

SENATE BILL 6

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7lr0550

(PRE-FILED)

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

Requested: July 1, 2006

Introduced and read first time: January 10, 2007

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Human Services**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the "Human Services Article", to revise, restate, and
5 recodify the laws of the State relating to the Department of Human Resources
6 and its component parts, including the Maryland Commission for Women, the
7 Commission on Indian Affairs, the Commission on Responsible Fatherhood, the
8 Social Services Administration, the Family Investment Administration, and the
9 Community Services Administration; revising, restating, and recodifying certain
10 provisions relating to local departments of social services, local directors, and
11 local boards; revising, restating, and recodifying certain provisions relating to
12 public assistance, including the Family Investment Program, the Public
13 Assistance to Adults Program, burial assistance, and food stamps; revising,
14 restating, and recodifying certain provisions relating to community services,
15 including the Energy Assistance Program, transitional services programs, adult
16 services, and the Citizenship Promotion Program; revising, restating, and
17 recodifying certain provisions relating to the Department of Disabilities, the
18 Maryland Commission on Disabilities, the Interagency Disabilities Board, the
19 State Disabilities Plan, the Personal Assistance Services Advisory Committee,
20 Blind Industries and Services of Maryland, disability programs and services,
21 and individuals with disabilities; revising, restating, and recodifying certain
22 provisions relating to children, youth, and families, including the Advisory
23 Council to the Children's Cabinet, local management boards, the State
24 Coordinating Council for Children, local coordinating councils, the Children's
25 Cabinet Fund, at-risk youth prevention and diversion programs, residential
26 child care programs, and the Residential Child Care Capital Grant Program;
27 revising, restating, and recodifying certain provisions relating to the
28 Department of Juvenile Services and its facilities, programs, and services, the
29 Interstate Compact on Juveniles, and the Juvenile Services Facilities Capital
30 Program; revising, restating, and recodifying certain provisions relating to the
31 Department of Aging, the Commission on Aging, the Interagency Committee on
32 Aging Services, programs and services for seniors, continuing care, and senior

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 citizen activities centers; revising, restating, and recodifying certain provisions
2 relating to the Maryland Legal Services Corporation; revising, restating, and
3 recodifying certain provisions relating to confidentiality of certain information
4 and sharing of certain information by certain agencies; repealing certain
5 obsolete provisions; defining certain terms; providing for the construction and
6 application of this Act; providing for the continuity of certain units and the
7 terms of certain officials; providing for the continuity of the status of certain
8 transactions, employees, rights, duties, titles, interests, licenses, registrations,
9 certifications, and permits; providing for the effective date of certain provisions
10 of this Act; providing for the termination of certain provisions of this Act; and
11 generally relating to the laws of the State relating to human services.

12 BY repealing

13 Article 10 – Legal Officials

14 Section 45A through 45H and 45J through 45–O, inclusive, and the subheading
15 “The Maryland Legal Services Corporation”

16 Annotated Code of Maryland

17 (2005 Replacement Volume and 2006 Supplement)

18 BY repealing

19 Article 30 – Deaf, Mute or Blind

20 In its entirety

21 Annotated Code of Maryland

22 (2003 Replacement Volume and 2006 Supplement)

23 BY repealing

24 Article 41 – Governor – Executive and Administrative Departments

25 Section 2–501 through 2–503, inclusive, and the subtitle “Subtitle 5. At–Risk
26 Youth Prevention and Diversion Programs”; 6–101 through 6–104,
27 inclusive, and 6–106, and the subtitle “Subtitle 1. Creation and
28 Organization of Department”; 6–201 through 6–204, inclusive, and the
29 subtitle “Subtitle 2. Community Services Administration”; 6–401 through
30 6–406, inclusive, and the subtitle “Subtitle 4. Energy Assistance Program
31 Act”; 6–7A–01 through 6–7A–06, inclusive, and the subtitle “Subtitle 7A.
32 Community Attendant Services and Supports Program”; 6–901 through
33 6–912, inclusive, and the subtitle “Subtitle 9. Commission on Indian
34 Affairs”; 14–901 through 14–914, inclusive, and the subtitle “Subtitle 9.
35 Assistive Technology Guaranteed Loan Fund”; 18–401 through 18–408 and
36 the subtitle “Subtitle 4. Commission on Responsible Fatherhood”; 18–601
37 through 18–604, inclusive, and the subtitle “Subtitle 6. Attendant Care
38 Program”; and 18–701 through 18–707, inclusive, and the subtitle
39 “Subtitle 7. Residential Child Care Capital Grant Program”

40 Annotated Code of Maryland

41 (2003 Replacement Volume and 2006 Supplement)

1 BY repealing

2 Article 49C – Maryland Commission for Women

3 In its entirety

4 Annotated Code of Maryland

5 (2003 Replacement Volume and 2006 Supplement)

6 BY repealing

7 Article 49D – Children, Youth, and Family Services

8 In its entirety

9 Annotated Code of Maryland

10 (2003 Replacement Volume and 2006 Supplement)

11 BY repealing

12 Article 70B – Department of Aging

13 In its entirety

14 Annotated Code of Maryland

15 (2003 Replacement Volume and 2006 Supplement)

16 BY repealing

17 Article 78A – Public Works

18 Section 55 and the subheading “Check Cashing”

19 Annotated Code of Maryland

20 (2003 Replacement Volume and 2006 Supplement)

21 BY repealing

22 Article 83C – Juvenile Services

23 In its entirety

24 Annotated Code of Maryland

25 (2003 Replacement Volume and 2006 Supplement)

26 BY repealing

27 Article 88A – Department of Human Resources

28 Section 1, 1A, 2, 3, 3A(a), (b), (c)(1), (2), and (4), (d), and (e), 4, 5, 6, 6A, 7, and 13

29 through 18, inclusive, and the subheading “In General”; 44A through 53A,

30 inclusive, 55, and 56, and the subtitle “Family Investment Program”; 62

31 and the subheading “Prohibited Acts”; 62A and the subheading “Funeral

32 Expenses”; 63 through 71, inclusive, 73 through 78, inclusive, 80, 82, and

33 83, and the subheading “State Public Assistance Programs”; 84 through 87,

34 inclusive, and the subheading “Community Home Care Services”; 88 and

35 89 and the subheading “Federal Food Coupons”; 124 through 127,

36 inclusive, and the subtitle “Homeless Women — Shelter”; 128 through

37 129A, inclusive, and the subheading “Respite Care for Developmentally

38 and Functionally Disabled Persons”; 130A through 130E, inclusive, and

1 the subtitle “Statewide Nutrition Assistance Program”; 130F through
2 130K, inclusive, and the subtitle “Maryland Emergency Food Program”;
3 131 through 137, inclusive, and the subtitle “Shelter, Nutrition, and
4 Service Program for Homeless Individuals”; 138 through 141, inclusive,
5 and 143 and the subtitle “Certified Adult Residential Environment
6 Program”; and 145 and the subtitle “Citizenship Promotion Program”

7 Annotated Code of Maryland

8 (2003 Replacement Volume and 2006 Supplement)

9 BY repealing

10 Article – Courts and Judicial Proceedings

11 Section 7–408

12 Annotated Code of Maryland

13 (2006 Replacement Volume and 2006 Supplement)

14 BY repealing

15 Article – State Government

16 Section 9–1101 through 9–1119, inclusive, and the subtitle “Subtitle 11.
17 Department of Disabilities”

18 Annotated Code of Maryland

19 (2004 Replacement Volume and 2006 Supplement)

20 BY repealing

21 The article designation “Article 88A – Department of Human Resources”

22 Annotated Code of Maryland

23 (2003 Replacement Volume and 2006 Supplement)

24 BY adding

25 New Article – Human Services

26 Section 1–101 through 11–801, inclusive, and the various titles

27 Annotated Code of Maryland

28 BY repealing and reenacting, with amendments,

29 Article 1 – Rules of Interpretation

30 Section 25

31 Annotated Code of Maryland

32 (2005 Replacement Volume and 2006 Supplement)

33 BY adding to

34 Article 1 – Rules of Interpretation

35 Section 34

36 Annotated Code of Maryland

37 (2005 Replacement Volume and 2006 Supplement)

1 BY adding to

2 Article – State Personnel and Pensions

3 Section 6–306

4 Annotated Code of Maryland

5 (2004 Replacement Volume and 2006 Supplement)

6 BY repealing

7 Chapter 9 of the Acts of the General Assembly of 2006

8 Section 4

9 BY repealing and reenacting, with amendments,

10 Chapter 9 of the Acts of the General Assembly of 2006

11 Section 5

12 BY repealing and reenacting, with amendments, and transferring to the Session
13 Laws

14 Article 88A – Department of Human Resources

15 Section 3A(c)(3) and 4A

16 Annotated Code of Maryland

17 (2003 Replacement Volume and 2006 Supplement)

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

21 Article 10 – Legal Officials

22 Section 45A through 45–O, inclusive, and the subheading “The Maryland Legal
23 Services Corporation”

24 Article 30 – Deaf, Mute or Blind

25 In its entirety

26 Article 41 – Governor – Executive and Administrative Departments

27 Section 2–501 through 2–503, inclusive, and the subtitle “Subtitle 5. At–Risk

28 Youth Prevention and Diversion Programs”; 6–101 through 6–104,

29 inclusive, and 6–106, and the subtitle “Subtitle 1. Creation and

30 Organization of Department”; 6–201 through 6–204, inclusive, and the

31 subtitle “Subtitle 2. Community Services Administration”; 6–401 through

32 6–406, inclusive, and the subtitle “Subtitle 4. Energy Assistance Program

33 Act”; 6–7A–01 through 6–7A–06, inclusive, and the subtitle “Subtitle 7A.

34 Community Attendant Services and Supports Program”; 6–901 through

35 6–912, inclusive, and the subtitle “Subtitle 9. Commission on Indian

36 Affairs”; 14–901 through 14–914, inclusive, and the subtitle “Subtitle 9.

37 Assistive Technology Guaranteed Loan Fund”; 18–401 through 18–408 and

38 the subtitle “Subtitle 4. Commission on Responsible Fatherhood”; 18–601

39 through 18–604, inclusive, and the subtitle “Subtitle 6. Attendant Care

40 Program”; and 18–701 through 18–707, inclusive, and the subtitle

41 “Subtitle 7. Residential Child Care Capital Grant Program”

1 Article 49C – Maryland Commission for Women

2 In its entirety

3 Article 49D – Children, Youth, and Family Services

4 In its entirety

5 Article 70B – Department of Aging

6 In its entirety

7 Article 78A – Public Works

8 Section 55 and the subheading “Check Cashing”

9 Article 83C – Juvenile Services

10 In its entirety

11 Article 88A – Department of Human Resources

12 Section 1, 1A, 2, 3, 3A(a), (b), (c)(1), (2), and (4), (d), and (e), 4, 5, 6, 6A, 7, and 13
13 through 18, inclusive, and the subheading “In General”; 44A through 53A,
14 inclusive, 55, and 56, and the subtitle “Family Investment Program”; 62
15 and the subheading “Prohibited Acts”; 62A and the subheading “Funeral
16 Expenses”; 63 through 71, inclusive, 73 through 78, inclusive, 80, 82, and
17 83, and the subheading “State Public Assistance Programs”; 84 through 87,
18 inclusive, and the subheading “Community Home Care Services”; 88 and
19 89 and the subheading “Federal Food Coupons”; 124 through 127,
20 inclusive, and the subtitle “Homeless Women — Shelter”; 128 through
21 129A, inclusive, and the subheading “Respite Care for Developmentally
22 and Functionally Disabled Persons”; 130A through 130E, inclusive, and
23 the subtitle “Statewide Nutrition Assistance Program”; 130F through
24 130K, inclusive, and the subtitle “Maryland Emergency Food Program”;
25 131 through 137, inclusive, and the subtitle “Shelter, Nutrition, and
26 Service Program for Homeless Individuals”; 138 through 141, inclusive,
27 and 143 and the subtitle “Certified Adult Residential Environment
28 Program”; and 145 and the subtitle “Citizenship Promotion Program”

29 Article – Courts and Judicial Proceedings

30 Section 7–408

31 Article – State Government

32 Section 9–1101 through 9–1119, inclusive, and the subtitle “Subtitle 11.
33 Department of Disabilities”

34 The article designation “Article 88A – Department of Human Resources”

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

ARTICLE - HUMAN SERVICES

TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

SUBTITLE 1. DEFINITIONS.

1-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) COUNTY.

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

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

Article 1, § 14(a) provides that "county" includes Baltimore City "unless such construction would be unreasonable". Because the word "unreasonable" in that section has been interpreted in various ways, the Human Services Article Review Committee decided that an explicit definition of "county" should be included in this article.

(C) PERSON.

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

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

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

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

(D) STATE.

"STATE" MEANS:

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

3 (2) THE DISTRICT OF COLUMBIA.

4 REVISOR'S NOTE: This subsection is new language added to provide an
5 express definition of the term "state". This definition conforms to the
6 definition of "state" in other revised articles of the Code. *See, e.g.,* IN §
7 1-101(kk), PUC § 1-101(dd), SP § 1-101(o), CS § 1-101(n), and CR §
8 1-101(i).

9 SUBTITLE 2. GENERAL PROVISIONS.

10 PART I. CONFIDENTIALITY OF INFORMATION.

11 1-201. CONFIDENTIALITY OF INFORMATION — IN GENERAL.

12 (A) PROHIBITED ACT.

13 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY
14 NOT DISCLOSE ANY INFORMATION CONCERNING AN APPLICANT FOR OR RECIPIENT
15 OF SOCIAL SERVICES, CHILD WELFARE SERVICES, CASH ASSISTANCE, FOOD STAMPS,
16 OR MEDICAL ASSISTANCE THAT IS DIRECTLY OR INDIRECTLY DERIVED FROM THE
17 RECORDS, INVESTIGATIONS, OR COMMUNICATIONS OF THE STATE, A COUNTY, OR A
18 MUNICIPAL CORPORATION OR A UNIT OF THE STATE, A COUNTY, OR A MUNICIPAL
19 CORPORATION OR THAT IS ACQUIRED IN THE COURSE OF THE PERFORMANCE OF
20 OFFICIAL DUTIES.

21 (B) EXCEPTIONS.

22 THIS SECTION DOES NOT PROHIBIT THE DISCLOSURE OF INFORMATION:

23 (1) IN ACCORDANCE WITH A COURT ORDER; OR

24 (2) TO AN OFFICER OR EMPLOYEE OF ANY STATE OR LOCAL
25 GOVERNMENT, THE UNITED STATES, OR A FIDUCIARY INSTITUTION, IF THE OFFICER
26 OR EMPLOYEE IS ENTITLED TO THE INFORMATION IN AN OFFICIAL CAPACITY AND
27 THE DISCLOSURE IS NECESSARY TO ADMINISTER PUBLIC ASSISTANCE, MEDICAL
28 ASSISTANCE, SOCIAL SERVICES, OR CHILD WELFARE SERVICES PROGRAMS.

29 (C) PENALTY.

30 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
31 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE
32 NOT EXCEEDING \$500 OR BOTH.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 88A, § 6(a) and (f).

35 Subsection (a) of this section is revised in standard language used to state

1 a prohibition.

2 In subsection (a) of this section, the prohibition that a person may not
3 “disclose” certain information is substituted for the former prohibition that
4 a person may not “divulge or make known” certain information for clarity
5 and brevity.

6 Also in subsection (a) of this section, the reference to a “municipal
7 corporation” is substituted for the former reference to a “city” to conform to
8 Md. Constitution, Art. XI–E.

9 Also in subsection (a) of this section, the reference to a “unit of the State, a
10 county, or a municipal corporation” is substituted for the former reference
11 to “subdivisions or agencies thereof” for clarity and consistency. *See*
12 *General Revisor’s Note to article.*

13 Also in subsection (a) of this section, the former phrase “in any manner” is
14 deleted as surplusage.

15 Also in subsection (a) of this section, the former reference to “papers [and]
16 files” is deleted as included in the reference to “records”.

17 Also in subsection (a) of this section, the former reference to “persons” is
18 deleted in light of the reference to a “person” and Art. 1, § 8, which provides
19 that the singular generally includes the plural.

20 In subsection (b)(2) of this section, the former reference to an “authorized”
21 officer or employee is deleted as included in the reference to the officer or
22 employee being “entitled to the information in an official capacity”.

23 Also in subsection (b)(2) of this section, the reference to an employee of
24 “any state or local government” is substituted for the former reference to
25 an employee of “the State [or], another state or local government” for
26 brevity.

27 Also in subsection (b)(2) of this section, the former reference to
28 “discharg[ing] responsibilities” is deleted as surplusage.

29 Also in subsection (b)(2) of this section, the reference to “child welfare
30 services” programs is added for clarity. This addition is called to the
31 attention of the General Assembly.

32 Subsection (c) of this section is revised in standard language used to state
33 a penalty.

34 In subsection (c) of this section, the reference to a person being subject to a
35 certain penalty “on conviction” is added to state expressly that which only
36 was implied in the former law, and for consistency with other penalty
37 provisions in this and other revised articles of the Code.

1 Also in subsection (c) of this section, the former reference to the penalty
2 being “in the discretion of the court” is deleted as implicit in setting a
3 maximum penalty.

4 Defined terms: “County” § 1–101

5 “Person” § 1–101

6 “State” § 1–101

7 1–202. CONFIDENTIALITY OF INFORMATION — CHILD ABUSE AND NEGLECT
8 REPORTS AND RECORDS.

9 (A) PROHIBITED ACT.

10 EXCEPT AS OTHERWISE PROVIDED IN TITLE 5, SUBTITLES 7 AND 12 OF THE
11 FAMILY LAW ARTICLE, § 1–203 OF THIS SUBTITLE, AND THIS SECTION, A PERSON MAY
12 NOT DISCLOSE A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT.

13 (B) DISCLOSURE REQUIRED.

14 A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT SHALL BE
15 DISCLOSED:

16 (1) UNDER A COURT ORDER;

17 (2) UNDER AN ORDER OF AN ADMINISTRATIVE LAW JUDGE, IF:

18 (I) THE REQUEST FOR DISCLOSURE CONCERNS A CASE PENDING
19 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

20 (II) PROVISIONS ARE MADE TO COMPLY WITH OTHER STATE OR
21 FEDERAL CONFIDENTIALITY LAWS AND TO PROTECT THE IDENTITY OF THE
22 REPORTER OR OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE
23 ENDANGERED BY THE DISCLOSURE; OR

24 (3) ON A WRITTEN REQUEST, TO THE BALTIMORE CITY HEALTH
25 DEPARTMENT:

26 (I) IF THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING
27 TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD
28 ABUSE OR NEGLECT, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE
29 TREATMENT OR CARE; OR

30 (II) IF THE RECORD OR REPORT CONCERNS A VICTIM OF A CRIME
31 OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, WHO IS A
32 CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING
33 APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST
34 CHILDREN IN BALTIMORE CITY.

35 (C) DISCLOSURE AUTHORIZED.

36 A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT:

1 (1) MAY BE DISCLOSED ON REQUEST TO:

2 (I) PERSONNEL OF THE SOCIAL SERVICES ADMINISTRATION OR A
3 LOCAL DEPARTMENT OF SOCIAL SERVICES, LAW ENFORCEMENT PERSONNEL, AND
4 MEMBERS OF MULTIDISCIPLINARY CASE CONSULTATION TEAMS, INCLUDING AN
5 ADDICTION SPECIALIST AS DEFINED IN TITLE 5, SUBTITLE 12 OF THE FAMILY LAW
6 ARTICLE OR § 5-314 OF THIS ARTICLE, WHO ARE INVESTIGATING A REPORT OF
7 KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT OR PROVIDING SERVICES TO OR
8 ASSESSING A CHILD OR FAMILY THAT IS THE SUBJECT OF THE REPORT;

9 (II) LOCAL OR STATE OFFICIALS RESPONSIBLE FOR THE
10 ADMINISTRATION OF CHILD PROTECTIVE SERVICES, OR CHILD CARE, FOSTER CARE,
11 OR ADOPTION LICENSING, APPROVAL, OR REGULATIONS, AS NECESSARY TO CARRY
12 OUT THEIR OFFICIAL FUNCTIONS;

13 (III) THE STATE COUNCIL ON CHILD ABUSE AND NEGLECT OR ITS
14 DESIGNEE, THE STATE CITIZENS REVIEW BOARD FOR CHILDREN OR ITS DESIGNEE,
15 OR A CHILD FATALITY REVIEW TEAM, AS NECESSARY TO CARRY OUT THEIR OFFICIAL
16 FUNCTIONS;

17 (IV) A PERSON WHO IS THE ALLEGED ABUSER OR NEGLECTOR, IF
18 THAT PERSON IS RESPONSIBLE FOR THE CHILD'S WELFARE AND PROVISIONS ARE
19 MADE FOR THE PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER
20 PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE
21 INFORMATION;

22 (V) A LICENSED PRACTITIONER WHO, OR AN AGENCY,
23 INSTITUTION, OR PROGRAM THAT, IS PROVIDING TREATMENT OR CARE TO A CHILD
24 WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT FOR A PURPOSE
25 RELEVANT TO THE TREATMENT OR CARE;

26 (VI) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR
27 TEMPORARY CARE AND CUSTODY OF THE CHILD, IF PROVISIONS ARE MADE FOR THE
28 PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER PERSON WHOSE
29 LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE INFORMATION;

30 (VII) THE APPROPRIATE PUBLIC SCHOOL SUPERINTENDENT TO
31 CARRY OUT APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTIONS FOLLOWING A
32 REPORT OF SUSPECTED CHILD ABUSE INVOLVING A STUDENT COMMITTED BY:

- 33 1. A PUBLIC SCHOOL EMPLOYEE IN THAT SCHOOL SYSTEM;
- 34 2. AN INDEPENDENT CONTRACTOR WHO SUPERVISES OR
35 WORKS DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM; OR
- 36 3. AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR,
37 INCLUDING A BUS DRIVER OR BUS ASSISTANT, WHO SUPERVISES OR WORKS
38 DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM;

1 (VIII) THE DIRECTOR OF A LICENSED CHILD CARE FACILITY OR
2 LICENSED CHILD PLACEMENT AGENCY TO CARRY OUT APPROPRIATE PERSONNEL
3 ACTIONS FOLLOWING A REPORT OF SUSPECTED CHILD ABUSE OR NEGLECT
4 ALLEGED TO HAVE BEEN COMMITTED BY AN EMPLOYEE OF THE FACILITY OR
5 AGENCY AND INVOLVING A CHILD WHO IS CURRENTLY OR WAS PREVIOUSLY UNDER
6 THE CARE OF THAT FACILITY OR AGENCY;

7 (IX) THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF
8 THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE
9 GOVERNMENT ARTICLE; OR

10 (X) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A LICENSED
11 PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER TO MAKE DISCHARGE
12 DECISIONS CONCERNING A CHILD, WHEN THE PRACTITIONER SUSPECTS THAT THE
13 CHILD MAY BE IN DANGER AFTER DISCHARGE BASED ON THE PRACTITIONER'S
14 OBSERVATION OF THE BEHAVIOR OF THE CHILD'S PARENTS OR IMMEDIATE FAMILY
15 MEMBERS; AND

16 (2) MAY BE DISCLOSED BY THE STATE DEPARTMENT OF EDUCATION TO
17 THE OPERATOR OF A CHILD CARE CENTER THAT IS REQUIRED TO BE LICENSED OR
18 TO HOLD A LETTER OF COMPLIANCE UNDER TITLE 5, SUBTITLE 5, PART VII OF THE
19 FAMILY LAW ARTICLE OR TO A FAMILY DAY CARE PROVIDER WHO IS REQUIRED TO BE
20 REGISTERED UNDER TITLE 5, SUBTITLE 5, PART V OF THE FAMILY LAW ARTICLE, TO
21 DETERMINE THE SUITABILITY OF AN INDIVIDUAL FOR EMPLOYMENT IN THE CHILD
22 CARE CENTER OR FAMILY DAY CARE HOME.

23 (D) LIMITATION ON DISCLOSURE TO HOSPITAL OR BIRTHING CENTER.

24 ONLY THE FOLLOWING INFORMATION CONCERNING CHILD ABUSE AND
25 NEGLECT MAY BE DISCLOSED TO A PRACTITIONER OF A HOSPITAL OR BIRTHING
26 CENTER UNDER SUBSECTION (C)(1)(X) OF THIS SECTION:

27 (1) WHETHER THERE IS A PRIOR FINDING OF INDICATED CHILD ABUSE
28 OR NEGLECT BY EITHER PARENT; AND

29 (2) WHETHER THERE IS AN OPEN INVESTIGATION OF CHILD ABUSE OR
30 NEGLECT PENDING AGAINST EITHER PARENT.

31 (E) USE OF INFORMATION BY BALTIMORE CITY HEALTH DEPARTMENT;
32 LIABILITY FOR UNAUTHORIZED RELEASE.

33 (1) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE FOR
34 THE UNAUTHORIZED RELEASE OF A REPORT OR RECORD UNDER SUBSECTION (B) OF
35 THIS SECTION.

36 (2) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH
37 DEPARTMENT RECEIVES A REPORT OR RECORD UNDER SUBSECTION (B) OF THIS
38 SECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO
39 THE DEPARTMENT OF HUMAN RESOURCES DETAILING THE PURPOSES FOR WHICH
40 THE RECORD WAS USED.

1 (F) PENALTY.

2 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
3 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE
4 NOT EXCEEDING \$500 OR BOTH.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88A, § 6(b), (c), (f), and (g).

7 Subsection (a) of this section is revised in standard language used to state
8 a prohibition.

9 In subsection (a) of this section, the former clause “all records and reports
10 concerning child abuse or neglect are confidential” is deleted as implicit in
11 the prohibition that “a person may not disclose a record or report
12 concerning child abuse or neglect”.

13 In subsection (c)(1)(i) of this section, the reference to “the Social Services
14 Administration or a local department of social services” is substituted for
15 the former reference to “local or State departments of social services” for
16 consistency with terminology used elsewhere in this article.

17 In subsection (c)(1)(iv) of this section, the reference to the “alleged abuser
18 or neglecter” is substituted for the former reference to “the alleged child
19 abuser or the person who is suspected of child neglect” for brevity and
20 consistency with § 1–203 of this subtitle.

21 Subsection (f) of this section is revised in standard language used to state
22 a penalty.

23 In subsection (f) of this section, the reference to a person being subject to a
24 certain penalty “on conviction” is added to state expressly that which only
25 was implied in the former law, and for consistency with other penalty
26 provisions in this and other revised articles of the Code.

27 Also in subsection (f) of this section, the former reference to the penalty
28 being “in the discretion of the court” is deleted as implicit in setting a
29 maximum penalty.

30 Defined term: “Person” § 1–101

31 1–203. DISCLOSURE OF INFORMATION — CHILD ABUSE OR NEGLECT RESULTING IN
32 DEATH OR SERIOUS PHYSICAL INJURY.

33 (A) DEFINITIONS.

34 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
35 INDICATED.

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1 (2) "LOCAL DEPARTMENT" MEANS THE DEPARTMENT OF SOCIAL
2 SERVICES THAT HAS JURISDICTION IN THE COUNTY:

3 (I) WHERE THE ALLEGEDLY ABUSED OR NEGLECTED CHILD LIVES;
4 OR

5 (II) IF DIFFERENT, WHERE THE ABUSE OR NEGLECT IS ALLEGED TO
6 HAVE TAKEN PLACE.

7 (3) "LOCAL DIRECTOR" MEANS THE DIRECTOR OF THE LOCAL
8 DEPARTMENT.

9 (4) "MEDICAL REPORT" MEANS A PSYCHOLOGICAL, PSYCHIATRIC,
10 THERAPEUTIC, CLINICAL, OR MEDICAL REPORT OR EVALUATION RELATED TO THE
11 ALLEGEDLY ABUSED OR NEGLECTED CHILD, A SIBLING OF THE CHILD, OR ANOTHER
12 CHILD IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR
13 NEGLECTOR.

14 (5) "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

15 (B) CIRCUMSTANCES WARRANTING DISCLOSURE.

16 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE LOCAL
17 DIRECTOR OR THE SECRETARY MAY DISCLOSE INFORMATION CONCERNING CHILD
18 ABUSE OR NEGLECT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IF:

19 (I) THE LOCAL DIRECTOR OR THE SECRETARY DETERMINES THAT
20 THE DISCLOSURE IS NOT CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE
21 CHILD'S SIBLINGS, OR OTHER CHILDREN IN THE HOUSEHOLD, FAMILY, OR CARE OF
22 THE ALLEGED ABUSER OR NEGLECTOR;

23 (II) THE ALLEGED ABUSER OR NEGLECTOR HAS BEEN CHARGED
24 WITH A CRIME RELATED TO A REPORT OF CHILD ABUSE OR NEGLECT; AND

25 (III) THE CHILD NAMED IN A REPORT OF ABUSE OR NEGLECT HAS
26 DIED OR SUFFERED A SERIOUS PHYSICAL INJURY, AS DEFINED IN § 3-201 OF THE
27 CRIMINAL LAW ARTICLE.

28 (2) IN DETERMINING WHETHER DISCLOSURE IS CONTRARY TO THE
29 BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR OTHER CHILDREN IN
30 THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR NEGLECTOR
31 UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE LOCAL DIRECTOR OR THE
32 SECRETARY SHALL CONSIDER THE EFFECT THAT DISCLOSURE MAY HAVE ON THE
33 PROVISION OF SERVICES TO THE CHILD, THE CHILD'S HOUSEHOLD OR FAMILY
34 MEMBERS, AND ANY CHILDREN IN THE CARE OF THE ALLEGED ABUSER OR
35 NEGLECTOR.

36 (C) CONSULTATION WITH CERTAIN PERSONS.

37 BEFORE DISCLOSING THE INFORMATION:

1 (1) THE LOCAL DIRECTOR OR THE SECRETARY SHALL CONSULT THE
2 PRIMARY LAW ENFORCEMENT AGENCY AND THE STATE'S ATTORNEY'S OFFICE
3 CONCERNING WHETHER DISCLOSURE OF THE INFORMATION WOULD JEOPARDIZE
4 OR PREJUDICE ANY RELATED INVESTIGATION OR PROSECUTION; AND

5 (2) THE LOCAL DIRECTOR AND THE SECRETARY SHALL CONSULT EACH
6 OTHER.

7 (D) INFORMATION AUTHORIZED TO BE DISCLOSED.

8 THE LOCAL DIRECTOR OR THE SECRETARY MAY DISCLOSE:

9 (1) THE NAME OF THE ALLEGEDLY ABUSED OR NEGLECTED CHILD;

10 (2) THE DATE OF THE REPORT OF THE ALLEGED CHILD ABUSE OR
11 NEGLECT AND OF ANY PRIOR OR SUBSEQUENT REPORTS;

12 (3) THE FINDINGS MADE BY THE LOCAL DEPARTMENT AT THE
13 CONCLUSION OF ITS INVESTIGATION AND THE DISPOSITION MADE BY THE LOCAL
14 DEPARTMENT BASED ON ITS FINDINGS;

15 (4) ANY SERVICES PROVIDED TO THE ALLEGED ABUSER OR NEGLECTOR,
16 THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE HOUSEHOLD OR FAMILY
17 MEMBERS;

18 (5) THE NUMBER OF REFERRALS FOR PROFESSIONAL SERVICES FOR
19 THE ALLEGED ABUSER OR NEGLECTOR, THE ALLEGEDLY ABUSED OR NEGLECTED
20 CHILD, AND THE HOUSEHOLD OR FAMILY MEMBERS;

21 (6) ANY PRIOR ADJUDICATION AS A CHILD IN NEED OF ASSISTANCE OF
22 THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, A SIBLING OF THE CHILD, OR
23 ANOTHER CHILD IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER
24 OR NEGLECTOR; AND

25 (7) ANY INFORMATION CONCERNING THE CIRCUMSTANCES OF THE
26 ALLEGED CHILD ABUSE OR NEGLECT AND THE INVESTIGATION OF THE
27 CIRCUMSTANCES, IF THE LOCAL DIRECTOR OR THE SECRETARY DETERMINES THAT
28 THE DISCLOSURE IS CONSISTENT WITH THE PUBLIC INTEREST.

29 (E) INFORMATION PROHIBITED FROM DISCLOSURE.

30 (1) THE LOCAL DIRECTOR OR THE SECRETARY MAY NOT:

31 (I) DISCLOSE THE IDENTITY OF OR PROVIDE AN IDENTIFYING
32 DESCRIPTION OF THE PERSON WHO MADE THE REPORT;

33 (II) DISCLOSE THE NAME OF A SIBLING OF THE ALLEGEDLY
34 ABUSED OR NEGLECTED CHILD, A PARENT OF THE ALLEGEDLY ABUSED OR
35 NEGLECTED CHILD, AN INDIVIDUAL LEGALLY RESPONSIBLE FOR THE CHILD, OR

1 ANOTHER HOUSEHOLD OR FAMILY MEMBER, OTHER THAN THE ALLEGED ABUSER OR
2 NEGLECTOR;

3 (III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
4 DISCLOSE A MEDICAL REPORT; OR

5 (IV) EXCEPT FOR THE INFORMATION DESCRIBED IN SUBSECTION
6 (D) OF THIS SECTION, DISCLOSE THE FILE RELATING TO THE ALLEGEDLY ABUSED OR
7 NEGLECTED CHILD.

8 (2) NOTWITHSTANDING TITLE 4, SUBTITLE 3 OF THE HEALTH –
9 GENERAL ARTICLE, THE LOCAL DIRECTOR OR THE SECRETARY MAY DISCLOSE A
10 MEDICAL REPORT RELATED TO THE CAUSE OF THE CHILD'S INJURY OR DEATH AS A
11 RESULT OF THE ALLEGED ABUSE OR NEGLECT.

12 (F) FORM FOR DISCLOSURE.

13 IN CONSULTATION WITH THE LOCAL DIRECTORS, THE SECRETARY SHALL
14 DEVELOP A FORM FOR DISCLOSURE OF THE INFORMATION DESCRIBED IN
15 SUBSECTION (D) OF THIS SECTION.

16 (G) CONSTRUCTION OF SECTION.

17 THIS SECTION DOES NOT GRANT A RIGHT TO ANY PERSON TO RECEIVE THE
18 INFORMATION DESCRIBED IN SUBSECTION (D) OF THIS SECTION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 88A, § 6A.

21 In subsection (a)(3) of this section, the reference to a "local director" is
22 substituted for the former reference to a "director" for consistency with
23 terminology used elsewhere in this article.

24 In subsections (a)(4) and (d)(6) of this section, the references to a "sibling"
25 of the child and "another child" in the household of the abuser are
26 substituted for the former references to "siblings" of the child and "other
27 children" in the household of the abuser in light of Art. 1, § 8, which
28 provides that the singular generally includes the plural.

29 In subsection (b)(2) of this section, the conjunctive "and" is substituted for
30 the former disjunctive "or" to clarify that the local director or the Secretary
31 must consider the effects that disclosure may have on the provision of
32 services to all of the individuals specified, rather than to only one of them.

33 In subsection (c)(2) of this section, the reference to the local director and
34 the Secretary consulting "each other" is substituted for the former
35 references to the local director consulting "the Secretary if the director
36 discloses" and the Secretary consulting "the director if the Secretary
37 discloses" for clarity and brevity.

1 In subsection (e)(1)(i) of this section, the phrase “disclose the identify of” is
2 substituted for the former phrase “[i]dentify the name of” for clarity and
3 consistency within this subsection.

4 In subsection (e)(1)(ii) of this section, the references to a “sibling” of the
5 child and “another household or family member” are substituted for the
6 former references to the child’s “siblings” and “other household or family
7 members” in light of Art. 1, § 8, which provides that the singular generally
8 includes the plural.

9 In subsection (e)(1)(iii) of this section, the phrase “[e]xcept as provided in
10 paragraph (2) of this subsection,” is substituted for the former phrase
11 “except as related to the cause of the child’s injury or death as a result of
12 the abuse or neglect” for brevity and consistency with subsection (e)(2) of
13 this section.

14 The Human Services Article Review Committee notes, for consideration by
15 the General Assembly, that the reference to “household or family members”
16 in subsection (d)(4) and (5) of this section is unclear. The General Assembly
17 may wish to clarify to whom these provisions apply.

18 Defined term: “County” § 1–101

19 1–204. CONSTRUCTION OF PART.

20 THIS PART DOES NOT PROHIBIT:

21 (1) THE PUBLICATION, FOR ADMINISTRATIVE OR RESEARCH PURPOSES,
22 OF STATISTICS OR OTHER DATA THAT IS CLASSIFIED IN A MANNER THAT PREVENTS
23 THE IDENTIFICATION OF PARTICULAR PERSONS OR CASES;

24 (2) THE DEPARTMENT OF HUMAN RESOURCES FROM OBTAINING AN
25 INDIVIDUAL’S FINANCIAL RECORDS FROM A FIDUCIARY INSTITUTION IN THE
26 COURSE OF VERIFYING THE INDIVIDUAL’S ELIGIBILITY FOR PUBLIC ASSISTANCE; OR

27 (3) DISCLOSURES AUTHORIZED UNDER § 1–303 OF THE FINANCIAL
28 INSTITUTIONS ARTICLE.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 88A, § 6(d).

31 In the introductory language of this section, the reference to this “part” is
32 substituted for the former reference to this “section” to reflect the
33 reorganization of material derived from former Art. 88A, § 6, although this
34 part is derived, in part, from material outside former Art. 88A, § 6. No
35 substantive change is intended.

1 1-205. REGULATIONS.

2 THE DEPARTMENT OF HUMAN RESOURCES SHALL ADOPT REGULATIONS
3 GOVERNING ACCESS TO AND USE OF CONFIDENTIAL INFORMATION THAT THE
4 DEPARTMENT OR A LOCAL DEPARTMENT OF SOCIAL SERVICES POSSESSES.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88A, § 6(e).

7 In this section, the reference to the Department "adopt[ing]" regulations is
8 substituted for the former reference to the Department "issu[ing]"
9 regulations. *See* General Revisor's Note to article.

10 1-206. RESERVED.

11 1-207. RESERVED.

12 PART II. INFORMATION SHARING BY AGENCIES SERVING CHILDREN, YOUTH, AND
13 FAMILIES.

14 1-208. DEFINITIONS.

15 (A) IN GENERAL.

16 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

19 (B) PERSON IN INTEREST.

20 "PERSON IN INTEREST" MEANS:

21 (1) A MINOR, IF THE INFORMATION REQUESTED CONCERNS TREATMENT
22 TO WHICH THE MINOR HAS THE RIGHT TO CONSENT AND HAS CONSENTED UNDER
23 TITLE 20, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE;

24 (2) A PARENT, IF THE PARENTAL RIGHTS OF THE PARENT HAVE NOT
25 BEEN TERMINATED;

26 (3) A GUARDIAN, CUSTODIAN, OR REPRESENTATIVE OF A MINOR,
27 DESIGNATED BY A COURT, IF AUTHORIZED TO ACT ON BEHALF OF OR INSTEAD OF A
28 PARENT; OR

29 (4) AN INDIVIDUAL AUTHORIZED TO ACT AS A SURROGATE FOR A
30 PARENT OR GUARDIAN IN ACCORDANCE WITH THE FEDERAL INDIVIDUALS WITH
31 DISABILITIES EDUCATION ACT.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 49D, § 3-101.

1 (C) PUBLIC AGENCY.

2 "PUBLIC AGENCY" MEANS A STATE OR LOCAL GOVERNMENT UNIT OR A
3 QUASI-GOVERNMENTAL ENTITY.

4 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(k).

5 No changes are made.

6 1-209. LEGISLATIVE INTENT.

7 (A) IN GENERAL.

8 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT PUBLIC AGENCIES THAT
9 SERVE CHILDREN, YOUTH, AND FAMILIES IN THE STATE EXCHANGE INFORMATION
10 WITH THE WRITTEN CONSENT OF THE PERSON IN INTEREST OR ANOTHER
11 INDIVIDUAL AUTHORIZED TO GIVE CONSENT UNDER THIS SUBTITLE.

12 (B) PURPOSE.

13 THE EXCHANGE OF INFORMATION UNDER SUBSECTION (A) OF THIS SECTION IS
14 FOR THE PURPOSE OF:

15 (1) CARRYING OUT THE POLICY ESTABLISHED UNDER § 8-102 OF THIS
16 ARTICLE FOR CHILDREN, YOUTH, AND FAMILY SERVICES;

17 (2) FACILITATING THE DEVELOPMENT OF A SEAMLESS SYSTEM OF
18 FAMILY-FOCUSED SERVICES; AND

19 (3) ACHIEVING A COMPREHENSIVE AND COORDINATED INTERAGENCY
20 APPROACH TO PROVIDING A CONTINUUM OF CARE THAT IS FAMILY- AND
21 CHILD-ORIENTED.

22 REVISOR'S NOTE: This section formerly was Art. 49D, § 3-102.

23 The only changes are in style and cross-references.

24 Defined terms: "Person in interest" § 1-208

25 "Public agency" § 1-208

26 1-210. DISCLOSURE OF INFORMATION AND RECORDS — IN GENERAL.

27 NOTWITHSTANDING ANY OTHER STATE LAW AND EXCEPT AS PROVIDED IN §
28 1-211 OF THIS SUBTITLE, ON WRITTEN REQUEST, A PUBLIC AGENCY SHALL DISCLOSE
29 INFORMATION AND RECORDS ON CHILDREN, YOUTH, AND FAMILIES SERVED BY
30 THAT AGENCY TO:

31 (1) ANOTHER PUBLIC AGENCY THAT SERVES THE SAME CHILDREN,
32 YOUTH, AND FAMILIES;

1 (2) ANOTHER PUBLIC AGENCY THAT HAS CHILDREN OR YOUTH IN A
2 PROGRAM, HOME, OR RESIDENTIAL FACILITY FUNDED OR LICENSED BY THAT
3 AGENCY; OR

4 (3) THE GOVERNOR'S OFFICE FOR CHILDREN.

5 REVISOR'S NOTE: This section formerly was Art. 49D, § 3-103.

6 The only changes are in style and cross-references.

7 Defined term: "Public agency" § 1-208

8 1-211. LIMITATIONS ON DISCLOSURE.

9 (A) IN GENERAL.

10 (1) A PUBLIC AGENCY MAY NOT DISCLOSE INFORMATION OR RECORDS
11 UNDER § 1-210 OF THIS SUBTITLE IF:

12 (I) DISCLOSURE IS PROHIBITED BY FEDERAL LAW; OR

13 (II) THE PUBLIC AGENCY HAS NOT OBTAINED WRITTEN CONSENT
14 IF REQUIRED BY § 1-212 OF THIS SUBTITLE.

15 (2) A PUBLIC AGENCY MAY DISCLOSE ONLY THE INFORMATION AND
16 RECORDS THAT ARE IDENTIFIED SPECIFICALLY IN THE WRITTEN REQUEST.

17 (B) CHILD PROTECTIVE SERVICES RECORDS.

18 (1) A PUBLIC AGENCY MAY NOT DISCLOSE CHILD PROTECTIVE SERVICES
19 RECORDS COLLECTED BEFORE OCTOBER 1, 1993, UNLESS THE PERSON IN INTEREST
20 GIVES CONSENT AFTER BEING GIVEN AN OPPORTUNITY TO REVIEW THE RECORDS
21 AND THE INFORMATION TO BE DISCLOSED.

22 (2) ON REQUEST, THE PERSON IN INTEREST MAY REVIEW THE ENTIRE
23 CHILD PROTECTIVE SERVICES RECORD REGARDING THE MINOR.

24 (3) A PUBLIC AGENCY MAY NOT DISCLOSE TO THE PERSON IN INTEREST
25 OR A REQUESTING PUBLIC AGENCY THE IDENTITY OF:

26 (I) A REPORTER OF ABUSE OR NEGLECT; OR

27 (II) ANOTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE
28 ENDANGERED BY THE DISCLOSURE.

29 (C) CONFIDENTIALITY.

30 INFORMATION AND RECORDS DISCLOSED TO A PUBLIC AGENCY UNDER THIS
31 PART SHALL REMAIN CONFIDENTIAL AND, EXCEPT AS PROVIDED IN § 1-212(C) OF
32 THIS SUBTITLE, MAY NOT BE FURTHER DISCLOSED.

1 (D) INFORMATION COLLECTED BY CHILDREN'S CABINET.

2 INFORMATION COLLECTED BY THE CHILDREN'S CABINET UNDER § 1-212 OF
3 THIS SUBTITLE MAY NOT BE REDISCLOSED IN ANY FORM THAT REVEALS THE
4 IDENTITY OF A RECIPIENT OF SERVICES.

5 REVISOR'S NOTE: This section formerly was Art. 49D, §§ 3-104 and 3-106.

6 The only changes are in style and cross-references.

7 Defined terms: "Person in interest" § 1-208

8 "Public agency" § 1-208

9 1-212. WRITTEN CONSENT.

10 (A) REQUIRED.

11 EXCEPT WHERE THE CONSENT OF THE PERSON IN INTEREST IS NOT REQUIRED
12 BY LAW, A PUBLIC AGENCY MAY DISCLOSE INFORMATION OR RECORDS UNDER §
13 1-210 OF THIS SUBTITLE ONLY AFTER OBTAINING WRITTEN CONSENT FROM:

14 (1) THE PERSON IN INTEREST; OR

15 (2) ANOTHER INDIVIDUAL AUTHORIZED TO GIVE CONSENT UNDER
16 SUBSECTION (B) OF THIS SECTION.

17 (B) PERSON IN INTEREST NOT REASONABLY AVAILABLE.

18 (1) FOR THE PURPOSES OF THIS SUBSECTION, A PERSON IN INTEREST IS
19 CONSIDERED NOT REASONABLY AVAILABLE IF:

20 (I) AFTER REASONABLE ORAL OR WRITTEN INQUIRY, THE
21 REQUESTING PUBLIC AGENCY IS UNAWARE OF THE EXISTENCE OF A PERSON IN
22 INTEREST;

23 (II) AFTER REASONABLE INQUIRY, THE REQUESTING PUBLIC
24 AGENCY CANNOT DETERMINE THE LOCATION OF A PERSON IN INTEREST; OR

25 (III) AFTER REASONABLE EFFORTS BY THE REQUESTING PUBLIC
26 AGENCY TO CONTACT THE PERSON IN INTEREST, THE PERSON IN INTEREST HAS NOT
27 RESPONDED IN A TIMELY MANNER, TAKING INTO ACCOUNT THE NEEDS OF THE
28 MINOR FOR WHOM SERVICES ARE TO BE PROVIDED.

29 (2) IF THE PERSON IN INTEREST IS NOT REASONABLY AVAILABLE TO
30 GIVE WRITTEN CONSENT, THE FOLLOWING PERSONS, NOT LISTED IN ORDER OF
31 PRIORITY, MAY CONSENT IN WRITING TO THE RELEASE OF INFORMATION OR
32 RECORDS REGARDING A MINOR:

33 (I) AN ADULT WHO IS ACTING AS THE PARENT OF A MINOR, NOT
34 INCLUDING A TEACHER OR A BABY-SITTER;

1 (II) A COURT THAT HAS JURISDICTION OVER AN ACTION
 2 AFFECTING THE PARENT-CHILD RELATIONSHIP OF WHICH THE MINOR IS THE
 3 SUBJECT; OR

4 (III) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE
 5 DEPARTMENT OF JUVENILE SERVICES, OR A LOCAL DEPARTMENT OF SOCIAL
 6 SERVICES, THAT HAS THE CARE AND CUSTODY OF A MINOR.

7 (3) A PERSON AUTHORIZED TO CONSENT TO THE RELEASE OF
 8 INFORMATION OR RECORDS UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL
 9 CONFIRM IN WRITING THAT THE PERSON IN INTEREST IS NOT REASONABLY
 10 AVAILABLE.

11 (4) THE PUBLIC AGENCY RELEASING THE INFORMATION SHALL
 12 INCLUDE THE WRITTEN CONFIRMATION IN THE RECORD FROM WHICH THE
 13 INFORMATION IS RELEASED.

14 (C) DISCLOSURE TO CHILDREN'S CABINET.

15 (1) THIS SUBSECTION APPLIES:

16 (I) NOTWITHSTANDING ANY OTHER STATE LAW; AND

17 (II) IF DISCLOSURE IS NOT PROHIBITED BY FEDERAL LAW.

18 (2) WITHOUT THE CONSENT OF THE PERSON IN INTEREST, A PUBLIC
 19 AGENCY MAY DISCLOSE TO THE CHILDREN'S CABINET:

20 (I) THE NAME, ADDRESS, DATE OF BIRTH, RACE, AND SEX OF
 21 CHILDREN RECEIVING SERVICES; AND

22 (II) THE TYPES, DATES, AND DURATION OF SERVICES PROVIDED TO
 23 CHILDREN BY STATE AND LOCAL AGENCIES.

24 (3) THE CHILDREN'S CABINET MAY USE INFORMATION DISCLOSED
 25 UNDER PARAGRAPH (2) OF THIS SUBSECTION ONLY FOR PLANNING, BUDGETING,
 26 EVALUATION, AND ANALYSIS.

27 REVISOR'S NOTE: This section is new language derived without substantive
 28 change from former Art. 49D, § 3-105.

29 In subsection (b)(1)(iii) and (2)(i) of this section, the references to a "minor"
 30 are substituted for the former references to a "child" for consistency
 31 throughout this section.

32 In subsection (b)(2)(iii) of this section, the phrase "that has the care and
 33 custody of a minor" is substituted for the former phrase "for a minor in the
 34 care and custody of the respective unit" for brevity and consistency.

35 Defined terms: "Person in interest" § 1-208

36 "Public agency" § 1-208

1 TITLE 2. DEPARTMENT OF HUMAN RESOURCES.

2 SUBTITLE 1. DEFINITIONS.

3 2-101. DEFINITIONS.

4 (A) IN GENERAL.

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

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

8 (B) DEPARTMENT.

9 "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

10 REVISOR'S NOTE: This subsection is new language added to avoid repetition
11 of the full reference to the "Department of Human Resources".

12 (C) SECRETARY.

13 "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

14 REVISOR'S NOTE: This subsection is new language added to avoid repetition
15 of the full reference to the "Secretary of Human Resources".

16 SUBTITLE 2. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

17 2-201. DEPARTMENT ESTABLISHED.

18 THERE IS A DEPARTMENT OF HUMAN RESOURCES ESTABLISHED AS A
19 PRINCIPAL DEPARTMENT OF THE STATE GOVERNMENT.20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from the first sentence of former Art. 41, § 6-101(a).

22 It is set forth as a separate section for emphasis.

23 *See* SG § 8-201, which lists the principal departments of State
24 government.

25 2-202. SECRETARY.

26 (A) POSITION AND APPOINTMENT.

27 (1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR
28 SHALL APPOINT THE SECRETARY OF HUMAN RESOURCES.

29 (2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

1 (B) OATH.

2 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
3 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

4 (C) RESPONSIBILITY TO GOVERNOR.

5 (1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND
6 IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

7 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS
8 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE
9 GOVERNOR'S POLICIES ON THOSE MATTERS.

10 (D) COMPENSATION.

11 THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
12 BUDGET.

13 (E) SEAL.

14 THE SECRETARY SHALL HAVE A SEAL.

15 REVISOR'S NOTE: Subsections (a), (c), (d), and (e) of this section are new
16 language derived without substantive change from former Art. 41, §§
17 6-101(b) and the second sentence of (a) and 6-104(f).

18 Subsection (b) of this section is standard language added to state the
19 requirement that an individual appointed to any office of profit or trust
20 take the oath specified in Md. Constitution, Art. I, § 9. This addition is
21 supported by 64 Op. Att'y Gen. 246 (1979).

22 In subsection (c)(2) of this section, the former reference to "counsel[ing]"
23 the Governor is deleted as surplusage in light of the reference to
24 "advis[ing]" the Governor.

25 In subsection (d) of this section, the reference to the Secretary's
26 "compensation" is substituted for the former reference to the Secretary's
27 "salary" for accuracy and consistency throughout this article. *See* General
28 Revisor's Note to article.

29 In subsection (e) of this section, the former reference to using the seal "for
30 purposes of authentication" of certain documents is deleted as implicit in
31 the reference to a "seal" and for consistency with similar provisions in
32 other revised articles of the Code. *See, e.g.*, BR § 2-104(b), HG § 2-104(e),
33 and SF §§ 3-204(d) and 4-204(d).

34 Defined terms: "Department" § 2-101
35 "Secretary" § 2-101

1 2-203. ADMINISTRATION OF DEPARTMENT.

2 (A) ADMINISTRATION OF DEPARTMENT.

3 THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT
4 AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY
5 AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

6 (B) AREAS OF RESPONSIBILITY IN SECRETARY'S OFFICE.

7 THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF
8 RESPONSIBILITY IN THE OFFICE OF THE SECRETARY AS NECESSARY TO FULFILL
9 EFFECTIVELY THE DUTIES ASSIGNED TO THE SECRETARY.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 41, § 6-101(c).

12 Defined terms: "Department" § 2-101

13 "Secretary" § 2-101

14 2-204. DEPUTY SECRETARIES.

15 (A) APPOINTMENT.

16 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT
17 THREE DEPUTY SECRETARIES.

18 (B) TERM AND COMPENSATION.

19 THE DEPUTY SECRETARIES:

20 (1) SERVE AT THE PLEASURE OF THE SECRETARY; AND

21 (2) ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
22 BUDGET.

23 (C) DUTIES.

24 THE DEPUTY SECRETARIES HAVE THE DUTIES DELEGATED BY THE SECRETARY.

25 (D) ACTING SECRETARY.

26 THE SECRETARY SHALL DESIGNATE A DEPUTY SECRETARY TO BE THE ACTING
27 SECRETARY WHEN THE SECRETARY IS ABSENT FROM THE STATE OR OTHERWISE
28 UNAVAILABLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 6-103(a).

31 Defined term: "Secretary" § 2-101

1 2-205. STAFF — SECRETARY'S OFFICE.

2 (A) IN GENERAL.

3 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A
4 STAFF ATTACHED TO THE OFFICE OF THE SECRETARY.

5 (B) DESIGNATION OF STAFF ASSISTANTS IN CHARGE OF AREAS OF
6 RESPONSIBILITY.

7 THE SECRETARY MAY DESIGNATE A STAFF ASSISTANT TO BE IN CHARGE OF A
8 PARTICULAR AREA OF RESPONSIBILITY.

9 (C) EMPLOYMENT STATUS.

10 (1) (I) THE SECRETARY SHALL APPOINT EACH STAFF ASSISTANT IN
11 THE OFFICE OF THE SECRETARY IN CHARGE OF A PARTICULAR AREA OF
12 RESPONSIBILITY AND EACH PROFESSIONAL CONSULTANT.

13 (II) AN EMPLOYEE SPECIFIED IN SUBPARAGRAPH (I) OF THIS
14 PARAGRAPH:

15 1. IS IN THE EXECUTIVE SERVICE OR MANAGEMENT
16 SERVICE OF, OR IS A SPECIAL APPOINTMENT UNDER, THE STATE PERSONNEL
17 MANAGEMENT SYSTEM; AND

18 2. SERVES AT THE PLEASURE OF THE SECRETARY.

19 (2) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL
20 APPOINT AND REMOVE ALL OTHER EMPLOYEES IN THE OFFICE OF THE SECRETARY
21 IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS
22 ARTICLE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 41, § 6-103(b).

25 In subsection (a) of this section, the word "may" is substituted for the
26 former reference to the word "shall" for consistency with similar provisions
27 in other revised articles of the Code. *See, e.g.*, BOP §§ 5-204(e)(1) and
28 14-204(d), BR § 2-103(b)(1), EN § 1-403(b)(1), FI § 2-104, HG §
29 2-103(b)(1), HO § 17-204(d), SF §§ 3-203(c)(1), 4-203(b)(1), and 5-203(a),
30 SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and 9-108(e)(1).

31 Also in subsection (a) of this section, the reference to a "staff" is
32 substituted for the former specific reference to "assistants, professional
33 consultants, and employees" for brevity and consistency with similar
34 provisions in other revised articles of the Code. *See, e.g.*, BOP §§
35 5-204(e)(1) and 14-204(d), BR § 2-103(b)(1), EN § 1-403(b)(1), FI § 2-104,
36 HG § 2-103(b)(1), HO § 17-204(d), SF §§ 3-203(c)(1), 4-203(b)(1), and
37 5-203(a), SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and 9-108(e)(1).

1 In subsection (b) of this section, the former reference to the Secretary's
2 authority to "establish areas of responsibility within the Secretary's office"
3 is deleted as unnecessary in light of § 2-203(b) of this subtitle, which
4 authorizes the Secretary to "establish, reorganize, or abolish areas of
5 responsibility in the office of the Secretary".

6 Also in subsection (b) of this section, the term "staff assistant" is
7 substituted for the former reference to "assistants" for consistency with
8 subsection (c) of this section.

9 In subsection (c)(1)(i) of this section, the reference to "appoint[ment]" is
10 added to state expressly that which was only implied in the former law and
11 for consistency with subsection (c)(2) of this section.

12 In subsection (c)(2) of this section, the former reference to "Title 6, Subtitle
13 4" of the State Personnel and Pensions Article is deleted for accuracy. Title
14 6, Subtitle 4 does not address appointment and removal of employees.

15 Defined term: "Secretary" § 2-101

16 2-206. REMOVAL OF APPOINTEES.

17 IF THE SECRETARY IS REQUIRED BY LAW TO MAKE AN APPOINTMENT WITH THE
18 APPROVAL OF THE GOVERNOR TO A PARTICULAR OFFICE IN THE DEPARTMENT AND
19 THE APPOINTEE IS REQUIRED TO SERVE AT THE PLEASURE OF THE SECRETARY, THE
20 SECRETARY MAY NOT REMOVE THE APPOINTEE WITHOUT FIRST OBTAINING THE
21 GOVERNOR'S APPROVAL.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 6-103(e).

24 Defined terms: "Department" § 2-101
25 "Secretary" § 2-101

26 2-207. STAFF — OTHER UNITS.

27 (A) APPROVAL BY SECRETARY.

28 THE APPOINTMENT OR REMOVAL OF PERSONNEL BY A UNIT IN THE
29 DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

30 (B) AUTHORITY TO DELEGATE.

31 THE SECRETARY MAY DELEGATE THE POWER OF APPROVAL ESTABLISHED
32 UNDER SUBSECTION (A) OF THIS SECTION TO THE HEAD OR GOVERNING BODY OF
33 THE UNIT.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 6-103(c).

36 Throughout this section, the references to a "unit" are substituted for the

1 former list of unit types, *i.e.*, administrations, boards, commissions,
2 divisions, and agencies, for brevity. *See* General Revisor's Note to article.

3 Also throughout this section, the former references to "the jurisdiction" of
4 the Department are deleted as surplusage. All units or appointing officers
5 in the Department's jurisdiction are "in the Department".

6 Defined terms: "Department" § 2-101
7 "Secretary" § 2-101

8 2-208. LEGAL COUNSEL.

9 (A) SCOPE.

10 THIS SECTION DOES NOT APPLY TO A UNIT IN THE DEPARTMENT TO THE
11 EXTENT THAT THE UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS OWN LEGAL
12 ADVISER OR COUNSEL.

13 (B) ATTORNEY GENERAL AS LEGAL ADVISER.

14 THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

15 (C) ASSIGNMENT OF ASSISTANTS.

16 THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER
17 OF ASSISTANT ATTORNEYS GENERAL THAT ARE AUTHORIZED BY LAW FOR THE
18 DEPARTMENT AND ITS UNITS.

19 (D) COUNSEL TO DEPARTMENT.

20 (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE
21 ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO
22 THE DEPARTMENT AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT
23 CONSULTING WITH THE SECRETARY.

24 (2) THE COUNSEL MAY HAVE NO DUTY OTHER THAN TO GIVE THE
25 LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY OR ANY OTHER
26 OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS
27 GENERAL ASSIGNED TO THE DEPARTMENT, AND TO PERFORM FOR THE
28 DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

29 (3) THE COUNSEL SHALL PERFORM THE DUTIES SPECIFIED IN
30 PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND DISCRETION
31 OF THE ATTORNEY GENERAL.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from the first through the fifth and the eighth sentences and, as it
34 related to the counsel to the Department, the sixth sentence of former Art.
35 41, § 6-103(d).

36 In subsection (a) of this section, the former reference to "agencies ... of

1 government” in the Department is deleted in light of the generic reference
2 to a “unit” in the Department. Correspondingly, in subsection (c) of this
3 section, the reference to “units” is substituted for the former reference to
4 “various departments, agencies, boards, commissions, [and] councils”. *See*
5 General Revisor’s Note to article.

6 In subsection (c) of this section, the former reference to units “which are
7 herein, or may hereafter by law be deemed to be part of the Department” is
8 deleted as implicit in the reference to “the Department and its units”.

9 In subsection (d)(1) of this section, the reference to “individual” is
10 substituted for the former reference to “counsel” for clarity because the
11 restriction on reassignment applies to the individual designated as
12 counsel, not to the title “counsel”.

13 In subsection (d)(2) of this section, the former reference to “legal” duties is
14 deleted as surplusage.

15 Also in subsection (d)(2) of this section, the former phrase “from time to
16 time” is deleted as surplusage.

17 The seventh sentence and, as it related to the other assistant Attorneys
18 General, the sixth sentence of former Art. 41, § 6–103(d), which authorized
19 the Attorney General to assign duties to assistant Attorneys General,
20 required them to perform the assigned duties, required them to be lawyers,
21 and provided for their compensation, are deleted as unnecessary in light of
22 SG § 6–105.

23 Defined terms: “Department” § 2–101

24 “Secretary” § 2–101

25 2–209. REGULATIONS.

26 (A) OFFICE OF SECRETARY.

27 THE SECRETARY SHALL ADOPT REGULATIONS FOR THE OFFICE OF THE
28 SECRETARY.

29 (B) REVIEW OF REGULATIONS OF UNITS.

30 (1) THE SECRETARY SHALL REVIEW REGULATIONS PROPOSED BY A
31 UNIT IN THE DEPARTMENT.

32 (2) THE SECRETARY MAY APPROVE, DISAPPROVE, OR REVISE
33 REGULATIONS PROPOSED BY A UNIT IN THE DEPARTMENT.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 6–104(b).

36 Throughout this section, the former references to “rules” are deleted for

1 consistency throughout this article. *See* General Revisor’s Note to article.

2 In subsection (b) of this section, the reference to regulations that are
3 “proposed” by a unit is added to state expressly that which was only
4 implied by the former reference to “review[ing] ... approv[ing],
5 disapprov[ing] or revis[ing]” regulations.

6 Also in subsection (b) of this section, the reference to a “unit” is substituted
7 for the former list of unit types, *i.e.*, “administrations, divisions, boards,
8 commissions, offices and other agencies,” for brevity. *See* General Revisor’s
9 Note to article.

10 Also in subsection (b) of this section, the former reference to “the
11 jurisdiction” of the Department is deleted as surplusage. All units in the
12 Department’s jurisdiction are “in the Department”.

13 Defined terms: “Department” § 2–101
14 “Secretary” § 2–101

15 2–210. SECRETARY’S DUTIES — BUDGET.

16 THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF THE
17 SECRETARY AND FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 6–104(a).

20 The reference to a “unit” is substituted for the former list of unit types, *i.e.*,
21 “administrations, divisions, boards, commissions, offices and agencies,” for
22 brevity. *See* General Revisor’s Note to article.

23 The former reference to “the jurisdiction of” the Department is deleted as
24 surplusage. All units in the Department’s jurisdiction are “in” the
25 Department. *See* General Revisor’s Note to article.

26 Defined terms: “Department” § 2–101
27 “Secretary” § 2–101

28 2–211. SECRETARY’S DUTIES — PLANS AND ACTIVITIES.

29 (A) IN GENERAL.

30 THE SECRETARY IS RESPONSIBLE FOR PLANNING ACTIVITIES OF THE
31 DEPARTMENT.

32 (B) AUTHORITY TO REVIEW.

33 THE SECRETARY MAY REVIEW AND APPROVE, DISAPPROVE, OR REVISE THE
34 PLANS, PROPOSALS, AND PROJECTS OF UNITS IN THE DEPARTMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 6–104(e).

3 In subsection (b) of this section, the reference to “units” is substituted for
4 the former reference to “agencies” for consistency throughout this article.
5 *See* General Revisor’s Note to article.

6 Defined terms: “Department” § 2–101
7 “Secretary” § 2–101

8 2–212. SECRETARY’S POWERS — ASSUMPTION OF FUNCTIONS.

9 THE SECRETARY MAY EXERCISE OR PERFORM ANY POWER, DUTY,
10 RESPONSIBILITY, OR FUNCTION OF ANY UNIT IN THE DEPARTMENT.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 6–104(c).

13 The former phrase “in the Secretary’s discretion” is deleted as implicit in
14 the word “may”.

15 The reference to a “unit” is substituted for the former list of unit types, *i.e.*,
16 “administrations, divisions, boards, commissions, offices or other
17 agencies,” for brevity. *See* General Revisor’s Note to article.

18 The former reference to “the jurisdiction of” the Department is deleted as
19 surplusage. All units in the Department’s jurisdiction are “in” the
20 Department. *See* General Revisor’s Note to article.

21 Defined terms: “Department” § 2–101
22 “Secretary” § 2–101

23 2–213. SECRETARY’S POWERS — ADVISORY BOARDS.

24 IN ADDITION TO ANY ADVISORY BOARDS ESTABLISHED BY LAW, THE
25 SECRETARY, WITH THE APPROVAL OF THE GOVERNOR, MAY CREATE ADVISORY
26 BOARDS OR USE AS AN ADVISORY BOARD ANY EXISTING COMMISSION ESTABLISHED
27 BY EXECUTIVE ORDER.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 41, § 6–104(d).

30 The former reference to boards “as are or may be” established by law is
31 deleted for brevity.

32 The former reference to advisory boards being “of such size as the
33 Secretary deems appropriate” is deleted as implicit in the comprehensive
34 authority to “create advisory boards”.

35 Defined term: “Secretary” § 2–101

1 SUBTITLE 3. UNITS IN DEPARTMENT; DUTIES OF DEPARTMENT.

2 2-301. UNITS IN DEPARTMENT.

3 THE FOLLOWING UNITS ARE IN THE DEPARTMENT:

4 (1) THE CHILD SUPPORT ENFORCEMENT ADMINISTRATION;

5 (2) THE COMMUNITY SERVICES ADMINISTRATION;

6 (3) THE FAMILY INVESTMENT ADMINISTRATION;

7 (4) THE SOCIAL SERVICES ADMINISTRATION;

8 (5) THE MARYLAND COMMISSION FOR WOMEN; AND

9 (6) ANY OTHER UNIT THAT BY LAW IS DECLARED TO BE PART OF THE
10 DEPARTMENT.11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 6-102.13 In the introductory language and item (6) of this section, the references to
14 "unit[s]" are substituted for the former lists of types of units for brevity and
15 consistency throughout this article. *See* General Revisor's Note to article.16 In items (1), (3), and (5) of this section, the references to the "Child Support
17 Enforcement Administration", the "Family Investment Administration",
18 and the "Maryland Commission for Women", respectively, are added
19 because these units are also "in the Department".20 In item (4) of this section, the former reference to the statute that created
21 the Social Services Administration is deleted as surplusage.22 The former reference to the "Department of Human Resources Advisory
23 Council" is deleted as obsolete. The Council was never convened and was
24 formally abolished in 1996.

25 Defined term: "Department" § 2-101

26 2-302. MAINTENANCE OF WEBSITE.

27 THE DEPARTMENT SHALL MAINTAIN A WEBSITE ON WHICH TO POST NOTICES
28 OF PETITIONS UNDER §§ 5-316(F)(3)(II), 5-3A-15(D)(3)(II), AND 5-3B-15(F)(3)(II) OF THE
29 FAMILY LAW ARTICLE.

30 REVISOR'S NOTE: This section formerly was Art. 88A, § 18.

31 The only change is in style.

32 Defined term: "Department" § 2-101

1 SUBTITLE 4. MARYLAND COMMISSION FOR WOMEN.

2 2-401. "COMMISSION" DEFINED.

3 IN THIS SUBTITLE, "COMMISSION" MEANS THE MARYLAND COMMISSION FOR
4 WOMEN.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 49C, § 1(1).

7 Former Art. 49C, § 1(2) and (3), which defined "Department" and
8 "Secretary", respectively, are deleted in light of § 2-101 of this title to the
9 same effect.

10 2-402. MARYLAND COMMISSION FOR WOMEN ESTABLISHED.

11 (A) ESTABLISHED.

12 THERE IS A MARYLAND COMMISSION FOR WOMEN IN THE DEPARTMENT.

13 (B) REPORTING REQUIREMENT.

14 THE COMMISSION SHALL REPORT TO THE GOVERNOR AND THE GENERAL
15 ASSEMBLY THROUGH THE SECRETARY.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 49C, § 2(f).

18 It is set forth as a separate section for emphasis and restated in standard
19 language for clarity and consistency.

20 Defined terms: "Commission" § 2-401

21 "Department" § 2-101

22 "Secretary" § 2-101

23 2-403. MEMBERSHIP OF COMMISSION.

24 (A) COMPOSITION.

25 THE COMMISSION CONSISTS OF:

26 (1) NINE INDIVIDUALS APPOINTED BY THE GOVERNOR, WITH THE
27 ADVICE AND CONSENT OF THE SENATE;

28 (2) EIGHT INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE SENATE
29 OF MARYLAND; AND

30 (3) EIGHT INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE OF
31 DELEGATES.

32 (B) APPOINTMENT OF MEMBERS.

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1 (1) THE FOLLOWING MEMBERS SHALL BE APPOINTED FROM AMONG
2 APPLICANTS WHO HAVE BEEN NOMINATED AND RECOMMENDED FOR APPOINTMENT
3 BY ORGANIZATIONS LOCATED IN THE STATE WHOSE INTERESTS RELATE TO THE
4 STATUS OF WOMEN:

5 (I) FOUR MEMBERS APPOINTED BY THE GOVERNOR;

6 (II) FOUR MEMBERS APPOINTED BY THE PRESIDENT OF THE
7 SENATE OF MARYLAND; AND

8 (III) FOUR MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
9 OF DELEGATES.

10 (2) THE FOLLOWING MEMBERS SHALL BE APPOINTED FROM
11 APPLICANTS APPLYING ON THEIR OWN BEHALF:

12 (I) FIVE MEMBERS APPOINTED BY THE GOVERNOR;

13 (II) FOUR MEMBERS APPOINTED BY THE PRESIDENT OF THE
14 SENATE OF MARYLAND; AND

15 (III) FOUR MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
16 OF DELEGATES.

17 (C) GEOGRAPHIC DIVERSITY.

18 TO THE EXTENT PRACTICABLE, IN MAKING APPOINTMENTS UNDER THIS
19 SECTION, THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF
20 THE HOUSE SHALL ENSURE GEOGRAPHIC DIVERSITY AMONG THE MEMBERSHIP OF
21 THE COMMISSION.

22 (D) TENURE; VACANCIES.

23 (1) THE TERM OF A COMMISSIONER IS 4 YEARS.

24 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
25 TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2007.

26 (3) A COMMISSIONER MAY NOT SERVE MORE THAN TWO CONSECUTIVE
27 TERMS.

28 (4) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE
29 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

30 (5) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS BEGUN
31 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
32 AND QUALIFIES.

33 (E) FAILURE TO ATTEND MEETINGS.

1 A COMMISSIONER WHO FAILS TO ATTEND AT LEAST 50% OF THE REGULARLY
2 SCHEDULED MEETINGS OF THE COMMISSION DURING ANY 12-MONTH PERIOD
3 SHALL BE CONSIDERED TO HAVE RESIGNED.

4 (F) COMPENSATION.

5 COMMISSIONERS ARE NOT ENTITLED TO RECEIVE COMPENSATION FOR THEIR
6 SERVICES.

7 REVISOR'S NOTE: Subsections (a), (b), (d), (e), and (f) of this section are new
8 language derived without substantive change from former Art. 49C, § 2(a)
9 through (e).

10 Subsection (c) of this section is new language added to codify § 4 of Ch. 9,
11 Acts of 2006.

12 In subsection (d)(2) of this section, the reference to terms being "staggered
13 as required by the terms provided for members of the Commission on
14 October 1, 2007" is standard language added to reflect that the terms of
15 the members are staggered. This addition is not intended to alter the term
16 of any member of the Commission. See § ___ of Ch. ___, Acts of 2007. The
17 terms of the members serving on October 1, 2007, end as follows: (1) 6 in
18 2008; (2) 6 in 2009; (3) 6 in 2010; and (4) 6 in 2011.

19 Defined term: "Commission" § 2-401

20 2-404. CHAIR AND VICE CHAIR; OFFICERS.

21 (A) CHAIR AND VICE CHAIR.

22 THE COMMISSION SHALL ELECT A CHAIR AND A VICE CHAIR FROM AMONG ITS
23 MEMBERS.

24 (B) OFFICERS.

25 THE COMMISSION MAY APPOINT ANY OFFICERS THAT IT CONSIDERS
26 NECESSARY.

27 REVISOR'S NOTE: This section formerly was Art. 49C, § 3.

28 The only change is in style.

29 Defined term: "Commission" § 2-401

30 2-405. EXECUTIVE DIRECTOR.

31 (A) APPOINTMENT.

32 THE SECRETARY SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE
33 COMMISSION.

1 (B) STATUS.

2 THE EXECUTIVE DIRECTOR SHALL BE A MERIT EMPLOYEE OF THE
3 DEPARTMENT.

4 (C) COMPENSATION.

5 THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN
6 THE STATE BUDGET.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 49C, § 3A.

9 In subsection (c) of this section, the reference to "compensation" is
10 substituted for the former reference to "salary" for accuracy and
11 consistency throughout this article. *See* General Revisor's Note to article.

12 The Human Services Article Review Committee notes, for consideration by
13 the General Assembly, that the reference to a "merit employee" in
14 subsection (b) of this section is obsolete terminology. The General Assembly
15 may wish to clarify the service classification of the executive director
16 under the State Personnel Management System.

17 Defined terms: "Commission" § 2-401

18 "Department" § 2-101

19 "Secretary" § 2-101

20 2-406. POWERS AND DUTIES OF COMMISSION.

21 (A) IN GENERAL.

22 (1) THE COMMISSION SHALL:

23 (I) STIMULATE AND ENCOURAGE STUDY AND REVIEW OF THE
24 STATUS OF WOMEN IN THE STATE;

25 (II) STRENGTHEN HOME LIFE BY DIRECTING ATTENTION TO
26 CRITICAL PROBLEMS CONFRONTING WOMEN AS WIVES, MOTHERS, HOMEMAKERS,
27 AND WORKERS;

28 (III) RECOMMEND METHODS OF OVERCOMING DISCRIMINATION
29 AGAINST WOMEN IN PUBLIC AND PRIVATE EMPLOYMENT;

30 (IV) ENCOURAGE WOMEN TO BECOME CANDIDATES FOR PUBLIC
31 OFFICE;

32 (V) PROMOTE MORE EFFECTIVE METHODS FOR ENABLING WOMEN
33 TO DEVELOP SKILLS, CONTINUE EDUCATION, AND BE RETRAINED;

34 (VI) SECURE APPROPRIATE RECOGNITION OF WOMEN'S
35 ACCOMPLISHMENTS AND CONTRIBUTIONS TO THE STATE;

1 (VII) WORK TO DEVELOP HEALTHY ATTITUDES WITHIN THE
2 FRAMEWORK OF THE COMMISSION'S RESPONSIBILITIES; AND

3 (VIII) INFORM THE EXECUTIVE AND LEGISLATIVE BRANCHES OF
4 GOVERNMENT ON ISSUES CONCERNING WOMEN, INCLUDING OFFERING TESTIMONY
5 ON THESE ISSUES BEFORE LEGISLATIVE AND ADMINISTRATIVE BODIES.

6 (2) THE COMMISSION MAY:

7 (I) ACT AS A CLEARINGHOUSE FOR ACTIVITIES TO AVOID
8 DUPLICATION OF EFFORT; AND

9 (II) MAKE SURVEYS AND APPOINT ADVISORY COMMITTEES IN
10 FIELDS INCLUDING EDUCATION, SOCIAL SERVICES, LABOR LAWS AND EMPLOYMENT
11 POLICIES, LAW ENFORCEMENT, HEALTH AND SAFETY, NEW AND EXPANDED
12 SERVICES, LEGAL RIGHTS, FAMILY RELATIONS, HUMAN RELATIONS, AND
13 VOLUNTEER SERVICES.

14 (B) ANNUAL REPORT.

15 THROUGH THE SECRETARY, THE COMMISSION SHALL SUBMIT AN ANNUAL
16 REPORT INCLUDING RECOMMENDATIONS BASED ON THE COMMISSION'S STUDIES TO
17 THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO
18 THE GENERAL ASSEMBLY.

19 (C) COMMISSION PROHIBITED FROM ADOPTING REGULATIONS.

20 THE COMMISSION MAY NOT ADOPT REGULATIONS.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 49C, §§ 4, 7, and 8.

23 In subsection (a)(1)(i) of this section, the former phrase "throughout the
24 State" is deleted as surplusage.

25 In subsection (a)(2)(i) of this section, the former reference to "all" activities
26 is deleted as surplusage.

27 In subsection (a)(2)(ii) of this section, the word "including" is substituted
28 for the former phrase "but not limited to" for brevity.

29 In subsection (c) of this section, the phrase "may not" is substituted for the
30 former phrase "shall have no authority to" for consistency with similar
31 provisions throughout the revised articles of the Code.

32 Also in subsection (c) of this section, the former reference to "rules" is
33 deleted in light of the term "regulations". See General Revisor's Note to
34 article.

35 Defined terms: "Commission" § 2-401

36 "Secretary" § 2-101

1 2-407. INTERGOVERNMENTAL RELATIONS.

2 EACH EXECUTIVE UNIT OF THE STATE SHALL COOPERATE FULLY WITH THE
3 COMMISSION IN THE PERFORMANCE OF THE COMMISSION'S DUTIES.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 49C, § 6.

6 The term "unit" is substituted for the former reference to "departments
7 and agencies" for brevity and consistency throughout this article. *See*
8 General Revisor's Note to article.

9 Defined term: "Commission" § 2-401

10 2-408. FUNDING.

11 (A) FEDERAL FUNDS AND PRIVATE DONATIONS.

12 (1) SUBJECT TO THE APPROVAL OF THE SECRETARY, THE COMMISSION
13 MAY ACCEPT FOR THE PURPOSES OF THIS SUBTITLE:

14 (I) FEDERAL FUNDS GRANTED BY CONGRESS OR EXECUTIVE
15 ORDER; AND

16 (II) PRIVATE DONATIONS FROM INDIVIDUALS, ORGANIZATIONS, OR
17 FOUNDATIONS.

18 (2) THE ACCEPTANCE AND USE OF FEDERAL FUNDS DOES NOT COMMIT
19 STATE FUNDS OR OBLIGATE THE GENERAL ASSEMBLY TO CONTINUE THE PURPOSES
20 FOR WHICH THE FEDERAL FUNDS ARE GRANTED.

21 (B) ANNUAL BUDGET.

22 THE DEPARTMENT SHALL INCLUDE THE COMMISSION IN ITS ANNUAL BUDGET.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 49C, § 5.

25 In subsection (a)(1)(ii) of this section, the former reference to "gifts" is
26 deleted as included in the reference to "donations".

27 Also in subsection (a)(1)(ii) of this section, the former reference to "private"
28 organizations is deleted as included in the reference to "private donations".

29 In subsection (a)(2) of this section, the reference to federal funds being
30 "granted" is substituted for the former reference to the funds being "made
31 available" for consistency with subsection (a)(1)(i) of this section.

32 The Human Services Article Review Committee notes, for consideration by
33 the General Assembly, that the reference in subsection (a)(1)(i) of this
34 section to federal funds "granted by Congress or executive order" may be

1 obsolete and unnecessarily restrictive.

2 Defined terms: “Commission” § 2–401

3 “Department” § 2–101

4 “Secretary” § 2–101

5 SUBTITLE 5. COMMISSION ON INDIAN AFFAIRS.

6 2–501. DEFINITIONS.

7 (A) IN GENERAL.

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

9 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–901(a).

10 No changes are made.

11 (B) COMMISSION.

12 “COMMISSION” MEANS THE COMMISSION ON INDIAN AFFAIRS.

13 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–901(b).

14 No changes are made.

15 (C) COMMUNITY.

16 “COMMUNITY” MEANS A TRIBE, BAND, GROUP, OR CLAN.

17 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–901(c).

18 No changes are made.

19 (D) INDIAN.

20 (1) “INDIAN” MEANS AN INDIVIDUAL OR COMMUNITY THAT IS, OR
21 WHOSE MEMBERS ARE, DESCENDED FROM A TRIBE THAT INHABITED NORTH
22 AMERICA BEFORE EUROPEAN CONTACT.

23 (2) “INDIAN” INCLUDES A NATIVE AMERICAN INDIAN, A NORTH
24 AMERICAN INDIAN, AN AMERICAN INDIAN, AND AN ABORIGINAL AMERICAN.

25 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–901(d).

26 No changes are made.

27 REVISOR’S NOTE TO SECTION:

28 Former Art. 41, § 6–901(e), which defined “Secretary”, is deleted in light of
29 § 2–101 of this title to the same effect.

1 2-502. ESTABLISHED.

2 THERE IS A COMMISSION ON INDIAN AFFAIRS IN THE DEPARTMENT.

3 REVISOR'S NOTE: This section formerly was Art. 41, § 6-902.

4 The only change is in style.

5 Defined term: "Department" § 2-101

6 2-503. MEMBERSHIP.

7 (A) COMPOSITION; APPOINTMENT.

8 (1) THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE
9 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

10 (2) OF THE NINE COMMISSION MEMBERS:

11 (I) A MAJORITY SHALL BE MEMBERS OF THE INDIAN
12 COMMUNITIES OF THE STATE; AND

13 (II) AT LEAST THREE SHALL BE MEMBERS OF THE INDIAN
14 COMMUNITIES THAT ARE INDIGENOUS TO THE STATE.

15 (B) QUALIFICATIONS.

16 EACH MEMBER SHALL:

17 (1) HAVE A DEMONSTRABLE KNOWLEDGE OF INDIAN CULTURE AND
18 HISTORY; AND

19 (2) BE SENSITIVE TO THE PROBLEMS OF INDIAN COMMUNITIES.

20 (C) APPLICATIONS.

21 (1) AN APPLICANT FOR MEMBERSHIP ON THE COMMISSION SHALL
22 SUBMIT UNDER OATH A LIST OF THE APPLICANT'S QUALIFICATIONS, INCLUDING:

23 (I) EDUCATIONAL HISTORY; AND

24 (II) EMPLOYMENT BACKGROUND OR OTHER RELEVANT
25 EXPERIENCE.

26 (2) AN APPLICANT FOR MEMBERSHIP ON THE COMMISSION AS AN
27 INDIAN MEMBER SHALL SUBMIT DOCUMENTATION OR PROOF OF INDIAN STATUS
28 UNDER THE SWORN AND NOTARIZED SIGNATURE OF THE CUSTODIAN OF RECORDS
29 OF THE MEMBERSHIP ROLLS OF THAT INDIAN'S COMMUNITY.

30 (3) THE GOVERNOR MAY REQUIRE THE PRODUCTION OF ANY OTHER
31 DOCUMENTS TO PROVE:

1 (I) THE QUALIFICATIONS OF THE APPLICANT; OR

2 (II) THE STANDING OR HISTORY OF THE INDIAN COMMUNITY TO
3 WHICH THE APPLICANT CLAIMS MEMBERSHIP.

4 (D) TENURE; VACANCIES.

5 (1) THE TERM OF A MEMBER IS 3 YEARS.

6 (2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
7 SUCCESSOR IS APPOINTED AND QUALIFIES.

8 (3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
9 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
10 QUALIFIES.

11 (4) A MEMBER MAY NOT SERVE MORE THAN 6 YEARS CONSECUTIVELY.

12 REVISOR'S NOTE: This section formerly was Art. 41, § 6-903.

13 The only changes are in style.

14 Defined terms: "Commission" § 2-501

15 "Community" § 2-501

16 "Indian" § 2-501

17 2-504. CHAIR; VICE CHAIR.

18 THE COMMISSION SHALL ELECT ANNUALLY A CHAIR AND A VICE CHAIR FROM
19 AMONG ITS MEMBERS.

20 REVISOR'S NOTE: This section formerly was Art. 41, § 6-904.

21 No changes are made.

22 Defined term: "Commission" § 2-501

23 2-505. MEETINGS; COMPENSATION.

24 (A) MEETINGS.

25 THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR, A MAJORITY OF
26 THE MEMBERS, OR THE SECRETARY.

27 (B) COMPENSATION.

28 A MEMBER OF THE COMMISSION:

29 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
30 COMMISSION; BUT

1 (2) MAY RECEIVE REIMBURSEMENT FOR EXPENSES UNDER THE
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 REVISOR'S NOTE: This section formerly was Art. 41, § 6-905.

4 The only changes are in style.

5 Defined terms: "Commission" § 2-501

6 "Secretary" § 2-101

7 2-506. ADMINISTRATOR.

8 (A) APPOINTMENT.

9 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL
10 APPOINT AN ADMINISTRATOR.

11 (2) THE ADMINISTRATOR MAY NOT BE A MEMBER OF THE COMMISSION.

12 (3) THE ADMINISTRATOR SERVES AT THE PLEASURE OF THE
13 COMMISSION, SUBJECT TO THE CONCURRENCE OF THE SECRETARY.

14 (B) CLASSIFICATION OF SERVICE.

15 THE ADMINISTRATOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL
16 MANAGEMENT SYSTEM.

17 (C) DUTIES.

18 SUBJECT TO THE RULES AND POLICIES OF THE COMMISSION AND THE
19 ADMINISTRATIVE SUPERVISION OF THE SECRETARY IN ACCORDANCE WITH THIS
20 TITLE, THE ADMINISTRATOR SHALL:

21 (1) ADMINISTER THE ACTIVITIES OF THE COMMISSION; AND

22 (2) SUPERVISE THE APPOINTMENT AND REMOVAL OF PERSONNEL
23 WHOM THE COMMISSION EMPLOYS.

24 REVISOR'S NOTE: This section formerly was Art. 41, § 6-906.

25 The only changes are in style.

26 Defined terms: "Commission" § 2-501

27 "Secretary" § 2-101

28 2-507. DUTIES OF COMMISSION.

29 THE COMMISSION SHALL:

30 (1) INITIATE, DIRECT, AND COORDINATE PROJECTS THAT FURTHER THE
31 UNDERSTANDING OF INDIAN HISTORY AND CULTURE;

1 (2) SURVEY HISTORIC BUILDINGS, SITES, ARTIFACTS, ARCHIVES, AND
2 REPOSITORIES AND PUBLISH AND DISSEMINATE THE RESULTS;

3 (3) MAKE A COMPREHENSIVE STUDY OF THE INFLUENCE OF
4 INDIGENOUS INDIAN TRIBES AND THEIR INFLUENCE ON MARYLAND HISTORY AND
5 CULTURE, INCLUDING AS SUBJECTS OF THE STUDY:

6 (I) CHEROKEES;

7 (II) CHIPPEWAS;

8 (III) CHOPTANKS;

9 (IV) CREEKS;

10 (V) CREES;

11 (VI) DELAWARES;

12 (VII) HALIWAS;

13 (VIII) LUMBEEES;

14 (IX) NANTICOKES;

15 (X) PISCATAWAYS;

16 (XI) POTOMACS;

17 (XII) RAPPAHANNOCKS;

18 (XIII) SEMINOLES;

19 (XIV) SUSQUEHANNAS; AND

20 (XV) WICOMICOS;

21 (4) STUDY THE STATUS OF ALL INDIAN COMMUNITIES IN THE STATE
22 AND ASSIST THEM IN OBTAINING RECOGNITION FROM THE FEDERAL GOVERNMENT;

23 (5) STUDY THE ECONOMIC AND SOCIAL NEEDS OF INDIANS IN THE
24 STATE AND MAKE RECOMMENDATIONS TO MEET THESE NEEDS;

25 (6) LOCATE, PRESERVE, AND DISSEMINATE TO THE PUBLIC
26 INFORMATION ABOUT SIGNIFICANT BUILDINGS AND SITES RELATING TO INDIAN
27 HISTORY AND CULTURE IN THE STATE; AND

28 (7) PUBLISH AN ANNUAL REPORT AND ANY OTHER MATERIAL THE
29 COMMISSION CONSIDERS NECESSARY.

30 REVISOR'S NOTE: This section formerly was Art. 41, § 6-907.

1 The only changes are in style.

2 Defined terms: "Commission" § 2-501

3 "Community" § 2-501

4 "Indian" § 2-501

5 2-508. REVENUES.

6 (A) SOURCES; TYPES OF REVENUE.

7 (1) THE COMMISSION MAY SEEK MONEY FROM THE FEDERAL
8 GOVERNMENT, FOUNDATIONS, AND PRIVATE SOURCES IN ADDITION TO STATE
9 FINANCING.

10 (2) THE COMMISSION MAY ACCEPT GIFTS, GRANTS, DONATIONS,
11 BEQUESTS, OR ENDOWMENTS FOR ANY OF ITS PURPOSES.

12 (B) NONREVERSION OF MONEY.

13 MONEY RECEIVED UNDER SUBSECTION (A) OF THIS SECTION, AND INCOME AND
14 FEES DERIVED FROM EDUCATIONAL MATERIALS AND ACTIVITIES OF THE
15 COMMISSION ARE NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND
16 PROCUREMENT ARTICLE.

17 (C) AUDIT.

18 MONEY MAINTAINED UNDER THIS SECTION IS SUBJECT TO AUDIT BY THE
19 STATE, INCLUDING THE LEGISLATIVE AUDITOR.

20 REVISOR'S NOTE: This section formerly was Art. 41, § 6-908.

21 No changes are made.

22 Defined term: "Commission" § 2-501

23 2-509. MARYLAND INDIAN STATUS.

24 (A) ESTABLISHMENT OF RECOGNITION PROCESS.

25 SUBJECT TO THE APPROVAL OF THE SECRETARY, THE COMMISSION MAY BY
26 REGULATION ESTABLISH A PROCESS FOR AN INDIAN COMMUNITY THAT IS
27 INDIGENOUS TO THE STATE TO APPLY TO THE COMMISSION FOR RECOGNITION OF
28 MARYLAND INDIAN STATUS.

29 (B) RECOMMENDATION TO GOVERNOR.

30 (1) IF THE COMMISSION FINDS THAT A PETITIONING GROUP MEETS THE
31 REQUIREMENTS FOR RECOGNITION, THE COMMISSION MAY RECOMMEND TO THE
32 GOVERNOR THAT IT BE GRANTED RECOGNITION OF MARYLAND INDIAN STATUS.

