13 of this article concerns forfeiture of
28 property involved in gambling and gun law violations. In Maryland, forfeiture laws
29 generally are civil in rem actions. *See Baltimore v. 1995 Corvette*, 119 Md. App. 691
30 (1998), *Director of Finance of Prince George's County v. Cole*, 296 Md. 607 (1983) and
31 *Gatewood v. State*, 264 Md. 301 (1972). The placement of these titles in this article is
32 for convenience only and is not intended to change the civil nature of these forfeiture
33 laws.

34 In some instances, the staff of the Department of Legislative Services may
35 create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted
36 during the 2001 Session on some provisions of this article.

37 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
38 read as follows:

1

Article 2B - Alcoholic Beverages

2 16-509. INDICTMENT FOR UNLAWFUL SALE OF LIQUOR OR BEER.

3 A CHARGING DOCUMENT MAY CHARGE AN UNLAWFUL SALE OR DISPOSITION
4 OF AN ALCOHOLIC BEVERAGE WITHOUT STATING THE PARTICULAR KIND OF
5 ALCOHOLIC BEVERAGE. ON APPLICATION BY THE DEFENDANT BEFORE TRIAL, THE
6 STATE'S ATTORNEY SHALL GIVE TO THE DEFENDANT A STATEMENT OF THE
7 PARTICULAR KIND OF ALCOHOLIC BEVERAGE.

8 REVISOR'S NOTE: Chapter _____, Acts of 2001, which enacted the Criminal
9 Procedure Article, also enacted this section, which is new language derived
10 without substantive change from former Art. 27, § 614.

11 The reference to a "charging document" is substituted for the former
12 narrow reference to an "indictment" for clarity.

13 The reference to "alcoholic beverage" is substituted for the former
14 references to "spirituous or fermented liquors or lager beer" and
15 "intoxicating liquor" for brevity.

16 The former reference to a statement of the particular kind of alcoholic
17 beverage "excepted to be proved" is deleted as surplusage.

18

Article 27 - Crimes and Punishments

19 612.

20 IN A TRIAL FOR FORGING, UTTERING, DISPOSING OF, PUTTING OFF, PASSING,
21 ALTERING, STEALING, EMBEZZLING, OR DESTROYING ANY INSTRUMENT, OR FOR
22 OBTAINING PROPERTY BY FALSE PRETENSES, IT IS SUFFICIENT TO PROVE THAT THE
23 DEFENDANT DID THE ACT CHARGED WITH AN INTENT TO DEFRAUD WITHOUT
24 PROVING AN INTENT BY THE DEFENDANT TO DEFRAUD A PARTICULAR PERSON.

25 REVISOR'S NOTE: Chapter ____, Acts of 2001, which enacted the Criminal
26 Procedure Article, also enacted this section, which repeals and reenacts
27 with amendments the second clause of the first sentence of Art. 27, § 612.

28 The balance of Art. 27, § 612 is revised at § 4-108 of the Criminal
29 Procedure Article.

30

Article - Courts and Judicial Proceedings

31 1-609. WARRANTS; WRITS.

32 (A) WARRANTS.

33 WHEN AND IN THE MANNER AUTHORIZED BY LAW, A DISTRICT COURT JUDGE
34 MAY ISSUE:

1 (1) WARRANTS OF ARREST; AND

2 (2) WARRANTS FOR SEARCH AND SEIZURE OR FOR INTERCEPTION OF
3 COMMUNICATIONS.

4 (B) WRITS.

5 A DISTRICT COURT JUDGE MAY ISSUE:

6 (1) WRITS OF HABEAS CORPUS AD TESTIFICANDUM OR AD
7 PROSEQUENDUM; AND

8 (2) WRITS OF ERROR CORAM NOBIS.

9 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
10 Procedure Article, also enacted this section which formerly was Art. 27, §
11 594D.

12 The only changes are in style.

13 2-107. ARREST WARRANTS.

14 (A) FORM; CONTENTS.

15 IN A CIRCUIT COURT, AN ARREST WARRANT SHALL BE ISSUED ON A FORM THAT:

16 (1) IS 8 1/2 BY 11 INCHES IN SIZE;

17 (2) CONTAINS THE FOLLOWING INFORMATION, IF KNOWN, ABOUT THE
18 PERSON FOR WHOM THE WARRANT IS ISSUED:

19 (I) FULL NAME;

20 (II) LAST ADDRESS;

21 (III) RACE;

22 (IV) SEX;

23 (V) HEIGHT;

24 (VI) WEIGHT;

25 (VII) HAIR COLOR;

26 (VIII) EYE COLOR;

27 (IX) DRIVER'S LICENSE NUMBER;

28 (X) SOCIAL SECURITY NUMBER;

29 (XI) DISTINGUISHING BODY MARKS OR SCARS; AND

1 (XII) ANY OTHER PERTINENT IDENTIFYING INFORMATION; AND

2 (3) CONTAINS SPECIFIC INSTRUCTIONS TO INDICATE THE JUDGE OR
3 COURT COMMISSIONER BEFORE WHOM THE PERSON IS DIRECTED TO APPEAR ONCE
4 ARRESTED.

5 (B) CAPTION -- ARREST WARRANT.

6 AN ARREST WARRANT ISSUED UNDER THIS SECTION SHALL BE CLEARLY
7 CAPTIONED:

8 (1) "ARREST WARRANT/STATE CAPIAS";

9 (2) "ARREST WARRANT/CONTEMPT";

10 (3) "ARREST WARRANT/CONTEMPT OF COURT"; OR

11 (4) "ARREST WARRANT/BODY ATTACHMENT".

12 (C) COPIES.

13 AFTER A JUDGE ISSUES AN ARREST WARRANT, THE JUDGE SHALL:

14 (1) MAINTAIN A COPY FOR THE JUDGE'S FILE; AND

15 (2) PROVIDE A COPY FOR:

16 (I) THE CLERK OF THE CIRCUIT COURT;

17 (II) THE SHERIFF OR OTHER LAW ENFORCEMENT OFFICER WHO
18 WILL BE SERVING THE WARRANT; AND

19 (III) THE PERSON FOR WHOM THE WARRANT IS ISSUED.

20 (D) EFFECT OF FAILURE TO USE FORM.