1 (2) A MEMBER OF THE COMMISSION MAY NOT VOTE OR PARTICIPATE IN
2 DELIBERATIONS ON AN APPLICATION FOR RECOGNITION OF MARYLAND INDIAN
3 STATUS MADE BY THE PETITIONING GROUP TO WHICH THE MEMBER BELONGS.

4 (C) EXECUTIVE ORDER.

5 (1) THE GOVERNOR MAY ISSUE AN EXECUTIVE ORDER PROVIDING
6 RECOGNITION OF MARYLAND INDIAN STATUS TO THE PETITIONING GROUP.

7 (2) THE EXECUTIVE ORDER:

8 (I) SHALL BE SUBMITTED TO THE JOINT COMMITTEE ON
9 ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW; AND

10 (II) SHALL TAKE EFFECT 30 DAYS AFTER IT IS SUBMITTED.

11 (D) EFFECT OF SECTION.

12 (1) THIS SECTION DOES NOT:

13 (I) CREATE A RIGHT OF OWNERSHIP OR ANY OTHER RIGHT TO
14 LAND;

15 (II) CREATE A BENEFIT OR ENTITLEMENT OF ANY KIND;

16 (III) IMPAIR EXISTING RIGHTS, BENEFITS, OR ENTITLEMENTS
17 BELONGING TO INDIANS LIVING IN THE STATE;

18 (IV) IMPAIR EXISTING JUDICIAL RULINGS OF THE STATE
19 REGARDING INDIANS OF THE STATE; OR

20 (V) GIVE THE COMMISSION THE POWER TO ESTABLISH STANDARDS
21 FOR MEMBERSHIP IN AN INDIAN COMMUNITY.

22 (2) THE POWER TO ESTABLISH STANDARDS FOR MEMBERSHIP IN AN
23 INDIAN COMMUNITY IS RESERVED TO THE COMMUNITY.

24 (3) AN ACT OR FAILURE TO ACT BY THE COMMISSION UNDER THIS
25 SECTION DOES NOT CREATE A PRIVATE CAUSE OF ACTION UNDER STATE LAW.

26 REVISOR'S NOTE: This section formerly was Art. 41, § 6-909.

27 The only changes are in style.

28 Defined terms: "Commission" § 2-501

29 "Community" § 2-501

30 "Indian" § 2-501

31 "Secretary" § 2-101

1 2-510. AFFIDAVIT.

2 BEFORE FORMAL RECOGNITION OF MARYLAND INDIAN STATUS, MEMBERS OF
3 THE PETITIONING GROUP SHALL SUBMIT AN AFFIDAVIT RENOUNCING ALL TRIBAL
4 RIGHTS OF OWNERSHIP OF LAND IN THE STATE.

5 REVISOR'S NOTE: This section formerly was Art. 41, § 6-910.

6 No changes are made.

7 Defined term: "Indian" § 2-501

8 2-511. REGULATIONS.

9 (A) IN GENERAL.

10 (1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE
11 GOVERNMENT ARTICLE, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY
12 OUT §§ 2-509 AND 2-510 OF THIS SUBTITLE.

13 (2) THE REGULATIONS SHALL:

14 (I) CREATE THE APPLICATION PROCESS;

15 (II) SET GENEALOGICAL STANDARDS; AND

16 (III) SPECIFY THE STANDARDS TO BE SATISFIED BY AN INDIAN
17 COMMUNITY APPLYING FOR FORMAL RECOGNITION OF MARYLAND INDIAN STATUS.

18 (B) STANDARDS.

19 (1) THE STANDARDS ADOPTED UNDER SUBSECTION (A) OF THIS
20 SECTION SHALL BE GENERALLY CONSISTENT WITH THE STANDARDS OF THE UNITED
21 STATES BUREAU OF INDIAN AFFAIRS FOR TRIBAL RECOGNITION BY THE UNITED
22 STATES.

23 (2) THE STANDARDS SHALL TAKE INTO ACCOUNT THE SPECIAL
24 CIRCUMSTANCES OF INDIANS INDIGENOUS TO THE STATE.

25 (3) THE STANDARDS SHALL REQUIRE:

26 (I) THAT THE PETITIONING GROUP BE IDENTIFIED FROM
27 HISTORICAL TIMES UNTIL THE PRESENT AS INDIAN;

28 (II) THAT THE MEMBERS OF THE PETITIONING GROUP BE
29 DESCENDANTS FROM AN INDIAN TRIBE THAT EXISTED HISTORICALLY AND IS
30 INDIGENOUS TO THE STATE OR DERIVED FROM HISTORICAL TRIBES THAT WERE
31 INDIGENOUS TO THE STATE BEFORE 1790;

1 (III) THAT THE MEMBERS OF THE PETITIONING GROUP BE
2 DESCENDANTS OF AN INDIAN TRIBE THAT HISTORICALLY INHABITED A SPECIFIC
3 AREA IN THE STATE BEFORE 1790; AND

4 (IV) THAT THE MEMBERSHIP OF THE PETITIONING GROUP BE
5 COMPOSED PRINCIPALLY OF INDIVIDUALS WHO ARE NOT MEMBERS OF ANY OTHER
6 INDIAN COMMUNITY.

7 (4) THE COMMISSION MAY ADOPT REGULATIONS TO ESTABLISH ANY
8 OTHER STANDARDS THAT THE COMMISSION CONSIDERS NECESSARY.

9 REVISOR'S NOTE: This section formerly was Art. 41, § 6–911.

10 The only changes are in style.

11 Defined terms: “Commission” § 2–501
12 “Community” § 2–501
13 “Indian” § 2–501

14 2–512. FALSE STATEMENTS OR REPRESENTATIONS.

15 (A) PROHIBITED.

16 IN A MATTER WITHIN THE SCOPE OF THIS SUBTITLE, A PERSON MAY NOT:

17 (1) KNOWINGLY AND WILLFULLY FALSIFY OR CONCEAL A MATERIAL
18 FACT BY TRICK, SCHEME, OR DEVICE;

19 (2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR
20 REPRESENTATION; OR

21 (3) MAKE OR USE A FALSE WRITING OR DOCUMENT KNOWING THE
22 WRITING OR DOCUMENT CONTAINS A FALSE, FICTITIOUS, OR FRAUDULENT
23 STATEMENT OR ENTRY.

24 (B) PENALTY.

25 EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON WHO VIOLATES THIS
26 SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
27 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR
28 BOTH.

29 REVISOR'S NOTE: This section formerly was Art. 41, § 6–912.

30 The only changes are in style.

31 Defined term: “Person” § 1–101

TITLE 3. LOCAL DEPARTMENTS OF SOCIAL SERVICES.

SUBTITLE 1. DEFINITIONS.

3-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(c).

No changes are made.

The definition of the term "Department" in former Art. 88A, § 44A(c) was applicable only to former Art. 88A, §§ 44A through 56, which are revised in Title 5, Subtitle 3 of this article. However, the term "Department" was also used in former provisions of Article 88A that are revised in this title. In this revision, the definition of "Department" in former Art. 88A, § 44A(c) is made applicable to this title. No substantive change is intended.

(C) LOCAL BOARD.

(1) "LOCAL BOARD" MEANS THE BOARD OF SOCIAL SERVICES IN A COUNTY.

(2) "LOCAL BOARD" INCLUDES THE COMMISSION OF SOCIAL SERVICES IN BALTIMORE CITY.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to a "local board of social services".

(D) LOCAL DEPARTMENT.

"LOCAL DEPARTMENT" MEANS:

(1) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR CONTINUED IN A COUNTY UNDER § 3-201 OF THIS TITLE; OR

(2) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY GOVERNMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88A, §§ 13B and 44A(g).

1 In item (1) of this subsection, the former reference to “Baltimore City” is
2 deleted in light of § 1–101 of this article, which defines “county” to include
3 Baltimore City.

4 The definition of the term “local department” in former Art. 88A, § 44A(g)
5 was applicable only to former Art. 88A, §§ 44A through 56, which are
6 revised in Title 5, Subtitle 3 of this article. However, the term “local
7 department” was also used in former provisions of Article 88A that are
8 revised in this title. In this revision, the definition of “local department” in
9 former Art. 88A, § 44A(g) is made applicable to this title. No substantive
10 change is intended.

11 The Human Services Article Review Committee notes, for consideration by
12 the General Assembly, that the references to the “Montgomery County
13 government” throughout this subtitle and in §§ 4–101 and 5–101 of this
14 article are vague. The General Assembly may wish to clarify which unit of
15 the Montgomery County government functions as the local department of
16 social services.

17 Defined term: “County” § 1–101

18 (E) LOCAL DIRECTOR.

19 “LOCAL DIRECTOR” MEANS THE DIRECTOR OF A LOCAL DEPARTMENT.

20 REVISOR’S NOTE: This subsection is new language added to avoid repetition
21 of the full reference to a “director of a local department of social services”.

22 (F) LOCAL GOVERNING AUTHORITY.

23 “LOCAL GOVERNING AUTHORITY” MEANS:

24 (1) IN REFERENCES TO EXECUTIVE AUTHORITY:

25 (I) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT
26 DOES NOT HAVE A CHARTER FORM OF GOVERNMENT;

27 (II) THE HIGHEST EXECUTIVE AUTHORITY OF A COUNTY THAT HAS
28 A CHARTER FORM OF GOVERNMENT; OR

29 (III) THE MAYOR OF BALTIMORE CITY;

30 (2) IN REFERENCES TO PURELY LEGISLATIVE AUTHORITY:

31 (I) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT
32 DOES NOT HAVE A CHARTER FORM OF GOVERNMENT;

33 (II) THE COUNTY COUNCIL OF A COUNTY THAT HAS A CHARTER
34 FORM OF GOVERNMENT; OR

35 (III) THE CITY COUNCIL OF BALTIMORE CITY;

1 (3) IN REFERENCES TO COMBINED EXECUTIVE AND LEGISLATIVE
2 AUTHORITY:

3 (I) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT
4 DOES NOT HAVE A CHARTER FORM OF GOVERNMENT;

5 (II) THE COUNTY COUNCIL AND THE HIGHEST EXECUTIVE
6 AUTHORITY OF A COUNTY THAT HAS A CHARTER FORM OF GOVERNMENT; OR

7 (III) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 88A, § 4.

10 In the introductory language of items (1) and (3) of this subsection, the
11 reference to "authority" is substituted for the former references to "action"
12 and "power", respectively, for consistency within this subsection.

13 The former phrase "as used in this article", which referred to former Article
14 88A, is deleted for accuracy. This article contains material outside the
15 scope of former Article 88A. Provisions from former Article 88A that used
16 the term "local governing authority" are revised in this title. No
17 substantive change is intended.

18 (G) SECRETARY.

19 "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

20 REVISOR'S NOTE: This subsection is new language added to avoid repetition
21 of the full reference to the "Secretary of Human Resources".

22 SUBTITLE 2. GENERAL PROVISIONS.

23 3-201. LOCAL DEPARTMENTS — IN GENERAL.

24 (A) CREATION OF LOCAL DEPARTMENTS.

25 (1) THIS SUBSECTION DOES NOT APPLY IN MONTGOMERY COUNTY.

26 (2) THE DEPARTMENT SHALL CREATE OR CONTINUE A LOCAL
27 DEPARTMENT IN EACH COUNTY.

28 (3) A LOCAL DEPARTMENT SHALL BE REFERRED TO AS THE
29 DEPARTMENT OF SOCIAL SERVICES PRECEDED BY THE NAME OF THE COUNTY.

30 (B) LOCAL BOARDS AND LOCAL DIRECTORS.

31 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A LOCAL
32 DEPARTMENT SHALL HAVE A LOCAL BOARD AND A LOCAL DIRECTOR APPOINTED IN
33 ACCORDANCE WITH THIS TITLE.

1 (C) COMMISSION OF SOCIAL SERVICES IN BALTIMORE CITY.

2 IN BALTIMORE CITY, THE LOCAL DEPARTMENT SHALL HAVE A COMMISSION OF
3 SOCIAL SERVICES.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from the first and second sentences and, as it related to
6 establishing a commission of social services in Baltimore City, the third
7 sentence of former Art. 88A, § 13(a).

8 In subsection (a)(1) of this section, the phrase “[t]his subsection does not
9 apply in Montgomery County” is substituted for the former phrase
10 “[e]xcept as provided in § 13A of this article” for clarity. Former Art. 88A, §
11 13A established that there is no local department in Montgomery County
12 and that programs administered by a local department are provided by the
13 Montgomery County government.

14 In subsection (a)(2) of this section, the reference to the “Department” is
15 substituted for the former obsolete reference to the “State Department” for
16 accuracy.

17 Also in subsection (a)(2) of this section, the former reference to “Baltimore
18 City” is deleted in light of § 1–101 of this article, which defines “county” to
19 include Baltimore City.

20 In subsection (b) of this section, the phrase “[e]xcept as provided in
21 subsection (c) of this section” is added for clarity because subsection (c) of
22 this section establishes that Baltimore City has a local commission of
23 social services.

24 Also in subsection (b) of this section, the reference to a local board and a
25 local director being appointed “in accordance with this title” is substituted
26 for the former references to a local board being appointed “in accordance
27 with the provisions of § 14 of this article” and a local director being
28 appointed “in accordance with subsection (b)(1) of this section” for brevity
29 and to reflect the reorganization of former Art. 88A, §§ 13(b)(1) and 14 into
30 this title.

31 In subsection (c) of this section, the former parenthetical “(herein referred
32 to as “local commission”)” is deleted as unnecessary in light of § 3–101(d) of
33 this title, which defines “local board” to include the commission of social
34 services in Baltimore City.

35 Also in subsection (c) of this section, the former phrase “and the local
36 director of the local department in Baltimore City shall be appointed in
37 accordance with the provisions of subsection (b)(2) of this section” is
38 deleted as unnecessary in light of subsection (b) of this section, which
39 provides that local directors are appointed “in accordance with this title”.

40 The last sentence of former Art. 88A, § 13(a), which provided that “[t]he

1 local boards in the counties and the local commission in Baltimore City
 2 shall have all the duties and functions provided in § 14A of this article” is
 3 deleted as unnecessary in light of § 3–503 of this title, which establishes
 4 the duties and functions of local boards.

5 Defined terms: “County” § 1–101
 6 “Department” § 3–101
 7 “Local board” § 3–101
 8 “Local department” § 3–101
 9 “Local director” § 3–101

10 3–202. LOCAL DEPARTMENTS — FUNDING.

11 (A) STATE AND FEDERAL FUNDS.

12 ADMINISTRATIVE COSTS THAT A LOCAL DEPARTMENT INCURS IN CARRYING
 13 OUT THIS SUBTITLE AND SUBTITLE 3 OF THIS TITLE SHALL BE PAID WITH STATE OR
 14 FEDERAL FUNDS AS THE DEPARTMENT PRESCRIBES.

15 (B) COUNTY FUNDS.

16 THIS SECTION DOES NOT PROHIBIT A COUNTY FROM APPROPRIATING
 17 ADDITIONAL FUNDS FOR ADMINISTRATIVE COSTS OF A LOCAL DEPARTMENT.

18 REVISOR’S NOTE: This section is new language derived without substantive
 19 change from former Art. 88A, § 13(d).

20 In subsection (a) of this section, the word “incurs” is added for clarity.

21 Also in subsection (a) of this section, the phrase “in carrying out this
 22 subtitle and Subtitle 3 of this title” is substituted for the former phrase “for
 23 the purpose of this section” for clarity and to reflect the reorganization of
 24 former Art. 88A, § 13 in this title. No substantive change is intended.

25 Also in subsection (a) of this section, the reference to costs being paid “out
 26 of allotments from” State or federal funds is deleted as surplusage.

27 Also in subsection (a) of this section, the reference to the “Department” is
 28 substituted for the former obsolete reference to the “State Department” for
 29 accuracy.

30 Defined terms: “County” § 1–101
 31 “Department” § 3–101
 32 “Local department” § 3–101

33 SUBTITLE 3. LOCAL DIRECTORS.

34 3–301. IN GENERAL.

35 (A) “LOCAL EXECUTIVE AUTHORITY” DEFINED.

1 IN THIS SECTION, "LOCAL EXECUTIVE AUTHORITY" MEANS:

2 (1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, THE
3 COUNTY EXECUTIVE OF A COUNTY THAT HAS A CHARTER FORM OF GOVERNMENT;

4 (2) THE COUNTY COUNCIL OF TALBOT COUNTY OR WICOMICO COUNTY;

5 (3) THE COUNTY COMMISSIONERS OF A COUNTY THAT DOES NOT HAVE
6 A CHARTER FORM OF GOVERNMENT; OR

7 (4) THE MAYOR OF BALTIMORE CITY.

8 (B) APPOINTMENT.

9 (1) IN EACH COUNTY, THE LOCAL DIRECTOR SHALL BE APPOINTED WITH
10 THE CONCURRENCE OF THE SECRETARY AND THE APPROPRIATE LOCAL EXECUTIVE
11 AUTHORITY OR ITS DESIGNEE.

12 (2) THE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE SHALL MEET
13 AND CONSULT WITH THE LOCAL BOARD BEFORE THE APPOINTMENT OF THE LOCAL
14 DIRECTOR.

15 (C) QUALIFICATIONS.

16 A LOCAL DIRECTOR SHALL HAVE:

17 (1) A MASTER'S DEGREE IN SOCIAL WORK OR A RELATED FIELD;

18 (2) AT LEAST 5 YEARS OF PROFESSIONAL EMPLOYMENT IN SOCIAL
19 SERVICES ADMINISTRATION OR SUPERVISION; AND

20 (3) ANY OTHER QUALIFICATIONS AND TRAINING THAT THE SECRETARY
21 REQUIRES BY REGULATION.

22 (D) EVALUATIONS.

23 (1) THE SECRETARY, THE LOCAL EXECUTIVE AUTHORITY OR ITS
24 DESIGNEE, AND THE LOCAL BOARD SHALL:

25 (I) AT LEAST ANNUALLY, EVALUATE THE LOCAL DIRECTOR IN
26 WRITING; AND

27 (II) JOINTLY REVIEW THEIR RESPECTIVE EVALUATIONS WITH THE
28 LOCAL DIRECTOR.

29 (2) IN CONSULTATION WITH THE LOCAL BOARD, THE LOCAL
30 GOVERNING AUTHORITY OF EACH COUNTY SHALL ESTABLISH BY ORDINANCE OR
31 RESOLUTION THE PROCESS FOR EVALUATING THE LOCAL DIRECTOR.

32 (3) THE SECRETARY SHALL:

1 (I) ESTABLISH BY REGULATION THE PROCESS BY WHICH THE
2 SECRETARY WILL EVALUATE THE LOCAL DIRECTORS; AND

3 (II) NOTIFY THE LOCAL BOARD OF ANY SIGNIFICANT
4 DEFICIENCIES IN THE ADMINISTRATION OF THE LOCAL DEPARTMENT.

5 (E) REMOVAL.

6 (1) A LOCAL DIRECTOR MAY BE REMOVED FROM OFFICE WITH THE
7 CONCURRENCE OF THE SECRETARY AND THE APPROPRIATE LOCAL EXECUTIVE
8 AUTHORITY OR ITS DESIGNEE.

9 (2) THE APPROPRIATE LOCAL EXECUTIVE AUTHORITY OR ITS DESIGNEE
10 SHALL MEET AND CONSULT WITH THE LOCAL BOARD BEFORE THE REMOVAL OF A
11 LOCAL DIRECTOR.

12 (F) SERVICE CLASSIFICATION.

13 (1) A LOCAL DIRECTOR SHALL BE IN THE EXECUTIVE SERVICE OR
14 MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

15 (2) EACH DEPUTY DIRECTOR AND ASSISTANT DIRECTOR OF THE
16 BALTIMORE CITY DEPARTMENT OF SOCIAL SERVICES SHALL BE IN THE
17 MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

18 REVISOR'S NOTE: Subsection (a) of this section is new language added to
19 avoid repetition of the list of executive authorities in the counties.

20 Subsections (b) through (f) of this section are new language derived
21 without substantive change from former Art. 88A, § 13(b) and (b-1).

22 Throughout this section, the former references to "Baltimore City" are
23 deleted in light of § 1-101 of this article, which defines "county" to include
24 Baltimore City.

25 In subsection (a)(1) of this section, the phrases "[e]xcept as provided in
26 item (2) of this subsection" and "of a county that has a charter form of
27 government" are added for clarity.

28 In subsection (a)(3) of this section, the phrase "of a county that does not
29 have a charter form of government" is added for clarity.

30 In the introductory language of subsection (c) of this section, the former
31 phrase "at a minimum" is deleted as implicit in the stated qualifications.

32 In subsection (c)(3) of this section, the former reference to a "rule" is
33 deleted in light of the term "regulation". See General Revisor's Note to
34 article.

35 In the introductory language of subsection (d)(1) of this section, the
36 reference to the "local executive authority or its designee" is substituted for

1 the former reference to the “county or Baltimore City” for consistency with
2 subsections (b) and (e) of this section.

3 In subsection (d)(1)(ii) of this section, the former requirement that
4 evaluations of local directors be reviewed “annually” is deleted as
5 inconsistent with the requirement that the local directors be evaluated “at
6 least annually”.

7 In subsection (d)(2) of this section, the defined term “local governing
8 authority” is substituted for the former reference to the “governing body”
9 for consistency.

10 In subsection (e)(2) of this section, the former phrase “from office” is
11 deleted as surplusage.

12 In subsection (f) of this section, the former references to appointments “on
13 or after October 1, 1992” and “after May 1, 1989” are deleted as obsolete.

14 Defined terms: “County” § 1–101

15 “Local board” § 3–101

16 “Local department” § 3–101

17 “Local director” § 3–101

18 “Local governing authority” § 3–101

19 “Secretary” § 3–101

20 3–302. RESPONSIBILITIES.

21 (A) ADMINISTRATION OF PROGRAMS.

22 (1) THIS SECTION DOES NOT APPLY IN MONTGOMERY COUNTY.

23 (2) EXCEPT FOR CHILD SUPPORT ENFORCEMENT, A LOCAL DIRECTOR
24 SHALL ADMINISTER THE SOCIAL SERVICE AND PUBLIC ASSISTANCE ACTIVITIES IN
25 THE COUNTY IN ACCORDANCE WITH TITLE 4, SUBTITLE 2 AND TITLE 5, SUBTITLE 2 OF
26 THIS ARTICLE.

27 (B) GENERAL ADMINISTRATIVE RESPONSIBILITIES.

28 A LOCAL DIRECTOR HAS A GENERAL ADMINISTRATIVE RESPONSIBILITY TO THE
29 SOCIAL SERVICES ADMINISTRATION AND THE FAMILY INVESTMENT
30 ADMINISTRATION.

31 (C) BASIC RESPONSIBILITIES.

32 THE RESPONSIBILITIES OF A LOCAL DIRECTOR INCLUDE:

33 (1) LONG-RANGE AND SHORT-RANGE PLANNING FOR THE FUNCTIONS
34 AND OBJECTIVES OF THE LOCAL DEPARTMENT;

35 (2) ADMINISTERING THE OPERATIONS OF THE LOCAL DEPARTMENT;

1 (3) EXCEPT AS PROVIDED IN § 3-301(F)(2) OF THIS SUBTITLE OR AS
 2 OTHERWISE PROVIDED BY LAW, APPOINTING PERSONNEL OF THE LOCAL
 3 DEPARTMENT IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS
 4 ARTICLE;

5 (4) IMPROVING ADMINISTRATIVE AND SOCIAL WORK PRACTICES AND
 6 PROCEDURES;

7 (5) SUBMITTING PERIODIC REPORTS AND EVALUATIONS THAT THE
 8 SOCIAL SERVICES ADMINISTRATION AND THE FAMILY INVESTMENT
 9 ADMINISTRATION REQUIRE;

10 (6) SUBMITTING AN ANNUAL REPORT TO THE LOCAL BOARD; AND

11 (7) UNDERTAKING ANY OTHER RESPONSIBILITIES REQUIRED BY THE
 12 SOCIAL SERVICES ADMINISTRATION, THE FAMILY INVESTMENT ADMINISTRATION,
 13 OR APPLICABLE LAWS.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 88A, § 13(c).

16 Subsection (a)(1) of this section is new language substituted for the former
 17 phrase "[e]xcept in Montgomery County" for clarity and accuracy.

18 In subsection (a)(2) of this section, the former reference to "Baltimore City"
 19 is deleted in light of § 1-101 of this article, which defines "county" to
 20 include Baltimore City.

21 In subsections (b) and (c)(5) and (7) of this section, the references to the
 22 "Social Services Administration" and the "Family Investment
 23 Administration" are substituted for the former obsolete references to the
 24 "State Administration" for accuracy.

25 In the introductory language of subsection (c) of this section, the word
 26 "include" is substituted for the former phrase "[s]pecifically, by way of
 27 example and not in limitation" for brevity in light of Art. 1, § 30, which
 28 provides that "includes" means "by way of illustration and not by way of
 29 limitation".

30 Also in the introductory language of subsection (c) of this section, the
 31 former word "basic" is deleted as surplusage.

32 In subsection (c)(2) of this section, the word "administering" is substituted
 33 for the former phrase "exercise of full administrative responsibility for" for
 34 brevity.

35 In subsection (c)(3) of this section, the former reference to "Title 6, Subtitle
 36 4" of the State Personnel and Pensions Article is deleted for accuracy. SP
 37 Title 6, Subtitle 4 does not address appointment and removal of employees.

1 In subsection (c)(6) of this section, the former reference to “the local
2 commission of the local department in Baltimore City” is deleted in light of
3 § 3–101(d) of this title, which defines “local board” to include the
4 commission of social services in Baltimore City.

5 In subsection (c)(7) of this section, the former phrase “from time to time” is
6 deleted as surplusage.

7 Also in subsection (c)(7) of this section, the former references to “rules” and
8 “regulations” are deleted as included in the reference to “laws”. *See*
9 General Revisor’s Note to article.

10 The Human Services Article Review Committee notes for consideration by
11 the General Assembly that the references to the “Social Services
12 Administration and the Family Investment Administration” in subsections
13 (b) and (c)(5) and (7) of this section may be too limited, since programs in
14 other units in the Department and other units of State government are
15 also administered through the local departments. The General Assembly
16 may wish to include references to other units in these subsections.

17 Defined terms: “Local board” § 3–101
18 “Local department” § 3–101
19 “Local director” § 3–101

20 3–303. MONTGOMERY COUNTY.

21 IN MONTGOMERY COUNTY, THE LOCAL DIRECTOR SHALL ACT AS THE AGENT OF
22 THE SECRETARY TO ENSURE THAT MONTGOMERY COUNTY COMPLIES WITH
23 RESPONSIBILITIES UNDER GRANT AGREEMENTS ENTERED INTO IN ACCORDANCE
24 WITH § 3–403 OF THIS TITLE.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 88A, § 13(c–1).

27 Defined terms: “Local director” § 3–101
28 “Secretary” § 3–101

29 SUBTITLE 4. MONTGOMERY COUNTY.

30 3–401. LEGISLATIVE INTENT.

31 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

32 (1) THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE BETTER
33 INTEGRATED, MORE EFFICIENT, AND ACCOUNTABLE HUMAN SERVICES DELIVERY IN
34 MONTGOMERY COUNTY BY THE STATE AND COUNTY; AND

35 (2) IMPLEMENTATION OF THIS SUBTITLE SHALL BE COST NEUTRAL TO
36 BOTH THE STATE AND MONTGOMERY COUNTY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 13A(a).

3 In items (1) and (2) of this section, the former references to the
4 "governments" and "government", respectively, are deleted as surplusage.

5 3-402. ADMINISTRATION OF PROGRAMS.

6 (A) ADMINISTRATION BY MONTGOMERY COUNTY GOVERNMENT.

7 IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY GOVERNMENT SHALL
8 ADMINISTER STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS THAT IN
9 OTHER COUNTIES ARE ADMINISTERED BY A LOCAL DEPARTMENT.

10 (B) STATE PROGRAMS.

11 THE ADMINISTRATION OF STATE PROGRAMS BY MONTGOMERY COUNTY IS
12 GOVERNED BY STATE AND FEDERAL REGULATIONS.

13 (C) STATE CHILD WELFARE PROGRAMS.

14 (1) MONTGOMERY COUNTY SHALL ADMINISTER STATE CHILD WELFARE
15 PROGRAMS IN THE SAME MANNER AS THE PROGRAMS ARE ADMINISTERED IN OTHER
16 COUNTIES.

17 (2) THE UNIT OF THE MONTGOMERY COUNTY GOVERNMENT THAT
18 ADMINISTERS THE PROGRAMS UNDER PARAGRAPH (1) OF THIS SUBSECTION IS
19 EXEMPT FROM LICENSING REQUIREMENTS IN THE SAME MANNER AS LOCAL
20 DEPARTMENTS IN OTHER COUNTIES.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 88A, § 13A(b)(1), (e), and (f).

23 In subsection (a) of this section, the first sentence of former Art. 88A, §
24 13A(b)(1), which provided that "[i]n Montgomery County, there is no local
25 department of social services", is deleted as unnecessary in light of §
26 3-101(e) of this title, which includes the Montgomery County government
27 in the definition of "local department", and § 3-201(a) of this title, which
28 excludes Montgomery County from the required creation of a local
29 department.

30 In subsections (a) and (c)(2) of this section, the phrase "in other counties" is
31 added for clarity.

32 In subsection (b) of this section, the former reference to "continu[ing]" to be
33 governed by State and federal regulations is deleted as surplusage.

34 Defined terms: "County" § 1-101
35 "Local department" § 3-101

1 3-403. FUNDING.

2 (A) GRANT AGREEMENT.

3 THE SECRETARY SHALL ENTER INTO A GRANT AGREEMENT WITH THE
4 MONTGOMERY COUNTY GOVERNMENT FOR THE ADMINISTRATION IN MONTGOMERY
5 COUNTY OF PROGRAMS ADMINISTERED IN OTHER COUNTIES BY LOCAL
6 DEPARTMENTS.

7 (B) GRANT REQUIREMENTS.

8 THE GRANT AGREEMENT SHALL:

9 (1) PROVIDE FOR PAYMENT TO MONTGOMERY COUNTY FOR THE COSTS
10 OF ADMINISTERING STATE PROGRAMS AT STATE FUNDING RATES AS PROVIDED IN §
11 3-202 OF THIS TITLE:

12 (I) INCLUDING SALARIES, OVERHEAD, GENERAL LIABILITY
13 COVERAGE, WORKERS' COMPENSATION, AND EMPLOYEE BENEFITS; BUT

14 (II) EXCLUDING AMOUNTS ATTRIBUTABLE TO COUNTY SALARIES
15 OR BENEFITS THAT EXCEED COMPARABLE STATE SALARIES OR BENEFITS;

16 (2) REQUIRE THE STATE TO PAY FOR STATE ACCRUED LEAVE; AND

17 (3) UTILIZE THE SAME BUDGET CATEGORIES AS APPROPRIATIONS IN
18 THE STATE BUDGET FOR LOCAL DEPARTMENTS IN OTHER COUNTIES.

19 (C) GRANT AMOUNT.

20 (1) NOTWITHSTANDING ANY OTHER LAW, THE PROPORTION OF STATE
21 AND FEDERAL FUNDS PAID IN FISCAL YEAR 1997 TO THE MONTGOMERY COUNTY
22 GOVERNMENT UNDER THIS SECTION RELATIVE TO THE FUNDS PROVIDED BY THE
23 SECRETARY TO ALL LOCAL DEPARTMENTS MAY NOT BE LESS THAN THE
24 PROPORTION OF FUNDS DISBURSED IN FISCAL YEAR 1996 TO THE MONTGOMERY
25 COUNTY DEPARTMENT OF SOCIAL SERVICES.

26 (2) AFTER FISCAL YEAR 1997, THE AMOUNT OF THE GRANT TO THE
27 MONTGOMERY COUNTY GOVERNMENT SHALL BE PROPORTIONALLY ADJUSTED
28 EACH YEAR TO:

29 (I) REFLECT CHANGES IN CASE LOADS, THE NUMBER OF
30 CHILDREN IN POVERTY, AND ANY OTHER RELEVANT COST FACTORS THE PARTIES
31 AGREE TO; AND

32 (II) ENSURE THAT THE GRANT IS EQUITABLE IN RELATION TO THE
33 FUNDS PROVIDED TO ALL LOCAL DEPARTMENTS.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 88A, § 13A(b)(2), (3), and (4) and (c).

1 In subsection (a) of this section, the phrase “in other counties” is
2 substituted for the former phrase “elsewhere in the State” for clarity.

3 In the introductory language of subsection (b) of this section, the former
4 phrase “provided under subsection (c) of this section” is deleted as
5 unnecessary.

6 In subsection (b)(2) of this section, the reference to “pay[ing]” for accrued
7 leave is substituted for the former reference to “continu[ing] to provide for
8 the payment of” for brevity.

9 In subsection (b)(3) of this section, the phrase “in other counties” is added
10 to distinguish between the Montgomery County government and other
11 local departments.

12 Defined terms: “County” § 1–101
13 “Local department” § 3–101
14 “Secretary” § 3–101

15 3–404. CONFIDENTIALITY OF INFORMATION.

16 (A) MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

17 THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES
18 IS CONSIDERED TO BE ONE AGENCY FOR PURPOSES OF CONFIDENTIALITY
19 PROVISIONS OF STATE LAW.

20 (B) USE AND RELEASE OF INFORMATION.

21 THE USE AND RELEASE OF INFORMATION CONCERNING RECIPIENTS OF STATE
22 SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS BY THE MONTGOMERY
23 COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES IS GOVERNED BY THE
24 CONFIDENTIALITY PROVISIONS OF STATE LAW, INCLUDING TITLE 1, SUBTITLE 2 OF
25 THIS ARTICLE.

26 REVISOR’S NOTE: This section is derived without substantive change from
27 former Art. 88A, § 13A(d).

28 In subsections (a) and (b) of this section, the former references to
29 “regulations” are deleted as included in the references to “State law”. *See*
30 General Revisor’s Note to article.

31 3–405. BIENNIAL REVIEW.

32 THE SECRETARY AND THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY
33 SHALL CONSULT WITH EACH OTHER AT LEAST EVERY OTHER YEAR TO ENSURE THAT
34 THE OBJECTIVES OF THE SOCIAL SERVICE AND PUBLIC ASSISTANCE PROGRAMS
35 ADMINISTERED BY THE MONTGOMERY COUNTY GOVERNMENT ARE CONSISTENT
36 WITH THE OBJECTIVES OF THE STATE SOCIAL SERVICE AND PUBLIC ASSISTANCE
37 PROGRAMS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 13A(h).

3 Defined term: "Secretary" § 3-101

4 3-406. AWARD OF JUDGMENTS.

5 (A) SCOPE.

6 THIS SECTION IS NOT A WAIVER OF IMMUNITY UNDER THE ELEVENTH
7 AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

8 (B) JUDGMENTS AGAINST THE COUNTY.

9 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
10 STATE SHALL PAY ANY JUDGMENT AWARDED AGAINST MONTGOMERY COUNTY OR
11 AN EMPLOYEE OF MONTGOMERY COUNTY THAT ARISES OUT OF AN ACTION
12 COMMENCED OR PROSECUTED IN A COURT OF THE UNITED STATES RELATING TO
13 THE ADMINISTRATION AND IMPLEMENTATION OF STATE PROGRAMS DESCRIBED IN
14 THIS SUBTITLE.

15 (2) THE STATE MAY NOT PAY A JUDGMENT AWARDED AGAINST AN
16 EMPLOYEE OF MONTGOMERY COUNTY UNDER THIS SECTION FOR AN ACT OR
17 OMISSION COMMITTED:

18 (I) OUTSIDE THE SCOPE OF EMPLOYMENT; OR

19 (II) WITH MALICE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 88A, § 13A(g).

22 In subsection (b)(1) of this section, the phrase "[e]xcept as provided in
23 paragraph (2) of this subsection" is added for clarity.

24 SUBTITLE 5. LOCAL BOARDS.

25 3-501. IN GENERAL.

26 (A) SCOPE OF SECTION.

27 THIS SECTION DOES NOT APPLY IN BALTIMORE CITY.

28 (B) ESTABLISHMENT.

29 EACH LOCAL DEPARTMENT SHALL HAVE A LOCAL BOARD.

30 (C) COMPOSITION.

31 A LOCAL BOARD CONSISTS OF AT LEAST 9 BUT NO MORE THAN 13 MEMBERS AS
32 PROVIDED BY LOCAL LAW ENACTED BY THE LOCAL GOVERNING AUTHORITY.

1 (D) APPOINTMENT OF MEMBERS.

2 (1) ON JULY 1 OF EACH YEAR, EACH LOCAL GOVERNING AUTHORITY
3 SHALL DESIGNATE ONE MEMBER OF THE LOCAL GOVERNING AUTHORITY TO SERVE
4 AS AN EX OFFICIO MEMBER OF THE LOCAL BOARD.

5 (2) (I) THE OTHER MEMBERS OF THE LOCAL BOARD SHALL BE
6 APPOINTED BY THE LOCAL GOVERNING AUTHORITY.

7 (II) THE LOCAL GOVERNING AUTHORITY SHALL SEEK OUT AND
8 APPOINT INDIVIDUALS WHO:

9 1. HAVE A HIGH DEGREE OF INTEREST, CAPACITY, AND
10 OBJECTIVITY; AND

11 2. IN THE AGGREGATE, GIVE A COUNTYWIDE
12 REPRESENTATIVE CHARACTER TO THE LOCAL BOARD.

13 (E) CHAIRMAN.

14 ON JULY 1 OF EACH YEAR, EACH LOCAL BOARD SHALL SELECT A CHAIRMAN.

15 (F) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

16 A MEMBER OF A LOCAL BOARD:

17 (1) MAY NOT RECEIVE COMPENSATION; BUT

18 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
19 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

20 (G) TENURE; VACANCIES.

21 (1) (I) 1. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 2 OF THIS
22 SUBPARAGRAPH, THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

23 2. IN CHARLES COUNTY, THE TERM OF AN APPOINTED
24 MEMBER IS 4 YEARS.

25 (II) A TERM EXPIRES ON JUNE 30 OF THE YEAR OF EXPIRATION.

26 (III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
27 UNTIL A SUCCESSOR IS APPOINTED.

28 (IV) ONCE AN APPOINTED MEMBER OF A LOCAL BOARD SERVES
29 TWO CONSECUTIVE FULL TERMS, THE MEMBER IS INELIGIBLE FOR REAPPOINTMENT
30 FOR A PERIOD OF 1 YEAR.

31 (2) IF A VACANCY OCCURS DURING THE TERM OF A MEMBER, THE LOCAL
32 GOVERNING AUTHORITY SHALL APPOINT OR DESIGNATE A SUCCESSOR TO SERVE
33 FOR THE REMAINDER OF THE TERM.

1 (H) ATTENDANCE AT MEETINGS.

2 IF A MEMBER OF A LOCAL BOARD FAILS TO ATTEND AT LEAST 50% OF THE
3 LOCAL BOARD'S MEETINGS DURING A PERIOD OF TWELVE CONSECUTIVE MONTHS:

4 (1) THE MEMBER MAY BE CONSIDERED TO HAVE RESIGNED; AND

5 (2) THE CHAIRMAN MAY DECLARE THAT A VACANCY EXISTS.

6 (I) ELECTION OR APPOINTMENT TO PUBLIC OFFICE.

7 (1) THIS SUBSECTION DOES NOT APPLY TO AN EX OFFICIO MEMBER OF
8 A LOCAL BOARD.

9 (2) IF A MEMBER OF A LOCAL BOARD IS ELECTED OR APPOINTED TO
10 POLITICAL OR PUBLIC OFFICE:

11 (I) THE LOCAL GOVERNING AUTHORITY MAY CONSIDER THE
12 MEMBER TO HAVE RESIGNED; AND

13 (II) THE CHAIRMAN SHALL DECLARE THAT A VACANCY EXISTS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 88A, § 14(a)(1) and (b) through (f).

16 In subsection (b) of this section, the former phrase "appointed as
17 hereinafter provided and herein referred to as the local board" is deleted as
18 surplusage.

19 In subsection (c) of this section, the former reference to a local law "and"
20 enacted by the local governing authority is deleted as surplusage.

21 Subsection (f) of this section is revised in standard language used to
22 provide for reimbursement of expenses.

23 In subsection (g)(1)(i) and (iv) of this section, the references to an
24 "appointed" member are added for clarity.

25 In subsection (g)(1)(iv) of this section, the phrase "[o]nce an appointed
26 member of a local board serves" is substituted for the former phrase
27 "[u]pon the expiration of" for clarity.

28 In subsection (g)(2) of this section, the former words "for any reason" and
29 "unexpired" are deleted as surplusage and implicit in the context of the
30 provision.

31 In subsection (h) of this section, the former phrase "and the chairman of
32 the board shall" is deleted for clarity in light of the provision's context that
33 it is a discretionary act on the part of the chairman to declare that a
34 vacancy exists and not a mandatory act as the former word "shall" would
35 imply.

1 In subsections (h) and (i) of this section, the former references to filling a
 2 vacancy “in the manner provided in subsection (c) of this section” are
 3 deleted as surplusage.

4 In subsection (i) of this section, the former phrase “during the member’s
 5 tenure of office on the local board” is deleted as surplusage.

6 Defined terms: “Local board” § 3–101

7 “Local department” § 3–101

8 “Local governing authority” § 3–101

9 REVISOR’S NOTE TO SECTION:

10 Former Art. 88A, § 14(a)(2), which required that “each local board
 11 chairman shall serve as liaison between the local board and the State
 12 Board”, is deleted as obsolete. This requirement was enacted in 1980. The
 13 former State Board of Social Services was abolished in 1984, but the
 14 reference to the State Board in former Art. 88A, § 14(a)(2) was never
 15 repealed.

16 3–502. BALTIMORE CITY SOCIAL SERVICES COMMISSION.

17 THE BALTIMORE CITY SOCIAL SERVICES COMMISSION SHALL BE APPOINTED IN
 18 ACCORDANCE WITH ARTICLE VII, § 58 OF THE CHARTER OF BALTIMORE CITY, 1996
 19 EDITION.

20 REVISOR’S NOTE: This section is new language derived without substantive
 21 change from the first clause of the third sentence of former Art. 88A, §
 22 13(a).

23 The reference to “Article VII, § 58 of the Charter of Baltimore City, 1996
 24 Edition” is substituted for the former obsolete reference to “§ 48(d) of
 25 Article VII of the Charter of Baltimore City, 1964 Edition”.

26 3–503. DUTIES AND FUNCTIONS OF LOCAL BOARDS.

27 THE DUTIES AND FUNCTIONS OF A LOCAL BOARD INCLUDE:

28 (1) TO ADVISE THE LOCAL DIRECTOR AS TO THE LOCAL APPLICATION OF
 29 STATE POLICIES OR PROCEDURES;

30 (2) TO BE WELL INFORMED ON LOCAL DEPARTMENTAL ACTIVITIES;

31 (3) TO COMMUNICATE TO THE RESIDENTS OF THE COUNTY, BROAD AND
 32 COMPREHENSIVE INFORMATION AS TO THE OBJECTIVES, POLICIES, PROGRAMS, AND
 33 PROBLEMS OF LOCAL SOCIAL SERVICES AND PUBLIC ASSISTANCE ADMINISTRATION;

34 (4) TO REVIEW THE PERIODIC EVALUATION OF THE LOCAL
 35 DEPARTMENT PREPARED BY THE DEPARTMENT AND CONSULT WITH THE LOCAL
 36 DIRECTOR AS TO THE PROPER IMPLEMENTATION OF THE RECOMMENDATIONS AND

1 ANY RECOMMENDATIONS MADE BY THE LOCAL BOARD AS A RESULT OF ITS
2 EVALUATION OF THE LOCAL DEPARTMENT;

3 (5) TO REVIEW AND TRANSMIT TO THE SECRETARY AND THE LOCAL
4 GOVERNING AUTHORITY:

5 (I) THE ANNUAL REPORT OF THE LOCAL DIRECTOR ON THE
6 ACTIVITIES OF THE LOCAL DEPARTMENT; AND

7 (II) ANY CHANGES IN POLICIES OR PROCEDURES THE LOCAL
8 BOARD RECOMMENDS;

9 (6) TO REVIEW AND MAKE RECOMMENDATIONS REGARDING THE
10 ANNUAL ESTIMATE OF FUNDS NEEDED FOR SOCIAL SERVICES AND PUBLIC
11 ASSISTANCE PURPOSES IN THE COUNTY;

12 (7) (I) TO CONSULT WITH THE LOCAL DIRECTOR REGARDING ANY
13 NEW SERVICE THAT MIGHT BE INSTITUTED BY THE LOCAL DIRECTOR OR THE LOCAL
14 BOARD TO MEET AN UNMET NEED IN THE COUNTY;

15 (II) TO APPROVE OR DISAPPROVE THE LOCAL DIRECTOR'S
16 EVALUATION OF THE READINESS OF THE LOCAL DEPARTMENT TO TAKE ON THE
17 NEW SERVICE AND THE PROPRIETY OF THE NEW SERVICE WITHIN THE STATE PLAN;
18 AND

19 (III) TO PRESENT TO THE DEPARTMENT:

20 1. SUGGESTED NEW SERVICES THAT THE LOCAL BOARD
21 APPROVES, REGARDLESS OF WHETHER THE RECOMMENDATION ORIGINATED FROM
22 THE LOCAL DIRECTOR OR THE LOCAL BOARD; AND

23 2. THE RECOMMENDATIONS OF BOTH THE LOCAL DIRECTOR
24 AND THE LOCAL BOARD;

25 (8) TO TAKE ACTIVE STEPS TO SECURE THE APPROPRIATION OF LOCAL
26 FUNDS BY THE LOCAL GOVERNING AUTHORITY TO MEET NEEDS THAT ARE:

27 (I) NOT FINANCED BY OR AVAILABLE THROUGH ANY OTHER
28 FEDERAL, STATE, OR LOCAL PLAN, PROJECT, OR PROGRAM; AND

29 (II) NOT IN CONFLICT WITH THE STATE PLAN;

30 (9) TO MEET WITH THE SECRETARY PERIODICALLY AT THE REQUEST OF
31 THE SECRETARY OR THE LOCAL BOARD;

32 (10) TO ESTABLISH AND MAINTAIN EFFECTIVE LIAISON WITH THE LOCAL
33 GOVERNING AUTHORITY;

34 (11) IN CONJUNCTION WITH THE DEPARTMENT, TO SERVE AS AN
35 ADVOCATE FOR SOCIAL SERVICES AND PUBLIC ASSISTANCE PROGRAMS ON THE
36 LOCAL, STATE, AND FEDERAL LEVELS;

1 (12) TO WORK TO IDENTIFY PRIVATE, STATE, AND FEDERAL GRANT
2 SOURCES FOR SOCIAL SERVICES AND PUBLIC ASSISTANCE PROGRAMS;

3 (13) IN CONJUNCTION WITH THE DEPARTMENT, TO DEVELOP AND
4 IMPLEMENT AN EDUCATIONAL AND PUBLIC RELATIONS PROGRAM FOR PUBLIC AND
5 ELECTED OFFICIALS ON THE LOCAL, STATE, AND FEDERAL LEVEL; AND

6 (14) IN CONJUNCTION WITH THE DEPARTMENT AND THE LOCAL
7 EXECUTIVE AUTHORITY OR ITS DESIGNEE, TO EVALUATE THE LOCAL DIRECTOR AND
8 MAKE RECOMMENDATIONS BASED ON THE EVALUATION TO THE SECRETARY.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 88A, § 14A.

11 In the introductory language of this section, the reference to "a local board"
12 is substituted for the former reference to "[t]he board of each local
13 department of social services in the counties and the local commission of
14 the Department of Social Services in Baltimore City" for brevity in light of
15 § 3-101(d) of this title, which defines "local board" to mean the board of
16 social services in a county and to include the commission of social services
17 in Baltimore City.

18 Also in the introductory language of this section, the word "includes" is
19 substituted for the former phrase "(specifically, by way of example and not
20 in limitation)" for brevity in light of Art. 1, § 30, which provides that
21 "includes" means "by way of illustration and not by way of limitation".

22 Throughout this section, the former references to "Baltimore City" are
23 deleted in light of § 1-101 of this article, which defines "county" to include
24 Baltimore City.

25 In items (4) and (7)(iii) of this section, the references to the "Department"
26 are substituted for the former obsolete references to the "State
27 Administration" for accuracy.

28 In item (6) of this section, the former word "suitable" is deleted as
29 surplusage and implicit in the submission of recommendations.

30 In items (11) and (12) of this section, the references to "public assistance"
31 programs are added for consistency with items (3) and (6) of this section.

32 In item (14) of this section, the former phrase "with regards to the local
33 director" is deleted as surplusage.

34 Also in item (14) of this section, the reference to "the local executive
35 authority or its designee" is substituted for the former reference to "the
36 county or Baltimore City" for consistency with § 3-301(d) of this title.

37 Defined terms: "County" § 1-101

38 "Department" § 3-101

1 "Local board" § 3-101
2 "Local department" § 3-101
3 "Local director" § 3-101
4 "Local governing authority" § 3-101
5 "Secretary" § 3-101

6 SUBTITLE 6. MISCELLANEOUS PROVISIONS.

7 3-601. LEGAL SERVICES TO LOCAL DEPARTMENTS.

8 (A) REPRESENTATION OF LOCAL DEPARTMENT.

9 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
10 ATTORNEY TO, OR AN ATTORNEY DESIGNATED BY, THE LOCAL GOVERNING
11 AUTHORITY IN EACH COUNTY SHALL INSTITUTE AND DEFEND EACH CIVIL ACTION
12 IN WHICH THE LOCAL DEPARTMENT IS A PARTY.

13 (2) IN CECIL COUNTY, THE LOCAL DEPARTMENT MAY SECURE THE
14 SERVICES OF ATTORNEYS TO REPRESENT IT IN ALL LEGAL MATTERS AFFECTING THE
15 LOCAL DEPARTMENT.

16 (B) INSTITUTION OF ACTION.

17 ACTIONS IN WHICH THE LOCAL DEPARTMENT IS A PARTY SHALL BE
18 INSTITUTED IN THE NAME OF THE LOCAL DEPARTMENT.

19 (C) ATTORNEY'S FEES.

20 (1) THE COURT MAY AWARD ATTORNEY'S FEES TO AN ATTORNEY
21 REPRESENTING A LOCAL DEPARTMENT IN AN ACTION TO RECOVER:

22 (I) FROM THE ESTATE OF A RECIPIENT OF ANY TYPE OF PUBLIC
23 ASSISTANCE, THE AMOUNT PAID TO THE RECIPIENT DURING THE RECIPIENT'S
24 LIFETIME; OR

25 (II) FROM A RECIPIENT OF ANY TYPE OF PUBLIC ASSISTANCE, THE
26 AMOUNT PAID TO THE RECIPIENT BEFORE THE RECIPIENT RECEIVES ANY PROPERTY
27 OR INCOME IN EXCESS OF THE AMOUNT STATED IN THE RECIPIENT'S APPLICATION
28 FOR ASSISTANCE AND IN EXCESS OF THE RECIPIENT'S NEED.

29 (2) THE AMOUNT OF FEES AWARDED BY THE COURT SHALL BE
30 DEDUCTED FROM THE GROSS AMOUNT OF THE RECOVERY IN THE ACTION.

31 (3) THE NET AMOUNT OF THE RECOVERY SHALL BE TURNED OVER TO
32 THE LOCAL DEPARTMENT TO BE DIVIDED AMONG THE STATE, THE COUNTY, AND THE
33 FEDERAL GOVERNMENT IN PROPORTION TO THE AMOUNT PAID BY EACH.

34 (D) OTHER LEGAL SERVICES.

1 (1) EXCEPT AS OTHERWISE PROVIDED, AN ATTORNEY WHO PROVIDES
2 ANY OTHER LEGAL SERVICES ON BEHALF OF A LOCAL DEPARTMENT SHALL BE PAID
3 THE FEES THE DEPARTMENT SETS.

4 (2) ATTORNEY'S FEES UNDER THIS SUBSECTION SHALL BE PAID OUT OF
5 REGULAR ADMINISTRATIVE FUNDS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 88A, § 7.

8 In subsections (a)(1), (b), and (c)(1) and (2) of this section, the references to
9 a civil "action" are substituted for the former references to "cases" and
10 "suits" for consistency with the Maryland Rules.

11 In subsections (a)(1) and (b) of this section, the former references to an
12 "interested" party are deleted as surplusage.

13 In subsections (a)(1) and (c)(3) of this section, the former references to
14 "Baltimore City" are deleted in light of § 1-101 of this article, which
15 defines "county" to include Baltimore City.

16 In subsection (a)(1) of this section, the phrase "[e]xcept as provided in
17 paragraph (2) of this subsection," is added for clarity.

18 Also in subsection (a)(1) of this section, the former phrase "as defined in §
19 4 of this article" is deleted as surplusage.

20 In subsection (b) of this section, the phrase "[a]ctions in which the local
21 department is a party" is substituted for the former phrase "[a]ll such
22 suits" for clarity.

23 In subsection (c)(1) of this section, the phrase "[t]he court may award
24 attorney's fees" is substituted for the former phrase "may be allowed such
25 fees for their services as may be fixed by the court" for brevity and
26 consistency with similar provisions elsewhere in the Code.

27 Also in subsection (c)(1) of this section, the phrase "[a]n attorney
28 representing a local department" is substituted for the former phrase "such
29 attorneys" for clarity.

30 In subsection (d)(1) of this section, the phrase "[e]xcept as otherwise
31 provided" is substituted for the former phrase "[f]or such other legal
32 services ... not provided for otherwise" for clarity and brevity.

33 Also in subsection (d)(1) of this section, the phrase "an attorney who
34 provides any other legal services" is substituted for the former phrase "[f]or
35 such other legal services as are required of such attorneys" for clarity.

36 Also in subsection (d)(1) of this section, the former phrase "from time to
37 time" is deleted as surplusage.

1 Also in subsection (d)(1) of this section, the reference to the “Department”
2 is substituted for the former obsolete reference to the “State Department”
3 for accuracy.

4 In subsection (d)(2) of this section, the phrase “[a]ttorney’s fees under this
5 section shall be paid out of” is substituted for the former phrase “the cost
6 thereof to be borne” for clarity.

7 In subsections (a)(1) and (c)(3) of this section, the former references to
8 “Baltimore City” are deleted in light of § 1–101 of this article, which
9 defines “county” to include Baltimore City.

10 Defined terms: “County” § 1–101

11 “Department” § 3–101

12 “Local department” § 3–101

13 “Local governing authority” § 3–101

14 3–602. AUDITS OF LOCAL DEPARTMENTS.

15 (A) BIENNIAL AUDIT.

16 AT LEAST ONCE EVERY 2 YEARS, THE DEPARTMENT SHALL:

17 (1) CONDUCT OR CONTRACT FOR A FINANCIAL AND COMPLIANCE AUDIT
18 OF EACH LOCAL DEPARTMENT; AND

19 (2) PREPARE A WRITTEN REPORT OF THE AUDIT FINDINGS.

20 (B) AUDITING STANDARDS.

21 THE AUDIT SHALL COMPLY WITH THE AUDITING STANDARDS ISSUED BY THE
22 INSTITUTE OF INTERNAL AUDITORS.

23 (C) DISTRIBUTION OF WRITTEN REPORT.

24 THE WRITTEN REPORT OF THE AUDIT FINDINGS SHALL BE DISTRIBUTED TO:

25 (1) THE LOCAL BOARD; AND

26 (2) THE LOCAL GOVERNING AUTHORITY.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 88A, § 3(a)(3).

29 In the introductory language of subsection (a) of this section, the reference
30 to the “Department” is substituted for the former reference to the “State
31 Department” to conform to current practice. Audits of the local
32 departments are performed through the Office of Inspector General in the
33 Department.

34 In the introductory language of subsection (c) of this section, the former

1 phrase “as appropriate” is deleted as surplusage.

2 In subsection (c)(1) of this section, the defined term “local board” is
3 substituted for the former reference to the “local board or commission of
4 social services in each county and Baltimore City” for brevity and
5 consistency.

6 In subsection (c)(2) of this section, the defined term “local governing
7 authority” is substituted for the former references to the “county
8 executive”, “county commissioners and county councils”, “Mayor of
9 Baltimore City”, and “City Council of Baltimore City” for brevity.

10 Defined terms: “Department” § 3–101

11 “Local board” § 3–101

12 “Local department” § 3–101

13 “Local governing authority” § 3–101

14 TITLE 4. SOCIAL SERVICES.

15 SUBTITLE 1. DEFINITIONS.

16 4–101. DEFINITIONS.

17 (A) IN GENERAL.

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

19 REVISOR’S NOTE: This subsection is new language added as the standard
20 introductory language to a definition section.

21 (B) ADMINISTRATION.

22 “ADMINISTRATION” MEANS THE SOCIAL SERVICES ADMINISTRATION.

23 REVISOR’S NOTE: This subsection is new language added to avoid repetition
24 of the full reference to the “Social Services Administration”.

25 As to the substitution of the defined term “Administration” for the former
26 references to the “State Administration” and the “State Department”
27 throughout this title, *see* General Revisor’s Note to title.

28 (C) DEPARTMENT.

29 “DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

30 REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(c).

31 No changes are made.

32 The definition of the term “Department” in former Art. 88A, § 44A(c) was
33 applicable only to former Art. 88A, §§ 44A through 56, which are revised in

1 Title 5, Subtitle 3 of this article. However, the term “Department” was also
2 used in former provisions of Article 88A that are revised in this title. In
3 this revision, the definition of “Department” in former Art. 88A, § 44A(c) is
4 made applicable to this title. No substantive change is intended.

5 (D) EXECUTIVE DIRECTOR.

6 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF SOCIAL
7 SERVICES.

8 REVISOR’S NOTE: This subsection is new language added to avoid repetition
9 of the full reference to the “Executive Director of Social Services”.

10 (E) LOCAL DEPARTMENT.

11 “LOCAL DEPARTMENT” MEANS:

12 (1) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR
13 CONTINUED IN A COUNTY UNDER § 3–201 OF THIS ARTICLE; OR

14 (2) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY
15 GOVERNMENT.

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from former Art. 88A, §§ 13B and 44A(g).

18 The former reference to “Baltimore City” is deleted as included in the
19 reference to a “county”.

20 The definition of the term “local department” in former Art. 88A, § 44A(g)
21 was applicable only to former Art. 88A, §§ 44A through 56, which are
22 revised in Title 5, Subtitle 3 of this article. However, the term “local
23 department” was also used in former provisions of Article 88A that are
24 revised in this title. In this revision, the definition of “local department” in
25 former Art. 88A, § 44A(g) is made applicable to this title. No substantive
26 change is intended.

27 Defined term: “County” § 1–101

28 (F) SECRETARY.

29 “SECRETARY” MEANS THE SECRETARY OF HUMAN RESOURCES.

30 REVISOR’S NOTE: This subsection formerly was Art. 88A, § 44A(k).

31 No changes are made.

32 The definition of the term “Secretary” in former Art. 88A, § 44A(k) was
33 applicable only to former Art. 88A, §§ 44A through 56, which are revised in
34 Title 5, Subtitle 3 of this article. However, the term “Secretary” was also
35 used in former provisions of Article 88A that are revised in this title. In

1 this revision, the definition of “Secretary” in former Art. 88A, § 44A(k) is
2 made applicable to this title. No substantive change is intended.

3 SUBTITLE 2. SOCIAL SERVICES ADMINISTRATION.

4 4–201. ESTABLISHED.

5 THERE IS A SOCIAL SERVICES ADMINISTRATION IN THE DEPARTMENT.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 88A, § 1(a) and the first and second sentences of
8 former Art. 41, § 6–106.

9 It is set forth as a separate section for emphasis and restated in standard
10 language for clarity and consistency.

11 The former reference to being “continued as the same State Department of
12 Social Services hitherto existing” is deleted as surplusage.

13 The former references to the use of the terms “State Administration” and
14 “State Department” are deleted as unnecessary in light of § 4–101(b) of
15 this title to the same effect.

16 Defined term: “Department” § 4–101

17 4–202. AUTHORITY OF SECRETARY.

18 THE ADMINISTRATION AND THE EXECUTIVE DIRECTOR EXERCISE THEIR
19 AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY STATE LAW SUBJECT TO THE
20 AUTHORITY OF THE SECRETARY UNDER ANY STATE LAW.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 88A, § 1(c).

23 In this section and throughout this subtitle, the defined term “Executive
24 Director” is substituted for the former references to the “State Director of
25 Social Services” and the “State Director” to conform to current practice.

26 The phrase “under any State law” is substituted for the former phrases “by
27 the provisions of this article or by any other laws of this State” and “as set
28 forth in Article 41 of this Code or elsewhere in the laws of Maryland” for
29 brevity.

30 Defined terms: “Administration” § 4–101

31 “Executive Director” § 4–101

32 “Secretary” § 4–101

33 4–203. EXECUTIVE DIRECTOR.

34 (A) APPOINTMENT.

1 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THE
2 EXECUTIVE DIRECTOR.

3 (B) QUALIFICATIONS.

4 THE EXECUTIVE DIRECTOR SHALL BE A COMPETENT PERSON WITH ADEQUATE
5 TRAINING AND PRACTICAL EXPERIENCE IN SOCIAL WELFARE WORK.

6 (C) TENURE.

7 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

8 (D) COMPENSATION.

9 THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN
10 THE STATE BUDGET.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88A, § 2(a).

13 In subsection (c) of this section, the word "serves" is substituted for the
14 former phrase "shall hold office" for brevity and clarity.

15 Also in subsection (c) of this section, the former reference to "[t]he State
16 Director holding office on August 31, 1970" is deleted as obsolete.

17 In subsection (d) of this section, the reference to being "entitled to the
18 compensation provided in the State budget" is substituted for the former
19 reference to being "paid for his services such compensation as may be
20 provided in the budget" for conformity with standard language.

21 Defined terms: "Executive Director" § 4-101
22 "Secretary" § 4-101

23 4-204. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

24 (A) IN GENERAL.

25 (1) THE EXECUTIVE DIRECTOR IS THE ADMINISTRATIVE HEAD OF THE
26 ADMINISTRATION.

27 (2) THE EXECUTIVE DIRECTOR SHALL DEVOTE THE EXECUTIVE
28 DIRECTOR'S WHOLE TIME TO THE DUTIES OF THE OFFICE.

29 (B) ADMINISTRATIVE AND SUPERVISORY DUTIES.

30 SUBJECT TO STATE AND FEDERAL LAWS GOVERNING THE ADMINISTRATION OF
31 SOCIAL SERVICES, THE EXECUTIVE DIRECTOR SHALL:

32 (1) ADMINISTER AND ORGANIZE THE ADMINISTRATION;

1 (2) SUPERVISE THE SOCIAL SERVICE ACTIVITIES OF THE LOCAL
2 DEPARTMENTS; AND

3 (3) SUPERVISE OTHER AGENCIES AND INSTITUTIONS UNDER THE
4 SUPERVISION OF THE ADMINISTRATION.

5 (C) PERSONNEL.

6 (1) THE EXECUTIVE DIRECTOR MAY PRESCRIBE THE NUMBER AND
7 MINIMUM QUALIFICATIONS OF THE PERSONNEL ENGAGED IN THE ADMINISTRATION
8 OF THE ACTIVITIES OF THE ADMINISTRATION AND OF THE LOCAL DEPARTMENTS
9 THAT ARE FINANCED WHOLLY OR PARTLY BY THE ADMINISTRATION.

10 (2) (I) AS PROVIDED IN THE STATE BUDGET, THE EXECUTIVE
11 DIRECTOR MAY APPOINT THE PERSONNEL REQUIRED TO PROPERLY PERFORM THE
12 DUTIES OF THE ADMINISTRATION.

13 (II) EXCEPT AS OTHERWISE PROVIDED, APPOINTMENT AND
14 REMOVAL OF ALL PAID PERSONNEL UNDER THIS TITLE ARE SUBJECT TO THE
15 PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

16 (D) BUDGET ESTIMATES.

17 THE EXECUTIVE DIRECTOR SHALL SUBMIT BUDGET ESTIMATES FOR THE
18 ADMINISTRATION TO THE SECRETARY.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 88A, §§ 1(b) and 2(c), (d), and (b)(1) and, as it
21 related to social services, (2).

22 In the introductory language of subsection (b) of this section, the former
23 reference to "the rules and regulations prescribed in accordance with law"
24 are deleted as included in the reference to "State and federal laws".

25 In subsection (b)(2) of this section, the reference to the "social service
26 activities" of the local departments is added for clarity.

27 In subsection (c)(1) of this section, the former parenthetical phrase
28 "hereinafter referred to as 'local departments'" is deleted in light of §
29 4-101(d) of this title to the same effect.

30 Also in subsection (c)(1) of this section, the former reference to local
31 departments "created or continued under the provisions of § 13 of this
32 article" is deleted in light of § 4-101(d) of this title to the same effect.

33 In subsection (c)(2)(i) of this section, the reference to "personnel" is
34 substituted for the former reference to "employees" for consistency with
35 subsection (c)(1) and (2)(ii) of this section.

36 Also in subsection (c)(2)(i) of this section, the former phrase "from time to

1 time” is deleted as surplusage.

2 In subsection (c)(2)(ii) of this section, the reference to “this title” is
3 substituted for the former reference to “this article” to reflect the change in
4 the organization of provisions formerly contained in Article 88A.

5 The Human Services Article Review Committee notes, for consideration by
6 the General Assembly, that in subsection (a)(2) of this section, the
7 requirement that the Executive Director devote “whole time” to the duties
8 of the office may be obsolete.

9 Defined terms: “Administration” § 4–101

10 “Executive Director” § 4–101

11 “Local department” § 4–101

12 “Secretary” § 4–101

13 4–205. POWERS AND DUTIES OF ADMINISTRATION.

14 (A) SOCIAL SERVICES.

15 (1) THE ADMINISTRATION SHALL BE THE CENTRAL COORDINATING AND
16 DIRECTING AGENCY OF ALL SOCIAL SERVICE ACTIVITIES IN THE STATE, INCLUDING:

17 (I) CHILD WELFARE SERVICES; AND

18 (II) ANY OTHER SOCIAL SERVICE ACTIVITIES FINANCED WHOLLY
19 OR PARTLY BY THE ADMINISTRATION.

20 (2) FOR THE PURPOSES OF THESE DUTIES, CHILD WELFARE SERVICES
21 PROVIDED TO A MINOR MAY CONTINUE AFTER THE MINOR’S EIGHTEENTH BIRTHDAY
22 BUT NOT BEYOND THE MINOR’S TWENTY–FIRST BIRTHDAY.

23 (B) SUPERVISION OF LOCAL DEPARTMENTS.

24 THE ADMINISTRATION SHALL SUPERVISE, DIRECT, AND CONTROL THE
25 ACTIVITIES OF THE LOCAL DEPARTMENTS THAT IT FINANCES WHOLLY OR PARTLY.

26 (C) SUPERVISION OF INSTITUTIONS CARING FOR CHILDREN.

27 THE ADMINISTRATION SHALL SUPERVISE ALL PUBLIC AND PRIVATE
28 INSTITUTIONS THAT HAVE CARE, CUSTODY, OR CONTROL OF ABUSED, ABANDONED,
29 DEPENDENT, OR NEGLECTED CHILDREN, EXCEPT:

30 (1) INSTITUTIONS UNDER THE AUTHORITY OF THE DEPARTMENT OF
31 JUVENILE SERVICES; AND

32 (2) AGENCIES, PERSONS, OR INSTITUTIONS DESIGNATED BY THE
33 DEPARTMENT OF JUVENILE SERVICES UNDER § 9–217 OF THIS ARTICLE.

34 (D) SITE VISITS AND INSPECTIONS.

1 (1) THE ADMINISTRATION MAY VISIT ANY STATE-AIDED INSTITUTION,
2 ORGANIZATION, OR AGENCY ENGAGED IN SOCIAL SERVICE OR WELFARE ACTIVITIES
3 AND INSPECT THOROUGHLY ITS MANAGEMENT, BUILDINGS, AND EQUIPMENT.

4 (2) VISITS AND INSPECTIONS UNDER PARAGRAPH (1) OF THIS
5 SUBSECTION SHALL BE MADE:

6 (I) AT REASONABLY CONVENIENT HOURS; AND

7 (II) WITH REASONABLE REGARD TO THE ESTABLISHED DISCIPLINE,
8 REGULATIONS, AND CUSTOMS OF THE INSTITUTION, ORGANIZATION, OR AGENCY.

9 (E) DESIGNATION OF AGENTS.

10 AS DESIRABLE OR NECESSARY FOR THE PURPOSE OF THIS TITLE, THE
11 ADMINISTRATION MAY DESIGNATE EXISTING AGENCIES OR ORGANIZATIONS IN THE
12 STATE AS THE ADMINISTRATION'S AGENTS.

13 (F) ANNUAL REPORT.

14 BEFORE THE START OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY,
15 THE ADMINISTRATION SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE
16 GOVERNOR.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 3(c), (e), (f), (g), and (a)(2) and, as it related
19 to social service activities, (1).

20 In subsection (a)(2) of this section, the reference to "duties" is substituted
21 for the former reference to "powers" for consistency with subsection (a)(1)
22 of this section.

23 Also in subsection (a)(2) of this section, the reference to a "minor" is
24 substituted for the former reference to "persons under the age of 18" for
25 brevity and consistency. *See* Art. 1, § 24.

26 In subsection (b) of this section, the former reference to local departments
27 "in the counties and in Baltimore City" is deleted as surplusage.

28 In the introductory language of subsection (c) of this section, the reference
29 to "abused" children is added for accuracy and consistency with provisions
30 in other revised articles relating to child welfare. *See, e.g.*, CJ Title 3,
31 Subtitle 8; FL Title 5, Subtitle 5, Part III; and FL Title 5, Subtitle 7. This
32 addition is called to the attention of the General Assembly.

33 In subsection (e) of this section, the reference to "this title" is substituted
34 for the former reference to "this article" to reflect the change in the
35 organization of the provisions formerly contained in Article 88A.

36 The Human Services Article Review Committee notes, for consideration by

1 the General Assembly, that subsection (f) of this section requires the
2 Administration to submit its annual report to the Governor only. The
3 General Assembly may wish to add a requirement that the report also be
4 submitted to the General Assembly, in accordance with SG § 2–1246.

5 Defined terms: “Administration” § 4–101

6 “Local department” § 4–101

7 “Person” § 1–101

8 4–206. AUTOMATED STATEWIDE SYSTEM.

9 THE DEPARTMENT MAY DEVELOP AND IMPLEMENT AN AUTOMATED
10 STATEWIDE SYSTEM AND RELATED ADMINISTRATIVE PROCEDURES TO ACHIEVE
11 EFFECTIVELY AND EFFICIENTLY THE PURPOSES OF THIS TITLE.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from the first sentence of former Art. 88A, § 3(b).

14 The reference to the “Department” is substituted for the former reference
15 to the “State Department” to conform to current practice. All of the
16 automated statewide systems used by units in the Department of Human
17 Resources are provided by the Department. This substitution is called to
18 the attention of the General Assembly.

19 Defined term: “Department” § 4–101

20 4–207. REGULATIONS.

21 (A) IN GENERAL.

22 SUBJECT TO § 2–209(B) OF THIS ARTICLE, THE EXECUTIVE DIRECTOR MAY
23 ADOPT REGULATIONS NECESSARY TO CARRY OUT THE DUTIES IMPOSED ON THE
24 EXECUTIVE DIRECTOR BY LAW.

25 (B) RECORDS.

26 (1) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS COVERING
27 THE CUSTODY, USE, AND PRESERVATION OF THE RECORDS OF THE ADMINISTRATION
28 AND THE LOCAL DEPARTMENTS CONCERNING APPLICANTS FOR AND RECIPIENTS OF
29 SOCIAL SERVICES.

30 (2) THE USE OF THE RECORDS OF THE ADMINISTRATION AND THE
31 LOCAL DEPARTMENTS BY ANY OTHER GOVERNMENTAL UNIT SHALL BE LIMITED TO
32 THE PURPOSES FOR WHICH THE RECORDS ARE FURNISHED.

33 (C) FEDERAL MATERIAL.

34 (1) ALL REGULATIONS OR DIRECTIVES IMPLEMENTED BY THE
35 EXECUTIVE DIRECTOR THAT ARE BASED ON FEDERAL LAW, RULES, REGULATIONS,
36 OR GUIDELINES SHALL HAVE THE FEDERAL MATERIAL:

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1 (I) REFERENCED IN THE TEXT OF THE STATE MATERIAL; OR

2 (II) ATTACHED PERMANENTLY TO THE STATE MATERIAL.

3 (2) THE DEPARTMENT SHALL FURNISH TO EACH OF THE LOCAL
4 DEPARTMENTS AT LEAST ONE UP-TO-DATE COPY OF ALL CURRENT FEDERAL
5 REGULATIONS APPLICABLE TO THE OPERATIONS OF THE LOCAL DEPARTMENT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 88A, § 5, as it related to social services.

8 In subsections (a), (b)(1), and the introductory language of (c)(1) of this
9 section, the former references to "rules" are deleted in light of the term
10 "regulations". *See* General Revisor's Note to article.

11 In subsection (a) of this section, the phrase "[s]ubject to § 2-209(b) of this
12 article" is substituted for the former phrases "after approval or revision
13 thereof by the Secretary" and "subject to the authority of the Secretary ...
14 as set forth in Article 41 of this Code, or elsewhere in the laws of
15 Maryland" for brevity. Section 2-209(b) of this article requires the
16 Secretary to review regulations proposed by a unit in the Department and
17 authorizes the Secretary to approve, disapprove, or revise those
18 regulations.

19 Also in subsection (a) of this section, the former reference to adopting
20 regulations "from time to time" is deleted as surplusage.

21 Also in subsection (a) of this section, the former reference to regulations
22 "when adopted ... hav[ing] the force and effect of law" is deleted as
23 surplusage.

24 In subsection (b)(1) and (2) of this section, the former references to "papers,
25 files, and communications" are deleted as included in the reference to
26 "records".

27 In subsection (b)(2) of this section, the reference to a "governmental unit"
28 is substituted for the former reference to an "agency or department of
29 government" for brevity. *See* General Revisor's Note to article.

30 In subsection (c)(2) of this section, the defined term "local department[s]" is
31 substituted for the former reference to "local offices" for consistency with
32 terminology used throughout this title.

33 Defined terms: "Administration" § 4-101

34 "Department" § 4-101

35 "Executive Director" § 4-101

36 "Local department" § 4-101

37 GENERAL REVISOR'S NOTE TO SUBTITLE:

1 The third through sixth sentences of former Art. 41, § 6–106, which transferred
2 the “rights, powers, duties, obligations, and functions” of the former State
3 Department of Social Services to the Social Services Administration and the Family
4 Investment Administration, are deleted as obsolete.

5 The second and third sentences of former Art. 88A, § 3(b), which authorized the
6 Social Services Administration, in implementing an automated statewide system, to
7 assume functions otherwise assigned to local departments, and required any changes
8 in functions to be effected by executive order, are deleted as obsolete.

9 Former Art. 88A, § 3(d), which authorized the Social Services Administration to
10 “cause charges to be formulated” against certain entities engaged in charitable, social
11 services, or welfare activities, issue summonses for witnesses and documents,
12 administer oaths, and take testimony, and authorized the Governor to withhold
13 appropriations from an entity charged, is deleted as obsolete.

14 SUBTITLE 3. MISCELLANEOUS PROVISIONS.

15 4–301. CHILD WELFARE WORKFORCE.

16 (A) COMPREHENSIVE PLAN.

17 THE SECRETARY SHALL IMPLEMENT A COMPREHENSIVE PLAN TO RECRUIT,
18 TRAIN, AND RETAIN CHILD WELFARE CASEWORKERS AND CASEWORK SUPERVISORS
19 WHO MEET THE REQUIREMENTS OF THIS SECTION.

20 (B) QUALIFICATIONS FOR EMPLOYMENT.

21 (1) THE SECRETARY SHALL HIRE AS CASEWORKERS ONLY HUMAN
22 SERVICES PROFESSIONALS, SUCH AS:

23 (I) SOCIAL WORKERS LICENSED IN ACCORDANCE WITH TITLE 19
24 OF THE HEALTH OCCUPATIONS ARTICLE;

25 (II) PSYCHOLOGISTS LICENSED IN ACCORDANCE WITH TITLE 18 OF
26 THE HEALTH OCCUPATIONS ARTICLE;

27 (III) PROFESSIONAL COUNSELORS CERTIFIED IN ACCORDANCE
28 WITH TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE;

29 (IV) NURSES LICENSED IN ACCORDANCE WITH TITLE 8 OF THE
30 HEALTH OCCUPATIONS ARTICLE;

31 (V) SCHOOL PSYCHOLOGISTS CERTIFIED IN ACCORDANCE WITH
32 REGULATIONS ADOPTED UNDER TITLE 6, SUBTITLE 7 OF THE EDUCATION ARTICLE;
33 AND

34 (VI) HUMAN SERVICE WORKERS WHO:

- 1 1. HAVE A DEGREE IN AN APPROPRIATE BEHAVIORAL
2 SCIENCE;
- 3 2. HAVE COMPLETED THE MANDATORY PRESERVICE
4 TRAINING AND COMPETENCY TEST; AND
- 5 3. ARE SUPERVISED BY LICENSED SOCIAL WORKERS.

6 (2) THE SECRETARY MAY RETAIN PERMANENT EMPLOYEES EMPLOYED
7 ON OR BEFORE DECEMBER 31, 1998 WHO DO NOT HAVE THE QUALIFICATIONS
8 SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION IF THE SECRETARY FINDS THAT
9 THE EMPLOYEES ARE PERFORMING THEIR DUTIES SATISFACTORILY.

10 (C) TRAINING AND TESTING OF CASEWORKERS.

11 THE SECRETARY SHALL:

12 (1) IMPLEMENT A PRESERVICE TRAINING PROGRAM AND COMPETENCY
13 TEST FOR NEWLY EMPLOYED CASEWORKERS;

14 (2) REQUIRE THAT ALL NEW CASEWORK STAFF:

15 (I) BE HIRED PROVISIONALLY;

16 (II) COMPLETE A 40-HOUR PRESERVICE TRAINING PROGRAM; AND

17 (III) PASS A COMPETENCY TEST BEFORE BEING GRANTED
18 PERMANENT EMPLOYMENT STATUS; AND

19 (3) IMPLEMENT MANDATORY STANDARDS FOR CONTINUING
20 EDUCATION FOR ALL CASEWORKERS AND CASEWORK SUPERVISORS THAT REQUIRE
21 THAT EMPLOYEES WHO FAIL TO OBTAIN THE REQUIRED CONTINUING EDUCATION
22 CREDITS BE SUBJECT TO DISCIPLINARY ACTION, INCLUDING DEMOTION,
23 SUSPENSION, AND DISMISSAL.

24 (D) LIMITATIONS ON HIRING CONTRACTUAL CASEWORKERS.

25 (1) THE SECRETARY MAY NOT EMPLOY HUMAN SERVICES
26 PROFESSIONALS ON A CONTRACTUAL BASIS AS CASEWORKERS OR CASEWORK
27 SUPERVISORS, EXCEPT AS REQUIRED TO MEET AN UNANTICIPATED NEED
28 RESULTING FROM:

29 (I) A SIGNIFICANT AND UNEXPECTED INCREASE IN REPORTS OF
30 CHILD ABUSE OR NEGLECT, OR BOTH; OR

31 (II) A SIGNIFICANT AND UNEXPECTED INCREASE IN THE FOSTER
32 CARE OR KINSHIP CARE CASELOAD, OR BOTH.

33 (2) A CASEWORKER OR CASEWORK SUPERVISOR CONTRACTUAL
34 POSITION MAY NOT EXIST LONGER THAN 1 YEAR.

1 (E) CONTRACTS FOR CASEWORK SERVICES.

2 WHENEVER THE SECRETARY CONTRACTS WITH AN OUTSIDE ENTITY FOR
3 CASEWORK SERVICES, THE SECRETARY SHALL REQUIRE THE CONTRACTOR TO
4 COMPLY WITH THE EMPLOYMENT QUALIFICATIONS, TRAINING CURRICULUM,
5 PRESERVICE AND IN-SERVICE TRAINING, AND COMPETENCY TESTING REQUIRED
6 UNDER THIS SECTION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 88A, § 3A.

9 In subsection (a) of this section, the reference to "child welfare"
10 caseworkers and casework supervisors is added for clarity. *See* Ch. 554,
11 Acts of 1998.

12 Also in subsection (a) of this section, the former requirement that the
13 Secretary implement a comprehensive plan "[b]y December 31, 1998," is
14 deleted as obsolete.

15 Also in subsection (a) of this section, the former requirement that the
16 Secretary "develop" a comprehensive plan is deleted as implicit in the
17 requirement that the Secretary "implement" a comprehensive plan.

18 In subsection (b)(1) of this section, the former requirement that the
19 Secretary hire as caseworkers only human services professionals "[o]n or
20 after January 1, 1999," is deleted as obsolete.

21 In subsection (b)(1)(vi) of this section, the former reference to human
22 service workers who "must" have certain qualifications is deleted as
23 surplusage.

24 In subsection (b)(2) of this section, the reference to permanent employees
25 "employed on or before December 31, 1998" is substituted for the former
26 reference to "existing" permanent employees for clarity.

27 In subsection (c) of this section, the former references to the Secretary: (1)
28 implementing a preservice training curriculum "[b]y December 31, 1998,";
29 (2) requiring that "on or after January 1, 1999," all new casework staff be
30 hired provisionally, complete a preservice training program, and pass a
31 competency test; and (3) implementing mandatory standards for
32 continuing education for caseworkers "[b]y January 1, 1999," are deleted
33 as obsolete.

34 Also in subsection (c) of this section, the former references to the Secretary
35 being required to "develop" a preservice training curriculum, a mandatory
36 in-service training program, and mandatory standards for continuing
37 education for caseworkers are deleted as implicit in the references to the
38 Secretary being required to "implement" these requirements.

39 In subsection (c)(1) of this section, the reference to a preservice training

1 “program” is substituted for the former reference to a “curriculum” for
2 consistency within this section.

3 In subsection (c)(3) of this section, the reference to “casework supervisors”
4 is substituted for the former reference to “casework supervisory staff” for
5 consistency within this section.

6 Also in subsection (c)(3) of this section, the reference to mandatory
7 standards “that require that” employees be subject to disciplinary action is
8 substituted for the former reference to mandatory standards “mandating”
9 that employees be subject to disciplinary action for clarity.

10 Also in subsection (c)(3) of this section, the former reference to “a set of”
11 mandatory standards is deleted as surplusage.

12 In subsection (d)(1) of this section, the reference to “human services
13 professionals” is substituted for the former reference to “professional”
14 caseworkers or casework supervisors for clarity and consistency with
15 subsection (b)(1) of this section.

16 Also in subsection (d)(1) of this section, the former prohibition against the
17 Secretary “hir[ing] professional caseworkers or casework supervisors on a
18 contractual basis” is deleted as implicit in the prohibition against the
19 Secretary “employ[ing]” human services professionals on a contractual
20 basis as caseworkers or casework supervisors.

21 Also in subsection (d)(1) of this section, the former prohibitions against the
22 Secretary hiring professional caseworkers or casework supervisors on a
23 contractual basis “after June 30, 1999,” and employing professional
24 caseworkers or casework supervisors on a contractual basis “after June 30,
25 2000,” are deleted as obsolete.

26 In subsection (d)(1)(i) of this section, the phrase “or both” is added for
27 clarity and consistency with subsection (d)(1)(ii) of this section.

28 In subsection (d)(1)(ii) of this section, the reference to the kinship “care”
29 caseload is added for clarity.

30 In subsection (e) of this section, the requirement that a contractor “comply”
31 with certain requirements is substituted for the former requirement that
32 the contractor “meet” certain requirements for accuracy.

33 The Human Services Article Review Committee notes, for consideration by
34 the General Assembly, that the reference to the “foster care or kinship care
35 caseload” in subsection (d)(1)(ii) of this section may be too narrow. The
36 General Assembly may wish to substitute a reference to the “out-of-home
37 placement caseload”. *See* Ch. 539, Acts of 1998.

38 REVISOR’S NOTE TO SECTION:

1 Former Art. 88A, § 3A(c)(3), which required the Secretary to develop and
2 implement a mandatory in-service training program and competency
3 testing program for caseworkers employed on or before December 31, 1998,
4 and required those caseworkers to complete the training program and pass
5 a competency test before December 31, 1999, in order to continue their
6 employment, is transferred to the Session Laws. These provisions are
7 obsolete because all affected caseworkers passed the test, resigned, or were
8 reassigned to a noncaseload class. The provisions are decodified and
9 retained in the law, however, for historical purposes.

10 Defined term: “Secretary” § 4–101

11 4–302. FEDERAL FUNDS.

12 THE ADMINISTRATION MAY:

13 (1) ACCEPT ANY FEDERAL FUNDS OR COMMODITIES;

14 (2) MANAGE AND DISPOSE OF ANY FEDERAL FUNDS OR COMMODITIES
15 AS REQUIRED BY FEDERAL LAW; AND

16 (3) APPLY THE FEDERAL SOCIAL SECURITY ACT OR ANY OTHER
17 FEDERAL LAW RELATING TO SOCIAL SERVICES TO THE BENEFIT OF THE STATE.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 88A, § 15, as it related to social services.

20 In items (1) and (2) of this section, the reference to federal funds “or”
21 commodities is substituted for the former reference to federal funds “and”
22 commodities to clarify that the Administration may accept, manage, and
23 dispose of federal funds, or commodities, or both.

24 In item (2) of this section, the former phrase “in whatever manner” is
25 deleted as surplusage.

26 In item (3) of this section, the reference to the authority to “apply” the
27 federal Social Security Act “to the benefit of the State” is substituted for
28 the former reference to “tak[ing] advantage” of the federal Social Security
29 Act for clarity.

30 Also in item (3) of this section, the reference to the federal Social Security
31 Act “or” any other federal law is substituted for the former reference to the
32 federal Social Security Act “and” any other federal act to clarify that the
33 Administration may apply the federal Social Security Act, another federal
34 law, or both.

35 Also in item (3) of this section, the former reference to the Social Security
36 Act “and any amendments and supplements thereto” is deleted in light of
37 Art. 1, § 21, which provides that whenever a provision of law refers to any
38 other law, the reference applies to any subsequent amendment to that

1 other law unless the referring provision expressly provides otherwise.

2 Defined term: "Administration" § 4-101

3 4-303. RECOUPMENT OF OVERPAYMENTS.

4 (A) IN GENERAL.

5 THE ADMINISTRATION SHALL MAKE EVERY EFFORT TO RECOUP
6 OVERPAYMENTS MADE TO RECIPIENTS THAT THE STATE IS AUTHORIZED TO RECOUP
7 UNDER FEDERAL LAW.

8 (B) PROCEDURE.

9 THE ADMINISTRATION SHALL ESTABLISH AN ADMINISTRATIVE PROCEDURE, IN
10 ACCORDANCE WITH FEDERAL LAW, TO BE FOLLOWED WHEN THE ADMINISTRATION
11 HAS REASON TO BELIEVE THAT AN OVERPAYMENT HAS BEEN MADE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88A, § 16A.

14 In subsections (a) and (b) of this section, the former references to
15 "applicable" federal law are deleted as surplusage.

16 Also in subsections (a) and (b) of this section, the former references to
17 federal "rules, regulations, or guidelines" are deleted as included in the
18 references to federal "law".

19 In subsection (b) of this section, the former reference to "October 1, 1977" is
20 deleted as obsolete.

21 Defined term: "Administration" § 4-101

22 GENERAL REVISOR'S NOTE TO TITLE:

23 Former Art. 88A, § 4A, which stated the intent that any requirement for a local
24 government contribution to the costs of social services or public assistance programs
25 was intended to be repealed and terminated when Art. 88A, § 18A was repealed in
26 1978, and which repealed any provision of the Code inconsistent with that intent,
27 appears to be obsolete. However, to avoid any inadvertent substantive effect its repeal
28 might have, it is transferred to the Session Laws.

29 Throughout this title, the defined term "Administration" is substituted for the
30 former obsolete references to the "State Administration" and the "State Department".

1 TITLE 5. PUBLIC ASSISTANCE.

2 SUBTITLE 1. DEFINITIONS.

3 5-101. DEFINITIONS.

4 (A) IN GENERAL.

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

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

8 (B) ADMINISTRATION.

9 "ADMINISTRATION" MEANS THE FAMILY INVESTMENT ADMINISTRATION.

10 REVISOR'S NOTE: This subsection is new language added to avoid repetition
11 of the full reference to the "Family Investment Administration".12 As to the substitution of the defined term "Administration" for the former
13 references to the "State Administration" and the "State Department"
14 throughout this title, *see* General Revisor's Note to title.

15 (C) DEPARTMENT.

16 "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

17 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(c).

18 No changes are made.

19 (D) EXECUTIVE DIRECTOR.

20 "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF FAMILY
21 INVESTMENT.22 REVISOR'S NOTE: This subsection is new language added to avoid repetition
23 of the full reference to the "Executive Director of Family Investment".

24 (E) LOCAL DEPARTMENT.

25 "LOCAL DEPARTMENT" MEANS:

26 (1) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR
27 CONTINUED IN A COUNTY UNDER § 3-201 OF THIS ARTICLE; OR28 (2) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY
29 GOVERNMENT.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 88A, §§ 13B and 44A(g).

3 The former reference to "Baltimore City" is deleted as included in the
4 reference to a "county".

5 (F) LOCAL DIRECTOR.

6 "LOCAL DIRECTOR" MEANS THE DIRECTOR OF A LOCAL DEPARTMENT.

7 REVISOR'S NOTE: This subsection is new language added to avoid repetition
8 of the full reference to a "director of a local department of social services" or
9 a "local director of social services".

10 (G) SECRETARY.

11 "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

12 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(k).

13 No changes are made.

14 SUBTITLE 2. FAMILY INVESTMENT ADMINISTRATION.

15 5-201. ESTABLISHED.

16 THERE IS A FAMILY INVESTMENT ADMINISTRATION IN THE DEPARTMENT.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from the first sentence of former Art. 88A, § 1A(a).

19 It is set forth as a separate section for emphasis and restated in standard
20 language for clarity and consistency.

21 Defined term: "Department" § 5-101

22 5-202. AUTHORITY OF SECRETARY.

23 THE ADMINISTRATION AND THE EXECUTIVE DIRECTOR EXERCISE THEIR
24 AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY STATE LAW SUBJECT TO THE
25 AUTHORITY OF THE SECRETARY UNDER ANY STATE LAW.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 88A, § 1A(c).

28 The phrase "under any State law" is substituted for the former phrases
29 "under this article or any other law of this State" and "as set forth in
30 Article 41 of this Code or elsewhere in the laws of this State" for brevity.

31 Defined terms: "Administration" § 5-101

32 "Executive Director" § 5-101

1 “Secretary” § 5–101

2 5–203. EXECUTIVE DIRECTOR.

3 (A) IN GENERAL.

4 THE EXECUTIVE DIRECTOR IS THE HEAD OF THE ADMINISTRATION.

5 (B) APPOINTMENT.

6 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THE
7 EXECUTIVE DIRECTOR.

8 (C) TENURE.

9 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

10 (D) COMPENSATION.

11 THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN
12 THE STATE BUDGET.

13 REVISOR’S NOTE: Subsections (a), (b), and (c) of this section are new language
14 derived without substantive change from the first and second sentences of
15 former Art. 88A, § 1A(b).

16 Subsection (d) of this section is standard language added for consistency
17 with § 4–203 of this article.

18 In subsection (c) of this section, the word “serves” is substituted for the
19 former phrase “shall hold office” for brevity and clarity.

20 Defined terms: “Administration” § 5–101

21 “Executive Director” § 5–101

22 “Secretary” § 5–101

23 5–204. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

24 (A) ADMINISTRATIVE AND SUPERVISORY DUTIES.

25 SUBJECT TO STATE AND FEDERAL LAWS GOVERNING THE ADMINISTRATION OF
26 PUBLIC ASSISTANCE, THE EXECUTIVE DIRECTOR SHALL:

27 (1) ORGANIZE AND ADMINISTER THE ADMINISTRATION;

28 (2) SUPERVISE THE PUBLIC ASSISTANCE ACTIVITIES OF THE LOCAL
29 DEPARTMENTS; AND

30 (3) SUPERVISE OTHER AGENCIES AND INSTITUTIONS UNDER THE
31 SUPERVISION OF THE ADMINISTRATION.

1 (B) PERSONNEL.

2 (1) THE EXECUTIVE DIRECTOR MAY PRESCRIBE THE NUMBER AND
3 MINIMUM QUALIFICATIONS OF THE PERSONNEL ENGAGED IN THE ADMINISTRATION
4 OF THE ACTIVITIES OF THE ADMINISTRATION AND OF THE LOCAL DEPARTMENTS
5 THAT ARE FINANCED WHOLLY OR PARTLY BY THE ADMINISTRATION.

6 (2) (I) AS PROVIDED IN THE STATE BUDGET, THE EXECUTIVE
7 DIRECTOR MAY APPOINT THE PERSONNEL REQUIRED TO PROPERLY PERFORM THE
8 DUTIES OF THE ADMINISTRATION.

9 (II) EXCEPT AS OTHERWISE PROVIDED, APPOINTMENT AND
10 REMOVAL OF ALL PAID PERSONNEL UNDER THIS TITLE ARE SUBJECT TO THE
11 PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

12 (C) BUDGET ESTIMATES.

13 THE EXECUTIVE DIRECTOR SHALL SUBMIT BUDGET ESTIMATES FOR THE
14 ADMINISTRATION TO THE SECRETARY.

15 (D) QUALITY CONTROL.

16 THE EXECUTIVE DIRECTOR SHALL:

17 (1) DEVELOP A COMPREHENSIVE PROCESS TO:

18 (I) SYSTEMATICALLY ANALYZE CASH ASSISTANCE PAYMENT
19 ERRORS;

20 (II) FORMULATE STRATEGIES, INCLUDING IMPROVEMENTS IN THE
21 ELIGIBILITY DETERMINATION PROCESS, TO REDUCE THE ERRORS; AND

22 (III) MONITOR IMPLEMENTATION OF THE STRATEGIES;

23 (2) REQUIRE EACH LOCAL DEPARTMENT TO SUBMIT ANNUAL PLANS
24 THAT CONTAIN MEASURABLE OBJECTIVES, INCLUDING OBJECTIVES FOR
25 PARTICIPATION IN WORK ACTIVITIES, TO MEET THE GOALS OF THE FAMILY
26 INVESTMENT PROGRAM; AND

27 (3) MONITOR THE SUCCESS OF THE LOCAL DEPARTMENTS IN
28 ACHIEVING THE OBJECTIVES OF THE PLANS.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 88A, §§ 1(b), 1A(d) and the third sentence of (b),
31 and 2(c), (d) and, as it related to public assistance, (b)(2).

32 In subsection (a)(2) of this section, the reference to the "public assistance
33 activities" of the local department is added for clarity.

34 In the introductory language of subsection (b) of this section, the former
35 reference to the "rules and regulations prescribed in accordance with law"

1 is deleted as included in the reference to “State and federal laws”.

2 In subsection (b)(1) of this section, the former parenthetical phrase
3 “hereinafter referred to as ‘local departments’” is deleted in light of §
4 5–101(e) of this title to the same effect.

5 Also in subsection (b)(1) of this section, the former reference to local
6 departments “created or continued under the provisions of § 13 of this
7 article” is deleted in light of § 5–101(e) of this title to the same effect.

8 In subsection (b)(2)(i) of this section, the reference to “personnel” is
9 substituted for the former reference to “employees” for consistency with
10 subsection (b)(1) and (2)(ii) of this section.

11 Also in subsection (b)(2)(i) of this section, the former phrase “from time to
12 time” is deleted as surplusage.

13 In subsection (b)(2)(ii) of this section, the reference to “this title” is
14 substituted for the former reference to “this article” to reflect the change in
15 the organization of provisions formerly contained in Article 88A.

16 Defined terms: “Administration” § 5–101

17 “Executive Director” § 5–101

18 “Local department” § 5–101

19 “Secretary” § 5–101

20 5–205. POWERS AND DUTIES OF ADMINISTRATION.

21 (A) PUBLIC ASSISTANCE.

22 THE ADMINISTRATION SHALL BE THE CENTRAL COORDINATING AND
23 DIRECTING AGENCY OF ALL PUBLIC ASSISTANCE PROGRAMS IN THE STATE,
24 INCLUDING:

25 (1) THE FAMILY INVESTMENT PROGRAM AND RELATED CASH BENEFIT
26 PROGRAMS;

27 (2) PUBLIC ASSISTANCE TO ADULTS;

28 (3) EMERGENCY ASSISTANCE;

29 (4) FOOD STAMPS;

30 (5) MEDICAL ASSISTANCE ELIGIBILITY DETERMINATIONS; AND

31 (6) ANY OTHER PUBLIC ASSISTANCE ACTIVITIES FINANCED WHOLLY OR
32 PARTLY BY THE ADMINISTRATION.

33 (B) SUPERVISION OF LOCAL DEPARTMENTS.

1 THE ADMINISTRATION SHALL SUPERVISE, DIRECT, AND CONTROL THE
2 ACTIVITIES OF THE LOCAL DEPARTMENTS THAT IT FINANCES WHOLLY OR PARTLY.

3 (C) SITE VISITS AND INSPECTIONS.

4 (1) THE ADMINISTRATION MAY VISIT ANY STATE-AIDED INSTITUTION,
5 ORGANIZATION, OR AGENCY ENGAGED IN PUBLIC ASSISTANCE ACTIVITIES AND
6 INSPECT THOROUGHLY ITS MANAGEMENT, BUILDINGS, AND EQUIPMENT.

7 (2) VISITS AND INSPECTIONS UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION SHALL BE MADE:

9 (I) AT REASONABLY CONVENIENT HOURS; AND

10 (II) WITH REASONABLE REGARD FOR THE ESTABLISHED
11 DISCIPLINE, REGULATIONS, AND CUSTOMS OF THE INSTITUTION, ORGANIZATION, OR
12 AGENCY.

13 (D) DESIGNATION OF AGENTS.

14 AS DESIRABLE OR NECESSARY FOR THE PURPOSE OF THIS TITLE, THE
15 ADMINISTRATION MAY DESIGNATE EXISTING AGENCIES OR ORGANIZATIONS IN THE
16 STATE AS THE ADMINISTRATION'S AGENTS.

17 (E) ANNUAL REPORT.

18 BEFORE THE START OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY,
19 THE ADMINISTRATION SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE
20 GOVERNOR.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 88A, § 3(e), (f), (g), (a)(2) and, as it related to
23 public assistance activities, the first sentence of (1), and the second and
24 third sentences of § 1A(a).

25 In subsection (b) of this section, the former reference to local departments
26 "in the counties and in Baltimore City" is deleted as surplusage.

27 In subsection (c) of this section, the reference to "public assistance
28 activities" is substituted for the former reference to "welfare" activities for
29 clarity and consistency with terminology used throughout this subtitle.

30 In subsection (d) of this section, the reference to "this title" is substituted
31 for the former reference to "this article" to reflect the change in the
32 organization of the provisions formerly contained in Article 88A.

33 The Human Services Article Review Committee notes, for consideration by
34 the General Assembly, that subsection (e) of this section requires the
35 Administration to submit its annual report to the Governor only. The
36 General Assembly may wish to add a requirement that the report also be

1 submitted to the General Assembly, in accordance with SG § 2–1246.

2 Defined terms: “Administration” § 5–101

3 “Local department” § 5–101

4 “Secretary” § 5–101

5 5–206. AUTOMATED STATEWIDE SYSTEM.

6 THE DEPARTMENT MAY DEVELOP AND IMPLEMENT AN AUTOMATED
7 STATEWIDE SYSTEM AND RELATED ADMINISTRATIVE PROCEDURES TO ACHIEVE
8 EFFECTIVELY AND EFFICIENTLY THE PURPOSES OF THIS TITLE.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from the second and third sentences of former Art. 88A, § 1A(a) and
11 the first sentence of § 3(b).

12 The reference to the “Department” is substituted for the former reference
13 to the “State Department” to conform to current practice. All of the
14 automated statewide systems used by the units in the Department of
15 Human Resources are provided by the Department. This substitution is
16 called to the attention of the General Assembly.

17 Defined term: “Department” § 5–101

18 5–207. REGULATIONS.

19 (A) IN GENERAL.

20 SUBJECT TO § 2–209(B) OF THIS ARTICLE, THE EXECUTIVE DIRECTOR MAY
21 ADOPT REGULATIONS NECESSARY TO CARRY OUT THE DUTIES IMPOSED ON THE
22 EXECUTIVE DIRECTOR BY LAW.

23 (B) RECORDS.

24 (1) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS COVERING
25 THE CUSTODY, USE, AND PRESERVATION OF THE RECORDS OF THE ADMINISTRATION
26 AND THE LOCAL DEPARTMENTS CONCERNING APPLICANTS FOR AND RECIPIENTS OF
27 PUBLIC ASSISTANCE.

28 (2) THE USE OF THE RECORDS OF THE ADMINISTRATION AND THE
29 LOCAL DEPARTMENTS BY ANY OTHER GOVERNMENTAL UNIT SHALL BE LIMITED TO
30 THE PURPOSES FOR WHICH THE RECORDS ARE FURNISHED.

31 (C) FEDERAL MATERIAL.

32 (1) ALL REGULATIONS OR DIRECTIVES IMPLEMENTED BY THE
33 EXECUTIVE DIRECTOR THAT ARE BASED ON FEDERAL LAW, RULES, REGULATIONS,
34 OR GUIDELINES SHALL HAVE THE FEDERAL MATERIAL:

35 (I) REFERENCED IN THE TEXT OF THE STATE MATERIAL; OR

1 (II) ATTACHED PERMANENTLY TO THE STATE MATERIAL.

2 (2) THE DEPARTMENT SHALL FURNISH TO EACH OF THE LOCAL
3 DEPARTMENTS AT LEAST ONE UP-TO-DATE COPY OF ALL CURRENT FEDERAL
4 REGULATIONS APPLICABLE TO THE OPERATIONS OF THE LOCAL DEPARTMENT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the third sentence of former Art. 88A, § 1A(b) and, as it
7 related to public assistance, § 5.

8 Throughout this section, the former references to "rules" are deleted in
9 light of the term "regulations". *See* General Revisor's Note to article.

10 In subsection (a) of this section, the phrase "[s]ubject to § 2-209(b) of this
11 article" is substituted for the former phrases "after approval or revision
12 thereof by the Secretary" and "subject to the authority of the Secretary as
13 set forth in Article 41 of this Code, or elsewhere in the laws of Maryland"
14 for brevity. Section 2-209(b) of this article requires the Secretary to review
15 regulations proposed by a unit in the Department and authorizes the
16 Secretary to approve, disapprove, or revise those regulations.

17 Also in subsection (a) of this section, the former reference to adopting
18 regulations "from time to time" is deleted as surplusage.

19 Also in subsection (a) of this section, the former reference to regulations
20 "when adopted ... hav[ing] the force and effect of law" is deleted as
21 surplusage.

22 In subsection (b)(1) and (2) of this section, the former references to "papers,
23 files, and communications" are deleted as included in the reference to
24 "records".

25 In subsection (b)(2) of this section, the reference to a "governmental unit"
26 is substituted for the former reference to an "agency or department of
27 government" for brevity. *See* General Revisor's Note to article.

28 In subsection (c)(2) of this section, the defined term "local department[s]" is
29 substituted for the former reference to "local offices" for consistency with
30 terminology used throughout this title.

31 Defined terms: "Administration" § 5-101

32 "Department" § 5-101

33 "Executive Director" § 5-101

34 "Local department" § 5-101

35 "Secretary" § 5-101

1 SUBTITLE 3. FAMILY INVESTMENT PROGRAM.

2 5-301. DEFINITIONS.

3 (A) IN GENERAL.

4 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(a).

6 The only changes are in style.

7 (B) FIP.

8 “FIP” MEANS THE FAMILY INVESTMENT PROGRAM.

9 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(d).

10 The only changes are in style.

11 (C) NONPROFIT ORGANIZATION.

12 “NONPROFIT ORGANIZATION” MEANS A RELIGIOUS, CHARITABLE, OR
13 VOLUNTEER ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C) OF
14 THE INTERNAL REVENUE CODE.

15 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(h).

16 The only changes are in style.

17 (D) RECIPIENT.

18 “RECIPIENT” MEANS EACH INDIVIDUAL IN A FIP CASE.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 88A, § 44A(j).21 The reference to “each individual” is substituted for the former reference to
22 “all individuals” in light of Art. 1, § 8, which provides that the singular
23 generally includes the plural.

24 Defined term: “FIP” § 5-301

25 (E) TEMPORARY CASH ASSISTANCE.

26 “TEMPORARY CASH ASSISTANCE” MEANS THE CASH ASSISTANCE COMPONENT
27 OF THE FIP THAT IS FUNDED WHOLLY OR PARTLY THROUGH TITLE IV, PART A, OF THE
28 SOCIAL SECURITY ACT.

29 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 44A(l).

30 The only changes are in style.

1 Defined term: “FIP” § 5–301

2 (F) THIRD PARTY PAYEE.

3 “THIRD PARTY PAYEE” MEANS:

- 4 (1) AN INDIVIDUAL THAT THE DEPARTMENT APPROVES;
- 5 (2) A NONPROFIT ORGANIZATION;
- 6 (3) A FOR–PROFIT ORGANIZATION; OR
- 7 (4) A GOVERNMENTAL UNIT, INCLUDING A LOCAL DEPARTMENT.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 88A, § 44A(m).

10 In item (4) of this subsection, the reference to a governmental “unit” is
11 substituted for the former reference to a governmental “entity” for
12 consistency with terminology used throughout this article. *See* General
13 Revisor’s Note to article.

14 Defined terms: “Department” § 5–101

15 “Local department” § 5–101

16 “Nonprofit organization” § 5–301

17 (G) TRANSITIONAL ASSISTANCE.

18 “TRANSITIONAL ASSISTANCE” MEANS ASSISTANCE PROVIDED TO A RECIPIENT
19 WHOSE TEMPORARY CASH ASSISTANCE HAS BEEN TERMINATED FOR
20 NONCOMPLIANCE WITH FIP REQUIREMENTS.

21 REVISOR’S NOTE: This subsection is new language derived without
22 substantive change from former Art. 88A, § 44A(n).

23 The former reference to a “FIP” recipient is deleted as redundant. *See* the
24 definition of “recipient” in this section.

25 Defined terms: “FIP” § 5–301

26 “Recipient” § 5–301

27 “Temporary cash assistance” § 5–301

28 (H) WORK ACTIVITY.

29 “WORK ACTIVITY” MEANS:

- 30 (1) JOB SEARCH ACTIVITY;
- 31 (2) SUBSIDIZED EMPLOYMENT IN EITHER THE PUBLIC OR PRIVATE
32 SECTOR;

- 1 (3) WORK EXPERIENCE;
- 2 (4) ON-THE-JOB TRAINING;
- 3 (5) COMMUNITY SERVICE;
- 4 (6) TRAINING DIRECTLY RELATED TO EMPLOYMENT; OR
- 5 (7) EDUCATION DIRECTLY RELATED TO EMPLOYMENT.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 88A, § 44A(e) and (i).

8 In the introductory language of this subsection, the former reference to
9 "any of the following" is deleted as surplusage.

10 In item (6) of this subsection, the word "or" is substituted for the former
11 conjunctive "and" to clarify that any one of the listed activities qualifies as
12 a "work activity".

13 The former reference to "grant diversion" in former Art. 88A, § 44A(i)(3)
14 and the former definition of "grant diversion" in former Art. 88A, § 44A(e),
15 are deleted as included in the reference to "subsidized employment".

16 REVISOR'S NOTE TO SECTION: Former Art. 88A, § 44A(b), which defined
17 "[c]ooperative living project", is deleted as obsolete. Provisions relating to
18 cooperative living projects were repealed by Ch. 593, Acts of 1997.

19 Former Art. 88A, § 44A(f), which defined "[i]ndividualized
20 case-management project", is deleted as obsolete. Provisions relating to
21 individualized case-management projects were repealed by Ch. 593, Acts
22 of 1997.

23 Former Art. 88A, § 44A(c), (g), and (k), which defined "Department", "local
24 department", and "Secretary", respectively, are revised in § 5-101 of this
25 title.

26 5-302. ESTABLISHED; PURPOSE.

27 (A) FIP ESTABLISHED.

28 THERE IS A FAMILY INVESTMENT PROGRAM IN THE DEPARTMENT.

29 (B) PURPOSE.

30 THE PRIMARY PURPOSE OF THIS SUBTITLE IS TO SUPPORT FAMILY EFFORTS TO
31 ACHIEVE AND MAINTAIN SELF-SUFFICIENCY THROUGH SERVICES AND FINANCIAL
32 AID GEARED TO INDIVIDUAL FAMILY NEEDS.

33 REVISOR'S NOTE: Subsection (a) of this section is new language added to
34 conform to similar provisions elsewhere in this article.

1 Subsection (b) of this section formerly was Art. 88A, § 45.

2 No changes are made.

3 5-303. DUTIES OF SECRETARY.

4 THE SECRETARY SHALL:

5 (1) IMPLEMENT A FIP THAT MEETS THE REQUIREMENTS OF THIS
6 SUBTITLE AND FEDERAL LAW;

7 (2) SUPERVISE THE ADMINISTRATION BY LOCAL DEPARTMENTS OF THE
8 FIP UNDER THIS SUBTITLE;

9 (3) COOPERATE WITH THE FEDERAL GOVERNMENT IN MATTERS OF
10 MUTUAL CONCERN PERTAINING TO FEDERAL FUNDING FOR THE FIP; AND

11 (4) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88A, § 46(a).

14 In item (1) of this section, the former requirement that the Secretary
15 "establish" a FIP is deleted as obsolete.

16 In item (4) of this section, the former reference to "necessary or desirable"
17 regulations is deleted as surplusage.

18 Defined terms: "FIP" § 5-301

19 "Local department" § 5-101

20 "Secretary" § 5-101

21 5-304. LOCAL GOVERNMENT HIRING PLANS.

22 (A) IN GENERAL.

23 WORKING WITH APPROPRIATE LOCAL GOVERNMENT OFFICIALS, THE
24 SECRETARY AND EACH LOCAL DIRECTOR SHALL DEVELOP AND IMPLEMENT A LOCAL
25 GOVERNMENT HIRING PLAN UNDER WHICH LOCAL GOVERNMENTS MAY HIRE
26 RECIPIENTS.

27 (B) COMPONENTS OF PLAN.

28 FOR EACH JURISDICTION, THE LOCAL GOVERNMENT HIRING PLAN SHALL
29 INCLUDE:

30 (1) A LIST OF THE UNITS THAT MOST EASILY COULD HIRE RECIPIENTS;

31 (2) A LIST OF THE EMPLOYMENT POSITIONS MOST SUITABLE FOR
32 RECIPIENTS;

1 (3) PROPOSALS TO RECRUIT RECIPIENTS;

2 (4) EMPLOYMENT RETENTION STRATEGIES; AND

3 (5) A TARGET NUMBER OF RECIPIENTS TO BE RECRUITED.

4 (C) RESPONSIBILITIES OF LOCAL DIRECTORS.

5 EACH LOCAL DIRECTOR SHALL:

6 (1) DEVELOP AND SUBMIT THE LOCAL GOVERNMENT HIRING PLAN IN
7 ACCORDANCE WITH A SCHEDULE AND FORMAT THAT THE SECRETARY DETERMINES;

8 (2) IMPLEMENT IN A TIMELY MANNER THE PROPOSALS AND
9 STRATEGIES IN THE LOCAL GOVERNMENT HIRING PLAN;

10 (3) ACHIEVE THE TARGET NUMBERS IN THE LOCAL GOVERNMENT
11 HIRING PLAN; AND

12 (4) DEVELOP AND SUBMIT REPORTS TO THE SECRETARY IN
13 ACCORDANCE WITH A SCHEDULE AND FORMAT THAT THE SECRETARY DETERMINES.

14 (D) ANNUAL REPORT.

15 ON OR BEFORE NOVEMBER 1 OF EACH YEAR AND IN CONSULTATION WITH THE
16 MARYLAND ASSOCIATION OF COUNTIES, THE SECRETARY SHALL REPORT, SUBJECT
17 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE
18 COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL
19 ASSEMBLY, ON:

20 (1) THE DEVELOPMENT OF THE LOCAL GOVERNMENT HIRING PLAN;
21 AND

22 (2) THE NUMBER OF RECIPIENTS HIRED AND RETAINED BY LOCAL
23 GOVERNMENTS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 88A, § 46(b).

26 Throughout this section, the term "local government hiring plan" is
27 substituted for the former references to "local department plan" and "local
28 plan" for consistency.

29 In subsections (a) and (b) of this section, the former references to "FIP"
30 recipients are deleted as redundant. *See* the definition of "recipient" in §
31 5-301. Correspondingly in subsection (d) of this section, the former
32 reference to "welfare" recipients is deleted.

33 In subsection (a) of this section, the former reference to local governments
34 hiring recipients "to work in local government" is deleted as redundant.

1 In subsection (c)(4) of this section, the reference to a schedule and format
2 that the Secretary “determines” is substituted for the former reference to a
3 schedule and format “to be developed” by the Secretary for consistency
4 with subsection (c)(1) of this section.

5 In subsection (d)(1) of this section, the former reference to the plan
6 “encouraged under this paragraph” is deleted as surplusage.

7 Defined terms: “Local director” § 5–101

8 “Recipient” § 5–301

9 “Secretary” § 5–101

10 5–305. INSTITUTIONS OF HIGHER EDUCATION.

11 (A) MARYLAND HIGHER EDUCATION COMMISSION.

12 IN COOPERATION WITH THE DEPARTMENT, THE MARYLAND HIGHER
13 EDUCATION COMMISSION SHALL:

14 (1) IDENTIFY AND PROMOTE EFFORTS AT INSTITUTIONS OF HIGHER
15 EDUCATION TO PROVIDE ASSISTANCE TO RECIPIENTS; AND

16 (2) COORDINATE EFFORTS AMONG INSTITUTIONS OF HIGHER
17 EDUCATION TO ENCOURAGE AND IDENTIFY STUDENT VOLUNTEERS TO HELP
18 RECIPIENTS WITH EDUCATIONAL AND EMPLOYMENT-RELATED SERVICES,
19 INCLUDING:

20 (I) LITERACY TRAINING;

21 (II) MENTORING;

22 (III) RESUME WRITING; AND

23 (IV) JOB INTERVIEWING SKILLS.

24 (B) INSTITUTIONS OF HIGHER EDUCATION.

25 AN INSTITUTION OF HIGHER EDUCATION SHALL:

26 (1) MEET WITH THE LOCAL DEPARTMENT ABOUT DEVELOPING
27 SERVICES FOR RECIPIENTS IN THE JURISDICTION IN WHICH THE INSTITUTION IS
28 LOCATED;

29 (2) ADVISE THE LOCAL DEPARTMENT OF THE SERVICES AVAILABLE FOR
30 RECIPIENTS; AND

31 (3) ON OR BEFORE SEPTEMBER 15 OF EACH YEAR, PROVIDE TO THE
32 MARYLAND HIGHER EDUCATION COMMISSION A REPORT ON EFFORTS TO:

33 (I) ENCOURAGE AND IDENTIFY STUDENT VOLUNTEERS; AND

1 (II) IDENTIFY SERVICES PROVIDED UNDER THIS SECTION.

2 (C) ANNUAL REPORT.

3 ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE MARYLAND HIGHER
4 EDUCATION COMMISSION SHALL SUBMIT A REPORT, SUBJECT TO § 2-1246 OF THE
5 STATE GOVERNMENT ARTICLE, TO THE JOINT COMMITTEE ON WELFARE REFORM ON
6 THE SERVICES PROVIDED UNDER THIS SECTION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 88A, § 47(d).

9 Throughout subsections (a) and (b) of this section, the former references to
10 a "FIP" recipient are deleted as redundant. *See* the definition of "recipient"
11 in § 5-301.

12 In subsection (a)(2) of this section, the word "including" is substituted for
13 the former phrase "such as" for clarity in light of Article 1, § 30, which
14 provides that "including" is used "by way of illustration and not by way of
15 limitation".

16 In subsections (b)(3) and (c) of this section, the phrase "on or before"
17 September 15 and December 1, respectively, is substituted for the former
18 word "by" those dates for clarity.

19 Defined terms: "Department" § 5-101

20 "Local department" § 5-101

21 "Recipient" § 5-301

22 5-306. CONTRACTING POWERS OF DEPARTMENT.

23 IN PROVIDING ASSISTANCE UNDER THIS SUBTITLE, THE DEPARTMENT MAY
24 CONTRACT WITH:

- 25 (1) CHARITABLE ORGANIZATIONS;
26 (2) PRIVATE ORGANIZATIONS;
27 (3) RELIGIOUS ORGANIZATIONS; AND
28 (4) INSTITUTIONS OF HIGHER EDUCATION.

29 REVISOR'S NOTE: This section formerly was Art. 88A, § 47(a).

30 The only changes are in style.

31 Defined term: "Department" § 5-101

32 5-307. RELIGIOUS ORGANIZATIONS.

33 (A) IN GENERAL.

1 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A RELIGIOUS
2 ORGANIZATION MAY PARTICIPATE IN THE FIP ON THE SAME BASIS AS ANY OTHER
3 NONGOVERNMENTAL ENTITY.

4 (B) ACCEPTANCE OF ASSISTANCE NOT REQUIRED.

5 AN INDIVIDUAL MAY NOT BE REQUIRED TO ACCEPT ASSISTANCE FROM A
6 RELIGIOUS ORGANIZATION IF ACCEPTANCE WOULD VIOLATE THE INDIVIDUAL'S
7 BONA FIDE RELIGIOUS BELIEFS AND PRACTICES.

8 (C) RELIGIOUS DISCRIMINATION.

9 AN ORGANIZATION FUNDED UNDER THE FIP MAY NOT DISCRIMINATE ON THE
10 BASIS OF RELIGION, RELIGIOUS BELIEF, OR REFUSAL TO PARTICIPATE IN A
11 RELIGIOUS PRACTICE WITH RESPECT TO ANY INDIVIDUAL'S RECEIPT OF SERVICE
12 UNDER THE FIP.

13 (D) NOTICE OF RIGHTS.

14 THE DEPARTMENT SHALL PROVIDE ALL RECIPIENTS WITH CLEAR AND TIMELY
15 NOTICE OF THEIR RIGHTS UNDER § 104(E) OF THE FEDERAL PERSONAL
16 RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 47(b), (c), (e), and (f).

19 In subsections (a) and (c) of this section, the defined term "FIP" is
20 substituted for the former references to the "Family Investment Program"
21 and "Program" for consistency throughout this subtitle.

22 In subsection (d) of this section, the defined term "recipients" is
23 substituted for the former reference to "persons receiving benefits under
24 the Family Investment Program" for brevity and consistency throughout
25 this subtitle.

26 Also in subsection (d) of this section, the reference to the "federal Personal
27 Responsibility and Work Opportunity Reconciliation Act of 1996" is
28 substituted for the former reference to "P.L. 104-193 (1996)" for clarity. *See*
29 42 U.S.C. 604a.

30 Defined terms: "Department" § 5-101

31 "FIP" § 5-301

32 "Recipient" § 5-301

33 5-308. ELIGIBILITY FOR ASSISTANCE.

34 (A) IN GENERAL.

35 (1) A FAMILY MAY BE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE
36 ONLY IF THE FAMILY INCLUDES:

1 (I) A MINOR CHILD WHO RESIDES WITH A CUSTODIAL PARENT OR
2 OTHER ADULT CARETAKER WHO IS A RELATIVE OF THE CHILD; OR

3 (II) A PREGNANT INDIVIDUAL.

4 (2) ASSISTANCE SHALL BE PROVIDED TO AN APPLICANT OR RECIPIENT
5 UNDER THIS SUBTITLE ONLY IF THE APPLICANT OR RECIPIENT:

6 (I) RESIDES IN THE STATE AT THE TIME OF APPLICATION FOR
7 ASSISTANCE;

8 (II) IF APPLICABLE:

9 1. HAS APPLIED FOR CHILD SUPPORT SERVICES WITH THE
10 APPROPRIATE LOCAL CHILD SUPPORT ENFORCEMENT OFFICE AT THE TIME OF
11 APPLICATION FOR ASSISTANCE; AND

12 2. COMPLIES WITH THE REQUIREMENTS OF THE LOCAL
13 CHILD SUPPORT ENFORCEMENT OFFICE;

14 (III) HAS ENGAGED IN JOB SEARCH ACTIVITIES AS REQUESTED BY
15 THE DEPARTMENT;

16 (IV) PARTICIPATES IN WORK ACTIVITY UNDER THIS SUBTITLE; AND

17 (V) MEETS ALL OTHER FIP REQUIREMENTS THAT THE SECRETARY
18 ESTABLISHES BY REGULATION.

19 (B) EXEMPTIONS.

20 (1) AN INDIVIDUAL MAY NOT BE REQUIRED TO MEET THE WORK
21 ACTIVITY REQUIREMENT UNDER SUBSECTION (A)(2)(IV) OF THIS SECTION IF THE
22 INDIVIDUAL IS EXEMPT UNDER CRITERIA THE SECRETARY ESTABLISHES.

23 (2) THE CRITERIA SHALL INCLUDE EXEMPTIONS FOR:

24 (I) ADULTS WHO ARE REQUIRED TO CARE FOR A CHILD WHO IS A
25 RECIPIENT UNDER THE AGE OF 1 YEAR; AND

26 (II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ADULTS
27 AND CHILDREN WHO ARE RECIPIENTS AND WHO ARE SEVERELY DISABLED.

28 (3) AN INDIVIDUAL'S EXEMPTION BECAUSE OF SEVERE DISABILITY IS
29 LIMITED TO 12 MONTHS UNLESS:

30 (I) THE INDIVIDUAL APPLIES FOR SUPPLEMENTAL SECURITY
31 INCOME; AND

32 (II) THE APPLICATION IS APPROVED, PENDING, OR ON APPEAL.

33 (C) LEGAL IMMIGRANTS.

1 SUBJECT TO THE STATE BUDGET, A LEGAL IMMIGRANT IS ENTITLED TO
2 ASSISTANCE UNDER THIS SUBTITLE IF THE IMMIGRANT:

3 (1) MEETS FIP ELIGIBILITY REQUIREMENTS UNDER THIS SUBTITLE AND
4 ANY OTHER REQUIREMENTS IMPOSED BY THE STATE; AND

5 (2) (I) ARRIVED IN THE UNITED STATES BEFORE AUGUST 22, 1996; OR

6 (II) ARRIVED IN THE UNITED STATES ON OR AFTER AUGUST 22, 1996
7 AND IS NOT ELIGIBLE FOR FEDERALLY FUNDED CASH ASSISTANCE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, § 48.

10 In the introductory language of subsection (a)(2) of this section, the
11 reference to an "applicant or recipient" is substituted for the former
12 reference to an "applicant for or recipient of assistance" for brevity.

13 In subsection (a)(2)(ii) of this section, the phrase "if applicable" is added for
14 clarity and accuracy.

15 In subsection (b)(1) of this section, the phrase "[a]n individual may not be
16 required to meet the work activity requirement under subsection (a)(2)(iv)
17 of this section" is added for clarity.

18 In subsection (b)(2)(ii) of this section, the former reference to "children 16
19 years of age and older who are not in school and who are severely disabled"
20 is deleted as unnecessary in light of the reference to "adults and children
21 who are recipients and who are severely disabled".

22 In the introductory language of subsection (c) of this section, the former
23 phrase "[i]n addition to the provisions of this section" is deleted as
24 surplusage.

25 The Human Services Article Review Committee notes, for consideration by
26 the General Assembly, that in subsection (a)(2)(ii)2 of this section, the
27 General Assembly may wish to substitute a reference to the "regulations of
28 the Child Support Enforcement Administration" for the reference to the
29 "requirements of the local child support enforcement office" to ensure that
30 all applicants and recipients are subject to uniform requirements
31 statewide.

32 Defined terms: "Department" § 5-101

33 "FIP" § 5-301

34 "Recipient" § 5-301

35 "Secretary" § 5-101

36 "Work activity" § 5-301

1 5-309. SCOPE OF FAMILY INVESTMENT PROGRAM.

2 (A) IN GENERAL.

3 EXCEPT FOR AN APPLICANT OR RECIPIENT WHO IS A SINGLE CHILD, THE FIP
4 SHALL INCLUDE:

5 (1) AN ASSESSMENT OF EACH APPLICANT OR RECIPIENT THAT
6 CONSIDERS:

7 (I) THE REASONS FOR APPLYING FOR OR CONTINUING TO RELY ON
8 ASSISTANCE;

9 (II) AN EVALUATION OF APPROPRIATE WORK ACTIVITIES BASED
10 ON EDUCATIONAL LEVEL, JOB SKILLS AND READINESS, AND INTERESTS; AND

11 (III) PERSONAL AND FAMILY RESOURCES AVAILABLE TO
12 FACILITATE INDEPENDENCE; AND

13 (2) WELFARE AVOIDANCE GRANTS THAT:

14 (I) MEET IMMEDIATE NEEDS SO THAT AN APPLICANT OR
15 RECIPIENT CAN AVOID TEMPORARY CASH ASSISTANCE;

16 (II) MAY BE GRANTED AS THE DEPARTMENT CONSIDERS
17 APPROPRIATE;

18 (III) MAY NOT COVER THE SAME TYPE OF IMMEDIATE NEED MET BY
19 A PREVIOUS WELFARE AVOIDANCE GRANT UNLESS THE DEPARTMENT DETERMINES
20 THAT THE CURRENT IMMEDIATE NEED IS A NEW AND VERIFIED EMERGENCY;

21 (IV) DO NOT EXCEED AN AMOUNT OF 3 MONTHS OF TEMPORARY
22 CASH ASSISTANCE, UNLESS THE DEPARTMENT DETERMINES THERE IS A
23 COMPELLING NEED FOR AN AMOUNT NOT EXCEEDING 12 MONTHS; AND

24 (V) MAY NOT DUPLICATE PERIODS OF TEMPORARY CASH
25 ASSISTANCE.

26 (B) RECIPIENTS.

27 EXCEPT FOR A RECIPIENT WHO IS A SINGLE CHILD, THE FIP FOR A RECIPIENT
28 SHALL INCLUDE:

29 (1) AN AGREEMENT BETWEEN THE DEPARTMENT AND THE RECIPIENT
30 THAT:

31 (I) REQUIRES THE RECIPIENT TO COOPERATE WITH THE CHILD
32 SUPPORT ENFORCEMENT AGENCY TO OBTAIN SUPPORT FROM A NONCUSTODIAL
33 PARENT;

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1 (II) REQUIRES THE RECIPIENT TO COMPLY WITH REASONABLE
2 REQUESTS FOR COOPERATION BY CASE MANAGEMENT WORKERS IN SEEKING AND
3 USING PROGRAMS AND COMMUNITY AND FAMILY RESOURCES THAT MAY BE
4 AVAILABLE TO THE RECIPIENT;

5 (III) SPECIFIES THE WORK ACTIVITIES IN WHICH THE RECIPIENT
6 WILL PARTICIPATE; AND

7 (IV) SPECIFIES THE SUPPORTIVE SERVICES THAT THE LOCAL
8 DEPARTMENT WILL ASSIST IN PROVIDING AND THAT ARE NECESSARY FOR THE
9 RECIPIENT TO MEET THE RECIPIENT'S OBLIGATIONS UNDER THE FIP;

10 (2) SUPPORTIVE SERVICES ACTIVITIES, INCLUDING CHILD CARE, TO
11 THE EXTENT RESOURCES ALLOW;

12 (3) REFERRAL, AS APPROPRIATE, TO FAMILY PLANNING COUNSELING
13 AND SERVICES THAT:

14 (I) ARE NOT OFFERED OR CONDUCTED IN A MANNER THAT:

15 1. IS COERCIVE;

16 2. VIOLATES THE RECIPIENT'S CONFIDENTIALITY; OR

17 3. VIOLATES THE RECIPIENT'S BONA FIDE RELIGIOUS
18 BELIEFS AND PRACTICES; AND

19 (II) GIVES PREFERENCE TO ELIGIBLE TEEN PARENTS; AND

20 (4) TEMPORARY CASH ASSISTANCE, AS A LAST RESORT.

21 (C) APPLICANTS.

22 EXCEPT FOR AN APPLICANT WHO IS A SINGLE CHILD, THE FIP FOR AN
23 APPLICANT SHALL INCLUDE A CHILD CARE VOUCHER:

24 (1) TO THE EXTENT RESOURCES ALLOW, IF THE APPLICANT IS
25 REQUIRED TO PARTICIPATE IN A WORK ACTIVITY AS A CONDITION OF ELIGIBILITY;
26 OR

27 (2) IF PROVIDING CHILD CARE ELIMINATES THE APPLICANT'S NEED FOR
28 CASH ASSISTANCE UNDER THE FIP.

29 (D) SINGLE CHILDREN.

30 FOR AN APPLICANT OR RECIPIENT WHO IS A SINGLE CHILD, THE FIP SHALL
31 INCLUDE:

32 (1) REFERRAL TO APPROPRIATE SERVICES; AND

1 (2) TEMPORARY CASH ASSISTANCE FOR THE RECIPIENT, AS A LAST
2 RESORT.

3 (E) NONCUSTODIAL PARENTS IN NEED OF EMPLOYMENT SERVICES.

4 TO THE EXTENT RESOURCES ALLOW, THE FIP SHALL SERVE NONCUSTODIAL
5 PARENTS WHO NEED EMPLOYMENT SERVICES TO PAY CHILD SUPPORT
6 OBLIGATIONS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 88A, § 49(a), (b), and (c).

9 In the introductory language of subsection (a) of this section, the former
10 reference to welfare avoidance grants “[f]or an applicant or recipient” is
11 deleted as redundant.

12 In subsection (a)(2)(i) of this section, the defined term “temporary cash
13 assistance” is substituted for the former reference to “welfare assistance”
14 for consistency throughout this subtitle.

15 In subsection (a)(2)(iv) of this section, the reference to welfare avoidance
16 grants that “do not exceed an amount of 3 months of temporary cash
17 assistance” is substituted for the former reference to grants that “[m]ay be
18 in an amount that exceeds 3 months” for clarity.

19 In subsection (b)(1)(i) of this section, the reference to a “noncustodial”
20 parent is substituted for the former obsolete reference to an “absent”
21 parent.

22 In subsection (c)(1) of this section, the former reference to a “job search”
23 activity is deleted as included in the reference to a “work activity”. *See* §
24 5–301 of this subtitle.

25 Defined terms: “Department” § 5–101

26 “FIP” § 5–301

27 “Recipient” § 5–301

28 “Work activity” § 5–301

29 5–310. AMOUNT OF ASSISTANCE; RULES OF ELIGIBILITY.

30 (A) AMOUNT OF ASSISTANCE.

31 (1) FOR APPLICANTS TO THE FIP, THE AMOUNT OF ASSISTANCE SHALL
32 BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY
33 MONTH AND DISREGARDING 20% OF THAT EARNED INCOME.

34 (2) FOR ELIGIBLE RECIPIENTS WHO OBTAIN UNSUBSIDIZED
35 EMPLOYMENT, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING
36 NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING
37 40% OF THAT EARNED INCOME.

1 (B) WAGE EARNERS WORKING OVER 100 HOURS PER MONTH.

2 A RECIPIENT WHO HAS ESTABLISHED ELIGIBILITY MAY NOT LOSE ELIGIBILITY
3 SOLELY BECAUSE ONE OR MORE WAGE EARNERS IN THE FAMILY UNIT WORKS MORE
4 THAN 100 HOURS PER MONTH.

5 (C) SPECIFIED PERIOD OF WORK FOR PRINCIPAL WAGE EARNER.

6 TWO-PARENT FAMILIES SHALL BE EXEMPT FROM ANY REQUIREMENT THAT
7 THE PRINCIPAL WAGE EARNER MUST HAVE WORKED FOR A SPECIFIED TIME BEFORE
8 APPLYING TO THE FIP.

9 (D) HOUSEHOLD INCOME OF PARENT AND STEPPARENT EXCEEDING
10 ELIGIBILITY STANDARDS.

11 (1) A CHILD WHO IS LIVING WITH THE CHILD'S PARENT AND A
12 STEPPARENT IN A HOUSEHOLD IN WHICH THE HOUSEHOLD INCOME EXCEEDS THE
13 STATE ELIGIBILITY STANDARD FOR ASSISTANCE MAY RECEIVE ASSISTANCE IF:

14 (I) THE REQUIREMENTS OF § 5-308 OF THIS SUBTITLE ARE MET;
15 AND

16 (II) THE PARENT AND THE CHILD WOULD BE ELIGIBLE FOR
17 ASSISTANCE, BASED ON THE INCOME OF THE PARENT AND THAT PARENT'S
18 CHILDREN.

19 (2) THE AMOUNT OF ASSISTANCE TO BE PAID UNDER PARAGRAPH (1) OF
20 THIS SUBSECTION SHALL BE COMPUTED WITH REGARD TO THE INCOME OF THE
21 STEPPARENT IF THE TOTAL INCOME OF THE STEPPARENT EQUALS OR EXCEEDS 50%
22 OF THE OFFICIAL POVERTY LEVEL, ADJUSTED FOR FAMILY SIZE, ESTABLISHED
23 UNDER THE FEDERAL COMMUNITY SERVICES BLOCK GRANT ACT.

24 (E) DEPENDENT CHILD OVER 17 YEARS OF AGE WHO IS FULL-TIME STUDENT.

25 A DEPENDENT CHILD OVER THE AGE OF 17 YEARS IS ELIGIBLE FOR INCLUSION
26 IN THE FIP GRANT IF:

27 (1) THE CHILD IS A FULL-TIME STUDENT IN SECONDARY SCHOOL OR
28 THE EQUIVALENT; AND

29 (2) THE EDUCATION PROGRAM IS EXPECTED TO BE COMPLETED IN THE
30 CALENDAR YEAR THAT THE CHILD ATTAINS THE AGE OF 19 YEARS.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 88A, § 49(d), (e), (f), (g), and (h).

33 In subsection (a)(1) of this section, the defined term "FIP" is substituted for
34 the former reference to "Family Investment Program" for consistency
35 throughout this subtitle.

36 In subsection (a)(2) of this section, the former reference to a "Family

1 Investment Program” recipient is deleted as surplusage in light of the
2 definition of “recipient” in § 5–301.

3 In subsections (b), (c), and (d)(1), and the introductory language of
4 subsection (e) of this section, the former requirements that the Secretary
5 “revise the schedule of FIP assistance” and “revise the rules of eligibility”
6 are deleted as obsolete.

7 In the introductory language of subsection (d)(1) and in subsection (d)(1)(ii)
8 of this section, the former references to a “natural” parent are deleted as
9 archaic and misleading. The Human Services Article Review Committee
10 notes, for consideration by the General Assembly, that distinguishing
11 between children living with “natural” and adoptive parents may violate
12 the Equal Protection clause of the 14th Amendment of the U.S.
13 Constitution.

14 Defined terms: “FIP” § 5–301

15 “Recipient” § 5–301

16 “Secretary” § 5–101

17 5–311. PERIODIC RECERTIFICATION; CANCELLATION, SUSPENSION, OR REVOCATION.

18 (A) PERIODIC RECERTIFICATION.

19 ALL ASSISTANCE GRANTED UNDER THIS SUBTITLE IS SUBJECT TO PERIODIC
20 RECERTIFICATION.

21 (B) CANCELLATION, SUSPENSION, OR REVOCATION OF ASSISTANCE.

22 AT ANY TIME, THE DEPARTMENT MAY CANCEL, SUSPEND, OR REVOKE
23 ASSISTANCE IF:

24 (1) THE RECIPIENT’S CIRCUMSTANCES HAVE ALTERED SUFFICIENTLY
25 TO WARRANT CANCELLATION, SUSPENSION, OR REVOCATION; OR

26 (2) THE RECIPIENT HAS FAILED TO COMPLY WITH FIP REQUIREMENTS.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 88A, § 52(a) and (b).

29 In the introductory language of subsection (b) of this section, the former
30 phrase “during a certification period” is deleted as surplusage.

31 Defined terms: “Department” § 5–101

32 “FIP” § 5–301

33 “Recipient” § 5–301

34 5–312. TEMPORARY CASH ASSISTANCE — IN GENERAL.

35 (A) INTENT OF SECTION.

1 THIS SECTION IS NOT INTENDED TO CREATE AN INCENTIVE FOR INDIVIDUALS
2 TO SEEK TEMPORARY CASH ASSISTANCE BENEFITS INSTEAD OF EMPLOYMENT.

3 (B) REQUIREMENTS FOR ASSISTANCE — IN GENERAL.

4 A LOCAL DEPARTMENT SHALL PROVIDE TEMPORARY CASH ASSISTANCE TO AN
5 APPLICANT OR RECIPIENT ONLY IF:

6 (1) THE APPLICANT OR RECIPIENT MEETS THE REQUIREMENTS FOR
7 PARTICIPATION IN THE FIP SET FORTH IN § 5-308 OF THIS SUBTITLE;

8 (2) THE APPLICANT OR RECIPIENT ASSIGNS TO THE STATE ALL RIGHT,
9 TITLE, AND INTEREST IN SUPPORT FROM ANY OTHER PERSON THAT THE APPLICANT
10 OR RECIPIENT HAS ON BEHALF OF ANY INTENDED OR POTENTIAL RECIPIENT FOR
11 WHOM THE APPLICANT OR RECIPIENT IS APPLYING FOR OR RECEIVING ASSISTANCE,
12 INCLUDING ANY RIGHT ACCRUED WHEN THE ASSIGNMENT IS EXECUTED; AND

13 (3) IN THE CASE OF AN APPLICANT OR RECIPIENT WHO IS A MINOR
14 PARENT, THE APPLICANT OR RECIPIENT LIVES:

15 (I) WITH A PARENT, LEGAL GUARDIAN, CUSTODIAN, OR OTHER
16 ADULT RELATIVE WHO WILL BE THE PAYEE OF THE MINOR PARENT;

17 (II) IN AN ADULT-SUPERVISED GROUP LIVING ARRANGEMENT
18 THAT PROVIDES A PROTECTIVE PAYEE AND:

19 1. THERE IS NO AVAILABLE PARENT, LEGAL GUARDIAN,
20 CUSTODIAN, OR OTHER ADULT RELATIVE WITH WHOM THE MINOR PARENT CAN
21 LIVE;

22 2. THE MINOR PARENT OR CHILD WOULD BE SUBJECT TO
23 PHYSICAL OR EMOTIONAL HARM, SEXUAL ABUSE, OR NEGLECT IN THE HOME OF ANY
24 AVAILABLE ADULT RELATIVE; OR

25 3. A SOCIAL SERVICE WORKER FINDS THAT LIVING WITH
26 ANY AVAILABLE ADULT RELATIVE WOULD NOT BE IN THE BEST INTEREST OF THE
27 MINOR PARENT OR CHILD; OR

28 (III) INDEPENDENTLY, IF A SOCIAL SERVICE WORKER CONFIRMS
29 THAT THE PHYSICAL SAFETY OR EMOTIONAL HEALTH OF THE MINOR PARENT OR
30 CHILD WOULD OTHERWISE BE IN JEOPARDY.

31 (C) ENTITLEMENT TO BENEFITS.

32 A RECIPIENT WHO MEETS THE REQUIREMENTS OF THE FIP IS ENTITLED TO
33 TEMPORARY CASH ASSISTANCE BENEFITS.

34 (D) SPONSORED LEGAL IMMIGRANTS.

35 IN DETERMINING THE ELIGIBILITY FOR AND THE AMOUNT OF TEMPORARY
36 CASH ASSISTANCE TO BE PROVIDED TO AN APPLICANT OR RECIPIENT WHO IS A

1 LEGAL IMMIGRANT, THE INCOME AND RESOURCES OF THE APPLICANT OR
2 RECIPIENT SHALL INCLUDE, FOR THE PERIOD OF TIME ESTABLISHED BY FEDERAL
3 LAW, THE INCOME AND RESOURCES OF ANY SPONSOR WHO EXECUTED AN
4 AFFIDAVIT OF SUPPORT IN ACCORDANCE WITH 8 U.S.C. § 1183A ON BEHALF OF THE
5 LEGAL IMMIGRANT.

6 (E) NONCOMPLIANCE.

7 (1) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH A
8 SCHEDULE OF REDUCTIONS AND TERMINATIONS OF TEMPORARY CASH ASSISTANCE
9 FOR NONCOMPLIANCE WITH FIP REQUIREMENTS.

10 (2) (I) IF A RECIPIENT IS FOUND TO BE IN NONCOMPLIANCE WITH FIP
11 REQUIREMENTS, A CASEWORKER SHALL INVESTIGATE THE REASONS FOR
12 NONCOMPLIANCE.

13 (II) THE INVESTIGATION, TO THE EXTENT RESOURCES ALLOW,
14 SHALL INCLUDE PERSONAL CONTACT WITH THE FAMILY OF THE RECIPIENT.

15 (3) THE SECRETARY MAY NOT REDUCE OR TERMINATE TEMPORARY
16 CASH ASSISTANCE TO A FAMILY UNTIL 30 DAYS AFTER THE DAY ON WHICH THE
17 FIRST WRITTEN NOTICE OF NONCOMPLIANCE WAS SENT TO THE RECIPIENT.

18 (4) FOR NONCOMPLIANCE WITH A FIP REQUIREMENT OTHER THAN A
19 WORK ACTIVITY, TEMPORARY CASH ASSISTANCE SHALL RESUME ON COMPLIANCE
20 WITH THE FIP REQUIREMENT.

21 (5) FOR NONCOMPLIANCE WITH A WORK ACTIVITY, TEMPORARY CASH
22 ASSISTANCE SHALL RESUME IN THE FOLLOWING MANNER:

23 (I) FOR THE FIRST INSTANCE OF NONCOMPLIANCE, TEMPORARY
24 CASH ASSISTANCE SHALL RESUME IMMEDIATELY ON COMPLIANCE;

25 (II) FOR THE SECOND INSTANCE OF NONCOMPLIANCE,
26 TEMPORARY CASH ASSISTANCE SHALL RESUME AFTER 10 DAYS OF COMPLIANCE
27 WITH THE WORK ACTIVITY; AND

28 (III) FOR EACH SUBSEQUENT INSTANCE OF NONCOMPLIANCE,
29 TEMPORARY CASH ASSISTANCE SHALL RESUME AFTER 30 DAYS OF COMPLIANCE
30 WITH A WORK ACTIVITY.

31 (6) IF TEMPORARY CASH ASSISTANCE IS REDUCED OR TERMINATED
32 UNDER THIS SUBSECTION, A RECIPIENT SHALL RETAIN ELIGIBILITY FOR MEDICAL
33 ASSISTANCE AND FOOD STAMPS, AS LONG AS THE RECIPIENT MEETS THE MEDICAL
34 ASSISTANCE AND FOOD STAMP PROGRAM REQUIREMENTS.

35 (F) TRANSITIONAL ASSISTANCE.

36 (1) AFTER TERMINATION OF TEMPORARY CASH ASSISTANCE UNDER
37 THIS SECTION, A RECIPIENT MAY RECEIVE TRANSITIONAL ASSISTANCE.

1 (2) IF A CASEWORKER DETERMINES THAT TRANSITIONAL ASSISTANCE
2 IS APPROPRIATE, THE FIP BENEFIT THAT WOULD HAVE BEEN PAID TO THE
3 RECIPIENT SHALL BE PAID INSTEAD TO A THIRD PARTY PAYEE ON BEHALF OF THE
4 RECIPIENT FOR A PERIOD OF UP TO 3 MONTHS.

5 (3) THE CASEWORKER OF A RECIPIENT, IN CONJUNCTION WITH THE
6 RECIPIENT AND SUBJECT TO THE APPROVAL OF THE SECRETARY, SHALL SELECT A
7 THIRD PARTY PAYEE DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

8 (4) THE THIRD PARTY PAYEE SHALL PROVIDE TRANSITIONAL
9 ASSISTANCE TO THE RECIPIENT IN ONE OR MORE OF THE FOLLOWING FORMS:

10 (I) COUNSELING;

11 (II) HOUSING;

12 (III) CHILD CARE;

13 (IV) HOUSEHOLD SUPPLIES AND EQUIPMENT;

14 (V) DIRECT ASSISTANCE OTHER THAN A CASH PAYMENT; AND

15 (VI) ANY OTHER NONCASH ASSISTANCE THAT MAY BE NECESSARY
16 TO ASSIST THE RECIPIENT TO MAKE THE TRANSITION FROM WELFARE.

17 (5) A LOCAL DEPARTMENT MAY PAY AN ADMINISTRATIVE FEE TO A
18 THIRD PARTY PAYEE TO COVER THE ADMINISTRATIVE COSTS OF THE THIRD PARTY
19 PAYEE FOR PROVIDING THE SERVICES DESCRIBED IN PARAGRAPH (4) OF THIS
20 SUBSECTION.

21 (6) THE FUNDS PROVIDED THROUGH TRANSITIONAL ASSISTANCE MAY
22 NOT BE USED TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION.

23 (7) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING THE
24 SELECTION CRITERIA FOR THIRD PARTY PAYEES UNDER THIS SUBSECTION.

25 (8) A RECIPIENT WHO HAS RECEIVED TRANSITIONAL ASSISTANCE MAY
26 REAPPLY FOR THE FIP BENEFIT AND THE BENEFIT SHALL BE FURNISHED WITH
27 REASONABLE PROMPTNESS TO ALL ELIGIBLE INDIVIDUALS.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 88A, § 50(a), (b), (c), (f), and (g).

30 In subsection (a) of the section, the scope of the statement of intent is
31 narrower than the former law because of the reorganization of provisions
32 formerly contained in Art. 88A, § 50. No substantive change is intended.

33 In subsection (b)(1) of this section, the word "applicant" is added to clarify
34 that both temporary cash assistance applicants and recipients must meet
35 FIP requirements.

1 In subsection (c) of this section, the reference to “temporary cash
2 assistance benefits” is substituted for the former reference to “cash
3 assistance benefits” for clarity and consistency throughout this subtitle.

4 In subsection (d) of this section, the phrase “[i]n determining the eligibility
5 for and the amount of temporary cash assistance to be provided to an
6 applicant or recipient who is a legal immigrant,” is added for clarity.

7 Also in subsection (d) of this section, the phrase “for the period of time
8 established by federal law” is substituted for the former phrase “for a
9 period of 3 years from the date of the immigrant’s entry into the United
10 States, unless a different period of time is set by the federal government”
11 for accuracy and consistency with federal requirements. *See* 8 U.S.C. §
12 1631(b).

13 Also in subsection (d) of this section, the reference to “8 U.S.C. § 1183a” is
14 substituted for the former reference to “§ 213A of the Immigration and
15 Naturalization Act” for accuracy.

16 In subsection (e)(2)(i) of this section, the reference to a “recipient” is
17 substituted for the former reference to an “individual” for clarity and
18 consistency.

19 In subsection (e)(2)(ii) of this section, the reference to the “family of the
20 recipient” is substituted for the former reference to the “family unit” for
21 clarity and consistency with subsection (e)(3) of this section.

22 Also in subsection (e)(2)(ii) of this section, the former phrase “but not be
23 limited to” is deleted in light of the word “include”. Art. 1, § 30, provides
24 that “includes” means “by way of illustration and not by way of limitation”.

25 In subsection (e)(3) of this section, the requirement that written notice be
26 sent “to the recipient” is added for clarity.

27 In subsection (f)(2) of this section, the reference to a determination that
28 transitional assistance “is appropriate” is substituted for the former
29 reference to a determination that “the local department shall provide”
30 transitional assistance for clarity.

31 Defined terms: “FIP” § 5–301

32 “Local department” § 5–101

33 “Person” § 1–101

34 “Recipient” § 5–301

35 “Secretary” § 5–101

36 “Temporary cash assistance” § 5–301

37 “Third party payee” § 5–301

38 “Transitional assistance” § 5–301

39 “Work activity” § 5–301

1 5-313. TEMPORARY CASH ASSISTANCE — LIMITATIONS.

2 (A) BIRTH OF A CHILD; CHILD-SPECIFIC BENEFIT.

3 (1) THIS SUBSECTION DOES NOT APPLY TO A BIRTH RESULTING FROM
4 RAPE OR INCEST.

5 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
6 TEMPORARY CASH ASSISTANCE MAY NOT INCLUDE THE INCREMENT IN CASH
7 BENEFITS UNDER THE FIP FOR WHICH A RECIPIENT WOULD OTHERWISE BE
8 ELIGIBLE AS A RESULT OF THE BIRTH OF A CHILD 10 OR MORE MONTHS AFTER THE
9 RECIPIENT'S INITIAL APPLICATION FOR TEMPORARY CASH ASSISTANCE BENEFITS.

10 (3) CASH PAYMENTS FOR A CHILD MAY NOT BE MADE TO A FAMILY
11 OTHER THAN THE CHILD'S FAMILY UNLESS THE SOCIAL SERVICES ADMINISTRATION
12 HAS PLACED THE CHILD WITH THE OTHER FAMILY.

13 (4) IF A RECIPIENT IS INELIGIBLE FOR AN INCREMENT IN CASH
14 BENEFITS UNDER THIS SUBSECTION, THE DEPARTMENT SHALL PROVIDE A
15 CHILD-SPECIFIC BENEFIT, NOT TO EXCEED THE VALUE OF THE INCREMENT
16 ELIMINATED BY THIS SUBSECTION, FOR THE PURCHASE OF GOODS SPECIFIED BY
17 THE DEPARTMENT AS SUITABLE FOR THE CARE OF A MINOR.

18 (5) A LOCAL DEPARTMENT MAY PAY AN ADMINISTRATIVE FEE TO A
19 THIRD PARTY PAYEE TO COVER THE ADMINISTRATIVE COSTS OF THE THIRD PARTY
20 PAYEE FOR MANAGING THE CHILD-SPECIFIC BENEFIT.

21 (6) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING THE
22 SELECTION CRITERIA FOR THIRD PARTY PAYEES UNDER THIS SUBSECTION.

23 (B) TIME LIMITATIONS.

24 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND
25 IN REGULATIONS THAT THE SECRETARY ADOPTS, A LOCAL DEPARTMENT MAY NOT
26 PAY TEMPORARY CASH ASSISTANCE TO:

27 (I) A FAMILY THAT INCLUDES AN ADULT WHO HAS RECEIVED
28 MORE THAN 60 CUMULATIVE MONTHS OF TEMPORARY CASH ASSISTANCE FUNDED
29 WHOLLY OR PARTLY BY FEDERAL FUNDS; OR

30 (II) A FAMILY THAT INCLUDES AN ADULT WHO:

31 1. HAS RECEIVED MORE THAN 24 CUMULATIVE MONTHS OF
32 TEMPORARY CASH ASSISTANCE FUNDED WHOLLY OR PARTLY BY FEDERAL FUNDS;
33 AND

34 2. WHO IS NOT PARTICIPATING IN A WORK ACTIVITY.

35 (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH:

1 (I) STANDARDS AND PROCEDURES UNDER WHICH A LOCAL
2 DEPARTMENT MAY EXEMPT A FAMILY FROM THE LIMITATION UNDER PARAGRAPH
3 (1)(I) OF THIS SUBSECTION BECAUSE OF HARDSHIP; AND

4 (II) A SEPARATE STATE PROGRAM THAT:

5 1. IS FUNDED ENTIRELY FROM STATE GENERAL FUNDS
6 THAT MAY BE COUNTED TOWARD ANY FEDERAL MAINTENANCE OF EFFORT
7 REQUIREMENT;

8 2. PAYS TEMPORARY CASH ASSISTANCE TO A FAMILY THAT
9 IS EXEMPTED UNDER ITEM (I) OF THIS PARAGRAPH BUT CANNOT RECEIVE FEDERAL
10 FUNDS BECAUSE OF FEDERAL LIMITATIONS; AND

11 3. IS SUBJECT TO ALL FIP REQUIREMENTS UNDER THIS
12 SUBTITLE.

13 (3) THE PROVISIONS OF THIS SUBSECTION ARE SUBJECT TO FEDERAL
14 LAW AND REGULATION.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88A, §§ 51 and 50(e).

17 In subsection (b)(2)(ii) of this section, the former phrase "subject to
18 subsection (c) of this section" is deleted as redundant.

19 Defined terms: "Department" § 5-101

20 "FIP" § 5-301

21 "Local department" § 5-101

22 "Recipient" § 5-301

23 "Secretary" § 5-101

24 "Temporary cash assistance" § 5-301

25 "Third party payee" § 5-301

26 "Work activity" § 5-301

27 5-314. TEMPORARY CASH ASSISTANCE — ADULT OR MINOR PARENT SUBSTANCE
28 ABUSE TREATMENT.

29 (A) "ADDICTIONS SPECIALIST" DEFINED.

30 IN THIS SECTION, "ADDICTIONS SPECIALIST" MEANS AN ADDICTIONS
31 SPECIALIST WHO IS LOCATED ON-SITE AT A LOCAL DEPARTMENT.

32 (B) SCREENING BY ADDICTIONS SPECIALIST.

33 (1) AN ADDICTIONS SPECIALIST SHALL ASSESS THE NEED OF ANY
34 ADULT OR MINOR PARENT APPLICANT OR RECIPIENT FOR SUBSTANCE ABUSE
35 TREATMENT:

SENATE BILL 6

1 (I) AT THE INITIAL APPLICATION FOR TEMPORARY CASH
2 ASSISTANCE; OR

3 (II) WHEN CONSIDERED APPROPRIATE BY THE FIP CASE MANAGER
4 OF THE LOCAL DEPARTMENT.

5 (2) THE ADDICTIONS SPECIALIST SHALL SCREEN THE APPLICANT OR
6 RECIPIENT TO EXPOSE POTENTIAL BARRIERS THAT THE APPLICANT OR RECIPIENT
7 MAY HAVE IN OBTAINING EMPLOYMENT SUCH AS A SUBSTANCE ABUSE PROBLEM.

8 (3) THE ADDICTIONS SPECIALIST SHALL INFORM EACH ADULT OR
9 MINOR PARENT APPLICANT OR RECIPIENT OF THE REQUIREMENTS OF FIP
10 REGARDING SUBSTANCE ABUSE TREATMENT.

11 (4) IF THE APPLICANT OR RECIPIENT DOES NOT COMPLETE THE
12 SCREENING REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE
13 ADDICTIONS SPECIALIST SHALL NOTIFY THE FIP CASE MANAGER.

14 (C) ASSESSMENT; TREATMENT.

15 (1) IF THE SCREENING PERFORMED BY THE ADDICTIONS SPECIALIST
16 REVEALS THAT AN APPLICANT OR RECIPIENT HAS A SUBSTANCE ABUSE PROBLEM,
17 THE ADDICTIONS SPECIALIST SHALL:

18 (I) CONDUCT, OR REFER FOR, AN ASSESSMENT OF THE
19 APPLICANT'S OR RECIPIENT'S SUBSTANCE ABUSE PROBLEM AND, IF APPROPRIATE,
20 DETERMINE PLACEMENT FOR TREATMENT AND RELATED SUPPORT SERVICES;

21 (II) REFER THE APPLICANT OR RECIPIENT FOR APPROPRIATE
22 SUBSTANCE ABUSE TREATMENT AND RELATED SUPPORT SERVICES;

23 (III) OBTAIN THE SIGNATURE OF THE APPLICANT OR RECIPIENT ON
24 A FORM CONSENTING TO THE RELEASE OF CONFIDENTIAL SUBSTANCE ABUSE
25 TREATMENT INFORMATION;

26 (IV) FORWARD THE CONSENT FORM TO THE APPROPRIATE
27 SUBSTANCE ABUSE TREATMENT PROVIDER; AND

28 (V) OBTAIN ANY NECESSARY TREATMENT INFORMATION FROM
29 THE SUBSTANCE ABUSE TREATMENT PROVIDER.

30 (2) (I) THE SUBSTANCE ABUSE TREATMENT PROVIDER SHALL NOTIFY
31 THE ADDICTIONS SPECIALIST OF THE ONGOING TREATMENT STATUS OF THE
32 APPLICANT OR RECIPIENT.

33 (II) THE ADDICTIONS SPECIALIST SHALL NOTIFY THE FIP CASE
34 MANAGER IF AN APPLICANT OR RECIPIENT:

35 1. FAILS TO COMPLETE THE ASSESSMENT REQUIRED UNDER
36 PARAGRAPH (1)(I) OF THIS SUBSECTION;

1 2. FAILS TO SIGN THE CONSENT FORM REQUIRED UNDER
2 PARAGRAPH (1)(III) OF THIS SUBSECTION;

3 3. IS REFERRED FOR APPROPRIATE SUBSTANCE ABUSE
4 TREATMENT;

5 4. IS AWAITING THE AVAILABILITY OF APPROPRIATE
6 TREATMENT;

7 5. FAILS TO ENROLL OR MAINTAIN ENROLLMENT WITH AN
8 AVAILABLE SUBSTANCE TREATMENT PROVIDER OR TO COMPLETE THE TREATMENT
9 PROTOCOL;

10 6. IS ENROLLED IN A TREATMENT PROGRAM; OR

11 7. SUCCESSFULLY COMPLETES TREATMENT.

12 (III) THE ADDICTIONS SPECIALIST SHALL ALSO NOTIFY THE FIP
13 CASE MANAGER REGARDING THE ONGOING TREATMENT STATUS OF THE APPLICANT
14 OR RECIPIENT.

15 (D) COMPLIANCE.

16 AN ADULT OR MINOR PARENT APPLICANT OR RECIPIENT WHO COMPLIES WITH
17 THE SUBSTANCE ABUSE TREATMENT REQUIREMENTS OF THE FIP:

18 (1) SHALL RECEIVE A FULL TEMPORARY CASH ASSISTANCE BENEFIT AS
19 LONG AS THE APPLICANT OR RECIPIENT MEETS THE OTHER TEMPORARY CASH
20 ASSISTANCE ELIGIBILITY REQUIREMENTS; AND

21 (2) MAY BE EXEMPT FROM THE WORK ACTIVITY REQUIREMENTS FOR A
22 PERIOD OF TIME DETERMINED BY THE FIP CASE MANAGER IN CONSULTATION WITH
23 THE ADDICTIONS SPECIALIST.

24 (E) NONCOMPLIANCE — IN GENERAL.

25 AN ADULT OR MINOR PARENT APPLICANT OR RECIPIENT IS NOT IN
26 COMPLIANCE WITH FIP REQUIREMENTS IF THE FIP CASE MANAGER RECEIVES
27 NOTICE FROM THE ADDICTIONS SPECIALIST THAT THE APPLICANT OR RECIPIENT:

28 (1) FAILS TO COMPLETE THE SCREENING OR ASSESSMENT REQUIRED
29 UNDER SUBSECTIONS (B)(2) AND (C)(1)(I) OF THIS SECTION;

30 (2) FAILS TO SIGN THE CONSENT FORM REQUIRED UNDER SUBSECTION
31 (C)(1)(III) OF THIS SECTION; OR

32 (3) IS REFERRED FOR APPROPRIATE AND AVAILABLE SUBSTANCE
33 ABUSE TREATMENT BY THE ADDICTIONS SPECIALIST BUT FAILS TO ENROLL OR TO
34 MAINTAIN ACTIVE ENROLLMENT IN THE TREATMENT PROGRAM OR COMPLETE THE
35 TREATMENT PROTOCOL.

1 (F) NONCOMPLIANCE — NOTICE TO APPLICANTS.

2 AFTER THE FIP CASE MANAGER RECEIVES A NOTICE UNDER SUBSECTION (E) OF
3 THIS SECTION, THE LOCAL DEPARTMENT SHALL:

4 (1) SEND A DENIAL NOTICE TO THE ADULT OR MINOR PARENT
5 APPLICANT THAT:

6 (I) STATES:

7 1. THAT THE APPLICANT HAS NOT MET FIP REQUIREMENTS;

8 2. THE SPECIFIC REASON WHY THE APPLICANT IS NOT
9 ELIGIBLE FOR FIP; AND

10 3. THAT IF THE APPLICANT FAILS TO FULFILL THE
11 REQUIREMENTS ON OR BEFORE THE 30TH WORK DAY AFTER THE APPLICATION FOR
12 TEMPORARY CASH ASSISTANCE WAS FILED, THE APPLICATION IS DENIED; AND

13 (II) NOTIFIES THE APPLICANT OF THE APPLICANT'S RIGHT TO
14 APPEAL AND THE PROCEDURES FOR FILING AN APPEAL; AND

15 (2) SEPARATELY DETERMINE ELIGIBILITY FOR MEDICAL ASSISTANCE
16 AND FOOD STAMPS.

17 (G) NONCOMPLIANCE — NOTICE TO RECIPIENTS.

18 AFTER THE FIP CASE MANAGER RECEIVES A NOTICE UNDER SUBSECTION (E) OF
19 THIS SECTION, THE LOCAL DEPARTMENT SHALL SEND A NOTICE TO THE ADULT OR
20 MINOR PARENT RECIPIENT THAT:

21 (1) IDENTIFIES THE RECIPIENT WHO IS NOT IN COMPLIANCE WITH FIP
22 REQUIREMENTS;

23 (2) STATES THE SPECIFIC REASON WHY THAT RECIPIENT IS NOT IN
24 COMPLIANCE WITH FIP REQUIREMENTS; AND

25 (3) STATES THAT 30 DAYS AFTER THE DATE OF THE NOTICE:

26 (I) THE TEMPORARY CASH ASSISTANCE BENEFITS WILL BE
27 REDUCED BY THAT INCREMENT IN CASH BENEFITS ATTRIBUTABLE TO THE
28 NONCOMPLIANT RECIPIENT; AND

29 (II) THE REMAINDER OF THE CASH BENEFITS FOR THE CHILD OR
30 CHILDREN IN THE FIP CASE WILL BE PAID TO A THIRD PARTY PAYEE OR A
31 COMPLIANT ADULT RECIPIENT; AND

32 (4) NOTIFIES THE RECIPIENT OF THE RECIPIENT'S RIGHT TO APPEAL
33 AND THE PROCEDURES FOR FILING AN APPEAL.

34 (H) NONCOMPLIANCE — REDUCTION OF BENEFITS.

1 (1) THE LOCAL DEPARTMENT SHALL REDUCE THE TEMPORARY CASH
2 ASSISTANCE BENEFITS OF AN ADULT OR MINOR PARENT RECIPIENT AND PAY THE
3 REMAINDER OF THE CASH BENEFITS TO A THIRD PARTY PAYEE OR A COMPLIANT
4 ADULT RECIPIENT AS DESCRIBED IN SUBSECTION (G) OF THIS SECTION, IF:

5 (I) THE RECIPIENT FAILS TO COMPLETE A SUBSTANCE ABUSE
6 SCREENING OR ASSESSMENT BY AN ADDICTIONS SPECIALIST, AS REQUIRED UNDER
7 SUBSECTIONS (B)(2) AND (C)(1)(I) OF THIS SECTION; OR

8 (II) THE REQUIRED SCREENING AND ASSESSMENT OR THE
9 RESULTS OF ANY FOLLOW-UP DIAGNOSTIC TESTING OR TREATMENT REVEAL THAT
10 THE RECIPIENT IS A SUBSTANCE ABUSER AND THE RECIPIENT REFUSES TO ENROLL
11 OR MAINTAIN ENROLLMENT IN AVAILABLE AND APPROPRIATE SUBSTANCE ABUSE
12 TREATMENT.

13 (2) THE LOCAL DEPARTMENT SHALL CONTINUE TO MAKE TEMPORARY
14 CASH ASSISTANCE BENEFITS PAYMENTS TO A THIRD PARTY PAYEE OR A COMPLIANT
15 ADULT RECIPIENT UNTIL THE LOCAL DEPARTMENT RECEIVES NOTICE FROM THE
16 ADDICTIONS SPECIALIST THAT THE RECIPIENT IS ACTIVELY ENROLLED, AS DEFINED
17 BY THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, IN THE APPROPRIATE
18 SUBSTANCE ABUSE TREATMENT INDICATED BY THE ADDICTIONS SPECIALIST.

19 (I) REINSTATEMENT OF BENEFITS.

20 THE LOCAL DEPARTMENT MAY NOT DENY AN ADULT OR MINOR PARENT
21 APPLICANT'S TEMPORARY CASH ASSISTANCE BENEFIT OR REDUCE AN ADULT OR
22 MINOR PARENT RECIPIENT'S TEMPORARY CASH ASSISTANCE BENEFIT AS
23 DESCRIBED UNDER SUBSECTIONS (F) AND (G) OF THIS SECTION, IF THE APPLICANT
24 OR RECIPIENT:

25 (1) RECEIVES THE SCREENING AND ASSESSMENT REQUIRED UNDER
26 SUBSECTIONS (B)(2) AND (C)(1)(I) OF THIS SECTION, AND THE SCREENING AND
27 ASSESSMENT OR THE RESULTS OF ANY FOLLOW-UP DIAGNOSTIC TESTING OR
28 TREATMENT REVEAL THAT THE APPLICANT OR RECIPIENT IS A SUBSTANCE ABUSER;
29 AND

30 (2) AGREES TO PARTICIPATE IN APPROPRIATE SUBSTANCE ABUSE
31 TREATMENT, AS DETERMINED BY THE ADDICTIONS SPECIALIST, BUT THE
32 APPROPRIATE SUBSTANCE ABUSE TREATMENT IS NOT AVAILABLE.

33 (J) MEDICAL ASSISTANCE AND FOOD STAMP ELIGIBILITY.

34 THE DENIAL OR REDUCTION OF TEMPORARY CASH ASSISTANCE UNDER THIS
35 SECTION DOES NOT AFFECT AN ADULT OR MINOR PARENT APPLICANT OR
36 RECIPIENT'S ELIGIBILITY FOR MEDICAL ASSISTANCE AND FOOD STAMPS, AS LONG AS
37 THE APPLICANT OR RECIPIENT MEETS THE MEDICAL ASSISTANCE AND FOOD STAMP
38 PROGRAM REQUIREMENTS.

39 REVISOR'S NOTE: Subsection (a) of this section is new language added to
40 avoid repetition of the former phrase "addictions specialist on-site in the

1 local department”.

2 Subsections (b) through (j) of this section are new language derived
3 without substantive change from former Art. 88A, § 50A.

4 Throughout this section, former references to an “adult or minor parent”
5 applicant or recipient are deleted as redundant.

6 In subsection (b)(1)(i) of this section, the former reference to the “first
7 redetermination after July 1, 1997” is deleted as obsolete.

8 In subsection (b)(1)(ii) of this section, the reference to the FIP “case
9 manager” is substituted for the former reference to the FIP “staff” for
10 clarity and consistency throughout this section.

11 In subsection (b)(2) of this section, the former reference to “assist[ing] in
12 determining whether an adult or minor parent applicant or recipient has a
13 need for substance abuse treatment” is deleted for brevity.

14 In subsection (c)(1)(iii) of this section, the reference to “substance abuse”
15 treatment is substituted for the former reference to “alcohol and drug”
16 treatment for consistency throughout this section.

17 In subsection (c)(2) of this section, the former requirement that an
18 addictions specialist forward consent for the release of confidential
19 treatment information to a substance abuse treatment provider is deleted
20 as redundant of subsection (c)(1) of this section.

21 In subsection (d)(2) of this section, the reference to “work activity
22 requirements” is substituted for the former reference to “work
23 requirements” for clarity and consistency throughout this subtitle.

24 In the introductory language of subsections (f) and (g) of this section, the
25 references to “the FIP case manager” receiving notice are added for clarity.

26 In subsection (g)(1) of this section, the reference to “identify[ing] the
27 recipient who” is not in compliance is added for clarity.

28 In subsection (g)(3)(i) of this section, the reference to that increment in
29 cash benefits “attributable to the noncompliant recipient” is substituted for
30 the former reference to that increment in cash benefits “that included the
31 adult recipient” for clarity.

32 In subsections (g)(3)(ii) and (h)(1) and (2) of this section, the references to
33 “a compliant adult recipient” are added to conform to current practice.

34 In subsections (f)(1)(ii) and (g)(4) of this section, the references to notifying
35 applicants and recipients of the “right to appeal and the procedures for
36 filing an appeal” are added to conform to current practice.

1 In subsection (h)(2) of this section, the reference to “temporary cash
2 assistance benefits payments” is substituted for the former reference to
3 “payments” for clarity.

4 Defined terms: “Addictions specialist” § 5–314

5 “FIP” § 5–301

6 “Local department” § 5–101

7 “Recipient” § 5–301

8 “Temporary cash assistance” § 5–301

9 “Third party payee” § 5–301

10 “Work activity” § 5–301

11 5–315. SSI BENEFITS; REASONABLE SUBSISTENCE; MEDICAID ELIGIBILITY.

12 (A) INTENT.

13 SUBSECTIONS (B) AND (C) OF THIS SECTION ARE NOT INTENDED TO CREATE AN
14 INCENTIVE FOR INDIVIDUALS TO SEEK TEMPORARY CASH ASSISTANCE BENEFITS
15 INSTEAD OF EMPLOYMENT.

16 (B) SSI BENEFITS EXCLUDED.

17 IN DETERMINING A FAMILY’S ELIGIBILITY FOR THE FIP, THE LOCAL
18 DEPARTMENT SHALL EXCLUDE SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS
19 PROVIDED TO AN ADULT OR CHILD FAMILY MEMBER.

20 (C) DETERMINATION WITH REGARD TO REASONABLE SUBSISTENCE.

21 EXCEPT AS LIMITED BY FEDERAL REQUIREMENTS, THE LEVEL OF TEMPORARY
22 CASH ASSISTANCE, AS DETERMINED BY A LOCAL DEPARTMENT, SHALL:

23 (1) BE DETERMINED WITH DUE REGARD TO THE AVAILABLE
24 RESOURCES, NECESSARY EXPENDITURES, AND SPECIFIC CONDITIONS OF A FAMILY;
25 AND

26 (2) BE SUFFICIENT, WHEN ADDED TO ALL OTHER INCOME AND SUPPORT
27 AVAILABLE TO THE CHILD, TO PROVIDE A CHILD WITH A REASONABLE SUBSISTENCE
28 COMPATIBLE WITH DECENCY AND HEALTH.

29 (D) MEDICAID ELIGIBILITY AFTER EMPLOYMENT.

30 A RECIPIENT WHO OBTAINS EMPLOYMENT REMAINS ELIGIBLE FOR MEDICAL
31 ASSISTANCE FOR UP TO 12 MONTHS AFTER THE DATE OF EMPLOYMENT.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 88A, §§ 50(a), (d), and (h) and 52(h)(3).

34 In subsection (b) of this section, the requirement that the “local
35 department shall exclude Supplemental Security Income (SSI) benefits” is
36 substituted for the former prohibition against the “Secretary ... includ[ing]

1 in regulations adopted under this subtitle a provision that would count as
2 unearned income ... Supplemental Security Income (SSI) benefits” for
3 brevity and clarity.

4 Also in subsection (b) of this section, the reference to an “adult or child
5 family member” is substituted for the former reference to an “adult or child
6 who resides in the family” for brevity.

7 In the introductory language of subsection (c) of this section, the reference
8 to the determination by “a local department” is added for clarity.

9 In subsection (c)(1) of this section, the phrase “specific conditions of a
10 family” is substituted for the former phrase “conditions existing in each
11 case” for clarity.

12 Defined terms: “FIP” § 5–301
13 “Local department” § 5–101
14 “Recipient” § 5–301
15 “Secretary” § 5–101

16 5–316. FUNDING; BUDGET SAVINGS.

17 (A) FUNDING LEVEL.

18 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
19 GOVERNOR SHALL PROVIDE SUFFICIENT FUNDS IN THE BUDGET TO:

20 (I) ENSURE THAT THE VALUE OF TEMPORARY CASH ASSISTANCE,
21 COMBINED WITH FEDERAL FOOD STAMPS, IS EQUAL TO AT LEAST 61% OF THE STATE
22 MINIMUM LIVING LEVEL; AND

23 (II) MAINTAIN THE FIP AT THE LEVEL OF THE FISCAL YEAR 1997
24 APPROPRIATION.

25 (2) THE FUNDS PROVIDED UNDER THIS SUBSECTION MAY BE LESS THAN
26 THE AMOUNT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE
27 GOVERNOR REPORTS TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246
28 OF THE STATE GOVERNMENT ARTICLE, ON THE REASONS FOR THE REDUCED
29 FUNDING FOR TEMPORARY CASH ASSISTANCE AND FOOD STAMPS.

30 (3) THIS SUBSECTION DOES NOT LIMIT THE FLEXIBILITY OF LOCAL
31 DEPARTMENTS REGARDING THE PROVISION OF SERVICES.

32 (B) ADJUSTMENTS IN EVENT OF INSUFFICIENT FUNDING.

33 IF THE SECRETARY DETERMINES DURING THE FISCAL YEAR THAT THE FUNDS
34 AVAILABLE FOR THE FIP ARE INSUFFICIENT TO MAKE PAYMENTS IN ACCORDANCE
35 WITH THE AMOUNT OF ASSISTANCE OTHERWISE ESTABLISHED BY LAW, THE
36 SECRETARY SHALL:

1 (1) PROVIDE FOR A UNIFORM METHOD OF ADJUSTING INDIVIDUAL
2 PAYMENTS;

3 (2) NOTIFY THE JOINT COMMITTEE ON WELFARE REFORM; AND

4 (3) SUBMIT EMERGENCY REGULATIONS, IN ACCORDANCE WITH TITLE
5 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, TO IMPLEMENT THE
6 ADJUSTMENT.

7 (C) BUDGET SAVINGS.

8 EFFECTIVE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL MAKE AVAILABLE
9 FOR REALLOCATION WITHIN ITS BUDGET ANY SAVINGS THE DEPARTMENT
10 ANTICIPATES FROM FUNDS APPROPRIATED FOR THE FIP DURING THE CURRENT
11 FISCAL YEAR AS A RESULT OF:

12 (1) CASELOAD REDUCTIONS; OR

13 (2) OTHER REDUCTIONS IN THE TOTAL AMOUNT OF TEMPORARY CASH
14 ASSISTANCE PAID TO RECIPIENTS COMPARED TO THE TOTAL AMOUNT OF
15 TEMPORARY CASH ASSISTANCE APPROPRIATED.

16 (D) USE OF SAVINGS.

17 EXCEPT AS PROVIDED IN SUBSECTION (E)(1) OF THIS SECTION, SAVINGS MADE
18 AVAILABLE FOR REALLOCATION MAY BE USED FOR:

19 (1) CHILD CARE;

20 (2) WORK ACTIVITIES;

21 (3) WELFARE AVOIDANCE GRANTS;

22 (4) DRUG TREATMENT FOR TARGETED RECIPIENTS;

23 (5) TRANSPORTATION;

24 (6) EMERGENCY FUNDS FOR APPLICANTS AND RECIPIENTS;

25 (7) ADMINISTRATION TO THE EXTENT THAT ADDITIONAL
26 ADMINISTRATIVE COSTS ARE REQUIRED TO EFFECTIVELY IMPLEMENT THE FIP; OR

27 (8) ANY OTHER DIRECT SERVICE TO APPLICANTS OR RECIPIENTS THAT
28 THE SECRETARY AND THE LOCAL DEPARTMENT CONSIDER APPROPRIATE TO
29 FURTHER THE PURPOSES OF THIS SUBTITLE.

30 (E) REALLOCATION OF SAVINGS.

31 (1) SAVINGS SHALL BE MADE AVAILABLE FOR REALLOCATION AS
32 FOLLOWS:

1 (I) 10% OF THE SAVINGS TO THE OPERATING COSTS FOR ONE OR
2 MORE OF THE FOLLOWING:

3 1. DEMONSTRATION PROJECTS ESTABLISHED UNDER § 5-317
4 OF THIS SUBTITLE;

5 2. SECOND CHANCE HOMES NOT SUBJECT TO THE
6 RESTRICTIONS OF § 12 OF CHAPTER 351 OF THE ACTS OF THE GENERAL ASSEMBLY OF
7 1996; OR

8 3. DEMONSTRATION PROJECTS TO EMPIRICALLY EVALUATE
9 STRATEGIES TO REDUCE THE INCIDENCE OF NONMARITAL BIRTHS IN THE STATE;

10 (II) 45% OF THE SAVINGS TO LOCAL DEPARTMENTS, IN
11 ACCORDANCE WITH THE SAVINGS ACHIEVED BY EACH LOCAL DEPARTMENT, FOR
12 THE PURPOSES AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION; AND

13 (III) 45% OF THE SAVINGS FOR THE PURPOSES AUTHORIZED UNDER
14 SUBSECTION (D) OF THIS SECTION.

15 (2) NOTWITHSTANDING § 7-302 OF THE STATE FINANCE AND
16 PROCUREMENT ARTICLE, ANY SAVINGS ALLOCATED UNDER THIS SUBSECTION THAT
17 REMAIN UNEXPENDED AT THE END OF A FISCAL YEAR MAY BE CARRIED OVER INTO
18 THE NEXT FISCAL YEAR.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 88A, § 52(c) through (g).

21 In the introductory language of subsection (a)(1) of this section, the
22 reference to the Governor providing funds "in the budget" is added for
23 clarity.

24 Also in the introductory language of subsection (a)(1) of this section, the
25 former phrase "under this subtitle" is deleted as surplusage.

26 In subsection (a)(2) of this section, the reference to the amount "required"
27 is substituted for the former reference to the amount "described" for clarity.

28 In the introductory language of subsection (c) of this section, the reference
29 to "[e]ffective" July 1 of each year is substituted for the former reference to
30 "[a]s of" July 1 of each year for clarity.

31 In subsection (e)(1)(i) of this section, the former phrase "a combination of"
32 is deleted as surplusage.

33 In subsection (e)(1)(i)3 of this section, the former reference to "a strategy or
34 set of" strategies is deleted as included in the reference to "strategies".

35 In subsection (e)(2) of this section, the reference to savings that remain
36 unexpended "at the end of a fiscal year" is substituted for the former

1 reference to savings that remain unexpended “after the current fiscal
2 year” for clarity and accuracy.

3 Defined terms: “Department” § 5–101
4 “FIP” § 5–301
5 “Local department” § 5–101
6 “Recipient” § 5–301
7 “Secretary” § 5–101
8 “Temporary cash assistance” § 5–301
9 “Work activity” § 5–301

10 5–317. DEMONSTRATION PROJECTS.

11 (A) ESTABLISHED.

12 (1) THE SECRETARY SHALL ESTABLISH DEMONSTRATION PROJECTS
13 THROUGH GRANTS TO:

- 14 (I) NONPROFIT ORGANIZATIONS;
15 (II) LOCAL EDUCATION AGENCIES;
16 (III) LOCAL MANAGEMENT BOARDS;
17 (IV) LOCAL HEALTH DEPARTMENTS;
18 (V) RELIGIOUS ORGANIZATIONS; AND
19 (VI) INSTITUTIONS OF HIGHER EDUCATION.

20 (2) THE ENTITIES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION
21 SHALL JOINTLY DEVELOP PROPOSALS FOR DEMONSTRATION PROJECTS UNDER THIS
22 SECTION WITH LOCAL DEPARTMENTS.

23 (3) AT LEAST ONE OF THE DEMONSTRATION PROJECTS UNDER THIS
24 SECTION SHALL BE LOCATED IN A COUNTY OTHER THAN THE TWO COUNTIES WITH
25 THE LARGEST NUMBERS OF FIP RECIPIENTS.

26 (B) FUNDING.

27 (1) THE SECRETARY SHALL AWARD GRANTS FOR DEMONSTRATION
28 PROJECTS UNDER THIS SECTION THROUGH A COMPETITIVE BID PROCESS THAT
29 INCLUDES:

- 30 (I) THE ISSUANCE OF A REQUEST FOR PROPOSALS; AND
31 (II) THE ESTABLISHMENT OF AN EVALUATION PANEL TO REVIEW
32 COMPETING PROPOSALS AND TO MAKE A RECOMMENDATION TO THE SECRETARY
33 CONCERNING WHICH PROPOSALS HAVE THE GREATEST PROGRAMMATIC AND
34 FINANCIAL MERIT.

1 (2) (I) NOT MORE THAN 50% OF THE FUNDS ALLOCATED FOR
2 DEMONSTRATION PROJECTS UNDER THIS SECTION MAY BE ALLOCATED TO A SINGLE
3 DEMONSTRATION PROJECT.

4 (II) THE FUNDS ALLOCATED FOR DEMONSTRATION PROJECTS
5 UNDER THIS SECTION ARE INCENTIVE FUNDS OVER AND ABOVE ANY TRANSFER OF
6 FIP BENEFITS TO A THIRD PARTY PAYEE.

7 (3) FUNDS ALLOCABLE TO DEMONSTRATION PROJECTS UNDER
8 PARAGRAPH (2) OF THIS SUBSECTION SHALL, IF FEASIBLE, BE USED FOR
9 DEMONSTRATION PROJECTS IN THE COUNTIES THAT GENERATED THE SAVINGS
10 REALLOCATED TO DEMONSTRATION PROJECTS UNDER § 5-316(E) OF THIS SUBTITLE.

11 (4) WHEN AWARDING GRANTS UNDER PARAGRAPH (1) OF THIS
12 SUBSECTION, THE SECRETARY SHALL GIVE PRIORITY IN FUNDING FOR AT LEAST 20%
13 OF THE FUNDS ALLOCATED TO DEMONSTRATION PROJECTS UNDER THIS SECTION
14 TO REGIONAL PROPOSALS FROM TWO OR MORE COUNTIES IN THE STATE.

15 (5) FUNDS ALLOCATED TO DEMONSTRATION PROJECTS UNDER THIS
16 SECTION MAY NOT BE USED IN THE FURTHERANCE OF SECTARIAN RELIGIOUS
17 INSTRUCTION OR WORSHIP.