21 FAILURE TO USE THE FORM DESCRIBED IN THIS SECTION DOES NOT HAVE ANY
22 EFFECT ON AN OTHERWISE LAWFUL ARREST.

23 REVISOR'S NOTE: Chapter _____, Acts of 2001, which enacted the Criminal
24 Procedure Article, also enacted this section which is new language derived
25 without substantive change from former Art. 27, § 594D-1.

26 In subsection (a)(2) of this section, the defined term "person" is substituted
27 for the former reference to "individual" to conform to the terminology used
28 throughout this article.

29 In subsection (a)(2)(ii) of this section, the former reference to last "known"
30 address is deleted as unnecessary in light of the reference in the
31 introductory language of subsection (a)(2) of this section to information "if
32 known" for the person for whom the warrant is issued. Similarly, in

1 subsection (a)(2)(xi) of this section, the former reference to "known"
2 distinguishing body marks or scars is deleted.

3 Defined term: "Person" § 1-101

4 3-815. Detention and shelter care prior to hearing.

5 (J) PROTECTION OF VICTIM.

6 IF A CHILD IS ALLEGED TO HAVE COMMITTED A DELINQUENT ACT THAT WOULD
7 BE STALKING UNDER ARTICLE 27, § 124 OF THE CODE OR WOULD BE A FELONY IF
8 COMMITTED BY AN ADULT, THE COURT OR A JUVENILE INTAKE OFFICER SHALL
9 CONSIDER INCLUDING, AS A CONDITION OF RELEASING THE CHILD PENDING AN
10 ADJUDICATORY OR DISPOSITION HEARING, REASONABLE PROTECTIONS FOR THE
11 SAFETY OF THE ALLEGED VICTIM.

12 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
13 Procedure Article, also enacted this subsection, which is new language
14 derived without substantive change from former Art. 27, § 616 1/2(k),
15 except as it related to adults.

16 Under the former law, the protections for the safety of the alleged victim
17 applied also to an adult defendant charged with stalking or a felony. In
18 addition, the court or a District Court commissioner was required to
19 consider, "as a condition of release reasonable protections for the safety of
20 the alleged victim". These provisions are revised at § 5-201(a) of the
21 Criminal Procedure Article. *See* Ch. _____, Acts of 2001, which also enacted
22 this revision.

23 5-106.

24 (b) Notwithstanding § 9-103(a)(3) of the Correctional Services Article or any
25 other provision of the Code, if a statute provides that a misdemeanor is punishable by
26 imprisonment in the penitentiary[,] OR THAT A PERSON IS SUBJECT TO THIS
27 SUBSECTION:

28 (1) [the] THE State may institute a prosecution for the [offense]
29 MISDEMEANOR at any time; AND

30 (2) FOR PURPOSES OF THE MARYLAND CONSTITUTION, THE PERSON:

31 (I) SHALL BE DEEMED TO HAVE COMMITTED A MISDEMEANOR
32 WHOSE PUNISHMENT IS CONFINEMENT IN THE PENITENTIARY; AND

33 (II) MAY RESERVE A POINT OR QUESTION FOR IN BANC REVIEW AS
34 PROVIDED UNDER ARTICLE IV, § 22 OF THE MARYLAND CONSTITUTION.

35 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
36 Procedure Article, also enacted this subsection, which repeals and
37 reenacts, with amendments, CJ § 5-106(b).

1 %Item (2) of this subsection is added to ensure that if a person is made
2 subject to this subsection by cross-reference: (1) the misdemeanor is not
3 subject to a limitations period; and (2) the person charged has a right to an
4 in banc review.

5 7-409. ADDITIONAL COSTS IN CRIMINAL CASES.

6 (A) DEFINITIONS.

7 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "CRIME" MEANS AN ACT COMMITTED BY A PERSON IN THE STATE
10 THAT IS:

11 (I) A CRIME UNDER ARTICLE 27 OF THE CODE;

12 (II) A CRIME UNDER THE CRIMINAL PROCEDURE ARTICLE;

13 (III) A VIOLATION OF THE TRANSPORTATION ARTICLE THAT IS
14 PUNISHABLE BY IMPRISONMENT;

15 (IV) A CRIME AT COMMON LAW; OR

16 (V) A CRIME UNDER § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B),
17 § 3-807(I), § 3-808(D), § 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(B)(8), §
18 11-703(D)(5)(III), § 11-706(B)(8), § 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), §
19 11-714(C)(6), § 11-715(G)(2), § 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE
20 CORRECTIONAL SERVICES ARTICLE.

21 (3) "OFFENSE" MEANS A VIOLATION OF THE TRANSPORTATION ARTICLE
22 THAT IS NOT PUNISHABLE BY IMPRISONMENT.

23 (B) COSTS -- CIRCUIT COURT.

24 IN ADDITION TO ANY OTHER COSTS REQUIRED BY LAW, A CIRCUIT COURT
25 SHALL IMPOSE ON A DEFENDANT CONVICTED OF A CRIME AN ADDITIONAL COST OF
26 \$45 IN THE CASE.

27 (C) SAME -- DISTRICT COURT.

28 IN ADDITION TO ANY OTHER COSTS REQUIRED BY LAW, THE DISTRICT COURT
29 SHALL IMPOSE ON A DEFENDANT CONVICTED OF A CRIME AN ADDITIONAL COST OF
30 \$35 IN THE CASE.

31 (D) SAME -- ADDITIONAL COURT COST.

32 IN ADDITION TO ANY OTHER COSTS REQUIRED BY LAW, A COURT SHALL IMPOSE
33 ON A DEFENDANT CONVICTED OF AN OFFENSE AN ADDITIONAL COST OF \$3 IN THE
34 CASE, INCLUDING CASES IN WHICH THE DEFENDANT ELECTS TO WAIVE THE RIGHT

1 TO TRIAL AND PAY THE FINE OR PENALTY DEPOSIT ESTABLISHED BY THE CHIEF
2 JUDGE OF THE DISTRICT COURT BY ADMINISTRATIVE REGULATION.

3 (E) PAYMENT; DISPOSITION OF FUNDS COLLECTED UNDER SUBSECTIONS (B)
4 AND (C).

5 (1) ALL MONEY COLLECTED UNDER THIS SECTION SHALL BE PAID TO
6 THE COMPTROLLER OF THE STATE.

7 (2) THE COMPTROLLER SHALL DEPOSIT \$22.50 FROM EACH FEE
8 COLLECTED UNDER SUBSECTION (B) OF THIS SECTION FROM A CIRCUIT COURT AND
9 \$12.50 FROM EACH FEE COLLECTED UNDER SUBSECTION (C) OF THIS SECTION FROM
10 THE DISTRICT COURT INTO THE STATE VICTIMS OF CRIME FUND ESTABLISHED
11 UNDER § 11-916 OF THE CRIMINAL PROCEDURE ARTICLE.

12 (3) THE COMPTROLLER SHALL DEPOSIT \$2.50 FROM EACH FEE
13 COLLECTED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION INTO THE VICTIM
14 AND WITNESS PROTECTION AND RELOCATION FUND ESTABLISHED UNDER § 11-905
15 OF THE CRIMINAL PROCEDURE ARTICLE.

16 (4) THE COMPTROLLER SHALL DEPOSIT ALL OTHER MONEYS
17 COLLECTED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION INTO THE CRIMINAL
18 INJURIES COMPENSATION FUND ESTABLISHED UNDER § 11-819 OF THE CRIMINAL
19 PROCEDURE ARTICLE.

20 (F) DISPOSITION OF FUNDS COLLECTED UNDER SUBSECTION (D).

21 (1) FROM THE FIRST \$500,000 IN FEES COLLECTED UNDER SUBSECTION
22 (D) OF THIS SECTION IN EACH FISCAL YEAR, THE COMPTROLLER SHALL DEPOSIT
23 ONE-HALF OF EACH FEE INTO THE STATE VICTIMS OF CRIME FUND AND ONE-HALF
24 OF EACH FEE INTO THE CRIMINAL INJURIES COMPENSATION FUND.

25 (2) FOR FEES COLLECTED UNDER SUBSECTION (D) OF THIS SECTION IN
26 EXCESS OF \$500,000 IN EACH FISCAL YEAR, THE COMPTROLLER SHALL DEPOSIT THE
27 ENTIRE FEE INTO THE CRIMINAL INJURIES COMPENSATION FUND.

28 (G) LIABILITY.

29 A POLITICAL SUBDIVISION MAY NOT BE HELD LIABLE UNDER ANY CONDITION
30 FOR THE PAYMENT OF SUMS UNDER THIS SECTION.

31 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
32 Procedure Article, also enacted this section, which formerly was Art. 27, §
33 830(a) through (e)(1) through (4), (f), and (g).

34 In subsection (a)(2)(ii) of this section, the reference to "[a] crime under the
35 Criminal Procedure Article" is added to reflect that several criminal
36 provisions formerly in Article 27 have been revised in the Criminal
37 Procedure Article.

1 %In subsection (a)(3) of this section, the former reference to "an act
2 committed by a person in the State" is deleted as implicit in the reference
3 to a "violation of the Transportation Article".

4 Former Art. 27, § 830(e)(5), which required the Comptroller to pay out
5 moneys from the State Victims of Crime Fund as approved by the Board of
6 Victim Services, is revised as CP § 11-917.

7 **Article - Estates and Trusts**

8 11-109. RIGHT TO ESTATE.

9 (A) CONVICTION OR ATTAINDER.

10 A CONVICTION OR ATTAINDER DOES NOT WORK CORRUPTION OF BLOOD OR
11 FORFEITURE OF ESTATE.

12 (B) SUICIDE.

13 THE ESTATE OF A PERSON WHO COMMITS SUICIDE SHALL DESCEND OR VEST
14 LIKE THAT OF A PERSON WHO DIES A NATURAL DEATH.

15 (C) CASUALTY.

16 A KILLING OF A PERSON BY CASUALTY DOES NOT CAUSE A FORFEITURE OF
17 ESTATE.

18 REVISOR'S NOTE: Chapter _____, Acts of 2001, which enacted the Criminal
19 Procedure Article, also enacted this section which is new language derived
20 without substantive change from the first, second, and third clauses of
21 former Art. 27, § 635. The balance of Art. 27, § 635 is revised at § 6-228 of
22 the Criminal Procedure Article.

23 **Article - Family Law**

24 Title 4. Spouses.

25 Subtitle 5. Domestic Violence.

26 Part I. [Definitions;] DEFINITIONS; GENERAL PROVISIONS.

27 4-501. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 (B) ABUSE.

31 (1) "ABUSE" MEANS ANY OF THE FOLLOWING ACTS:

1 (I) AN ACT THAT CAUSES SERIOUS BODILY HARM;

2 (II) AN ACT THAT PLACES A PERSON ELIGIBLE FOR RELIEF IN FEAR
3 OF IMMINENT SERIOUS BODILY HARM;

4 (III) ASSAULT IN ANY DEGREE;

5 (IV) RAPE OR SEXUAL OFFENSE AS DEFINED BY ARTICLE 27, §§ 462
6 THROUGH 464C OF THE CODE OR ATTEMPTED RAPE OR SEXUAL OFFENSE IN ANY
7 DEGREE; OR

8 (V) FALSE IMPRISONMENT.

9 (2) IF THE PERSON FOR WHOM RELIEF IS SOUGHT IS A CHILD, "ABUSE"
10 MAY ALSO INCLUDE ABUSE OF A CHILD, AS DEFINED IN TITLE 5, SUBTITLE 7 OF THIS
11 ARTICLE. NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO PROHIBIT
12 REASONABLE PUNISHMENT, INCLUDING REASONABLE CORPORAL PUNISHMENT, IN
13 LIGHT OF THE AGE AND CONDITION OF THE CHILD, FROM BEING PERFORMED BY A
14 PARENT OR STEPPARENT OF THE CHILD.

15 (3) IF THE PERSON FOR WHOM RELIEF IS SOUGHT IS A VULNERABLE
16 ADULT, "ABUSE" MAY ALSO INCLUDE ABUSE OF A VULNERABLE ADULT, AS DEFINED
17 IN TITLE 14, SUBTITLE 1 OF THIS ARTICLE.

18 (C) CHILD CARE PROVIDER.

19 "CHILD CARE PROVIDER" MEANS A PERSON THAT PROVIDES SUPERVISION AND
20 CARE FOR A MINOR CHILD.

21 (D) COHABITANT.