18 (C) REQUEST FOR PROPOSALS.

19 IN THE REQUEST FOR PROPOSALS ISSUED UNDER SUBSECTION (B)(1)(I) OF THIS
20 SECTION, THE SECRETARY SHALL INCLUDE REQUIREMENTS THAT:

21 (1) APPLICANTS SPECIFY WHAT GOODS OR SERVICES, OR BOTH, THEY
22 WILL PROVIDE TO PARTICIPANTS; AND

23 (2) EACH DEMONSTRATION PROJECT:

24 (I) COMPLEMENT THE LOCAL DEPARTMENT FIP PLAN; AND

25 (II) ADDRESS SPECIFIC, UNMET LOCAL NEEDS AND BARRIERS
26 THAT PREVENT FAMILIES FROM MEETING THE REQUIREMENTS OF THIS SUBTITLE.

27 (D) FACILITATION OF PROJECTS.

28 IN ADDITION TO THE DEMONSTRATION PROJECTS FUNDED UNDER
29 SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL ENCOURAGE AND
30 FACILITATE DEMONSTRATION PROJECTS THAT ARE SUPPORTED THROUGH:

31 (1) THE VOLUNTARY TRANSFER OF TEMPORARY CASH ASSISTANCE AND
32 FOOD STAMP BENEFITS TO THE DEMONSTRATION PROJECT;

33 (2) THE TRANSFER OF ADMINISTRATIVE COSTS FROM THE LOCAL
34 DEPARTMENT; AND

35 (3) ANY NONSTATE FUNDS AVAILABLE TO THE PROJECT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 53.

3 In subsection (b)(3) of this section, the reference to savings "reallocated to
4 demonstration projects under § 5-316(e) of this subtitle" is added for
5 clarity.

6 Also in subsection (b)(3) of this section, the reference to "counties" is
7 substituted for the former reference to "subdivisions" for clarity and
8 consistency.

9 In the introductory language of subsection (c) of this section, the reference
10 to the request for proposals "issued under subsection (b)(1)(i) of this
11 section" is added for clarity.

12 In subsection (d) of this section, the reference to projects funded "under
13 subsection (b) of this section" is substituted for the former reference to
14 projects funded "through savings identified in subsection (a) of this
15 section" for clarity.

16 Defined terms: "County" § 1-101

17 "FIP" § 5-301

18 "Local department" § 5-101

19 "Nonprofit organization" § 5-301

20 "Secretary" § 5-101

21 "Temporary cash assistance" § 5-301

22 "Third party payee" § 5-301

23 5-318. JOB SKILLS ENHANCEMENT PROGRAM.

24 (A) ESTABLISHED.

25 (1) IN COOPERATION WITH THE LOCAL DIRECTORS, THE SECRETARY
26 SHALL ESTABLISH A JOB SKILLS ENHANCEMENT PROGRAM TO PROVIDE NEWLY
27 EMPLOYED CURRENT AND FORMER RECIPIENTS WITH TRAINING TO:

28 (I) ENHANCE EXISTING JOB-RELATED SKILLS;

29 (II) GAIN ADDITIONAL OR ALTERNATIVE JOB SKILLS; OR

30 (III) LEARN INTERPERSONAL, COMMUNICATION, AND OTHER
31 RELATED SKILLS.

32 (2) THE JOB SKILLS ENHANCEMENT PROGRAM SHALL BE ESTABLISHED
33 IN AT LEAST THREE COUNTIES, ONE OF WHICH SHALL BE LOCATED IN WESTERN
34 MARYLAND, SOUTHERN MARYLAND, OR THE EASTERN SHORE.

35 (B) TARGETED SKILL LEVEL.

1 THE JOB SKILLS ENHANCEMENT PROGRAM SHALL TARGET UNSKILLED AND
2 SEMISKILLED FORMER AND CURRENT RECIPIENTS WHO ARE NEWLY EMPLOYED IN
3 ENTRY-LEVEL POSITIONS THAT HAVE LIMITED POTENTIAL FOR ADVANCEMENT
4 BEYOND ENTRY-LEVEL.

5 (C) VOLUNTARY PARTICIPATION.

6 (1) PARTICIPATION IN THE JOB SKILLS ENHANCEMENT PROGRAM
7 SHALL BE VOLUNTARY.

8 (2) INDIVIDUALS PARTICIPATING IN THE JOB SKILLS ENHANCEMENT
9 PROGRAM SHALL SIGN A TRAINING AGREEMENT WITH THE LOCAL DEPARTMENT.

10 (D) REQUIREMENTS.

11 TO BE ELIGIBLE TO PARTICIPATE IN THE JOB SKILLS ENHANCEMENT
12 PROGRAM, AN INDIVIDUAL SHALL:

13 (1) HAVE BEEN A RECIPIENT DURING THE 36 MONTHS BEFORE
14 BEGINNING PARTICIPATION IN THE JOB SKILLS ENHANCEMENT PROGRAM;

15 (2) HAVE BEEN EMPLOYED IN ENTRY-LEVEL EMPLOYMENT FOR AT
16 LEAST 6 MONTHS BEFORE BEGINNING PARTICIPATION IN THE JOB SKILLS
17 ENHANCEMENT PROGRAM;

18 (3) PROVIDE EMPLOYER VALIDATION OR OTHER DOCUMENTATION OF
19 EMPLOYMENT STATUS;

20 (4) HAVE LIMITED JOB SKILLS; AND

21 (5) HAVE LIMITED OPPORTUNITY FOR ADVANCEMENT IN THE
22 INDIVIDUAL'S CURRENT EMPLOYMENT.

23 (E) TRAINING SERVICES.

24 THE LOCAL DEPARTMENT SHALL CONTRACT FOR TRAINING SERVICES TO BE
25 PROVIDED UNDER THE JOB SKILLS ENHANCEMENT PROGRAM, AS PROVIDED IN §
26 5-306 OF THIS SUBTITLE.

27 (F) BUSINESS PARTICIPATION.

28 (1) THE LOCAL DEPARTMENT MAY WORK WITH BUSINESSES TO TRAIN
29 AND PLACE FORMER RECIPIENTS IN POSITIONS THAT MEET THE REQUIREMENTS OF
30 PARAGRAPH (2) OF THIS SUBSECTION.

31 (2) PARTICIPATING BUSINESSES SHALL:

32 (I) PROVIDE EMPLOYMENT WITH BENEFITS PAID TO EMPLOYEES;

33 (II) PROVIDE EMPLOYMENT THAT HAS A DEFINED CAREER PATH;

1 (III) DEMONSTRATE THE ACTIVE INVOLVEMENT AND FINANCIAL
2 COMMITMENT OF THE BUSINESS; AND

3 (IV) PROVIDE A MATCH WITH CASH OR IN-KIND CONTRIBUTIONS
4 ON AT LEAST A ONE-TO-ONE BASIS.

5 (G) ADMINISTRATION OF PROGRAM; DUTIES OF LOCAL DEPARTMENTS.

6 (1) AT THE DISCRETION OF THE SECRETARY AND IN CONSULTATION
7 WITH THE LOCAL DIRECTOR, THE JOB SKILLS ENHANCEMENT PROGRAM SHALL BE
8 ADMINISTERED BY THE LOCAL DEPARTMENT OR THROUGH THE STATE WORKFORCE
9 INVESTMENT AREA SYSTEM UNDER THE WORKFORCE INVESTMENT ACT.

10 (2) THE ADMINISTRATOR OF THE PROGRAM UNDER PARAGRAPH (1) OF
11 THIS SUBSECTION SHALL:

12 (I) MANAGE EACH PARTICIPANT'S TRAINING PLAN;

13 (II) MAINTAIN A DATABASE OF APPROPRIATE TRAINING VENDORS;
14 AND

15 (III) COMPILE NECESSARY FISCAL REPORTS ON THE JOB SKILLS
16 ENHANCEMENT PROGRAM.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 53A.

19 In subsection (a) of this section, the former references to a "pilot" program
20 are deleted for consistency within this section and with current practice.

21 In subsections (a)(1), (b), (d)(1), and (f)(1) of this section, the former
22 references to "FIP" recipients are deleted as redundant. *See* the definition
23 of recipient in § 5-301 of this subtitle.

24 The Human Services Article Review Committee notes, for consideration by
25 the General Assembly, that the phrase "as provided in § 5-306 of this
26 subtitle" in subsection (e) of this section is unclear. The General Assembly
27 may wish to clarify the meaning of the phrase.

28 In subsection (g)(1) of this section, the reference to the "workforce
29 investment" area system is substituted for the former obsolete reference to
30 the "service delivery" area system.

31 Also in the introductory language of subsection (g)(1) of this section, the
32 former phrase "[a]s part of their administrative responsibilities" is deleted
33 as surplusage.

34 In the introductory language of subsection (g)(2) of this section, the
35 reference to the "administrator of the program" is substituted for the
36 former reference to "a local department or persons at a service delivery

1 area” for brevity and clarity.

2 Defined terms: “County” § 1–101

3 “FIP” § 5–301

4 “Local department” § 5–101

5 “Local director” § 5–101

6 “Recipient” § 5–301

7 “Secretary” § 5–101

8 5–319. FIP DEMONSTRATION SITES.

9 (A) “DEMONSTRATION SITE” DEFINED.

10 IN THIS SECTION, “DEMONSTRATION SITE” MEANS A SITE THAT THE
11 SECRETARY SELECTS IN CONSULTATION WITH THE LOCAL DIRECTOR.

12 (B) DEMONSTRATION SITES AUTHORIZED.

13 THE SECRETARY MAY ESTABLISH A FIP DEMONSTRATION SITE IN NOT MORE
14 THAN SIX JURISDICTIONS.

15 (C) APPOINTMENT OF DIRECTORS.

16 NOTWITHSTANDING ANY OTHER LAW, THE LOCAL DIRECTOR SHALL APPOINT A
17 DIRECTOR OF THE FIP ESTABLISHED IN A DEMONSTRATION SITE WHO SHALL
18 REPORT DIRECTLY TO THE LOCAL DIRECTOR.

19 (D) APPROVAL OF DEMONSTRATION SITE PLANS.

20 NOTWITHSTANDING ANY OTHER LAW, THE SECRETARY HAS SOLE AUTHORITY
21 TO APPROVE DEMONSTRATION SITE PLANS THAT WILL GOVERN FIP FUNCTIONS IN A
22 DEMONSTRATION SITE, INCLUDING THE AUTHORITY TO APPROVE DEMONSTRATION
23 SITE PLANS THAT WILL:

24 (1) ASSIST FAMILIES THAT HAVE AN EMPLOYABLE PARENT TOWARD A
25 LASTING EXIT FROM TEMPORARY CASH ASSISTANCE;

26 (2) ENSURE THAT INDIVIDUALS AND FAMILIES RECEIVE APPROPRIATE
27 BENEFITS;

28 (3) REDUCE ERRORS IN THE ADMINISTRATION OF FIP;

29 (4) PLACE TEMPORARY CASH ASSISTANCE RECIPIENTS IN EMPLOYMENT
30 IN WHICH THEIR EARNINGS WILL LIKELY INCREASE; AND

31 (5) IMPROVE THE TYPES OF EMPLOYMENT AND EMPLOYMENT
32 RETENTION RATES OF EXISTING AND FORMER RECIPIENTS.

33 (E) DUTIES OF LOCAL DIRECTORS.

34 THE LOCAL DIRECTOR SHALL:

1 (1) DEVELOP A DEMONSTRATION SITE PLAN FOR SUBMITTAL TO THE
2 SECRETARY FOR APPROVAL THAT WILL DETAIL ITS:

3 (I) PROGRAMMATIC STRUCTURE, INCLUDING ANY
4 PROGRAMMATIC CHANGES;

5 (II) ORGANIZATIONAL STRUCTURE, INCLUDING ANY
6 ORGANIZATIONAL CHANGES;

7 (III) PAY INCENTIVE STRUCTURE AND CRITERIA FOR THE AWARD
8 OF PAY INCENTIVES;

9 (IV) MEASURABLE PERFORMANCE CRITERIA AND HOW THESE
10 RELATE TO THE INCENTIVE STRUCTURE; AND

11 (V) TARGET PERFORMANCE CRITERIA;

12 (2) IMPLEMENT THE PLAN AS APPROVED; AND

13 (3) REPORT TO THE DEPARTMENT ON THE PROGRESS ACHIEVED IN THE
14 DEMONSTRATION SITE.

15 (F) PERFORMANCE EVALUATION.

16 THE PROPER OPERATION OF THE DEMONSTRATION SITE AND THE
17 ACHIEVEMENT OF THE TARGET PERFORMANCE CRITERIA SHALL BE AN ELEMENT OF
18 THE LOCAL DIRECTOR'S PERFORMANCE EVALUATION.

19 (G) PERFORMANCE INCENTIVE PROGRAM.

20 THE SECRETARY SHALL ESTABLISH A PERFORMANCE INCENTIVE PROGRAM TO
21 PROVIDE PAY INCENTIVES FOR EMPLOYEES IN A DEMONSTRATION SITE.

22 (H) SECRETARY'S POWERS.

23 THE SECRETARY'S POWERS UNDER THIS SECTION SHALL BE CONSTRUED
24 LIBERALLY.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 88A, § 55.

27 In subsections (a), (c), (e), and (f) of this section, the defined term "local
28 director" is substituted for the former references to the "director of the
29 local department of social services", "director of the local unit", and "local
30 unit director" for brevity and consistency.

31 In subsection (d)(1) and (5) of this section, the former references to
32 "welfare" are deleted as surplusage.

33 Defined terms: "Department" § 5-101
34 "FIP" § 5-301

- 1 "Local director" § 5-101
2 "Secretary" § 5-101
3 "Temporary cash assistance" § 5-301

4 5-320. MENTORING PROGRAM.

5 (A) ESTABLISHED.

6 IN COOPERATION WITH LOCAL DIRECTORS, THE SECRETARY SHALL ESTABLISH
7 A MENTORING PROGRAM FOR FORMER RECIPIENTS.

8 (B) USE OF MENTORS.

9 (1) THE MENTORING PROGRAM MAY INCLUDE FIP CASEWORKERS IN
10 LOCAL DEPARTMENTS WHO VOLUNTEER TO BE MENTORS.

11 (2) THE DEPARTMENT MAY CONTRACT WITH OTHER ENTITIES UNDER §
12 5-306 OF THIS SUBTITLE TO ACQUIRE MENTORS FOR FORMER RECIPIENTS.

13 (C) TYPES OF ASSISTANCE PROVIDED.

14 MENTORING MAY INCLUDE:

15 (1) PROVIDING ASSISTANCE TO RESOLVE WORKPLACE PROBLEMS;

16 (2) PROVIDING WORKPLACE ADJUSTMENT ASSISTANCE;

17 (3) JOB COACHING;

18 (4) PROVIDING ASSISTANCE TO DEVELOP LIFE SKILLS;

19 (5) COUNSELING AND TUTORING; AND

20 (6) ANY OTHER ACTIVITIES THAT WILL HELP FORMER RECIPIENTS
21 THROUGH THE FIRST MONTHS THAT THEY NO LONGER RECEIVE TEMPORARY CASH
22 ASSISTANCE.

23 (D) ELIGIBILITY.

24 TO BE ELIGIBLE TO PARTICIPATE IN THE MENTORING PROGRAM, AN
25 INDIVIDUAL SHALL:

26 (1) HAVE BEEN A RECIPIENT IN THE PREVIOUS 6 MONTHS;

27 (2) HAVE BEEN EMPLOYED; AND

28 (3) HAVE A DEMONSTRATED NEED AND DESIRE FOR ASSISTANCE IN
29 ACQUIRING AND MAINTAINING THE SKILLS NECESSARY FOR A LASTING EXIT FROM
30 TEMPORARY CASH ASSISTANCE.

31 (E) PARTICIPATION.

1 PROGRAM PARTICIPATION MAY NOT EXCEED 6 MONTHS.

2 (F) INCENTIVES.

3 THE SECRETARY MAY ARRANGE TO PROVIDE PAY OR OTHER TYPES OF
4 INCENTIVES TO EMPLOYEES WHO VOLUNTEER TO MENTOR FORMER RECIPIENTS.

5 (G) SECRETARY'S POWERS.

6 THE SECRETARY'S POWERS UNDER THIS SECTION SHALL BE CONSTRUED
7 LIBERALLY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, § 56.

10 Throughout this section, the former references to a "FIP" recipient are
11 deleted as redundant. *See* the definition of "recipient" in § 5-301 of this
12 subtitle.

13 In subsection (c)(4) of this section, the reference to "providing assistance to
14 develop" life skills is added for clarity.

15 Defined terms: "Department" § 5-101
16 "FIP" § 5-301
17 "Local department" § 5-101
18 "Local director" § 5-101
19 "Recipient" § 5-301
20 "Secretary" § 5-101
21 "Temporary cash assistance" § 5-301

22 5-321. FUTURE AMENDMENT OR REPEAL OF SUBTITLE.

23 (A) IN GENERAL.

24 ANY ASSISTANCE GRANTED UNDER THIS SUBTITLE IS SUBJECT TO FUTURE
25 AMENDMENT OR REPEAL OF THIS SUBTITLE.

26 (B) NO RIGHT TO COMPENSATION.

27 A RECIPIENT IS NOT ENTITLED TO COMPENSATION IF THE RECIPIENT'S
28 ASSISTANCE IS AFFECTED BY AMENDMENT OR REPEAL OF THIS SUBTITLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 88A, § 52(h)(1) and (2).

31 Defined term: "Recipient" § 5-301

SUBTITLE 4. STATE PUBLIC ASSISTANCE PROGRAMS.

PART I. PUBLIC ASSISTANCE TO ADULTS.

5-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory phrase of the first paragraph of former Art. 88A, § 64.

In this subsection and throughout this part, the reference to this "part" is substituted for the former reference to this "subtitle" to reflect the reorganization of provisions formerly contained in Article 88A.

(B) APPLICANT.

"APPLICANT" MEANS AN INDIVIDUAL WHO APPLIES FOR ASSISTANCE UNDER THIS PART.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the fourth paragraph of former Art. 88A, § 64.

The reference to an "individual" who applies for assistance is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", may apply for assistance.

Defined term: "Assistance" § 5-401

(C) ASSISTANCE.

"ASSISTANCE" MEANS:

(1) CASH PAYMENTS TO A RECIPIENT; AND

(2) PAYMENTS NECESSARY FOR SUPPLEMENTARY SERVICES FOR A RECIPIENT, INCLUDING:

(I) THE RECIPIENT'S FUNERAL EXPENSES AS PROVIDED IN § 5-415 OF THIS SUBTITLE; AND

(II) PLACEMENT OF THE RECIPIENT IN A SUITABLE HOME OR INSTITUTION IF:

1. THE RECIPIENT LACKS A LEGAL GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE RECIPIENT'S SUPPORT; AND

2. THE RECIPIENT CONSENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the sixth and seventh paragraphs of former Art. 88A, § 64.

In items (1) and (2) of this subsection, the reference to a "recipient" is substituted for the former references to "needy individuals under the ... public assistance to adults [program]" and "these individuals" for brevity.

In item (1) of this subsection, the reference to "cash payments" is substituted for the former reference to "money payments" for clarity and consistency within this subtitle.

Also in item (1) of this subsection, the former reference to the "general public assistance [program]" is deleted as obsolete. The General Public Assistance Program was repealed by Ch. 351, Acts of 1996.

Defined term: "Recipient" § 5-401

(D) PROGRAM.

"PROGRAM" MEANS THE PUBLIC ASSISTANCE TO ADULTS PROGRAM.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Public Assistance to Adults Program".

(E) RECIPIENT.

"RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES, OR HAS RECEIVED, ASSISTANCE UNDER THIS PART.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the fifth paragraph of former Art. 88A, § 64.

The reference to an "individual" who receives assistance is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", may receive assistance.

The former phrase "at any time" is deleted as surplusage.

Defined terms: "Assistance" § 5-401

"Recipient" § 5-401

REVISOR'S NOTE TO SECTION:

The second and third paragraphs and the second clause of the first paragraph of former Art. 88A, § 64, which defined "[l]ocal units", "[c]ounty", and "State Department", respectively, are deleted as

1 unnecessary in light of the definitions of “Administration” and “local
2 department” in § 5–101 of this title and the definition of “county” in §
3 1–101 of this article.

4 5–402. PUBLIC ASSISTANCE TO ADULTS PROGRAM.

5 (A) PROGRAM ESTABLISHED.

6 THERE IS A STATE FUNDED PUBLIC ASSISTANCE TO ADULTS PROGRAM IN THE
7 ADMINISTRATION.

8 (B) SCOPE AND ADMINISTRATION OF PROGRAM.

9 THE PROGRAM SHALL BE:

10 (1) IN EFFECT IN EACH COUNTY; AND

11 (2) ADMINISTERED BY THE LOCAL DEPARTMENTS IN ACCORDANCE
12 WITH REGULATIONS THAT THE ADMINISTRATION ADOPTS.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 88A, § 65(b) and the last clause of (a), and, as it
15 related to the establishment of the Program, the first clause of (a).

16 Subsection (a) of this section is restated in standard language for clarity
17 and consistency with similar provisions elsewhere in this article.

18 In subsection (b)(1) of this section, the reference to “each county” is
19 substituted for the former reference to “all political subdivisions of this
20 State” for clarity and consistency with terminology used throughout this
21 article.

22 In subsection (b)(2) of this section, the former reference to “rules” is deleted
23 in light of the reference to “regulations”. *See* General Revisor’s Note to
24 article.

25 Defined terms: “Administration” § 5–101

26 “Assistance” § 5–401

27 “County” § 1–101

28 “Program” § 5–401

29 5–403. ELIGIBILITY FOR ASSISTANCE.

30 (A) IN GENERAL.

31 A RESIDENT OF THE STATE IS ELIGIBLE FOR ASSISTANCE UNDER THIS PART IF
32 THE RESIDENT:

33 (1) LACKS SUFFICIENT INCOME OR BENEFITS TO MAINTAIN A
34 REASONABLE SUBSISTENCE COMPATIBLE WITH DECENCY AND HEALTH; AND

1 (2) (I) IS ELIGIBLE FOR OR RECEIVES CASH BENEFITS UNDER TITLE
2 XVI OF THE FEDERAL SOCIAL SECURITY ACT; OR

3 (II) IS AGED, BLIND, OR DISABLED AS DEFINED UNDER TITLE XVI
4 OF THE FEDERAL SOCIAL SECURITY ACT AND, BUT FOR INCOME, WOULD RECEIVE
5 CASH BENEFITS UNDER THAT TITLE.

6 (B) RESTRICTIONS ON ASSIGNMENT OR TRANSFER OF PROPERTY.

7 AN APPLICANT MAY NOT ASSIGN OR TRANSFER PROPERTY TO ESTABLISH
8 ELIGIBILITY FOR ASSISTANCE UNDER THIS PART DURING THE 3 YEARS BEFORE:

9 (1) FILING AN APPLICATION FOR ASSISTANCE; OR

10 (2) RECEIVING ASSISTANCE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88A, § 65(e) and, as it related to eligibility
13 requirements, (a).

14 In the introductory language of subsection (a) of this section, the reference
15 to a resident being "eligible for assistance under this part" is added for
16 clarity.

17 In the introductory language of subsection (b) of this section, the phrase "to
18 establish eligibility" is substituted for the former phrase "for the purpose of
19 rendering himself eligible" for brevity.

20 Also in the introductory language of subsection (b) of this section, the
21 phrase "during the 3 years before" is substituted for the former phrase "at
22 any time within 3 years immediately prior to" for brevity and clarity.

23 In subsection (b)(2) of this section, the former phrase "pursuant to the
24 provisions of this article" is deleted as surplusage.

25 Defined terms: "Applicant" § 5-401

26 "Assistance" § 5-401

27 5-404. APPLICATION FOR ASSISTANCE.

28 (A) APPLICATION FOR ASSISTANCE.

29 AN APPLICATION FOR ASSISTANCE UNDER THIS PART SHALL BE MADE:

30 (1) TO THE LOCAL DEPARTMENT OF THE COUNTY WHERE THE
31 APPLICANT RESIDES; AND

32 (2) IN THE FORM AND MANNER THAT THE ADMINISTRATION REQUIRES.

33 (B) RECORD OF APPLICATION.

1 WHENEVER A LOCAL DEPARTMENT RECEIVES AN APPLICATION FOR
2 ASSISTANCE UNDER THIS PART, THE LOCAL DEPARTMENT SHALL MAKE A RECORD
3 OF:

- 4 (1) THE CIRCUMSTANCES OF THE APPLICANT;
- 5 (2) THE FACTS SUPPORTING THE APPLICATION; AND
- 6 (3) ANY OTHER INFORMATION THAT THE ADMINISTRATION REQUIRES
7 BY REGULATION.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, §§ 69 and 70.

10 In subsection (a)(1) and the introductory language of subsection (b) of this
11 section, and throughout this subtitle, the references to the "local
12 department" are substituted for the former references to the "local unit" in
13 light of the definition of "local department" in § 5-101 of this title and for
14 consistency within this subtitle.

15 In the introductory language of subsection (b) of this section, the former
16 word "promptly" is deleted as surplusage.

17 Defined terms: "Administration" § 5-101

18 "Applicant" § 5-401

19 "Assistance" § 5-401

20 "County" § 1-101

21 "Local department" § 5-101

22 5-405. AMOUNT OF ASSISTANCE.

23 (A) DETERMINATION OF AMOUNT.

24 (1) THE LOCAL DEPARTMENT SHALL DETERMINE AN AMOUNT OF
25 ASSISTANCE THAT IS SUFFICIENT, WHEN ADDED TO ALL OTHER INCOME AND
26 SUPPORT AVAILABLE TO A RECIPIENT, TO PROVIDE THE RECIPIENT WITH A
27 REASONABLE SUBSISTENCE COMPATIBLE WITH DECENCY AND HEALTH.

28 (2) IN DETERMINING THE AMOUNT OF ASSISTANCE, THE LOCAL
29 DEPARTMENT SHALL CONSIDER THE RECIPIENT'S AVAILABLE RESOURCES AND
30 NECESSARY EXPENDITURES AND THE CONDITIONS EXISTING FOR THE RECIPIENT.

31 (B) SUPPORT FROM CHILDREN.

32 IN DETERMINING THE AMOUNT OF ASSISTANCE, THE LOCAL DEPARTMENT
33 SHALL CONSIDER SUPPORT FROM CHILDREN AS A POTENTIAL RESOURCE AND
34 EVALUATE THE AMOUNT OF THE SUPPORT AND ITS AVAILABILITY TO THE
35 RECIPIENT, IN ACCORDANCE WITH REGULATIONS THAT THE ADMINISTRATION
36 ADOPTS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 65(d) and the second paragraph of § 66.

3 In subsections (a)(2) and (b) of this section, the references to the local
4 department "determining the amount of assistance" are added for clarity.

5 In subsection (b) of this section, the former reference to a "rule" is deleted
6 in light of the reference to "regulations". See General Revisor's Note to
7 article.

8 Defined terms: "Administration" § 5-101

9 "Assistance" § 5-401

10 "Local department" § 5-101

11 "Recipient" § 5-401

12 5-406. GRANTING OF ASSISTANCE.

13 (A) IN GENERAL.

14 THE LOCAL DEPARTMENT SHALL:

15 (1) DETERMINE:

16 (I) WHETHER AN APPLICANT IS ELIGIBLE FOR ASSISTANCE UNDER
17 THIS PART; AND

18 (II) IN ACCORDANCE WITH REGULATIONS THAT THE
19 ADMINISTRATION ADOPTS, THE AMOUNT OF THE ASSISTANCE AND THE DATE ON
20 WHICH THE ASSISTANCE WILL BEGIN; AND

21 (2) NOTIFY THE APPLICANT OF ITS DECISION.

22 (B) FREQUENCY OF PAYMENTS.

23 ASSISTANCE SHALL BE PAID TO THE APPLICANT MONTHLY OR AS THE
24 ADMINISTRATION OTHERWISE DETERMINES.

25 (C) INSUFFICIENT FUNDS.

26 IF THE FUNDS AVAILABLE ARE INSUFFICIENT TO MAKE PAYMENTS IN
27 ACCORDANCE WITH THE AMOUNT OF ASSISTANCE ESTABLISHED TO BE NEEDED,
28 THE ADMINISTRATION SHALL ADOPT REGULATIONS TO PROVIDE FOR A UNIFORM
29 METHOD OF ADJUSTING INDIVIDUAL PAYMENTS.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 88A, § 71.

32 In subsection (b) of this section, the former reference to paying assistance
33 "upon order of the local unit from funds allocated to it for this purpose" is
34 deleted as obsolete. All payments are now made centrally.

1 Defined terms: "Administration" § 5-101

2 "Applicant" § 5-401

3 "Assistance" § 5-401

4 "Local department" § 5-101

5 5-407. RESTRICTIONS ON ASSISTANCE.

6 (A) ASSISTANCE NOT TRANSFERABLE OR ASSIGNABLE.

7 (1) ASSISTANCE GRANTED UNDER THIS PART MAY NOT BE
8 TRANSFERRED OR ASSIGNED.

9 (2) ASSISTANCE PAID OR PAYABLE UNDER THIS PART IS NOT SUBJECT
10 TO:

11 (I) EXECUTION;

12 (II) LEVY;

13 (III) ATTACHMENT;

14 (IV) GARNISHMENT;

15 (V) OTHER LEGAL PROCESS; OR

16 (VI) THE OPERATION OF ANY BANKRUPTCY OR INSOLVENCY LAW.

17 (B) RECONSIDERATION OF ASSISTANCE.

18 (1) THE LOCAL DEPARTMENT SHALL RECONSIDER ALL ASSISTANCE
19 GRANTED UNDER THIS PART AS FREQUENTLY AS THE REGULATIONS OF THE
20 ADMINISTRATION REQUIRE.

21 (2) THE AMOUNT OF ASSISTANCE MAY BE CHANGED OR ASSISTANCE
22 MAY BE CANCELED IF, AFTER ANY FURTHER INVESTIGATION THE LOCAL
23 DEPARTMENT CONSIDERS NECESSARY OR THE ADMINISTRATION REQUIRES, THE
24 LOCAL DEPARTMENT OR THE ADMINISTRATION FINDS THAT THE RECIPIENT'S
25 CIRCUMSTANCES HAVE ALTERED SUFFICIENTLY TO WARRANT THE CHANGE OR
26 CANCELLATION.

27 (C) RECOVERY FROM RECIPIENT.

28 (1) A RECIPIENT SHALL NOTIFY THE LOCAL DEPARTMENT
29 IMMEDIATELY IF, WHILE RECEIVING ASSISTANCE, THE RECIPIENT RECEIVES
30 PROPERTY OR INCOME IN EXCESS OF THE AMOUNT STATED IN THE APPLICATION
31 FOR ASSISTANCE.

32 (2) AFTER AN INVESTIGATION, DEPENDING ON THE CIRCUMSTANCES,
33 THE LOCAL DEPARTMENT MAY:

34 (I) CANCEL THE ASSISTANCE; OR

1 (II) CHANGE THE AMOUNT OF ASSISTANCE.

2 (3) ASSISTANCE PAID BEFORE THE RECIPIENT RECEIVED THE
3 PROPERTY OR INCOME THAT EXCEEDS THE RECIPIENT'S NEED MAY BE RECOVERED
4 BY THE LOCAL DEPARTMENT AS A DEBT DUE.

5 (4) THE NET AMOUNT RECOVERED SHALL BE DIVIDED BETWEEN THE
6 STATE AND COUNTY IN PROPORTION TO THE AMOUNT OF ASSISTANCE PAID BY
7 EACH.

8 (D) RECOVERY FROM ESTATE.

9 (1) WHEN A RECIPIENT DIES:

10 (I) THE TOTAL AMOUNT OF ASSISTANCE PAID UNDER THIS PART
11 SHALL BE ALLOWED AS A CLAIM AGAINST THE ESTATE; AND

12 (II) THE NET AMOUNT RECOVERED SHALL BE DIVIDED BETWEEN
13 THE STATE AND COUNTY IN PROPORTION TO THE AMOUNT OF ASSISTANCE PAID BY
14 EACH.

15 (2) THE CLAIM MAY NOT BE ENFORCED AGAINST REAL ESTATE
16 OCCUPIED BY THE RECIPIENT'S SURVIVING SPOUSE OR DEPENDENTS.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, §§ 73 and 75, the first three sentences of §
19 76, and the first two sentences of § 77.

20 In subsection (a)(1) of this section, the former phrase "at law or in equity"
21 is deleted as surplusage.

22 In subsection (a)(2) of this section, the reference to "assistance" is
23 substituted for the former reference to "money" for consistency within this
24 subtitle.

25 In subsection (b)(1) and (2) of this section, the references to the
26 "Administration" are substituted for the former references to the "State
27 Department" for accuracy. *See* General Revisor's Note to title.

28 In subsection (b)(2) of this section, the reference to assistance being
29 "canceled" is substituted for the former reference to assistance being
30 "entirely withdrawn" for brevity.

31 In subsection (c)(1) of this section, the phrase "while receiving assistance"
32 is substituted for the former phrase "at any time during the continuance of
33 assistance" for brevity.

34 Also in subsection (c)(1) of this section, the word "receives" is substituted
35 for the former phrase "becomes possessed of" for brevity. Similarly, the
36 former word "possession" is deleted as surplusage.

1 In subsection (c)(3) of this section, the defined term “local department” is
2 substituted for the former phrase “county department” for consistency
3 throughout this subtitle.

4 In subsection (c)(4) of this section, the former phrase “from all such claims”
5 is deleted as surplusage.

6 Also in subsection (c)(4) of this section, the defined term “county” is
7 substituted for the former reference to the “local subdivision” for
8 consistency throughout this subtitle.

9 Defined terms: “Administration” § 5–101
10 “Assistance” § 5–401
11 “County” § 1–101
12 “Local department” § 5–101
13 “Recipient” § 5–401

14 5–408. APPEALS; REVIEW AND OVERSIGHT OF LOCAL DEPARTMENTS BY
15 ADMINISTRATION.

16 (A) RIGHT TO APPEAL.

17 AN APPLICANT OR RECIPIENT MAY APPEAL TO THE ADMINISTRATION IF THE
18 LOCAL DEPARTMENT:

- 19 (1) DOES NOT ACT ON AN APPLICATION WITHIN A REASONABLE TIME;
20 (2) DENIES AN APPLICATION WHOLLY OR PARTLY; OR
21 (3) MODIFIES OR CANCELS A GRANT OF ASSISTANCE.

22 (B) APPEAL PROCESS.

23 (1) THE APPEAL SHALL BE FILED IN THE MANNER AND FORM THAT THE
24 ADMINISTRATION REQUIRES.

25 (2) THE ADMINISTRATION SHALL GIVE THE APPLICANT OR RECIPIENT
26 REASONABLE NOTICE AND AN OPPORTUNITY FOR A HEARING ON THE APPEAL.

27 (C) REVIEW AND OVERSIGHT OF LOCAL DEPARTMENTS BY ADMINISTRATION.

28 (1) ON ITS OWN MOTION, THE ADMINISTRATION MAY:

29 (I) REVIEW ANY DECISION OF A LOCAL DEPARTMENT; AND

30 (II) CONSIDER AN APPLICATION ON WHICH THE LOCAL
31 DEPARTMENT HAS NOT MADE A DECISION WITHIN A REASONABLE TIME.

32 (2) THE ADMINISTRATION:

1 (I) MAY MAKE ANY ADDITIONAL INVESTIGATION IT CONSIDERS
2 NECESSARY; AND

3 (II) SHALL MAKE ANY DECISION ON THE GRANTING OF
4 ASSISTANCE AND THE AMOUNT OF ASSISTANCE IT CONSIDERS JUSTIFIED IN
5 ACCORDANCE WITH THIS PART.

6 (3) ON REQUEST, THE ADMINISTRATION SHALL GIVE AN APPLICANT OR
7 RECIPIENT AFFECTED BY A DECISION MADE UNDER PARAGRAPH (2) OF THIS
8 SUBSECTION REASONABLE NOTICE AND AN OPPORTUNITY FOR A HEARING.

9 (D) EFFECT OF DECISIONS BY ADMINISTRATION.

10 (1) A DECISION OF THE ADMINISTRATION UNDER THIS SECTION IS
11 FINAL AND BINDING ON THE LOCAL DEPARTMENT.

12 (2) THE LOCAL DEPARTMENT SHALL COMPLY WITH A DECISION OF THE
13 ADMINISTRATION UNDER THIS SECTION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 88A, § 74.

16 In subsection (a)(1) of this section, the former reference to acting on an
17 application within a reasonable time "after the filing of the application" is
18 deleted as implicit.

19 In subsection (a)(3) of this section, the reference to a "grant" of assistance
20 is substituted for the former reference to an "award" of assistance for
21 consistency within this subtitle.

22 In subsections (b)(2) and (c)(3) of this section, the former archaic references
23 to a "fair" hearing are deleted.

24 In subsection (b)(2) of this section, the former phrase "upon receipt of such
25 an appeal" is deleted as surplusage.

26 In subsection (d)(1) of this section, the former reference to the "county
27 involved" is deleted as obsolete.

28 Defined terms: "Administration" § 5-101

29 "Applicant" § 5-401

30 "Assistance" § 5-401

31 "Local department" § 5-101

32 "Recipient" § 5-401

33 5-409. DUTIES OF ADMINISTRATION.

34 THE ADMINISTRATION SHALL:

35 (1) SUPERVISE THE ADMINISTRATION OF THE PROGRAM UNDER THIS
36 PART BY THE LOCAL DEPARTMENTS;

1 (2) ADOPT REGULATIONS NECESSARY OR DESIRABLE TO CARRY OUT
2 THIS PART, INCLUDING REGULATIONS TO:

3 (I) ESTABLISH ELIGIBILITY REQUIREMENTS AND ANY OTHER
4 REQUIREMENTS NOT SET FORTH IN THIS PART; AND

5 (II) ESTABLISH STANDARDS FOR THE AMOUNT OF ASSISTANCE A
6 RECIPIENT MAY RECEIVE UNDER THIS PART;

7 (3) PRESCRIBE THE FORM OF AND SUPPLY TO THE LOCAL
8 DEPARTMENTS ANY FORMS THE ADMINISTRATION CONSIDERS NECESSARY AND
9 DESIRABLE; AND

10 (4) TAKE ANY OTHER ACTION NECESSARY OR DESIRABLE TO CARRY OUT
11 THIS PART.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88A, §§ 67, 65(c), and the first paragraph of § 66.

14 In the introductory language of this section, the reference to the
15 "Administration" is substituted for the former reference to the "State
16 Department" for accuracy. *See* General Revisor's Note to title.

17 In item (1) of this section, the reference to the "administration of the
18 Program under this part" is substituted for the former reference to the
19 "administration of assistance to the needy under this subtitle" for clarity
20 and consistency within this subtitle.

21 Throughout item (2) of this section, the former reference to "rules" is
22 deleted in light of the reference to "regulations". *See* General Revisor's
23 Note to article.

24 In item (3) of this section, the former reference to "print[ing]" forms is
25 deleted as included in the requirement to supply forms to the local
26 departments.

27 Also in item (3) of this section, the word "desirable" is substituted for the
28 former word "advisable" for consistency with item (4) and the introductory
29 language of item (2) of this section.

30 The reference in former Art. 88A, § 67(4) to "exercis[ing] all of the powers
31 and perform[ing] the duties defined by this subtitle" is deleted as
32 redundant.

33 Defined terms: "Administration" § 5-101

34 "Local department" § 5-101

35 "Program" § 5-401

1 5-410. DUTIES OF LOCAL DEPARTMENTS.

2 EACH LOCAL DEPARTMENT SHALL:

3 (1) ADMINISTER THIS PART IN ITS COUNTY IN ACCORDANCE WITH THE
4 REGULATIONS THE ADMINISTRATION ADOPTS; AND

5 (2) REPORT TO THE ADMINISTRATION AS THE ADMINISTRATION
6 DIRECTS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 88A, § 68(1) and (2).

9 As to the deletion of the former reference to "rules" in item (1) of this
10 section, *see* General Revisor's Note to article.

11 In item (2) of this section, the former phrases "at such times and in such
12 manner and form" and "from time to time" are deleted as surplusage.

13 Former Art. 88A, § 68(3), which required a local unit to submit an annual
14 budget to the local governing authority, is deleted as obsolete in light of Ch.
15 103, Acts of 1978, which repealed requirements for local government
16 contributions to the costs of public assistance programs.

17 Former Art. 88A, § 68(4), which required the local units to "[e]xercise the
18 powers and perform the duties defined by this subtitle" is deleted as
19 redundant.

20 Defined terms: "Administration" § 5-101

21 "County" § 1-101

22 "Local department" § 5-101

23 5-411. PROHIBITED ACT.

24 (A) IN GENERAL.

25 EXCEPT IN CONNECTION WITH A CRIMINAL PROCEEDING BROUGHT UNDER
26 THIS PART, A PERSON MAY NOT CHARGE OR RECEIVE A FEE FROM AN APPLICANT,
27 RECIPIENT, OR ANY OTHER PERSON:

28 (1) WITH RESPECT TO AN APPLICATION UNDER THIS PART; OR

29 (2) TO REPRESENT AN APPLICANT OR RECIPIENT IN ANY PROCEEDING
30 UNDER THIS PART.

31 (B) PENALTY.

32 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
33 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 80.

3 In subsection (b) of this section, the reference to a person being "guilty of a
4 misdemeanor" is added to state expressly that which was only implied in
5 the former law. In this State, any crime that was not a felony at common
6 law and has not been declared a felony by statute is considered to be a
7 misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v.*
8 *State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914);
9 and *Williams v. State*, 4 Md. App. 342, 347 (1968).

10 Defined terms: "Applicant" § 5-401

11 "Person" § 1-101

12 "Recipient" § 5-401

13 5-412. AMENDMENT OR REPEAL OF PART.

14 (A) IN GENERAL.

15 ANY ASSISTANCE GRANTED UNDER THIS PART IS SUBJECT TO FUTURE REPEAL
16 OR AMENDMENT OF THIS PART.

17 (B) NO RIGHT TO COMPENSATION.

18 A RECIPIENT IS NOT ENTITLED TO COMPENSATION IF THE RECIPIENT'S
19 ASSISTANCE IS AFFECTED BY REPEAL OR AMENDMENT OF THIS PART.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 88A, § 82.

22 In subsection (a) of this section, the term "future" is substituted for the
23 former phrase "that may hereafter be passed" for brevity and consistency
24 with § 5-322(a) of this title.

25 Also in subsection (a) of this section, the former reference to
26 "assistance ... to be held" is deleted as included in the word "granted".

27 In subsection (b) of this section, the reference to a recipient being "not
28 entitled to" compensation is substituted for the former reference to a
29 recipient not having "any claim for" compensation for clarity and
30 consistency with § 5-322(b) of this title.

31 Also in subsection (b) of this section, the former phrases "or otherwise" and
32 "in any way" are deleted as surplusage.

33 Defined terms: "Assistance" § 5-401

34 "Recipient" § 5-401

1 5-413. RESERVED.

2 5-414. RESERVED.

3 PART II. BURIAL ASSISTANCE.

4 5-415. BURIAL ASSISTANCE PROGRAM.

5 (A) IN GENERAL.

6 (1) A LOCAL DEPARTMENT MAY PAY THE REASONABLE FUNERAL
7 EXPENSES OF A DECEDENT WHO WAS A:

8 (I) RECIPIENT OF PUBLIC ASSISTANCE, INCLUDING TEMPORARY
9 CASH ASSISTANCE OR PUBLIC ASSISTANCE TO ADULTS; OR

10 (II) STATE RESIDENT RECEIVING SUPPLEMENTAL SECURITY
11 INCOME UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.

12 (2) THE FUNERAL EXPENSES PAID BY THE LOCAL DEPARTMENT MAY
13 NOT EXCEED \$900.

14 (B) ELIGIBILITY.

15 A LOCAL DEPARTMENT MAY NOT PAY FUNERAL EXPENSES UNDER THIS
16 SECTION UNLESS:

17 (1) EACH PERSON LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE
18 DECEDENT IS UNABLE TO PAY THE EXPENSES; AND

19 (2) OTHER RESOURCES, INCLUDING AVAILABLE DEATH BENEFITS OF
20 THE ESTATE, ARE INSUFFICIENT TO PAY THE EXPENSES.

21 (C) STATE FUNDS.

22 PAYMENTS PROVIDED IN ACCORDANCE WITH THIS SECTION SHALL BE
23 CHARGED TO STATE FUNDS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 88A, § 62A.

26 In subsection (a)(1)(i) of this section, the reference to a "recipient of public
27 assistance" is added to reflect the current scope of the program.

28 Also in subsection (a)(1)(i) of this section, the reference to "temporary cash
29 assistance" is substituted for the former obsolete reference to "aid to
30 families with dependent children" for accuracy.

31 Also in subsection (a)(1)(i) of this section, the former reference to "general
32 public assistance" is deleted as obsolete.

1 In subsection (a)(1)(ii) of this section, the former reference to “January 1,
2 1974” is deleted as obsolete.

3 In subsection (a)(2) of this section, the former references to the maximum
4 amounts payable for the fiscal years commencing “July 1, 1991”, “July 1,
5 1992”, and “July 1, 1993”, are deleted as obsolete.

6 Defined terms: “Local department” § 5–101
7 “Person” § 1–101

8 GENERAL REVISOR’S NOTE TO SUBTITLE:

9 Former Art. 88A, § 63, which provided a short title for the former “State Public
10 Assistance Programs Act”, is deleted as unnecessary.

11 Former Art. 88A, § 65C, which established the General Public Assistance for
12 Pregnant Women Program, is deleted as obsolete. Pregnant women currently receive
13 assistance under the Family Investment Program. *See* Subtitle 3 of this title.

14 The fourth sentence of former Art. 88A, § 76 and the third sentence of former
15 Art. 88A, § 77, which provided that rights of recovery against a recipient and a
16 recipient’s estate formerly granted under provisions relating to the programs of Old
17 Age Assistance and Public Assistance to the Needy Blind “shall remain in full force
18 and effect”, are deleted as obsolete. The Old Age Assistance Program was repealed by
19 Ch. 355, Acts of 1975 and the Public Assistance to the Needy Blind Program was
20 repealed by Ch. 312, Acts of 1968; Ch. 347, Acts of 1969; and Ch. 355, Acts of 1975.

21 Former Art. 88A, § 78, which provided that an “applicant who has moved into
22 the county in which he applies within one year prior to application, shall be
23 deemed ... a resident of the county in which he last had one year’s continuous
24 residence”, is deleted as obsolete in light of Ch. 103, Acts of 1978, which repealed
25 requirements for local government contributions to the costs of public assistance
26 programs. The Department of Human Resources advises that when a public
27 assistance recipient moves, the assistance file is transferred promptly to the new
28 jurisdiction.

29 Former Art. 88A, § 83, which provided for the severability of provisions in Part
30 I of this subtitle, is deleted as unnecessary in light of the general severability
31 provision in Art. 1, § 23.

32 SUBTITLE 5. FOOD STAMPS.

33 5–501. FOOD STAMP PROGRAM.

34 (A) ESTABLISHED.

35 THE DEPARTMENT MAY IMPLEMENT A FOOD STAMP PROGRAM IN ACCORDANCE
36 WITH THE FEDERAL FOOD STAMP ACT.

37 (B) ADMINISTRATIVE COSTS.

1 THE STATE SHALL BEAR THE NONFEDERAL PORTION OF THE ADMINISTRATIVE
2 COSTS OF THE FOOD STAMP PROGRAM FOR EACH COUNTY.

3 (C) DUTIES OF LOCAL DEPARTMENTS.

4 EACH LOCAL DEPARTMENT SHALL ADMINISTER THE FOOD STAMP PROGRAM:

5 (1) UNDER THE SUPERVISION AND CONTROL OF THE DEPARTMENT; AND

6 (2) IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT
7 AND FEDERAL LAW.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, § 88(a).

10 In subsection (a) of this section, the former requirement that "the City of
11 Baltimore and all counties ... participate" in the food stamp program is
12 deleted as obsolete. Ch. 264, Acts of 1979 repealed local funding
13 requirements for the food stamp program.

14 In subsection (b) of this section, the reference to "each county" is
15 substituted for the former reference to "the respective jurisdictions" for
16 consistency throughout this article.

17 In the introductory language of subsection (c) of this section, the reference
18 to "each local department" is substituted for the former reference to "the
19 City of Baltimore and all counties of the State" to conform to current
20 practice.

21 In subsection (c)(2) of this section, the reference to "federal law" is
22 substituted for the former reference to "federal statutes, rules and
23 regulations" for brevity.

24 Also in subsection (c)(2) of this section, the former reference to "rules" is
25 deleted in light of the reference to "regulations". *See* General Revisor's
26 Note to article.

27 Also in subsection (c)(2) of this section, the former reference to "applicable"
28 federal law is deleted as surplusage.

29 Defined terms: "County" § 1-101

30 "Department" § 5-101

31 "Local department" § 5-101

32 REVISOR'S NOTE TO SECTION:

33 Former Art. 88A, § 88(b) and (c), which required local jurisdictions to enter
34 into written agreements with the Department for the implementation and
35 administration of the food stamp program, authorized the Department to
36 administer the program in a local jurisdiction that failed or refused to

1 participate, and authorized the Department to file an action to compel a
2 local jurisdiction to fulfill its federal requirements, are deleted as
3 unnecessary in light of subsection (c) of this section, which requires the
4 local departments to administer the program under the supervision and
5 control of the Department.

6 5-502. CONFLICT WITH FEDERAL LAW.

7 EXCEPT AS PROVIDED IN § 5-503 OF THIS SUBTITLE, IF ANY PROVISION OF THIS
8 SUBTITLE CONFLICTS WITH ANY FEDERAL LAW, THE FEDERAL LAW SHALL PREVAIL.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 88A, § 88(d)(1).

11 The references to "federal law" are substituted for the former references to
12 "federal statute, rule or regulation" for brevity.

13 The former reference to "applicable" federal law is deleted as surplusage.

14 5-503. LEGAL IMMIGRANTS.

15 SUBJECT TO THE STATE BUDGET, THE DEPARTMENT SHALL PROVIDE FOOD
16 STAMP BENEFITS TO A LEGAL IMMIGRANT WHO:

17 (1) IS A MINOR;

18 (2) IS INELIGIBLE FOR FEDERALLY FUNDED FOOD STAMP BENEFITS
19 BECAUSE OF IMMIGRATION STATUS;

20 (3) MEETS ALL OTHER FOOD STAMP PROGRAM ELIGIBILITY
21 REQUIREMENTS; AND

22 (4) MEETS ANY OTHER REQUIREMENTS OF THE STATE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 88A, § 88(d)(2).

25 In the introductory language of this section, the former reference to the
26 "limitations" of the State budget is deleted as surplusage.

27 Also in the introductory language of this section, the former requirement
28 that the Department "have provided" food stamp benefits to a legal
29 immigrant is deleted as included in the requirement that the Department
30 "provide" benefits.

31 Also in the introductory language of this section, the former phrase "as
32 described in subsections (a) and (b) of this section" is deleted as
33 surplusage.

34 In item (1) of this section, the word "minor" is substituted for the former
35 phrase "children under the age of 18 years" for brevity. *See* Art. 1, § 24.

1 Former Art. 88A, § 88(d)(3), which required that the
2 “Department ... certify all active cases with legal immigrants through
3 August 31, 1997”, is deleted as obsolete.

4 The Human Services Article Review Committee notes, for consideration by
5 the General Assembly, that effective October 1, 2003, all legal immigrant
6 children who meet other program eligibility requirements are eligible for
7 federal food stamp benefits under the federal Food Stamp Reauthorization
8 Act of 2002. Previously, eligibility under federal law was limited to legal
9 immigrant children who were lawfully residing in the country on August
10 22, 1996.

11 Defined term: “Department” § 5–101

12 5–504. PROHIBITED ACTS.

13 (A) SALE OR PURCHASE OF FOOD STAMP PROGRAM BENEFITS.

14 A PERSON MAY NOT SELL OR PURCHASE FOOD STAMP PROGRAM BENEFITS
15 UNLESS OTHERWISE AUTHORIZED BY LAW.

16 (B) MERCHANDISE PURCHASED WITH FOOD STAMP PROGRAM BENEFITS.

17 A PERSON MAY NOT KNOWINGLY BUY OR SELL MERCHANDISE THAT HAS BEEN
18 PURCHASED WITH FOOD STAMP PROGRAM BENEFITS.

19 (C) PENALTY — VALUE AT LEAST \$1,000.

20 IF THE VALUE OF THE MONEY OR GOODS INVOLVED IS \$1,000 OR MORE, A
21 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION:

22 (1) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE
23 NOT EXCEEDING \$10,000 OR BOTH; AND

24 (2) SHALL MAKE FULL RESTITUTION OF THE MONEY OR GOODS
25 UNLAWFULLY RECEIVED OR PERFORM COMMUNITY SERVICE, AS DETERMINED BY
26 THE COURT.

27 (D) PENALTY — VALUE LESS THAN \$1,000.

28 IF THE VALUE OF THE MONEY OR GOODS INVOLVED IS LESS THAN \$1,000, A
29 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
30 CONVICTION:

31 (1) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
32 NOT EXCEEDING \$1,000 OR BOTH; AND

33 (2) SHALL MAKE FULL RESTITUTION OF THE MONEY OR GOODS
34 UNLAWFULLY RECEIVED OR PERFORM COMMUNITY SERVICE, AS DETERMINED BY
35 THE COURT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 89.

3 In subsections (a) and (b) of this section, the former references to "federal"
4 food stamp program benefits are deleted as surplusage.

5 In the introductory language of subsection (d) of this section, the reference
6 to money or goods "involved" is added for consistency with subsection (c) of
7 this section.

8 Defined term: "Person" § 1-101

9 SUBTITLE 6. MISCELLANEOUS PROVISIONS.

10 5-601. ASSISTANCE TO RESIDENT CONVICTED OF CONTROLLED DANGEROUS
11 SUBSTANCE FELONY.

12 (A) "RESIDENT" DEFINED.

13 IN THIS SECTION, "RESIDENT" MEANS AN INDIVIDUAL WHO RESIDES IN THIS
14 STATE ON THE DATE THE INDIVIDUAL APPLIES FOR PUBLIC ASSISTANCE.

15 (B) FEDERAL LAW NOT APPLICABLE.

16 SUBJECT TO § 5-314 OF THIS TITLE AND AS AUTHORIZED UNDER 21 U.S.C. §
17 862A(D)(1), THE STATE REMOVES ITSELF FROM THE APPLICATION OF § 115 OF THE
18 FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996 TO
19 ALLOW THE DEPARTMENT TO PROVIDE TEMPORARY CASH ASSISTANCE AND FOOD
20 STAMPS TO A RESIDENT WHO HAS BEEN CONVICTED OF A FELONY INVOLVING THE
21 POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE.

22 (C) EFFECT OF CONTROLLED DANGEROUS SUBSTANCE CONVICTION.

23 (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, IF A
24 RESIDENT APPLYING FOR TEMPORARY CASH ASSISTANCE OR FOOD STAMPS HAS
25 BEEN CONVICTED OF A FELONY INVOLVING THE POSSESSION, USE, OR
26 DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE AFTER AUGUST 22, 1996,
27 THE RESIDENT IS SUBJECT TO TESTING FOR SUBSTANCE ABUSE, AS PROVIDED BY
28 THE DEPARTMENT, AND TO TREATMENT AS REQUIRED UNDER § 5-314 OF THIS TITLE
29 FOR 2 YEARS, BEGINNING ON THE DATE OF APPLICATION, TO THE EXTENT
30 AUTHORIZED UNDER FEDERAL LAW.

31 (2) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, IF A
32 RESIDENT RECEIVING TEMPORARY CASH ASSISTANCE OR FOOD STAMPS IS FOUND
33 TO BE IN VIOLATION OF §§ 5-602 THROUGH 5-609, § 5-612, OR § 5-613 OF THE
34 CRIMINAL LAW ARTICLE, OR 21 U.S.C. § 841, THE RESIDENT IS:

35 (I) INELIGIBLE FOR TEMPORARY CASH ASSISTANCE OR FOOD
36 STAMPS FOR 1 YEAR AFTER THE DATE OF THE CONVICTION; AND

1 (II) SUBJECT TO TESTING FOR SUBSTANCE ABUSE, AS PROVIDED
2 BY THE DEPARTMENT, AND TO TREATMENT AS REQUIRED UNDER § 5-314 OF THIS
3 TITLE, FOR 2 YEARS BEGINNING ON THE LATER OF:

4 1. THE DATE THE INDIVIDUAL IS RELEASED FROM
5 INCARCERATION;

6 2. THE DATE THE INDIVIDUAL COMPLETES ANY TERM OF
7 PROBATION; OR

8 3. THE DATE THE INDIVIDUAL COMPLETES ANY TERM OF
9 PAROLE OR MANDATORY SUPERVISION.

10 (3) AN APPLICANT OR RECIPIENT WHO FAILS TO COMPLY WITH THE
11 TESTING REQUIRED UNDER THIS SUBSECTION OR THE TREATMENT REQUIRED
12 UNDER § 5-314 OF THIS TITLE OR WHO TESTS POSITIVE FOR THE ABUSE OF
13 CONTROLLED DANGEROUS SUBSTANCES IS SUBJECT TO THE SANCTIONS PROVIDED
14 UNDER § 5-314 OF THIS TITLE.

15 (4) IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND
16 MENTAL HYGIENE, THE SECRETARY SHALL ADOPT REGULATIONS TO ESTABLISH THE
17 TESTING METHODS AND PROCEDURES, CONSISTENT WITH § 5-314 OF THIS TITLE, TO
18 BE REQUIRED BY THE DEPARTMENT UNDER THIS SUBSECTION, INCLUDING THE
19 INTERVALS OF TESTING AND METHODS REQUIRED.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 88A, § 65A.

22 In subsection (a) of this section, the references to an "individual" are
23 substituted for the former references to a "person" because only a human
24 being, and not the other entities included in the defined term "person", can
25 apply for public assistance.

26 In subsections (b) and (c)(2) of this section, the references to "temporary"
27 cash assistance are added for consistency with Subtitle 3 of this title.

28 In subsection (b) of this section, the former reference to "Public Law
29 104-193" is deleted as surplusage.

30 Also in subsection (b) of this section, the former reference to being
31 "previously" convicted is deleted as surplusage.

32 In subsection (c)(1) of this section, the reference to "temporary cash
33 assistance or food stamps" is substituted for the former reference to "public
34 assistance" for consistency with subsections (b) and (c)(2) of this section.

35 In subsection (c)(2) of this section, the former reference to "July 1, 2000" is
36 deleted as obsolete.

37 In subsection (c)(3) of this section, the former phrase "subject to this

1 subsection” is deleted as surplusage.

2 Defined terms: “Department” § 5–101

3 “Secretary” § 1–101

4 5–602. FLAT GRANT PAYMENTS.

5 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ADMINISTRATION, A
6 LOCAL DEPARTMENT, OR ANY OTHER UNIT MAY NOT DECREASE THE MONETARY
7 AMOUNT OF ASSISTANCE RECEIVED BY ANY RECIPIENT OF PUBLIC ASSISTANCE
8 BEFORE THE IMPLEMENTATION OF A SYSTEM OF FLAT GRANT PAYMENTS, SOLELY
9 AS A RESULT OF THE IMPLEMENTATION OF THE SYSTEM.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 88A, § 17B.

12 The reference to “any other provision of law” is substituted for the former
13 reference to “any other provision in this Code or regulation adopted
14 thereunder, or any prospective provision or regulation” for brevity.

15 The reference to “the Administration, a local department, or any other
16 unit” is substituted for the former reference to a “State, city or county
17 administration or department of social services or other agency” for brevity
18 and accuracy.

19 The Human Services Article Review Committee notes, for consideration by
20 the General Assembly, that the General Assembly may wish to delete this
21 section as obsolete. This section was enacted in 1975 because the
22 Department was switching its standards for awarding AFDC payments.
23 The Department switched from a budgetary method (which allowed each
24 recipient to receive a certain amount based on family size, rent costs, and
25 any other special needs of the family) to a Consolidated Standard of Need
26 (under which all families of the same size receive the same assistance).
27 This section was enacted to protect the recipients and make sure they were
28 not financially harmed. The law created a “held harmless” group that has
29 long since disappeared with subsequent increases in what is now the
30 temporary cash assistance payment standard.

31 Defined terms: “Administration” § 5–101

32 “Local department” § 5–101

33 5–603. PAYMENTS TO PUBLIC HOUSING AUTHORITIES.

34 (A) DEFINITIONS.

35 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
36 INDICATED.

1 (2) "DELINQUENT TENANT" MEANS A TENANT OF PUBLIC HOUSING WHO
2 IS 30 OR MORE DAYS DELINQUENT IN PAYING THE TENANT'S FULL MONTHLY RENT
3 TO A PUBLIC HOUSING AUTHORITY.

4 (3) "PUBLIC HOUSING" MEANS A DWELLING UNIT OWNED, LEASED, OR
5 MANAGED BY A PUBLIC HOUSING AUTHORITY.

6 (4) "PUBLIC HOUSING AUTHORITY" MEANS A PUBLIC CORPORATION
7 CREATED UNDER DIVISION II OF THE HOUSING AND COMMUNITY DEVELOPMENT
8 ARTICLE OR THE PUBLIC CORPORATION'S DESIGNEE.

9 (B) DEDUCTION OF RENT FROM ASSISTANCE PAYMENTS.

10 IF A RECIPIENT OF TEMPORARY CASH ASSISTANCE IS A DELINQUENT TENANT,
11 THE ADMINISTRATION, AT THE REQUEST OF THE PUBLIC HOUSING AUTHORITY,
12 SHALL:

13 (1) DEDUCT THE AMOUNT OF THE TENANT'S RENT FROM THE TENANT'S
14 MONTHLY ASSISTANCE PAYMENTS EACH MONTH;

15 (2) PAY THE AMOUNT DEDUCTED FROM THE TENANT'S MONTHLY
16 ASSISTANCE PAYMENTS TO THE PUBLIC HOUSING AUTHORITY OR THE PUBLIC
17 HOUSING AUTHORITY'S AUTHORIZED AGENT; AND

18 (3) FORWARD THE REMAINING AMOUNT OF THE MONTHLY ASSISTANCE
19 PAYMENTS TO THE TENANT.

20 (C) NOTICE OF COURT ACTIONS.

21 (1) IF A COURT ESTABLISHES AN ESCROW ACCOUNT UNDER § 8-211 OF
22 THE REAL PROPERTY ARTICLE OR A PARALLEL PROVISION OF PUBLIC LOCAL LAW
23 FOR A TENANCY COVERED UNDER SUBSECTION (B) OF THIS SECTION, THE PUBLIC
24 HOUSING AUTHORITY SHALL NOTIFY THE ADMINISTRATION OF THE COURT ACTION.

25 (2) ON NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION OR ON
26 CERTIFICATION BY AN ATTORNEY OF RECORD REPRESENTING THE DELINQUENT
27 TENANT IN THE COURT ACTION THAT AN ORDER HAS BEEN ISSUED TO ESTABLISH
28 AN ESCROW ACCOUNT, THE ADMINISTRATION SHALL PAY RENT TO THE COURT AS
29 LONG AS THE ORDER IS IN EFFECT.

30 (3) ANY NOTICE UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION
31 SHALL INCLUDE A LIST OF ALL ADDRESSES COVERED BY THE COURT ACTION.

32 (4) THE PUBLIC HOUSING AUTHORITY SHALL NOTIFY THE
33 ADMINISTRATION WHEN THE COURT ACTION HAS BEEN RESOLVED.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 88A, § 17C.

36 In the introductory language of subsection (b) of this section, the reference

1 to “temporary cash assistance” is substituted for the former reference to
2 “Family Investment Program (FIP) assistance payments” for consistency
3 with Subtitle 3 of this title.

4 Also in the introductory language of subsection (b) of this section, the
5 former reference to the “local” public housing authority is deleted as
6 surplusage.

7 Defined term: “Administration” § 5–101

8 5–604. VERIFICATION OF ELIGIBILITY FOR PUBLIC ASSISTANCE FROM FINANCIAL
9 INSTITUTIONS.

10 (A) AUTHORIZATION TO REQUEST FINANCIAL RECORDS.

11 THE DEPARTMENT MAY REQUEST AND OBTAIN FROM A FIDUCIARY
12 INSTITUTION DOING BUSINESS IN THE STATE ANY FINANCIAL RECORDS THAT THE
13 DEPARTMENT DETERMINES ARE NECESSARY TO VERIFY OR CONFIRM AN
14 INDIVIDUAL’S ELIGIBILITY OR INELIGIBILITY FOR PUBLIC ASSISTANCE.

15 (B) REGULATIONS.

16 (1) (I) THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING
17 PROCEDURES FOR REQUESTING, OBTAINING, AND EXAMINING FINANCIAL RECORDS
18 THAT THE DEPARTMENT DETERMINES ARE NECESSARY TO VERIFY OR CONFIRM AN
19 INDIVIDUAL’S ELIGIBILITY OR INELIGIBILITY FOR PUBLIC ASSISTANCE.

20 (II) THE REGULATIONS SHALL INCLUDE REIMBURSEMENT
21 SCHEDULES NECESSARY TO COMPENSATE FIDUCIARY INSTITUTIONS FOR
22 COMPLYING WITH THIS SECTION.

23 (2) THE SECRETARY SHALL NOTIFY A FIDUCIARY INSTITUTION OF THE
24 OFFICERS OR EMPLOYEES OF THE DEPARTMENT WHO ARE AUTHORIZED TO
25 REQUEST AND RECEIVE FINANCIAL RECORDS FROM THE FIDUCIARY INSTITUTION.

26 (3) AN INDIVIDUAL AUTHORIZED TO RECEIVE INFORMATION UNDER
27 THIS SECTION MAY NOT DISCLOSE ANY PERSONALLY IDENTIFIABLE INFORMATION
28 OBTAINED OR MAINTAINED UNDER THIS SECTION.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 88A, § 62(b) and (c).

31 In subsection (b)(1)(i) of this section, the former reference to “[o]n or before
32 July 1, 1985” is deleted as obsolete.

33 In subsection (b)(1)(i) and (ii) of this section, the former references to
34 “rules” are deleted in light of the references to “regulations”. *See* General
35 Revisor’s Note to article.

36 In subsection (b)(3) of this section, the reference to an “individual” is

1 substituted for the former reference to an “officer, employee, or
2 representative of any agency” for brevity.

3 Defined terms: “Department” § 5–101
4 “Secretary” § 5–101

5 5–605. ACKNOWLEDGMENT OF STATEMENT OF CONDUCT THAT CONSTITUTES
6 FRAUD.

7 (A) DEFINITIONS.

8 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) “PUBLIC ASSISTANCE” MEANS ANY ASSISTANCE DESCRIBED IN §
11 8–503 OF THE CRIMINAL LAW ARTICLE.

12 (3) “FRAUD” HAS THE MEANING STATED IN § 8–501 OF THE CRIMINAL
13 LAW ARTICLE.

14 (B) IN GENERAL.

15 EACH APPLICANT FOR OR RECIPIENT OF PUBLIC ASSISTANCE SHALL:

16 (1) READ OR HAVE READ TO THE INDIVIDUAL A STATEMENT OF THE
17 CONDUCT THAT CONSTITUTES FRAUD; AND

18 (2) SIGN THE STATEMENT TO ACKNOWLEDGE THAT THE INDIVIDUAL
19 UNDERSTANDS THAT THE PENALTIES FOR FRAUD UNDER § 8–503 OF THE CRIMINAL
20 LAW ARTICLE ARE:

21 (I) IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT
22 EXCEEDING \$1,000 OR BOTH; AND

23 (II) RESTITUTION.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 88A, § 16.

26 In subsection (a)(2) and the introductory language of subsection (b) of this
27 section, the references to “public assistance” are substituted for the former
28 references to “assistance at public expense” for brevity and consistency
29 with terminology used throughout this article.

30 In subsection (b)(1) and (2) of this section, the references to the
31 “individual” are substituted for the former references to the “applicant” for
32 clarity.

33 In subsection (b)(2)(i) of this section, the former reference to “possible”
34 imprisonment is deleted as implicit.

1 5-606. DUPLICATE PHOTO IDENTIFICATION REQUIRED.

2 THE LOCAL DEPARTMENT SHALL PLACE A DUPLICATE PHOTO IDENTIFICATION
3 PRINT IN THE CASE FILE OF A PUBLIC ASSISTANCE RECIPIENT WHENEVER A PHOTO
4 IDENTIFICATION CARD IS ISSUED TO THE RECIPIENT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88A, § 62(a).

7 The defined term "local department" is substituted for the former reference
8 to the "Department of Social Services" for brevity and consistency with
9 terminology used throughout this article.

10 The former phrase "[b]eginning July 1, 1979" is deleted as obsolete.

11 The former reference to the "social service" case file is deleted as
12 surplusage.

13 Defined term: "Local department" § 5-101

14 5-607. RECOUPMENT OF OVERPAYMENTS.

15 (A) IN GENERAL.

16 THE ADMINISTRATION SHALL MAKE EVERY EFFORT TO RECOUP
17 OVERPAYMENTS MADE TO RECIPIENTS THAT THE STATE IS AUTHORIZED TO RECOUP
18 UNDER FEDERAL LAW.

19 (B) PROCEDURE.

20 THE ADMINISTRATION SHALL ESTABLISH AN ADMINISTRATIVE PROCEDURE, IN
21 ACCORDANCE WITH FEDERAL LAW, TO BE FOLLOWED WHEN THE ADMINISTRATION
22 HAS REASON TO BELIEVE THAT AN OVERPAYMENT HAS BEEN MADE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 88A, § 16A.

25 In subsections (a) and (b) of this section, the former references to
26 "applicable" federal law are deleted as surplusage.

27 Also in subsections (a) and (b) of this section, the former references to
28 federal "rules, regulations, or guidelines" are deleted as included in the
29 references to federal "law".

30 In subsection (b) of this section, the former reference to "October 1, 1977" is
31 deleted as obsolete.

32 Defined term: "Administration" § 5-101

1 5-608. FEDERAL FUNDS.

2 THE ADMINISTRATION MAY:

3 (1) ACCEPT ANY FEDERAL FUNDS OR COMMODITIES;

4 (2) MANAGE AND DISPOSE OF ANY FEDERAL FUNDS OR COMMODITIES
5 AS REQUIRED BY FEDERAL LAW; AND

6 (3) APPLY THE FEDERAL SOCIAL SECURITY ACT OR ANY OTHER
7 FEDERAL LAW RELATING TO PUBLIC ASSISTANCE TO THE BENEFIT OF THE STATE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, § 15, as it related to public assistance.

10 In items (1) and (2) of this section, the reference to federal funds "or"
11 commodities is substituted for the former reference to federal funds "and"
12 commodities to clarify that the Administration may accept federal funds,
13 or commodities, or both.

14 In item (2) of this section, the former phrase "in whatever manner" is
15 deleted as surplusage.

16 In item (3) of this section, the reference to the authority to "apply" the
17 federal Social Security Act "to the benefit of the State" is substituted for
18 the former reference to "tak[ing] advantage" of the federal Social Security
19 Act for clarity.

20 Also in item (3) of this section, the reference to the federal Social Security
21 Act "or" any other federal law is substituted for the former reference to the
22 federal Social Security Act "and" any other federal act to clarify that the
23 Administration may apply the federal Social Security Act, another federal
24 law, or both.

25 Also in item (3) of this section, the former reference to the Social Security
26 Act "and any amendments and supplements thereto" is deleted in light of
27 Art. 1, § 21, which provides that whenever a provision of law refers to any
28 other law, the reference applies to any subsequent amendment to that
29 other law unless the referring provision expressly provides otherwise.

30 Defined term: "Administration" § 5-101

31 GENERAL REVISOR'S NOTE TO TITLE:

32 Throughout this title, the defined term "Administration" is substituted for the
33 former obsolete references to the "Social Services Administration" and the "State
34 Department". The Family Investment Administration coordinates and directs all
35 public assistance programs. See § 5-205 of this title.

1 Former Art. 78A, § 55, which authorized the Board of Public Works to authorize
2 an experimental check cashing program for Social Services Administration checks, is
3 deleted as obsolete. The Department of Human Resources indicates that the program
4 was never implemented. Currently cash benefits are distributed with a plastic debit
5 card through the Electronic Benefits Transfer System.

6 Former Art. 88A, § 17, which prohibited public assistance to any able-bodied
7 person who is able to work, is deleted as obsolete in light of the work activity
8 requirements under the Family Investment Program. *See* § 5–308 of this title.

9 Former Art. 88A, §§ 17A, 17A–1, 17A–2, and 17A–3, which related to the
10 General Public Assistance to Employables Program, are deleted as obsolete. The
11 General Public Assistance to Employables Program was repealed by Ch. 351, Acts of
12 1996.

13 TITLE 6. COMMUNITY SERVICES.

14 SUBTITLE 1. DEFINITIONS.

15 6–101. DEFINITIONS.

16 (A) IN GENERAL.

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

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

20 (B) ADMINISTRATION.

21 "ADMINISTRATION" MEANS THE COMMUNITY SERVICES ADMINISTRATION.

22 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
23 the full reference to the "Community Services Administration".

24 (C) DEPARTMENT.

25 "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

26 REVISOR'S NOTE: This subsection formerly was Art. 88A, §§ 130A(c), 130F(c),
27 and 145(a)(2).

28 No changes are made.

29 The definition of the term "Department" in former Art. 88A, § 130A(c) was
30 applicable only to former Art. 88A, §§ 130A through 130K, which are
31 revised in Subtitle 4, Part I of this title. The definition of "Department" in
32 former Art. 88A, § 130F(c) was applicable only to former Art. 88A, §§ 130F
33 through 130K, which are revised in Subtitle 4, Part II of this title. The
34 definition of "Department" in former Art. 88A, § 145(a)(2) was applicable

1 only to former Art. 88A, § 145, which is revised in Subtitle 7 of this title.
2 However, the term “Department” was also used in former provisions of
3 Article 88A that are revised elsewhere in this title. In this revision, the
4 definitions of “Department” in former Art. 88A, §§ 130A(c), 130F(c), and
5 145(a)(2) are made applicable to this title. No substantive change is
6 intended.

7 (D) EXECUTIVE DIRECTOR.

8 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF COMMUNITY
9 SERVICES.

10 REVISOR’S NOTE: This subsection is new language added to avoid repetition of
11 the full reference to the “Executive Director of Community Services”.

12 (E) SECRETARY.

13 “SECRETARY” MEANS THE SECRETARY OF HUMAN RESOURCES.

14 REVISOR’S NOTE: This subsection formerly was Art. 88A, § 145(a)(4).

15 The only changes are in style.

16 The definition of the term “Secretary” in former Art. 88A, § 145(a)(4) was
17 applicable only to former Art. 88A, § 145, which is revised in Subtitle 7 of
18 this title. However, the term “Secretary” was also used in former provisions
19 of Article 88A that are revised elsewhere in this title. In this revision, the
20 definition of “Secretary” in former Art. 88A, § 145(a)(4) is made applicable
21 to this title. No substantive change is intended.

22 SUBTITLE 2. COMMUNITY SERVICES ADMINISTRATION.

23 6–201. ESTABLISHED.

24 THERE IS A COMMUNITY SERVICES ADMINISTRATION IN THE DEPARTMENT.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from the first sentence of former Art. 41, § 6–202(a).

27 It is set forth as a separate section for emphasis and restated in standard
28 language for clarity and consistency.

29 Defined term: “Department” § 6–101

30 6–202. PURPOSES.

31 THE PURPOSES OF THE ADMINISTRATION ARE TO:

32 (1) ESTABLISH AND PARTICIPATE IN:

33 (I) YOUTH AND WORK–TRAINING PROGRAMS;

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1 (II) URBAN AND RURAL COMMUNITY ACTION PROGRAMS;

2 (III) SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AND
3 URBAN AREAS;

4 (IV) EMPLOYMENT AND INVESTMENT INCENTIVE PROGRAMS; AND

5 (V) WORK-EXPERIENCE PROGRAMS;

6 (2) COMBAT UNEMPLOYMENT; AND

7 (3) ASSIST IN THE EDUCATION, TRAINING, AND ECONOMIC
8 ADVANCEMENT OF THE RESIDENTS OF THE STATE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 6-201(a).

11 In the introductory language of this section, the reference to the "purposes
12 of the Administration" is substituted for the former reference to the
13 Administration being "hereby created for the general purpose" for clarity
14 and brevity.

15 In the introductory language of item (1) of this section, the former
16 reference to "various areas and types of" programs is deleted as
17 surplusage.

18 In item (3) of this section, the reference to "advancement" is substituted for
19 the former reference to "betterment" for consistency with § 6-203(c) of this
20 subtitle.

21 Also in item (3) of this section, the reference to "residents" is substituted
22 for the former reference to "citizens" because the meaning of the term
23 "citizen" is unclear.

24 The Human Services Article Review Committee notes, for consideration by
25 the General Assembly, that some of the programs originally assigned to the
26 Community Services Administration are now handled by other State
27 agencies. The General Assembly may wish to review the purposes of the
28 Administration that are listed in this section.

29 Defined term: "Administration" § 6-101

30 6-203. EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR.

31 (A) EXECUTIVE DIRECTOR.

32 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL
33 APPOINT THE EXECUTIVE DIRECTOR.

34 (2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE AND
35 EXECUTIVE OFFICER OF THE ADMINISTRATION.

1 (B) DEPUTY DIRECTOR.

2 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL
3 APPOINT A DEPUTY DIRECTOR OF THE ADMINISTRATION.

4 (2) THE DEPUTY DIRECTOR IS THE PRINCIPAL ASSISTANT TO THE
5 EXECUTIVE DIRECTOR.

6 (C) QUALIFICATIONS.

7 THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR SHALL HAVE EXPERIENCE
8 AND INTEREST IN THE ADVANCEMENT AND DEVELOPMENT OF ECONOMIC
9 OPPORTUNITY.

10 (D) STATE PERSONNEL MANAGEMENT SYSTEM.

11 THE EXECUTIVE DIRECTOR AND THE DEPUTY DIRECTOR ARE IN THE
12 EXECUTIVE SERVICE OR MANAGEMENT SERVICE OF THE STATE PERSONNEL
13 MANAGEMENT SYSTEM.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 6-203(c)(2)(ii) and the second, third, and
16 fourth sentences of § 6-202(a).

17 In subsection (c) of this section, the requirement that the Executive
18 Director and deputy director "have" experience and interest in the
19 advancement and development of economic opportunity is substituted for
20 the former requirement that they "be selected because of their known"
21 experience and interest for conformity with standard language.

22 Defined terms: "Administration" § 6-101

23 "Executive Director" § 6-101

24 "Secretary" § 6-101

25 6-204. STAFF.

26 (A) IN GENERAL.

27 THE ADMINISTRATION MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
28 BUDGET.

29 (B) STATE PERSONNEL MANAGEMENT SYSTEM.

30 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EMPLOYEES OF THE
31 ADMINISTRATION ARE SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND
32 PENSIONS ARTICLE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 6-203(c)(1) and (2)(i).

35 In subsection (a) of this section, the reference to a "staff" is substituted for

1 the former reference to “professional, technical, clerical, stenographic, and
 2 other personnel to carry out its duties and functions” for brevity and
 3 consistency with similar provisions in this article and other revised articles
 4 of the Code.

5 Also in subsection (a) of this section, the phrase “in accordance with the
 6 State budget” is substituted for the former phrase “within the limits of
 7 budgetary appropriations from time to time” for brevity and consistency
 8 with similar provisions in this article and other revised articles of the
 9 Code.

10 In subsection (b) of this section, the former reference to “Title 6, Subtitle 4”
 11 of the State Personnel and Pensions Article is deleted for accuracy. Title 6,
 12 Subtitle 4 only relates to employment categories of the State Personnel
 13 Management System.

14 REVISOR’S NOTE TO SECTION:

15 Former Art. 41, § 6–203(c)(3), which provided for transfer of employees to
 16 the State Personnel Management System, is deleted as obsolete. This was
 17 enacted as a transitional provision for employees of the former Maryland
 18 Office of Economic Opportunity, one of the predecessors of the Community
 19 Services Administration. All employees of the Community Services
 20 Administration are now in the State Personnel Management System.

21 Defined term: “Administration” § 6–101

22 6–205. AUTHORITY OF SECRETARY.

23 THE ADMINISTRATION, THE EXECUTIVE DIRECTOR, AND THE DEPUTY
 24 DIRECTOR EXERCISE THEIR AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY
 25 STATE LAW SUBJECT TO THE AUTHORITY OF THE SECRETARY UNDER ANY STATE
 26 LAW.

27 REVISOR’S NOTE: This section is new language derived without substantive
 28 change from former Art. 41, § 6–202(b).

29 The phrase “under any State law” is substituted for the former phrases “by
 30 the provisions of this subtitle or by any other laws of the State” and “as set
 31 forth in this article or elsewhere in the Laws of Maryland” for brevity.

32 Defined terms: “Administration” § 6–101

33 “Executive Director” § 6–101

34 “Secretary” § 6–101

35 6–206. POWERS AND DUTIES OF ADMINISTRATION.

36 (A) LIAISON DUTIES.

37 (1) THE ADMINISTRATION SHALL MAINTAIN LIAISON WITH:

1 (I) THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
2 SERVICES;

3 (II) LOCAL COMMISSIONS ON ECONOMIC OPPORTUNITY;

4 (III) CITIZENS' GROUPS; AND

5 (IV) ANY OTHER STATE, FEDERAL, AND LOCAL UNITS.

6 (2) THE ADMINISTRATION SHALL CONSULT WITH AND ADVISE THE
7 LOCAL ENTITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION REGARDING
8 THEIR ECONOMIC OPPORTUNITY PROGRAMS.

9 (B) COLLECTION AND DISSEMINATION OF INFORMATION.

10 THE ADMINISTRATION SHALL:

11 (1) COLLECT AND ASSEMBLE INFORMATION RELATING TO ECONOMIC
12 OPPORTUNITY FROM OTHER UNITS OF THE STATE AND FEDERAL GOVERNMENTS;
13 AND

14 (2) DISSEMINATE INFORMATION TO FURTHER ECONOMIC
15 OPPORTUNITY PROGRAMS IN THE STATE BY PUBLICATION, ADVERTISEMENT,
16 CONFERENCES, WORKSHOPS, PROGRAMS, LECTURES, OR OTHER MEANS.

17 (C) CONTRACTUAL AUTHORITY.

18 (1) CONSISTENT WITH THIS SUBTITLE AND OTHER APPLICABLE LAWS,
19 THE ADMINISTRATION MAY ENTER INTO CONTRACTS OR ASSUME ANY OTHER
20 FUNCTION NECESSARY TO CARRY OUT THIS SUBTITLE.

21 (2) THE ADMINISTRATION MAY ENTER INTO A CONTRACT WITH ANY
22 OTHER UNIT OR INSTITUTION OF THIS STATE, ANY OTHER STATE, OR THE FEDERAL
23 GOVERNMENT FOR ANY STUDY OR RESEARCH ACTIVITY THAT IS NECESSARY AND
24 PROPER.

25 (D) ACCEPTANCE OF FEDERAL AND PRIVATE ASSISTANCE.

26 IF THE FEDERAL GOVERNMENT OR A PERSON OFFERS OR GRANTS ANY
27 SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR FUNDS TO THE STATE OR TO A
28 COUNTY OR MUNICIPAL CORPORATION IN THE STATE FOR THE PURPOSES OF
29 ECONOMIC OPPORTUNITY, THE ADMINISTRATION MAY ACCEPT THE ASSISTANCE ON
30 BEHALF OF THE STATE AND AUTHORIZE ANY OFFICER OF THE STATE OR A COUNTY
31 OR MUNICIPAL CORPORATION TO RECEIVE AND USE THE ASSISTANCE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 41, §§ 6-204 and 6-203(a), (b), and (d).

34 In subsection (a)(1)(i) of this section, the reference to the "United States
35 Department of Health and Human Services" is substituted for the former
36 obsolete reference to the "Federal Community Services Administration".

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1 In subsection (a)(1)(ii) and (iv) of this section, the references to “local”
2 commissions and “local” units are substituted for the former references to
3 “county and city” commissions and “agencies of ... county and municipal
4 governments” for brevity.

5 In subsection (a)(1)(iv) of this section, the reference to “units” is
6 substituted for the former reference to “agencies” for consistency
7 throughout this article. *See* General Revisor’s Note to article.

8 In subsection (a)(2) of this section, the reference to the “local entities
9 described in paragraph (1) of this subsection” is substituted for the former
10 reference to “these local groups” for clarity and consistency.

11 In subsection (b)(1) of this section, the phrase “information relating to”
12 economic opportunity is substituted for the former phrase “pertinent
13 information” for clarity.

14 Also in subsection (b)(1) of this section, the reference to “units” is
15 substituted for the former reference to “departments and agencies” for
16 consistency with terminology used throughout this article. *See* General
17 Revisor’s Note to article.

18 Also in subsection (b)(1) of this section, the former reference to “data” is
19 deleted as included in the reference to “information”.

20 In subsection (b)(2) of this section, the reference to information “to further”
21 economic opportunity programs is substituted for the former reference to
22 information “in the interest of” economic opportunity programs for clarity.

23 In subsection (c)(1) and (2) of this section, the former references to
24 “mak[ing]” contracts are deleted as included in the references to
25 “enter[ing] into” contracts.

26 In subsection (c)(1) of this section, the phrase “[c]onsistent with this
27 subtitle and other applicable laws” is substituted for the former phrase
28 “not inconsistent with this or other acts” for clarity.

29 Also in subsection (c)(1) of this section, the former reference to acting “[i]n
30 the performance of its duties” is deleted as implicit in the authority of the
31 Administration.

32 In subsection (c)(2) of this section, the reference to a “unit” is substituted
33 for the former reference to “boards, commission, [and] agencies” for
34 consistency throughout this article. *See* General Revisor’s Note to article.

35 Also in subsection (c)(2) of this section, the former reference to entering
36 into a contract “upon such terms as may be eventually agreed upon” is
37 deleted as an implicit element of the formation of a contract.

38 Also in subsection (c)(2) of this section, the former reference to “pay[ing]

1 the cost thereof out of funds which may be appropriated to the
2 Administration” is deleted as implicit in the authority of the
3 Administration.

4 In subsection (d) of this section, the references to a “county or municipal
5 corporation” are substituted for the former references to “political
6 subdivisions” for clarity and consistency with terminology used throughout
7 this article.

8 Also in subsection (d) of this section, the reference to the Administration
9 accepting assistance “on behalf of the State” is substituted for the former
10 reference to “the State, acting through the State of Maryland Community
11 Services Administration” for brevity.

12 Also in subsection (d) of this section, the former word “when” is deleted as
13 implicit in the word “[i]f”.

14 Also in subsection (d) of this section, the former reference to “any agency
15 thereof” is deleted as included in the reference to “the federal
16 government”.

17 Also in subsection (d) of this section, the former reference to a “firm or
18 corporation” is deleted as included in the reference to a “person”.

19 Also in subsection (d) of this section, the former phrase “by way of gift” is
20 deleted as included in the phrase “offers or grants”.

21 Also in subsection (d) of this section, the former phrase “or the
22 advancement thereof” is deleted as included in the phrase “for the
23 purposes of economic opportunity”.

24 Also in subsection (d) of this section, the former phrase “under any federal
25 or State program or legislation” is deleted as surplusage.

26 Defined terms: “Administration” § 6–101

27 “County” § 1–101

28 “Person” § 1–101

29 “State” § 1–101

30 GENERAL REVISOR’S NOTE TO SUBTITLE:

31 Former Art. 41, § 6–201(b), which provided that all references to the “Office of
32 Community Services or to the Maryland Office of Economic Opportunity shall be
33 deemed to mean the Community Services Administration” is deleted as obsolete. A
34 search of the Code revealed no references to the “Office of Community Services” or the
35 “Maryland Office of Economic Opportunity”.

1 SUBTITLE 3. ENERGY ASSISTANCE PROGRAM.

2 6-301. DEFINITIONS.

3 (A) IN GENERAL.

4 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 REVISOR'S NOTE: This subsection formerly was the introductory language of
6 Art. 41, § 6-402.

7 No changes are made.

8 (B) ENERGY EMERGENCY.

9 “ENERGY EMERGENCY” MEANS A LACK OF FUEL OR THE IMMINENT
10 DISCONTINUATION OF ENERGY SERVICES SUPPLIED BY A FUEL VENDOR OR UTILITY
11 VENDOR THAT WILL ENDANGER HEALTH, SAFETY, OR WELFARE.

12 REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-402(1).

13 The only changes are in style.

14 Defined terms: “Fuel vendor” § 6-301

15 “Utility vendor” § 6-301

16 (C) FUEL VENDOR.

17 “FUEL VENDOR” MEANS A PERSON THAT DISTRIBUTES, TRANSPORTS,
18 PRODUCES, OR OFFERS FOR SALE COAL PRODUCTS, FUEL OIL, KEROSENE, BOTTLED
19 GAS, PROPANE, OR WOOD FOR FUEL USE OR CONSUMPTION IN THE STATE.

20 REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-402(2).

21 The only changes are in style.

22 Defined term: “Person” § 1-101

23 (D) OFFICE.

24 “OFFICE” MEANS THE OFFICE OF HOME ENERGY PROGRAMS.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 41, § 6-402(3).27 The former reference to the Office being “in the Community Services
28 Administration” is deleted as unnecessary in light of § 6-302 of this
29 subtitle to the same effect.

30 (E) PROGRAM.

1 “PROGRAM” MEANS THE ENERGY ASSISTANCE PROGRAM.

2 REVISOR’S NOTE: This subsection is new language added to avoid repetition
3 of the full reference to the “Energy Assistance Program”.

4 (F) UTILITY VENDOR.

5 “UTILITY VENDOR” MEANS A PERSON THAT DISTRIBUTES, TRANSPORTS, OR
6 PRODUCES NATURAL GAS OR ELECTRICITY FOR USE OR CONSUMPTION IN THE
7 STATE.

8 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–402(4).

9 The only changes are in style.

10 Defined term: “Person” § 1–101

11 6–302. ESTABLISHED.

12 THERE IS AN OFFICE OF HOME ENERGY PROGRAMS IN THE ADMINISTRATION.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 6–404(a), and, as it related to the creation of
15 the Program, § 6–403. It is set forth as a separate section for emphasis.

16 Defined term: “Administration” § 6–101

17 6–303. PURPOSE.

18 THE PURPOSE OF THE OFFICE IS TO CARRY OUT THIS SUBTITLE.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 6–403, as it related to the purpose of the
21 Office.

22 The reference to “carry[ing] out” this subtitle is substituted for the former
23 reference to “developing, implementing, and administering” this subtitle
24 for brevity.

25 The former reference to the “general” purpose of the Office is deleted as
26 surplusage.

27 Defined term: “Office” § 6–301

28 6–304. STAFF.

29 (A) IN GENERAL.

30 THE OFFICE MAY EMPLOY A STAFF.

31 (B) STATE PERSONNEL MANAGEMENT SYSTEM.