22 "COHABITANT" MEANS A PERSON WHO HAS HAD A SEXUAL RELATIONSHIP WITH
23 THE RESPONDENT AND RESIDED WITH THE RESPONDENT IN THE HOME FOR A
24 PERIOD OF AT LEAST 90 DAYS WITHIN 1 YEAR BEFORE THE FILING OF THE PETITION.

25 (E) COURT.

26 "COURT" MEANS THE DISTRICT COURT OR A CIRCUIT COURT IN THIS STATE.

27 (F) EMERGENCY FAMILY MAINTENANCE.

28 "EMERGENCY FAMILY MAINTENANCE" MEANS A MONETARY AWARD GIVEN TO
29 OR FOR A PERSON ELIGIBLE FOR RELIEF TO WHOM THE RESPONDENT HAS A DUTY
30 OF SUPPORT UNDER THIS ARTICLE BASED ON:

31 (1) THE FINANCIAL NEEDS OF THE PERSON ELIGIBLE FOR RELIEF; AND

32 (2) THE RESOURCES AVAILABLE TO THE PERSON ELIGIBLE FOR RELIEF
33 AND THE RESPONDENT.

34 (G) HOME.

1 "HOME" MEANS THE PROPERTY IN THIS STATE THAT:

2 (1) IS THE PRINCIPAL RESIDENCE OF A PERSON ELIGIBLE FOR RELIEF;
3 AND

4 (2) IS OWNED, RENTED, OR LEASED BY THE PERSON ELIGIBLE FOR
5 RELIEF OR RESPONDENT OR, IN A PETITION ALLEGING CHILD ABUSE OR ABUSE OF A
6 VULNERABLE ADULT, AN ADULT LIVING IN THE HOME AT THE TIME OF A
7 PROCEEDING UNDER THIS SUBTITLE.

8 (H) LOCAL DEPARTMENT.

9 "LOCAL DEPARTMENT" MEANS THE LOCAL DEPARTMENT OF SOCIAL SERVICES
10 THAT HAS JURISDICTION IN THE COUNTY:

11 (1) WHERE THE HOME IS LOCATED; OR

12 (2) IF DIFFERENT, WHERE THE ABUSE IS ALLEGED TO HAVE TAKEN
13 PLACE.

14 (I) PERSON ELIGIBLE FOR RELIEF.

15 "PERSON ELIGIBLE FOR RELIEF" INCLUDES:

16 (1) THE CURRENT OR FORMER SPOUSE OF THE RESPONDENT;

17 (2) A COHABITANT OF THE RESPONDENT;

18 (3) A PERSON RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR
19 ADOPTION;

20 (4) A PARENT, STEPPARENT, CHILD, OR STEPCCHILD OF THE
21 RESPONDENT OR THE PERSON ELIGIBLE FOR RELIEF WHO RESIDES OR RESIDED
22 WITH THE RESPONDENT OR PERSON ELIGIBLE FOR RELIEF FOR AT LEAST 90 DAYS
23 WITHIN 1 YEAR BEFORE THE FILING OF THE PETITION;

24 (5) A VULNERABLE ADULT; OR

25 (6) AN INDIVIDUAL WHO HAS A CHILD IN COMMON WITH THE
26 RESPONDENT.

27 (J) PETITIONER.

28 (1) "PETITIONER" MEANS AN INDIVIDUAL WHO FILES A PETITION.

29 (2) "PETITIONER" INCLUDES:

30 (I) A PERSON ELIGIBLE FOR RELIEF; OR

31 (II) THE FOLLOWING PERSONS WHO MAY SEEK RELIEF FROM
32 ABUSE ON BEHALF OF A MINOR OR VULNERABLE ADULT:

1 1. THE STATE'S ATTORNEY FOR THE COUNTY WHERE THE
2 CHILD OR VULNERABLE ADULT LIVES, OR, IF DIFFERENT, WHERE THE ABUSE IS
3 ALLEGED TO HAVE TAKEN PLACE;

4 2. THE DEPARTMENT OF SOCIAL SERVICES THAT HAS
5 JURISDICTION IN THE COUNTY WHERE THE CHILD OR VULNERABLE ADULT LIVES,
6 OR, IF DIFFERENT, WHERE THE ABUSE IS ALLEGED TO HAVE TAKEN PLACE;

7 3. A PERSON RELATED TO THE CHILD OR VULNERABLE
8 ADULT BY BLOOD, MARRIAGE, OR ADOPTION; OR

9 4. AN ADULT WHO RESIDES IN THE HOME.

10 (K) RESIDENCE.

11 "RESIDENCE" INCLUDES THE YARD, GROUNDS, OUTBUILDINGS, AND COMMON
12 AREAS SURROUNDING THE RESIDENCE.

13 (L) RESPONDENT.

14 "RESPONDENT" MEANS THE PERSON ALLEGED IN THE PETITION TO HAVE
15 COMMITTED THE ABUSE.

16 (M) VICTIM.

17 "VICTIM" INCLUDES A PERSON ELIGIBLE FOR RELIEF.

18 (N) VULNERABLE ADULT.

19 "VULNERABLE ADULT" HAS THE MEANING PROVIDED IN § 14-101(Q) OF THIS
20 ARTICLE.

21 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
22 Procedure Article, also enacted this section, which formerly was FL §
23 4-501 and Art. 27, § 798(a)(1) and (3).

24 The only changes are in style.

25 Former Art. 27, § (a)(2), which defined "abuse", is deleted as unnecessary
26 in light of subsection (b) of this section.

27 4-502. DUTIES OF LAW ENFORCEMENT OFFICERS.

28 (A) HELP TO VICTIM.

29 (1) ANY PERSON WHO ALLEGES TO HAVE BEEN A VICTIM OF ABUSE AND
30 WHO BELIEVES THERE IS A DANGER OF SERIOUS AND IMMEDIATE PERSONAL HARM
31 MAY REQUEST THE HELP OF A LOCAL LAW ENFORCEMENT UNIT.

32 (2) A LOCAL LAW ENFORCEMENT OFFICER WHO RESPONDS TO THE
33 REQUEST FOR HELP SHALL:

1 (I) PROTECT THE PERSON FROM HARM WHEN RESPONDING TO
2 THE REQUEST; AND

3 (II) ACCOMPANY THE PERSON TO THE FAMILY HOME SO THAT THE
4 PERSON MAY REMOVE THE FOLLOWING ITEMS, REGARDLESS OF WHO PAID FOR THE
5 ITEMS:

6 1. THE PERSONAL CLOTHING OF THE PERSON AND OF ANY
7 CHILD IN THE CARE OF THE PERSON; AND

8 2. THE PERSONAL EFFECTS, INCLUDING MEDICINE OR
9 MEDICAL DEVICES, OF THE PERSON AND OF ANY CHILD IN THE CARE OF THE
10 PERSON THAT THE PERSON OR CHILD NEEDS IMMEDIATELY.

11 (B) IMMUNITY.

12 A LAW ENFORCEMENT OFFICER WHO RESPONDS TO A REQUEST DESCRIBED IN
13 SUBSECTION (A) OF THIS SECTION HAS THE IMMUNITY FROM LIABILITY DESCRIBED
14 UNDER § 5-610 OF THE COURTS ARTICLE.

15 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
16 Procedure Article, also enacted this section, which is new language derived
17 without substantive change from former Art. 27, § 798(b) and (c).

18 In subsection (a) of this section, the references to a "person" are
19 substituted for the former references to the "complainant" for consistency.

20 In subsection (a)(1) of this section, the substitution of the word "unit" for
21 the former reference to "agency" is to conform to other revised articles of
22 the Code.

23 Defined term: "Victim" § 4-501

24 4-503. NOTICE OF VICTIM'S RIGHTS TO VICTIM.

25 (A) IN GENERAL.

26 A LAW ENFORCEMENT OFFICER WHO RESPONDS TO A REQUEST FOR HELP
27 UNDER § 4-502 OF THIS PART I OF THIS SUBTITLE SHALL GIVE THE VICTIM A
28 WRITTEN NOTICE THAT:

29 (1) INCLUDES THE TELEPHONE NUMBER OF A LOCAL DOMESTIC
30 VIOLENCE PROGRAM THAT RECEIVES FUNDING FROM THE DEPARTMENT OF HUMAN
31 RESOURCES; AND

32 (2) STATES THAT:

33 (I) THE VICTIM MAY REQUEST THAT A DISTRICT COURT
34 COMMISSIONER FILE A CRIMINAL CHARGING DOCUMENT AGAINST THE ALLEGED
35 ABUSER;

1 (II) IF THE COMMISSIONER DECLINES TO CHARGE THE ALLEGED
2 ABUSER, THE VICTIM MAY REQUEST THAT THE STATE'S ATTORNEY FILE A CRIMINAL
3 CHARGING DOCUMENT AGAINST THE ALLEGED ABUSER;

4 (III) THE VICTIM MAY FILE IN THE DISTRICT COURT OR A CIRCUIT
5 COURT UNDER THIS SUBTITLE, A PETITION FOR RELIEF FROM ABUSE; AND

6 (IV) THE VICTIM MAY OBTAIN A COPY OF THE INCIDENT REPORT, AS
7 PROVIDED UNDER § 4-503.1 OF THIS PART I OF THIS SUBTITLE.

8 (B) CIVIL LIABILITY NOT APPLICABLE.

9 A LAW ENFORCEMENT OFFICER MAY NOT BE HELD LIABLE IN A CIVIL ACTION
10 THAT ARISES FROM THE OFFICER'S FAILURE TO PROVIDE THE NOTICE REQUIRED
11 UNDER SUBSECTION (A) OF THIS SECTION.

12 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
13 Procedure Article, also enacted this section, which is new language derived
14 without substantive change from former Art. 27, § 799.

15 Defined terms: "Abuse" § 4-501

16 "Victim" § 4-501

17 4-503.1. REPORT OF ABUSE TO STATE POLICE AND VICTIM.

18 (A) IN GENERAL.

19 IF AN INCIDENT REPORT IS FILED WHEN A LAW ENFORCEMENT OFFICER
20 RESPONDS TO A REQUEST FOR HELP UNDER § 4-502 OF THIS PART I OF THIS
21 SUBTITLE, THE LAW ENFORCEMENT UNIT SHALL PROVIDE A COPY OF THE REPORT:

22 (1) TO THE DEPARTMENT OF STATE POLICE; AND

23 (2) ON REQUEST, TO THE VICTIM.

24 (B) SUBPOENA NOT NECESSARY.

25 THE VICTIM NEED NOT OBTAIN A SUBPOENA TO RECEIVE A COPY OF THE
26 INCIDENT REPORT.

27 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
28 Procedure Article, also enacted this section, which is new language derived
29 without substantive change from former Art. 27, § 800.

30 In subsection (a) of this section, the substitution of the word "unit" for the
31 former reference to "agency", is to conform to other revised articles of the
32 Code.

33 In subsection (b) of this section, the reference to a victim's "[not needing to]
34 obtain a subpoena to receive a copy of the incident report" is substituted for
35 the former reference to a "victim without a subpoena", for clarity.

1 %Former Art. 27, § 801, which provided that a victim of abuse has the right
2 to seek relief provided by civil protective orders and other remedies
3 provided under §§ 4-501 through 4-507 of the Family Law Article, is
4 deleted as unnecessary in light of this subtitle.

5 Former Art. 27, § 802, which required that the Department of Human
6 Resources establish and administer a domestic violence program, is
7 deleted as unnecessary in light of this subtitle.

8 The Criminal Procedure Article Review Committee notes, for consideration
9 by the General Assembly, that the name of this title, "Spouses", is too
10 narrow in light of other topics covered in this title. *See, e.g.*, Subtitle 4,
11 which is entitled "Services to Families with Children".

12 Defined term: "Victim" § 4-501

13 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article - Family Law**

16 4-503.2. DOMESTIC VIOLENCE UNIT PILOT PROGRAM FUND.

17 (A) "FUND" DEFINED.

18 IN THIS SECTION, "FUND" MEANS THE DOMESTIC VIOLENCE UNIT PILOT
19 PROGRAM FUND.

20 (B) FUND ESTABLISHED.

21 THERE IS A DOMESTIC VIOLENCE UNIT PILOT PROGRAM FUND.

22 (C) PURPOSE.