1 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EMPLOYEES OF THE OFFICE
2 ARE SUBJECT TO THE STATE PERSONNEL AND PENSIONS ARTICLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 6-405(c).

5 In subsection (a) of this section, the reference to a "staff" is substituted for
6 the former reference to "professional, technical, clerical, stenographic, and
7 other personnel to carry out its duties and functions" for brevity and
8 consistency with similar provisions throughout this article.

9 In subsection (b) of this section, the reference to employees of the "Office"
10 is substituted for the former reference to employees of the "Energy
11 Assistance Program" for accuracy and consistency with subsection (a) of
12 this section.

13 Defined term: "Office" § 6-301

14 6-305. AUTHORITY OF SECRETARY.

15 THE OFFICE EXERCISES ITS AUTHORITY, DUTIES, AND FUNCTIONS UNDER ANY
16 STATE LAW SUBJECT TO THE AUTHORITY OF THE SECRETARY UNDER ANY STATE
17 LAW.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 6-404(b).

20 The reference to "its" authority, duties, and functions is substituted for the
21 former reference to "all" authority, duties, and functions "vested, or to be
22 vested in the Office" for brevity.

23 The phrase "under any State law" is substituted for the former phrases "by
24 the provisions of this subtitle or by any other laws of the State" and "as set
25 forth in this article or elsewhere in the laws of Maryland" for brevity.

26 Defined terms: "Office" § 6-301
27 "Secretary" § 6-101

28 6-306. POWERS AND DUTIES.

29 (A) LIAISON DUTIES.

30 (1) THE OFFICE SHALL MAINTAIN LIAISON WITH:

31 (I) THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
32 SERVICES;

33 (II) LOCAL GOVERNMENT UNITS CONCERNED WITH ENERGY
34 PROGRAMS;

35 (III) CITIZENS' GROUPS;

1 (IV) UTILITY VENDORS AND MAJOR FUEL VENDORS IN THE STATE;

2 AND

3 (V) ANY OTHER STATE, FEDERAL, AND LOCAL UNITS.

4 (2) THE OFFICE SHALL:

5 (I) CONSULT WITH AND ADVISE THE LOCAL ENTITIES DESCRIBED
6 IN PARAGRAPH (1) OF THIS SUBSECTION REGARDING THEIR ENERGY ASSISTANCE
7 PROGRAMS;

8 (II) WORK AT ALL LEVELS OF GOVERNMENT TO CARRY OUT THIS
9 SUBTITLE; AND

10 (III) CONSULT WITH ALL UTILITY VENDORS AND MAJOR FUEL
11 VENDORS IN THE STATE WHEN DEVELOPING AND IMPLEMENTING THE PROGRAM.

12 (B) COLLECTION AND DISSEMINATION OF INFORMATION.

13 THE OFFICE SHALL:

14 (1) COLLECT AND ASSEMBLE INFORMATION RELATING TO ENERGY
15 ASSISTANCE AVAILABLE FROM OTHER UNITS OF THE STATE AND FEDERAL
16 GOVERNMENTS;

17 (2) DISSEMINATE INFORMATION TO FURTHER ENERGY ASSISTANCE;

18 (3) IDENTIFY ALL UTILITY VENDORS AND MAJOR FUEL VENDORS IN THE
19 STATE AND ATTEMPT TO OBTAIN THEIR VOLUNTARY COOPERATION WITH THE
20 PROGRAM;

21 (4) ESTABLISH AND MAINTAIN A STATE INFORMATION SERVICE THAT
22 UTILIZES A TOLL-FREE TELEPHONE NUMBER TO PROVIDE THE PUBLIC WITH
23 INFORMATION ABOUT THE PROGRAM AND THE LOCATION OF THE NEAREST LOCAL
24 ENERGY ASSISTANCE OFFICE; AND

25 (5) ESTABLISH A MECHANISM FOR MONITORING THE EFFECTIVENESS
26 OF THE PROGRAM TO DETERMINE WHETHER ELIGIBLE HOUSEHOLDS ARE AWARE OF
27 AND HAVE ACCESS TO A LOCAL ENERGY ASSISTANCE OFFICE.

28 (C) CONTRACTUAL AUTHORITY.

29 (1) CONSISTENT WITH THIS SUBTITLE AND OTHER APPLICABLE LAWS,
30 THE OFFICE MAY ENTER INTO CONTRACTS OR ASSUME ANY OTHER FUNCTION
31 NECESSARY TO CARRY OUT THIS SUBTITLE.

32 (2) THE OFFICE MAY ENTER INTO CONTRACTS FOR ANY STUDY OR
33 RESEARCH ACTIVITY THAT IS NECESSARY AND PROPER.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 6-405(a), (b), and (d).

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1 In subsection (a)(1)(ii) and (v) of this section, the references to “local
2 government” units and “local” units are substituted for the former
3 references to “Maryland county and city” offices and “agencies of ... county
4 and municipal governments” for brevity.

5 Also in subsection (a)(1)(ii) and (v) of this section, the reference to “units” is
6 substituted for the former references to “offices” and “agencies”,
7 respectively, for consistency with terminology used throughout this article.
8 *See* General Revisor’s Note to article.

9 In subsection (a)(2)(i) of this section, the reference to the “local entities
10 described in paragraph (1) of this subsection” is substituted for the former
11 reference to “these local groups” for clarity.

12 In subsection (a)(2)(iii) of this section, the reference to “consulting with”
13 vendors is substituted for the former reference to “seeking their advice” for
14 brevity.

15 In the introductory language of subsection (b) of this section, the reference
16 to “adopt[ing] the following information collection and dissemination
17 procedures” is deleted as surplusage.

18 In subsection (b)(1) of this section, the reference to “information relating to
19 energy assistance” is substituted for the former reference to “pertinent
20 information” for clarity.

21 Also in subsection (b)(1) of this section, the reference to “units” is
22 substituted for the former reference to “departments and agencies” for
23 consistency with terminology used throughout this article. *See* General
24 Revisor’s Note to article.

25 Also in subsection (b)(1) of this section, the former reference to “data” is
26 deleted as included in the reference to “information”.

27 In subsection (b)(2) of this section, the reference to information “to further”
28 energy assistance is substituted for the former reference to information “in
29 the interest of” energy assistance for clarity.

30 In subsection (c)(1) and (2) of this section, the former references to
31 “mak[ing]” contracts are deleted as included in the references to “entering
32 into” contracts.

33 In subsection (c)(1) of this section, the phrase “[c]onsistent with this
34 subtitle and other applicable laws” is substituted for the former phrase
35 “not inconsistent with this or other acts” for clarity.

36 Also in subsection (c)(1) of this section, the former reference to acting “[i]n
37 the performance of its duties” is deleted as implicit in the authority of the
38 Office.

1 In subsection (c)(2) of this section, the former phrase “and is authorized to
2 pay the cost thereof out of funds which may be appropriated to the Office”
3 is deleted as implicit in the authority of the Office.

4 Defined terms: “Fuel vendor” § 6–301

5 “Office” § 6–301

6 “Program” § 6–301

7 “Utility vendor” § 6–301

8 6–307. PROGRAMS.

9 (A) CRISIS INTERVENTION PROGRAM.

10 (1) THE OFFICE SHALL:

11 (I) CARRY OUT AN ENERGY EMERGENCY CRISIS INTERVENTION
12 PROGRAM TO PREVENT LOW-INCOME HOUSEHOLDS, INCLUDING THE NEAR POOR,
13 THE ELDERLY, HOUSEHOLDS WITH CHILDREN, AND THOSE ON FIXED INCOMES
14 FROM EXPERIENCING DANGER TO HEALTH OR SURVIVAL AS A RESULT OF AN
15 ENERGY EMERGENCY;

16 (II) ESTABLISH INTAKE PROCEDURES FOR THOSE EXPERIENCING
17 AN ENERGY EMERGENCY;

18 (III) ESTABLISH GUIDELINES FOR THE INCOME AND PROGRAM
19 ELIGIBILITY OF APPLICANTS; AND

20 (IV) IDENTIFY LOCAL PUBLIC OR PRIVATE AGENCIES TO
21 ADMINISTER THE CRISIS INTERVENTION PROGRAM.

22 (2) (I) THE OFFICE SHALL MAKE PAYMENTS TO FUEL VENDORS AND
23 UTILITY VENDORS THAT HAVE PROVIDED SERVICE TO PERSONS QUALIFYING FOR
24 THE CRISIS INTERVENTION PROGRAM.

25 (II) THE AMOUNT OF ASSISTANCE SHALL BE BASED ON NEED.

26 (B) FUEL AND UTILITY ASSISTANCE PROGRAMS.

27 (1) THE OFFICE SHALL CARRY OUT ONE OR MORE FUEL AND UTILITY
28 ASSISTANCE PROGRAMS TO MAKE PAYMENTS ON BEHALF OF QUALIFIED
29 HOUSEHOLDS TO DEFRAY FUEL AND UTILITY COSTS.

30 (2) THE OFFICE SHALL DETERMINE PROGRAM AND INCOME
31 ELIGIBILITY GUIDELINES.

32 (3) THE AMOUNT OF ASSISTANCE SHALL BE BASED ON NEED.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 6–406.

35 In subsections (a)(1)(i) and (b)(1) of this section, the references to

1 “carry[ing] out” programs are substituted for the former references to
2 “develop[ing] and implement[ing]” programs for brevity.

3 The Human Services Article Review Committee notes, for consideration by
4 the General Assembly, that “energy emergency” is defined to mean a “lack
5 of fuel or the imminent discontinuation of energy services ... that will
6 endanger health, safety or welfare”; however, subsection (a)(1)(i) of this
7 section refers to a crisis intervention program to prevent “danger to health
8 or survival” as a result of an energy emergency. The General Assembly
9 may wish to amend subsection (a)(1)(i) of this section to be consistent with
10 the definition of “energy emergency”.

11 Defined terms: “Energy emergency” § 6–301
12 “Fuel vendor” § 6–301
13 “Office” § 6–301
14 “Person” § 1–101
15 “Utility vendor” § 6–301

16 6–308. SHORT TITLE.

17 THIS SUBTITLE MAY BE CITED AS THE “ENERGY ASSISTANCE PROGRAM ACT”.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 6–401.

20 The former phrase “shall be known” is deleted as surplusage.

21 SUBTITLE 4. TRANSITIONAL SERVICES.

22 PART I. STATEWIDE NUTRITION–ASSISTANCE EQUIPMENT PROGRAM.

23 6–401. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former Art. 88A, § 130A(a).

28 In this subsection and throughout this part, the reference to this “part” is
29 substituted for the former reference to this “subtitle” to reflect the
30 reorganization of provisions formerly contained in Article 88A.

31 (B) APPLICANT.

32 “APPLICANT” MEANS AN ENTITY THAT APPLIES FOR A GRANT UNDER THIS
33 PART.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 88A, § 130A(b).

3 (C) DISTRIBUTION ORGANIZATION.

4 "DISTRIBUTION ORGANIZATION" MEANS A NONPROFIT ENTITY THAT
5 DISTRIBUTES FOOD OR EQUIPMENT TO EMERGENCY FOOD ORGANIZATIONS.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 88A, § 130A(d).

8 As to the substitution of the reference to "emergency food organizations"
9 for the former reference to "feeding sites", *see* the Revisor's Note to
10 subsection (d) of this section.

11 (D) EMERGENCY FOOD ORGANIZATION.

12 (1) "EMERGENCY FOOD ORGANIZATION" MEANS A NONPROFIT ENTITY
13 THAT PROVIDES EMERGENCY FOOD SERVICES.

14 (2) "EMERGENCY FOOD ORGANIZATION" INCLUDES AN ORGANIZATION
15 THAT OPERATES:

16 (I) A SOUP KITCHEN; OR

17 (II) A FOOD PANTRY.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from former Art. 88A, § 130A(e).

20 In this subsection and throughout this subtitle, the reference to an
21 "emergency food organization" is substituted for the former reference to a
22 "feeding site" to reflect more clearly the nature of the organization.

23 (E) PROGRAM.

24 "PROGRAM" MEANS THE STATEWIDE NUTRITION-ASSISTANCE EQUIPMENT
25 PROGRAM.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 88A, § 130A(f).

28 As to the substitution of the reference to the "Statewide
29 Nutrition-Assistance Equipment Program" for the former reference to the
30 "Statewide Nutrition Assistance Program", *see* the Revisor's Note to §
31 6-402 of this subtitle.

32 REVISOR'S NOTE TO SECTION:

33 Former Art. 88A, § 130A(c), which defined "Department", is revised in §
34 6-101 of this title.

1 6-402. ESTABLISHED.

2 THERE IS A STATEWIDE NUTRITION-ASSISTANCE EQUIPMENT PROGRAM
3 ADMINISTERED BY THE DEPARTMENT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 88A, § 130B(a).

6 The reference to the "Statewide Nutrition-Assistance Equipment
7 Program" is substituted for the former reference to the "Statewide
8 Nutrition Assistance Program" to reflect more accurately the purpose of
9 the Program.

10 Defined term: "Department" § 6-101

11 6-403. PURPOSE.

12 THE PURPOSE OF THE PROGRAM IS TO PROVIDE FUNDING TO DISTRIBUTION
13 ORGANIZATIONS TO ENABLE THE DISTRIBUTION ORGANIZATIONS AND EMERGENCY
14 FOOD ORGANIZATIONS TO OBTAIN NECESSARY EQUIPMENT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88A, § 130B(b).

17 Defined terms: "Distribution organization" § 6-401

18 "Emergency food organization" § 6-401

19 "Program" § 6-401

20 6-404. RESPONSIBILITIES OF DEPARTMENT.

21 IN ADDITION TO ANY OTHER RESPONSIBILITIES FOR ADMINISTERING THE
22 PROGRAM, THE RESPONSIBILITIES OF THE DEPARTMENT INCLUDE:

23 (1) DESIGNING AND IMPLEMENTING AN ONGOING OUTREACH AND
24 PUBLICITY CAMPAIGN TO ACHIEVE THE WIDEST POSSIBLE DISSEMINATION OF
25 INFORMATION ABOUT THE PROGRAM TO:

26 (I) POTENTIAL APPLICANTS; AND

27 (II) NUTRITION ADVOCACY GROUPS IN THE STATE;

28 (2) RECEIVING AND REVIEWING APPLICATIONS FOR FUNDING; AND

29 (3) ALLOCATING FUNDS FOR APPROVED APPLICATIONS IN
30 ACCORDANCE WITH THIS PART.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 88A, § 130D.

33 In item (1) of this section, the reference to a publicity "campaign" is
34 substituted for the former reference to a publicity "program" to avoid

1 confusion with the defined term “Program”.

2 Also in item (1) of this section, the former phrase “at the earliest
3 practicable date” is deleted as obsolete.

4 In item (3) of this section, the former reference to “the purposes of” this
5 part is deleted as surplusage.

6 Defined terms: “Applicant” § 6–401

7 “Department” § 6–101

8 “Program” § 6–401

9 6–405. GRANTS.

10 (A) FACTORS FOR REVIEW AND AWARD.

11 WHEN REVIEWING AND AWARDING GRANTS UNDER THIS PART, THE
12 DEPARTMENT SHALL CONSIDER:

13 (1) THE EQUITABLE DISTRIBUTION OF FUNDS ACROSS ALL
14 GEOGRAPHICAL REGIONS OF THE STATE;

15 (2) THE ADEQUACY OF EXISTING DISTRIBUTION ORGANIZATIONS IN
16 THE REGION SERVED OR INTENDED TO BE SERVED BY THE APPLICANT;

17 (3) THE ESTIMATED POPULATION TO BE SERVED BY THE APPLICANT;

18 (4) THE APPLICANT’S LEVEL OF EXPERIENCE IN OPERATING A
19 DISTRIBUTION ORGANIZATION; AND

20 (5) THE AMOUNT OF FUNDING AND OTHER RESOURCES AVAILABLE TO
21 THE APPLICANT.

22 (B) MATCHING RESOURCES.

23 (1) THE DEPARTMENT MAY NOT RELEASE FUNDS TO A GRANTEE UNDER
24 THIS PART UNTIL THE GRANTEE ESTABLISHES THAT THE GRANTEE HAS OBTAINED
25 MATCHING RESOURCES OR A COMMITMENT FOR MATCHING RESOURCES THAT
26 EQUALS AT LEAST 50% OF THE GRANT AMOUNT.

27 (2) THE MATCHING RESOURCES MAY BE IN THE FORM OF CASH OR AN
28 IN-KIND EQUIVALENT ACCEPTABLE TO THE DEPARTMENT.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 88A, § 130C.

31 In subsection (b)(1) of this section, the phrase “[t]he Department may not
32 release funds” is substituted for the former phrase “[t]he funds ... may not
33 be released” for clarity and consistency.

34 Also in subsection (b)(1) of the section, the former reference to funds “for

1 the Program” is deleted as surplusage.

2 Defined terms: “Applicant” § 6–401

3 “Department” § 6–101

4 “Distribution organization” § 6–401

5 6–406. ANNUAL REPORT.

6 THE DEPARTMENT SHALL REPORT ANNUALLY TO THE GOVERNOR AND,
7 SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL
8 ASSEMBLY ON THE ACTIVITIES OF THE PROGRAM, INCLUDING:

9 (1) FINANCIAL REPORTS;

10 (2) DISTRIBUTION OF FUNDS;

11 (3) COMMUNITY PARTICIPATION; AND

12 (4) THE OVERALL EFFECTIVENESS OF THE PROGRAM IN FULFILLING ITS
13 STATED PURPOSE.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 88A, § 130E.

16 Defined terms: “Department” § 6–101

17 “Program” § 6–401

18 6–407. RESERVED.

19 6–408. RESERVED.

20 PART II. MARYLAND EMERGENCY FOOD PROGRAM.

21 6–409. DEFINITIONS.

22 (A) IN GENERAL.

23 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

24 REVISOR’S NOTE: This subsection is new language derived without
25 substantive change from former Art. 88A, § 130F(a).

26 In this subsection and throughout this part, the reference to this “part” is
27 substituted for the former reference to this “subtitle” to reflect the
28 reorganization of provisions formerly contained in Article 88A.

29 (B) ADMINISTERING AGENCY.

30 “ADMINISTERING AGENCY” MEANS AN ENTITY THAT THE DEPARTMENT
31 APPROVES IN ACCORDANCE WITH § 6–414 OF THIS SUBTITLE TO ADMINISTER THE
32 PROGRAM AT THE COUNTY LEVEL.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 88A, § 130F(b).

3 The reference to an "entity" is substituted for the former reference to an
4 "agency" for consistency within this subtitle.

5 Defined terms: "County" § 1-101

6 "Department" § 6-101

7 "Program" § 6-409

8 (C) EMERGENCY FOOD PROVIDER.

9 (1) "EMERGENCY FOOD PROVIDER" MEANS A NONPROFIT
10 ORGANIZATION OR AN ORGANIZATION OPERATED BY A LOCAL GOVERNMENT THAT
11 PROVIDES FOOD AT NO CHARGE TO NEEDY INDIVIDUALS.

12 (2) "EMERGENCY FOOD PROVIDER" INCLUDES:

13 (I) A SOUP KITCHEN; AND

14 (II) A FOOD PANTRY.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 88A, § 130F(d).

17 (D) PROGRAM.

18 "PROGRAM" MEANS THE MARYLAND EMERGENCY FOOD PROGRAM.

19 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 130F(e).

20 No changes are made.

21 REVISOR'S NOTE TO SECTION:

22 Former Art. 88A, § 130F(c), which defined "Department", is revised in §
23 6-101 of this title.

24 6-410. ESTABLISHED.

25 SUBJECT TO THE STATE BUDGET, THERE IS A MARYLAND EMERGENCY FOOD
26 PROGRAM IN THE DEPARTMENT.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 88A, § 130G(a)(1).

29 The former reference to the "limitations in" the State budget is deleted as
30 surplusage.

31 Defined term: "Department" § 6-101

1 6-411. PURPOSES; INTENT.

2 (A) PURPOSES.

3 THE PURPOSES OF THE PROGRAM ARE TO:

4 (1) PROVIDE FUNDING TO ASSIST EMERGENCY FOOD PROVIDERS IN
5 PURCHASING FOOD FOR NEEDY INDIVIDUALS;

6 (2) ENCOURAGE NEEDY INDIVIDUALS TO BECOME SELF-SUFFICIENT;
7 AND

8 (3) DISTRIBUTE INFORMATION ON THE STATE'S EARNED INCOME TAX
9 CREDIT ESTABLISHED UNDER § 10-704 OF THE TAX - GENERAL ARTICLE.

10 (B) INTENT.

11 WHEN FEASIBLE AND COST EFFECTIVE, FOOD PURCHASED UNDER THE
12 PROGRAM SHALL BE PRODUCED, GROWN, AND HARVESTED IN THE STATE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 88A, §§ 130G(b) and 130K.

15 In subsection (a)(3) of this section, the reference to the tax credit
16 "established under § 10-704 of the Tax - General Article" is added for
17 clarity.

18 Defined terms: "Emergency food provider" § 6-409
19 "Program" § 6-409

20 6-412. DUTIES.

21 (A) DUTIES OF ADMINISTRATION.

22 THE ADMINISTRATION SHALL MANAGE THE PROGRAM.

23 (B) DUTIES OF ADMINISTERING AGENCY.

24 EACH ADMINISTERING AGENCY SHALL:

25 (1) PROVIDE EMERGENCY FOOD PROVIDERS WITH INFORMATION
26 ABOUT THE PROGRAM, INCLUDING PROGRAM GUIDELINES AND FUND AVAILABILITY;

27 (2) ACCEPT AND PROCESS REQUESTS FOR FUNDING ASSISTANCE FROM
28 EMERGENCY FOOD PROVIDERS; AND

29 (3) ALLOCATE FUNDING TO EMERGENCY FOOD PROVIDERS BASED ON
30 THE PROCEDURES APPROVED IN THE ADMINISTERING AGENCY'S GRANT
31 APPLICATION UNDER § 6-413 OF THIS SUBTITLE.

32 (C) DUTIES OF EMERGENCY FOOD PROVIDERS.

1 AN EMERGENCY FOOD PROVIDER THAT RECEIVES A PROGRAM GRANT SHALL:

2 (1) USE THE GRANT TO PURCHASE FOOD FOR DISTRIBUTION TO NEEDY
3 INDIVIDUALS;

4 (2) AS A CONDITION OF DISTRIBUTING FOOD, PROVIDE TO NEEDY
5 INDIVIDUALS INFORMATION, DEVELOPED IN COLLABORATION WITH THE
6 DEPARTMENT, THAT ENCOURAGES SELF-SUFFICIENCY CONSISTENT WITH THE
7 GOALS OF THE FAMILY INVESTMENT PROGRAM ESTABLISHED UNDER TITLE 5,
8 SUBTITLE 3 OF THIS ARTICLE;

9 (3) DISTRIBUTE INFORMATION ON THE STATE'S EARNED INCOME TAX
10 CREDIT ESTABLISHED UNDER § 10-704 OF THE TAX – GENERAL ARTICLE; AND

11 (4) SUBMIT A REPORT TO THE DEPARTMENT AND THE ADMINISTERING
12 AGENCY DETAILING HOW THE GRANT WAS USED AND HOW MANY UNITS OF SERVICE
13 WERE PROVIDED.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 88A, §§ 130J and 130G(a)(2).

16 In subsection (a) of this section, the former reference to the Administration
17 being "in the Department" is deleted as surplusage.

18 In subsection (b)(1) of this section, the former reference to "assum[ing]
19 responsibility" for providing information is deleted as surplusage.

20 In subsection (b)(3) of this section, the reference to the "administering
21 agency's grant" application is added for clarity.

22 In subsection (c)(2) of this section, the reference to the Family Investment
23 Program "established under Title 5, Subtitle 3 of this article" is added for
24 clarity.

25 In subsection (c)(3) of this section, the reference to the tax credit
26 "established under § 10-704 of the Tax – General Article" is added for
27 clarity.

28 In subsection (c)(4) of this section, the phrase "how many units of service
29 were provided" is substituted for the former reference to "the units of
30 service provided" for clarity.

31 Defined terms: "Administering agency" § 6-409

32 "Administration" § 6-101

33 "Department" § 6-101

34 "Emergency food provider" § 6-409

35 "Program" § 6-409

1 6-413. FUNDING; GRANT APPLICATIONS.

2 (A) USE OF FUNDS.

3 (1) NO MORE THAN 5% OF THE PROGRAM'S BUDGET MAY BE USED TO
4 COVER ADMINISTRATIVE COSTS OF THE PROGRAM.

5 (2) ALL REMAINING FUNDING SHALL BE ALLOCATED FOR FOOD
6 PURCHASE ONLY.

7 (3) PROGRAM FUNDS MAY NOT BE USED FOR EQUIPMENT OR OTHER
8 CAPITAL EXPENDITURES.

9 (B) ALLOCATION OF FUNDS.

10 THE DEPARTMENT SHALL:

11 (1) ADOPT A FORMULA AND QUALIFICATIONS FOR ALLOCATING
12 PROGRAM FUNDS TO THE COUNTIES BASED ON COUNTY-WIDE STATISTICS FOR:

13 (I) THE NUMBER OF FAMILIES LIVING IN POVERTY;

14 (II) THE UNEMPLOYMENT RATE; AND

15 (III) THE NUMBER OF FAMILIES RECEIVING FOOD STAMPS;

16 (2) SUBMIT ANNUALLY TO THE STATE ADVISORY COUNCIL ON HUNGER
17 A REPORT DETAILING:

18 (I) THE TOTAL APPROPRIATIONS FOR THE PROGRAM FOR THE
19 CURRENT AND PRIOR FISCAL YEARS, INCLUDING THE AMOUNT ALLOCATED FOR
20 ADMINISTRATIVE COSTS, THE AMOUNT ALLOCATED TO EACH ADMINISTERING
21 AGENCY, AND THE AMOUNT ALLOCATED TO EMERGENCY FOOD PROVIDERS IN EACH
22 COUNTY; AND

23 (II) HOW MANY UNITS OF SERVICE WERE PROVIDED IN EACH
24 COUNTY; AND

25 (3) NOTIFY EACH COUNTY THROUGH THE ADMINISTERING AGENCY OF
26 THE AVAILABILITY OF PROGRAM FUNDS UNDER ITEM (1) OF THIS SUBSECTION.

27 (C) APPLICATION FOR GRANTS.

28 (1) EACH ADMINISTERING AGENCY SHALL APPLY TO THE
29 ADMINISTRATION FOR A PROGRAM GRANT.

30 (2) THE APPLICATION SHALL INCLUDE THE PROCEDURES THAT THE
31 ADMINISTERING AGENCY WILL USE TO:

32 (I) NOTIFY EMERGENCY FOOD PROVIDERS OF THE AVAILABILITY
33 OF PROGRAM GRANTS;

1 (II) APPROVE EMERGENCY FOOD PROVIDERS AS RECIPIENTS OF
2 PROGRAM GRANTS; AND

3 (III) ALLOCATE PROGRAM GRANTS AMONG APPROVED EMERGENCY
4 FOOD PROVIDERS.

5 (D) APPROVAL OF APPLICATION.

6 BEFORE AN ADMINISTERING AGENCY MAY RECEIVE A PROGRAM GRANT, THE
7 ADMINISTRATION MUST APPROVE THE APPLICATION.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, §§ 130-I and 130G(c).

10 In the introductory language of subsection (b)(2) of this section, the
11 reference to the "State Advisory Council on Hunger" is substituted for the
12 former reference to the "Governor's Advisory Council on Nutrition" for
13 accuracy.

14 In subsection (b)(2)(ii) of this section, the phrase "how many units of
15 service were provided" is substituted for the former reference to the "units
16 of service provided" for clarity.

17 In subsection (b)(3) of this section, the reference to each "county" is
18 substituted for the former reference to each "local jurisdiction" for
19 consistency with terminology used throughout this article.

20 Defined terms: "Administering agency" § 6-409

21 "Administration" § 6-101

22 "County" § 1-101

23 "Department" § 6-101

24 "Emergency food provider" § 6-409

25 "Program" § 6-409

26 6-414. REGULATIONS.

27 (A) SELECTION AND APPROVAL OF ADMINISTERING AGENCY.

28 THE DEPARTMENT SHALL ADOPT REGULATIONS TO GOVERN THE SELECTION
29 AND APPROVAL OF AN ADMINISTERING AGENCY FOR EACH COUNTY.

30 (B) REQUIRED CONTENTS.

31 THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE:

32 (1) CRITERIA TO ENSURE THAT THE SELECTED ADMINISTERING
33 AGENCY HAS ADEQUATE INTERNAL CONTROLS OVER CASH RECEIPTS, MATERIALS,
34 SUPPLIES, AND INVENTORIES; AND

35 (2) A DEFINITION OF "UNITS OF SERVICE" THAT SHALL BE USED TO
36 TRACK PROGRAM UTILIZATION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 130H.

3 In subsection (a) of this section, the former reference to selecting an
4 administering agency "to administer the Program" is deleted as included in
5 the definition of "administering agency".

6 In subsection (b)(1) of this section, the former reference to "standards" is
7 deleted as included in the reference to "criteria".

8 Defined terms: "Administering agency" § 6-409

9 "County" § 1-101

10 "Department" § 6-101

11 "Program" § 6-409

12 6-415. RESERVED.

13 6-416. RESERVED.

14 PART III. SHELTER, NUTRITION, AND SERVICE PROGRAM FOR HOMELESS
15 INDIVIDUALS AND FAMILIES.

16 6-417. DEFINITIONS.

17 (A) IN GENERAL.

18 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 88A, § 132(a).

21 In this subsection and throughout this part, the reference to this "part" is
22 substituted for the former reference to this "subtitle" to reflect the
23 reorganization of provisions formerly contained in Article 88A.

24 (B) ADVISORY BOARD.

25 "ADVISORY BOARD" MEANS THE GOVERNOR'S ADVISORY BOARD ON
26 HOMELESSNESS.

27 REVISOR'S NOTE: This subsection is new language added to avoid repetition
28 of the full reference to the "Governor's Advisory Board on Homelessness".

29 (C) HOMELESS INDIVIDUAL.

30 "HOMELESS INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

31 (1) IS IN NEED OF HOUSING OR EMERGENCY SHELTER AND PROPER
32 NUTRITION;

1 (2) CANNOT BE PLACED IMMEDIATELY IN ANOTHER AVAILABLE
2 HOUSING, NUTRITION, AND SERVICE PROGRAM; AND

3 (3) IS A RESIDENT OF THE STATE WHEN THE INDIVIDUAL MAKES AN
4 APPLICATION FOR HOUSING.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 88A, § 132(b)(1).

7 (D) HOUSING CRISIS.

8 "HOUSING CRISIS" MEANS A SITUATION INVOLVING A FAMILY OR INDIVIDUAL
9 WHO IS:

10 (1) THREATENED WITH THE IMMEDIATE LOSS OF HOUSING OR OTHER
11 SHELTER;

12 (2) WITHOUT RESOURCES TO AVOID AN IMPENDING EVICTION; OR

13 (3) OTHERWISE AT RISK OF BECOMING HOMELESS.

14 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 132(b)(2).

15 The only changes are in style.

16 (E) PROGRAM.

17 "PROGRAM" MEANS THE SHELTER, NUTRITION, AND SERVICE PROGRAM FOR
18 HOMELESS INDIVIDUALS AND FAMILIES.

19 REVISOR'S NOTE: This subsection is new language added to avoid repetition
20 of the full reference to the "Shelter, Nutrition, and Service Program for
21 Homeless Individuals and Families".

22 6-418. LEGISLATIVE FINDINGS AND DECLARATIONS.

23 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

24 (1) AN INCREASING NUMBER OF INDIVIDUALS AND FAMILIES IN THE
25 STATE ARE HOMELESS AND LACK PROPER NUTRITION AND ADEQUATE SERVICES;

26 (2) CURRENT STATE-OPERATED PROGRAMS DO NOT ADEQUATELY
27 ADDRESS THESE PROBLEMS; AND

28 (3) AS A RESULT, THERE IS A LACK OF QUALITY EMERGENCY PUBLIC
29 AND PRIVATE HOUSING, NUTRITION, AND SERVICE PROGRAMS AVAILABLE FOR
30 THESE INDIVIDUALS AND FAMILIES.

31 REVISOR'S NOTE: This section formerly was Art. 88A, § 131.

32 The only changes are in style.

1 The Human Services Article Review Committee notes, for consideration by
2 the General Assembly, that this section was originally enacted in 1983. The
3 General Assembly may wish to consider whether this section continues to
4 accurately reflect current conditions.

5 6-419. ESTABLISHMENT AUTHORIZED.

6 THE GOVERNOR MAY ESTABLISH A SHELTER, NUTRITION, AND SERVICE
7 PROGRAM FOR HOMELESS INDIVIDUALS AND FAMILIES.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, § 133(a).

10 The General Assembly may wish to consider whether to mandate the
11 program or continue to leave establishment of the program within the
12 discretion of the Governor.

13 Defined term: "Homeless individual" § 6-417

14 6-420. PURPOSES.

15 THE PURPOSES OF THE PROGRAM ARE TO PROVIDE FACILITIES OR PROGRAMS
16 THAT OFFER AND PROVIDE:

17 (1) CRISIS AND TRANSITION SHELTER, PROPER NUTRITION, AND
18 ADEQUATE SERVICES TO HOMELESS INDIVIDUALS AND FAMILIES, WHICH MAY
19 INCLUDE LINKAGE TO MULTIPLE SERVICE COMPONENTS, CENTRALIZED DECISION
20 MAKING REGARDING PLACEMENT, CASE MANAGEMENT, TRANSPORTATION, AND
21 FOLLOW-UP SERVICES; AND

22 (2) SERVICES TO PREVENT INDIVIDUALS AND FAMILIES IN A HOUSING
23 CRISIS FROM BECOMING HOMELESS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 88A, §§ 132(b)(3) and 133(b).

26 Defined terms: "Homeless individual" § 6-417

27 "Housing crisis" § 6-417

28 "Program" § 6-417

29 6-421. ADVISORY BOARD ESTABLISHED.

30 THERE IS AN ADVISORY BOARD ON HOMELESSNESS.

31 REVISOR'S NOTE: This section is standard language added to reflect the
32 existence of the Advisory Board.

33 The Advisory Board was authorized by statute in 1984 and was originally
34 known as the "Governor's Advisory Board of the Shelter, Nutrition, and
35 Service Program for Homeless Individuals and Families". In 1988, it
36 became known as the "Governor's Advisory Board on Homelessness".

1 6-422. ADVISORY BOARD — MEMBERSHIP.

2 (A) COMPOSITION; APPOINTMENT.

3 THE ADVISORY BOARD CONSISTS OF TWO MEMBERS FROM EACH
4 CONGRESSIONAL DISTRICT IN THE STATE APPOINTED BY THE GOVERNOR.

5 (B) TENURE; VACANCIES.

6 (1) THE TERM OF A MEMBER IS 2 YEARS.

7 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
8 THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY BOARD ON OCTOBER 1, 2007.

9 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
10 SUCCESSOR IS APPOINTED.

11 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
12 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

13 (C) REMOVAL.

14 THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
15 MISCONDUCT.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 88A, § 134.

18 In subsection (a) of this section, the former reference to "16 members" is
19 deleted as included in the reference to "two members from each
20 congressional district in the State".

21 In subsection (b)(2) of this section, the reference to terms being staggered
22 as required by the terms provided for Advisory Board members on "October
23 1, 2007" is substituted for the former reference to terms being staggered as
24 required by the terms provided on "July 1, 1984". This substitution is not
25 intended to alter the term of any members of the Advisory Board. *See* §
26 ____ of Ch. ____, Acts of 2007. The terms of the members serving on
27 October 1, 2007, end as follows: (1) 8 in 2008; (2) 7 in 2009; and (3) 1 in
28 2011.

29 Defined term: "Advisory Board" § 6-417

30 6-423. ADVISORY BOARD — CHAIR; STAFF.

31 (A) CHAIR.

32 (1) FROM AMONG ITS MEMBERS, THE ADVISORY BOARD ANNUALLY
33 SHALL ELECT A CHAIR.

1 (2) THE MANNER OF THE ELECTION OF A CHAIR SHALL BE AS THE
2 ADVISORY BOARD DETERMINES.

3 (B) STAFF; OTHER EXPENDITURES.

4 THE ADVISORY BOARD MAY EMPLOY A STAFF AND MAKE OTHER
5 EXPENDITURES IN ACCORDANCE WITH THE STATE BUDGET.

6 REVISOR'S NOTE: This section formerly was Art. 88A, § 135(a), (b), and (f).

7 The only changes are in style.

8 Defined term: "Advisory Board" § 6-417

9 6-424. ADVISORY BOARD — QUORUM; MEETINGS; COMPENSATION.

10 (A) QUORUM.

11 A MAJORITY OF THE MEMBERS THEN SERVING ON THE ADVISORY BOARD IS A
12 QUORUM.

13 (B) MEETINGS.

14 THE ADVISORY BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
15 MEETINGS.

16 (C) COMPENSATION.

17 A MEMBER OF THE ADVISORY BOARD:

18 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY
19 BOARD; BUT

20 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
21 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 88A, § 135(c), (d), and (e).

24 In subsection (a) of this section, the former reference to a quorum "to do
25 business" is deleted as surplusage.

26 Subsection (c) of this section is revised in standard language for
27 consistency with similar provisions of the revised articles of the Code.

28 Defined term: "Advisory Board" § 6-417

1 6-425. DUTIES OF ADVISORY BOARD.

2 THE ADVISORY BOARD SHALL:

3 (1) ADVISE THE DEPARTMENT ON THE ADOPTION OF REGULATIONS TO
4 DESIGN AND ADMINISTER THE PROGRAM;

5 (2) COORDINATE AND MONITOR THE OPERATION OF THE PROGRAM;

6 (3) PROPOSE ANNUALLY TO THE DEPARTMENT A BUDGET AND A
7 FUNDING REQUEST FOR THE PROGRAM;

8 (4) ADVISE THE DEPARTMENT ON:

9 (I) A PLAN TO SERVE HOMELESS INDIVIDUALS;

10 (II) THE DISTRIBUTION OF FUNDS;

11 (III) THE EFFECTIVENESS OF PROGRAMS; AND

12 (IV) THE NEEDS OF THE HOMELESS;

13 (5) MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE
14 ALLOCATION OF ANY AVAILABLE FEDERAL FUNDS, STATE FUNDS, FOUNDATION
15 GRANTS, AND PRIVATE DONATIONS TO ESTABLISH, ADMINISTER, AND OPERATE
16 SHELTER, NUTRITION, AND SERVICE PROGRAMS FOR HOMELESS INDIVIDUALS AND
17 FAMILIES;

18 (6) MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE
19 ALLOCATION OF FUNDS TO THE AREAS OF THE STATE CONSIDERING UNMET NEEDS,
20 THE NUMBER OF HOMELESS INDIVIDUALS AND FAMILIES IN THOSE AREAS,
21 PROXIMITY TO SIMILAR SERVICES, AVAILABILITY OF ALTERNATE SOURCES OF
22 FUNDS, AND OTHER RELEVANT FACTORS; AND

23 (7) REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF
24 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE ACTIVITIES
25 OF THE PROGRAM, INCLUDING:

26 (I) FINANCIAL REPORTS;

27 (II) ADVISORY BOARD ACTIONS;

28 (III) DISTRIBUTION OF FUNDS; AND

29 (IV) SERVICE SUCCESSES AND FAILURES.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 88A, §§ 136 and 133(c).

32 In item (1) of this section, the former reference to "rules" is deleted in light
33 of the reference to "regulations". See General Revisor's Note to article.

1 In item (5) of this section, the former reference to any “appropriate” funds
2 is deleted as unnecessary.

3 Also in item (5) of this section, the former reference to donations that
4 “become available to the program” is deleted as redundant.

5 The Human Services Article Review Committee notes, for consideration by
6 the General Assembly, that although statutorily required, the Advisory
7 Board does not submit the report required under item (7) of this section
8 annually. This report was submitted annually during the first 4 years of
9 the existence of the Advisory Board, and has not been submitted since;
10 however, a report is submitted annually by the Department, and that
11 report is prepared jointly with the Advisory Board and includes most of the
12 information required under item (7) of this section.

13 Defined terms: “Advisory Board” § 6–417

14 “Department” § 6–101

15 “Homeless individual” § 6–417

16 “Program” § 6–417

17 6–426. DUTIES OF DEPARTMENT.

18 (A) IN GENERAL.

19 THE DEPARTMENT SHALL:

20 (1) CONTRACT WITH NONPROFIT ORGANIZATIONS TO OPERATE THE
21 PROGRAM;

22 (2) SEEK THE RECOMMENDATIONS OF THE ADVISORY BOARD ABOUT
23 POLICY DETERMINATIONS, THE ALLOCATION OF FUNDS, AND THE DEVELOPMENT OF
24 A PLAN TO SERVE HOMELESS INDIVIDUALS AND FAMILIES;

25 (3) ALLOCATE ANY AVAILABLE FEDERAL FUNDS AND STATE FUNDS TO
26 ESTABLISH, ADMINISTER, AND OPERATE SHELTER, NUTRITION, AND SERVICE
27 PROGRAMS FOR HOMELESS INDIVIDUALS AND FAMILIES;

28 (4) ALLOCATE FUNDS TO THE AREAS OF THE STATE, CONSIDERING
29 UNMET NEEDS AND THE NUMBER OF HOMELESS INDIVIDUALS AND FAMILIES IN
30 THOSE AREAS;

31 (5) ESTABLISH A HOUSING COUNSELOR AND AFTERCARE PROGRAM TO
32 ASSIST FAMILIES AND INDIVIDUALS IN OBTAINING AND MAINTAINING PERMANENT
33 HOUSING;

34 (6) ESTABLISH AND IMPLEMENT A HOMELESSNESS PREVENTION
35 PROGRAM TO PROVIDE SERVICES TO FAMILIES AND INDIVIDUALS IN A HOUSING
36 CRISIS, WHICH MAY INCLUDE:

37 (I) CASE MANAGEMENT SERVICES;

1 (II) COUNSELING TO DETECT HOUSEHOLDS AT RISK OF BECOMING
2 HOMELESS;

3 (III) TRAINING ON BUDGETING AND OTHER LIFE SKILLS;

4 (IV) EDUCATION ABOUT TENANTS' RIGHTS AND RESPONSIBILITIES;
5 AND

6 (V) CASH ASSISTANCE;

7 (7) ESTABLISH UNIFORM REPORTING CRITERIA FOR PROVIDERS OF
8 SERVICES TO HOMELESS INDIVIDUALS AND FAMILIES UNDER THIS PART;

9 (8) COLLECT REGIONAL DATA ON THE NUMBER OF HOMELESS
10 INDIVIDUALS AND FAMILIES THAT RECEIVE SERVICES UNDER THIS PART; AND

11 (9) MAKE RECOMMENDATIONS ON THE RESOURCES NECESSARY TO
12 PROVIDE ADEQUATE PROGRAMS.

13 (B) REPORTS.

14 (1) THE DEPARTMENT SHALL REPORT ANNUALLY TO THE GOVERNOR
15 ON THE EXTENT OF HOMELESSNESS DURING THE PRECEDING YEAR.

16 (2) THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR
17 AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL
18 ASSEMBLY ON THE EFFECTIVENESS OF THE HOMELESSNESS PREVENTION PROGRAM
19 IN PREVENTING FAMILIES AND INDIVIDUALS FROM BECOMING HOMELESS.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 88A, §§ 133(d)(2) and 137(a)(2), (3), (4), and (5)
22 and (b).

23 In the introductory language of subsection (a) of this section, the former
24 phrases "[i]n addition to any other regulations" and "[i]n addition to the
25 duties and responsibilities of the Department described under subsection
26 (a) of this section" are deleted as surplusage.

27 In subsection (a)(1) of this section, the former reference to "public and
28 private" nonprofit organizations is deleted as surplusage.

29 In subsection (a)(3) of this section, the former reference to "any
30 appropriate" federal funds is deleted as surplusage.

31 Defined terms: "Advisory Board" § 6-417

32 "Department" § 6-101

33 "Homeless individual" § 6-417

34 "Housing crisis" § 6-417

35 "Program" § 6-417

1 6-427. REGULATIONS.

2 THE DEPARTMENT SHALL ADOPT REGULATIONS, WITH THE ADVICE AND
3 RECOMMENDATIONS OF THE ADVISORY BOARD, TO GOVERN THE IMPLEMENTATION
4 AND EVALUATION OF THE PROGRAM UNDER THIS PART.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88A, §§ 133(d)(1) and 137(a)(1).

7 The requirement that the Department adopt regulations "with the advice
8 and recommendations of the Advisory Board" is substituted for the former
9 requirement that the Department "seek the advice and recommendations
10 of the board in developing these rules and regulations" for brevity.

11 The former phrase "as required under § 133(d) of this article" is deleted as
12 surplusage.

13 The former reference to "services" is deleted as included in the reference to
14 the "Program".

15 Defined terms: "Advisory Board" § 6-417

16 "Department" § 6-101

17 "Program" § 6-417

18 6-428. RESERVED.

19 6-429. RESERVED.

20 PART IV. HOMELESS WOMEN — CRISIS SHELTER HOME PROGRAM.

21 6-430. DEFINITIONS.

22 (A) IN GENERAL.

23 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

26 (B) CLIENT.

27 "CLIENT" MEANS A WOMAN WHO IS IN NEED OF HOUSING AND IS NOT ELIGIBLE
28 FOR OTHER AVAILABLE HOUSING SERVICES.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 88A, § 125.

31 (C) PROGRAM.

32 "PROGRAM" MEANS THE HOMELESS WOMEN - CRISIS SHELTER HOME
33 PROGRAM.

1 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
2 the full reference to the "Homeless Women – Crisis Shelter Home
3 Program".

4 6-431. LEGISLATIVE FINDINGS AND DECLARATIONS.

5 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

6 (1) AN INCREASING NUMBER OF WOMEN IN THE STATE ARE HOMELESS;

7 (2) HOMELESS WOMEN HAVE BEEN IGNORED BY STATE UNITS;

8 (3) CURRENT STATE-OPERATED PROGRAMS DO NOT ADEQUATELY
9 ADDRESS THE PROBLEM; AND

10 (4) AS A RESULT, THERE IS A LACK OF QUALITY EMERGENCY PUBLIC OR
11 PRIVATE HOUSING AVAILABLE FOR HOMELESS WOMEN.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88A, § 124.

14 In items (2) and (4) of this section, the references to "homeless" women are
15 substituted for the former references to "these" women for clarity.

16 In item (2) of this section, the reference to State "units" is substituted for
17 the former reference to State "agencies" for consistency with terminology
18 used throughout this article. *See* General Revisor's Note to article.

19 The Human Services Article Review Committee notes, for consideration by
20 the General Assembly, that this section was originally enacted in 1980. The
21 General Assembly may wish to consider whether this section continues to
22 accurately reflect current conditions.

23 6-432. ESTABLISHED; PURPOSE; LOCATION OF SHELTER HOMES.

24 (A) ESTABLISHED.

25 THERE IS A HOMELESS WOMEN – CRISIS SHELTER HOME PROGRAM IN THE
26 DEPARTMENT.

27 (B) PURPOSE.

28 THE PURPOSE OF THE PROGRAM IS TO PROVIDE CRISIS SHELTER HOMES,
29 MEALS, AND COUNSELING TO CLIENTS.

30 (C) LOCATION OF SHELTER HOMES.

31 AT LEAST ONE CRISIS SHELTER HOME SHALL BE LOCATED IN A MAJOR
32 POPULATION CENTER OF THE STATE TO FACILITATE THE USE OF THE SHELTER BY
33 CLIENTS LIVING IN THE REGION SURROUNDING THE SHELTER.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 126(a) and (b).

3 Subsection (a) of this section is restated in standard language for clarity
4 and consistency with similar provisions elsewhere in this article.

5 In subsection (b) of this section, the reference to the "Program" is
6 substituted for the former reference to the "crisis shelter homes" for clarity
7 and consistency with similar provisions elsewhere in this article.

8 Defined terms: "Client" § 6-430

9 "Department" § 6-101

10 "Program" § 6-430

11 6-433. LIMITATIONS ON SHELTER HOME USE.

12 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAY NOT USE A
13 SHELTER HOME AS PART OF ITS DISCHARGE SERVICE PLAN.

14 REVISOR'S NOTE: This section formerly was Art. 88A, § 126(g).

15 The only changes are in style.

16 6-434. POWERS AND DUTIES OF DEPARTMENT; DUTIES OF SHELTER HOMES.

17 (A) DUTIES OF SHELTER HOMES.

18 A SHELTER HOME:

19 (1) SHALL PROVIDE CLIENTS WITH A TEMPORARY RESIDENCE OF NOT
20 MORE THAN 12 CONTINUOUS WEEKS AND NECESSARY COUNSELING TO LINK
21 CLIENTS TO APPROPRIATE COMMUNITY SERVICES TO STABILIZE THE CLIENTS'
22 LIVING CONDITIONS;

23 (2) SHALL ACCEPT, FROM THE POLICE AND OTHER REFERRAL SOURCES
24 IN THE COMMUNITY, CLIENTS FOR TEMPORARY SHELTER;

25 (3) SHALL CONFORM TO APPLICABLE STATE AND LOCAL FIRE CODES,
26 HEALTH CODES, AND ZONING ORDINANCES; AND

27 (4) IS SUBJECT TO THE REGULATIONS ADOPTED BY THE DEPARTMENT.

28 (B) DUTIES OF DEPARTMENT.

29 THE DEPARTMENT SHALL:

30 (1) ESTABLISH STANDARDS OF CARE AND ADMISSION POLICIES FOR
31 SHELTER HOMES;

32 (2) MONITOR THE OPERATION OF THE SHELTER HOMES; AND

1 (3) ANNUALLY EVALUATE THE EFFECTIVENESS OF THE SHELTER
2 HOMES.

3 (C) AUTHORITY TO CONTRACT.

4 THE DEPARTMENT MAY CONTRACT WITH PRIVATE NONPROFIT
5 ORGANIZATIONS TO OPERATE THE PROGRAM.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 88A, § 126(d) and (e).

8 In subsection (a)(1) of this section, the former reference to shelter homes
9 being "designed and staffed" is deleted as surplusage.

10 In subsection (a)(4) of this section, the former reference to "rules" is deleted
11 in light of the reference to "regulations". *See* General Revisor's Note to
12 article.

13 In subsection (b)(1) of this section, the reference to standards of care and
14 admission policies "for shelter homes" is added for clarity.

15 Defined terms: "Client" § 6-430
16 "Department" § 6-101
17 "Program" § 6-430

18 6-435. DUTIES OF CLIENTS.

19 CLIENTS SHALL HAVE COOPERATIVE RESPONSIBILITY FOR HOUSEKEEPING
20 DUTIES IN A SHELTER HOME.

21 REVISOR'S NOTE: This section was formerly Art. 88A, § 126(c).

22 The only changes are in style.

23 Defined term: "Client" § 6-430

24 6-436. PRIORITY ACCESS TO INSTITUTIONS SUPERVISED BY DEPARTMENT OF
25 HEALTH AND MENTAL HYGIENE.

26 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL:

27 (1) GIVE A CLIENT EVALUATED BY A SHELTER HOME PRIORITY ACCESS,
28 AS APPROPRIATE, TO AN INSTITUTION THAT THE DEPARTMENT OF HEALTH AND
29 MENTAL HYGIENE SUPERVISES; AND

30 (2) SUPPLY APPROPRIATE MENTAL HEALTH SERVICES TO THE CLIENT.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 88A, § 126(f).

33 In item (1) of this section, the defined term "client" is substituted for the

1 former reference to “women” for clarity and consistency with terminology
2 used throughout this part.

3 Defined term: “Client” § 6–430

4 6–437. NONRESIDENTS.

5 HOUSING MAY NOT BE PROVIDED UNDER THIS PART TO AN APPLICANT FOR
6 HOUSING WHO IS NOT A RESIDENT OF THE STATE AT THE TIME THE APPLICATION IS
7 MADE.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 88A, § 126(h).

10 6–438. FUNDING.

11 (A) FUNDING PROVIDED IN ANNUAL BUDGET.

12 FUNDS TO OPERATE THE PROGRAM SHALL BE AS PROVIDED IN THE STATE
13 BUDGET.

14 (B) FEES FOR SERVICES.

15 THE SECRETARY SHALL ADOPT REGULATIONS THAT SET FEES FOR SERVICES
16 PROVIDED BY THE PROGRAM.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 127.

19 In subsections (a) and (b) of this section, references to the “Program” are
20 substituted for the former references to the “shelter homes” for clarity and
21 consistency within this part.

22 In subsection (a) of this section, the former reference to funds “for the
23 establishment” of the Program is deleted as included in the reference to
24 funds “to operate” the Program.

25 In subsection (b) of this section, the former reference to a “rule” is deleted
26 in light of the reference to “regulations”. *See* General Revisor’s Note to
27 article.

28 Defined terms: “Program” § 6–430
29 “Secretary” § 6–101

30 SUBTITLE 5. ADULT SERVICES.

31 PART I. COMMUNITY HOME CARE SERVICES.

32 6–501. DEFINITIONS.

33 (A) IN GENERAL.

1 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

4 (B) COMMUNITY SERVICES.

5 (1) "COMMUNITY SERVICES" MEANS HOUSEHOLD AND PERSONAL
6 SERVICES PROVIDED FOR AN ELDERLY INDIVIDUAL UNDER THE DIRECTION AND
7 SUPERVISION OF AN APPROPRIATE SOCIAL SERVICES OR HEALTH AGENCY.

8 (2) "COMMUNITY SERVICES" INCLUDES ASSISTANCE WITH:

9 (I) MEAL PREPARATION AND PLANNING;

10 (II) HOME-DELIVERED MEAL SERVICES;

11 (III) DRESSING;

12 (IV) SHOPPING;

13 (V) VISITS TO HEALTH, RECREATIONAL, AND SHOPPING
14 FACILITIES;

15 (VI) TRANSPORTATION AND PERSONAL ESCORT SERVICES;

16 (VII) LIGHT HOUSEKEEPING; AND

17 (VIII) PERSONAL MEDICAL AND NURSING CARE RELATED TO THE
18 PROVISION OF COMMUNITY SERVICES.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 88A, § 85(a).

21 In paragraph (1) of this subsection, the former phrase "[f]or the purposes of
22 this subheading" is deleted as surplusage.

23 In the introductory language of paragraph (2) of this subsection, the former
24 phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30,
25 which provides that the word "includes" is used "by way of illustration and
26 not by way of limitation".

27 In paragraph (2)(viii) of this subsection and throughout this part, the
28 defined term "community services" is substituted for the former reference
29 to "community home care services" for consistency throughout this part.

30 Defined term: "Elderly individual" § 6-501

31 (C) ELDERLY INDIVIDUAL.

1 "ELDERLY INDIVIDUAL" MEANS AN INDIVIDUAL AT LEAST 65 YEARS OLD AND
2 THE INDIVIDUAL'S SPOUSE, REGARDLESS OF THE SPOUSE'S AGE.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 88A, § 85(b).

5 The former phrase "[f]or the purposes of this subheading" is deleted as
6 surplusage.

7 In this subsection and throughout this part, the reference to an
8 "individual" is substituted for the former reference to "persons" because
9 only a human being, and not the other entities included in the defined
10 term "person", may qualify for services under this part.

11 6-502. STATE POLICY; LEGISLATIVE INTENT.

12 (A) STATE POLICY.

13 IT IS THE POLICY OF THE STATE THAT ELDERLY INDIVIDUALS IN THE STATE
14 SHOULD HAVE ACCESS TO A COMPREHENSIVE RANGE OF COMMUNITY SERVICES TO
15 ENABLE THEM TO REMAIN IN THEIR OWN HOMES OR OTHER INDEPENDENT LIVING
16 ARRANGEMENTS CONSISTENT WITH THEIR DESIRES, ABILITIES, AND SAFETY.

17 (B) LEGISLATIVE INTENT.

18 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COMMUNITY
19 SERVICES PROVIDED UNDER THIS SUBTITLE SHALL BE AVAILABLE TO ALL ELDERLY
20 INDIVIDUALS, BUT THAT THOSE ELDERLY INDIVIDUALS WHO ARE FINANCIALLY
21 ABLE TO DO SO SHALL PAY ALL OR A PORTION OF THE COSTS OF THE COMMUNITY
22 SERVICES.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from the first and third sentences of former Art. 88A, § 84.

25 Defined terms: "Community services" § 6-501
26 "Elderly individual" § 6-501

27 6-503. DEPARTMENT TO ADMINISTER SYSTEM OF SERVICES.

28 WITH THE ADVICE, COOPERATION, AND ASSISTANCE OF THE DEPARTMENT OF
29 AGING AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE
30 DEPARTMENT SHALL ADMINISTER A SYSTEM OF COMMUNITY SERVICES TO SERVE AS
31 AN EFFECTIVE ALTERNATIVE TO INAPPROPRIATE INSTITUTIONAL CARE FOR
32 ELDERLY INDIVIDUALS.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the second sentence of former Art. 88A, § 84 and the first
35 sentence of § 86.

36 In this section and throughout this subtitle, the defined term

1 “Department” is substituted for the former reference to the “Department of
2 Employment and Social Services”.

3 The former phrase “[t]o implement this policy” is deleted as surplusage.

4 The former phrase “including the training of persons to perform
5 community services for elderly persons” is deleted in light of § 6–504(4) of
6 this subtitle to the same effect.

7 The Department of Human Resources advises that there is no single
8 program that fits the description in this part. Therefore, the reference to a
9 “system of community services” derived from former Art. 88A, § 84 is used
10 in this section and throughout this part for accuracy.

11 Defined terms: “Community services” § 6–501

12 “Department” § 6–101

13 “Elderly individual” § 6–501

14 6–504. DUTIES OF DEPARTMENT.

15 TO CARRY OUT THE SYSTEM OF COMMUNITY SERVICES REQUIRED UNDER THIS
16 PART, THE DEPARTMENT OR ITS DESIGNEE SHALL:

17 (1) ADOPT REGULATIONS, INCLUDING STANDARDS AND MEANS FOR
18 REIMBURSEMENT FROM ELDERLY INDIVIDUALS FINANCIALLY ABLE TO PAY FOR ALL
19 OR PART OF THE SERVICES PROVIDED;

20 (2) MONITOR CONTINUOUSLY THE EFFECTIVENESS OF THE SYSTEM
21 AND PERFORM EVALUATIVE RESEARCH THROUGH THE DEPARTMENT OF AGING;

22 (3) CONTRACT, WHERE FEASIBLE AND DESIRABLE, WITH
23 GOVERNMENTAL UNITS, PRIVATE NONPROFIT ORGANIZATIONS, AND VOLUNTEER
24 GROUPS TO PROVIDE COMMUNITY SERVICES AND GROUP NUTRITIONAL DINING
25 SERVICES;

26 (4) PROVIDE FUNDS TO TRAIN INDIVIDUALS TO PERFORM COMMUNITY
27 SERVICES AND FOR ADMINISTRATIVE COSTS OF THE SYSTEM; AND

28 (5) USE, TO THE EXTENT AVAILABLE, GRANTS FROM FEDERAL, STATE,
29 AND OTHER PUBLIC OR PRIVATE SOURCES TO FUND THE SYSTEM.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from the second sentence of Art. 88A, § 86.

32 In the introductory language of this section, the reference to the “system of
33 community services” is substituted for the former reference to “this
34 program” for consistency throughout this subtitle. Similarly, in items (2),
35 (4), and (5) of this section, references to the “system” are substituted for the
36 former references to the “program”.

1 In item (1) of this section, the former reference to “rules” is deleted as
2 included in the reference to “regulations”. *See* General Revisor’s Note to
3 article.

4 Also in item (1) of this section, the former phrases “for implementation of
5 the program” and “under the program” are deleted as surplusage.

6 In item (3) of this section, the reference to “governmental units” is
7 substituted for the former reference to “public agencies” for consistency
8 with terminology used throughout this article. *See* General Revisor’s Note
9 to article.

10 Defined terms: “Community services” § 6–501

11 “Department” § 6–101

12 “Elderly individual” § 6–501

13 6–505. EMPLOYMENT OF ELDERLY INDIVIDUALS TO PERFORM COMMUNITY
14 SERVICES.

15 (A) TRAINING AND USE.

16 TO THE EXTENT POSSIBLE, THE DEPARTMENT SHALL TRAIN AND UTILIZE
17 ELDERLY INDIVIDUALS TO PERFORM COMMUNITY SERVICES.

18 (B) COMPENSATION.

19 ELDERLY INDIVIDUALS COMPENSATED FOR PERFORMING COMMUNITY
20 SERVICES ARE NOT SUBJECT TO THE STATE PERSONNEL MANAGEMENT SYSTEM OR
21 ANY MERIT SYSTEM OF A POLITICAL SUBDIVISION.

22 (C) AUTHORITY OF DEPARTMENT.

23 THE DEPARTMENT HAS SOLE AUTHORITY FOR DETERMINING ALL CONDITIONS
24 OF EMPLOYMENT AND RATES OF COMPENSATION.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 88A, § 87.

27 In subsection (a) of this section, the former phrase “in the administration
28 of a program of community home care services for the elderly” is deleted as
29 surplusage.

30 In subsection (b) of this section, the former phrase “under this program” is
31 deleted as surplusage.

32 The Human Services Article Review Committee notes, for consideration by
33 the General Assembly, that in subsection (b) of this section, the reference to
34 a “merit” system may be obsolete. The General Assembly may wish to
35 consider substituting a reference to a “personnel” system.

1 Defined terms: "Community services" § 6-501

2 "Department" § 6-101

3 "Elderly individual" § 6-501

4 6-506. RESERVED.

5 6-507. RESERVED.

6 PART II. CERTIFIED ADULT RESIDENTIAL ENVIRONMENTAL PROGRAM.

7 6-508. DEFINITIONS.

8 (A) IN GENERAL.

9 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 88A, § 138(a).

12 The reference to this "part" is substituted for the former reference to this
13 "subtitle" to reflect the reorganization of provisions formerly contained in
14 Article 88A.

15 (B) CARE PROGRAM.

16 "CARE PROGRAM" MEANS THE CERTIFIED ADULT RESIDENTIAL ENVIRONMENT
17 PROGRAM.

18 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 138(b).

19 The only changes are in style.

20 (C) INDIVIDUAL WITH A DISABILITY.

21 (1) "INDIVIDUAL WITH A DISABILITY" MEANS AN ADULT WHO REQUIRES
22 A SUPPORTIVE HOUSING ARRANGEMENT TO RESIDE IN THE COMMUNITY BECAUSE
23 OF A PHYSICAL, MEDICAL, OR MENTAL DISABILITY.

24 (2) "INDIVIDUAL WITH A DISABILITY" DOES NOT INCLUDE AN ADULT
25 WHOSE DISABILITY IS SO SEVERE OR COMPLEX AS TO REQUIRE SPECIALIZED
26 PROFESSIONAL INTERVENTION AS PART OF THE SUPPORTIVE HOUSING
27 ARRANGEMENT.

28 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 138(c).

29 In this subsection and throughout this part, the reference to "an individual
30 with a disability" is substituted for the former obsolete reference to a
31 "disabled individual" for consistency with terminology used in Title 7 of
32 this article.

33 The only other changes are in style.

1 (D) SUPPORTIVE HOUSING ARRANGEMENT.

2 "SUPPORTIVE HOUSING ARRANGEMENT" MEANS A HOUSING ARRANGEMENT
3 THAT PROVIDES AN INDIVIDUAL WITH ROOM, BOARD, AND ASSISTANCE WITH THE
4 ACTIVITIES OF DAILY LIVING.

5 REVISOR'S NOTE: This subsection formerly was Art. 88A, § 138(d).

6 No changes are made.

7 6-509. LEGISLATIVE FINDINGS; STATE POLICY.

8 (A) LEGISLATIVE FINDINGS.

9 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

10 (1) AN INCREASING NUMBER OF ADULTS IN THE STATE ARE UNABLE,
11 BECAUSE OF DISABILITY, TO RESIDE IN THE COMMUNITY WITHOUT A SUPPORTIVE
12 HOUSING ARRANGEMENT;

13 (2) MANY OF THESE ADULTS ARE THEREFORE HOMELESS,
14 UNNECESSARILY INSTITUTIONALIZED, OR RESIDING IN SUBSTANDARD HOUSING;
15 AND

16 (3) CURRENT STATE-OPERATED PROGRAMS DO NOT ADEQUATELY
17 ADDRESS THIS PROBLEM.

18 (B) STATE POLICY.

19 IT IS THE POLICY OF THE STATE TO ENCOURAGE THE DEVELOPMENT OF
20 AFFORDABLE HOUSING FOR ADULTS WHO ARE UNABLE TO AVAIL THEMSELVES OF
21 EXISTING HOUSING BECAUSE OF DISABILITY.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 88A, § 139.

24 The General Assembly may wish to consider whether subsection (a) of this
25 section accurately reflects current conditions.

26 6-510. ESTABLISHED; PURPOSE.

27 (A) ESTABLISHED.

28 THERE IS A CARE PROGRAM IN THE DEPARTMENT.

29 (B) PURPOSE.

30 THE PURPOSE OF THE CARE PROGRAM IS TO PROVIDE HOUSING AND RELATED
31 SERVICES FOR INDIVIDUALS WITH DISABILITIES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 140(a).

3 Subsection (a) of this section is revised in standard language for clarity
4 and consistency with similar provisions elsewhere in this article.

5 In subsection (b) of this section, the reference to "[t]he purpose of" the
6 CARE Program is added for clarity and consistency with similar provisions
7 elsewhere in this article.

8 Defined terms: "CARE Program" § 6-508

9 "Department" § 6-101

10 "Individual with a disability" § 6-508

11 6-511. SCOPE OF PROGRAM.

12 IN ACCORDANCE WITH THE STATE BUDGET, THE CARE PROGRAM SHALL
13 PROVIDE FOR:

14 (1) THE DEVELOPMENT OF CARE HOUSING;

15 (2) CASE MANAGEMENT TO INDIVIDUALS WITH DISABILITIES RESIDING
16 IN CARE HOUSING; AND

17 (3) SUPPORTIVE SERVICES FOR INDIVIDUALS WITH DISABILITIES
18 RESIDING IN CARE HOUSING.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 88A, § 140(b).

21 Defined terms: "CARE Program" § 6-508

22 "Individual with a disability" § 6-508

23 6-512. ADMINISTRATION OF PROGRAM.

24 (A) ANCILLARY SERVICES.

25 THE DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF EDUCATION,
26 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE DEPARTMENT OF
27 AGING SHALL PROVIDE APPROPRIATE ANCILLARY SERVICES TO INDIVIDUALS WITH
28 DISABILITIES IN THE CARE PROGRAM SUBJECT TO PROGRAMMATIC ELIGIBILITY AND
29 PRIORITY CRITERIA AND BUDGETARY RESOURCES.

30 (B) COORDINATION.

31 THE SECRETARY OF HUMAN RESOURCES, THE SECRETARY OF HEALTH AND
32 MENTAL HYGIENE, THE SECRETARY OF AGING, AND THE STATE SUPERINTENDENT
33 OF SCHOOLS SHALL:

1 (1) COORDINATE DEPARTMENTAL PROGRAMS TO ENSURE THAT THE
2 SERVICES NEEDED BY INDIVIDUALS WITH DISABILITIES RESIDING IN CARE HOUSING
3 ARE PROVIDED IN AN INTEGRATED AND COST-EFFECTIVE MANNER; AND

4 (2) PREPARE AND ENTER INTO A WRITTEN MEMORANDUM OF
5 AGREEMENT THAT SPECIFIES THE SERVICES TO BE PROVIDED BY EACH
6 DEPARTMENTAL PROGRAM AND THE INTEGRATION AND TIMING OF THE DELIVERY
7 OF THE SERVICES.

8 (C) REGULATIONS.

9 THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE CARE
10 PROGRAM.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88A, §§ 143 and 140(c) and (d).

13 In subsection (b)(1) of this section, the defined term "individuals with
14 disabilities" is substituted for the former reference to "disabled adults" for
15 consistency throughout this part.

16 In subsection (b)(2) of this section, the reference to "enter[ing] into" a
17 written memorandum of agreement is added for clarity.

18 Defined terms: "CARE Program" § 6-508

19 "Department" § 6-101

20 "Individual with a disability" § 6-508

21 6-513. ELIGIBILITY.

22 (A) FOR OTHER SERVICES.

23 ELIGIBILITY FOR SERVICES UNDER THE CARE PROGRAM DOES NOT PRECLUDE
24 ELIGIBILITY FOR OTHER SERVICES.

25 (B) NONRESIDENTS.

26 THE CARE PROGRAM MAY NOT SERVE AN INDIVIDUAL WITH A DISABILITY WHO
27 IS NOT A RESIDENT OF THE STATE WHEN THE APPLICATION FOR SERVICE IS MADE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 88A, § 141.

30 In subsection (a) of this section, the reference to not "preclud[ing]
31 eligibility" for other services is substituted for the former reference to
32 "remain[ing] eligible" for clarity.

33 Defined terms: "CARE Program" § 6-508

34 "Individual with a disability" § 6-508

1 SUBTITLE 6. COMMISSION ON RESPONSIBLE FATHERHOOD.

2 6-601. "COMMISSION" DEFINED.

3 IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON RESPONSIBLE
4 FATHERHOOD.

5 REVISOR'S NOTE: This section formerly was Art. 41, § 18-401.

6 No changes are made.

7 6-602. ESTABLISHED.

8 (A) IN GENERAL.

9 THERE IS A COMMISSION ON RESPONSIBLE FATHERHOOD.

10 (B) STATUS.

11 THE COMMISSION:

12 (1) IS INDEPENDENT; BUT

13 (2) IS LOCATED IN THE CHILD SUPPORT ENFORCEMENT
14 ADMINISTRATION OF THE DEPARTMENT FOR BUDGETARY AND ADMINISTRATIVE
15 PURPOSES ONLY.

16 REVISOR'S NOTE: This section formerly was Art. 41, § 18-402.

17 The only changes are in style.

18 In subsection (b)(2) of this section, the General Assembly may wish to
19 consider substituting a reference to the "Community Services
20 Administration" for the reference to the "Child Support Enforcement
21 Administration" to reflect the current placement of the Commission.

22 Defined terms: "Commission" § 6-601

23 "Department" § 6-101

24 6-603. PURPOSES.

25 THE PURPOSES OF THE COMMISSION ARE TO:

26 (1) RAISE AWARENESS OF THE PROBLEMS CREATED WHEN A CHILD IS
27 RAISED WITHOUT THE PRESENCE OF A RESPONSIBLE FATHER;

28 (2) IDENTIFY OBSTACLES THAT IMPEDE OR PREVENT THE
29 INVOLVEMENT OF RESPONSIBLE FATHERS IN THE LIVES OF THEIR CHILDREN; AND

30 (3) IDENTIFY STRATEGIES THAT ENCOURAGE RESPONSIBLE
31 FATHERHOOD.

1 REVISOR'S NOTE: This section formerly was Art. 41, § 18–406.

2 The only changes are in style.

3 Defined term: “Commission” § 6–601

4 6–604. MEMBERSHIP.

5 (A) COMPOSITION.

6 THE COMMISSION CONSISTS OF THE FOLLOWING 18 MEMBERS APPOINTED BY
7 THE GOVERNOR:

8 (1) THE SECRETARY OF BUDGET AND MANAGEMENT;

9 (2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

10 (3) THE SECRETARY OF HUMAN RESOURCES;

11 (4) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

12 (5) THE STATE SUPERINTENDENT OF SCHOOLS;

13 (6) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR
14 CHILDREN;

15 (7) ONE JUDGE ASSIGNED TO THE FAMILY DIVISION OF A CIRCUIT
16 COURT NOMINATED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

17 (8) ONE MEMBER OF THE SENATE OF MARYLAND NOMINATED BY THE
18 PRESIDENT OF THE SENATE;

19 (9) ONE MEMBER OF THE HOUSE OF DELEGATES NOMINATED BY THE
20 SPEAKER OF THE HOUSE;

21 (10) THREE INDIVIDUALS WITH EXTENSIVE PROGRAMMATIC OR
22 ACADEMIC EXPERIENCE WITH NONCUSTODIAL FATHERS AND THEIR CHILDREN;

23 (11) THREE INDIVIDUALS WITH AN INTEREST OR EXPERTISE IN MATTERS
24 PERTAINING TO NONCUSTODIAL FATHERS AND THEIR CHILDREN, INCLUDING
25 REPRESENTATIVES OF COMMUNITY, PARENT, OR RELIGIOUS GROUPS OR
26 ORGANIZATIONS;

27 (12) TWO REPRESENTATIVES OF LOCAL GOVERNMENT IN AREAS WITH A
28 SIGNIFICANT NUMBER OF NONCUSTODIAL FATHERS; AND

29 (13) ONE NONCUSTODIAL FATHER.

30 (B) TENURE.

1 (1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(10),
2 (11), OR (12) OF THIS SECTION IS 3 YEARS.

3 (2) THE TERM OF THE MEMBER APPOINTED UNDER SUBSECTION (A)(13)
4 OF THIS SECTION IS 2 YEARS.

5 (3) THE TERMS OF MEMBERS APPOINTED UNDER SUBSECTION (A)(10),
6 (11), (12), AND (13) OF THIS SECTION SHALL BE STAGGERED AS REQUIRED BY THE
7 TERMS IN EFFECT FOR THOSE MEMBERS ON OCTOBER 1, 2007.

8 (4) A MEMBER WHO IS APPOINTED TO A POSITION WITH A FIXED TERM
9 AFTER THE TERM HAS BEGUN SHALL SERVE ONLY FOR THE REST OF THE TERM AND
10 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

11 (5) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
12 SUCCESSOR IS APPOINTED AND QUALIFIES.

13 (C) DESIGNEES.

14 A MEMBER APPOINTED UNDER SUBSECTION (A)(1) THROUGH (6) OF THIS
15 SECTION MAY DESIGNATE IN WRITING AN ALTERNATE TO REPRESENT THE MEMBER
16 AND EXERCISE THE MEMBER'S POWER TO VOTE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 41, §§ 18–403(a) and (b) and 18–404(b).

19 In subsection (a)(6) of this section, the reference to the “Executive Director
20 of the Governor’s Office for Children” is substituted for the former obsolete
21 reference to the “Special Secretary of the Office for Children, Youth, and
22 Families”.

23 In subsection (a)(10) and (11) of this section, the reference to “individuals”
24 is substituted for the former reference to “persons” because only
25 individuals, and not the other kinds of entities included in the defined
26 term “person”, can be members of the Commission. *See* § 1–101 of this
27 article.

28 In subsection (b)(3) of this section, the reference to the terms on “October 1,
29 2007” is new language added for clarity. This addition is not intended to
30 alter the term of any member of the Commission. *See* ___ of Ch. ___, Acts of
31 2007. The terms of the members serving on October 1, 2007 end as follows:
32 (1) 4 on September 30, 2008; (2) 3 on September 30, 2009; and (3) 2 on
33 September 30, 2010.

34 In subsection (b)(4) of this section, the reference to the “qualifi[cation]” of a
35 successor is added for conformity with standard language.

36 Also in subsection (b)(4) of this section, the reference to members with a
37 “fixed term” is substituted for the former reference to members “appointed
38 pursuant to subsection (a)(10), (11), (12), or (13) of this section” for brevity.

1 Former Art. 41, § 18–403(c), which provided that “[t]he Governor shall
2 appoint a successor in the event of a vacancy”, is deleted as redundant of
3 the introductory language of subsection (a) of this section.

4 6–605. CHAIR.

5 FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL
6 DESIGNATE A CHAIR FOR A 2–YEAR TERM.

7 REVISOR’S NOTE: This section formerly was Art. 41, § 18–403(e).

8 The only changes are in style.

9 Defined term: “Commission” § 6–601

10 6–606. QUORUM; MEETINGS; COMPENSATION.

11 (A) QUORUM.

12 A MAJORITY OF THE MEMBERS THEN SERVING ON THE COMMISSION IS A
13 QUORUM.

14 (B) MEETINGS.

15 THE COMMISSION SHALL DETERMINE THE TIMES AND PLACES OF ITS
16 MEETINGS.

17 (C) COMPENSATION.

18 A MEMBER OF THE COMMISSION:

19 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
20 COMMISSION; BUT

21 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
22 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 41, §§ 18–403(d) and 18–404(a) and, as it related
25 to meetings, (c).

26 Subsection (c)(2) of this section is revised in standard language used to
27 provide for reimbursement for expenses.

28 Defined term: “Commission” § 6–601

29 6–607. PROCEDURES.

30 THE COMMISSION SHALL DETERMINE ANY NECESSARY OPERATING
31 PROCEDURES, INCLUDING ESTABLISHING SUBCOMMITTEES OR WORK GROUPS

1 UTILIZING THE EXPERTISE OF PERSONS WHO ARE NOT MEMBERS OF THE
2 COMMISSION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 18-404(c), except as it related to meetings.

5 The reference to "persons who are not members of the Commission" is
6 substituted for the former reference to "noncommission members" for
7 clarity.

8 Defined term: "Commission" § 6-601

9 6-608. STAFF.

10 (A) DIRECTOR; STAFF.

11 (1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE COMMISSION
12 SHALL HIRE A STAFF DIRECTOR AS PROVIDED IN THE STATE BUDGET.

13 (2) SUBJECT TO THE ADVICE AND CONSENT OF THE CHAIR OF THE
14 COMMISSION, THE STAFF DIRECTOR SHALL HIRE ADDITIONAL STAFF AS PROVIDED
15 IN THE STATE BUDGET TO PERFORM THE DUTIES THAT THE COMMISSION
16 CONSIDERS APPROPRIATE.

17 (B) STATUS.

18 THE STAFF IS RESPONSIBLE TO THE SECRETARY SOLELY FOR ROUTINE
19 ADMINISTRATIVE PURPOSES.

20 (C) ADDITIONAL STAFF.

21 MEMBERS OF THE COMMISSION MAY DESIGNATE STAFF FROM THEIR
22 RESPECTIVE UNITS TO ASSIST THE COMMISSION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 41, § 18-405.

25 In subsection (c) of this section, the reference to "units" is substituted for
26 the former reference to "agencies" for consistency. *See* General Revisor's
27 Note to article.

28 Also in subsection (c) of this section, the former reference to "constituent"
29 units is deleted as surplusage.

30 Defined terms: "Commission" § 6-601

31 "Secretary" § 6-101

32 6-609. DUTIES.

33 (A) IN GENERAL.

1 THE COMMISSION SHALL:

2 (1) CONDUCT A THOROUGH EXAMINATION OF THE EXTENT AND
3 IMPLICATIONS OF THE ABSENCE OF RESPONSIBLE FATHERS FROM FAMILIES;

4 (2) STRONGLY ADVOCATE TO ENSURE THE DEVELOPMENT OF A
5 COORDINATED AND COMPREHENSIVE APPROACH TO THE SOCIAL, EDUCATIONAL,
6 ECONOMIC, HEALTH, AND LEGAL PROBLEMS OF RESPONSIBLE FATHERHOOD;

7 (3) PROMOTE INTERDEPARTMENTAL AND PUBLIC AND PRIVATE POLICY
8 AND PROGRAM COLLABORATION AND COORDINATION;

9 (4) COLLECT DATA AND PERFORM ANALYSES ON EFFORTS TO INCREASE
10 RESPONSIBLE FATHERHOOD;

11 (5) PROMOTE THE DEVELOPMENT OF STATEWIDE POLICIES TO
12 ADDRESS THE ISSUES PREVENTING FATHERS FROM PARTICIPATING IN RAISING
13 THEIR CHILDREN;

14 (6) MONITOR STATEWIDE PROGRESS TOWARDS REDUCING THE NUMBER
15 OF NONCUSTODIAL FATHERS;

16 (7) PROMOTE AND ENCOURAGE WIDE COMMUNITY INPUT,
17 COMMUNICATION, AND EDUCATION REGARDING RESPONSIBLE FATHERHOOD; AND

18 (8) ADVISE LOCAL PUBLIC AND PRIVATE AGENCIES SEEKING TO
19 MOBILIZE LOCAL EFFORTS TO PROMOTE RESPONSIBLE FATHERHOOD.

20 (B) METHODS OF CONDUCTING EXAMINATION.

21 TO CARRY OUT ITS DUTIES UNDER SUBSECTION (A)(1) OF THIS SECTION, THE
22 COMMISSION SHALL:

23 (1) HOLD HEARINGS AT WHICH PERSONS, ORGANIZATIONS, AND
24 AGENCIES WITH AN INTEREST IN RESPONSIBLE FATHERHOOD MAY PRESENT THEIR
25 VIEWS;

26 (2) CONDUCT MEETINGS, DISCUSSIONS, AND EXAMINATIONS AS
27 NECESSARY TO GATHER INFORMATION ON THE LAWS AND SERVICES RELATING TO
28 RESPONSIBLE FATHERHOOD IN THIS AND OTHER STATES;

29 (3) IDENTIFY AND EXAMINE THE LIMITATIONS AND PROBLEMS
30 ASSOCIATED WITH EXISTING LAWS, PROGRAMS, AND SERVICES RELATING TO
31 RESPONSIBLE FATHERHOOD; AND

32 (4) EXAMINE THE FINANCING AND DELIVERY OF SERVICES RELATING
33 TO RESPONSIBLE FATHERHOOD.

34 (C) PLANS.

1 (1) IN COOPERATION WITH APPROPRIATE STATE AND LOCAL UNITS AND
2 IN ACCORDANCE WITH STATE AND FEDERAL LAW, THE COMMISSION SHALL FOSTER
3 PLANS TO ENHANCE THE COORDINATION OF FEDERAL- AND STATE-FUNDED
4 PROGRAMS AND SERVICES REGARDING RESPONSIBLE FATHERHOOD.

5 (2) THE COMMISSION SHALL DEVELOP A COORDINATED
6 COMPREHENSIVE STATEWIDE PLAN, INCLUDING ESTIMATES OF NECESSARY PUBLIC
7 AND PRIVATE FUNDING, FOR:

8 (I) INCREASING THE PARTICIPATION OF FATHERS IN RAISING
9 THEIR CHILDREN; AND

10 (II) IMPROVING SERVICES TO NONCUSTODIAL FATHERS.

11 (3) IN ACCORDANCE WITH THE STATEWIDE PLAN, THE COMMISSION
12 SHALL RECOMMEND TO THE GOVERNOR DISTRIBUTION OF COMMUNITY INCENTIVE
13 GRANTS CONCERNING RESPONSIBLE FATHERHOOD FROM FUNDS PROVIDED IN THE
14 STATE BUDGET FOR THIS PURPOSE OR FROM GRANTS OR PRIVATE DONATIONS,
15 GIVING PRIORITY TO INNOVATIVE PROJECTS THAT:

16 (I) PROMOTE THE ESTABLISHMENT OF A COORDINATED NETWORK
17 OF SERVICES FOR NONCUSTODIAL FATHERS; AND

18 (II) DEMONSTRATE A HIGH LEVEL OF COMMITMENT TO THE
19 PROJECT BY MAKING AVAILABLE NONSTATE FUNDS, PERSONNEL, AND FACILITIES.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 18-407.

22 In subsection (a)(4) of this section, the former reference to "ongoing and
23 new" efforts is deleted as surplusage.

24 In subsection (c)(1) of this section, the reference to "units" is substituted for
25 the former reference to "agencies" for consistency. *See* General Revisor's
26 Note to article.

27 In subsection (c)(2) of this section, the former reference to "State ... and
28 local" funding is deleted as included in the reference to "public" funding.

29 Defined term: "Commission" § 6-601

30 6-610. RESTRICTIONS.

31 THE COMMISSION MAY NOT OPERATE ANY PROGRAMS OR PROVIDE ANY DIRECT
32 SERVICES.

33 REVISOR'S NOTE: This section formerly was Art. 41, § 18-408.

34 No changes are made.

35 Defined term: "Commission" § 6-601

1 SUBTITLE 7. CITIZENSHIP PROMOTION PROGRAM.

2 6-701. "PROGRAM" DEFINED.

3 IN THIS SUBTITLE, "PROGRAM" MEANS THE CITIZENSHIP PROMOTION
4 PROGRAM.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88A, § 145(a)(1) and (3).

7 The former introductory clause, "the following words have the meanings
8 indicated", is deleted as unnecessary because only one word is defined in
9 this section.

10 REVISOR'S NOTE TO SECTION:

11 Former Art. 88A, § 145(a)(2) and (4), which defined "Department" and
12 "Secretary", respectively, are revised in § 6-101 of this title.

13 6-702. ESTABLISHED.

14 THERE IS A CITIZENSHIP PROMOTION PROGRAM IN THE DEPARTMENT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88A, § 145(b), as it established the Program.

17 It is revised in standard language for clarity and consistency with similar
18 provisions elsewhere in this article.

19 Defined term: "Department" § 6-101

20 6-703. PURPOSES.

21 THE PURPOSES OF THE PROGRAM ARE:

22 (1) TO ENCOURAGE AND ASSIST ELIGIBLE FOREIGN-BORN RESIDENTS
23 TO BECOME NATURALIZED CITIZENS OF THE UNITED STATES AND ACTIVE
24 PARTICIPANTS IN THE CIVIC LIFE OF MARYLAND;

25 (2) TO INCREASE THE NUMBER AND PROPORTION OF ELIGIBLE
26 FOREIGN-BORN RESIDENTS WHO BECOME CITIZENS OF THE UNITED STATES; AND

27 (3) TO ENCOURAGE FOREIGN-BORN RESIDENTS WHO BECOME CITIZENS
28 TO BE INVOLVED IN OUR DEMOCRATIC INSTITUTIONS.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 88A, § 145(d).

31 In item (1) of this section, the reference to eligible "foreign-born" residents
32 becoming naturalized citizens is added for consistency within the section.

1 Defined term: "Program" § 6-701

2 6-704. DUTIES.

3 IN ACCORDANCE WITH THE STATE BUDGET, THE PROGRAM SHALL:

4 (1) ENCOURAGE ELIGIBLE RESIDENTS TO LEARN ENGLISH;

5 (2) ENCOURAGE ELIGIBLE RESIDENTS TO BECOME NATURALIZED
6 CITIZENS OF THE UNITED STATES;

7 (3) INFORM ELIGIBLE RESIDENTS ABOUT THE RIGHTS AND
8 RESPONSIBILITIES OF CITIZENS, THE PROCESS OF NATURALIZATION, AND THE
9 AVAILABILITY OF CITIZENSHIP SERVICES;

10 (4) MAKE AVAILABLE OR INCREASE THE AVAILABILITY OF
11 INSTRUCTION IN:

12 (I) ENGLISH AS A SECOND LANGUAGE;

13 (II) UNITED STATES HISTORY; AND

14 (III) CITIZENSHIP PREPARATION;

15 (5) MAKE AVAILABLE OR INCREASE THE AVAILABILITY OF ASSISTANCE
16 IN COMPLETING APPLICATIONS FOR NATURALIZATION;

17 (6) ESTABLISH AN EFFECTIVE CONNECTION TO NONPARTISAN VOTER
18 REGISTRATION EFFORTS;

19 (7) ENCOURAGE THE INVOLVEMENT OF NEW CITIZENS IN DEMOCRATIC
20 INSTITUTIONS; AND

21 (8) WORK WITH FEDERAL, STATE, AND LOCAL UNITS OF GOVERNMENT
22 AND ORGANIZATIONS TO RESPOND TO THE NEED FOR CITIZENSHIP SERVICES IN THE
23 STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 88A, § 145(f).

26 In item (8) of this section, the term "units of government" is substituted for
27 the former reference to "agencies" to conform to the terminology used
28 throughout this article. See General Revisor's Note to article.

29 Defined term: "Program" § 6-701

30 6-705. FUNDING.

31 FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET,
32 NOT EXCEEDING \$100,000 EACH YEAR.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 145(e).

3 The reference to funding for the Program being "as provided in" the State
4 budget is substituted for the former reference to the authority of the
5 Secretary to "secure funding ... from" the State budget as standard
6 language in funding provisions throughout the revised articles.

7 The reference to a maximum amount of \$100,000 "each year" is substituted
8 for the former reference to a maximum amount of \$100,000 "of the annual
9 State budget" for brevity.

10 The Human Services Article Review Committee notes, for consideration by
11 the General Assembly, that the funding limitation may unconstitutionally
12 infringe on executive and legislative budget powers.

13 Defined term: "Program" § 6-701

14 6-706. REGULATIONS AND POLICIES.

15 THE DEPARTMENT SHALL ADOPT REGULATIONS AND POLICIES TO CARRY OUT
16 THE PROGRAM.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 145(b), as it related to the requirement for
19 the Department to adopt regulations and policies.

20 Defined terms: "Department" § 6-101
21 "Program" § 6-701

22 6-707. COOPERATION OF STATE UNITS.

23 ALL EXECUTIVE UNITS OF THE STATE SHALL COOPERATE WITH THE
24 DEPARTMENT TO IMPLEMENT THE REGULATIONS AND POLICIES OF THE PROGRAM.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 88A, § 145(c).

27 In this section, the reference to "units" is substituted for the former
28 reference to "departments and agencies" to conform to the terminology
29 used throughout this article. *See* General Revisor's Note to article.

30 Defined terms: "Department" § 6-101
31 "Program" § 6-701

32 6-708. ANNUAL REPORT.

33 EACH YEAR THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR
34 AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL
35 ASSEMBLY REGARDING THE STATUS AND EFFECTIVENESS OF THE PROGRAM.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 145(g).

3 The former phrase "established under this subtitle" is deleted as
4 surplusage.

5 Defined terms: "Department" § 6-101
6 "Program" § 6-701

7 TITLE 7. INDIVIDUALS WITH DISABILITIES.

8 SUBTITLE 1. DEPARTMENT OF DISABILITIES.

9 PART I. DEFINITIONS.

10 7-101. DEFINITIONS.

11 (A) IN GENERAL.

12 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13 REVISOR'S NOTE: This subsection formerly was SG § 9-1101(a).

14 No changes are made.

15 (B) BOARD.

16 "BOARD" MEANS THE INTERAGENCY DISABILITIES BOARD.

17 REVISOR'S NOTE: This subsection formerly was SG § 9-1101(b).

18 No changes are made.

19 (C) COMMISSION.

20 "COMMISSION" MEANS THE MARYLAND COMMISSION ON DISABILITIES.

21 REVISOR'S NOTE: This subsection formerly was SG § 9-1101(c).

22 No changes are made.

23 (D) DEPARTMENT.

24 "DEPARTMENT" MEANS THE DEPARTMENT OF DISABILITIES.

25 REVISOR'S NOTE: This subsection formerly was SG § 9-1101(d).

26 No changes are made.

27 (E) DISABILITY.

1 "DISABILITY" HAS THE MEANING STATED IN THE FEDERAL AMERICANS WITH
2 DISABILITIES ACT OF 1990, 42 U.S.C. § 12102.

3 REVISOR'S NOTE: This subsection formerly was SG § 9-1101(e).

4 No changes are made.

5 (F) SECRETARY.

6 "SECRETARY" MEANS THE SECRETARY OF DISABILITIES.

7 REVISOR'S NOTE: This subsection formerly was SG § 9-1101(f).

8 No changes are made.

9 (G) UNIT OF STATE GOVERNMENT.

10 "UNIT OF STATE GOVERNMENT" MEANS A DEPARTMENT, AGENCY, OFFICE,
11 COMMISSION, COUNCIL, OR OTHER UNIT IN THE EXECUTIVE BRANCH OF THE STATE
12 GOVERNMENT.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former SG § 9-1101(g).

15 7-102. RESERVED.

16 7-103. RESERVED.

17 PART II. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

18 7-104. DEPARTMENT ESTABLISHED.

19 THERE IS A DEPARTMENT OF DISABILITIES, ESTABLISHED AS A PRINCIPAL
20 DEPARTMENT OF STATE GOVERNMENT.

21 REVISOR'S NOTE: This section formerly was SG § 9-1102(a).

22 No changes are made.

23 7-105. SECRETARY.

24 (A) POSITION AND APPOINTMENT.

25 (1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR
26 SHALL APPOINT THE SECRETARY OF DISABILITIES.

27 (2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

28 (B) QUALIFICATIONS.

29 THE SECRETARY SHALL:

1 (1) HAVE EXTENSIVE EXPERIENCE AND KNOWLEDGE OF DISABILITY
2 LAWS, LEGISLATION, AND REGULATIONS, AND PROGRAMS FOR INDIVIDUALS WITH
3 DISABILITIES;

4 (2) AT A MINIMUM, HOLD A BACHELOR'S DEGREE; AND

5 (3) BE AN INDIVIDUAL WITH A DISABILITY OR APPOINT A DEPUTY
6 SECRETARY WHO IS AN INDIVIDUAL WITH A DISABILITY.

7 (C) OATH.

8 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
9 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

10 (D) RESPONSIBILITY TO GOVERNOR.

11 (1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND
12 IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

13 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS
14 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE
15 GOVERNOR'S POLICIES ON THOSE MATTERS.

16 (E) COMPENSATION.

17 THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
18 BUDGET.

19 REVISOR'S NOTE: Subsections (a), (b), (d), and (e) of this section are new
20 language derived without substantive change from former SG § 9-1102(b)
21 and (c)(1) and (4).

22 Subsection (c) of this section is standard language added to state the
23 requirement that an individual appointed to any office of profit or trust
24 take the oath specified in Md. Constitution, Art. I, § 9. This addition is
25 supported by 64 Op. Att'y Gen. 246 (1979).

26 In subsection (e) of this section, the reference to the Secretary's
27 "compensation" is substituted for the former reference to the Secretary's
28 "salary" for accuracy and consistency with terminology used throughout
29 this article. *See* General Revisor's Note to article.

30 Defined terms: "Department" § 7-101

31 "Disability" § 7-101

32 "Secretary" § 7-101

33 7-106. ADMINISTRATION OF DEPARTMENT.

34 (A) OPERATION OF DEPARTMENT.

1 THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT
2 AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY
3 AND EFFICIENT OPERATION OF THE DEPARTMENT.

4 (B) AREAS OF RESPONSIBILITY.

5 THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF
6 RESPONSIBILITY IN THE DEPARTMENT AS NECESSARY TO FULFILL THE DUTIES
7 ASSIGNED TO THE SECRETARY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former SG § 9-1102(c)(2) and (3).

10 In subsection (b) of this section, the former phrase "[s]ubject to the
11 provisions of this subtitle" is deleted as surplusage.

12 Defined terms: "Department" § 7-101
13 "Secretary" § 7-101

14 7-107. DEPUTY SECRETARY.

15 (A) APPOINTMENT.

16 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT A
17 DEPUTY SECRETARY.

18 (B) QUALIFICATIONS.

19 THE DEPUTY SECRETARY SHALL BE AN INDIVIDUAL WITH A DISABILITY, IF THE
20 SECRETARY IS NOT AN INDIVIDUAL WITH A DISABILITY.

21 (C) TERM AND COMPENSATION.

22 THE DEPUTY SECRETARY:

23 (1) SERVES AT THE PLEASURE OF THE SECRETARY; AND

24 (2) IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
25 BUDGET.

26 (D) DUTIES.

27 THE DEPUTY SECRETARY HAS THE DUTIES PROVIDED BY LAW OR DELEGATED
28 BY THE SECRETARY.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former SG § 9-1103(a).

31 In subsection (c)(2) of this section, the reference to the deputy secretary's
32 "compensation" is substituted for the former reference to the deputy
33 secretary's "salary" for accuracy and consistency with terminology used

1 throughout this article. *See* General Revisor's Note to article.

2 Defined terms: "Disability" § 7-101

3 "Secretary" § 7-101

4 7-108. STAFF.

5 (A) IN GENERAL.

6 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A
7 STAFF.

8 (B) APPOINTMENT; REMOVAL.

9 UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL APPOINT AND
10 REMOVE ALL STAFF IN ACCORDANCE WITH THE PROVISIONS OF THE STATE
11 PERSONNEL AND PENSIONS ARTICLE.

12 (C) REVIEW OF PERSONNEL ACTIONS.

13 THE SECRETARY MAY REVIEW ANY PERSONNEL ACTION TAKEN BY ANY UNIT IN
14 THE DEPARTMENT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former SG § 9-1103(b).

17 In subsection (b) of this section, the former reference to all "other" staff is
18 deleted as surplusage. This deletion is called to the attention of the
19 General Assembly.

20 Defined terms: "Department" § 7-101

21 "Secretary" § 7-101

22 7-109. LEGAL COUNSEL.

23 (A) ATTORNEY GENERAL AS LEGAL ADVISER.

24 THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

25 (B) ASSIGNMENT OF ASSISTANTS.

26 THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER
27 OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW TO BE ASSIGNED TO THE
28 DEPARTMENT.

29 (C) COUNSEL TO DEPARTMENT.

30 (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE
31 ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO
32 THE DEPARTMENT AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT
33 CONSULTING WITH THE SECRETARY.

1 (2) THE COUNSEL TO THE DEPARTMENT SHALL HAVE ONLY THE
2 FOLLOWING DUTIES:

3 (I) TO GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY
4 THE SECRETARY AND ANY OTHER OFFICIAL OF THE DEPARTMENT;

5 (II) TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL
6 ASSIGNED TO THE DEPARTMENT; AND

7 (III) TO PERFORM FOR THE DEPARTMENT THE DUTIES THAT THE
8 ATTORNEY GENERAL ASSIGNS.

9 (3) THE COUNSEL SHALL PERFORM THE DUTIES UNDER PARAGRAPH (2)
10 OF THIS SUBSECTION SUBJECT TO THE CONTROL AND SUPERVISION OF THE
11 ATTORNEY GENERAL.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former SG § 9-1105.

14 Defined terms: "Department" § 7-101
15 "Secretary" § 7-101

16 7-110. REGULATIONS.

17 (A) DEPARTMENTAL REGULATIONS.

18 THE SECRETARY SHALL ADOPT REGULATIONS FOR THE DEPARTMENT AND ITS
19 UNITS.

20 (B) IMPLEMENTATION OF LAWS WITHIN SECRETARY'S JURISDICTION.

21 THE SECRETARY MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE
22 PROVISIONS OF LAW THAT ARE WITHIN THE JURISDICTION OF THE SECRETARY.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former SG § 9-1104(b).

25 In subsection (b) of this section, the former reference to "rules" is deleted in
26 light of the reference to "regulations". *See* General Revisor's Note to article.

27 Defined terms: "Department" § 7-101
28 "Secretary" § 7-101

1 7-111. RESERVED.

2 7-112. RESERVED.

3 PART III. POWERS AND DUTIES.

4 7-113. POWERS AND DUTIES OF SECRETARY.

5 (A) BUDGET.

6 THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE DEPARTMENT.

7 (B) PAYMENT OF MONEY COLLECTED TO GENERAL FUND.

8 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL PAY ALL
9 MONEY COLLECTED BY THE DEPARTMENT UNDER THIS SUBTITLE INTO THE
10 GENERAL FUND OF THE STATE.

11 (C) REVIEW OF REGULATIONS OF OTHER UNITS OF STATE GOVERNMENT.

12 (1) (I) BEFORE PUBLICATION IN THE MARYLAND REGISTER, THE
13 SECRETARY SHALL REVIEW NEW OR PROPOSED CHANGES TO REGULATIONS
14 SUBMITTED BY A UNIT OF STATE GOVERNMENT THAT RELATE TO THE PROVISION OF
15 RESOURCES AND SERVICES TO INDIVIDUALS WITH DISABILITIES.

16 (II) THE REGULATIONS SHALL INCLUDE AN ASSESSMENT THAT
17 DESCRIBES THE IMPACT OF THE PROPOSED REGULATIONS ON INDIVIDUALS WITH
18 DISABILITIES.

19 (2) BEFORE IMPLEMENTATION, THE SECRETARY SHALL REVIEW NEW
20 OR PROPOSED CHANGES TO POLICIES, PROGRAMS, OR SERVICES SUBMITTED BY A
21 UNIT OF STATE GOVERNMENT THAT RELATE TO THE PROVISION OF RESOURCES AND
22 SERVICES TO INDIVIDUALS WITH DISABILITIES.

23 (D) REVIEW, COORDINATION, AND CONCURRENCE OF APPLICATIONS FOR AID
24 SPECIFIC TO SERVICES FOR INDIVIDUALS WITH DISABILITIES.

25 (1) THE SECRETARY SHALL REVIEW, COORDINATE, AND CONCUR WITH
26 ANY APPLICATION FOR FEDERAL AID, WAIVERS, OR GRANTS THAT IS:

27 (I) SPECIFIC TO SERVICES FOR INDIVIDUALS WITH DISABILITIES;
28 AND

29 (II) SUBMITTED BY OR THROUGH ANY UNIT OF STATE
30 GOVERNMENT.

31 (2) EXCEPT AS OTHERWISE PROHIBITED BY LAW, THE SECRETARY MAY
32 APPLY FOR, RECEIVE, AND USE GRANTS-IN-AID, FUNDS, OR SERVICES FROM THE
33 FEDERAL GOVERNMENT OR ANY OF ITS UNITS, OR ANY PUBLIC OR PRIVATE SOURCE

1 MADE AVAILABLE TO THE DEPARTMENT FOR USE IN CARRYING OUT THE POWERS
2 AND DUTIES OF THE SECRETARY OR THE DEPARTMENT.

3 (E) REVIEW, APPROVAL, OR AMENDMENT OF STATE DISABILITIES PLAN;
4 ADOPTION OF REGULATIONS.

5 (1) THE SECRETARY SHALL REVIEW THE STATE DISABILITIES PLAN
6 DEVELOPED BY THE BOARD IN ACCORDANCE WITH § 7-132 OF THIS SUBTITLE.

7 (2) THE SECRETARY MAY APPROVE THE STATE DISABILITIES PLAN OR
8 AMEND THE PLAN IF THE SECRETARY DETERMINES THAT THE PLAN DEVELOPED BY
9 THE BOARD IS NOT IN ACCORDANCE WITH § 7-132 OF THIS SUBTITLE.

10 (3) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE
11 STATE DISABILITIES PLAN AS APPROVED OR AS AMENDED IN ACCORDANCE WITH
12 PARAGRAPH (2) OF THIS SUBSECTION.

13 (F) ANNUAL ANALYSIS OF STATE'S PROGRESS IN IMPLEMENTING STATE
14 DISABILITIES PLAN.

15 THE SECRETARY SHALL SUBMIT AN ANNUAL ANALYSIS OF THE STATE'S
16 PROGRESS IN IMPLEMENTING THE STATE DISABILITIES PLAN AND RELATED
17 PERFORMANCE OBJECTIVES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246
18 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE
19 OCTOBER 1 OF EACH YEAR.

20 (G) CITIZENS' ADVISORY BODIES.

21 THE SECRETARY MAY CREATE CITIZENS' ADVISORY BODIES THAT THE
22 SECRETARY CONSIDERS NECESSARY FOR THE EFFECTIVE OPERATION OF THE
23 DEPARTMENT.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former SG §§ 9-1117 and 9-1104(a) and (c) through (f).

26 In subsection (b) of this section, the reference to "this subtitle" is
27 substituted for the former reference to "this title" for accuracy.

28 In the introductory language of subsection (c)(1)(i) and (2) of this section,
29 the phrases "[b]efore publication in the Maryland Register" and "[b]efore
30 implementation" are substituted for the former phrase "prior to public
31 notification" for clarity.

32 The Human Services Article Review Committee notes, for consideration by
33 the General Assembly, that the meaning of former SG § 9-1104(c) and (d) is
34 unclear. It is unclear whether it is mandatory or discretionary for units of
35 State government to submit "new or proposed changes to regulations,
36 policies, programs, and services" to the Secretary under former SG §
37 9-1104(c). It is also unclear whether all regulations or only those
38 submitted to the Secretary are required to include "an assessment that

1 describes the impact of the proposed regulations on individuals with
2 disabilities” and who is required to prepare the assessment. Similarly, it is
3 unclear whether it is mandatory or discretionary for units of the State
4 government to submit “applications for federal aid, waivers, or grants” to
5 the Secretary under former SG § 9–1104(d). The General Assembly may
6 wish to clarify the intent of these provisions.

7 Defined terms: “Board” § 7–101

8 “Department” § 7–101

9 “Disability” § 7–101

10 “Secretary” § 7–101

11 “Unit of State government” § 7–101

12 7–114. DUTIES OF DEPARTMENT.

13 (A) RESPONSIBILITY FOR STATEWIDE DISABILITY POLICIES AND STANDARDS.

14 (1) THE DEPARTMENT IS THE PRINCIPAL UNIT OF STATE GOVERNMENT
15 RESPONSIBLE FOR DEVELOPING, MAINTAINING, REVISING, AND ENFORCING
16 STATEWIDE DISABILITY POLICIES AND STANDARDS THROUGHOUT THE UNITS OF
17 STATE GOVERNMENT.

18 (2) IN THIS CAPACITY, THE DEPARTMENT SHALL:

19 (I) SERVE AS THE PRINCIPAL ADVISOR TO THE GOVERNOR ON THE
20 MEANS AND METHODS AVAILABLE TO:

21 1. IMPLEMENT AND FUND SUPPORT TO INDIVIDUALS WITH
22 DISABILITIES IN ACCORDANCE WITH THE STATE DISABILITIES PLAN;

23 2. MODIFY OR CONSOLIDATE SUPPORT TO INDIVIDUALS
24 WITH DISABILITIES; AND

25 3. COLLABORATE WITH FEDERAL, REGIONAL, AND LOCAL
26 UNITS OF GOVERNMENT TO ENHANCE THE EFFECTIVENESS OF THE PROVISION AND
27 FUNDING OF SUPPORT TO INDIVIDUALS WITH DISABILITIES;

28 (II) ANNUALLY RECOMMEND PROJECTS TO THE DEPARTMENT OF
29 BUDGET AND MANAGEMENT FOR INCLUSION IN THE CAPITAL BUDGET TO PROMOTE
30 ACCESS TO STATE–OWNED FACILITIES FOR INDIVIDUALS WITH DISABILITIES;

31 (III) ASSIST UNITS OF STATE GOVERNMENT TO IDENTIFY FEDERAL,
32 STATE, LOCAL, AND PRIVATE FUNDS AVAILABLE TO THE STATE FOR PROGRAMS AND
33 SERVICES FOR INDIVIDUALS WITH DISABILITIES; AND

34 (IV) PROVIDE TECHNICAL ASSISTANCE TO LOCAL JURISDICTIONS
35 IN PLANNING AND IMPLEMENTING COLLABORATIVE STRATEGIES CONSISTENT WITH
36 THE STATE DISABILITIES PLAN.

37 (B) ADMINISTRATION OF PROGRAMS AND UNITS.

1 THE DEPARTMENT SHALL OVERSEE AND ADMINISTER THE FOLLOWING
2 PROGRAMS AND UNITS:

- 3 (1) CONSTITUENT SERVICES AND OMBUDSMEN PROGRAMS;
- 4 (2) THE ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM UNDER
5 SUBTITLE 6 OF THIS TITLE; AND
- 6 (3) THE OFFICE OF PERSONAL ASSISTANCE SERVICES, INCLUDING THE
7 ATTENDANT CARE PROGRAM UNDER SUBTITLE 4 OF THIS TITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former SG §§ 9-1106 and 9-1118.

10 In subsection (a)(1) of this section, the defined term "unit of State
11 government" is substituted for the former reference to a "staff agency" for
12 consistency.

13 In subsection (a)(2) of this section, the former requirement that the
14 Department "adopt regulations to implement the State Disabilities Plan"
15 is deleted as duplicative of § 7-113(e) of this subtitle, which requires the
16 Secretary to adopt regulations to implement the State Disabilities Plan,
17 and inconsistent with § 7-110(a) of this subtitle, which requires the
18 Secretary to adopt regulations for the Department. This deletion is called
19 to the attention of the General Assembly.

20 In subsection (a)(2)(ii) of this section, the former reference to "capital
21 budget" projects is deleted as redundant.

22 In the introductory language of subsection (b) of this section, the reference
23 to "units" is added for accuracy.

24 Defined terms: "Department" § 7-101
25 "Disability" § 7-101
26 "Unit of State government" § 7-101

27 7-115. DUTIES OF OTHER UNITS OF STATE GOVERNMENT.

28 UNLESS THE DISCLOSURE OF INFORMATION IS OTHERWISE PROHIBITED BY
29 LAW, EACH UNIT OF STATE GOVERNMENT SHALL PROVIDE TO THE SECRETARY:

- 30 (1) AT THE REQUEST OF THE SECRETARY, INFORMATION REGARDING
31 CURRENT PROGRAMS AND SERVICES FOR INDIVIDUALS WITH DISABILITIES; AND
- 32 (2) INFORMATION REGARDING NEW OR PROPOSED PROGRAMS AND
33 SERVICES FOR INDIVIDUALS WITH DISABILITIES.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former SG § 9-1107.

1 Defined terms: "Disability" § 7-101
2 "Secretary" § 7-101
3 "Unit of State government" § 7-101

4 7-116. UNIT PLANS.

5 (A) DEVELOPMENT; IMPLEMENTATION; REQUEST FOR AMENDMENTS.

6 (1) ON OR BEFORE JULY 1 OF EACH YEAR, EACH UNIT OF STATE
7 GOVERNMENT SHALL DEVELOP A UNIT PLAN TO IMPLEMENT THE STATE
8 DISABILITIES PLAN AS APPROVED OR AMENDED BY THE SECRETARY UNDER §
9 7-113(E) OF THIS SUBTITLE.

10 (2) THE UNIT PLAN SHALL CONTAIN AN IMPLEMENTATION SCHEDULE
11 AND MEASURABLE STRATEGIC PERFORMANCE OBJECTIVES.

12 (3) THE SECRETARY MAY REQUEST AMENDMENTS TO A UNIT PLAN IF
13 THE SECRETARY DETERMINES THAT THE UNIT PLAN DOES NOT COMPLY WITH THE
14 STATE DISABILITIES PLAN.

15 (B) UNIT PLAN EVALUATION.

16 ON OR BEFORE JULY 1 OF EACH YEAR, EACH UNIT OF STATE GOVERNMENT
17 SHALL PROVIDE THE DEPARTMENT WITH AN EVALUATION OF THE UNIT'S
18 PERFORMANCE IN ACCORDANCE WITH THE UNIT'S PLAN DEVELOPED UNDER
19 SUBSECTION (A) OF THIS SECTION.

20 (C) UNIT PLAN EVALUATION — REQUIRED INFORMATION.

21 THE EVALUATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

22 (1) ASSESS THE UNIT'S PERFORMANCE AGAINST THE STRATEGIC
23 PERFORMANCE OBJECTIVES ESTABLISHED UNDER SUBSECTION (A)(2) OF THIS
24 SECTION; AND

25 (2) IDENTIFY AND MEASURE:

26 (I) CONSUMER SATISFACTION;

27 (II) GAPS IN SERVICES;

28 (III) NUMBERS OF INDIVIDUALS WAITING FOR SERVICES; AND

29 (IV) PROGRESS MADE ON ACHIEVING PERFORMANCE OBJECTIVES.

30 (D) PROVISION OF TECHNICAL ASSISTANCE.

31 THE SECRETARY MAY PROVIDE TECHNICAL ASSISTANCE TO ANY UNIT OF
32 STATE GOVERNMENT TO MEET THE REQUIREMENTS OF THIS SECTION.

33 (E) WAIVER.

1 THE SECRETARY MAY WAIVE THE REQUIREMENTS OF THIS SECTION FOR ANY
2 UNIT OF STATE GOVERNMENT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former SG § 9-1108.

5 Defined terms: "Department" § 7-101
6 "Secretary" § 7-101
7 "Unit of State government" § 7-101

8 7-117. RESERVED.

9 7-118. RESERVED.

10 PART IV. MARYLAND COMMISSION ON DISABILITIES.

11 7-119. ESTABLISHED.

12 THERE IS A MARYLAND COMMISSION ON DISABILITIES.

13 REVISOR'S NOTE: This section formerly was SG § 9-1109.

14 No changes are made.

15 7-120. MEMBERSHIP.

16 (A) COMPOSITION.

17 THE COMMISSION CONSISTS OF:

18 (1) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

19 (I) ONE INDIVIDUAL WITH A PHYSICAL DISABILITY;

20 (II) ONE INDIVIDUAL WHO HAS EXPERIENCED MENTAL ILLNESS;

21 (III) ONE INDIVIDUAL WITH AN INTELLECTUAL DISABILITY;

22 (IV) ONE INDIVIDUAL WHO IS BLIND;

23 (V) ONE INDIVIDUAL WHO IS DEAF OR HARD OF HEARING;

24 (VI) ONE PARENT OR FOSTER PARENT OF A CHILD WITH A
25 DISABILITY;

26 (VII) FOUR MEMBERS OF THE GENERAL PUBLIC WHO HAVE
27 DISABILITIES;

28 (VIII) THREE REPRESENTATIVES FROM STATEWIDE DISABILITY
29 ADVOCACY ORGANIZATIONS;

1 (IX) ONE REPRESENTATIVE FROM THE HOME HEALTH CARE
2 INDUSTRY;

3 (X) ONE REPRESENTATIVE FROM A STATEWIDE ORGANIZATION OF
4 PROVIDERS OF SERVICES AND SUPPORT FOR INDIVIDUALS WITH DISABILITIES;

5 (XI) ONE REPRESENTATIVE FROM THE ALLIANCE OF LOCAL
6 COMMISSIONS ON DISABILITY; AND

7 (XII) TWO REPRESENTATIVES FROM THE BOARD, ONE OF WHOM
8 SHALL BE SELECTED BY THE SECRETARY AND ONE OF WHOM SHALL BE THE
9 SECRETARY OF BUDGET AND MANAGEMENT OR THE DESIGNEE OF THE SECRETARY
10 OF BUDGET AND MANAGEMENT;

11 (2) ONE REPRESENTATIVE FROM THE SENATE OF MARYLAND,
12 APPOINTED BY THE PRESIDENT OF THE SENATE; AND

13 (3) ONE REPRESENTATIVE FROM THE MARYLAND HOUSE OF
14 DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE.

15 (B) APPOINTMENT.

16 IN MAKING THE APPOINTMENTS REQUIRED UNDER SUBSECTION (A)(1) OF THIS
17 SECTION, THE GOVERNOR SHALL APPOINT MEMBERS FROM AMONG:

18 (1) THE GEOGRAPHIC REGIONS OF THE STATE; AND

19 (2) DIVERSE BACKGROUNDS.

20 (C) QUALIFICATIONS.

21 A MAJORITY OF THE MEMBERS SHALL BE INDIVIDUALS WITH DISABILITIES.

22 (D) TENURE; VACANCIES.

23 (1) THE TERM OF A MEMBER IS 3 YEARS.

24 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
25 THE TERMS PROVIDED FOR THE MEMBERS OF THE COMMISSION ON OCTOBER 1, 2007.

26 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
27 SUCCESSOR IS APPOINTED AND QUALIFIES.

28 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
29 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
30 QUALIFIES.

31 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE 3-YEAR
32 TERMS.

33 (E) FAILURE TO ATTEND MEETINGS.

1 A MEMBER WHO FAILS TO ATTEND AT LEAST 50% OF THE REGULARLY
 2 SCHEDULED MEETINGS OF THE COMMISSION DURING ANY 12-MONTH PERIOD
 3 SHALL BE CONSIDERED TO HAVE RESIGNED.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former SG § 9-1110(a) through (h).

6 In subsection (a)(1)(xii) of this section, the requirement that one of the
 7 Commission members "shall be the Secretary of Budget and Management
 8 or the designee of the Secretary of Budget and Management" is substituted
 9 for the former requirement that one of the members "represents the
 10 Department of Budget and Management" for clarity.

11 In subsection (b) of this section, the reference to "subsection (a)(1)" is added
 12 for clarity.

13 In subsection (d)(2) of this section, the reference to terms being staggered
 14 as required by the terms provided for members of the Commission on
 15 "October 1, 2007" is substituted for the former obsolete reference to terms
 16 being staggered as required by the terms provided on "July 1, 2004". This
 17 substitution is not intended to alter the term of any member of the
 18 Commission. See § ____ of Ch. ____, Acts of 2007. The terms of the
 19 members serving on October 1, 2007, end as follows: (1) 7 in 2008; (2) 6 in
 20 2009; and (3) 7 in 2010.

21 Defined terms: "Board" § 7-101
 22 "Commission" § 7-101
 23 "Disability" § 7-101
 24 "Secretary" § 7-101

25 7-121. CHAIR.

26 FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL
 27 DESIGNATE A CHAIR FOR A 2-YEAR TERM.

28 REVISOR'S NOTE: This section formerly was SG § 9-1110(i).

29 The reference to a "chair" is substituted for the former reference to a
 30 "chairman" because SG § 2-1238 requires the use of terms that are neutral
 31 as to gender to the extent practicable.

32 No other changes are made.

33 Defined term: "Commission" § 7-101

34 7-122. COMPENSATION; STAFF.

35 (A) COMPENSATION.

36 A MEMBER OF THE COMMISSION:

1 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
2 COMMISSION; BUT

3 (2) IF THE SECRETARY APPROVES, IS ENTITLED TO REIMBURSEMENT
4 FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED
5 IN THE STATE BUDGET.

6 (B) STAFF.

7 THE DEPARTMENT SHALL PROVIDE STAFF TO THE COMMISSION AS NECESSARY.

8 REVISOR'S NOTE: This section formerly was SG § 9-1111.

9 No changes are made.

10 Defined terms: "Commission" § 7-101

11 "Department" § 7-101

12 "Secretary" § 7-101

13 7-123. DUTIES.

14 MEMBERS OF THE COMMISSION SHALL:

15 (1) ADVISE THE DEPARTMENT IN CARRYING OUT ITS DUTIES;

16 (2) MEET AT LEAST TWICE A YEAR IN MEETINGS OPEN TO THE PUBLIC;

17 AND

18 (3) SERVE ON SUBCOMMITTEES ESTABLISHED BY THE SECRETARY TO
19 CARRY OUT THE MISSION OF THE DEPARTMENT.

20 REVISOR'S NOTE: This section formerly was SG § 9-1112(a).

21 No changes are made.

22 Defined terms: "Commission" § 7-101

23 "Department" § 7-101

24 "Secretary" § 7-101

25 7-124. MEETINGS OF SUBCOMMITTEES.

26 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SUBCOMMITTEE OF THE
27 COMMISSION CREATED IN ACCORDANCE WITH § 7-123 OF THIS SUBTITLE SHALL BE
28 CONSIDERED A PUBLIC BODY UNDER § 10-502(H) OF THE STATE GOVERNMENT
29 ARTICLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former SG § 9-1112(b).

32 Defined term: "Commission" § 7-101

1 7-125. RESERVED.

2 7-126. RESERVED.

3 PART V. INTERAGENCY DISABILITIES BOARD; STATE DISABILITIES PLAN.

4 7-127. INTERAGENCY DISABILITIES BOARD — IN GENERAL.

5 (A) ESTABLISHED.

6 THERE IS AN INTERAGENCY DISABILITIES BOARD CONVENED BY THE
7 GOVERNOR.

8 (B) PURPOSE.

9 THE PURPOSE OF THE BOARD IS TO DEVELOP THE STATE DISABILITIES PLAN.

10 REVISOR'S NOTE: This section formerly was SG § 9-1113.

11 No changes are made.

12 Defined term: "Board" § 7-101

13 7-128. INTERAGENCY DISABILITIES BOARD — MEMBERSHIP.

14 THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

15 (1) THE SECRETARY OF DISABILITIES;

16 (2) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;

17 (3) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR
18 THE SECRETARY'S DESIGNEE;

19 (4) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE
20 SECRETARY'S DESIGNEE;

21 (5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE
22 SECRETARY'S DESIGNEE;

23 (6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR
24 THE SECRETARY'S DESIGNEE;

25 (7) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S
26 DESIGNEE;

27 (8) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE
28 SECRETARY'S DESIGNEE;

29 (9) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;

1 (10) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
2 SUPERINTENDENT'S DESIGNEE;

3 (11) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S
4 DESIGNEE;

5 (12) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR
6 CHILDREN, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

7 (13) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF THE DEAF AND
8 HARD OF HEARING, OR THE DIRECTOR'S DESIGNEE; AND

9 (14) REPRESENTATIVES FROM ANY OTHER UNIT OF STATE GOVERNMENT
10 THAT THE GOVERNOR DESIGNATES.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former SG § 9-1114(a).

13 In item (12) of this section, the reference to the "Executive Director of the
14 Governor's Office for Children" is substituted for the former obsolete
15 reference to the "Special Secretary for Children, Youth, and Families".

16 The second clause of former SG § 9-1114(a)(1), which required that the
17 Secretary of Disabilities serve as chairman of the Board, is revised in §
18 7-129(a) of this subtitle.

19 Defined terms: "Board" § 7-101

20 "Unit of State government" § 7-101

21 7-129. INTERAGENCY DISABILITIES BOARD — CHAIR.

22 (A) SECRETARY.

23 THE SECRETARY IS THE CHAIR OF THE BOARD.

24 (B) WORK OF BOARD.

25 THE CHAIR SHALL DIRECT THE WORK OF THE BOARD.

26 (C) SUBCOMMITTEES OF BOARD.

27 THE CHAIR MAY ESTABLISH SUBCOMMITTEES OF THE BOARD TO CARRY OUT
28 THE DUTIES ESTABLISHED UNDER THIS PART.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former SG §§ 9-1114(a)(1) and 9-1115(a) and (c).

31 Throughout this section, the references to a "chair" are substituted for the
32 former references to a "chairman" because SG § 2-1238 requires the use of
33 terms that are neutral as to gender to the extent practicable.

1 In subsection (c) of this section, the reference to this “part” is substituted
2 for the former reference to this “section” to reflect the reorganization of
3 provisions formerly contained in SG § 9–1115.

4 Defined terms: “Board” § 7–101
5 “Secretary” § 7–101

6 7–130. INTERAGENCY DISABILITIES BOARD — STAFF.

7 THE DEPARTMENT SHALL PROVIDE STAFF TO THE BOARD AS NECESSARY.

8 REVISOR’S NOTE: This section formerly was SG § 9–1114(b).

9 No changes are made.

10 Defined terms: “Board” § 7–101
11 “Department” § 7–101

12 7–131. INTERAGENCY DISABILITIES BOARD — DUTIES.

13 THE BOARD SHALL:

14 (1) PROVIDE ONGOING EXAMINATION OF THE STRUCTURE AND
15 ORGANIZATION OF THE STATE’S SYSTEM OF SERVICES AND SUPPORT TO
16 INDIVIDUALS WITH DISABILITIES TO ENSURE EQUAL ACCESS TO SUPPORT SERVICES
17 AND RESOURCES BY INDIVIDUALS WITH DISABILITIES;

18 (2) FACILITATE THE DEVELOPMENT OF PERFORMANCE OBJECTIVES
19 THAT WILL RESULT IN A COMPREHENSIVE, EFFECTIVE, EFFICIENT, AND
20 INTEGRATED SERVICE DELIVERY SYSTEM FOR INDIVIDUALS WITH DISABILITIES;

21 (3) DEVELOP AN INTERAGENCY FUNDING APPROACH TO MAXIMIZE
22 EFFICIENCIES AND STREAMLINE ACCESS TO SERVICES AND SUPPORT FOR
23 INDIVIDUALS WITH DISABILITIES;

24 (4) FORMULATE POLICIES ON LEGISLATIVE ISSUES AND, UNDER THE
25 DIRECTION OF THE GOVERNOR, COMMUNICATE THE POLICIES TO THE GENERAL
26 ASSEMBLY; AND

27 (5) DEVELOP THE STATE DISABILITIES PLAN.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former SG § 9–1115(b).

30 Defined terms: “Board” § 7–101
31 “Disability” § 7–101

32 7–132. STATE DISABILITIES PLAN.

33 (A) COORDINATION OF SUPPORT SERVICES.

1 THE STATE DISABILITIES PLAN SHALL PROVIDE FOR THE COORDINATION OF
2 SUPPORT SERVICES THAT:

3 (1) ENSURE COMPLIANCE WITH THE FEDERAL AMERICANS WITH
4 DISABILITIES ACT AND OTHER RELEVANT FEDERAL AND STATE PROVISIONS
5 INTENDED TO PROTECT THE CIVIL RIGHTS OF INDIVIDUALS WITH DISABILITIES;

6 (2) ARE NECESSARY FOR INDIVIDUALS WITH DISABILITIES TO ACHIEVE
7 MAXIMUM PARTICIPATION IN THE MAINSTREAM OF THE COMMUNITY IN THE MOST
8 INTEGRATED SETTING POSSIBLE; AND

9 (3) ADDRESS, ON A STATEWIDE BASIS, THE IMPROVEMENT OF:

10 (I) THE CAPACITY OF COMMUNITIES TO SUPPORT INDIVIDUALS
11 WITH DISABILITIES WITH PERSONAL ATTENDANT CARE AND OTHER LONG-TERM
12 CARE OPTIONS THAT ARE SELF-DIRECTED;

13 (II) THE AVAILABILITY OF ACCESSIBLE, INTEGRATED, AND
14 AFFORDABLE HOUSING OPTIONS;

15 (III) RELIABLE TRANSPORTATION OPTIONS;

16 (IV) EMPLOYMENT AND TRAINING OPTIONS, INCLUDING
17 SELF-EMPLOYMENT AND NONCONGREGANT COMPETITIVE OPPORTUNITIES
18 AVAILABLE IN AN INTEGRATED ENVIRONMENT IN WHICH THERE ARE INDIVIDUALS
19 WITH AND WITHOUT DISABILITIES;

20 (V) SOMATIC AND MENTAL HEALTH OPTIONS;

21 (VI) ACCESSIBLE AND UNIVERSALLY DESIGNED TECHNOLOGY;

22 (VII) SUPPORT SERVICES FOR CHILDREN, YOUTH, AND THEIR
23 FAMILIES TO ENABLE THEM TO ACHIEVE SUCCESSFUL LEARNING; AND

24 (VIII) FAMILY SUPPORT SERVICES, INCLUDING RESPITE CARE.

25 (B) ASSESSMENT OF SUPPORT SERVICES FOR INDIVIDUALS WITH
26 DISABILITIES.

27 THE STATE DISABILITIES PLAN SHALL ASSESS THE PROVISION OF AND
28 RESOURCES FOR SUPPORT SERVICES FOR INDIVIDUALS WITH DISABILITIES.

29 REVISOR'S NOTE: This section formerly was SG § 9-1116.

30 No changes are made.

1 7-133. RESERVED.

2 7-134. RESERVED.

3 PART VI. PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE.

4 7-135. "ADVISORY COMMITTEE" DEFINED.

5 IN THIS PART, "ADVISORY COMMITTEE" MEANS THE PERSONAL ASSISTANCE
6 SERVICES ADVISORY COMMITTEE.

7 REVISOR'S NOTE: This section is new language added to avoid repetition of
8 the full reference to the "Personal Assistance Services Advisory
9 Committee".

10 7-136. ESTABLISHED; PURPOSE.

11 (A) ESTABLISHED.

12 THERE IS A PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE IN THE
13 OFFICE OF PERSONAL ASSISTANCE SERVICES IN THE DEPARTMENT.

14 (B) PURPOSE.

15 THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE GUIDANCE TO
16 THE DEPARTMENT ON PERSONAL CARE, ATTENDANT CARE, AND HOME CARE
17 SERVICES, INCLUDING:

18 (1) THE DEVELOPMENT OF STANDARDS FOR THE TRAINING OF
19 PERSONAL CARE WORKERS;

20 (2) THE FEASIBILITY OF ESTABLISHING A REFERRAL SYSTEM OF
21 INDIVIDUAL PROVIDERS;

22 (3) THE FEASIBILITY OF ESTABLISHING A REGISTRY FOR PERSONAL
23 CARE WORKERS; AND

24 (4) THE COMPENSATION LEVELS PROVIDED TO PERSONAL CARE
25 WORKERS FOR PERSONAL ASSISTANCE SERVICES.

26 REVISOR'S NOTE: This section formerly was SG § 9-1119(a) and (b).

27 The only changes are in style.

28 Defined terms: "Advisory Committee" § 7-135
29 "Department" § 7-101

30 7-137. MEMBERSHIP.

31 (A) COMPOSITION.

1 THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS,
2 APPOINTED BY THE GOVERNOR:

3 (1) 11 INDIVIDUALS WITH DISABILITIES WHO ARE CURRENT OR FORMER
4 CONSUMERS OF PERSONAL HOME OR ATTENDANT CARE SERVICES; AND

5 (2) ONE REPRESENTATIVE EACH FROM:

6 (I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

7 (II) THE MARYLAND DEPARTMENT OF AGING;

8 (III) THE STATE DEPARTMENT OF EDUCATION, DIVISION OF
9 REHABILITATIVE SERVICES;

10 (IV) THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES OR
11 ITS DESIGNEE;

12 (V) A LOCAL OFFICE ON AGING;

13 (VI) THE MARYLAND STATE INDEPENDENT LIVING COUNCIL;

14 (VII) AN ADVOCACY ORGANIZATION REPRESENTING SENIOR
15 CITIZENS;

16 (VIII) AN ADVOCACY ORGANIZATION REPRESENTING INDIVIDUALS
17 WITH DISABILITIES;

18 (IX) A PROVIDER OF HOME CARE OR PERSONAL ATTENDANT CARE
19 SERVICES; AND

20 (X) A HOME HEALTH WORKER.

21 (B) TENURE; VACANCIES.

22 (1) THE TERM OF A MEMBER IS 3 YEARS.

23 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
24 THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1,
25 2007.

26 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
27 SUCCESSOR IS APPOINTED AND QUALIFIES.

28 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
29 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
30 QUALIFIES.

31 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former SG § 9-1119(c) and (e).

3 In subsection (b)(2) of this section, the reference to terms being staggered
4 as required by the terms provided for members of the Advisory Committee
5 on "October 1, 2007" is substituted for the former obsolete reference to
6 terms being staggered as required by the terms provided on "July 1, 2005".
7 This substitution is not intended to alter the term of any member of the
8 Advisory Committee. See § ___ of Ch. ___, Acts of 2007. The terms of the
9 members serving on October 1, 2007, end as follows: (1) 3 consumer
10 members and 2 of the organizational or agency members in 2008; and (2) 3
11 consumer members and 3 of the organizational or agency members in
12 2009.

13 Defined terms: "Advisory Committee" § 7-135
14 "Disability" § 7-101

15 7-138. CHAIR.

16 FROM AMONG THE MEMBERS OF THE ADVISORY COMMITTEE, THE SECRETARY
17 SHALL SELECT A CHAIR.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former SG § 9-1119(d).

20 Defined terms: "Advisory Committee" § 7-135
21 "Secretary" § 7-101

22 7-139. STAFF; MEETINGS.

23 (A) STAFF.

24 THE OFFICE OF PERSONAL ASSISTANCE SERVICES SHALL PROVIDE STAFF TO
25 THE ADVISORY COMMITTEE.

26 (B) MEETINGS.

27 THE ADVISORY COMMITTEE SHALL MEET AT LEAST FOUR TIMES A YEAR, IN
28 MEETINGS OPEN TO THE PUBLIC.

29 REVISOR'S NOTE: This section formerly was SG § 9-1119(f) and (g).

30 No changes are made.

31 Defined term: "Advisory Committee" § 7-135

32 7-140. ANNUAL REPORT.

33 THE ADVISORY COMMITTEE SHALL REPORT ITS RECOMMENDATIONS ON
34 PERSONAL CARE ASSISTANCE SERVICES TO THE GOVERNOR AND, SUBJECT TO §

1 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF
2 EACH YEAR.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former SG § 9-1119(h).

5 Defined term: "Advisory Committee" § 7-135

6 SUBTITLE 2. RESPITE CARE FOR INDIVIDUALS WITH DEVELOPMENTAL OR
7 FUNCTIONAL DISABILITIES.

8 7-201. DEFINITIONS.

9 (A) IN GENERAL.

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

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

13 (B) DEPARTMENT.

14 "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

15 REVISOR'S NOTE: This subsection is new language added to avoid repetition
16 of the full reference to the "Department of Human Resources".

17 (C) RESPITE CARE.

18 "RESPITE CARE" MEANS SHORT-TERM CARE:

19 (1) OF AN INDIVIDUAL WITH A DEVELOPMENTAL OR FUNCTIONAL
20 DISABILITY DESCRIBED UNDER § 7-202 OF THIS SUBTITLE; AND

21 (2) THAT IS PROVIDED EITHER WITHIN OR OUTSIDE THE INDIVIDUAL'S
22 HOME TO GIVE TEMPORARY RELIEF TO THE INDIVIDUAL OR THE INDIVIDUAL'S
23 FAMILY.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 88A, § 128(a), as it related to
26 individuals with developmental or functional disabilities.

27 The reference to a disability "described under § 7-202 of this subtitle" is
28 added for clarity.

29 7-202. INDIVIDUALS WITH FUNCTIONAL OR DEVELOPMENTAL DISABILITIES.

30 (A) FUNCTIONAL DISABILITY.

31 AN INDIVIDUAL HAS A FUNCTIONAL DISABILITY IF THE INDIVIDUAL HAS A
32 SEVERE, CHRONIC DISABILITY THAT:

1 (1) IS ATTRIBUTABLE TO A MENTAL OR PHYSICAL IMPAIRMENT OR A
 2 COMBINATION OF MENTAL AND PHYSICAL IMPAIRMENTS, INCLUDING A HEAD
 3 INJURY;

4 (2) IS LIKELY TO CONTINUE INDEFINITELY;

5 (3) RESULTS IN SUBSTANTIAL FUNCTIONAL LIMITATIONS IN AT LEAST
 6 THREE OF THE FOLLOWING AREAS OF MAJOR LIFE ACTIVITY:

7 (I) SELF-CARE;

8 (II) RECEPTIVE AND EXPRESSIVE LANGUAGE;

9 (III) LEARNING;

10 (IV) MOBILITY;

11 (V) SELF-DIRECTION;

12 (VI) CAPACITY FOR INDEPENDENT LIVING; AND

13 (VII) ECONOMIC SELF-SUFFICIENCY; AND

14 (4) REFLECTS THE INDIVIDUAL'S NEED FOR A COMBINATION AND
 15 SEQUENCE OF SPECIAL INTERDISCIPLINARY OR GENERIC CARE, TREATMENT, OR
 16 OTHER SERVICES THAT ARE:

17 (I) LIFELONG OR OF EXTENDED DURATION; AND

18 (II) INDIVIDUALLY PLANNED AND COORDINATED.

19 (B) DEVELOPMENTAL DISABILITY.

20 AN INDIVIDUAL HAS A DEVELOPMENTAL DISABILITY IF THE INDIVIDUAL HAS A
 21 FUNCTIONAL DISABILITY THAT IS MANIFESTED BEFORE THE INDIVIDUAL ATTAINS
 22 THE AGE OF 22 YEARS.

23 REVISOR'S NOTE: This section is new language derived without substantive
 24 change from former Art. 88A, § 128(c), (d), and, as it related to an
 25 individual with a head injury, (a). It is revised as a substantive provision,
 26 rather than as a definition provision, to avoid defining terms that are used
 27 only once in this subtitle.

28 Throughout this section, the references to an "individual" are substituted
 29 for the former references to a "person" for consistency throughout this
 30 subtitle and because only a human being, and not the other entities
 31 included in the defined term "person", may qualify for respite care under
 32 this part. *See* § 1-101 of this article.

33 In the introductory language of subsection (a) of this section, the former
 34 reference to "an individual with a head injury who, notwithstanding age,

1 meets the definition of developmentally disabled” is deleted as
2 unnecessary in light of the inclusion of a head injury in the description of
3 a functional disability.

4 In subsection (a)(1) of this section, the phrase “including a head injury” is
5 added for brevity and clarity.

6 Subsection (b) of this section is revised to combine the repetitive language
7 of former Art. 88A, § 128(c) and (d) for brevity and clarity.

8 7-203. RESPITE CARE PROGRAM.

9 (A) ESTABLISHED; PURPOSE.

10 (1) THERE IS A RESPITE CARE PROGRAM IN THE DEPARTMENT.

11 (2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE RESPITE CARE
12 SERVICES IN THE STATE.

13 (B) PROVISION OF SERVICES.

14 THE DEPARTMENT SHALL PROVIDE RESPITE CARE SERVICES THROUGH:

15 (1) LOCAL DEPARTMENTS OF SOCIAL SERVICES; OR

16 (2) CONTRACTS WITH PRIVATE NONPROFIT COMMUNITY-BASED
17 PROVIDERS.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 88A, § 129(a) and (b).

20 Subsection (a) of this section is revised in standard language for clarity
21 and consistency with similar provisions throughout this article.

22 In the introductory language of subsection (b) of this section, the
23 requirement that “[t]he Department ... provide” respite care services is
24 added for clarity.

25 Defined terms: “Department” § 7-201

26 “Respite care” § 7-201

27 7-204. LIMITATIONS ON RESPITE CARE.

28 SUBJECT TO THE STATE BUDGET, WITHIN A FISCAL YEAR AN INDIVIDUAL MAY
29 RECEIVE:

30 (1) ON AN HOURLY BASIS, UP TO 24 HOURS OF RESPITE CARE PROVIDED
31 IN PERIODS OF LESS THAN 10 HOURS IN ANY 24-HOUR PERIOD; AND

32 (2) ON A DAILY BASIS, UP TO 14 DAYS OF RESPITE CARE PROVIDED IN
33 PERIODS OF 10 OR MORE HOURS IN ANY 24-HOUR PERIOD.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88A, § 128(b).

3 In the introductory language of this section, the former reference to “the
4 appropriation provided for this program” is deleted as surplusage.

5 In items (1) and (2) of this section, the phrases “on an hourly basis” and “on
6 a daily basis”, respectively, are added for clarity.

7 In item (2) of this section, the former reference to “a ‘day’ being defined for
8 purposes of this section” is deleted as surplusage.

9 Defined term: “Respite care” § 7–201

10 7–205. REGULATIONS.

11 THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING RESPITE CARE
12 SERVICES, INCLUDING:

13 (1) MANDATORY STANDARDS; AND

14 (2) SLIDING FEE SCHEDULES.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88A, § 129(c).

17 In the introductory language of this section, the reference to “adopt[ing]”
18 regulations is substituted for the former reference to “promulgat[ing]”
19 regulations for consistency throughout this article. *See* General Revisor’s
20 Note to article.

21 Also in the introductory language of this section, the former reference to
22 “rules” is deleted in light of the reference to “regulations”. *See* General
23 Revisor’s Note to article.

24 Also in the introductory language of this section, the former phrase “, but
25 not limited to,” is deleted in light of Art. 1, § 30, which provides that the
26 term “including” is used “by way of illustration and not by way of
27 limitation”.

28 In item (2) of this section, the former reference to the “creation and
29 maintenance” of sliding fee schedules is deleted as surplusage.

30 Defined terms: “Department” § 7–201
31 “Respite care” § 7–201

32 SUBTITLE 3. MARYLAND CAREGIVERS SUPPORT COORDINATING COUNCIL.

33 7–301. DEFINITIONS.

34 (A) IN GENERAL.

1 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

4 (B) COUNCIL.

5 "COUNCIL" MEANS THE MARYLAND CAREGIVERS SUPPORT COORDINATING
6 COUNCIL.

7 REVISOR'S NOTE: This subsection is new language added to avoid repetition
8 of the full reference to the "Maryland Caregivers Support Coordinating
9 Council".

10 (C) DEPARTMENT.

11 "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN RESOURCES.

12 REVISOR'S NOTE: This subsection is new language added to avoid repetition
13 of the full reference to the "Department of Human Resources".

14 7-302. ESTABLISHED; PURPOSE.

15 (A) ESTABLISHED.

16 THERE IS A MARYLAND CAREGIVERS SUPPORT COORDINATING COUNCIL IN
17 THE DEPARTMENT.

18 (B) PURPOSE.

19 THE PURPOSE OF THE COUNCIL IS TO COORDINATE STATEWIDE PLANNING,
20 DEVELOPMENT, AND IMPLEMENTATION OF FAMILY CAREGIVER SUPPORT SERVICES.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 88A, § 129A(a).

23 Defined terms: "Council" § 7-301

24 "Department" § 7-301

25 7-303. MEMBERSHIP.

26 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

27 (1) THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS APPOINTED
28 BY THE GOVERNOR:

29 (I) TWO REPRESENTATIVES FROM THE DEPARTMENT OF HUMAN
30 RESOURCES;

31 (II) THREE REPRESENTATIVES FROM THE DEPARTMENT OF
32 HEALTH AND MENTAL HYGIENE;

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1 (III) ONE REPRESENTATIVE FROM THE DEPARTMENT OF AGING;

2 (IV) ONE REPRESENTATIVE FROM AN AREA AGENCY ON AGING;

3 (V) ONE REPRESENTATIVE FROM THE DEPARTMENT OF
4 DISABILITIES;

5 (VI) ONE REPRESENTATIVE FROM THE MARYLAND RESPITE CARE
6 COALITION;

7 (VII) TWO CONSUMERS OF RESPITE CARE SERVICES;

8 (VIII) THREE FAMILY CAREGIVERS; AND

9 (IX) THREE REPRESENTATIVES OF ORGANIZATIONS THAT PROVIDE
10 OR HAVE INTEREST OR EXPERTISE IN RESPITE CARE SERVICES.

11 (2) IN APPOINTING MEMBERS TO THE COUNCIL, TO THE EXTENT
12 POSSIBLE, THE GOVERNOR SHALL CONSIDER GROUPS REPRESENTING INDIVIDUALS
13 WITH:

14 (I) ALZHEIMER'S DISEASE AND RELATED DISORDERS;

15 (II) DEVELOPMENTAL DISABILITIES;

16 (III) PHYSICAL DISABILITIES;

17 (IV) CHRONIC ILLNESSES;

18 (V) MENTAL OR EMOTIONAL CONDITIONS THAT REQUIRE
19 SUPERVISION; AND

20 (VI) VULNERABILITY TO ABUSE OR NEGLECT.

21 (B) TERMS OF MEMBERS.

22 THE TERM OF A MEMBER OF THE COUNCIL IS 3 YEARS.

23 (C) CHAIR.

24 THE GOVERNOR SHALL APPOINT A CHAIR OF THE COUNCIL FROM AMONG THE
25 MEMBERS.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 88A, § 129A(b)(1) through (4).

28 In subsection (a)(1)(vii) and (ix) of this section, the references to respite
29 "care" services are added for consistency.

30 In subsection (b) of this section, the former phrase "and may be
31 reappointed" is deleted as implicit.

1 In subsection (c) of this section, the reference to a “chair” is substituted for
2 the former reference to a “chairman” because SG § 2–1238 requires the use
3 of terms that are neutral as to gender to the extent practicable.

4 Defined terms: “Council” § 7–301
5 “Department” § 7–301

6 7–304. STAFF; COMPENSATION.

7 (A) STAFF.

8 (1) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COUNCIL.

9 (2) AN INDIVIDUAL FROM THE DEPARTMENT SHALL SERVE AS
10 EXECUTIVE DIRECTOR OF THE COUNCIL.

11 (B) COMPENSATION.

12 A MEMBER OF THE COUNCIL:

13 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL;
14 BUT

15 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
16 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 129A(b)(5) and (6).

19 Defined terms: “Council” § 7–301
20 “Department” § 7–301

21 7–305. DUTIES.

22 (A) IN GENERAL.

23 THE COUNCIL SHALL:

24 (1) SOLICIT AND GATHER CONCERNS OF CAREGIVERS BY:

25 (I) CONDUCTING SURVEYS;

26 (II) HOLDING PUBLIC HEARINGS;

27 (III) ESTABLISHING A TELEPHONE HOTLINE FOR PUBLIC ACCESS;

28 AND

29 (IV) OTHER APPROPRIATE MEANS;

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1 (2) DEVELOP AND DISTRIBUTE TO INTERESTED PARTIES A HANDBOOK
2 OF CURRENT RESPITE CARE AND OTHER FAMILY CAREGIVER SERVICES AVAILABLE
3 IN THE STATE;

4 (3) REVIEW SUCCESSFUL RESPITE CARE PROGRAMS IN OTHER STATES;

5 (4) DEVELOP A MODEL FAMILY CAREGIVER SUPPORT PROGRAM THAT
6 INCORPORATES BEST PRACTICES FROM EXISTING PROGRAMS IN THIS AND OTHER
7 STATES;

8 (5) COORDINATE ACTIVITIES OF EXISTING AND PROPOSED FAMILY
9 CAREGIVER SUPPORT SERVICES AMONG STATE AND LOCAL UNITS;

10 (6) RESEARCH AVAILABLE FUNDING SOURCES AND EXPLORE
11 POSSIBILITIES FOR ADDITIONAL FUNDS; AND

12 (7) IDENTIFY UNMET NEEDS AND PRIORITIES FOR ADDITIONAL FUNDS.

13 (B) ANNUAL REPORT.

14 THE COUNCIL SHALL REPORT ANNUALLY ON ITS ACTIVITIES TO THE
15 GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
16 GENERAL ASSEMBLY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 88A, § 129A(c) and (d).

19 In subsection (a)(5) of this section, the reference to "units" is substituted
20 for the former reference to "public agencies" for consistency throughout
21 this article.

22 Defined terms: "Council" § 7-301
23 "State" § 1-101

24 SUBTITLE 4. ATTENDANT CARE PROGRAM.

25 7-401. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(a).

29 No changes are made.

30 (B) ATTENDANT CARE SERVICES.

31 "ATTENDANT CARE SERVICES" MEANS ANY OF THE FOLLOWING SERVICES FOR
32 AN ELIGIBLE INDIVIDUAL, WHICH ARE CERTIFIED AS NECESSARY BY AN ATTENDING
33 PHYSICIAN OR BY A REGISTERED NURSE:

- 1 (1) DRESSING;
- 2 (2) PREPARING FOOD AND ASSISTING WITH EATING;
- 3 (3) BATHING AND PERSONAL HYGIENE;
- 4 (4) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING BOWEL
5 AND URINARY CARE;
- 6 (5) MOVING INTO, OUT OF, OR TURNING IN BED;
- 7 (6) LAUNDERING AND OTHER CLOTHING CARE; AND
- 8 (7) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF DAILY
9 CARE, INCLUDING SHOPPING AND TRANSPORTATION, THAT THE DEPARTMENT AND
10 THE ELIGIBLE INDIVIDUAL REQUEST.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 41, § 18-601(e).

13 In item (2) of this subsection, the former reference to "the disabled
14 individual" is deleted as included in the introductory language of this
15 subsection.

16 In the introductory language and item (7) of this subsection, the defined
17 term "eligible individual" is substituted for the former reference to a
18 "disabled individual" for consistency throughout this subtitle.

19 (C) DEPARTMENT.

20 "DEPARTMENT" MEANS THE DEPARTMENT OF DISABILITIES.

21 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(c).

22 No changes are made.

23 (D) ELIGIBLE INDIVIDUAL.

24 "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

- 25 (1) IS AT LEAST 18 YEARS OLD AND UNDER THE AGE OF 65 YEARS; AND
- 26 (2) HAS A SEVERE CHRONIC OR PERMANENT PHYSICAL DISABILITY
27 THAT PRECLUDES OR SIGNIFICANTLY IMPAIRS THE INDIVIDUAL'S INDEPENDENT
28 PERFORMANCE OF ESSENTIAL ACTIVITIES OF DAILY LIVING, SELF-CARE, OR
29 MOBILITY.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 41, § 18-601(f).

32 In the introductory language of this subsection, the former reference to an

1 eligible "disabled" individual is deleted for brevity and consistency with
2 current terminology.

3 (E) FINANCIAL ASSISTANCE.

4 "FINANCIAL ASSISTANCE" MEANS A PAYMENT THE DEPARTMENT MAKES TO AN
5 ELIGIBLE INDIVIDUAL FOR ATTENDANT CARE SERVICES.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 41, § 18-601(g).

8 The former phrase "to aid in securing" is deleted for brevity and
9 consistency with § 7-402(a)(2) of this subtitle.

10 (F) PROGRAM.

11 "PROGRAM" MEANS THE ATTENDANT CARE PROGRAM.

12 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(h).

13 No changes are made.

14 (G) SECRETARY.

15 "SECRETARY" MEANS THE SECRETARY OF DISABILITIES.

16 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-601(d).

17 No changes are made.

18 REVISOR'S NOTE TO SECTION:

19 Former Art. 41, § 18-601(b), which defined "Director" to mean the Director
20 of the Attendant Care Program, is deleted as unnecessary because the
21 term is only used once in § 7-403 of this subtitle.

22 7-402. ESTABLISHED; PURPOSE; SLIDING PAYMENT SCALE.

23 (A) ESTABLISHED; PURPOSE.

24 (1) THERE IS AN ATTENDANT CARE PROGRAM IN THE DEPARTMENT.

25 (2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL
26 ASSISTANCE TO ELIGIBLE INDIVIDUALS FOR ATTENDANT CARE SERVICES.

27 (B) SLIDING PAYMENT SCALE.

28 THE DEPARTMENT SHALL PROVIDE FINANCIAL ASSISTANCE IN ACCORDANCE
29 WITH A SLIDING PAYMENT SCALE THAT THE DEPARTMENT ESTABLISHES BY
30 REGULATION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 18-602(a)(1) and (4).

3 Subsection (a) of this section is revised in standard language for clarity
4 and consistency with similar provisions throughout this article.

5 In subsection (b) of this section, the requirement that "[t]he Department"
6 provide financial assistance is added for clarity.

7 Also in subsection (b) of this section, the reference to establishing a sliding
8 payment scale "by regulation" is added for clarity. *See* SG § 10-101.

9 Defined terms: "Attendant care services" § 7-401

10 "Department" § 7-401

11 "Eligible individual" § 7-401

12 "Financial assistance" § 7-401

13 "Program" § 7-401

14 7-403. DIRECTOR; SUPPORT SERVICES.

15 (A) DIRECTOR.

16 THE SECRETARY SHALL DESIGNATE AN INDIVIDUAL FROM THE DEPARTMENT
17 TO SERVE AS DIRECTOR OF THE PROGRAM.

18 (B) SUPPORT SERVICES.

19 THE SECRETARY SHALL PROVIDE APPROPRIATE SUPPORT SERVICES TO THE
20 PROGRAM AS PROVIDED IN THE STATE BUDGET.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 18-602(a)(3).

23 In subsection (b) of this section, the phrase "as provided in the State
24 budget" is substituted for the former phrase "from existing budgets" for
25 consistency with standard language.

26 Defined terms: "Department" § 7-401

27 "Program" § 7-401

28 "Secretary" § 7-401

29 7-404. PARTICIPATION IN PROGRAM.

30 (A) RECIPIENTS OF FINANCIAL ASSISTANCE.

31 (1) THE DEPARTMENT SHALL ENSURE THAT AT ANY GIVEN TIME AT
32 LEAST 50% OF THE ELIGIBLE INDIVIDUALS RECEIVING FINANCIAL ASSISTANCE
33 UNDER THE PROGRAM ARE:

34 (I) GAINFULLY EMPLOYED;

1 (II) ACTIVELY SEEKING EMPLOYMENT; OR

2 (III) ATTENDING AN INSTITUTION OF POSTSECONDARY OR HIGHER
3 EDUCATION, AS DEFINED IN § 10-101 OF THE EDUCATION ARTICLE.

4 (2) THE REMAINDER OF THE ELIGIBLE INDIVIDUALS RECEIVING
5 FINANCIAL ASSISTANCE UNDER THE PROGRAM SHALL BE INDIVIDUALS WHO:

6 (I) RESIDE IN A NURSING HOME OR SIMILAR INSTITUTION
7 LICENSED TO PROVIDE CHRONIC OR INTERMEDIATE CARE AND WHO WILL BE
8 DEINSTITUTIONALIZED AS A RESULT OF THE PROGRAM; OR

9 (II) ARE ON AN APPROVED WAITING LIST FOR A NURSING HOME OR
10 SIMILAR INSTITUTION LICENSED TO PROVIDE CHRONIC OR INTERMEDIATE CARE.

11 (B) DUPLICATION PROHIBITED.

12 FINANCIAL ASSISTANCE PROVIDED UNDER THE PROGRAM MAY NOT
13 DUPLICATE ANY OTHER STATE OR FEDERAL ASSISTANCE FOR ATTENDANT CARE
14 SERVICES THAT AN ELIGIBLE INDIVIDUAL RECEIVES.

15 (C) LIMITATION ON PARTICIPATION.

16 THE DEPARTMENT SHALL LIMIT PARTICIPATION IN THE PROGRAM TO THE
17 NUMBER OF ELIGIBLE INDIVIDUALS WHO CAN BE SERVED WITH THE FUNDS
18 APPROPRIATED FOR THE PROGRAM IN THE STATE BUDGET.

19 (D) REVIEW OF ELIGIBILITY.

20 EACH YEAR, THE DEPARTMENT SHALL REVIEW THE ELIGIBILITY OF EACH
21 INDIVIDUAL RECEIVING FINANCIAL ASSISTANCE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 18-602(b), (c), (d), and (a)(5).

24 In the introductory language of subsection (a)(2) of this section, the former
25 reference to individuals "currently" residing in an institution or on an
26 approved waiting list is deleted as surplusage.

27 In subsection (a)(2)(ii) of this section, the reference to "a nursing home or
28 similar institution licensed to provide chronic or intermediate care" is
29 substituted for the former reference to "an institution" for clarity and
30 consistency with subsection (a)(2)(i) of this section.

31 In subsection (c) of this section, the reference to funds "appropriated" is
32 substituted for the former reference to funds "provided" for clarity.

33 Also in subsection (c) of this section, the former reference to "using the
34 total amount of" funds is deleted as surplusage.

1 Defined terms: “Attendant care services” § 7–401

2 “Department” § 7–401

3 “Eligible individual” § 7–401

4 “Financial assistance” § 7–401

5 “Program” § 7–401

6 7–405. FUNDING; ADMINISTRATION.

7 (A) FUNDING.

8 THE PROGRAM SHALL BE FUNDED AS PROVIDED IN THE STATE BUDGET.

9 (B) ADMINISTRATION.

10 THE DEPARTMENT MAY:

11 (1) ADMINISTER THE PROGRAM DIRECTLY; OR

12 (2) ENTER INTO A CONTRACT WITH A PRIVATE ORGANIZATION TO
13 ADMINISTER AND OPERATE THE PROGRAM.

14 REVISOR’S NOTE: This section formerly was Art. 41, § 18–603.

15 The only changes are in style.

16 Defined terms: “Department” § 7–401

17 “Program” § 7–401

18 7–406. ADMINISTRATION OF SUBTITLE; REGULATIONS.

19 (A) ADMINISTRATION OF SUBTITLE.

20 THE DEPARTMENT SHALL ADMINISTER THIS SUBTITLE.

21 (B) REGULATIONS.

22 THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE OPERATION OF THE
23 PROGRAM.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 41, §§ 18–604 and 18–602(a)(2).

26 In subsection (a) of this section, the former authority for the Department to
27 “adopt rules and regulations necessary to implement [this subtitle]” is
28 deleted as unnecessary in light of subsection (b) of this section, which
29 requires the Department to “adopt regulations for the operation of the
30 Program”.

31 In subsection (b) of this section, the former reference to “rules” is deleted in
32 light of the reference to “regulations”. *See* General Revisor’s Note to article.

1 Defined terms: "Department" § 7-401
 2 "Program" § 7-401

3 SUBTITLE 5. COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

4 7-501. DEFINITIONS.

5 (A) IN GENERAL.

6 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

7 REVISOR'S NOTE: This subsection formerly was Art. 41, § 6-7A-01(a).

8 No changes are made.

9 (B) AGENCY-PROVIDER MODEL.

10 "AGENCY-PROVIDER MODEL" MEANS A METHOD OF PROVIDING COMMUNITY
 11 ATTENDANT SERVICES AND SUPPORTS FOR A CONSUMER BY A PERSONAL ASSISTANT
 12 WHO IS:

13 (1) EMPLOYED BY A PROVIDER AGENCY; AND

14 (2) SUPERVISED AND EVALUATED BY THE CONSUMER.

15 REVISOR'S NOTE: This subsection is new language derived without
 16 substantive change from former Art. 41, § 6-7A-01(b).

17 In the introductory language of this subsection, the former reference to a
 18 "service option" is deleted as surplusage.

19 Also in the introductory language of this subsection, the defined term
 20 "consumer" is substituted for the former reference to an "eligible
 21 individual" for consistency throughout this subtitle.

22 The former phrase "and the agency is the personal assistant's employer of
 23 record" is deleted as unnecessary in light of the reference to the personal
 24 assistant being "employed by a provider agency".

25 Defined terms: "Community attendant services and supports" § 7-501
 26 "Consumer" § 7-501
 27 "Personal assistant" § 7-501

28 (C) ATTENDANT SERVICES AND SUPPORTS.

29 "ATTENDANT SERVICES AND SUPPORTS" MEANS ANY OF THE FOLLOWING
 30 SERVICES FOR A CONSUMER, WHICH ARE CERTIFIED AS NECESSARY BY A HEALTH
 31 CARE PROFESSIONAL:

32 (1) DRESSING;

- 1 (2) PREPARING FOOD AND ASSISTING WITH EATING;
- 2 (3) BATHING AND PERSONAL HYGIENE;
- 3 (4) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING BOWEL
4 AND URINARY CARE;
- 5 (5) MOVING INTO, OUT OF, OR TURNING IN BED;
- 6 (6) LAUNDERING AND OTHER CLOTHING CARE; AND
- 7 (7) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF DAILY
8 CARE, INCLUDING SHOPPING AND TRANSPORTATION, THAT THE CONSUMER AND
9 THE DEPARTMENT REQUEST.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 41, § 6-7A-01(c)(1).

12 Throughout this subsection, the defined term "consumer" is substituted for
13 the former references to a "disabled individual" for consistency throughout
14 this subtitle.

15 Defined terms: "Consumer" § 7-501
16 "Department" § 7-501

17 (D) COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

18 "COMMUNITY ATTENDANT SERVICES AND SUPPORTS" MEANS ATTENDANT
19 SERVICES AND SUPPORTS PROVIDED TO A CONSUMER:

- 20 (1) UNDER A PLAN OF SERVICES THAT IS:
- 21 (I) BASED ON AN ASSESSMENT OF THE CONSUMER'S FUNCTIONAL
22 NEED; AND
- 23 (II) APPROVED BY THE CONSUMER OR THE CONSUMER'S
24 REPRESENTATIVE; AND
- 25 (2) UNDER AN AGENCY-PROVIDER MODEL OR CONSUMER-DIRECTED
26 MODEL.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 41, § 6-7A-01(d).

29 Throughout this subsection, the defined term "consumer" is substituted for
30 the former references to an "individual" for consistency throughout this
31 subtitle.

32 In item (1)(ii) of this subsection, the words "approved by" are substituted
33 for the former words "agreed to" for consistency with § 7-504(a) of this
34 subtitle.

1 In item (2) of this subsection, the former phrase “or other model as defined
 2 in this section” is deleted as surplusage. In practice, there are only two
 3 models of providing community attendant services and supports: an
 4 agency–provider model and a consumer–directed model.

5 Defined terms: “Agency–provider model” § 7–501
 6 “Attendant services and supports” § 7–501
 7 “Consumer” § 7–501

8 (E) CONSUMER.

9 “CONSUMER” MEANS AN ELIGIBLE INDIVIDUAL WHO RECEIVES COMMUNITY
 10 ATTENDANT SERVICES AND SUPPORTS.

11 REVISOR’S NOTE: This subsection is new language derived without
 12 substantive change from former Art. 41, § 6–7A–01(e).

13 The defined term “community attendant services and supports” is
 14 substituted for the former reference to “community–based attendant
 15 services and supports” for consistency throughout this subtitle.

16 The former reference to “attendant services and supports” is deleted as
 17 included in the definition of “community attendant services and supports”.

18 Defined terms: “Community attendant services and supports” § 7–501
 19 “Eligible individual” § 7–501

20 (F) DEPARTMENT.

21 “DEPARTMENT” MEANS THE DEPARTMENT OF HUMAN RESOURCES.

22 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–7A–01(f).

23 No changes are made.

24 (G) ELIGIBLE INDIVIDUAL.

25 “ELIGIBLE INDIVIDUAL” MEANS AN INDIVIDUAL WHO IS ELIGIBLE FOR THE
 26 PROGRAM UNDER § 7–503 OF THIS SUBTITLE.

27 REVISOR’S NOTE: This subsection is new language added for brevity.

28 (H) FUNCTIONAL NEED.

29 “FUNCTIONAL NEED” MEANS THE NEED FOR ATTENDANT SERVICES AND
 30 SUPPORTS BASED ON THE ABILITIES AND LIMITATIONS OF THE CONSUMER,
 31 REGARDLESS OF MEDICAL DIAGNOSIS OR CATEGORY OF DISABILITY.

32 REVISOR’S NOTE: This subsection is new language derived without
 33 substantive change from former Art. 41, § 6–7A–01(h).

1 The defined term “attendant services and supports” is substituted for the
2 former reference to “personal assistance” for consistency throughout this
3 subtitle.

4 Defined term: “Attendant services and supports” § 7–501
5 “Consumer” § 7–501

6 (I) PERSONAL ASSISTANT.

7 “PERSONAL ASSISTANT” MEANS AN INDIVIDUAL WHO DIRECTLY PROVIDES
8 ATTENDANT SERVICES AND SUPPORTS.

9 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–7A–01(l).

10 The only changes are in style.

11 Defined term: “Attendant services and supports” § 7–501

12 (J) PROGRAM.

13 “PROGRAM” MEANS THE COMMUNITY ATTENDANT SERVICES AND SUPPORTS
14 PROGRAM.

15 REVISOR’S NOTE: This subsection formerly was Art. 41, § 6–7A–01(m).

16 The only changes are in style.

17 The Human Services Article Review Committee notes, for consideration by
18 the General Assembly, that the Program is currently known as “Living at
19 Home: Maryland Community Choices”.

20 Defined term: “Community attendant services and supports” § 7–501

21 (K) REPRESENTATIVE.

22 “REPRESENTATIVE” MEANS A PARENT, FAMILY MEMBER, GUARDIAN,
23 ADVOCATE, OR AUTHORIZED REPRESENTATIVE OF AN INDIVIDUAL.

24 REVISOR’S NOTE: This subsection is new language derived without
25 substantive change from former Art. 41, § 6–7A–01(n).

26 The former reference to an “eligible” individual is deleted for accuracy.

27 REVISOR’S NOTE TO SECTION:

28 Former Art. 41, § 6–7A–01(j), which defined “nursing home transition
29 grant”, is deleted as unnecessary because the term is not used in this
30 subtitle.

1 7-502. COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROGRAM.

2 (A) ESTABLISHED.

3 SUBJECT TO THE STATE BUDGET AND IN COLLABORATION WITH THE
4 DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN
5 RESOURCES SHALL ADMINISTER A COMPREHENSIVE PROGRAM OF COMMUNITY
6 ATTENDANT SERVICES AND SUPPORTS.

7 (B) PURPOSE.

8 THE PURPOSE OF THE PROGRAM IS TO PROVIDE ATTENDANT SERVICES AND
9 SUPPORTS TO INDIVIDUALS WITH DISABILITIES WHO WILL BE DISCHARGED OR
10 DIVERTED FROM NURSING FACILITIES WITH COMMUNITY ATTENDANT SERVICES
11 AND SUPPORTS PROVIDED THROUGH A MEDICAID HOME AND COMMUNITY-BASED
12 SERVICES WAIVER.

13 (C) INPUT REQUIRED.

14 THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE INDIVIDUALS, THE
15 INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS ABOUT THE PROGRAM.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 6-7A-02(a) and (c).

18 In subsection (a) of this section, the former reference to "home and"
19 community attendant services and supports is deleted for consistency.

20 Defined terms: "Attendant services and supports" § 7-501
21 "Community attendant services and supports" § 7-501
22 "Department" § 7-501
23 "Eligible individual" § 7-501
24 "Program" § 7-501
25 "Representative" § 7-501

26 7-503. ELIGIBILITY.

27 AN INDIVIDUAL IS ELIGIBLE FOR THE PROGRAM IF THE INDIVIDUAL:

- 28 (1) HAS A COGNITIVE, SENSORY, OR PHYSICAL DISABILITY;
- 29 (2) IS AT LEAST 21 YEARS OLD AND UNDER THE AGE OF 60 YEARS;
- 30 (3) REQUIRES THE LEVEL OF CARE PROVIDED IN A NURSING FACILITY;
- 31 (4) WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY;
- 32 (5) QUALIFIES FOR THE MEDICAID HOME AND COMMUNITY-BASED
33 SERVICES WAIVER FOR ADULTS WITH PHYSICAL DISABILITIES;
- 34 (6) HAS A FUNCTIONAL NEED; AND

1 (7) HAS AN INCOME THAT DOES NOT EXCEED 300% OF SUPPLEMENTAL
2 SECURITY INCOME.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, §§ 6-7A-01(g), 6-7A-02(d), and 6-7A-03(h)
5 and (i).

6 In item (2) of this section, the former requirement that the "Department
7 shall limit participation in the program" is revised as an eligibility
8 requirement for the Program for clarity.

9 In item (5) of this section, the reference to the Medicaid "home and
10 community-based services" waiver is added for accuracy.

11 In item (6) of this section, the former phrase "based on abilities and
12 limitations of the consumer" is deleted as included in the definition of
13 "functional need".

14 In item (7) of this section, the former requirement that the Department "in
15 coordination with the Department of Health and Mental Hygiene, shall
16 amend the existing waiver ... to include individuals with incomes at or
17 below 300% of supplemental security income" is revised as an eligibility
18 requirement for the Program because the waiver amendment has been
19 submitted and approved by the federal Centers for Medicare and Medicaid
20 Services.

21 The Human Services Article Review Committee notes, for consideration by
22 the General Assembly, that the waiver renewal effective July 1, 2004,
23 allows individuals 18 years old and older to receive services under the
24 Program.

25 Defined terms: "Functional need" § 7-501
26 "Program" § 7-501

27 7-504. INDIVIDUALIZED SUPPORT PLAN.

28 (A) PLAN REQUIRED.

29 EACH CONSUMER'S SERVICES SHALL BE BASED ON AN INDIVIDUALIZED
30 SUPPORT PLAN THAT IS:

31 (1) JOINTLY DEVELOPED BY THE CONSUMER OR THE CONSUMER'S
32 REPRESENTATIVE AND THE DEPARTMENT OR ITS DESIGNEE;

33 (2) APPROVED BY THE CONSUMER OR THE CONSUMER'S
34 REPRESENTATIVE; AND

35 (3) GIVEN TO THE CONSUMER AND THE CONSUMER'S REPRESENTATIVE
36 IN WRITING OR OTHER APPROPRIATE AND UNDERSTANDABLE FORMAT.

1 (B) PLAN SPECIFICATIONS.

2 THE INDIVIDUALIZED SUPPORT PLAN SHALL SPECIFY:

3 (1) THE SCOPE OF ATTENDANT SERVICES AND SUPPORTS AND THE
4 HOURS THAT THE SERVICES ARE TO BE PROVIDED;

5 (2) ALTERNATE SOURCES FOR ATTENDANT SERVICES AND SUPPORTS,
6 INCLUDING THE MEANS OF ENSURING SUBSTITUTE AND EMERGENCY ATTENDANT
7 SERVICES AND SUPPORTS;

8 (3) A MECHANISM TO COORDINATE ATTENDANT SERVICES AND
9 SUPPORTS WITH HEALTH CARE SERVICES THAT THE CONSUMER RECEIVES;

10 (4) AN INITIAL ASSESSMENT OF THE CONSUMER'S NEEDS AND THE
11 FREQUENCY OF REASSESSMENT;

12 (5) THE METHOD OF SERVICE DELIVERY;

13 (6) THE DEGREE AND FREQUENCY OF SUPERVISION OF THE PERSONAL
14 ASSISTANT NECESSARY FOR EFFECTIVE DELIVERY OF ATTENDANT SERVICES AND
15 SUPPORTS;

16 (7) THE MEANS TO ADJUST SERVICES AND HOURS WHEN CHANGES ARE
17 NEEDED; AND

18 (8) COMPLAINT AND APPEAL PROCEDURES.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, §§ 6-7A-04 and 6-7A-03(e)(1).

21 In the introductory language of subsection (a) of this section, the former
22 reference to a "program of" services is deleted as surplusage.

23 Also in the introductory language of subsection (a) of this section, the
24 former reference to a "mutually agreed upon individual services plan" is
25 deleted as included in the reference to an "individualized support plan that
26 is ... jointly developed ... [and] approved by the consumer ...".

27 Also in the introductory language of subsection (a) of this section, the
28 former reference to an "initial" individualized support plan is deleted as
29 surplusage.

30 In subsection (b)(1) of this section, the defined term "attendant services
31 and supports" is substituted for the former reference to "personal
32 assistance services" for consistency throughout this subtitle.

33 Defined terms: "Attendant services and supports" § 7-501

34 "Consumer" § 7-501

35 "Department" § 7-501

36 "Personal assistant" § 7-501

1 “Representative” § 7-501

2 7-505. MANAGEMENT AND ADMINISTRATION OF ATTENDANT SERVICES AND
3 SUPPORTS.

4 (A) CONSUMER CHOICE.

5 (1) TO THE EXTENT POSSIBLE, A CONSUMER MAY SELECT, MANAGE, AND
6 CONTROL THE CONSUMER’S COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

7 (2) A CONSUMER MAY CHOOSE BETWEEN A CONSUMER-DIRECTED
8 INDIVIDUAL PROVIDER MODEL OR AN AGENCY-PROVIDER MODEL.

9 (3) UNDER A CONSUMER-DIRECTED MODEL, A CONSUMER MAY USE A
10 FISCAL AGENT TO OBTAIN SERVICES.

11 (B) DELIVERY OF ATTENDANT SERVICES AND SUPPORTS.

12 (1) ATTENDANT SERVICES AND SUPPORTS SHALL BE DESIGNED TO
13 ASSIST A CONSUMER IN ACCOMPLISHING ACTIVITIES OF DAILY LIVING AND
14 HEALTH-RELATED FUNCTIONS THROUGH:

15 (I) HANDS-ON ASSISTANCE;

16 (II) SUPERVISION; OR

17 (III) CUEING, PROMPTING, OR REMINDING THE CONSUMER ABOUT
18 AN ACTIVITY.

19 (2) ATTENDANT SERVICES AND SUPPORTS SHALL BE PROVIDED IN A
20 CONSUMER’S HOME OR OTHER INDEPENDENT OR SUPPORTED LIVING
21 ENVIRONMENT, INCLUDING SCHOOL, WORK, RECREATIONAL, AND RELIGIOUS
22 SETTINGS.

23 (3) ATTENDANT SERVICES AND SUPPORTS MAY NOT BE PROVIDED IN:

24 (I) A NURSING FACILITY;

25 (II) AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY
26 RETARDED; OR

27 (III) A FACILITY THAT PROVIDES FOOD, SHELTER, AND TREATMENT
28 SERVICES TO FOUR OR MORE INDIVIDUALS UNRELATED TO THE PROPRIETOR.

29 (C) AVAILABILITY OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

30 COMMUNITY ATTENDANT SERVICES AND SUPPORTS SHALL BE AVAILABLE 24
31 HOURS A DAY, 7 DAYS A WEEK, AND PROVIDE BACKUP AND EMERGENCY COMMUNITY
32 ATTENDANT SERVICES AND SUPPORTS WHEN NECESSARY.

33 (D) PERSONAL ASSISTANTS.

1 (1) A CONSUMER MAY SELECT OR HIRE ANYONE, INCLUDING A FAMILY
2 MEMBER, AS A PERSONAL ASSISTANT.

3 (2) BASED ON CONSUMER RECOMMENDATIONS, THE DEPARTMENT MAY
4 WAIVE CERTAIN QUALIFICATIONS REQUIRED BY REGULATION FOR A PERSONAL
5 ASSISTANT, IF THE PERSONAL ASSISTANT IS A FAMILY MEMBER OR IS KNOWN AND
6 CHOSEN BY THE CONSUMER.

7 (3) A FAMILY MEMBER, EXCEPT THE CONSUMER'S SPOUSE, MAY
8 RECEIVE MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

9 (4) THE DEPARTMENT SHALL OFFER A CONSUMER TRAINING ON:

10 (I) HOW TO SELECT, MANAGE, AND DISMISS AN ATTENDANT OR
11 PERSONAL ASSISTANT; AND

12 (II) THE FINANCIAL MANAGEMENT OF COMMUNITY ATTENDANT
13 SERVICES AND SUPPORTS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, §§ 6-7A-01(i), (k), and (c)(2) and 6-7A-03(a),
16 (b), (d), (f), and (e)(2).

17 In subsection (a)(1) of this section, the defined term "consumer" is
18 substituted for the former reference to an "eligible individual who is a
19 participant in the program" for brevity and consistency throughout this
20 subtitle.

21 Also in subsection (a)(1) of this section, the word "consumer's" is
22 substituted for the former word "individual's" for clarity.

23 In subsection (a)(2) and (3) of this section, the former references to
24 "different service delivery options", "other service options", and "methods
25 other than an agency-provider model" are deleted as surplusage. As to the
26 models of delivering community attendant services and supports, *see* the
27 Revisor's Note to § 7-501(d) of this subtitle.

28 In subsection (a)(2) of this section, the word "may" is substituted for the
29 former phrase "shall have an opportunity to" for brevity.

30 Also in subsection (a)(2) of this section, the defined term "agency-provider
31 model" is substituted for the former reference to "agency models" for
32 consistency throughout this subtitle.

33 Also in subsection (a)(2) of this section, the former reference to a
34 "consumer-directed" agency-provider model is deleted as included in the
35 definition of "agency-provider model".

36 In subsection (b)(2) of this section, the former phrase "but not limited to" is
37 deleted as unnecessary in light of Art. 1, § 30, which provides that the term

1 “including” is used “by way of illustration and not by way of limitation”.

2 In subsection (b)(3)(iii) of this section, the reference to a “facility” is
3 substituted for the former reference to an “establishment that, in single or
4 multiple facilities,” for brevity and clarity.

5 Also in subsection (b)(3)(iii) of this subsection, the reference to
6 “individuals” is substituted for the former reference to “persons” because
7 only a human being, and not the other entities included in the defined
8 term “person”, could receive the services described.

9 Also in subsection (b)(3)(iii) of this section, the former reference to “some”
10 treatment services is deleted as surplusage.

11 In subsections (c) and (d)(4)(ii) of this section, the references to “community
12 attendant services and supports” are substituted for the former references
13 to “personal assistance services” for consistency throughout this subtitle.

14 In subsection (d)(1) of this section, the word “anyone” is substituted for the
15 former phrase “whomever the consumer chooses” for brevity.

16 In subsection (d)(3) of this section, the phrase “may receive” is substituted
17 for the former phrase “may not be barred from receiving” for brevity.

18 Also in subsection (d)(3) of this section, the phrase “except the consumer’s
19 spouse” is substituted for the former phrase “[e]xcept as provided in
20 sub-subparagraph 4 of this subparagraph” and former Art. 41, §
21 6-7A-03(e)(2)(ii)4, which provided that “[t]he consumer’s spouse shall be
22 barred from receiving medical assistance payments” for brevity.

23 Defined terms: “Agency-provider model” § 7-501

24 “Attendant services and supports” § 7-501

25 “Community attendant services and supports” § 7-501

26 “Consumer” § 7-501

27 “Personal assistant” § 7-501

28 7-506. MEDICAL ASSISTANCE ELIGIBILITY.

29 A CONSUMER IS ELIGIBLE FOR MEDICAL ASSISTANCE IF THE CONSUMER:

30 (1) WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE IN A MEDICAL
31 INSTITUTION OR NURSING HOME; AND

32 (2) NEEDS COMMUNITY ATTENDANT SERVICES AND SUPPORTS TO
33 REMAIN IN OR TRANSITION TO THE COMMUNITY.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 6-7A-03(c).

36 In the introductory language of this section, the former phrase “receiving

1 services and supports under this program” is deleted as included in the
2 definition of “consumer”.

3 In item (2) of this section, the former reference to “home and” community
4 attendant services and supports is deleted for consistency throughout this
5 subtitle.

6 Defined terms: “Community attendant services and supports” § 7-501
7 “Consumer” § 7-501

8 7-507. QUALITY ASSURANCE SYSTEM.

9 (A) IN GENERAL.

10 THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF HEALTH
11 AND MENTAL HYGIENE SHALL ADOPT A QUALITY ASSURANCE SYSTEM FOR THE
12 PROGRAM, CONSISTENT WITH FEDERAL REQUIREMENTS REGARDING QUALITY OF
13 WAIVER SERVICES.

14 (B) CONSUMER INPUT REQUIRED.

15 THE QUALITY ASSURANCE SYSTEM SHALL INCLUDE MEANINGFUL CONSUMER
16 INPUT, INCLUDING CONSUMER SURVEYS, THAT MEASURE THE EXTENT TO WHICH
17 CONSUMERS RECEIVE SERVICES DESCRIBED IN THEIR INDIVIDUALIZED SUPPORT
18 PLANS AND CONSUMER SATISFACTION WITH THE SERVICES.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 6-7A-05.

21 In subsection (b) of this section, the references to “consumers” and
22 “consumer” are substituted for the former references to “participants” and
23 “participant”, respectively, for consistency throughout this subtitle.

24 Also in subsection (b) of this section, the reference to “individualized
25 support plans” is substituted for the former reference to “the individual
26 plan” for consistency with § 7-504 of this subtitle.

27 Defined terms: “Consumer” § 7-501
28 “Program” § 7-501

29 7-508. REGULATIONS.

30 WITH SIGNIFICANT CONSUMER PARTICIPATION, THE DEPARTMENT OF HEALTH
31 AND MENTAL HYGIENE SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT
32 THIS SUBTITLE.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 6-7A-02(b).

35 The former reference to “involvement” is deleted as included in the
36 reference to “participation”.

1 Defined term: “Consumer” § 7–501

2 7–509. CONSUMER RIGHTS.

3 (A) RIGHT TO BE INFORMED; RIGHT TO PRIVACY.

4 A COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROVIDER SHALL
5 INFORM THE CONSUMER OF THE CONSUMER’S RIGHTS WITH RESPECT TO:

6 (1) SELECTING, MANAGING, AND CHANGING THE CONSUMER’S
7 COMMUNITY ATTENDANT SERVICES AND SUPPORTS; AND

8 (2) PRIVACY AND CONFIDENTIALITY.

9 (B) RIGHT OF APPEAL.

10 A CONSUMER WHO IS DISSATISFIED WITH THE PROGRAM MAY APPEAL TO THE
11 DEPARTMENT.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from former Art. 41, § 6–7A–03(g) and (j).

14 In the introductory language of subsection (a) of this section, the
15 requirement that a provider “inform the consumer” of the consumer’s
16 rights is substituted for the former requirement that a provider “assure
17 that a consumer is informed” for brevity.

18 In subsection (a)(1) of this section, the defined term “community attendant
19 services and supports” is substituted for the former reference to “personal
20 assistance services” for consistency throughout this subtitle.

21 Defined terms: “Community attendant services and supports” § 7–501

22 “Consumer” § 7–501

23 “Department” § 7–501

24 “Program” § 7–501

25 7–510. PERIODIC REPORTS.

26 SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT
27 SHALL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1, APRIL 1,
28 JULY 1, AND OCTOBER 1 OF EACH YEAR ABOUT THE STATUS AND DEVELOPMENT OF
29 THE PROGRAM, INCLUDING THE NUMBER OF INDIVIDUALS BUDGETED FOR THE
30 MEDICAID HOME AND COMMUNITY–BASED SERVICES WAIVER.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from the first sentence of former Art. 41, § 6–7A–06.

33 The phrase “on or before January 1, April 1, July 1, and October 1 of each
34 year” is substituted for the former phrase “every 3 months” to maintain the
35 established schedule for submitting the required reports.

1 The second sentence of former Art. 41, § 6–7A–06, which required that
2 “[t]he first report shall be submitted on October 1, 2001”, is deleted as
3 obsolete.

4 Defined terms: “Department” § 7–501
5 “Program” § 7–501

6 SUBTITLE 6. ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM.

7 7–601. DEFINITIONS.

8 (A) IN GENERAL.

9 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

10 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(a).

11 No changes are made.

12 (B) ASSISTIVE TECHNOLOGY.

13 (1) “ASSISTIVE TECHNOLOGY” MEANS ANY ITEM, EQUIPMENT, OR
14 DEVICE THAT IS DESIGNED TO ENABLE AN INDIVIDUAL WITH A DISABILITY TO
15 BECOME MORE INDEPENDENT OR A MORE PRODUCTIVE MEMBER OF THE
16 COMMUNITY WITH AN IMPROVED QUALITY OF LIFE.

17 (2) “ASSISTIVE TECHNOLOGY” INCLUDES WHEELCHAIRS, MOTORIZED
18 SCOOTERS, BRAILLE EQUIPMENT, VOICE SIMULATION SYSTEMS, SCANNERS,
19 ASSISTIVE LISTENING DEVICES, TELECOMMUNICATIONS DEVICES FOR THE DEAF,
20 AUGMENTATIVE COMMUNICATION SYSTEMS, ENVIRONMENTAL CONTROL SYSTEMS,
21 COMPUTERS AND ADAPTIVE PERIPHERALS, BUILDING MODIFICATIONS FOR
22 ACCESSIBILITY, MOTOR VEHICLES, AND VEHICLE MODIFICATIONS.

23 REVISOR’S NOTE: This subsection is new language derived without
24 substantive change from former Art. 41, § 14–901(b).

25 In paragraph (1) of this subsection, the reference to becoming “a more
26 productive member of the community” is added in the definition of
27 assistive technology, consistent with the use of the term throughout this
28 subtitle, to avoid repetition of that phrase. *See, e.g.*, former Art. 41, §§
29 14–903 and 14–906(b).