23 THE PURPOSE OF THE FUND IS TO PROVIDE GRANT MONEY TO THE SHERIFF'S
24 OFFICE OR POLICE DEPARTMENT IN ONE OR MORE COUNTIES FOR THE CREATION OF
25 A SEPARATE DOMESTIC VIOLENCE UNIT DEDICATED TO:

26 (1) THE SERVICE OF EX PARTE ORDERS AND PROTECTIVE ORDERS
27 ISSUED UNDER THIS SUBTITLE; AND

28 (2) THE DATA ENTRY AND DATA UPDATING OF THOSE ORDERS.

29 (D) NATURE AND COMPOSITION OF FUND.

30 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
31 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

32 (2) THE FUND CONSISTS OF MONEYS APPROPRIATED IN THE STATE
33 BUDGET TO THE FUND, ALL EARNINGS FROM INVESTMENT OF MONEYS IN THE

1 FUND, AND ANY OTHER MONEYS ACCEPTED FOR THE BENEFIT OF THE FUND FROM
2 ANY GOVERNMENTAL OR PRIVATE SOURCE.

3 (E) APPROPRIATIONS.

4 THE GOVERNOR MAY APPROPRIATE MONEYS TO THE FUND IN THE STATE
5 BUDGET FOR FISCAL YEAR 2002.

6 (F) SEPARATE UNIT.

7 (1) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY.

8 (2) THE STATE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

9 (3) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
10 MANNER AS OTHER STATE FUNDS.

11 (4) THE FUND IS SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE
12 AUDITS AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

13 (G) OFFICE OF CRIME CONTROL AND PREVENTION -- ADMINISTRATION OF
14 FUND.

15 (1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION
16 SHALL ADMINISTER THE FUND.

17 (2) THE COMPTROLLER SHALL PAY OUT MONEY FROM THE FUND AS
18 DIRECTED BY THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION OR AS
19 APPROVED IN THE STATE BUDGET.

20 (3) THE ADMINISTRATIVE EXPENSES UNDER THIS SECTION SHALL BE
21 PAID ONLY IN ACCORDANCE WITH THE STATE BUDGET.

22 (H) SAME -- REPORTS.

23 ON OR BEFORE OCTOBER 1, 2002, THE OFFICE OF CRIME CONTROL AND
24 PREVENTION SHALL PROVIDE A REPORT TO THE GENERAL ASSEMBLY IN
25 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE ON THE IMPACT
26 OF THE FUND ON:

27 (1) THE SERVICE OF EX PARTE ORDERS AND PROTECTIVE ORDERS
28 ISSUED UNDER THIS SUBTITLE; AND

29 (2) THE DATA ENTRY AND DATA UPDATING OF THOSE ORDERS.

30 (I) DISBURSEMENTS.

31 (1) DISBURSEMENTS FROM THE FUND SHALL SUPPLEMENT AND MAY
32 NOT BE SUBSTITUTED FOR CURRENT LOCAL EXPENDITURES FOR THE SERVICE OF
33 EX PARTE ORDERS AND PROTECTIVE ORDERS ISSUED UNDER THIS SUBTITLE AND
34 FOR THE DATA ENTRY AND DATA UPDATING OF THOSE ORDERS.

1 (2) IF THE TERMS OF A GRANT ALLOW, A RECIPIENT MAY EXPEND
2 GRANT MONEY BEYOND THE FISCAL YEAR IN WHICH THE GRANT IS RECEIVED.

3 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
4 Procedure Article, also enacted this section, which is new language derived
5 without substantive change from former Art. 27, § 804.

6 In subsection (e) of this section, the former references to a deficiency
7 appropriation in the State budget for "fiscal year 2000" and to an
8 appropriation of moneys for "fiscal year 2001" are deleted as obsolete.

9 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Article - Health - General**

12 SUBTITLE 13. UNIFORM ACT FOR THE EXTRADITION OF PERSONS OF UNSOUND
13 MIND.

14 10-1301. DEFINITIONS.

15 (A) IN GENERAL.

16 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

17 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
18 Procedure Article, also enacted this subsection, which is new language
19 added as the standard introductory language of a definition section.

20 (B) "EXECUTIVE AUTHORITY".

21 AS APPLIED TO A REQUEST TO RETURN ANY PERSON WITHIN THE PURVIEW OF
22 THIS SUBTITLE TO OR FROM THE DISTRICT OF COLUMBIA, THE WORDS "EXECUTIVE
23 AUTHORITY", "GOVERNOR", AND "CHIEF MAGISTRATE" RESPECTIVELY INCLUDE THE
24 CHIEF JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA AND OTHER
25 AUTHORITY.

26 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
27 Procedure Article, also enacted this subsection, which, formerly was the
28 third sentence of former Art. 41, § 2-302.

29 The reference to the "chief judge of the Superior Court" of the District of
30 Columbia is substituted for the obsolete reference to "a justice of the
31 supreme court" of the District of Columbia. *See* D.C. Code Ann. § 23-704
32 (1981 Ed., 1999 Supp.).

33 The only other changes are in style.

34 (C) "FLEE".

1 "FLEE" MEANS TO DEPART:

2 (1) VOLUNTARILY OR INVOLUNTARILY FROM THE JURISDICTION OF
3 THE COURT WHERE THE PROCEEDINGS HEREINAFTER MENTIONED MAY HAVE BEEN
4 INSTITUTED AND ARE STILL PENDING, WITH THE EFFECT OF AVOIDING, IMPEDING,
5 OR DELAYING THE ACTION OF THE COURT IN WHICH THE PROCEEDINGS MAY HAVE
6 BEEN INSTITUTED OR BE PENDING; OR

7 (2) FROM THE STATE WHERE ONE IS IF ONE IS UNDER DETENTION BY
8 LAW AS A PERSON OF UNSOUND MIND AND SUBJECT TO DETENTION.

9 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
10 Procedure Article, also enacted this subsection, which is new language
11 derived from the first sentence of former Art. 41, § 2-302.

12 The definition is stated in the infinitive form to allow minor verb
13 variations of the defined term without taking these variations out of the
14 scope of the definition.

15 (D) "FLIGHT".

16 "FLIGHT" MEANS THE ACT OF FLEEING.

17 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
18 Procedure Article, also enacted this subsection, which is new language
19 added as corollary to subsection (c) of this section. It is based on the first
20 sentence of former Art. 41, § 2-302.

21 (E) "STATE".

22 "STATE" INCLUDES A STATE, TERRITORY, DISTRICT, AND INSULAR POSSESSION
23 OR OTHER POSSESSION OF THE UNITED STATES.

24 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
25 Procedure Article, also enacted this subsection, which, formerly was the
26 second sentence of former Art. 41, § 2-302.

27 The former phrase "wherever used in this subtitle" is deleted in light of
28 subsection (a) of this section to the same effect.

29 The only other changes are in style.

30 10-1302. PERSONS SUBJECT TO SUBTITLE; ACTION ON DEMAND.

31 (A) SCOPE OF SECTION.

32 THIS SECTION APPLIES TO A PERSON ALLEGED TO BE OF UNSOUND MIND
33 FOUND IN THIS STATE, WHO HAS FLED FROM ANOTHER STATE, IN WHICH AT THE
34 TIME OF THE FLIGHT THE PERSON:

1 (1) WAS UNDER DETENTION BY LAW IN A HOSPITAL, ASYLUM, OR OTHER
2 INSTITUTION FOR THE INSANE AS A PERSON OF UNSOUND MIND;

3 (2) HAD BEEN THERETOFORE DETERMINED BY LEGAL PROCEEDINGS TO
4 BE OF UNSOUND MIND, THE FINDING BEING UNREVERSED AND IN FULL FORCE AND
5 EFFECT, AND THE CONTROL OF THE PERSON HAVING BEEN ACQUIRED BY A COURT
6 OF COMPETENT JURISDICTION OF THE STATE FROM WHICH THE PERSON FLED; OR

7 (3) WAS SUBJECT TO DETENTION IN THE OTHER STATE, BEING THEN
8 THE PERSON'S LEGAL DOMICILE (PERSONAL SERVICE OF PROCESS HAVING BEEN
9 MADE) BASED ON LEGAL PROCEEDINGS THERE PENDING TO HAVE THE PERSON
10 DECLARED OF UNSOUND MIND.

11 (B) ACTION ON DEMAND.

12 A PERSON SUBJECT TO THIS SECTION SHALL, ON DEMAND OF THE EXECUTIVE
13 AUTHORITY OF THE STATE FROM WHICH THE PERSON FLED, BE DELIVERED UP TO
14 BE REMOVED THERETO.

15 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
16 Procedure Article, also enacted this section, which formerly was Art. 41, §
17 2-303. It is tabulated for clarity.

18 The only changes are in style.

19 Defined terms: "Executive authority" § 10-1301

20 "Flee" § 10-1301

21 "Person" § 1-101

22 "State" § 1-101

23 10-1303. PROCEDURES.

24 (A) DUTIES OF GOVERNOR.

25 (1) THIS SUBSECTION APPLIES WHENEVER THE EXECUTIVE AUTHORITY
26 OF ANY STATE:

27 (I) DEMANDS OF THE GOVERNOR, A FUGITIVE WITHIN THE
28 PURVIEW OF § 10-1302 OF THIS SUBTITLE; AND

29 (II) PRODUCES A COPY OF THE COMMITMENT, DECREE, OR OTHER
30 JUDICIAL PROCESS AND PROCEEDINGS, CERTIFIED AS AUTHENTIC BY THE
31 GOVERNOR OR CHIEF MAGISTRATE OF THE STATE WHENCE THE PERSON SO
32 CHARGED HAS FLED, WITH AN AFFIDAVIT MADE BEFORE A PROPER OFFICER
33 SHOWING THE PERSON TO BE A FUGITIVE.

34 (2) THE GOVERNOR SHALL:

35 (I) CAUSE A PERSON SUBJECT TO THIS SUBSECTION TO BE
36 APPREHENDED AND SECURED, IF FOUND IN THIS STATE;

1 (II) CAUSE IMMEDIATE NOTICE OF THE APPREHENSION TO BE
2 GIVEN TO THE EXECUTIVE AUTHORITY MAKING A DEMAND FOR THE PERSON, OR TO
3 THE AGENT OF THE EXECUTIVE AUTHORITY APPOINTED TO RECEIVE THE FUGITIVE;
4 AND

5 (III) CAUSE THE FUGITIVE TO BE DELIVERED TO THE AGENT WHEN
6 THE AGENT APPEARS.

7 (B) FAILURE OF AGENT TO APPEAR.

8 IF AN AGENT DOES NOT APPEAR WITHIN 30 DAYS FROM THE TIME OF THE
9 APPREHENSION, THE FUGITIVE MAY BE DISCHARGED.

10 (C) DEMANDING STATE TO PAY COSTS.

11 ALL COSTS AND EXPENSES INCURRED IN THE APPREHENDING, SECURING,
12 MAINTAINING, AND TRANSMITTING THE FUGITIVE TO THE STATE MAKING THE
13 DEMAND FOR THE FUGITIVE SHALL BE PAID BY THE DEMANDING STATE.

14 (D) AUTHORITY OF AGENT.

15 ANY AGENT SO APPOINTED WHO RECEIVES THE FUGITIVE INTO CUSTODY
16 SHALL BE EMPOWERED TO TRANSMIT THE FUGITIVE TO THE STATE FROM WHICH
17 THE FUGITIVE HAS FLED.

18 (E) RECIPROCAL POWER.

19 ON APPLICATION OF ANY PERSON INTERESTED, THE GOVERNOR MAY DEMAND
20 THE RETURN TO THIS STATE OF ANY FUGITIVE WITHIN THE PURVIEW OF THIS
21 SUBTITLE.

22 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
23 Procedure Article, also enacted this section, which formerly was Art. 41, §
24 2-304. It is tabulated for clarity.

25 In subsections (a)(1)(i) and (2) and (e) of this section, the references to the
26 "Governor" are substituted for the former references to the "executive
27 authority of this State" for brevity.

28 The only other changes are in style.

29 Defined terms: "Executive authority" § 10-1301

30 "Flee" § 10-1301

31 "Person" § 1-101

32 "State" § 1-101

33 10-1304. LIMITATIONS.

34 ANY PROCEEDINGS UNDER THIS SUBTITLE SHALL BEGIN WITHIN 1 YEAR AFTER
35 THE FLIGHT REFERRED TO IN THIS SUBTITLE.

1 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
2 Procedure Article, also enacted this section, which formerly was Art. 41, §
3 2-305.