30 Also in paragraph (1) of this subsection, the reference to being “designed
31 to” enable an individual with a disability is added for clarity.

32 Also in paragraph (1) of this subsection, the reference to “becom[ing] more
33 independent” is substituted for the former reference to “improv[ing]
34 individual independence” for clarity.

35 (C) BOARD.

1 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE PROGRAM.

2 REVISOR’S NOTE: This subsection is new language derived without
3 substantive change from former Art. 41, § 14–901(c).

4 The reference to the Assistive Technology Guaranteed Loan “Program” is
5 substituted for the former reference to the Assistive Technology
6 Guaranteed Loan “Fund” for consistency with § 7–604 of this subtitle.

7 Defined term: “Program” § 7–601

8 (D) DEPARTMENT.

9 “DEPARTMENT” MEANS THE DEPARTMENT OF DISABILITIES.

10 REVISOR’S NOTE: This subsection is new language added to avoid repetition
11 of the full reference to the “Department of Disabilities”.

12 (E) FUND.

13 “FUND” MEANS THE ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND.

14 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(e).

15 No changes are made.

16 (F) PROGRAM.

17 “PROGRAM” MEANS THE ASSISTIVE TECHNOLOGY GUARANTEED LOAN
18 PROGRAM.

19 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(f).

20 No changes are made.

21 (G) SECRETARY.

22 “SECRETARY” MEANS THE SECRETARY OF DISABILITIES.

23 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–901(d).

24 No changes are made.

25 7–602. PROGRAM ESTABLISHED.

26 THERE IS AN ASSISTIVE TECHNOLOGY GUARANTEED LOAN PROGRAM IN THE
27 DEPARTMENT.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 41, § 14–902.

30 It is revised in standard language for clarity and consistency.

1 Defined term: "Department" § 7-601

2 7-603. PURPOSE OF PROGRAM.

3 THE PURPOSE OF THE PROGRAM IS TO PROVIDE ASSISTANCE FOR THE
4 PURCHASE OF ASSISTIVE TECHNOLOGY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 14-903.

7 The former phrase "equipment designed to enable individuals with
8 disabilities to become more independent or more productive members of
9 the community with an improved quality of life" is deleted as unnecessary
10 because it is included in the definition of "assistive technology".

11 Defined terms: "Assistive technology" § 7-601
12 "Program" § 7-601

13 7-604. BOARD OF DIRECTORS — ESTABLISHED.

14 THERE IS A BOARD OF DIRECTORS OF THE PROGRAM.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 14-904(a).

17 Defined term: "Program" § 7-601

18 7-605. BOARD OF DIRECTORS — MEMBERSHIP.

19 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

20 THE BOARD CONSISTS OF:

21 (1) THE SECRETARY OF BUDGET AND MANAGEMENT OR THE
22 SECRETARY'S DESIGNEE;

23 (2) A REPRESENTATIVE FROM THE DEPARTMENT OF HEALTH AND
24 MENTAL HYGIENE, DEVELOPMENTAL DISABILITIES ADMINISTRATION, APPOINTED
25 BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

26 (3) A REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION
27 DIVISION OF REHABILITATION SERVICES, APPOINTED BY THE STATE
28 SUPERINTENDENT OF SCHOOLS; AND

29 (4) EIGHT MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR
30 WITH THE ADVICE AND CONSENT OF THE SENATE.

31 (B) QUALIFICATIONS OF MEMBERS APPOINTED BY GOVERNOR.

32 OF THE EIGHT MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR:

1 (1) FOUR SHALL HAVE SIGNIFICANT EXPERIENCE IN FINANCE,
2 ACCOUNTING, INVESTMENT MANAGEMENT, OR CONSUMER LENDING; AND

3 (2) FOUR SHALL HAVE DISABILITIES OR ASSIST INDIVIDUALS WITH
4 DISABILITIES, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE MARYLAND
5 COMMISSION ON DISABILITIES.

6 (C) TENURE; VACANCIES.

7 (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS.

8 (2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
9 SUCCESSOR IS APPOINTED AND QUALIFIES.

10 (3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
11 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
12 QUALIFIES.

13 (4) A MEMBER APPOINTED BY THE GOVERNOR MAY NOT SERVE MORE
14 THAN TWO TERMS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 14-904(b) through (f).

17 In subsection (a)(4) of this section, the standard reference to individuals
18 appointed "with the advice and consent" of the Senate is substituted for the
19 former reference to individuals "confirmed" by the Senate.

20 Defined terms: "Board" § 7-601

21 "Program" § 7-601

22 7-606. BOARD OF DIRECTORS — CHAIR.

23 FROM AMONG ITS MEMBERS, THE BOARD ANNUALLY SHALL ELECT A CHAIR.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 14-905(a).

26 The reference to a "chair" is substituted for the former reference to a
27 "chairman" in light of the requirement of SG § 2-1238 that gender neutral
28 words be used to the extent practicable.

29 Defined term: "Board" § 7-601

30 7-607. BOARD OF DIRECTORS — QUORUM; MEETINGS; COMPENSATION; STAFF.

31 (A) QUORUM.

32 SIX MEMBERS OF THE BOARD ARE A QUORUM.

33 (B) MEETINGS.

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1 THE BOARD SHALL MEET AT LEAST QUARTERLY OR MORE OFTEN AS
2 NECESSARY TO CARRY OUT ITS DUTIES EFFICIENTLY.

3 (C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

4 A MEMBER:

5 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;

6 BUT

7 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
8 STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

9 (D) FINANCIAL BENEFIT PROHIBITED.

10 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A MEMBER MAY
11 NOT FINANCIALLY BENEFIT DIRECTLY OR INDIRECTLY FROM THE ACTIVITIES OF
12 THE FUND.

13 (E) STAFF.

14 THE DEPARTMENT SHALL PROVIDE STAFF TO THE BOARD.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, §§ 14-904(g) and 14-905(b), (d), (e), and (f).

17 In subsection (b) of this section, the reference to meeting "more often as"
18 necessary is substituted for the former reference to meeting "whenever it
19 is" necessary for clarity in light of the requirement that the Board meet "at
20 least quarterly". This substitution is called to the attention of the General
21 Assembly.

22 In subsection (c) of this section, the phrase "as a member of the Board" is
23 added for clarity.

24 Defined terms: "Board" § 7-601

25 "Department" § 7-601

26 7-608. BOARD AUTHORIZED TO GUARANTEE LOANS AND PROVIDE INTEREST
27 SUBSIDIES.

28 SUBJECT TO §§ 7-609(A) AND 7-610 OF THIS SUBTITLE, THE BOARD MAY PROVIDE
29 A GUARANTEE OF A LOAN OR A SUBSIDY OF LOAN INTEREST FOR A LOAN TO AN
30 INDIVIDUAL FOR THE PURCHASE OF ASSISTIVE TECHNOLOGY.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 41, § 14-909.

33 The reference to a loan "for the purchase of assistive technology" is
34 substituted for the former reference to a loan "made to a qualifying
35 borrower" for clarity and consistency throughout this subtitle.

1 The former phrase “on application” is deleted as unnecessary in light of the
2 reference to “§§ 7–609(a) and 7–610 of this subtitle”.

3 Defined term: “Board” § 7–601

4 7–609. APPLICATIONS; BOARD REVIEW OF APPLICATIONS.

5 (A) APPLICATIONS.

6 TO APPLY FOR A GUARANTEE OF A LOAN OR A SUBSIDY OF LOAN INTEREST, AN
7 APPLICANT SHALL SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
8 SECRETARY PROVIDES.

9 (B) BOARD REVIEW OF APPLICATIONS.

10 THE BOARD SHALL REVIEW THE APPLICATIONS FOR GUARANTEES OF LOANS
11 AND SUBSIDIES OF LOAN INTEREST AND APPROVE OR DENY THEM BASED ON
12 INFORMATION PROVIDED TO OR OBTAINED BY THE BOARD.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 41, §§ 14–905(c) and 14–911(a).

15 In subsection (a) of this section, the reference to “a guarantee of a loan or a
16 subsidy of loan interest” is substituted for the former reference to
17 “financial assistance” for consistency throughout this subtitle.

18 Defined terms: “Board” § 7–601

19 “Secretary” § 7–601

20 7–610. REQUIREMENTS.

21 THE BOARD MAY ENTER INTO AN AGREEMENT WITH AN APPLICANT TO
22 GUARANTEE A LOAN OR PROVIDE A SUBSIDY FOR LOAN INTEREST TO THE
23 APPLICANT ONLY IF THE APPLICANT DEMONSTRATES:

24 (1) THAT THE LOAN TO BE GUARANTEED OR THE SUBSIDY OF LOAN
25 INTEREST WILL BE USED TO ACQUIRE ASSISTIVE TECHNOLOGY;

26 (2) THE ABILITY TO REPAY THE LOAN;

27 (3) CREDITWORTHINESS; AND

28 (4) THE INABILITY TO QUALIFY FOR A LOAN FROM A LENDING
29 INSTITUTION WITHOUT A LOAN GUARANTEE OR A SUBSIDY OF LOAN INTEREST.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 41, §§ 14–910, 14–901(g), and 14–911(b).

32 In item (1) of this section, the former phrase “or other equipment designed
33 to help one or more individuals with disabilities to improve their
34 independence or become more productive members of the community” is

1 deleted as unnecessary because it is included in the definition of “assistive
2 technology”.

3 Former Art. 41, § 14–901(g), which defined the term “qualifying borrower”,
4 is revised in item (1) of this section as a requirement to qualify for a loan
5 guarantee or interest subsidy, rather than as a definition, for clarity.
6 Correspondingly, references to a “qualifying” borrower are deleted
7 throughout this subtitle as surplusage.

8 Former Art. 41, § 14–910(1), which required an applicant to “[meet] the
9 qualifications required in § 14–911 of this subtitle”, is deleted in light of
10 the revision of the required qualifications in this section.

11 Defined terms: “Assistive technology” § 7–601
12 “Board” § 7–601

13 7–611. AMOUNT AND TERMS OF LOAN GUARANTEES AND INTEREST SUBSIDIES.

14 (A) DETERMINATION OF AMOUNT AND TERMS.

15 EXCEPT AS PROVIDED IN THIS SUBTITLE, THE BOARD AND LENDER JOINTLY
16 SHALL DETERMINE THE AMOUNT AND TERMS OF THE GUARANTEE OF THE LOAN OR
17 THE SUBSIDY OF LOAN INTEREST.

18 (B) MAXIMUM LOAN GUARANTEE.

19 THE TOTAL AGGREGATE AMOUNT OF A LOAN GUARANTEE MAY BE UP TO 100%
20 OF THE LOAN.

21 (C) AGGREGATE LOAN GUARANTEES NOT TO EXCEED BALANCE IN FUND.

22 THE TOTAL AGGREGATE AMOUNT OF GUARANTEES PROVIDED FROM THE FUND
23 MAY NOT AT ANY TIME EXCEED THE BALANCE AVAILABLE IN THE FUND.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 14–912.

26 Defined terms: “Board” § 7–601
27 “Fund” § 7–601

28 7–612. VIOLATIONS OF LOAN PROVISIONS.

29 IF A BORROWER VIOLATES ANY PROVISION OF A LOAN GUARANTEE OR SUBSIDY
30 AGREEMENT OR CEASES TO MEET THE REQUIREMENTS OF THIS SUBTITLE, ON
31 REASONABLE NOTICE TO THE BORROWER, THE BOARD MAY:

32 (1) WITHHOLD FROM THE BORROWER FURTHER LOAN GUARANTEES OR
33 SUBSIDIES UNTIL THE BORROWER COMPLIES WITH THE AGREEMENT OR
34 REQUIREMENTS; AND

1 (2) EXERCISE ANY OTHER REMEDY THAT THE LOAN GUARANTEE OR
2 SUBSIDY AGREEMENT PROVIDES.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 14-913.

5 Defined term: "Board" § 7-601

6 7-613. ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND.

7 (A) ESTABLISHED.

8 THERE IS AN ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND IN THE
9 DEPARTMENT.

10 (B) PURPOSE.

11 THE PURPOSE OF THE FUND IS TO PROVIDE GUARANTEES OF LOANS AND
12 SUBSIDIES OF LOAN INTEREST FOR THE PURCHASE OF ASSISTIVE TECHNOLOGY.

13 (C) ADMINISTRATION.

14 (1) THE BOARD SHALL ADMINISTER THE FUND.

15 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
16 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

17 (D) STATUS.

18 THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO §
19 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

20 (E) INVESTMENT EARNINGS.

21 ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

22 (F) REVERSION TO GENERAL FUND ON RESOLUTION OF BOARD.

23 IF, AT ANY TIME, THE BALANCE OF THE FUND EXCEEDS THE AMOUNT THAT
24 THE BOARD CONSIDERS NECESSARY TO MEET ITS OBLIGATIONS, ON RESOLUTION OF
25 THE BOARD, THE EXCESS SHALL REVERT TO THE GENERAL FUND.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 41, § 14-906.

28 In subsection (b) of this section, the former phrase "equipment designed to
29 enable individuals with disabilities to become more independent or more
30 productive members of the community with an improved quality of life" is
31 deleted as unnecessary because it is included in the definition of "assistive
32 technology".

1 In subsection (c) of this section, the former requirement that the Board
2 “manage” the Fund is deleted as included in the requirement that the
3 Board “administer” the Fund.

4 Defined terms: “Assistive technology” § 7-601
5 “Board” § 7-601
6 “Department” § 7-601
7 “Fund” § 7-601

8 7-614. ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND — COMPOSITION; USE OF
9 FUND.

10 (A) COMPOSITION.

11 THE FUND CONSISTS OF:

12 (1) PREMIUMS AND FEES CHARGED FOR THE GUARANTEES OF LOANS
13 OR THE SUBSIDIES OF LOAN INTEREST;

14 (2) INCOME FROM INVESTMENT EARNINGS;

15 (3) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
16 COLLATERAL RELATING TO THE GUARANTEES OF LOANS OR SUBSIDIES OF LOAN
17 INTEREST;

18 (4) MONEY APPROPRIATED BY THE STATE TO THE FUND; AND

19 (5) ANY OTHER MONEY MADE AVAILABLE TO THE FUND.

20 (B) USE OF FUND.

21 THE FUND SHALL BE USED TO PAY:

22 (1) GUARANTY PAYMENTS REQUIRED BY LOAN DEFAULTS;

23 (2) SUBSIDIES OF LOAN INTEREST;

24 (3) EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, TECHNICAL
25 ASSISTANCE, AND OTHER SERVICES; AND

26 (4) ANY OTHER EXPENSES AND DISBURSEMENTS THAT THE BOARD
27 AUTHORIZES FOR ADMINISTERING THE FUND AND FINANCING THE GUARANTEES OF
28 LOANS AND THE SUBSIDIES OF LOAN INTEREST FOR THE PURCHASE OF ASSISTIVE
29 TECHNOLOGY.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 41, § 14-907.

32 Subsection (b) of this section is revised to state directly the primary uses of
33 the Assistive Technology Guarantee Loan Fund, rather than “including by
34 way of example”.

1 In the introductory language of subsection (b) of this section, the former
2 reference to assistive technology “for individuals with disabilities” is
3 deleted as unnecessary in light of the definition of “assistive technology”.

4 In subsection (b)(2) of this section, the reference to “subsidies of loan
5 interest” is added to state expressly one of the primary uses of the Fund
6 that was only implied under the former law.

7 Defined terms: “Board” § 7-601

8 “Fund” § 7-601

9 7-615. ASSISTIVE TECHNOLOGY GUARANTEED LOAN FUND — ANNUAL REPORT BY
10 TREASURER.

11 EACH YEAR, THE TREASURER SHALL REPORT TO THE BOARD AND THE
12 SECRETARY ON:

13 (1) THE STATUS OF THE MONEY INVESTED UNDER THIS SUBTITLE;

14 (2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE
15 OF THE REPORT; AND

16 (3) THE INTEREST RECEIVED FROM INVESTMENTS DURING THE PERIOD
17 THAT THE REPORT COVERS.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 14-908.

20 Defined terms: “Board” § 7-601

21 “Fund” § 7-601

22 “Secretary” § 7-601

23 7-616. ANNUAL REPORT BY BOARD.

24 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE BOARD, THROUGH THE
25 SECRETARY, SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE
26 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE NUMBER,
27 AMOUNT, AND USE OF LOANS AND SUBSIDIES FOR WHICH THE PROGRAM HAS
28 PROVIDED GUARANTEES OF LOANS AND SUBSIDIES OF LOAN INTEREST UNDER THIS
29 SUBTITLE.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 41, § 14-914.

32 Defined terms: “Board” § 7-601

33 “Program” § 7-601

34 “Secretary” § 7-601

1 SUBTITLE 7. BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, AND MOBILITY
2 IMPAIRED INDIVIDUALS.

3 7-701. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

8 (B) BLIND.

9 "BLIND" MEANS:

10 (1) A VISUAL ACUITY NOT EXCEEDING 20/200 IN THE BETTER EYE WITH
11 CORRECTIVE LENSES; OR

12 (2) A VISUAL FIELD OF WHICH THE WIDEST DIAMETER SUBTENDS AN
13 ANGLE OF NOT MORE THAN 20 DEGREES.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 30, § 32.

16 In the introductory language of this subsection, the former phrase "[f]or
17 the purposes of this article" is deleted as surplusage.

18 In item (2) of this subsection, the former phrase "visual acuity greater than
19 20/200 but with a limitation in the fields of vision such that" is deleted as
20 surplusage.

21 (C) DEAF.

22 "DEAF" MEANS A PERMANENT HEARING LOSS:

23 (1) THAT NECESSITATES THE USE OF AMPLIFICATION DEVICES TO HEAR
24 ORAL COMMUNICATION; OR

25 (2) FOR WHICH AMPLIFICATION DEVICES ARE INEFFECTIVE.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 30, § 31(b).

28 In item (1) of this subsection, the former reference to a permanent hearing
29 loss that "is severe enough to" necessitate the use of amplification devices
30 is deleted for brevity. Similarly, in item (2) of this subsection, the former
31 reference to a permanent hearing loss "[t]hat is so severe" is deleted.

32 The Human Services Article Review Committee notes, for consideration by
33 the General Assembly, that the permanency requirement in the definition

1 of “deaf” is not included in the definitions of “blind” and “mobility
2 impaired” in this section. The General Assembly may wish to consider
3 deleting the reference to a “permanent” hearing loss in this subsection. The
4 Human Services Article Review Committee further notes that the
5 references to “amplification devices” may be too limited. The General
6 Assembly may wish to consider substantively revising this subsection.

7 (D) HOUSING ACCOMMODATIONS.

8 “HOUSING ACCOMMODATIONS” MEANS REAL PROPERTY, OR A PORTION OF
9 REAL PROPERTY, THAT IS:

10 (1) OFFERED FOR COMPENSATION; AND

11 (2) USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED, AS
12 THE RESIDENCE OR LODGING OF AT LEAST ONE INDIVIDUAL.

13 REVISOR’S NOTE: This subsection is new language derived without
14 substantive change from the third clause of former Art. 30, § 33(i)(1) and
15 the first four clauses of (2).

16 In item (1) of this subsection, the former references to real property offered
17 for “rent” or “lease” are deleted as unnecessary in light of the reference to
18 “compensation”.

19 In item (2) of this subsection, the reference to the “residence or lodging of
20 at least one individual” is substituted for the former reference to the
21 “home, residence, or sleeping place of one or more human beings” for
22 brevity.

23 Also in item (2) of this subsection, the former references to real property
24 “arranged” or “designed” to be used or occupied as a residence or lodging
25 are deleted as unnecessary in light of the reference to real property
26 “intended” to be used or occupied as a residence or lodging.

27 (E) MOBILITY IMPAIRED.

28 “MOBILITY IMPAIRED” MEANS AN INABILITY TO CARRY OBJECTS OR TO MOVE
29 OR TRAVEL WITHOUT THE USE OF AN ASSISTIVE DEVICE OR SERVICE DOG.

30 REVISOR’S NOTE: This subsection is new language derived without
31 substantive change from former Art. 30, § 33(j)(1).

32 The reference to “mobility impaired” is substituted for the former reference
33 to a “mobility impaired person” for brevity and consistency with other
34 definitions in this section.

35 The former phrase “[i]n this section” is deleted as unnecessary in light of
36 subsection (a) of this section.

1 (F) SERVICE DOG TRAINER.

2 “SERVICE DOG TRAINER” MEANS A PERSON WHO TRAINS SERVICE DOGS FOR:

3 (1) BLIND OR VISUALLY IMPAIRED INDIVIDUALS;

4 (2) DEAF OR HARD OF HEARING INDIVIDUALS; OR

5 (3) MOBILITY IMPAIRED INDIVIDUALS.

6 REVISOR’S NOTE: This subsection is new language derived without
7 substantive change from former Art. 30, § 33(k)(1).

8 The former phrase “[i]n this subsection” is deleted as unnecessary in light
9 of subsection (a) of this section.

10 As to the substitution of references to “individuals” for the former
11 references to “persons”, the substitution of the reference to “visually
12 impaired” individuals for the former reference to “visually handicapped”
13 individuals, and the substitution of the reference to “hard of hearing”
14 individuals for the former reference to “hearing impaired” individuals, *see*
15 General Revisor’s Note to subtitle.

16 REVISOR’S NOTE TO SECTION:

17 Former Art. 30, § 31(a), which defined “deaf, dumb and blind”, is deleted as
18 unnecessary because the term is not used.

19 The Human Services Article Review Committee notes, for consideration by
20 the General Assembly, that the terms “visually impaired” and “hard of
21 hearing” are used throughout this subtitle, but are not defined. The
22 General Assembly may wish to consider adding definitions for these terms.

23 7-702. STATE POLICY.

24 (A) SOCIAL AND ECONOMIC PARTICIPATION.

25 IT IS THE POLICY OF THE STATE TO ENCOURAGE AND ENABLE BLIND, VISUALLY
26 IMPAIRED, DEAF, AND HARD OF HEARING INDIVIDUALS TO PARTICIPATE FULLY IN
27 THE SOCIAL AND ECONOMIC LIFE OF THE STATE AND TO BE EMPLOYED.

28 (B) EMPLOYMENT SUPPORTED BY PUBLIC FUNDS.

29 IT IS THE POLICY OF THE STATE THAT BLIND, VISUALLY IMPAIRED, DEAF, AND
30 HARD OF HEARING INDIVIDUALS SHALL BE EMPLOYED BY THE STATE, POLITICAL
31 SUBDIVISIONS OF THE STATE, PUBLIC SCHOOLS, AND OTHER EMPLOYERS
32 SUPPORTED WHOLLY OR PARTLY BY PUBLIC FUNDS ON THE SAME TERMS AND
33 CONDITIONS AS INDIVIDUALS WITHOUT THOSE DISABILITIES, UNLESS AN
34 INDIVIDUAL’S DISABILITY PREVENTS DOING THE WORK REQUIRED.

35 (C) DEAF AND HARD OF HEARING RECOGNIZED AS CULTURAL MINORITY.

1 DEAF AND HARD OF HEARING INDIVIDUALS IN THE STATE ARE RECOGNIZED AS
2 A CULTURAL MINORITY WITH SPECIALIZED COMMUNICATION NEEDS.

3 (D) AMERICAN SIGN LANGUAGE.

4 (1) IN THIS SUBSECTION, "AMERICAN SIGN LANGUAGE" MEANS A
5 VISUAL-SPATIAL METHOD OF COMMUNICATION THAT IS A DISTINCT LANGUAGE
6 INVOLVING THE HANDS, ARMS, FACIAL MARKERS, AND BODY MOVEMENTS TO
7 COMMUNICATE WITH OTHERS, INCLUDING THE CONVEYANCE OF THOUGHTS,
8 WORDS, EMOTIONS, AND GRAMMATICAL INFORMATION.

9 (2) AMERICAN SIGN LANGUAGE IS RECOGNIZED AS A LANGUAGE
10 SYSTEM DESIGNED TO MEET THE SPECIALIZED COMMUNICATION NEEDS OF DEAF
11 AND HARD OF HEARING INDIVIDUALS.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 30, §§ 34 and 33(a) and (b).

14 As to the substitution of the references to "hard of hearing" and "visually
15 impaired" individuals for the former references to "hearing impaired" and
16 "visually handicapped" individuals in subsections (a) and (b) of this
17 section, *see* General Revisor's Note to subtitle.

18 In subsection (a) of this section, the reference to "be[ing] employed" is
19 substituted for the former reference to "engag[ing] in remunerative
20 employment" for brevity.

21 In subsection (b) of this section, the references to "disabilities" and a
22 "disability" are substituted for the former obsolete references to
23 "handicapped" and a "handicap".

24 Also in subsection (b) of this section, the reference to being employed "by
25 the State [or] political subdivisions of the State" is substituted for the
26 former reference to being employed in the "service" of those government
27 units for brevity and clarity.

28 Also in subsection (b) of this section, the reference to a disability that
29 prevents an individual from "doing the work required" is substituted for
30 the former reference to "the performances of the work involved" for brevity
31 and consistency with § 7-703(h)(2) of this subtitle.

32 Also in subsection (b) of this section, the former phrase "unless it is shown
33 that the particular" is deleted as surplusage.

34 In subsection (c) of this section, the reference to individuals who are
35 "recognized as" a cultural minority is substituted for the former reference
36 to individuals who are "identified as" a cultural minority for consistency
37 with subsection (d)(2) of this section.

38 In subsection (d)(1) of this section, the former reference to American Sign

1 Language as a “separate” language is deleted as unnecessary in light of the
2 reference to it as a “distinct” language.

3 Defined terms: “Blind” § 7–701
4 “Deaf” § 7–701

5 7–703. BLIND INDUSTRIES AND SERVICES OF MARYLAND.

6 (A) “BOARD” DEFINED.

7 IN THIS SECTION, “BOARD” MEANS THE BOARD OF TRUSTEES OF BLIND
8 INDUSTRIES AND SERVICES OF MARYLAND.

9 (B) BOARD OF TRUSTEES OF BLIND INDUSTRIES AND SERVICES OF
10 MARYLAND ESTABLISHED.

11 THERE IS A BOARD OF TRUSTEES THAT IS A BODY CORPORATE UNDER THE
12 NAME OF “BLIND INDUSTRIES AND SERVICES OF MARYLAND”.

13 (C) COMPOSITION; APPOINTMENT.

14 (1) THE BOARD CONSISTS OF 11 TRUSTEES APPOINTED BY THE
15 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

16 (2) OF THE 11 TRUSTEES, AT LEAST 4 TRUSTEES SHALL BE BLIND.

17 (D) ORGANIZATION.

18 (1) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND
19 A TREASURER.

20 (2) THE BOARD MAY ELECT ANOTHER MEMBER TO SERVE AS CHAIR IF IT
21 IS INCONVENIENT OR IMPOSSIBLE FOR THE REGULARLY ELECTED CHAIR TO SERVE.

22 (E) TERMS.

23 (1) THE TERM OF A MEMBER IS 3 YEARS.

24 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
25 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2007.

26 (F) VACANCIES.

27 (1) THE GOVERNOR SHALL FILL A VACANCY ON THE BOARD BY
28 APPOINTMENT WITH THE ADVICE AND CONSENT OF THE SENATE.

29 (2) A MEMBER WHO IS APPOINTED AFTER A TERM BEGINS SHALL SERVE
30 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
31 QUALIFIES.

32 (G) COMPENSATION; EXPENSES.

1 A TRUSTEE IS ENTITLED TO:

2 (1) PER DIEM COMPENSATION FOR EACH BOARD OR COMMITTEE
3 MEETING ATTENDED IN ACCORDANCE WITH THE STATE BUDGET; AND

4 (2) REIMBURSEMENT FOR EXPENSES INCURRED IN THE PERFORMANCE
5 OF THE TRUSTEE'S DUTIES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS
6 PROVIDED IN THE STATE BUDGET.

7 (H) DUTIES.

8 THE BOARD SHALL:

9 (1) MAINTAIN IN BALTIMORE CITY A TRAINING AND EMPLOYMENT
10 CENTER FOR BLIND INDIVIDUALS;

11 (2) OPERATE THE BLIND INDUSTRIES AND SERVICES OF MARYLAND FOR
12 THE LABOR AND MANUFACTURES OF ALL BLIND ADULT RESIDENTS OF THE STATE
13 WHO GIVE SATISFACTORY EVIDENCE OF CHARACTER AND ABILITY TO DO THE WORK
14 REQUIRED;

15 (3) USE THE PROFITS ARISING FROM THE OPERATION OF THE BLIND
16 INDUSTRIES AND SERVICES OF MARYLAND TO FURTHER ITS MISSION;

17 (4) ACQUIRE SUITABLE QUARTERS IN THE STATE;

18 (5) KEEP PROPER RECORDS OF ITS FUNDS AND ACCOUNTS; AND

19 (6) REPORT ANNUALLY TO THE GOVERNOR, AND SUBJECT TO § 2-1246 OF
20 THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, AND THE CHAIR OF
21 THE JOINT AUDIT COMMITTEE ON THE CONDITION AND OPERATIONS OF THE BLIND
22 INDUSTRIES AND SERVICES OF MARYLAND, INCLUDING A THOROUGH DISCUSSION
23 OF ITS PROGRAMS AND THE PARTICIPATION OF THE BLIND COMMUNITY IN THESE
24 PROGRAMS.

25 (I) POWERS.

26 THE BOARD MAY:

27 (1) APPLY THAT PORTION OF THE ENDOWMENT FUND AND ANNUAL
28 INCOME THAT THE BOARD CONSIDERS EXPEDIENT TO ESTABLISH TRAINING AND
29 EMPLOYMENT CENTERS IN ANY PART OF THE STATE AND TO OPEN A STORE FOR THE
30 SALE OF ARTICLES MANUFACTURED BY BLIND INDIVIDUALS;

31 (2) EXTEND THE BENEFITS OF THE TRAINING AND EMPLOYMENT
32 CENTERS AND THE STORE TO BLIND ADULTS OF THE STATE WHO DO NOT RESIDE IN
33 INSTITUTIONS ON ANY TERMS AND UNDER ANY REGULATIONS THAT THE BOARD
34 PRESCRIBES;

35 (3) GENERALLY SUPERVISE AND CONTROL THE TRAINING AND
36 EMPLOYMENT CENTERS;

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- 1 (4) ACQUIRE AND HOLD REAL, PERSONAL, AND MIXED PROPERTY;
- 2 (5) SUE AND BE SUED;
- 3 (6) MAKE, USE, AND ALTER A SEAL;
- 4 (7) APPOINT A CORPORATE SECRETARY AND OTHER NECESSARY
5 EMPLOYEES AND SET THEIR COMPENSATION; AND
- 6 (8) ESTABLISH, MAINTAIN, DIRECT, AND SUPERVISE EACH MATTER
7 CONCERNING THE BLIND INDUSTRIES AND SERVICES OF MARYLAND, INCLUDING
8 THE PURCHASE OF ANY MACHINERY AND MATERIALS THAT THE BOARD CONSIDERS
9 SUITABLE AND NECESSARY AND THE BARTER OR EXCHANGE OF ARTICLES OR
10 MANUFACTURES ENTRUSTED TO THE BOARD FOR DISPOSAL.
- 11 (J) AUDIT.

12 THE BOARD SHALL BE AUDITED ANNUALLY.

13 REVISOR'S NOTE: Subsection (a) of this section is new language added for
14 brevity and to avoid repetition of the full reference to the "Board of
15 Trustees of Blind Industries and Services of Maryland".

16 Subsections (b) through (j) of this section are new language derived
17 without substantive change from former Art. 30, §§ 3 through 6.

18 In subsection (b) of this section, the former reference to the Board being
19 constituted under the "style" of "Blind Industries and Services of
20 Maryland" is deleted as included in the reference to the Board being
21 constituted under that "name".

22 In subsection (d)(1) of this section, the former requirement that the Board
23 "shall organize immediately upon its appointment and qualification" is
24 deleted as obsolete.

25 In subsection (e)(2) of this section, the reference to terms being staggered
26 as required by the terms provided for the Board members on "October 1,
27 2007" is substituted for the former obsolete reference to terms being
28 staggered as required by the terms provided on "July 1, 1988". This
29 substitution is not intended to alter the term of any member of the Board.
30 See §__ of Ch. __, Acts of 2007. The terms of the members serving on
31 October 1, 2007, end as follows: (1) 4 in 2008; (2) 3 in 2009; and (3) 4 in
32 2010.

33 In subsection (f)(2) of this section, the requirement that a member who is
34 "appointed after a term begins shall serve only for the rest of the term and
35 until a successor is appointed and qualifies" is substituted for the former
36 reference to a vacancy that "shall be filled for the unexpired term by an
37 appointment by the Governor with the advice and consent of the Senate"
38 for consistency with similar provisions elsewhere in the revised articles of

1 the Code.

2 Subsection (g) of this section is revised in standard language for clarity and
3 consistency with similar provisions throughout the revised articles of the
4 Code.

5 In subsection (h)(2) of this section, the reference to “blind adult residents of
6 the State” is substituted for the former reference to “blind citizens of
7 Maryland over eighteen years of age” for clarity and brevity.

8 In subsections (h)(3) and (i)(8) of this section, the references to the “Blind
9 Industries and Services of Maryland” are substituted for the former
10 references to “blind industries” for consistency throughout this section.

11 In subsection (h)(3) of this section, the phrase “to further its mission” is
12 substituted for the former phrase “in furthering its usefulness” for clarity.

13 In subsection (h)(4) of this section, the former reference to the acquisition
14 of suitable quarters in the State “by lease, purchase, or otherwise” is
15 deleted as surplusage.

16 In subsection (i)(4) of this section, the former reference to the Board’s
17 authority to acquire and hold property “in any manner whatsoever” is
18 deleted as surplusage.

19 In subsection (i)(6) of this section, the former reference to “chang[ing]” a
20 seal is deleted as included in the reference to “alter[ing]” a seal.

21 Also in subsection (i)(6) of this section, the former reference to a “common”
22 seal is deleted as surplusage.

23 Also in subsection (i)(6) of this section, the former phrase “at any time” is
24 deleted as surplusage.

25 In subsection (i)(8) of this section, the former phrase “its maintenance and
26 regulation” is deleted as surplusage.

27 The Human Services Article Review Committee notes, for consideration by
28 the General Assembly, that the powers and duties of Blind Industries and
29 Services of Maryland were originally established in 1908 and have not
30 been amended since 1987. The General Assembly may wish to review and
31 substantively update the archaic language in this section.

32 7-704. RIGHTS OF INDIVIDUALS WITH DISABILITIES.

33 (A) PUBLIC PLACES.

34 BLIND, VISUALLY IMPAIRED, DEAF, AND HARD OF HEARING INDIVIDUALS HAVE
35 THE SAME RIGHT AS INDIVIDUALS WITHOUT THOSE DISABILITIES TO THE FULL AND

1 FREE USE OF THE ROADS, SIDEWALKS, PUBLIC BUILDINGS, PUBLIC FACILITIES, AND
2 OTHER PUBLIC PLACES.

3 (B) PUBLIC ACCOMMODATIONS AND CONVEYANCES.

4 (1) BLIND, VISUALLY IMPAIRED, DEAF, AND HARD OF HEARING
5 INDIVIDUALS ARE ENTITLED TO FULL AND EQUAL RIGHTS AND PRIVILEGES WITH
6 RESPECT TO COMMON CARRIERS AND OTHER PUBLIC CONVEYANCES OR MODES OF
7 TRANSPORTATION, PLACES OF PUBLIC ACCOMMODATIONS, AND OTHER PLACES TO
8 WHICH THE GENERAL PUBLIC IS INVITED, SUBJECT ONLY TO ANY CONDITIONS AND
9 LIMITATIONS OF GENERAL APPLICATION ESTABLISHED BY LAW.

10 (2) THE FAILURE OF A BLIND OR VISUALLY IMPAIRED PEDESTRIAN TO
11 CARRY A CANE PREDOMINANTLY WHITE OR METALLIC IN COLOR, WITH OR WITHOUT
12 A RED TIP, OR A DEAF OR HARD OF HEARING PEDESTRIAN TO USE A SERVICE DOG
13 WEARING AN ORANGE LICENSE TAG OR ORANGE COLLAR AND ON A LEASH, OR TO
14 USE A SERVICE DOG IN A PLACE, ACCOMMODATION, OR CONVEYANCE LISTED IN
15 PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONSTITUTE CONTRIBUTORY
16 NEGLIGENCE PER SE.

17 (C) HOUSING ACCOMMODATIONS.

18 (1) THIS SUBSECTION DOES NOT APPLY TO ANY ACCOMMODATIONS OR
19 SINGLE FAMILY RESIDENCE IN WHICH THE OCCUPANTS OFFER FOR COMPENSATION
20 NOT MORE THAN ONE ROOM.

21 (2) A BLIND OR VISUALLY IMPAIRED INDIVIDUAL IS ENTITLED TO THE
22 SAME ACCESS AS OTHER MEMBERS OF THE GENERAL PUBLIC TO HOUSING
23 ACCOMMODATIONS IN THE STATE, SUBJECT TO ANY CONDITIONS AND LIMITATIONS
24 OF GENERAL APPLICATION ESTABLISHED BY LAW.

25 (3) A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING
26 INDIVIDUAL WHO HAS, OBTAINS, OR MAY WISH TO OBTAIN A SERVICE DOG IS
27 ENTITLED TO FULL AND EQUAL ACCESS TO HOUSING ACCOMMODATIONS.

28 (4) A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING
29 INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG MAY NOT BE REQUIRED TO
30 PAY EXTRA COMPENSATION FOR THE SERVICE DOG, BUT THE INDIVIDUAL MAY BE
31 LIABLE FOR DAMAGES TO THE PREMISES OR FACILITIES THAT THE SERVICE DOG
32 CAUSES.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 30, § 33(c), (d)(1) and (3), and (i)(1), (4), and the
35 fifth through eighth clauses of (2).

36 In subsection (a) of this section, the reference to "roads" is substituted for
37 the former reference to "streets [and] highways" for brevity.

38 Also in subsection (a) of this section, the reference to "individuals without
39 those disabilities" is substituted for the former obsolete reference to

1 “persons not so handicapped”.

2 Also in subsection (a) of this section, the former reference to “walkways” is
3 deleted as included in the reference to “sidewalks”.

4 In subsections (b)(1) and (c)(1) of this section, the references to conditions
5 and limitations “of general application” are substituted for the former
6 references to conditions and limitations “applicable to all persons” and
7 “applicable to all persons alike”, respectively, for brevity.

8 In subsection (b)(1) of this section, the reference to “rights” is substituted
9 for the former reference to “accommodations, advantages, [and] facilities”
10 for brevity and consistency with § 7–707 of this subtitle.

11 Also in subsection (b)(1) of this section, the former reference to “airplanes,
12 motor vehicles, railroad trains, motor buses, streetcars, [and] boats” is
13 deleted as included in the reference to “common carriers and other public
14 conveyances or modes of transportation”.

15 Also in subsection (b)(1) of this section, the former reference to “hotels,
16 lodging places, [and] places of ... amusement, or resort” is deleted as
17 included in the reference to “places of public accommodations”.

18 In subsection (c)(1) of this section, the phrase “[t]his subsection does not
19 apply” is substituted for the former phrase “but does not
20 include ... included within paragraph (1) of this subsection” for brevity.

21 Also in subsection (c)(1) of this section, the word “offer” is substituted for
22 the former words “rent, lease, or furnish” for brevity.

23 In subsection (c)(2) of this section, the reference to the “same” access is
24 substituted for the former reference to “full and equal” access for brevity.

25 Also in subsection (c)(2) of this section, the former reference to conditions
26 and limitations established by “State or federal regulations” is deleted for
27 brevity in light of the comprehensive reference to “law”.

28 In subsection (c)(3) of this section, the former phrase “provided for in this
29 section” is deleted as surplusage.

30 As to the substitution of references to “visually impaired” individuals for
31 the former references to “the visually handicapped”, the substitution of
32 references to “hard of hearing” individuals for the former references to
33 “hearing impaired” individuals, and the substitution of references to
34 “individuals” and an “individual” for the former references to “persons” and
35 a “person” in this section, *see* General Revisor’s Note to subtitle.

36 The Human Services Article Review Committee notes, for consideration by
37 the General Assembly, that former Art. 30, § 33(i), which is revised in
38 subsection (c) of this section, was originally enacted in 1971. The General

1 Assembly may wish to consider whether these provisions are still
2 necessary in light of the subsequent enactment of Ch. 571 of 1991, which
3 incorporated the provisions of the federal Fair Housing Amendments Act of
4 1988. *See* Art. 49B, §§ 21–37.

5 Defined terms: “Blind” § 7–701
6 “Deaf” § 7–701
7 “Housing accommodations” § 7–701

8 7–705. SERVICE DOGS.

9 (A) IN GENERAL.

10 THE FOLLOWING INDIVIDUALS HAVE ALL THE SAME RIGHTS AND PRIVILEGES
11 CONFERRED BY LAW ON OTHER INDIVIDUALS:

12 (1) A BLIND OR VISUALLY IMPAIRED PEDESTRIAN USING A SERVICE DOG
13 AND NOT CARRYING A CANE PREDOMINANTLY WHITE OR METALLIC IN COLOR, WITH
14 OR WITHOUT A RED TIP;

15 (2) A DEAF OR HARD OF HEARING PEDESTRIAN USING A SERVICE DOG
16 NOT WEARING AN ORANGE LICENSE TAG OR ORANGE COLLAR AND ON A LEASH;

17 (3) A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING
18 PEDESTRIAN USING A SERVICE DOG IN A PLACE, ACCOMMODATION, OR
19 CONVEYANCE LISTED IN § 7–704(B) OF THIS SUBTITLE; AND

20 (4) A SERVICE DOG TRAINER WHO IS ACCOMPANIED BY A DOG THAT IS
21 BEING TRAINED AS A SERVICE DOG AND WHO DISPLAYS THE IDENTIFICATION
22 REQUIRED BY SUBSECTION (C) OF THIS SECTION.

23 (B) MOBILITY IMPAIRED INDIVIDUAL ACCOMPANIED BY SERVICE DOG.

24 (1) A MOBILITY IMPAIRED INDIVIDUAL MAY BE ACCOMPANIED BY A
25 SERVICE DOG SPECIALLY TRAINED FOR THAT PURPOSE IN ANY PLACE WHERE A
26 BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL HAS THE
27 RIGHT TO BE ACCOMPANIED BY A SERVICE DOG.

28 (2) THIS SUBSECTION DOES NOT REQUIRE A PHYSICAL MODIFICATION
29 OF ANY PLACE OR VEHICLE IN ORDER TO ADMIT A MOBILITY IMPAIRED INDIVIDUAL
30 WHO IS ACCOMPANIED BY A SERVICE DOG.

31 (C) DISPLAY OF IDENTIFICATION.

32 A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR MOBILITY
33 IMPAIRED INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG, OR A SERVICE DOG
34 TRAINER WHO IS ACCOMPANIED BY A DOG THAT IS BEING TRAINED AS A SERVICE
35 DOG, SHALL DISPLAY IDENTIFICATION ISSUED BY A SERVICE DOG TRAINER
36 ORGANIZATION THAT TRAINS AND CERTIFIES SERVICE DOGS FOR INDIVIDUALS
37 WITH DISABILITIES.

1 (D) RIGHTS OF SERVICE DOG TRAINER; EXCEPTION.

2 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
3 SERVICE DOG TRAINER MAY BE ACCOMPANIED BY A DOG THAT IS BEING TRAINED AS
4 A SERVICE DOG IN ANY PLACE WHERE A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF
5 HEARING, OR MOBILITY IMPAIRED INDIVIDUAL HAS THE RIGHT TO BE
6 ACCOMPANIED BY A SERVICE DOG.

7 (2) A DOG BEING TRAINED AS A SERVICE DOG AND ACCOMPANIED BY A
8 SERVICE DOG TRAINER MAY BE EXCLUDED FROM A PLACE DESCRIBED IN
9 PARAGRAPH (1) OF THIS SUBSECTION IF ADMITTING THE DOG WOULD CREATE A
10 CLEAR DANGER OF A DISTURBANCE OR PHYSICAL HARM TO AN INDIVIDUAL IN THE
11 PLACE.

12 (E) EXTRA COMPENSATION PROHIBITED; LIABILITY.

13 (1) A BLIND, VISUALLY IMPAIRED, DEAF, HARD OF HEARING, OR
14 MOBILITY IMPAIRED INDIVIDUAL WHO IS ACCOMPANIED BY A SERVICE DOG
15 SPECIALLY TRAINED FOR THAT PURPOSE IN A PLACE, ACCOMMODATION, OR
16 CONVEYANCE LISTED IN § 7-704(B) OF THIS SUBTITLE MAY NOT BE REQUIRED TO PAY
17 EXTRA COMPENSATION FOR THE SERVICE DOG, BUT THE INDIVIDUAL MAY BE
18 LIABLE FOR ANY DAMAGES TO THE PREMISES OR FACILITIES CAUSED BY THE
19 SERVICE DOG.

20 (2) A SERVICE DOG TRAINER WHO IS ACCOMPANIED BY A DOG THAT IS
21 BEING TRAINED AS A SERVICE DOG MAY NOT BE REQUIRED TO PAY EXTRA
22 COMPENSATION FOR THE DOG, BUT THE SERVICE DOG TRAINER ORGANIZATION
23 THAT CERTIFIES THE SERVICE DOG MAY BE LIABLE FOR ANY PERSONAL INJURIES
24 OR DAMAGES TO THE PREMISES OR FACILITIES CAUSED BY THE SERVICE DOG.

25 (F) VIOLATIONS; PENALTIES.

26 (1) (I) A PERSON MAY NOT DENY OR INTERFERE WITH THE
27 ADMITTANCE OF A SERVICE DOG THAT ACCOMPANIES A BLIND, VISUALLY IMPAIRED,
28 DEAF, HARD OF HEARING, OR MOBILITY IMPAIRED INDIVIDUAL IN VIOLATION OF
29 THIS SECTION.

30 (II) A PERSON WHO VIOLATES SUBPARAGRAPH (I) OF THIS
31 PARAGRAPH IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A
32 FINE NOT EXCEEDING \$500 FOR EACH OFFENSE.

33 (2) (I) A PERSON MAY NOT DENY OR INTERFERE WITH THE
34 ADMITTANCE OF A DOG BEING TRAINED AS A SERVICE DOG THAT ACCOMPANIES A
35 SERVICE DOG TRAINER.

36 (II) SUBJECT TO SUBSECTION (D)(2) OF THIS SECTION, A PERSON
37 WHO VIOLATES SUBPARAGRAPH (I) OF THIS PARAGRAPH IS SUBJECT TO A FINE NOT
38 EXCEEDING \$25 FOR EACH OFFENSE.

1 REVISOR'S NOTE: This section is new language derived without substantive
 2 change from former Art. 30, § 33(f), (l), (d)(2), (j)(2), (3), and (4), and (k)(2),
 3 (3), and (4).

4 In subsection (e)(1) of this section, the reference to an "accommodation, or
 5 conveyance" is added for consistency with § 7-704(b) of this subtitle.

6 Subsection (f) of this section is revised in standard language used to
 7 establish a prohibited act and penalty.

8 In subsection (f)(1)(i) of this section, the reference to a denial or
 9 interference with the admittance of a service dog "in violation of this
 10 section" is added for clarity.

11 As to the substitution of references to "visually impaired" individuals for
 12 the former references to "the visually handicapped", the substitution of
 13 references to "hard of hearing" individuals for the former references to
 14 "hearing impaired" individuals, and the substitution of references to
 15 "individuals" and an "individual" for the former references to "persons" and
 16 a "person" in this section, *see* General Revisor's Note to subtitle.

17 The Human Services Article Review Committee notes, for consideration by
 18 the General Assembly, that the references to a service "dog" in this section
 19 may be too limited. Under the Americans with Disabilities Act (ADA),
 20 businesses and organizations that serve the public must allow individuals
 21 with disabilities to bring their service animals into all areas where
 22 customers are normally allowed. "Service animal" is defined as any guide
 23 dog, signal dog, or other animal individually trained to do work or perform
 24 tasks for the benefit of an individual with a disability. The General
 25 Assembly may wish to consider substituting references to service
 26 "animals" for references to service "dogs" in this section.

27 The General Assembly may also wish to clarify whether the intent of
 28 subsection (f)(2)(ii) of this section is to make it a misdemeanor to deny or
 29 interfere with the admittance of a dog being trained as a service dog.

30 Defined terms: "Blind" § 7-701
 31 "Deaf" § 7-701
 32 "Mobility impaired" § 7-701
 33 "Person" § 1-101
 34 "Service dog trainer" § 7-701

35 7-706. CONSTRUCTION.

36 (A) PEDESTRIAN'S RIGHT-OF-WAY.

37 THIS SUBTITLE DOES NOT AFFECT § 21-511 OF THE TRANSPORTATION ARTICLE
 38 AS TO THE RIGHT-OF-WAY OF A BLIND, DEAF, OR HARD OF HEARING PEDESTRIAN
 39 CROSSING A HIGHWAY.

1 (B) HOUSING ACCOMMODATIONS.

2 THIS SUBTITLE DOES NOT REQUIRE A PERSON WHO RENTS OR LEASES
3 HOUSING ACCOMMODATIONS TO MODIFY THE PERSON'S PROPERTY OR PROVIDE A
4 HIGHER DEGREE OF CARE FOR A BLIND OR VISUALLY IMPAIRED INDIVIDUAL THAN
5 FOR AN INDIVIDUAL WITHOUT THOSE DISABILITIES.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 30, § 33(e) and (i)(3).

8 In subsection (a) of this section, the word "affect" is substituted for the
9 former words "modifies or alters" for brevity.

10 In subsection (b) of this section, the reference to "an individual without
11 those disabilities" is substituted for the former reference to "a person who
12 is not blind or visually handicapped" for consistency with § 7-702 of this
13 subtitle.

14 As to the substitution of the reference to a "hard of hearing" pedestrian for
15 the former reference to a "hearing impaired" pedestrian and the
16 substitution of the reference to a "visually impaired individual" for the
17 former reference to a "visually handicapped person" in subsection (b) of
18 this section, *see* General Revisor's Note to subtitle.

19 The Human Services Article Review Committee notes, for consideration by
20 the General Assembly, that TR § 21-511 requires the driver of a vehicle to
21 yield the right-of-way to: "(1) A blind or partially blind pedestrian using a
22 guide dog or carrying a cane predominantly white or metallic in color (with
23 or without a red tip); (2) A deaf or hearing impaired pedestrian
24 accompanied by a guide dog; or (3) A mobility impaired individual crossing
25 a roadway while using any of the following mobility-assisted devices: (i) A
26 manual or motorized wheelchair; (ii) A motorized scooter; (iii) Crutches; or
27 (iv) A cane".

28 The General Assembly may wish to consider adding references to a
29 "visually impaired pedestrian" and a "mobility impaired pedestrian" in
30 subsection (a) of this section for consistency within this subtitle and with
31 TR § 21-511.

32 Defined terms: "Blind" § 7-701

33 "Deaf" § 7-701

34 "Housing accommodations" § 7-701

35 7-707. VIOLATIONS; INJUNCTION.

36 (A) VIOLATIONS.

37 (1) A PERSON MAY NOT DENY OR INTERFERE WITH ADMITTANCE TO OR
38 ENJOYMENT OF A PUBLIC PLACE, ACCOMMODATION, OR CONVEYANCE DESCRIBED
39 IN § 7-704 OF THIS SUBTITLE OR OTHERWISE INTERFERE WITH THE RIGHTS OF A

1 BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING INDIVIDUAL UNDER THIS
2 SUBTITLE.

3 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
4 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500
5 FOR EACH OFFENSE.

6 (B) INJUNCTION.

7 IN ADDITION TO ANY OTHER REMEDY PROVIDED UNDER THE CODE FOR A
8 VIOLATION OF THIS SUBTITLE, A PERSON MAY MAINTAIN A CIVIL ACTION FOR
9 INJUNCTIVE RELIEF AGAINST ANOTHER PERSON WHO DENIES OR INTERFERES WITH
10 ADMITTANCE TO OR ENJOYMENT OF A PUBLIC PLACE, ACCOMMODATION, OR
11 CONVEYANCE DESCRIBED IN § 7-704 OF THIS SUBTITLE OR OTHERWISE INTERFERES
12 WITH THE RIGHTS OF A BLIND, VISUALLY IMPAIRED, DEAF, OR HARD OF HEARING
13 INDIVIDUAL UNDER THIS SUBTITLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 30, § 33(g).

16 Subsection (a) of this section is revised in standard language used to
17 establish a prohibited act and penalty.

18 In subsections (a)(1) and (b) of this section, the references to a "place,
19 accommodation, or conveyance described in § 7-706 of this subtitle" are
20 substituted for the former references to "public facilities enumerated in
21 this section" for clarity.

22 In subsections (a)(1) and (b) of this section, the references to rights under
23 "this subtitle" are substituted for the former references to rights under
24 "this section" to reflect the reorganization of provisions formerly contained
25 in Art. 30, § 33. Similarly, in subsection (b) of this section, the reference to
26 a violation of this "subtitle" is substituted for the former reference to this
27 "article" to reflect the reorganization of provisions formerly contained in
28 Article 30. No substantive change is intended.

29 In subsection (a)(1) of this section, the former reference to any "persons,
30 firm, or corporation or the agent of any person or persons, firm, or
31 corporation," is deleted as unnecessary in light of the reference to a
32 "person".

33 In subsection (b) of this section, the former reference to any "individual,
34 firm, or corporation, or the agent of any individual, firm, or corporation," is
35 deleted as unnecessary in light of the reference to a "person".

36 As to the substitution of references to "visually impaired" individuals for
37 the former references to "the visually handicapped", the substitution of
38 references to "hard of hearing" individuals for the former references to
39 "hearing impaired" individuals, and the substitution of references to
40 "individuals" and an "individual" for the former references to "persons" and

1 a “person” in this section, *see* General Revisor’s Note to subtitle.

2 Defined terms: “Blind” § 7–701

3 “Deaf” § 7–701

4 “Person” § 1–101

5 7–708. WHITE CANE SAFETY DAY.

6 THE GOVERNOR SHALL TAKE SUITABLE PUBLIC NOTICE OF EACH OCTOBER 15
7 AS WHITE CANE SAFETY DAY BY ISSUING A PROCLAMATION THAT:

8 (1) COMMENTS ON THE SIGNIFICANCE OF THE WHITE CANE;

9 (2) CALLS ON THE PUBLIC TO OBSERVE THE WHITE CANE LAW UNDER §§
10 7–704 THROUGH 7–707 OF THIS SUBTITLE AND TO TAKE PRECAUTIONS NECESSARY
11 FOR THE SAFETY OF BLIND AND VISUALLY IMPAIRED INDIVIDUALS;

12 (3) REMINDS THE PUBLIC OF THE POLICIES WITH RESPECT TO BLIND
13 AND VISUALLY IMPAIRED INDIVIDUALS AND URGES COOPERATION WITH THE
14 POLICIES;

15 (4) EMPHASIZES THE NEED FOR AWARENESS OF THE PRESENCE OF
16 BLIND AND VISUALLY IMPAIRED INDIVIDUALS IN THE COMMUNITY AND THE NEED
17 TO KEEP ROADS, SIDEWALKS, PUBLIC ACCOMMODATIONS, PUBLIC BUILDINGS,
18 PUBLIC FACILITIES, OTHER PUBLIC PLACES, AND OTHER PLACES TO WHICH THE
19 PUBLIC IS INVITED SAFE AND FUNCTIONAL FOR THOSE INDIVIDUALS; AND

20 (5) OFFERS ASSISTANCE TO BLIND AND VISUALLY IMPAIRED
21 INDIVIDUALS ON APPROPRIATE OCCASIONS.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 30, § 33(h).

24 In items (2) and (4) of this section, the references to “blind and visually
25 impaired individuals” are substituted for the former references to “the
26 visually handicapped” and “visually handicapped persons”, respectively,
27 for consistency throughout this subtitle.

28 In item (2) of this section, the reference to the White Cane Law “under §§
29 7–704 through 7–707 of this subtitle” is added for clarity.

30 In item (3) of this section, the reference to “blind and visually impaired
31 individuals” is substituted for the former reference to “the blind” for
32 consistency throughout this subtitle.

33 In item (4) of this section, the reference to “roads” is substituted for the
34 former reference to “streets [and] highways” for brevity.

35 Also in item (4) of this section, the former reference to “walkways” is
36 deleted as included in the reference to “sidewalks”.

1 Also in item (4) of this section, the former reference to “[places of]
2 amusement and resort” is deleted as included in the reference to “public
3 accommodations”.

4 As to the substitution of references to the “public” for the former references
5 to the “citizens of the State” and the “citizens” in items (2) and (3) of this
6 section, *see* General Revisor’s Note to article.

7 Defined term: “Blind” § 7–701

8 GENERAL REVISOR’S NOTE TO SUBTITLE:

9 Throughout this subtitle, references to “individuals” with specified disabilities
10 are substituted for the former references to “persons” because only a human being,
11 and not the other entities included in the defined term “person” can have the
12 disabilities described in this subtitle.

13 Also throughout this subtitle, references to “visually impaired” individuals are
14 substituted for the former obsolete references to “visually handicapped” individuals.

15 Also throughout this subtitle, references to “hard of hearing” individuals are
16 substituted for the former obsolete references to “hearing impaired” individuals.

17 Former Art. 30, § 8, which authorized a blind adult “desiring to operate a
18 legitimate business of any kind” to apply to Blind Industries and Services of
19 Maryland is deleted as obsolete. The Blind Industries and Services of Maryland
20 indicated that it has not received any application to engage in any business within the
21 past 15 years, and that it is not aware of any blind individual ever applying for the
22 operation of a business under former Art. 30, § 8. This deletion is called to the
23 attention of the General Assembly.

24 Former Art. 30, § 10A, which required proof of workers’ compensation insurance
25 before “a license or permit may be issued under this article”, is deleted as obsolete.

26 When this section was enacted by Ch. 657, Acts of 1975, the Blind Industries
27 and Services of Maryland had authority under former Art. 30, § 9 to issue licenses to
28 blind individuals for the operation of vending stands and, presumably, would have
29 been an “issuing authority” for the purposes of former Art. 30, § 10A. However, the
30 authority to issue licenses for vending stands was repealed by Ch. 743, Acts of 1980.

31 After repeal of the authority to issue vending stand licenses, the only other
32 section of the source law to which former Art. 30, § 10A might apply was former Art.
33 30, § 8, which allowed a blind person to apply to Blind Industries and Services of
34 Maryland to operate a “legitimate business”, and which is also being deleted as
35 obsolete. This deletion is called to the attention of the General Assembly.

1 TITLE 8. CHILDREN, YOUTH, AND FAMILIES.

2 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

3 8–101. DEFINITIONS.

4 (A) IN GENERAL.

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

6 REVISOR’S NOTE: This subsection is new language derived without
7 substantive change from former Art. 49D, § 1–101(a).

8 (B) CHILD IN NEED OF OUT–OF–STATE PLACEMENT.

9 (1) “CHILD IN NEED OF OUT–OF–STATE PLACEMENT” MEANS A CHILD
10 WHO IS RECOMMENDED BY A UNIT REPRESENTED ON THE LOCAL COORDINATING
11 COUNCIL FOR OUT–OF–HOME PLACEMENT OUTSIDE OF THE STATE.12 (2) “CHILD IN NEED OF OUT–OF–STATE PLACEMENT” DOES NOT
13 INCLUDE A CHILD PLACED IN FOSTER CARE, AS DEFINED IN § 5–501 OF THE FAMILY
14 LAW ARTICLE.

15 REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(b).

16 No changes are made.

17 Defined term: “Local coordinating council” § 8–101

18 (C) CHILD IN NEED OF RESIDENTIAL PLACEMENT.

19 “CHILD IN NEED OF RESIDENTIAL PLACEMENT” MEANS A CHILD:

20 (1) WHO IS RECOMMENDED BY A MEMBER OF THE LOCAL
21 COORDINATING COUNCIL FOR RESIDENTIAL PLACEMENT;22 (2) ON WHOSE BEHALF THE MEMBER OF THE LOCAL COORDINATING
23 COUNCIL SEEKS STATE FUNDING FOR THE PLACEMENT; AND24 (3) WHO A UNIT REPRESENTED ON THE LOCAL COORDINATING
25 COUNCIL HAS DETERMINED MEETS ELIGIBILITY CRITERIA FOR A STATE–FUNDED
26 PLACEMENT.

27 REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(c).

28 The only changes are in style.

29 Defined terms: “Local coordinating council” § 8–101

30 “Residential placement” § 8–101

31 (D) CHILD WITH INTENSIVE NEEDS.

1 “CHILD WITH INTENSIVE NEEDS” MEANS A CHILD WHO HAS BEHAVIORAL,
2 EDUCATIONAL, DEVELOPMENTAL, OR MENTAL HEALTH NEEDS THAT CANNOT BE
3 MET THROUGH AVAILABLE PUBLIC AGENCY RESOURCES BECAUSE:

4 (1) THE CHILD’S NEEDS EXCEED THE RESOURCES OF A SINGLE PUBLIC
5 AGENCY; AND

6 (2) THERE IS NO LEGALLY MANDATED FUNDING SOURCE TO MEET THE
7 CHILD’S NEEDS.

8 REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(d).

9 The only changes are in style.

10 Defined term: “Public agency” § 8–101

11 (E) CORE SERVICE AGENCY.

12 “CORE SERVICE AGENCY” MEANS THE DESIGNATED COUNTY OR MULTICOUNTY
13 AUTHORITY THAT IS RESPONSIBLE FOR PLANNING, MANAGING, AND MONITORING
14 PUBLICLY FUNDED MENTAL HEALTH SERVICES AS PROVIDED UNDER TITLE 10,
15 SUBTITLE 12 OF THE HEALTH – GENERAL ARTICLE.

16 REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(e).

17 No changes are made.

18 Defined term: “County” § 1–101

19 (F) COUNCIL.

20 “COUNCIL” MEANS THE STATE COORDINATING COUNCIL FOR CHILDREN.

21 REVISOR’S NOTE: This subsection formerly was Art. 49D, § 1–101(f).

22 No changes are made.

23 (G) EXECUTIVE DIRECTOR.

24 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE
25 GOVERNOR’S OFFICE FOR CHILDREN.

26 REVISOR’S NOTE: This subsection formerly was Art. 41, § 18–701(b).

27 No changes are made.

28 (H) LEAD AGENCY.

29 “LEAD AGENCY” MEANS THE LOCAL GOVERNMENT UNIT IDENTIFIED BY
30 FEDERAL OR STATE LAW OR BY THE LOCAL COORDINATING COUNCIL AS

1 RESPONSIBLE FOR THE OVERSIGHT AND IMPLEMENTATION OF A PLAN OF CARE FOR
2 A CHILD IN NEED OF RESIDENTIAL PLACEMENT OR A CHILD WITH INTENSIVE NEEDS.

3 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1–101(h).

4 The only changes are in style.

5 Defined terms: “Child in need of residential placement” § 8–101

6 “Child with intensive needs” § 8–101

7 “Local coordinating council” § 8–101

8 (I) LOCAL COORDINATING COUNCIL.

9 “LOCAL COORDINATING COUNCIL” MEANS A LOCAL COUNCIL THAT
10 COORDINATES SERVICES FOR CHILDREN IN NEED OF RESIDENTIAL PLACEMENT AND
11 CHILDREN WITH INTENSIVE NEEDS.

12 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1–101(i).

13 No changes are made.

14 Defined terms: “Child in need of residential placement” § 8–101

15 “Child with intensive needs” § 8–101

16 (J) LOCAL MANAGEMENT BOARD.

17 “LOCAL MANAGEMENT BOARD” MEANS AN ENTITY ESTABLISHED OR
18 DESIGNATED BY A COUNTY UNDER SUBTITLE 3 OF THIS TITLE TO ENSURE THE
19 IMPLEMENTATION OF A LOCAL, INTERAGENCY SERVICE DELIVERY SYSTEM FOR
20 CHILDREN, YOUTH, AND FAMILIES.

21 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1–101(j).

22 The only changes are in cross–references.

23 Defined term: “County” § 1–101

24 (K) OFFICE.

25 “OFFICE” MEANS THE GOVERNOR'S OFFICE FOR CHILDREN.

26 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18–701(d) and Art.
27 49D, §§ 6–101(a)(4) and 7–101(d).

28 No changes are made.

29 (L) PUBLIC AGENCY.

30 “PUBLIC AGENCY” MEANS A STATE OR LOCAL GOVERNMENT UNIT OR A
31 QUASI–GOVERNMENTAL ENTITY.

1 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1–101(k).

2 No changes are made.

3 (M) RESIDENTIAL CHILD CARE PROGRAM.

4 (1) “RESIDENTIAL CHILD CARE PROGRAM” MEANS AN ENTITY THAT
5 PROVIDES 24–HOUR PER DAY CARE FOR CHILDREN WITHIN A STRUCTURED SET OF
6 SERVICES AND ACTIVITIES THAT ARE DESIGNED TO ACHIEVE SPECIFIC OBJECTIVES
7 RELATIVE TO THE NEEDS OF THE CHILDREN SERVED AND THAT INCLUDE THE
8 PROVISION OF FOOD, CLOTHING, SHELTER, EDUCATION, SOCIAL SERVICES, HEALTH,
9 MENTAL HEALTH, RECREATION, OR ANY COMBINATION OF THESE SERVICES AND
10 ACTIVITIES.

11 (2) “RESIDENTIAL CHILD CARE PROGRAM” INCLUDES A PROGRAM:

12 (I) LICENSED BY:

- 13 1. THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- 14 2. THE DEPARTMENT OF HUMAN RESOURCES; OR
- 15 3. THE DEPARTMENT OF JUVENILE SERVICES; AND

16 (II) THAT IS SUBJECT TO THE LICENSING REGULATIONS OF THE
17 MEMBERS OF THE CHILDREN'S CABINET GOVERNING THE OPERATIONS OF
18 RESIDENTIAL CHILD CARE PROGRAMS.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 41, § 18–701(e) and Art. 49D, §§
21 6–101(a)(6) and 7–101(g)(1) and (2).

22 In paragraph (2)(ii) of this subsection, the reference to the regulations of
23 “the members of the Children’s Cabinet” derived from former Art. 49D, §
24 7–101(g)(2)(ii) is used for accuracy instead of the former obsolete reference
25 to the “Office for Children, Youth, and Families” in former Art. 49D, §
26 6–101(a)(6) (which incorporated by reference HO § 20–101) and the former
27 reference to the “Governor’s Office for Children” in former Art. 41, §
28 18–701(e)(2)(ii), because the Governor’s Office for Children does not have
29 the authority to adopt regulations.

30 As to the membership of the Children’s Cabinet, *see* Executive Order
31 01.01.2005.34.

32 (N) RESIDENTIAL PLACEMENT.

33 (1) “RESIDENTIAL PLACEMENT” MEANS A PLACEMENT IN:

34 (I) A HOSPITAL, UNDER CIRCUMSTANCES DESCRIBED IN
35 CHILDREN'S CABINET REGULATIONS;

1 (II) A RESIDENTIAL TREATMENT CENTER;

2 (III) A RESIDENTIAL SCHOOL; OR

3 (IV) ANOTHER OUT-OF-HOME PLACEMENT AS SPECIFIED IN
4 CHILDREN'S CABINET REGULATIONS.

5 (2) "RESIDENTIAL PLACEMENT" DOES NOT INCLUDE A PLACEMENT IN:

6 (I) A FACILITY ESTABLISHED UNDER § 9-226 OF THIS ARTICLE; OR

7 (II) FOSTER CARE, AS DEFINED IN § 5-501 OF THE FAMILY LAW
8 ARTICLE.

9 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 1-101(l).

10 The only changes are in style and cross-references.

11 8-102. STATE POLICY.

12 IT IS THE POLICY OF THE STATE TO PROMOTE A STABLE, SAFE, AND HEALTHY
13 ENVIRONMENT FOR CHILDREN AND FAMILIES, THEREBY INCREASING
14 SELF-SUFFICIENCY AND FAMILY PRESERVATION, THROUGH A COMPREHENSIVE
15 AND COORDINATED INTERAGENCY APPROACH THAT:

16 (1) PROVIDES A CONTINUUM OF CARE THAT IS FAMILY- AND
17 CHILD-ORIENTED AND EMPHASIZES PREVENTION, EARLY INTERVENTION, AND
18 COMMUNITY-BASED SERVICES; AND

19 (2) GIVES PRIORITY TO CHILDREN AND FAMILIES MOST AT RISK.

20 REVISOR'S NOTE: This section formerly was Art. 49D, § 1-102.

21 The only changes are in style.

22 SUBTITLE 2. ADVISORY COUNCIL TO CHILDREN'S CABINET.

23 8-201. ESTABLISHED.

24 THERE IS AN ADVISORY COUNCIL TO THE CHILDREN'S CABINET.

25 REVISOR'S NOTE: This section formerly was Art. 41, § 2-502(a).

26 No changes are made.

27 8-202. PURPOSE.

28 THE PURPOSE OF THE ADVISORY COUNCIL IS TO MAKE RECOMMENDATIONS TO
29 THE CHILDREN'S CABINET ON:

SENATE BILL 6

1 (1) METHODS FOR MEETING THE POLICY AND PROGRAM GOALS OF THE
2 STATE FOR INTEGRATED CHILDREN AND FAMILY PROGRAMS;

3 (2) COORDINATING STATE PROGRAMS WITH PROGRAMS OPERATED BY
4 LOCAL GOVERNMENTS, LOCAL MANAGEMENT BOARDS, AND PRIVATE GROUPS;

5 (3) BUILDING CAPACITY TO SERVE YOUTHS IN THEIR COMMUNITIES
6 AND AT HOME;

7 (4) REDUCING RELIANCE ON INSTITUTIONS AS THE PRIMARY MODE OF
8 INTERVENTION FOR AT-RISK YOUTH OFFENDERS;

9 (5) PROMOTING POSITIVE OUTCOMES FOR YOUTHS;

10 (6) FUNDING PRACTICES THAT PREVENT JUVENILE CRIMES AND
11 DELINQUENCY; AND

12 (7) REDUCING DISPROPORTIONATE MINORITY CONFINEMENT.

13 REVISOR'S NOTE: This section formerly was Art. 41, § 2-502(b).

14 The only changes are in style.

15 Defined term: "Local management board" § 8-101

16 REVISOR'S NOTE TO SUBTITLE:

17 Former Art. 41, § 2-501(c), which defined "Advisory Council", is deleted as
18 unnecessary because the term is only used once in this subtitle.

19 SUBTITLE 3. LOCAL MANAGEMENT BOARDS.

20 8-301. LOCAL MANAGEMENT BOARDS.

21 (A) REQUIRED.

22 EACH COUNTY SHALL ESTABLISH AND MAINTAIN A LOCAL MANAGEMENT
23 BOARD TO ENSURE THE IMPLEMENTATION OF A LOCAL INTERAGENCY SERVICE
24 DELIVERY SYSTEM FOR CHILDREN, YOUTH, AND FAMILIES.

25 (B) AUTHORIZED ENTITIES.

26 A COUNTY MAY DESIGNATE AS THE LOCAL MANAGEMENT BOARD:

27 (1) A QUASI-PUBLIC NONPROFIT CORPORATION THAT IS NOT AN
28 INSTRUMENTALITY OF THE COUNTY GOVERNMENT; OR

29 (2) A PUBLIC AGENCY THAT IS AN INSTRUMENTALITY OF THE COUNTY
30 GOVERNMENT.

31 REVISOR'S NOTE: This section formerly was Art. 49D, § 2-101.

1 The only changes are in style.

2 Defined terms: "County" § 1-101

3 "Local management board" § 8-101

4 "Public agency" § 8-101

5 8-302. MEMBERSHIP.

6 A LOCAL MANAGEMENT BOARD MAY BE COMPOSED OF:

7 (1) PUBLIC AND PRIVATE COMMUNITY REPRESENTATIVES WHO SHARE
8 THE RESPONSIBILITY FOR IMPLEMENTING A COMMUNITY-BASED, INTERAGENCY,
9 FAMILY-FOCUSED SERVICE DELIVERY SYSTEM FOR CHILDREN, YOUTH, AND
10 FAMILIES; AND

11 (2) A SENIOR REPRESENTATIVE OR DEPARTMENT HEAD OF THE:

12 (I) LOCAL HEALTH DEPARTMENT;

13 (II) LOCAL OFFICE OF THE DEPARTMENT OF JUVENILE SERVICES;

14 (III) CORE SERVICE AGENCY;

15 (IV) LOCAL SCHOOL SYSTEM; AND

16 (V) LOCAL DEPARTMENT OF SOCIAL SERVICES.

17 REVISOR'S NOTE: This section formerly was Art. 49D, § 2-102.

18 The only changes are in style.

19 Defined terms: "Core service agency" § 8-101

20 "Local management board" § 8-101

21 8-303. DUTIES.

22 A LOCAL MANAGEMENT BOARD SHALL:

23 (1) STRENGTHEN THE DECISION-MAKING CAPACITY AT THE LOCAL
24 LEVEL;

25 (2) DESIGN AND IMPLEMENT STRATEGIES THAT ACHIEVE CLEARLY
26 DEFINED RESULTS FOR CHILDREN, YOUTH, AND FAMILIES AS ARTICULATED IN A
27 LOCAL 5-YEAR STRATEGIC PLAN FOR CHILDREN, YOUTH, AND FAMILIES;

28 (3) MAINTAIN STANDARDS OF ACCOUNTABILITY FOR LOCALLY AGREED
29 UPON RESULTS FOR CHILDREN, YOUTH, AND FAMILIES;

30 (4) INFLUENCE THE ALLOCATION OF RESOURCES ACROSS SYSTEMS AS
31 NECESSARY TO ACCOMPLISH THE DESIRED RESULTS;

1 (5) BUILD LOCAL PARTNERSHIPS TO COORDINATE CHILDREN, YOUTH,
2 AND FAMILY SERVICES WITHIN THE COUNTY TO ELIMINATE FRAGMENTATION AND
3 DUPLICATION OF SERVICES; AND

4 (6) CREATE AN EFFECTIVE SYSTEM OF SERVICES, SUPPORTS, AND
5 OPPORTUNITIES THAT IMPROVE OUTCOMES FOR ALL CHILDREN, YOUTH, AND
6 FAMILIES.

7 REVISOR'S NOTE: This section formerly was Art. 49D, § 2-103.

8 The only changes are in style.

9 Defined terms: "County" § 1-101

10 "Local management board" § 8-101

11 8-304. REGULATIONS.

12 THE MEMBERS OF THE CHILDREN'S CABINET SHALL ADOPT REGULATIONS
13 THAT:

14 (1) SPECIFY THE ROLES AND RESPONSIBILITIES OF LOCAL
15 MANAGEMENT BOARDS;

16 (2) ESTABLISH MINIMUM STANDARDS FOR THE COMPOSITION OF LOCAL
17 MANAGEMENT BOARDS;

18 (3) ESTABLISH FISCAL AND PROGRAM ACCOUNTABILITY IN THE
19 IMPLEMENTATION OF COMMUNITY PARTNERSHIP AGREEMENTS AND THE USE OF
20 OTHER STATE RESOURCES BY LOCAL MANAGEMENT BOARDS;

21 (4) ESTABLISH PROCEDURES TO ENSURE THE CONFIDENTIALITY OF
22 INFORMATION SHARED BY LOCAL MANAGEMENT BOARD MEMBERS AND EMPLOYEES
23 IN ACCORDANCE WITH STATE AND FEDERAL LAW; AND

24 (5) GENERALLY RELATE TO THE OPERATION OF LOCAL MANAGEMENT
25 BOARDS.

26 REVISOR'S NOTE: This section formerly was Art. 49D, § 2-104.

27 The only changes are in style.

28 Defined term: "Local management board" § 8-101

29 8-305. ANNUAL REPORT.

30 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE MARYLAND ASSOCIATION OF
31 LOCAL MANAGEMENT BOARD DIRECTORS SHALL, IN ACCORDANCE WITH § 2-1246 OF
32 THE STATE GOVERNMENT ARTICLE, SUBMIT TO THE SENATE FINANCE COMMITTEE,
33 THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE JOINT COMMITTEE ON
34 CHILDREN, YOUTH, AND FAMILIES, A REPORT SUMMARIZING, WITH RESPECT TO THE
35 PROGRAMS IMPLEMENTED UNDER § 8-505(D) OF THIS TITLE:

- 1 (1) EACH LOCAL MANAGEMENT BOARD'S ACTIVITIES;
- 2 (2) THE AMOUNT OF MONEY SPENT ON THE PROGRAMS; AND
- 3 (3) THE EFFECTIVENESS OF THE PROGRAMS.

4 REVISOR'S NOTE: This section formerly was Art. 49D, § 2-105.

5 The only changes are in style and cross-references.

6 Defined term: "Local management board" § 8-101

7 SUBTITLE 4. SERVICES TO CHILDREN WITH SPECIAL NEEDS.

8 8-401. STATE COORDINATING COUNCIL — ESTABLISHED.

9 THERE IS A STATE COORDINATING COUNCIL FOR CHILDREN IN THE OFFICE.

10 REVISOR'S NOTE: This section formerly was Art. 49D, § 4-101(a).

11 The only changes are in style.

12 Defined term: "Office" § 8-101

13 8-402. STATE COORDINATING COUNCIL — MEMBERSHIP.

14 THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

15 (1) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE FOR
16 CHILDREN, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

17 (2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE
18 SECRETARY'S DESIGNEE;

19 (3) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

20 (4) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S
21 DESIGNEE;

22 (5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE
23 SECRETARY'S DESIGNEE;

24 (6) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S
25 DESIGNEE;

26 (7) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
27 SUPERINTENDENT'S DESIGNEE; AND

28 (8) A PARENT, PARENT ADVOCATE, OR BOTH, APPOINTED BY THE
29 GOVERNOR.

1 REVISOR'S NOTE: This section formerly was Art. 49D, § 4–101(b).

2 The only changes are in style.

3 Defined term: "Council" § 8–101

4 8–403. STATE COORDINATING COUNCIL — CHAIR; STAFF.

5 (A) CHAIR.

6 (1) THE OFFICE OF CHAIR OF THE COUNCIL SHALL ROTATE ANNUALLY
7 AMONG THE MEMBERS OF THE COUNCIL.

8 (2) THE TERM OF THE CHAIR IS 1 YEAR.

9 (3) A MEMBER FROM A UNIT REPRESENTED ON THE COUNCIL MAY NOT
10 SERVE AS CHAIR MORE THAN ONCE EVERY 5 YEARS.

11 (B) STAFF.

12 THE OFFICE SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

13 REVISOR'S NOTE: This section formerly was Art. 49D, § 4–101(c) and (d).

14 The only changes are in style.

15 Defined terms: "Council" § 8–101

16 "Office" § 8–101

17 8–404. STATE COORDINATING COUNCIL — DUTIES.

18 (A) IN GENERAL.

19 THE COUNCIL SHALL:

20 (1) ESTABLISH AND OVERSEE THE LOCAL COORDINATING COUNCIL IN
21 EACH COUNTY;

22 (2) DEVELOP PROCEDURES FOR THE OPERATION OF LOCAL
23 COORDINATING COUNCILS;

24 (3) REVIEW PERIODICALLY THE PROCEDURES OF LOCAL
25 COORDINATING COUNCILS FOR MAKING DECISIONS ON RESIDENTIAL PLACEMENT
26 FOR CHILDREN IN NEED OF RESIDENTIAL PLACEMENT;

27 (4) REVIEW RECOMMENDATIONS FOR STATE FUNDING OF THE
28 INDIVIDUAL PLACEMENT OF A CHILD IN NEED OF OUT-OF-STATE PLACEMENT;

29 (5) MONITOR LOCAL COORDINATING COUNCILS TO ENSURE THAT THE
30 LOCAL COORDINATING COUNCILS CONSIDER ALL ALTERNATIVES FOR THE
31 PROVISION OF SERVICES TO CHILDREN AND THEIR FAMILIES IN THE COMMUNITY;

1 (6) ESTABLISH AND MAINTAIN A MULTIPLE UNIT INFORMATION SYSTEM
2 TO ENSURE ACCOUNTABILITY AND PROVIDE STATE SERVICE PLANNING CAPABILITY;

3 (7) COORDINATE EVALUATIONS OF RESIDENTIAL FACILITIES FOR
4 CHILDREN AS REQUIRED BY STATUTE;

5 (8) MAKE RECOMMENDATIONS TO THE APPROPRIATE SECRETARY ON
6 THE DEVELOPMENT OF REGULATIONS TO CARRY OUT THIS SUBTITLE; AND

7 (9) PERFORM OTHER RELATED ACTIVITIES THAT THE CHILDREN'S
8 CABINET IDENTIFIES.

9 (B) PLANNING AND COORDINATION OF SERVICES.

10 THE COUNCIL SHALL:

11 (1) PLAN AND COORDINATE WITH THE LOCAL COORDINATING
12 COUNCILS:

13 (I) MULTIPLE UNIT SERVICES TO CHILDREN IN NEED OF
14 RESIDENTIAL PLACEMENT; AND

15 (II) ENHANCED SERVICES TO CHILDREN WITH INTENSIVE NEEDS,
16 SUBJECT TO THE AVAILABILITY OF FUNDING AND IN ACCORDANCE WITH A PLAN
17 DEVELOPED BY THE CHILDREN'S CABINET; AND

18 (2) IN COOPERATION WITH THE LOCAL COORDINATING COUNCILS,
19 MONITOR SERVICES PROVIDED TO CHILDREN PLACED IN RESIDENTIAL
20 PLACEMENTS.

21 REVISOR'S NOTE: This section formerly was Art. 49D, § 4-101(e) and (f).

22 The only changes are in style.

23 Defined terms: "Child in need of out-of-state placement" § 8-101

24 "Child in need of residential placement" § 8-101

25 "Child with intensive needs" § 8-101

26 "Council" § 8-101

27 "County" § 1-101

28 "Local coordinating council" § 8-101

29 "Residential placement" § 8-101

30 8-405. LOCAL COORDINATING COUNCILS — ESTABLISHED.

31 THERE IS A LOCAL COORDINATING COUNCIL IN EACH COUNTY.

32 REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(a).

33 No changes are made.

1 Defined terms: "County" § 1-101

2 "Local coordinating council" § 8-101

3 8-406. LOCAL COORDINATING COUNCILS — MEMBERSHIP; TERMS; CHAIR.

4 (A) MEMBERSHIP.

5 EACH LOCAL COORDINATING COUNCIL SHALL INCLUDE:

6 (1) AT LEAST ONE REPRESENTATIVE FROM:

7 (I) THE DEPARTMENT OF JUVENILE SERVICES;

8 (II) THE DEVELOPMENTAL DISABILITIES ADMINISTRATION;

9 (III) THE ALCOHOL AND DRUG ABUSE ADMINISTRATION;

10 (IV) THE MENTAL HYGIENE ADMINISTRATION OR THE LOCAL CORE
11 SERVICE AGENCY;

12 (V) THE LOCAL BOARD OF EDUCATION;

13 (VI) THE LOCAL HEALTH DEPARTMENT;

14 (VII) THE LOCAL DEPARTMENT OF SOCIAL SERVICES;

15 (VIII) THE LOCAL OFFICE OF THE DIVISION OF REHABILITATION
16 SERVICES; AND

17 (IX) THE LOCAL MANAGEMENT BOARD; AND

18 (2) A PARENT, PARENT ADVOCATE, OR BOTH, APPOINTED BY THE CHAIR
19 OF THE LOCAL COORDINATING COUNCIL IN CONSULTATION WITH THE CHILD
20 ADVOCACY COMMUNITY.

21 (B) TERMS.

22 THE COUNCIL SHALL ESTABLISH THE TERMS OF THE MEMBERS OF THE LOCAL
23 COORDINATING COUNCILS.

24 (C) CHAIR.

25 EACH LOCAL COORDINATING COUNCIL SHALL SELECT ITS CHAIR FROM AMONG
26 ITS MEMBERS FOR A DESIGNATED TERM OF OFFICE.

27 REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(b), (c), and (d).

28 In subsection (a)(1)(iv) of this section, the former phrase "as designated
29 under Title 10, Subtitle 12 of the Health – General Article" is deleted as
30 included in the definition of "core service agency".

1 The only other changes are in style.

2 Defined terms: “Core service agency” § 8–101

3 “Council” § 8–101

4 “Local coordinating council” § 8–101

5 “Local management board” § 8–101

6 8–407. LOCAL COORDINATING COUNCILS — RELATIONSHIP WITH LOCAL
7 MANAGEMENT BOARD.

8 (A) IN GENERAL.

9 (1) A LOCAL COORDINATING COUNCIL SHALL BE PART OF THE LOCAL
10 MANAGEMENT BOARD FOR ADMINISTRATIVE AND BUDGETARY PURPOSES.

11 (2) THE LOCAL COORDINATING COUNCIL SHALL BE INDEPENDENT OF
12 THE LOCAL MANAGEMENT BOARD IN ITS DECISIONS REGARDING INDIVIDUAL PLANS
13 OF CARE FOR CHILDREN AND POLICY RECOMMENDATIONS REGARDING SERVICES TO
14 CHILDREN.

15 (B) STAFF.

16 SUBJECT TO THE AVAILABILITY OF FUNDING, THE LOCAL MANAGEMENT
17 BOARD SHALL PROVIDE ADMINISTRATIVE STAFF AND SUPPORT TO THE LOCAL
18 COORDINATING COUNCIL.

19 REVISOR’S NOTE: This section formerly was Art. 49D, § 4–102(e).

20 The only changes are in style.

21 Defined terms: “Local coordinating council” § 8–101

22 “Local management board” § 8–101

23 8–408. LOCAL COORDINATING COUNCILS — DUTIES.

24 (A) IN GENERAL.

25 A LOCAL COORDINATING COUNCIL SHALL:

26 (1) ACCEPT PLACEMENT REFERRALS FROM THE UNITS REPRESENTED
27 ON THE LOCAL COORDINATING COUNCIL;

28 (2) REVIEW RECOMMENDATIONS FOR THE RESIDENTIAL PLACEMENT
29 OF CHILDREN REFERRED TO THE LOCAL COORDINATING COUNCIL IN ACCORDANCE
30 WITH SUBSECTION (B) OF THIS SECTION;

31 (3) PROVIDE AN INTERAGENCY PLAN OF CARE FOR RESIDENTIAL
32 PLACEMENT OR APPROPRIATE, ALTERNATIVE, COMMUNITY–BASED SERVICES FOR A
33 CHILD;

1 (4) CONSISTENT WITH REGULATIONS ADOPTED BY THE CHILDREN'S
2 CABINET, SUBMIT RECOMMENDED PLANS OF CARE TO THE COUNCIL; AND

3 (5) ASSIST THE UNIT PRIMARILY RESPONSIBLE FOR A CHILD'S CARE IN
4 IMPLEMENTING AND MONITORING THE RESIDENTIAL PLACEMENT OF THE CHILD.

5 (B) REVIEW OF RECOMMENDED PLACEMENTS.

6 A LOCAL COORDINATING COUNCIL SHALL:

7 (1) REVIEW RESIDENTIAL PLACEMENTS RECOMMENDED IN
8 ACCORDANCE WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION
9 ACT OR FEDERAL MEDICAID REQUIREMENTS, TO PROVIDE TECHNICAL ASSISTANCE
10 TO THE LEAD AGENCY REGARDING THE AVAILABILITY OF COMMUNITY-BASED
11 RESOURCES TO SERVE THE CHILD IN THE LEAST RESTRICTIVE ENVIRONMENT
12 DETERMINED TO BE APPROPRIATE BY THE LEAD AGENCY;

13 (2) REVIEW AND APPROVE OTHER RECOMMENDED RESIDENTIAL
14 PLACEMENTS; AND

15 (3) REVIEW RECOMMENDED OUT-OF-STATE PLACEMENTS AND REFER
16 THE RECOMMENDATIONS TO THE COUNCIL.

17 (C) DEVELOPMENT AND IMPLEMENTATION OF PLANS OF CARE.

18 CONSISTENT WITH APPLICABLE FEDERAL AND STATE LAWS, THE COUNCIL AND
19 THE LOCAL COORDINATING COUNCIL SHALL DEVELOP AND IMPLEMENT PLANS OF
20 CARE FOR THE RESIDENTIAL PLACEMENT OF CHILDREN IN NEED OF RESIDENTIAL
21 PLACEMENT AND CHILDREN IN NEED OF OUT-OF-STATE PLACEMENT.

22 REVISOR'S NOTE: This section formerly was Art. 49D, § 4-102(f), (g), and (h).

23 The only changes are in style.

24 Defined terms: "Child in need of out-of-state placement" § 8-101

25 "Child in need of residential placement" § 8-101

26 "Council" § 8-101

27 "Lead agency" § 8-101

28 "Local coordinating council" § 8-101

29 "Residential placement" § 8-101

30 8-409. ATTENDANCE AT MEETINGS.

31 (A) AUTHORIZED ATTENDEES.

32 A PARENT OR GUARDIAN OF A CHILD AND THE CHILD'S ATTORNEY MAY ATTEND
33 ANY MEETING OF THE COUNCIL OR THE LOCAL COORDINATING COUNCIL AT WHICH
34 THE CHILD'S RESIDENTIAL PLACEMENT IS DISCUSSED.

35 (B) NOTICE OF MEETING.

1 AT LEAST 10 DAYS BEFORE THE MEETING, THE COUNCIL OR LOCAL
2 COORDINATING COUNCIL SHALL NOTIFY EACH PARENT OR GUARDIAN OF THE CHILD
3 AND THE CHILD'S ATTORNEY OF THE DATE, TIME, AND LOCATION OF ANY MEETING
4 THE COUNCIL OR THE LOCAL COORDINATING COUNCIL PLANS TO HOLD TO DISCUSS
5 THE CHILD'S RESIDENTIAL PLACEMENT.

6 (C) NOTICE OF DECISION.

7 THE COUNCIL OR THE LOCAL COORDINATING COUNCIL SHALL NOTIFY EACH
8 PARENT OR GUARDIAN OF THE CHILD AND THE CHILD'S ATTORNEY IN WRITING OF:

9 (1) ANY DECISION THE COUNCIL OR LOCAL COORDINATING COUNCIL
10 MAKES CONCERNING THE CHILD'S RESIDENTIAL PLACEMENT; AND

11 (2) THE RIGHT OF THE PARENT, GUARDIAN, OR ATTORNEY TO APPEAL A
12 DECISION MADE BY THE COUNCIL OR THE LOCAL COORDINATING COUNCIL
13 CONCERNING THE CHILD'S RESIDENTIAL PLACEMENT.

14 REVISOR'S NOTE: This section formerly was Art. 49D, § 4-103.

15 The only changes are in style.

16 Defined terms: "Council" § 8-101

17 "Local coordinating council" § 8-101

18 "Residential placement" § 8-101

19 SUBTITLE 5. CHILDREN'S CABINET FUND.

20 8-501. "FUND" DEFINED.