4 The only changes are in style.

5 Defined term: "Flight" § 10-1301

6 10-1305. EFFECT OF SUBTITLE.

7 THIS SUBTITLE SHALL BE INTERPRETED AND CONSTRUED TO EFFECTUATE ITS
8 GENERAL PURPOSE TO MAKE UNIFORM THE LAWS OF THOSE STATES THAT ENACT IT.

9 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
10 Procedure Article, also enacted this section, which formerly was Art. 41, §
11 2-306.

12 The only changes are in style.

13 10-1306. SHORT TITLE.

14 THIS SUBTITLE IS THE UNIFORM ACT FOR THE EXTRADITION OF PERSONS OF
15 UNSOUND MIND.

16 REVISOR'S NOTE: Chapter____, Acts of 2001, which enacted the Criminal
17 Procedure Article, also enacted this section, which formerly was Art. 41, §
18 2-301.

19 The only changes are in style.

20 Defined term: "Person" § 1-101

21

Article - Health Occupations

22 8-509. LAW ENFORCEMENT AGENCY TO NOTIFY BOARD OF COMPLAINTS.

23 (A) "LAW ENFORCEMENT AGENCY" DEFINED.

24 IN THIS SECTION, "LAW ENFORCEMENT AGENCY" INCLUDES:

25 (1) A STATE, COUNTY, OR MUNICIPAL POLICE DEPARTMENT OR AGENCY;

26 (2) A SHERIFF'S OFFICE;

27 (3) A STATE'S ATTORNEY'S OFFICE; AND

28 (4) THE OFFICE OF THE ATTORNEY GENERAL.

29 (B) IN GENERAL.

1 A LAW ENFORCEMENT AGENCY THAT RECEIVES A COMPLAINT OF DEATH OR
2 BODILY HARM ALLEGEDLY CAUSED BY A NURSE WHO HOLDS A LICENSE OR
3 CERTIFICATE UNDER THIS TITLE SHALL NOTIFY THE BOARD OF THE COMPLAINT.

4 REVISOR'S NOTE: Chapter_____, Acts of 2001, which enacted the Criminal
5 Procedure Article, also enacted this section, which is new language derived
6 without substantive change from former Art. 27, § 593C.

7 In subsection (a) of this section, the former statement that a law
8 enforcement agency "means a State, county, or municipal police
9 department, bureau, or agency" is deleted in light of subsection (a)(1) of
10 this section, which "includes" the same entities.

11 In subsection (b) of this section, the reference to a nurse who "holds a
12 license or certificate under this title" is substituted for the former
13 reference to a nurse who "is licensed or certified in accordance with Title 8
14 of the Health Occupations Article" to reflect the recodification of this
15 provision.

16 Defined terms: "Board" § 8-101

17 "County" § 1-101

18 "License" § 8-101

19 SECTION 6. AND BE IT FURTHER ENACTED, That Section 4 of this Act
20 remains effective through June 30, 2002, and, at the end of June 30, 2002, with no
21 further action required by the General Assembly, it shall be abrogated and of no
22 further force and effect.

23 SECTION 7. AND BE IT FURTHER ENACTED, That the Revisor's Notes,
24 Special Revisor's Notes, General Revisor's Notes, captions, and catchlines contained
25 in this Act are not law and may not be considered to have been enacted as a part of
26 this Act.

27 SECTION 8. AND BE IT FURTHER ENACTED, That nothing in this Act affects
28 the term of office of an appointed or elected member of any commission, office,
29 department, agency, or other unit. An individual who is a member of a unit on the
30 effective date of this Act shall remain a member for the balance of the term to which
31 appointed or elected, unless the member sooner dies, resigns, or is removed under
32 provisions of law.

33 SECTION 9. AND BE IT FURTHER ENACTED, That except as expressly
34 provided to the contrary in this Act, any transaction or employment status affected by
35 or flowing from any change of nomenclature or any statute amended, repealed, or
36 transferred by this Act and validly entered into or existing before the effective date of
37 this Act and every right, duty, or interest flowing from a statute amended, repealed,
38 or transferred by this Act remains valid after the effective date of this Act and may be
39 terminated, completed, consummated or enforced as required or allowed by any
40 statute amended, repealed, or transferred by this Act as though the repeal,
41 amendment, or transfer had not occurred. If a change in nomenclature involves a
42 change in name or designation of any State unit, the successor unit shall be

1 considered in all respects as having the powers and obligations granted the former
2 unit.

3 SECTION 10. AND BE IT FURTHER ENACTED, That the continuity of every
4 commission, office, department, agency or other unit is retained. The personnel,
5 records, files, furniture, fixtures, and other properties and all appropriations, credits,
6 assets, liabilities, and obligations of each retained unit are continued as the
7 personnel, records, files, furniture, fixtures, properties, appropriations, credits,
8 assets, liabilities, and obligations of the unit under the laws enacted by this Act.

9 SECTION 11. AND BE IT FURTHER ENACTED, That, except as expressly
10 provided to the contrary in this Act, any person licensed, registered, certified, or
11 issued a permit or certificate by any commission, office, department, agency, or other
12 unit established or continued by any statute amended, repealed, or transferred by
13 this Act is considered for all purposes to be licensed, registered, certified, or issued a
14 permit or certificate by the appropriate unit continued under this Act for the duration
15 of the term for which the license, registration, certification, or permit was issued, and
16 may renew that authorization in accordance with the appropriate renewal provisions
17 of this Act.

18 SECTION 12. AND BE IT FURTHER ENACTED, That, subject to the approval
19 of the Executive Director of the Department of Legislative Services, the publishers of
20 the Annotated Code of Maryland shall propose the correction of cross-references that
21 are rendered incorrect by this Act.

22 SECTION 13. AND BE IT FURTHER ENACTED, That this Act does not
23 rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is
24 or was in effect on the effective date of this Act concerning the practice and procedure
25 in and the administration of the appellate courts and the other courts of this State.

26 SECTION 14. AND BE IT FURTHER ENACTED, That the creation in this Act
27 of separate definitions for the terms "victim" and "victim's representative" from broad
28 definitions of "victim" in the former law is intended for stylistic purposes only and
29 does not narrow the meaning of the word "victim" as used in Article 47 of the
30 Constitution of Maryland.

31 SECTION 15. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect October 1, 2001.