21 IN THIS SUBTITLE, "FUND" MEANS THE CHILDREN'S CABINET FUND.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 49D, § 1-101(g).

24 8-502. ESTABLISHED.

25 THERE IS A CHILDREN'S CABINET FUND.

26 REVISOR'S NOTE: This section formerly was Art. 49D, § 5-101(a).

27 No changes are made.

28 8-503. COMPOSITION; UNSPENT MONEY.

29 (A) COMPOSITION.

30 THE FUND:

31 (1) CONSISTS OF MONEY APPROPRIATED, TRANSFERRED, CREDITED, OR
32 PAID INTO THE FUND FROM ANY SOURCE; AND

1 (2) INCLUDES MONEY FOR OUT-OF-HOME CARE AND SERVICES TO
2 PREVENT OUT-OF-HOME PLACEMENTS.

3 (B) UNSPENT MONEY.

4 AT THE END OF EACH FISCAL YEAR ANY UNSPENT MONEY IN THE FUND SHALL
5 REVERT TO THE GENERAL FUND.

6 REVISOR'S NOTE: This section formerly was Art. 49D, § 5-101(b) and (c).

7 The only changes are in style.

8 Defined term: "Fund" § 8-501

9 8-504. EXPENDITURES FROM FUND.

10 EXPENDITURES FROM THE FUND SHALL BE MADE:

11 (1) IN ACCORDANCE WITH THE BUDGET AMENDMENT PROCEDURE IN §
12 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

13 (2) TO EACH COUNTY THROUGH THE COUNTY'S LOCAL MANAGEMENT
14 BOARD TO SUPPORT A LOCALLY-DRIVEN INTERAGENCY EFFORT TO MAXIMIZE ALL
15 AVAILABLE RESOURCES FOR CHILDREN AND FAMILY SERVICES; AND

16 (3) TO REFLECT THE PRIORITIES, POLICIES, AND PROCEDURES THAT
17 THE CHILDREN'S CABINET ADOPTS.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 49D, § 5-102.

20 In the introductory language of this section, the former phrase
21 "[n]otwithstanding the provisions of § 5-103 of this title" is deleted for
22 clarity.

23 Defined terms: "County" § 1-101

24 "Fund" § 8-501

25 "Local management board" § 8-101

26 8-505. DISBURSEMENTS TO LOCAL MANAGEMENT BOARDS.

27 (A) APPLICATION BY LOCAL MANAGEMENT BOARD.

28 A LOCAL MANAGEMENT BOARD SHALL APPLY FOR MONEY FROM THE FUND IN
29 ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE CHILDREN'S CABINET.

30 (B) COMMUNITY PARTNERSHIP AGREEMENTS.

31 IN CONNECTION WITH AN APPLICATION FOR MONEY UNDER SUBSECTION (A)
32 OF THIS SECTION, A LOCAL MANAGEMENT BOARD SHALL DEVELOP AND SUBMIT A
33 COMMUNITY PARTNERSHIP AGREEMENT THAT:

1 (1) REFLECTS COORDINATION WITH:

2 (I) THE STATE'S 3-YEAR PLAN FOR CHILDREN, YOUTH, AND
3 FAMILIES; AND

4 (II) ANY LOCAL GOVERNMENT PLAN FOR SERVICES FOR CHILDREN,
5 YOUTH, AND FAMILIES, INCLUDING THE LOCAL SUBSTANCE ABUSE PLAN
6 DEVELOPED IN ACCORDANCE WITH TITLE 8, SUBTITLE 10 OF THE HEALTH –
7 GENERAL ARTICLE; AND

8 (2) ADDRESSES THE PRIORITIES AND STRATEGIES OF THE COUNTY FOR
9 MEETING THE IDENTIFIED NEEDS OF CHILDREN AND FAMILIES AS ARTICULATED IN
10 THE LOCAL MANAGEMENT BOARD'S 5-YEAR STRATEGIC PLAN REGARDING:

11 (I) YOUTH DEVELOPMENT;

12 (II) PREVENTION SERVICES;

13 (III) CRISIS AND EARLY INTERVENTION;

14 (IV) SERVICES FOR CHILDREN AT RISK OF OUT-OF-HOME
15 PLACEMENT OR RETURNING FROM OUT-OF-HOME PLACEMENT; AND

16 (V) OUT-OF-HOME PLACEMENT AND TREATMENT.

17 (C) TERMS AND CONDITIONS OF DISBURSEMENTS.

18 THE CHILDREN'S CABINET MAY DISBURSE MONEY TO A LOCAL MANAGEMENT
19 BOARD SUBJECT TO THE TERMS, CONDITIONS, PERFORMANCE MEASURES, OR
20 OUTCOME EVALUATIONS THAT THE CHILDREN'S CABINET CONSIDERS NECESSARY.

21 (D) USE OF MONEY.

22 THE LOCAL MANAGEMENT BOARD SHALL USE THE MONEY TO IMPLEMENT:

23 (1) A LOCAL INTERAGENCY SERVICES DELIVERY SYSTEM FOR
24 CHILDREN, YOUTH, AND FAMILIES IN ACCORDANCE WITH THE COMMUNITY
25 PARTNERSHIP AGREEMENT; AND

26 (2) ANY TERMS, CONDITIONS, AND PERFORMANCE MEASURES THAT THE
27 CHILDREN'S CABINET REQUIRES.

28 REVISOR'S NOTE: This section formerly was Art. 49D, § 5–103.

29 In subsection (b)(1)(ii) of this section, the former reference to any "other"
30 local government plan is deleted as surplusage.

31 The only other changes are in style.

32 Defined terms: "County" § 1–101

33 "Fund" § 8–501

1 "Local management board" § 8-101

2 8-506. FISCAL AGENT.

3 THE STATE DEPARTMENT OF EDUCATION IS THE FISCAL AGENT FOR THE FUND.

4 REVISOR'S NOTE: This section formerly was Art. 49D, § 5-104.

5 The only changes are in style.

6 Defined term: "Fund" § 8-501

7 SUBTITLE 6. AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAMS.

8 8-601. "AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM" DEFINED.

9 IN THIS SUBTITLE, "AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM"
10 MEANS SERVICES PROVIDED TO SCHOOL-AGED YOUTH AND THEIR FAMILIES TO
11 PREVENT OR DIVERT YOUTH FROM ENTERING THE JUVENILE JUSTICE SYSTEM AND
12 TO HELP MAKE THEM READY FOR ADULTHOOD BY AGE 21.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 2-501(a) and (b).

15 The former phrase "the following words have the meanings indicated" is
16 deleted as unnecessary because only one word is defined in this section.

17 8-602. IN GENERAL.

18 AN AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM MAY BE:

- 19 (1) (I) COMMUNITY-BASED;
20 (II) SCHOOL-BASED;
21 (III) NEIGHBORHOOD-BASED; OR
22 (IV) FAITH-BASED; AND
23 (2) NONRESIDENTIAL.

24 REVISOR'S NOTE: This section formerly was Art. 41, § 2-503(a).

25 The only changes are in style.

26 Defined term: "At-risk youth prevention and diversion program" § 8-601

27 8-603. ROLE OF LOCAL MANAGEMENT BOARDS.

28 (A) IN GENERAL.

1 AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAMS SHALL BE
2 COORDINATED, MONITORED, AND SUPPORTED BY LOCAL MANAGEMENT BOARDS.

3 (B) DUTIES OF LOCAL MANAGEMENT BOARD.

4 A LOCAL MANAGEMENT BOARD SHALL:

5 (1) DEVELOP A REQUEST FOR FUNDS BASED ON THE
6 RECOMMENDATIONS OF THE LOCAL PLANNING GROUP CONVENED IN ACCORDANCE
7 WITH § 8-605(B) OF THIS SUBTITLE;

8 (2) AWARD FUNDS TO LOCAL AGENCIES OR ORGANIZATIONS TO
9 PROVIDE DIRECT SERVICES;

10 (3) MONITOR AND EVALUATE AT-RISK YOUTH PREVENTION AND
11 DIVERSION PROGRAM PERFORMANCE;

12 (4) PROVIDE TECHNICAL ASSISTANCE TO AT-RISK YOUTH PREVENTION
13 AND DIVERSION PROGRAMS AS NEEDED;

14 (5) PROMOTE COST-EFFECTIVENESS STRATEGIES;

15 (6) MEASURE AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM
16 OUTCOMES; AND

17 (7) PROVIDE FISCAL AND PROGRAM REPORTS TO THE OFFICE.

18 (C) ASSESSMENT OF NEEDS AND SERVICES.

19 AS PART OF THE PREVENTION ELEMENT OF THE 3-YEAR PLAN DEVELOPED BY
20 THE CHILDREN'S CABINET ESTABLISHING PRIORITIES AND STRATEGIES FOR THE
21 COORDINATED DELIVERY OF SERVICES FOR CHILDREN AND FAMILIES, THE LOCAL
22 MANAGEMENT BOARD SHALL:

23 (1) ASSESS THE ADEQUACY, AVAILABILITY, AND ACCESSIBILITY OF
24 CURRENT COMMUNITY-BASED SERVICES THAT:

25 (I) PREVENT AND DIVERT ENTRY AND REENTRY INTO THE
26 JUVENILE SYSTEM;

27 (II) PROVIDE ALTERNATIVES TO INCARCERATION AND
28 INSTITUTIONALIZATION;

29 (III) PREVENT AND DIVERT CRIMINAL BEHAVIOR; AND

30 (IV) INCREASE PERSONAL RESPONSIBILITY AND
31 SELF-SUFFICIENCY;

32 (2) IDENTIFY UNSERVED NEIGHBORHOODS OR COMMUNITIES WITH
33 CRITICAL NEEDS AND SIGNIFICANT NUMBERS OF AT-RISK OR DELINQUENT YOUTH;
34 AND

1 (3) RECOMMEND PROGRAMS THAT CAN BE ESTABLISHED OR
2 ENHANCED TO ADDRESS THE UNMET NEEDS OF YOUTH AND THEIR FAMILIES.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, §§ 2-501(d) and 2-503(b), (e), and (f).

5 In subsection (b)(1) of this section, the reference to the local planning
6 group "convened in accordance with § 8-605(b) of this subtitle" is added for
7 clarity.

8 In the introductory language of subsection (c) of this section, the former
9 reference to the "3-year plan" is deleted in light of the incorporation of the
10 definition of that term in this revision.

11 As to the State's 3-year plan, *see* Executive Order 01.01.2005.34.

12 Defined terms: "At-risk youth prevention and diversion program" § 8-601
13 "Local management board" § 8-101
14 "Office" § 8-101

15 8-604. APPLICATIONS FOR FUNDING.

16 (A) IN GENERAL.

17 A LOCAL MANAGEMENT BOARD SHALL APPLY TO THE OFFICE FOR FUNDING
18 FOR AN AT-RISK YOUTH PREVENTION AND DIVERSION PROGRAM.

19 (B) LOCAL PLANNING GROUP.

20 THE APPLICATION SHALL DEMONSTRATE THAT THE LOCAL MANAGEMENT
21 BOARD HAS CONVENED A LOCAL PLANNING GROUP CONSISTING OF PARENTS,
22 YOUTH, AND REPRESENTATIVES OF PUBLIC AND PRIVATE AGENCIES THAT HAVE
23 KNOWLEDGE OF AND EXPERIENCE WORKING WITH AT-RISK YOUTH AND FAMILIES.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 2-503(c) and (d).

26 In subsection (b) of this section, the requirement that the "application shall
27 demonstrate" that the local management board has convened a local
28 planning group is substituted for the former requirement that "[b]efore
29 submitting an application to the Governor's Office for Children, the local
30 management board shall demonstrate that the local management board
31 has convened a local planning group" for brevity and clarity.

32 Defined terms: "At-risk youth prevention and diversion program" § 8-601
33 "Local management board" § 8-101
34 "Office" § 8-101

1 SUBTITLE 7. RESIDENTIAL CHILD CARE PROGRAMS — GENERAL PROVISIONS.

2 PART I. STATE RESOURCE PLAN; CONTRACT REQUIREMENTS.

3 8-701. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 49D, § 7-101(a).

8 (B) AGENCY.

9 "AGENCY" MEANS:

10 (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

11 (2) THE DEPARTMENT OF HUMAN RESOURCES; OR

12 (3) THE DEPARTMENT OF JUVENILE SERVICES.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 49D, § 7-101(b).15 In the introductory language of this section, the reference to an "[a]gency"
16 is substituted for the former reference to "[a]gencies" in light of Art. 1, § 8,
17 which provides that the singular generally includes the plural.
18 Correspondingly, in item (2) of this section the word "or" is substituted for
19 the former word "and".

20 (C) CERTIFIED PROGRAM ADMINISTRATOR.

21 "CERTIFIED PROGRAM ADMINISTRATOR" MEANS AN INDIVIDUAL WHO IS:

22 (1) CERTIFIED BY THE STATE BOARD FOR CERTIFICATION OF
23 RESIDENTIAL CHILD CARE PROGRAM ADMINISTRATORS UNDER TITLE 20 OF THE
24 HEALTH OCCUPATIONS ARTICLE; AND25 (2) RESPONSIBLE FOR THE DAY-TO-DAY MANAGEMENT AND
26 OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM.

27 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 7-101(c).

28 The only changes are in style.

29 Defined term: "Residential child care program" §§ 8-101, 8-701

30 (D) PLAN.

1 "PLAN" MEANS THE STATE RESOURCE PLAN FOR RESIDENTIAL CHILD CARE
2 PROGRAMS.

3 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 7-101(e).

4 No changes are made.

5 (E) PROVIDER.

6 "PROVIDER" MEANS A FOR PROFIT OR NOT FOR PROFIT ENTITY LICENSED BY AN
7 AGENCY TO OPERATE A RESIDENTIAL CHILD CARE PROGRAM.

8 REVISOR'S NOTE: This subsection formerly was Art. 49D, § 7-101(f).

9 No changes are made.

10 Defined terms: "Agency" § 8-701

11 "Residential child care program" §§ 8-101, 8-701

12 (F) RESIDENTIAL CHILD CARE PROGRAM.

13 "RESIDENTIAL CHILD CARE PROGRAM" DOES NOT INCLUDE SITES LICENSED BY
14 THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 49D, § 7-101(g)(3).

17 8-702. LEGISLATIVE INTENT.

18 IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

19 (1) IMPROVE THE QUALITY OF CARE PROVIDED BY RESIDENTIAL CHILD
20 CARE PROGRAMS;

21 (2) PROVIDE THE SAME QUALITY OF CARE TO ALL CHILDREN PLACED IN
22 RESIDENTIAL CHILD CARE PROGRAMS; AND

23 (3) DEVELOP A SYSTEM THAT EXPANDS SERVICES PROVIDED BY
24 RESIDENTIAL CHILD CARE PROGRAMS TO COUNTIES THAT ARE UNDERSERVED.

25 REVISOR'S NOTE: This section formerly was Art. 49D, § 7-102.

26 In item (2) of this section, the reference to "residential child care programs"
27 is substituted for the former reference to "a residential child care program"
28 for consistency with items (1) and (3) of this section.

29 No other changes are made.

30 Defined terms: "County" § 1-101

31 "Residential child care program" §§ 8-101, 8-701

1 8-703. STATE RESOURCE PLAN.

2 (A) ESTABLISHED.

3 THERE IS A STATE RESOURCE PLAN FOR RESIDENTIAL CHILD CARE PROGRAMS.

4 (B) PURPOSE.

5 THE PURPOSE OF THE PLAN IS TO ENHANCE ACCESS TO SERVICES PROVIDED
6 BY RESIDENTIAL CHILD CARE PROGRAMS.

7 (C) DEVELOPMENT.

8 ON OR BEFORE JULY 1 OF EACH YEAR, THE OFFICE SHALL DEVELOP THE PLAN
9 IN CONSULTATION WITH THE AGENCIES, PROVIDERS, COUNTIES, CHILD ADVOCATES,
10 CONSUMERS, AND ANY OTHER STATE UNIT, ENTITY, OR PERSON THAT THE OFFICE
11 IDENTIFIES AS HAVING RELEVANT INFORMATION OR THAT IS INTERESTED IN THE
12 DEVELOPMENT OF THE PLAN.

13 (D) CONTENTS.

14 THE PLAN SHALL:

15 (1) PROVIDE A FRAMEWORK FOR THE OFFICE AND THE AGENCIES TO
16 PROCURE RESIDENTIAL CHILD CARE PROGRAM SERVICES THAT MEET THE NEEDS
17 IDENTIFIED IN THE PLAN;

18 (2) PROVIDE THE FOLLOWING INFORMATION ON RESIDENTIAL CHILD
19 CARE PROGRAMS:

20 (I) THE COUNTY WHERE EACH PROGRAM IS OPERATED;

21 (II) THE PROVIDER FOR EACH PROGRAM;

22 (III) THE ACTUAL CAPACITY AND UTILIZATION RATE FOR EACH
23 PROGRAM;

24 (IV) THE AGES OF THE CHILDREN IN EACH PROGRAM;

25 (V) THE COUNTY WHERE EACH CHILD IN A PROGRAM LIVED AT
26 THE TIME THE CHILD ENTERED OUT-OF-HOME PLACEMENT;

27 (VI) THE SERVICES CHILDREN REQUIRE AND A DESCRIPTION OF
28 HOW THOSE SERVICES ARE BEING PROVIDED;

29 (VII) THE AGENCY THAT PLACED CHILDREN IN EACH PROGRAM; AND

30 (VIII) ANY OTHER INFORMATION THE OFFICE OR THE AGENCIES,
31 PROVIDERS, OR COUNTIES CONSIDER RELEVANT;

1 (3) IDENTIFY THE TYPES OF SERVICES NEEDED IN RESIDENTIAL CHILD
2 CARE PROGRAMS AND THE ESTIMATED NUMBER OF CHILDREN REQUIRING THOSE
3 SERVICES IN EACH COUNTY;

4 (4) IDENTIFY THE COUNTIES WHERE THE SERVICES IDENTIFIED IN
5 ITEM (3) OF THIS SUBSECTION ARE INSUFFICIENTLY SUPPLIED;

6 (5) ESTABLISH AN INCENTIVE FUND FOR RESIDENTIAL CHILD CARE
7 PROGRAM DEVELOPMENT IN THE COUNTIES IDENTIFIED IN ITEM (4) OF THIS
8 SUBSECTION; AND

9 (6) IDENTIFY THE REASONS CHILDREN ARE PLACED IN RESIDENTIAL
10 CHILD CARE PROGRAMS OUTSIDE OF THE COUNTIES WHERE THE CHILDREN LIVED
11 AT THE TIME THEY ENTERED OUT-OF-HOME PLACEMENT IN ACCORDANCE WITH §
12 5-525 OF THE FAMILY LAW ARTICLE.

13 (E) ANNUAL REPORT.

14 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE OFFICE SHALL REPORT TO THE
15 GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
16 ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND
17 GOVERNMENT OPERATIONS COMMITTEE ON THE PLAN'S FINDINGS AND
18 RECOMMENDATIONS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 49D, § 7-103.

21 In subsection (c) of this section, the reference to an "entity" is substituted
22 for the former reference to an "agency" to avoid confusion with the defined
23 term "agency".

24 In subsection (d)(2)(v) and (6) of this section, the references to "the county
25 where each child ... lived at the time the child entered out-of-home
26 placement" and "the counties where the children lived at the time they
27 entered out-of-home placement" are substituted, respectively, for the
28 former references to "the county of each child" and "their county" for
29 clarity.

30 Defined terms: "Agency" § 8-701

31 "County" § 1-101

32 "Office" § 8-101

33 "Person" § 1-101

34 "Plan" § 8-701

35 "Provider" § 8-701

36 "Residential child care program" §§ 8-101, 8-701

37 8-704. CONTRACTS FOR RESIDENTIAL CHILD CARE PROGRAMS.

38 A CONTRACT AWARDED OR RENEWED BETWEEN AN AGENCY AND A PROVIDER
39 FOR A RESIDENTIAL CHILD CARE PROGRAM SHALL:

1 (1) REQUIRE THE PROVIDER TO FULFILL THE LICENSING
2 REQUIREMENTS UNDER §§ 5-507 THROUGH 5-509 OF THE FAMILY LAW ARTICLE OR §§
3 9-235 THROUGH 9-237 OF THIS ARTICLE;

4 (2) INCLUDE THE FOLLOWING PROVISIONS:

5 (I) A DESCRIPTION OF THE SERVICES THE PROVIDER IS REQUIRED
6 TO PROVIDE;

7 (II) AN EXPLANATION FROM THE PROVIDER OF HOW THE PROGRAM
8 WILL FURTHER THE OBJECTIVES OF THE PLAN UNDER § 8-703(B) OF THIS SUBTITLE;
9 AND

10 (III) ANY OTHER PROVISION THE CONTRACTING AGENCY
11 CONSIDERS NECESSARY;

12 (3) REQUIRE THE PROVIDER TO REPORT TO THE CONTRACTING AGENCY
13 IN WRITING WITHIN 24 HOURS AFTER A CRITICAL INCIDENT, AS DEFINED IN
14 REGULATION, INVOLVING A CHILD IN THE PROVIDER'S CARE;

15 (4) INCLUDE A PLAN FOR THE RESIDENTIAL CHILD CARE PROGRAM'S
16 INTERACTION WITH THE SURROUNDING COMMUNITY, INCLUDING A MECHANISM
17 FOR RESPONDING TO COMPLAINTS;

18 (5) REQUIRE THE PROVIDER TO REPORT TO THE CONTRACTING AGENCY
19 COMMUNITY COMPLAINTS THAT THE RESIDENTIAL CHILD CARE PROGRAM
20 RECEIVES AND THE RESOLUTION OF EACH COMPLAINT WITHIN 10 DAYS AFTER THE
21 COMPLAINT IS RECEIVED;

22 (6) REQUIRE THAT THE RESIDENTIAL CHILD CARE PROGRAM PROVIDE
23 HEALTH CARE SERVICES UNDER § 5-533 OF THE FAMILY LAW ARTICLE;

24 (7) REQUIRE THE PROVIDER TO MAINTAIN HEALTH CARE RECORDS
25 DURING THE PLACEMENT OF A CHILD IN THE RESIDENTIAL CHILD CARE PROGRAM,
26 INCLUDING:

27 (I) HEALTH INSURANCE INFORMATION;

28 (II) POWERS OF ATTORNEY, IF APPLICABLE;

29 (III) A HISTORY OF PRIMARY AND PREVENTIVE CARE AND ANY
30 ARRANGEMENTS MADE FOR CONTINUING CARE;

31 (IV) A HISTORY OF THE HEALTH CARE PROVIDED FOR BEHAVIORAL,
32 MENTAL, OR SUBSTANCE ABUSE DISORDERS AND ANY ARRANGEMENTS MADE FOR
33 CONTINUING CARE; AND

34 (V) DOCUMENTATION OF DOCTOR AND DENTIST VISITS;

35 (8) REQUIRE THE PROVIDER TO COMPLY WITH § 7-309 OF THE
36 EDUCATION ARTICLE;

1 (9) REQUIRE AN ANNUAL FINANCIAL DISCLOSURE, INCLUDING:

2 (I) A CERTIFIED FINANCIAL AUDIT OF REVENUES AND
3 EXPENDITURES PREPARED BY A LICENSED ACCOUNTANT;

4 (II) A CERTIFIED FINANCIAL AUDIT PREPARED BY A LICENSED
5 ACCOUNTANT THAT COMPARES ACTUAL REVENUES AND EXPENDITURES TO THE
6 BUDGET SUBMITTED TO THE INTERAGENCY RATES COMMITTEE FOR THE PURPOSE
7 OF DETERMINING THE PROGRAM'S RATE; AND

8 (III) A STATEMENT IDENTIFYING ANY INTEREST THAT THE
9 PROVIDER OR AN EMPLOYEE OF THE PROVIDER HAS WITH A BUSINESS OR ENTITY
10 THAT ACCOUNTS FOR 5% OR MORE OF THE PROGRAM'S EXPENDITURES;

11 (10) REQUIRE THE PROVIDER AND THE EMPLOYEES OF THE PROVIDER
12 WHO HAVE DIRECT CONTACT WITH CHILDREN IN THE RESIDENTIAL CHILD CARE
13 PROGRAM TO BE AT LEAST 21 YEARS OF AGE; AND

14 (11) REQUIRE THE RESIDENTIAL CHILD CARE PROGRAM TO HAVE A
15 CERTIFIED PROGRAM ADMINISTRATOR AS REQUIRED UNDER § 20-301 OF THE
16 HEALTH OCCUPATIONS ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 49D, § 7-104.

19 In item (1) of this section, the former reference to "Title 7, Subtitle 9, of the
20 Health – General Article", which requires licensing by the Developmental
21 Disabilities Administration before providing specified services to an
22 individual with a developmental disability, is deleted as inconsistent with
23 the definition of "residential child care program" applicable to this subtitle,
24 which excludes sites licensed by the Developmental Disabilities
25 Administration. This deletion is called to the attention of the General
26 Assembly.

27 Also in item (1) of this section, the Human Services Article Review
28 Committee notes, for consideration by the General Assembly, that the
29 reference to "[§] 5-507 ... of the Family Law Article", which requires
30 licenses for child placement agencies, may be over-inclusive. The General
31 Assembly may wish to consider deleting this reference.

32 In the introductory language of item (2) and in item (2)(iii) of this section,
33 the references to "provisions" and "provision" are substituted for the
34 former references to "statements" and "statement" for clarity.

35 In item (2)(i) of this section, the former reference to "a residential child
36 care program" is deleted as redundant in light of the reference to a
37 "residential child care program" in the introductory language of this
38 section.

39 In item (2)(iii) of this section, the reference to the "contracting agency" is

1 substituted for the former reference to an “agency” for clarity.

2 In item (5) of this section, the reference to reporting complaints “to the
3 contracting agency” is added for clarity and consistency with item (3) of
4 this section.

5 Also in item (5) of this section, the reference to 10 days “after the
6 complaint is received” is added for clarity.

7 Defined terms: “Agency” § 8–701

8 “Certified program administrator” § 8–701

9 “Plan” § 8–701

10 “Provider” § 8–701

11 “Residential child care program” §§ 8–101, 8–701

12 8–705. SAMPLE CONTRACTS.

13 THE OFFICE SHALL PROVIDE A SAMPLE CONTRACT THAT INCLUDES AN
14 EXAMPLE OF THE PROVISIONS REQUIRED UNDER § 8–704 OF THIS SUBTITLE TO EACH
15 POTENTIAL PROVIDER INTERESTED IN BECOMING LICENSED TO OPERATE A
16 RESIDENTIAL CHILD CARE PROGRAM.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 49D, §§ 7–105 and 7–101(h).

19 The reference to the “Office” is substituted for the former reference to the
20 “single point of entry” and the definition of that term for brevity and
21 clarity.

22 Defined terms: “Office” § 8–101

23 “Provider” § 8–701

24 “Residential child care program” §§ 8–101, 8–701

25 8–706. REGULATIONS.

26 THE MEMBERS OF THE CHILDREN’S CABINET SHALL ADOPT REGULATIONS TO
27 CARRY OUT THIS PART.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 49D, § 7–106.

1 8-707. RESERVED.

2 8-708. RESERVED.

3 PART II. LICENSING; INSPECTIONS.

4 8-709. "LICENSING AGENCY" DEFINED.

5 IN THIS PART, "LICENSING AGENCY":

6 (1) MEANS THE AGENCY DESIGNATED BY THE OFFICE AS RESPONSIBLE
7 FOR LICENSING A RESIDENTIAL CHILD CARE PROGRAM; AND

8 (2) INCLUDES THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,
9 THE DEPARTMENT OF HUMAN RESOURCES, AND THE DEPARTMENT OF JUVENILE
10 SERVICES.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 49D, § 6-101(a)(1) and (3).

13 Defined terms: "Office" § 8-101
14 "Residential child care program" § 8-101

15 8-710. OPERATING WITHOUT A LICENSE.

16 (A) PROHIBITED.

17 A PERSON MAY NOT OPERATE A RESIDENTIAL CHILD CARE PROGRAM IN THE
18 STATE WITHOUT A LICENSE.

19 (B) PENALTY.

20 A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF A
21 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
22 FOR EACH DAY OF OPERATION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 49D, § 6-102.

25 In subsection (a) of this section, the reference to a "residential child care"
26 program is added for consistency throughout this subtitle.

27 Defined terms: "Person" § 1-101
28 "Residential child care program" § 8-101

29 8-711. LICENSE DENIAL.

30 A LICENSING AGENCY MAY DENY A LICENSE TO:

31 (1) A CORPORATION OR ENTITY THAT HAS HAD A LICENSE REVOKED BY
32 A LICENSING AGENCY WITHIN THE PREVIOUS 10 YEARS; OR

1 (2) A CORPORATION OR ENTITY THAT HAS A CORPORATE OFFICER WHO
2 HAS SERVED AS A CORPORATE OFFICER FOR A CORPORATION OR ENTITY THAT HAS
3 HAD A LICENSE REVOKED BY A LICENSING AGENCY WITHIN THE PREVIOUS 10
4 YEARS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 49D, § 6–101(h).

7 Defined term: “Licensing agency” § 8–709

8 8–712. UNANNOUNCED INSPECTIONS.

9 (A) REQUIRED.

10 UNLESS A PROGRAM ADMINISTRATOR OR AN EMPLOYEE OF A RESIDENTIAL
11 CHILD CARE PROGRAM IS REQUIRED TO BE PRESENT, A LICENSING AGENCY SHALL
12 CONDUCT UNANNOUNCED INSPECTIONS OF RESIDENTIAL CHILD CARE PROGRAMS.

13 (B) TIME OF INSPECTIONS.

14 THE UNANNOUNCED INSPECTIONS REQUIRED UNDER SUBSECTION (A) OF THIS
15 SECTION SHALL INCLUDE INSPECTIONS CONDUCTED DURING NONBUSINESS HOURS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 49D, § 6–101(i).

18 The Human Services Article Review Committee notes, for consideration by
19 the General Assembly, that the meaning of the phrase “[u]nless a program
20 administrator or an employee of a residential child care program is
21 required to be present” in subsection (a) of this section is unclear. The
22 General Assembly may wish to clarify its intent.

23 Defined terms: “Licensing agency” § 8–709
24 “Residential child care program” § 8–101

25 SUBTITLE 8. RESIDENTIAL CHILD CARE PROGRAMS — CORPORATE RESPONSIBILITY
26 AND GOVERNANCE.

27 8–801. “LICENSING AGENCY” DEFINED.

28 IN THIS SUBTITLE, “LICENSING AGENCY”:

29 (1) MEANS THE AGENCY DESIGNATED BY THE OFFICE AS RESPONSIBLE
30 FOR LICENSING A RESIDENTIAL CHILD CARE PROGRAM; AND

31 (2) INCLUDES THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,
32 THE DEPARTMENT OF HUMAN RESOURCES, AND THE DEPARTMENT OF JUVENILE
33 SERVICES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 49D, § 6-101(a)(1) and (3).

3 Defined terms: "Office" § 8-101
4 "Residential child care program" § 8-101

5 REVISOR'S NOTE TO SECTION:

6 Former Art. 49D, § 6-101(a)(5), which defined "program" to mean a
7 residential child care program, is deleted as unnecessary because the
8 defined term "residential child care program" is substituted for the former
9 references to "program" throughout this subtitle for consistency with
10 Subtitles 7 and 9 of this title.

11 8-802. SCOPE OF SUBTITLE.

12 THIS SUBTITLE APPLIES TO A CORPORATION THAT IS AN APPLICANT FOR OR
13 HAS BEEN GRANTED A LICENSE TO OPERATE A RESIDENTIAL CHILD CARE PROGRAM
14 IN THE STATE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 49D, § 6-101(a)(2).

17 It is revised as a scope provision rather than as a definition of
18 "corporation" for clarity.

19 The former reference to "an entity with articles of incorporation" is deleted
20 as implicit in the reference to a "corporation".

21 Defined term: "Residential child care program" § 8-101

22 8-803. LICENSING REQUIREMENTS — IN GENERAL.

23 EXCEPT AS PROVIDED IN § 8-807 OF THIS SUBTITLE AND IN ADDITION TO THE
24 STANDARDS SET FORTH IN COMAR 14.31.06 AND 14.31.07, A CORPORATION SHALL
25 MEET THE REQUIREMENTS ESTABLISHED IN THIS SUBTITLE AS A CONDITION OF
26 LICENSURE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 49D, § 6-101(b).

29 The phrase "[e]xcept as provided in" is substituted for the former phrase
30 "[n]otwithstanding the provisions of" for clarity.

31 8-804. REQUIRED DOCUMENTATION.

32 A CORPORATION SHALL DEMONSTRATE TO THE LICENSING AGENCY THE
33 CAPABILITY TO PROVIDE FOR AND ARRANGE FOR THE PROVISION OF ALL
34 APPLICABLE SERVICES PROPOSED IN THE LICENSE APPLICATION BY SUBMITTING,
35 AT A MINIMUM, THE FOLLOWING DOCUMENTS TO THE LICENSING AGENCY:

1 (1) A BUSINESS PLAN THAT CLEARLY DEMONSTRATES THE ABILITY OF
2 THE RESIDENTIAL CHILD CARE PROGRAM OPERATED BY THE CORPORATION TO
3 PROVIDE SERVICES IN ACCORDANCE WITH STATE REGULATIONS AND FUNDING
4 REQUIREMENTS;

5 (2) A SUMMARY OF THE CORPORATION'S DEMONSTRATED EXPERIENCE
6 IN THE FIELD OF HUMAN SERVICES, IN ACCORDANCE WITH STANDARDS DEVELOPED
7 BY THE OFFICE;

8 (3) PRIOR LICENSING REPORTS ISSUED WITHIN THE PREVIOUS 10 YEARS
9 CONCERNING THE CORPORATION OR ANY IN-STATE OR OUT-OF-STATE ENTITIES
10 ASSOCIATED WITH THE CORPORATION OR THE RESIDENTIAL CHILD CARE PROGRAM,
11 INCLUDING DEFICIENCY REPORTS AND COMPLIANCE RECORDS ON WHICH THE
12 STATE MAY MAKE REASONED DECISIONS ABOUT THE QUALIFICATIONS OF THE
13 CORPORATION OR THE RESIDENTIAL CHILD CARE PROGRAM; AND

14 (4) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE
15 LICENSING AGENCY, TO ADDRESS HOW THE CORPORATION WILL ENSURE THE
16 HEALTH AND SAFETY OF THE INDIVIDUALS SERVED BY THE RESIDENTIAL CHILD
17 CARE PROGRAM AND THE QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY THE
18 RESIDENTIAL CHILD CARE PROGRAM.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 49D, § 6-101(c).

21 In the introductory language of this section, the General Assembly may
22 wish to clarify whether a corporation must demonstrate the capability to
23 both provide for "and" arrange for the provision of services or demonstrate
24 the capability to either provide for "or" arrange for the provision of
25 services.

26 In subsection (a)(3) of this section, the reference to licensing reports
27 concerning "the corporation" is added to correct an obvious omission and
28 for consistency with § 8-711 of this subtitle.

29 Also in subsection (a)(3) of this section, the word "concerning" is
30 substituted for the former word "from" for clarity and accuracy.

31 Defined terms: "Licensing agency" § 8-801

32 "Office" § 8-101

33 "Residential child care program" § 8-101

34 8-805. BOARD OF DIRECTORS; CHIEF FINANCIAL OFFICER.

35 (A) MINIMUM SIZE OF BOARD; QUALIFICATIONS OF MEMBERS.

36 (1) A CORPORATION SHALL HAVE A BOARD OF DIRECTORS THAT
37 CONSISTS OF AT LEAST FIVE INDIVIDUALS WITH AN INTEREST IN OR KNOWLEDGE
38 OF THE NEEDS OF CHILDREN AND THEIR FAMILIES.

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1 (2) OF THE MEMBERS OF THE BOARD OF DIRECTORS:

2 (I) AT LEAST ONE SHALL BE A RESIDENT OF THE STATE;

3 (II) AT LEAST ONE SHALL HAVE DEMONSTRATED EXPERIENCE IN
4 OR KNOWLEDGE OF THE FIELD OF HUMAN SERVICES; AND

5 (III) AT LEAST ONE SHALL HAVE DEMONSTRATED KNOWLEDGE IN
6 THE FIELDS OF ACCOUNTING, BUSINESS, OR FINANCIAL MANAGEMENT.

7 (3) (I) AN EMPLOYEE, OR AN IMMEDIATE FAMILY MEMBER OF AN
8 EMPLOYEE, OF A CORPORATION OR RESIDENTIAL CHILD CARE PROGRAM MAY NOT
9 SERVE ON THE CORPORATION'S BOARD OF DIRECTORS.

10 (II) A PERSON WHO IS COMPENSATED BY A CORPORATION FOR
11 PROVIDING GOODS OR SERVICES MAY NOT SERVE ON THE CORPORATION'S BOARD OF
12 DIRECTORS.

13 (B) CHIEF FINANCIAL OFFICER.

14 A CORPORATION SHALL HAVE A CHIEF FINANCIAL OFFICER.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 49D, § 6-101(d) and (f).

17 Defined term: "Residential child care program" § 8-101

18 8-806. BYLAWS.

19 A CORPORATION SHALL ADOPT WRITTEN BYLAWS THAT REQUIRE THE
20 CORPORATION'S BOARD OF DIRECTORS TO BE RESPONSIBLE FOR:

21 (1) OVERSEEING THE MANAGEMENT AND OPERATION OF THE
22 RESIDENTIAL CHILD CARE PROGRAM OPERATED BY THE CORPORATION;

23 (2) ENSURING THAT THE RESIDENTIAL CHILD CARE PROGRAM
24 OPERATES IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS;

25 (3) APPROVING THE RESIDENTIAL CHILD CARE PROGRAM'S MISSION
26 STATEMENT, LONG-TERM GOALS, POLICIES, PROCEDURES, AND ANNUAL BUDGET;

27 (4) DEFINING AND PROHIBITING CIRCUMSTANCES THAT WOULD
28 CREATE A FINANCIAL OR PERSONAL CONFLICT OF INTEREST FOR MEMBERS OF THE
29 BOARD OF DIRECTORS, CORPORATE OFFICERS, EMPLOYEES, AGENTS, ASSIGNS, AND
30 VOLUNTEERS;

31 (5) ENSURING THAT THE RESIDENTIAL CHILD CARE PROGRAM
32 RESPONDS TO ALL REQUESTS FROM THE LICENSING AGENCY IN A TIMELY MANNER;

1 (6) APPROVING THE RESIDENTIAL CHILD CARE PROGRAM'S SERVICE
2 PLAN AND ENSURING THAT SERVICES ARE PROVIDED IN ACCORDANCE WITH THE
3 PLAN;

4 (7) IF THE CORPORATION IS A NONPROFIT CORPORATION, REVIEWING
5 ANNUALLY WHETHER THE CORPORATION IS SATISFYING ITS CHARITABLE MISSION;

6 (8) ENSURING THAT THE CORPORATION HAS LIABILITY INSURANCE;

7 (9) REQUIRING THAT MEMBERS OF THE BOARD OF DIRECTORS HAVE
8 TRAINING IN THEIR RESPONSIBILITIES REGARDING THE GOVERNANCE OF THE
9 RESIDENTIAL CHILD CARE PROGRAM; AND

10 (10) ESTABLISHING COMMITTEES OR MEMBER ASSIGNMENTS TO
11 PERIODICALLY REVIEW AS WARRANTED, BUT NOT LESS THAN ANNUALLY:

12 (I) COMPENSATION OF OFFICERS AND STAFF OF THE
13 CORPORATION AND THE RESIDENTIAL CHILD CARE PROGRAM;

14 (II) QUALITY OF SERVICES PROVIDED TO CLIENTS, INCLUDING ALL
15 INCIDENTS HARMING OR POTENTIALLY HARMING CLIENTS;

16 (III) FINANCIAL PROBLEMS AND CONCERNS RELATING TO THE
17 RESIDENTIAL CHILD CARE PROGRAM;

18 (IV) PERFORMANCE OF KEY STAFF;

19 (V) NOMINATIONS OF NEW MEMBERS OF THE BOARD OF
20 DIRECTORS; AND

21 (VI) POTENTIAL CONFLICTS OF INTEREST.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 49D, § 6–101(e).

24 In the introductory language of this section, the former reference to being
25 “legally” responsible is deleted as surplusage.

26 Defined terms: “Licensing agency” § 8–801
27 “Residential child care program” § 8–101

28 8–807. REGULATIONS.

29 THE MEMBERS OF THE CHILDREN'S CABINET SHALL ADOPT REGULATIONS TO
30 AUTHORIZE A WAIVER FROM SOME OR ALL OF THE REQUIREMENTS OF THIS
31 SUBTITLE FOR CORPORATIONS THAT CAN DEMONSTRATE THAT THEIR BYLAWS AND
32 POLICIES ARE SUBSTANTIALLY SIMILAR TO THOSE REQUIRED UNDER THIS
33 SUBTITLE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 49D, § 6–101(g).

1 The reference to “authoriz[ing]” a waiver is substituted for the former
2 reference to “provid[ing]” a waiver for clarity.

3 SUBTITLE 9. RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM.

4 8–901. “NONPROFIT ORGANIZATION” DEFINED.

5 IN THIS SUBTITLE, “NONPROFIT ORGANIZATION” MEANS:

6 (1) A BONA FIDE RELIGIOUS ORGANIZATION, NO PART OF THE
7 EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR
8 ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A RESIDENTIAL
9 CHILD CARE PROGRAM, THE PURCHASE OF EQUIPMENT TO BE USED IN A
10 RESIDENTIAL CHILD CARE PROGRAM, OR THE EXPANSION OF A RESIDENTIAL CHILD
11 CARE PROGRAM; OR

12 (2) AN ORGANIZATION:

13 (I) THAT IS CHARTERED AS A NONPROFIT CORPORATION AND
14 CLASSIFIED BY THE INTERNAL REVENUE SERVICE AS NONPROFIT; AND

15 (II) NO PART OF THE EARNINGS OF WHICH INURES TO THE
16 BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE
17 MAINTENANCE AND OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM, THE
18 PURCHASE OF EQUIPMENT TO BE USED IN A RESIDENTIAL CHILD CARE PROGRAM,
19 OR THE EXPANSION OF A RESIDENTIAL CHILD CARE PROGRAM.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 18–701(a) and (c).

22 In this section and throughout this subtitle, the references to a “residential
23 child care program” are substituted for the former references to a “facility”
24 for consistency.

25 Defined term: “Residential child care program” § 8–101

26 REVISOR’S NOTE TO SECTION:

27 Former Art. 41, § 18–701, which defined “wholly owned” is deleted as
28 unnecessary because the term is not used in this subtitle.

29 8–902. PROGRAM ESTABLISHED; PURPOSES OF GRANTS.

30 (A) PROGRAM ESTABLISHED.

31 THERE IS A RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM.

32 (B) PURPOSES OF GRANTS.

1 ON THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR, THE BOARD OF
2 PUBLIC WORKS MAY MAKE GRANTS TO COUNTIES, MUNICIPAL CORPORATIONS, AND
3 NONPROFIT ORGANIZATIONS FOR:

4 (1) THE CONVERSION OF PUBLIC BUILDINGS OR PARTS OF PUBLIC
5 BUILDINGS TO RESIDENTIAL CHILD CARE PROGRAMS;

6 (2) THE ACQUISITION OF EXISTING BUILDINGS OR PARTS OF BUILDINGS
7 FOR USE AS RESIDENTIAL CHILD CARE PROGRAMS;

8 (3) THE RENOVATION OF RESIDENTIAL CHILD CARE PROGRAMS;

9 (4) THE PURCHASE OF CAPITAL EQUIPMENT FOR RESIDENTIAL CHILD
10 CARE PROGRAMS; OR

11 (5) THE PLANNING, DESIGN, AND CONSTRUCTION OF RESIDENTIAL
12 CHILD CARE PROGRAMS.

13 REVISOR'S NOTE: This section formerly was Art. 41, § 18–702.

14 The only changes are in style.

15 Defined terms: “County” § 1–101

16 “Nonprofit organization” § 8–901

17 “Residential child care program” § 8–101

18 8–903. APPLICATIONS FOR GRANTS.

19 (A) APPLICANTS.

20 A COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION
21 SPONSORING A PROJECT INVOLVING WORK SPECIFIED IN § 8–902 OF THIS SUBTITLE
22 MAY APPLY TO THE EXECUTIVE DIRECTOR FOR A STATE GRANT TO BE APPLIED
23 TOWARD THE COST OF THAT PROJECT.

24 (B) APPLICATIONS.

25 AN APPLICATION FOR A GRANT SHALL INCLUDE:

26 (1) PROJECT PLANS FOR THE WORK TO BE CARRIED OUT;

27 (2) A STATEMENT LISTING THE PERSONNEL EMPLOYED OR TO BE
28 EMPLOYED AT THE RESIDENTIAL CHILD CARE PROGRAM, INCLUDING ALL
29 COMPENSATION FOR PERSONNEL SERVICES AND ALL OTHER EXPENSES PAID OR TO
30 BE PAID TO THE PERSONNEL;

31 (3) ALL OTHER EXPENSES INCURRED OR TO BE INCURRED IN
32 OPERATING THE RESIDENTIAL CHILD CARE PROGRAM; AND

1 (4) A STATEMENT DESCRIBING HOW THE RESIDENTIAL CHILD CARE
 2 PROGRAM WILL PROVIDE SERVICES IN AN UNDERSERVED GEOGRAPHIC AREA OF
 3 THE STATE, AS IDENTIFIED BY THE OFFICE.

4 (C) AMENDMENT OF PROJECT PLANS.

5 AN APPLICANT MAY AMEND THE PROJECT PLANS SUBMITTED WITH ITS
 6 APPLICATION DURING OR AFTER THE GRANT APPLICATION PROCESS IF THE
 7 AMENDMENTS ARE:

8 (1) INTENDED TO MEET THE CHANGING NEEDS OF THE RESIDENTIAL
 9 CHILD CARE PROGRAM OR ITS RESIDENTS; AND

10 (2) APPROVED BY THE EXECUTIVE DIRECTOR.

11 (D) APPROVAL OF PROJECT.

12 ON APPROVAL OF A PROJECT AND THE PROJECT PLANS, THE EXECUTIVE
 13 DIRECTOR SHALL:

14 (1) PROMPTLY REPORT THE APPLICATION TO THE BOARD OF PUBLIC
 15 WORKS; AND

16 (2) RECOMMEND THAT THE BOARD MAKE FUNDS AVAILABLE AS
 17 PROVIDED IN THIS SUBTITLE.

18 (E) CONSIDERATIONS FOR DETERMINING AMOUNT.

19 THE AMOUNT OF THE STATE GRANT RECOMMENDED TO THE BOARD OF PUBLIC
 20 WORKS FOR A PROJECT SHALL BE DETERMINED AFTER CONSIDERATION OF:

21 (1) ALL ELIGIBLE PROJECTS;

22 (2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE AT THE
 23 TIME THE GRANT RECOMMENDATION IS MADE TO THE BOARD OF PUBLIC WORKS;
 24 AND

25 (3) THE PRIORITIES ESTABLISHED BY THE OFFICE REGARDING
 26 GEOGRAPHIC AREAS OF THE STATE IDENTIFIED AS UNDERSERVED BY RESIDENTIAL
 27 CHILD CARE PROGRAMS.

28 REVISOR'S NOTE: This section is new language derived without substantive
 29 change from former Art. 41, §§ 18-703 and 18-704(d).

30 In subsection (b)(2) of this section, the reference to "compensation" is
 31 substituted for the former reference to "remuneration and perquisites" for
 32 brevity and consistency with terminology used elsewhere in this article.

33 Defined terms: "County" § 1-101

34 "Executive Director" § 8-101

35 "Office" § 8-101

1 “Nonprofit organization” § 8–901

2 “Residential child care program” § 8–101

3 8–904. APPROPRIATION AND ALLOCATION OF FUNDS.

4 (A) APPROPRIATION AUTHORIZED.

5 BEGINNING IN FISCAL YEAR 2008 AND IN EACH FISCAL YEAR THEREAFTER, THE
6 GOVERNOR MAY INCLUDE AN APPROPRIATION FOR THE RESIDENTIAL CHILD CARE
7 CAPITAL GRANT PROGRAM IN THE STATE CAPITAL BUDGET TO BE DISTRIBUTED AND
8 MANAGED IN ACCORDANCE WITH THIS SUBTITLE.

9 (B) ALLOCATION BY BOARD OF PUBLIC WORKS.

10 (1) THE BOARD OF PUBLIC WORKS SHALL:

11 (I) MAKE ALLOCATIONS FROM FUNDS AVAILABLE FOR THE
12 RESIDENTIAL CHILD CARE CAPITAL GRANT PROGRAM IN ACCORDANCE WITH THIS
13 SUBTITLE; AND

14 (II) CERTIFY THE ALLOCATIONS TO THE COMPTROLLER AND THE
15 TREASURER.

16 (2) AFTER THE BOARD CERTIFIES THE ALLOCATIONS, THE TREASURER
17 SHALL MAKE PAYMENTS TO OR ON BEHALF OF THE APPLICANT, WHEN NEEDED, FOR
18 AN APPROVED PROJECT.

19 (3) THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS TO
20 IMPLEMENT THIS SUBSECTION.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 41, §§ 18–705 and 18–704(f).

23 In subsection (a) of this section, the reference to an appropriation “for the
24 Residential Child Care Capital Grant Program” is added for clarity.

25 In subsection (b)(1)(i) of this section, the reference to funds available “for
26 the Residential Child Care Capital Grant Program” is substituted for the
27 former reference to funds available “under this subtitle” for clarity.

28 In subsection (b)(1)(ii) of this section, the reference to the “Comptroller and
29 the Treasurer” is substituted for the former reference to “the proper State
30 officers” for clarity.

31 8–905. TERMS AND CONDITIONS OF GRANTS.

32 (A) IN GENERAL.

33 A STATE GRANT MAY BE USED ONLY FOR THE PURPOSES LISTED UNDER § 8–902
34 OF THIS SUBTITLE AND APPROVED BY THE EXECUTIVE DIRECTOR UNDER § 8–903 OF
35 THIS SUBTITLE.

1 (B) APPLICATION OF FEDERAL GRANTS.

2 (1) ANY FEDERAL OR OTHER GRANT THAT IS RECEIVED FOR AN
3 ELIGIBLE PROJECT SHALL BE APPLIED FIRST TO THE COST OF THE PROJECT.

4 (2) A STATE GRANT MAY NOT EXCEED 50% OF THE COST OF ELIGIBLE
5 WORK REMAINING UNPAID AFTER ALL FEDERAL GRANTS HAVE BEEN APPLIED.

6 (3) FOR PURPOSES OF THIS SUBTITLE, COMMUNITY DEVELOPMENT
7 BLOCK GRANT FUNDS SHALL BE CONSIDERED AS LOCAL MATCHING FUNDS AND MAY
8 NOT BE CONSIDERED AS FEDERAL GRANT FUNDS.

9 (C) RELIGIOUS PURPOSES PROHIBITED.

10 (1) A STATE GRANT MAY NOT BE USED:

11 (I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

12 (II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR
13 CONSTRUCTION OF ANY BUILDING TO BE USED AS A PLACE OF SECTARIAN
14 RELIGIOUS WORSHIP OR INSTRUCTION; OR

15 (III) IN CONNECTION WITH ANY PROGRAM OR DEPARTMENT OF
16 DIVINITY FOR ANY RELIGIOUS DENOMINATION.

17 (2) ON THE REQUEST OF THE BOARD OF PUBLIC WORKS, THE
18 APPLICANT SHALL SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT A GRANT
19 IS NOT BEING USED FOR A PURPOSE PROHIBITED UNDER THIS SUBSECTION OR
20 UNDER APPLICABLE FEDERAL LAW.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 18-704(b), (c), and (e).

23 In subsection (c)(2) and the introductory language of (1) of this section, the
24 former references to a "portion of the proceeds" and the "proceeds" are
25 deleted as surplusage.

26 Former Art. 41, § 18-704(a), which provided that "[t]he allocation and use
27 of State funds under this subtitle are subject to the terms and conditions
28 set forth in this section", is deleted as surplusage. Similarly, the
29 introductory language of former Art. 41, § 18-704(c), which provided that
30 "[t]he allocation and use of State funds under this subtitle are subject to
31 the following terms and conditions" is deleted.

32 Defined term: "Executive Director" § 8-101

33 8-906. NOTICE OF STATE'S RIGHT OF RECOVERY.

34 (A) RECORDATION OF NOTICE.

1 BEFORE THE STATE MAKES ANY FUNDS AVAILABLE FOR AN APPROVED
2 PROJECT, THE OFFICE SHALL CAUSE A NOTICE OF THE STATE'S RIGHT OF RECOVERY
3 TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY
4 IS LOCATED.

5 (B) EFFECT OF RECORDATION.

6 THE RECORDING OF THE NOTICE:

7 (1) DOES NOT CREATE A LIEN AGAINST THE PROPERTY; BUT

8 (2) CONSTITUTES NOTICE TO ANY POTENTIAL TRANSFEREE,
9 TRANSFEROR, CREDITOR, OR ANY OTHER INTERESTED PARTY OF THE POSSIBILITY
10 THAT THE STATE MAY OBTAIN A LIEN UNDER THIS SUBTITLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 18-706(b).

13 In subsection (a) of this section, the former reference to "Baltimore City" is
14 deleted as unnecessary in light of the definition of "county", which includes
15 Baltimore City.

16 The Human Services Article Review Committee notes, for consideration by
17 the General Assembly, that the General Assembly may wish to consider
18 clarifying who is required to file the notice under subsection (a) of this
19 section.

20 Defined term: "Office" § 8-101

21 8-907. STATE'S RIGHT OF RECOVERY.

22 (A) GROUNDS.

23 THE STATE MAY RECOVER GRANT FUNDS PAID UNDER THIS SUBTITLE IF,
24 WITHIN 30 YEARS AFTER COMPLETION OF A PROJECT, THE PROPERTY FOR WHICH
25 FUNDS HAVE BEEN PAID:

26 (1) IS SOLD OR TRANSFERRED TO A PERSON THAT:

27 (I) WOULD NOT QUALIFY AS AN APPLICANT UNDER THIS
28 SUBTITLE; OR

29 (II) IS NOT APPROVED AS A TRANSFEREE BY THE BOARD OF PUBLIC
30 WORKS; OR

31 (2) CEASES TO BE A RESIDENTIAL CHILD CARE PROGRAM.

32 (B) PERSONS LIABLE.

33 THE STATE MAY RECOVER FROM THE:

- 1 (1) TRANSFEROR;
- 2 (2) TRANSFEREE; OR
- 3 (3) OWNER OF A PROPERTY THAT HAS CEASED TO BE A RESIDENTIAL
4 CHILD CARE PROGRAM.
- 5 (C) AMOUNT OF RECOVERY.

6 THE STATE MAY RECOVER THE SUM OF:

- 7 (1) AN AMOUNT THAT EQUALS THE VALUE OF THE PROJECT PROPERTY
8 AT THE TIME OF THE RECOVERY MULTIPLIED BY A FRACTION:
- 9 (I) THE NUMERATOR OF WHICH IS THE AMOUNT OF THE STATE
10 FUNDS FOR THE PROJECT; AND
- 11 (II) THE DENOMINATOR OF WHICH IS THE TOTAL ELIGIBLE COST
12 OF THE PROJECT; AND
- 13 (2) ALL COSTS AND REASONABLE ATTORNEYS' FEES INCURRED IN THE
14 RECOVERY PROCEEDINGS.

- 15 (D) WAIVER.

16 THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY
17 UNDER THIS SUBTITLE FOR GOOD CAUSE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 18-706(a) and (f)(2).

20 In the introductory language of subsection (a) of this section, the reference
21 to "grant funds paid under this subtitle" is added for clarity.

22 In subsection (a)(1) of this section, the former reference to an "agency, or
23 organization" is deleted as included in the reference to a "person".

24 In subsection (c)(1) of this section, the reference to the "project property" is
25 substituted for the former reference to "so much of the property as
26 constituted an approved project" for brevity.

27 Also in subsection (c)(1) of this section, the reference to the value "at the
28 time of recovery" is substituted for the former reference to the "then
29 current" value for clarity.

30 In subsection (d) of this section, the former reference to "releasing the
31 transferor, transferee, or owner from the obligation imposed under this
32 subtitle" is deleted as implicit.

33 Defined term: "Residential child care program" § 8-101

1 8-908. PROCEDURE FOR RECOVERY; TEMPORARY LIEN.

2 (A) FILING OF CIVIL ACTION.

3 (1) THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL
4 COMPLAINT UNDER THIS SUBTITLE IN THE CIRCUIT COURT FOR THE COUNTY IN
5 WHICH THE PROPERTY IS LOCATED, AGAINST THE OWNER OF THE PROPERTY AND
6 ANY OTHER INTERESTED PARTIES, INCLUDING ANY TRANSFEROR.

7 (2) THE COMPLAINT SHALL BE FILED WITH:

8 (I) AFFIDAVITS STATING FACTS ON WHICH THE ALLEGATIONS OF
9 DEFAULT ARE BASED; AND

10 (II) A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

11 (B) TEMPORARY LIEN — AUTHORIZATION; AMOUNT.

12 (1) IF THE COURT DETERMINES FROM THE STATE'S INITIAL FILING
13 THAT A DEFAULT DESCRIBED IN § 8-907(A) OF THIS SUBTITLE HAS OCCURRED, THE
14 COURT SHALL AUTHORIZE A TEMPORARY LIEN ON THE PROPERTY PENDING FULL
15 DETERMINATION OF THE STATE'S CLAIM.

16 (2) THE TEMPORARY LIEN SHALL BE IN THE AMOUNT OF THE STATE'S
17 CLAIM, PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER
18 THE COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE, OR
19 ANOTHER AMOUNT THAT THE COURT DETERMINES TO BE REASONABLE.

20 (C) TEMPORARY LIEN — EFFECTIVE DATE; RESTRICTIONS ON OWNER OR
21 TRANSFEREE.

22 (1) A TEMPORARY LIEN SHALL TAKE EFFECT:

23 (I) ON THE DATE OF THE COURT ORDER AUTHORIZING THE LIEN,
24 IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF
25 TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY
26 IS LOCATED WITHIN 10 DAYS AFTER THE DATE OF THE COURT ORDER; OR

27 (II) ON THE DATE A NOTICE OF TEMPORARY LIEN IS RECORDED.

28 (2) WHILE THE TEMPORARY LIEN IS IN EFFECT, THE OWNER OR ANY
29 PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST
30 MADE FUNDS AVAILABLE IN CONNECTION WITH THE PROPERTY MAY NOT, WITHOUT
31 THE PRIOR WRITTEN CONSENT OF THE STATE:

32 (I) TAKE ANY ACTION THAT WOULD AFFECT THE TITLE TO THE
33 PROPERTY; OR

34 (II) INSTITUTE ANY PROCEEDINGS TO ENFORCE A SECURITY
35 INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY.

1 (D) TEMPORARY LIEN — RELEASE.

2 (1) THE OWNER OF THE PROPERTY OR ANY OTHER INTERESTED PARTY
3 MAY OBTAIN RELEASE OF A TEMPORARY LIEN AT ANY TIME BY FILING WITH THE
4 COURT A BOND SECURING THE PAYMENT IN FULL OF THE STATE'S CLAIM AND ANY
5 ADDITIONAL AMOUNT NECESSARY TO COVER THE COSTS AND REASONABLE
6 ATTORNEYS' FEES INCURRED BY THE STATE.

7 (2) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE
8 RELEASE TO BE RECORDED IN THE LAND RECORDS.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 18-706(c).

11 In subsections (a)(1) and (c)(1)(i) of this section, the former references to
12 "Baltimore City" are deleted as unnecessary in light of the definition of
13 "county", which includes "Baltimore City".

14 In subsection (a)(1) of this section, the former reference to a transferor
15 "that the State wishes to make a party" is deleted as surplusage.

16 In subsection (a)(2)(i) of this section, the former reference to "sworn"
17 affidavits is deleted as surplusage.

18 In subsection (b)(1) of this section, the reference to a default "described in
19 § 8-907(a) of this subtitle" is added for clarity.

20 Also in subsection (b)(1) of this section, the former reference to the "circuit"
21 court is deleted as unnecessary in light of subsection (a)(1) of this section,
22 which provides for the filing of an action in the "circuit" court.

23 In subsection (b)(2) of this section, the reference to the State's "claim" is
24 substituted for the former reference to the State's "complaint" for clarity.

25 In subsection (c)(1) of this section, the references to the "court order
26 authorizing the lien" and the "court order" are substituted for the former
27 references to the "court's authorization" for clarity.

28 Defined terms: "County" § 1-101

29 "Person" § 1-101

30 8-909. PRIORITY OF PROCEEDINGS; FINAL JUDGMENT; LIEN.

31 (A) PRIORITY OF PROCEEDINGS.

32 PROCEEDINGS TO DETERMINE THE STATE'S RIGHT TO RECOVER AND THE
33 AMOUNT OF ITS RECOVERY UNDER THIS SUBTITLE SHALL HAVE PRIORITY OVER
34 OTHER CIVIL PROCEEDINGS IN THE CIRCUIT COURTS.

35 (B) FINAL JUDGMENT; LIEN.

1 (1) AT THE CONCLUSION OF FULL ADVERSARY PROCEEDINGS ON THE
2 ISSUE OF DEFAULT AND OF ANY DISPUTES OVER THE AMOUNT OF THE STATE'S
3 RECOVERY, IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 8-907(A) OF THIS
4 SUBTITLE HAS OCCURRED, THE COURT SHALL ISSUE A FINAL JUDGMENT FOR THE
5 AMOUNT IT FINDS TO BE RECOVERABLE BY THE STATE.

6 (2) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING THE OWNER
7 OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE
8 FOR THE AMOUNT OF THE JUDGMENT.

9 (3) IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 8-907(A) OF
10 THIS SUBTITLE HAS NOT OCCURRED OR IF THE FULL AMOUNT OF THE COURT'S
11 JUDGMENT IS PAID TO THE STATE WITHIN 30 DAYS AFTER THE COURT'S FINAL
12 ORDER, ANY TEMPORARY LIEN SHALL BE RELEASED IMMEDIATELY AND THE
13 SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE
14 RECORDED IN THE LAND RECORDS.

15 (4) (I) IF THE AMOUNT OF THE FINAL JUDGMENT REMAINS UNPAID
16 AFTER 30 DAYS FOLLOWING THE COURT'S FINAL ORDER, THE FINAL JUDGMENT
17 SHALL CONSTITUTE A LIEN ON THE PROPERTY.

18 (II) EXCEPT AS THE STATE MAY OTHERWISE PROVIDE BY A
19 WRITTEN SUBORDINATION AGREEMENT, THE LIEN IS SUPERIOR TO THE LIEN OR
20 OTHER INTEREST OF A MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT
21 CREDITOR WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER
22 THE STATE FIRST MADE FUNDS AVAILABLE UNDER THIS SUBTITLE.

23 (C) EFFECTIVE DATE OF LIEN; RELEASE OF TEMPORARY LIEN.

24 (1) A LIEN TAKES EFFECT ON THE LATER OF:

25 (I) THE 31ST DAY AFTER THE COURT'S FINAL ORDER IF THE
26 SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE
27 LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR
28 BEFORE THE 41ST DAY AFTER THE FINAL ORDER; OR

29 (II) THE DATE A NOTICE OF LIEN IS RECORDED.

30 (2) (I) WHEN A LIEN TAKES EFFECT, ANY TEMPORARY LIEN IS
31 AUTOMATICALLY AND FULLY RELEASED.

32 (II) THE RECORDED NOTICE OF A LIEN CONSTITUTES NOTICE OF
33 THE RELEASE OF A TEMPORARY LIEN.

34 (D) ENFORCEMENT AND FORECLOSURE OF LIEN.

35 A LIEN IMPOSED UNDER THIS SECTION MAY BE ENFORCED AND FORECLOSED
36 IN ACCORDANCE WITH THE MARYLAND RULES, EXCEPT THAT THE STATE OR ANY
37 AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY DOES NOT NEED TO FILE
38 A BOND.

1 (E) RELEASE OF LIEN.

2 (1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN
3 RELEASE OF A LIEN AT ANY TIME BY PAYING TO THE STATE THE FULL AMOUNT OF
4 THE JUDGMENT ENTERED BY THE CIRCUIT COURT, TOGETHER WITH INTEREST
5 FROM THE DATE OF JUDGMENT.

6 (2) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC
7 WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 18-706(d) and (e).

10 In subsection (b)(1) and (3) of this section, the references to a default
11 "described in § 8-907(a) of this subtitle" are added for clarity.

12 Also in subsection (b)(1) and (3) of this section, the former references to the
13 "circuit" court are deleted as unnecessary in light of § 8-908(a)(1) of this
14 subtitle, which provides for the filing of an action in the "circuit" court.

15 In subsection (b)(2) of this section, the former phrase "in every case" is
16 deleted as surplusage.

17 In subsections (b)(3) and (c)(2)(i) of this section, the former references to a
18 temporary lien "then in effect" are deleted as surplusage.

19 In the introductory language of subsection (c)(1) of this section, the phrase
20 "on the later of" is substituted for the former phrase "[e]xcept as provided
21 in subparagraph 2 of this subparagraph" for brevity and clarity.

22 In subsection (c)(1)(i) of this section, the former reference to "Baltimore
23 City" is deleted as unnecessary in light of the definition of "county", which
24 includes "Baltimore City".

25 In subsection (d) of this section, the former reference to "the procedures
26 prescribed in" the Maryland Rules is deleted as surplusage.

27 In subsection (e)(1) of this section, the reference to the judgment "entered"
28 is substituted for the former reference to the judgment "rendered" for
29 clarity and consistency with terminology used in the Maryland Rules.

30 Defined terms: "County" § 1-101

31 "Person" § 1-101

32 8-910. DEPOSIT OF FUNDS RECOVERED.

33 ALL FUNDS RECOVERED UNDER THIS SUBTITLE SHALL BE DEPOSITED IN THE
34 ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE
35 STATE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 18-706(f)(1).

3 The reference to funds recovered "under this subtitle" is substituted for the
4 former reference to funds recovered "as a result of this right of recovery"
5 for clarity.

6 8-911. REGULATIONS.

7 THE OFFICE SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 18-707.

10 The Human Services Article Review Committee notes, for consideration by
11 the General Assembly, that, as a unit created by Executive Order, the
12 Governor's Office for Children does not have statutory authority to adopt
13 regulations.

14 GENERAL REVISOR'S NOTE TO TITLE:

15 Former Article 49D, Title 3 is revised in Title 1, Subtitle 2 of this article.

16 TITLE 9. JUVENILE SERVICES.

17 SUBTITLE 1. DEFINITIONS.

18 9-101. DEFINITIONS.

19 (A) IN GENERAL.

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

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 83C, § 1-101(a).

23 (B) DEPARTMENT.

24 "DEPARTMENT" MEANS THE DEPARTMENT OF JUVENILE SERVICES.

25 REVISOR'S NOTE: This subsection formerly was Art. 83C, § 1-101(b).

26 No changes are made.

27 (C) SECRETARY.

28 "SECRETARY" MEANS THE SECRETARY OF JUVENILE SERVICES.

29 REVISOR'S NOTE: This subsection formerly was Art. 83C, § 1-101(d).

30 No changes are made.

1 (D) STATE ADVISORY BOARD.

2 "STATE ADVISORY BOARD" MEANS THE STATE ADVISORY BOARD FOR JUVENILE
3 SERVICES.

4 REVISOR'S NOTE: This section formerly was Art. 83C, § 1-101(g).

5 No changes are made.

6 REVISOR'S NOTE TO SECTION:

7 Former Art. 83C, § 1-101(c), (e), and (f), which defined "[c]ounty",
8 "[p]erson", and "[s]tate", respectively, are deleted in light of § 1-101 of this
9 article to the same effect.

10 SUBTITLE 2. DEPARTMENT OF JUVENILE SERVICES.

11 PART I. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

12 9-201. ESTABLISHED.

13 THERE IS A DEPARTMENT OF JUVENILE SERVICES ESTABLISHED AS A
14 PRINCIPAL DEPARTMENT OF STATE GOVERNMENT.

15 REVISOR'S NOTE: This section formerly was Art. 83C, § 2-101(a).

16 No changes are made.

17 9-202. SECRETARY.

18 (A) POSITION AND APPOINTMENT.

19 (1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR
20 SHALL APPOINT THE SECRETARY OF JUVENILE SERVICES.

21 (2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

22 (B) OATH.

23 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
24 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

25 (C) RESPONSIBILITY TO GOVERNOR.

26 (1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND
27 IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

28 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS
29 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE
30 GOVERNOR'S POLICIES ON THOSE MATTERS.

1 (D) COMPENSATION.

2 THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
3 BUDGET.

4 (E) SEAL.

5 THE SECRETARY SHALL HAVE A SEAL.

6 REVISOR'S NOTE: Subsections (a), (c), (d), and (e) of this section are new
7 language derived without substantive change from former Art. 83C, §§
8 2-102(a), (b)(1), and (c) and 2-104(d).

9 Subsection (b) of this section is standard language added to state the
10 requirement that an individual appointed to any office of profit or trust
11 take the oath specified in Md. Constitution, Art. I, § 9. This addition is
12 supported by 64 Op. Att'y Gen. 246 (1979).

13 In subsection (d) of this section, the reference to the Secretary's
14 "compensation" is substituted for the former reference to the Secretary's
15 "salary" for accuracy and consistency throughout this article. *See* General
16 Revisor's Note to article.

17 Defined terms: "Department" § 9-101

18 "Secretary" § 9-101

19 9-203. ADMINISTRATION OF DEPARTMENT.

20 (A) OPERATION OF DEPARTMENT.

21 THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT
22 AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY
23 AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

24 (B) AREAS OF RESPONSIBILITY IN DEPARTMENT.

25 THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF
26 RESPONSIBILITY IN THE DEPARTMENT AS NECESSARY TO FULFILL THE DUTIES
27 ASSIGNED TO THE SECRETARY.

28 REVISOR'S NOTE: This section formerly was Art. 83C, § 2-102(b)(2).

29 The only changes are in style.

30 Defined terms: "Department" § 9-101

31 "Secretary" § 9-101

32 9-204. SECRETARY'S POWERS AND DUTIES.

33 (A) ENFORCEMENT.

1 THE SECRETARY SHALL CARRY OUT AND ENFORCE THIS TITLE, THE
2 REGULATIONS OF THE DEPARTMENT, AND ANY OTHER PROVISION OF LAW THAT
3 RELATES TO THE SECRETARY OR THE DEPARTMENT.

4 (B) REGULATIONS.

5 (1) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE
6 PROVISIONS OF LAW THAT ARE WITHIN THE JURISDICTION OF THE SECRETARY.

7 (2) THE SECRETARY SHALL REVIEW AND MAY REVISE THE
8 REGULATIONS OF:

9 (I) EACH UNIT IN THE DEPARTMENT THAT IS AUTHORIZED BY LAW
10 TO ADOPT REGULATIONS; AND

11 (II) THE DEPARTMENT.

12 (C) BUDGET.

13 THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE DEPARTMENT AND
14 FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.

15 (D) ADVISORY COUNCILS.

16 THE SECRETARY MAY CREATE ANY ADVISORY COUNCIL THAT THE SECRETARY
17 CONSIDERS NECESSARY AND ASSIGN APPROPRIATE FUNCTIONS TO IT.

18 (E) PLANNING — IN GENERAL.

19 (1) THE SECRETARY IS RESPONSIBLE FOR THE COORDINATION AND
20 DIRECTION OF ALL PLANNING THAT THE OFFICE OF THE SECRETARY INITIATES.

21 (2) THE SECRETARY SHALL KEEP FULLY APPRISED OF PLANS,
22 PROPOSALS, AND PROJECTS OF EACH UNIT IN THE DEPARTMENT AND, EXCEPT AS
23 EXPRESSLY PROVIDED OTHERWISE, MAY APPROVE, DISAPPROVE, OR MODIFY ANY OF
24 THEM.

25 (F) COMPREHENSIVE PLAN.

26 (1) THE SECRETARY SHALL DEVELOP A STATE COMPREHENSIVE
27 JUVENILE SERVICES 3-YEAR PLAN.

28 (2) THE PLAN SHALL:

29 (I) INCLUDE AN INVENTORY OF ALL IN-DAY TREATMENT
30 PROGRAMS AND RESIDENTIAL CARE PROGRAMS AND AN ACCOUNTING OF THE
31 RESIDENCE OF ALL CLIENTS;

32 (II) INCLUDE AN INVENTORY OF NONRESIDENTIAL TREATMENT
33 PROGRAMS;

1 (III) SPECIFY THE NEEDS OF THE VARIOUS AREAS OF SERVICES FOR
2 CLIENTS, INCLUDING ALCOHOL AND DRUG ABUSE REHABILITATION SERVICES;

3 (IV) SPECIFY THE NEEDS OF CLIENTS, INCLUDING
4 PREDELINQUENT DIVERSION SERVICES PROGRAMS;

5 (V) ESTABLISH PRIORITIES FOR THE DIFFERENT SERVICES
6 NEEDED;

7 (VI) SET STANDARDS FOR THE QUALITY OF RESIDENTIAL SERVICES
8 AND OUTREACH SERVICES;

9 (VII) INCLUDE A PROGRAM DEDICATED TO REDUCING RECIDIVISM
10 RATES OF CLIENTS;

11 (VIII) INCLUDE PROGRAMS DEDICATED TO DIVERTING CHILDREN
12 FROM THE JUVENILE JUSTICE SYSTEM; AND

13 (IX) INCLUDE ANY OTHER MATTERS THAT THE SECRETARY
14 CONSIDERS APPROPRIATE.

15 (3) THE PLAN SHALL BE REVISED FOR EACH FISCAL YEAR AND
16 SUBMITTED, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
17 GENERAL ASSEMBLY BY FEBRUARY 1 OF EACH YEAR.

18 (G) COMPREHENSIVE CLIENT INFORMATION SYSTEM.

19 (1) THE SECRETARY IS RESPONSIBLE FOR THE DEVELOPMENT,
20 IMPLEMENTATION, AND MAINTENANCE OF A COMPREHENSIVE CLIENT
21 INFORMATION SYSTEM, INCLUDING AN INDIVIDUAL CURRENT RECORD ON EACH
22 CHILD, THAT IS INTEGRATED IN AND ACCESSIBLE TO THE VARIOUS UNITS OF THE
23 DEPARTMENT.

24 (2) THE SECRETARY SHALL UNDERTAKE EFFORTS TO LINK THE SYSTEM
25 TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE DEPARTMENT OF
26 HUMAN RESOURCES FOR THE PURPOSE OF ALLOWING THE EXCHANGE OF
27 INFORMATION ON CLIENTS SERVED BY EACH DEPARTMENT.

28 (3) EACH EMPLOYEE USING THE INFORMATION SHALL PROTECT THE
29 CONFIDENTIALITY OF CLIENT RECORDS.

30 (H) TRANSFER OF FUNCTIONS, STAFF, AND FUNDS.

31 (1) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY LAW, THE
32 SECRETARY MAY TRANSFER, BY REGULATION OR WRITTEN DIRECTIVE, ANY
33 FUNCTION, STAFF, OR FUNDS FROM ANY UNIT IN THE DEPARTMENT TO THE OFFICE
34 OF THE SECRETARY OR ANOTHER UNIT IN THE DEPARTMENT.

35 (2) ANY STAFF TRANSFERRED TO THE OFFICE OF THE SECRETARY
36 SHALL BE PROVIDED SPACE, EQUIPMENT, AND SERVICES BY THE UNIT FROM WHICH

1 THE STAFF WAS TRANSFERRED, UNLESS THE SECRETARY ORDERS REMOVAL TO
 2 ANOTHER LOCATION FOR THE PROPER AND EFFICIENT FUNCTIONING OF THAT
 3 OFFICE.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 83C, § 2-104(a), (b), (c), (e), (g), (j), and (k).

6 In subsections (a) and (b) of this section, the former references to "rules"
 7 are deleted in light of the references to "regulations". *See* General Revisor's
 8 Note to article. Similarly, in subsection (h)(1) of this section, the former
 9 reference to a "rule" is deleted.

10 In subsection (f)(1) of this section, the former reference to the requirement
 11 that the State Comprehensive Juvenile Services 3-Year Plan be developed
 12 "[p]rior to January 1, 1990" is deleted as obsolete.

13 In subsection (f)(2) of this section, the former requirement that the Plan
 14 include additional specified items "[b]eginning with the Plan submitted by
 15 February 1, 2006" is deleted as obsolete.

16 Also in subsection (f)(2) of this section, the former phrase "in addition to
 17 the items listed in subparagraph (i) of this paragraph" is deleted as
 18 unnecessary in light of the integration of the required elements of the
 19 Plan.

20 The Human Services Article Review Committee notes, for consideration by
 21 the General Assembly, that the access to client records by the "various
 22 units of the Department" under subsection (g)(1) of this section may be
 23 overbroad and conflict with other provisions providing for confidentiality of
 24 juvenile records. The General Assembly may wish to restrict access to
 25 employees of the Department "as necessary to perform their duties".

26 Defined terms: "Department" § 9-101
 27 "Secretary" § 9-101

28 9-205. UNIT REPORTS TO SECRETARY.

29 EACH UNIT IN THE DEPARTMENT SHALL REPORT TO THE SECRETARY AS
 30 PROVIDED IN THE REGULATIONS OR WRITTEN DIRECTIVES THAT THE SECRETARY
 31 ADOPTS.

32 REVISOR'S NOTE: This section is new language derived without substantive
 33 change from former Art. 83C, § 2-104(f).

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

36 Defined terms: "Department" § 9-101
 37 "Secretary" § 9-101

1 9–206. DEPUTY SECRETARIES.

2 (A) APPOINTMENT.

3 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY APPOINT TWO
4 DEPUTY SECRETARIES AS NECESSARY.

5 (B) TERM AND COMPENSATION.

6 THE DEPUTY SECRETARIES:

7 (1) SERVE AT THE PLEASURE OF THE SECRETARY; AND

8 (2) ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
9 BUDGET.

10 (C) DUTIES.

11 THE DEPUTY SECRETARIES HAVE THE DUTIES PROVIDED BY LAW OR
12 DELEGATED BY THE SECRETARY.

13 (D) ACTING SECRETARY.

14 THE SECRETARY SHALL DESIGNATE A DEPUTY SECRETARY TO BE THE ACTING
15 SECRETARY WHEN THE SECRETARY IS ABSENT FROM THE STATE OR OTHERWISE
16 UNAVAILABLE.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83C, § 2–103(a), (b), and (c).

19 In subsection (b)(2) of this section, the reference to the deputy secretaries’
20 “compensation” is substituted for the former reference to the deputy
21 secretaries’ “salary” for accuracy and consistency throughout this article.
22 *See* General Revisor’s Note to article.

23 Defined term: “Secretary” § 9–101

24 9–207. STAFF AND CONSULTANTS.

25 (A) IN GENERAL.

26 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A
27 STAFF AND RETAIN CONSULTANTS.

28 (B) EMPLOYMENT STATUS.

29 (1) (I) THE SECRETARY SHALL APPOINT:

30 1. ANY ASSISTANT SECRETARY;

31 2. ANY DIRECTOR OF AN INSTITUTION;

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1 3. THE SUPERINTENDENT OF THE YOUTH CENTERS; AND

2 4. THE MANAGING DIRECTOR, DEPUTY DIRECTOR, AND
3 DIRECTOR OF DETENTION AT THE BALTIMORE CITY JUVENILE JUSTICE CENTER.

4 (II) AN EMPLOYEE OF THE DEPARTMENT SPECIFIED IN
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH:

6 1. IS IN THE EXECUTIVE SERVICE OR MANAGEMENT
7 SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

8 2. SERVES AT THE PLEASURE OF THE SECRETARY.

9 (2) EACH TEACHER WHO DOES NOT HOLD A CERTIFICATE UNDER TITLE
10 6, SUBTITLE 1 OF THE EDUCATION ARTICLE, PRINCIPAL, DIRECTOR OF EDUCATION,
11 AND SUPERVISOR OF VOCATIONAL EDUCATION WHO IS EMPLOYED BY AN
12 INSTITUTION MANAGED BY THE DEPARTMENT IS IN THE MANAGEMENT SERVICE OF,
13 OR IS A SPECIAL APPOINTMENT IN, THE STATE PERSONNEL MANAGEMENT SYSTEM.

14 (3) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL
15 APPOINT AND REMOVE ALL STAFF IN ACCORDANCE WITH THE STATE PERSONNEL
16 AND PENSIONS ARTICLE.

17 (C) PROHIBITION AGAINST OTHER EMPLOYMENT.

18 (1) UNLESS THE SECRETARY GRANTS EXPRESS PERMISSION, AN
19 EMPLOYEE OF THE DEPARTMENT WHO IS SUBJECT TO SUBSECTION (B)(1) OF THIS
20 SECTION MAY NOT ENGAGE IN OTHER EMPLOYMENT WHILE EMPLOYED BY THE
21 DEPARTMENT.

22 (2) THE SECRETARY MAY NOT UNREASONABLY WITHHOLD EXPRESS
23 PERMISSION TO ENGAGE IN OTHER EMPLOYMENT.

24 (3) IF THE SECRETARY GRANTS PERMISSION TO ENGAGE IN OTHER
25 EMPLOYMENT, THE EMPLOYEE SHALL DISCLOSE TO THE SECRETARY THE SOURCE
26 AND AMOUNT OF ALL INCOME EARNED FROM THAT OTHER EMPLOYMENT.

27 (D) STAFF — OTHER UNITS.

28 (1) THE APPOINTMENT OR REMOVAL OF STAFF OF A UNIT IN THE
29 DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

30 (2) THE SECRETARY MAY DELEGATE THE POWER OF APPROVAL
31 ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE HEAD OF THE
32 UNIT.

33 (E) CODE OF CONDUCT.

34 THE DEPARTMENT SHALL:

35 (1) ADOPT A CODE OF CONDUCT FOR STAFF OF THE DEPARTMENT; AND

1 (2) REQUIRE EACH PRIVATE AGENCY UNDER CONTRACT WITH THE
2 DEPARTMENT TO ADOPT A CODE OF CONDUCT FOR ITS STAFF THAT IS IN
3 SUBSTANTIAL COMPLIANCE WITH THE CODE OF CONDUCT FOR STAFF OF THE
4 DEPARTMENT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83C, § 2-103(d).

7 In subsections (b)(1)(ii) and (c)(1) of this section, the references to an
8 "employee" are substituted for the former references to "personnel" for
9 consistency with terminology used in §§ 9-208 and 9-209 of this subtitle.

10 In subsection (b)(3) of this section, the reference to the requirement to
11 appoint and remove staff in accordance with the State Personnel and
12 Pensions Article "[u]nless otherwise provided by law" is substituted for the
13 former reference to "[e]xcept as provided in paragraph (4) of this
14 subsection or otherwise by law" for brevity.

15 In subsection (d)(2) of this section, the former phrase "[a]s to any unit in
16 the Department" is deleted as surplusage.

17 Defined terms: "Department" § 9-101
18 "Secretary" § 9-101

19 9-208. EMPLOYEES — IN GENERAL.

20 IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT, THE
21 SECRETARY SHALL:

22 (1) SET MINIMUM SALARIES, QUALIFICATIONS, AND STANDARDS OF
23 TRAINING AND EXPERIENCE FOR THE POSITIONS IN THE DEPARTMENT; AND

24 (2) FOR EMPLOYEES WHO DESIRE TRAINING IN ADDITION TO
25 IN-SERVICE TRAINING AND WHOSE SERVICE RECORDS SHOW MERIT, PROVIDE:

26 (I) EDUCATIONAL SUBSIDIES, SCHOLARSHIPS, AND STIPENDS;
27 AND

28 (II) INSTITUTES, CONFERENCES, AND CLASSES.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 83C, § 2-129.

31 In item (2) of this section, the former reference to "officers" is deleted as
32 surplusage.

33 Defined terms: "Department" § 9-101
34 "Secretary" § 9-101

1 9-209. EMPLOYEES — CRIMINAL BACKGROUND INVESTIGATIONS.

2 (A) REQUIRED.

3 (1) WITHIN THE FIRST MONTH OF EMPLOYMENT WITH THE
4 DEPARTMENT, THE DEPARTMENT SHALL APPLY TO THE CRIMINAL JUSTICE
5 INFORMATION SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT OF PUBLIC
6 SAFETY AND CORRECTIONAL SERVICES FOR A FEDERAL AND STATE CRIMINAL
7 HISTORY RECORDS CHECK FOR EACH EMPLOYEE OF THE DEPARTMENT.

8 (2) THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
9 REPOSITORY SHALL PROVIDE THE REQUESTED INFORMATION IN ACCORDANCE WITH
10 TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE.

11 (B) FINGERPRINTS; FEE.

12 AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE
13 DEPARTMENT SHALL SUBMIT TO THE CRIMINAL JUSTICE INFORMATION SYSTEM
14 CENTRAL REPOSITORY:

15 (1) A COMPLETE SET OF THE EMPLOYEE'S LEGIBLE FINGERPRINTS
16 TAKEN ON STANDARD FINGERPRINT CARDS;

17 (2) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL
18 BUREAU OF INVESTIGATION FOR A FEDERAL CRIMINAL HISTORY RECORDS CHECK;
19 AND

20 (3) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL
21 PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 83C, § 2-132.

24 Defined term: "Department" § 9-101

25 9-210. LEGAL COUNSEL.

26 (A) ATTORNEY GENERAL AS LEGAL ADVISER.

27 THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

28 (B) ASSIGNMENT OF ASSISTANTS.

29 THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER
30 OF ASSISTANT ATTORNEYS GENERAL THAT ARE AUTHORIZED BY LAW FOR THE
31 DEPARTMENT AND, AS PROVIDED IN THE STATE BUDGET, ANY ADDITIONAL
32 ASSISTANT ATTORNEYS GENERAL NECESSARY TO GIVE EFFECTIVE LEGAL ADVICE
33 AND COUNSEL.

34 (C) COUNSEL TO THE DEPARTMENT.

1 (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE
2 ASSISTANT ATTORNEYS GENERAL AS COUNSEL TO THE DEPARTMENT.

3 (2) THE COUNSEL TO THE DEPARTMENT MAY HAVE NO DUTY OTHER
4 THAN TO GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE
5 SECRETARY AND ANY OTHER OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE
6 OTHER ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT, AND TO
7 PERFORM FOR THE DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL
8 ASSIGNS.

9 (3) THE COUNSEL SHALL PERFORM THE DUTIES SPECIFIED IN
10 PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND SUPERVISION
11 OF THE ATTORNEY GENERAL.

12 (4) AFTER THE ATTORNEY GENERAL DESIGNATES THE COUNSEL TO THE
13 DEPARTMENT, THE ATTORNEY GENERAL MAY NOT REASSIGN THE COUNSEL
14 WITHOUT CONSULTING THE SECRETARY.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83C, § 2-105.

17 In subsection (c)(1) of this section, the reference to "one of the" assistant
18 Attorneys General is added for clarity and consistency with §§ 2-208(d)(1)
19 and 7-109(c)(1) of this article.

20 Defined terms: "Department" § 9-101
21 "Secretary" § 9-101

22 9-211. STATE ADVISORY BOARD — ESTABLISHED.

23 THERE IS A STATE ADVISORY BOARD FOR JUVENILE SERVICES IN THE
24 DEPARTMENT.

25 REVISOR'S NOTE: This section formerly was Art. 83C, § 2-106.

26 No changes are made.

27 Defined term: "Department" § 9-101

28 9-212. STATE ADVISORY BOARD — MEMBERSHIP.

29 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

30 THE STATE ADVISORY BOARD CONSISTS OF THE FOLLOWING 19 MEMBERS
31 APPOINTED BY THE GOVERNOR:

32 (1) ONE REPRESENTATIVE OF THE DEPARTMENT;

33 (2) ONE REPRESENTATIVE OF THE STATE DEPARTMENT OF EDUCATION;

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1 (3) ONE REPRESENTATIVE OF THE DEPARTMENT OF HEALTH AND
2 MENTAL HYGIENE;

3 (4) ONE REPRESENTATIVE OF THE DEPARTMENT OF STATE POLICE;

4 (5) ONE REPRESENTATIVE OF THE SOCIAL SERVICES ADMINISTRATION
5 OF THE DEPARTMENT OF HUMAN RESOURCES;

6 (6) ONE REPRESENTATIVE OF A PRIVATE CHILD WELFARE AGENCY;

7 (7) ONE REPRESENTATIVE OF A YOUTH SERVICES BUREAU;

8 (8) THREE REPRESENTATIVES OF THE STATE JUDICIARY;

9 (9) ONE REPRESENTATIVE OF THE GENERAL ASSEMBLY
10 RECOMMENDED BY THE PRESIDENT OF THE SENATE;

11 (10) ONE REPRESENTATIVE OF THE GENERAL ASSEMBLY
12 RECOMMENDED BY THE SPEAKER OF THE HOUSE; AND

13 (11) SEVEN MEMBERS OF THE GENERAL PUBLIC.

14 (B) QUALIFICATIONS.

15 OF THE SEVEN MEMBERS FROM THE GENERAL PUBLIC:

16 (1) THREE SHALL BE CHOSEN ON THE BASIS OF THEIR INTEREST IN AND
17 EXPERIENCE WITH MINORS AND JUVENILE PROBLEMS;

18 (2) THREE SHALL:

19 (I) AT THE TIME OF APPOINTMENT TO A FIRST TERM, BE AT LEAST
20 16 YEARS OLD AND UNDER THE AGE OF 25 YEARS; AND

21 (II) INCLUDE AT LEAST ONE INDIVIDUAL WHO HAS BEEN UNDER
22 THE JURISDICTION OF THE DEPARTMENT.

23 (C) TENURE; VACANCIES.

24 (1) THE TERM OF A MEMBER IS 3 YEARS.

25 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
26 THE TERMS PROVIDED FOR MEMBERS OF THE STATE ADVISORY BOARD ON OCTOBER
27 1, 2007.

28 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
29 SUCCESSOR IS APPOINTED AND QUALIFIES.

30 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
31 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
32 QUALIFIES.

1 (5) A MEMBER WHO SERVES TWO CONSECUTIVE FULL 3-YEAR TERMS
2 MAY NOT BE REAPPOINTED FOR 3 YEARS AFTER COMPLETION OF THOSE TERMS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83C, § 2-107.

5 In subsection (a)(5) of this section, the reference to the Social Services
6 Administration "of the Department of Human Resources" is added for
7 clarity.

8 In subsection (a)(6) of this section, the reference to a "private" child welfare
9 agency is substituted for the former reference to a "voluntary" agency for
10 clarity.

11 In subsection (c)(2) of this section, the reference to terms being staggered
12 as required by the terms provided for members of the State Advisory Board
13 on "October 1, 2007" is substituted for the former obsolete reference to
14 terms being staggered as required by the terms provided on "July 1, 1982".
15 This substitution is not intended to alter the term of any member of the
16 State Advisory Board. *See* § __ of Ch. __, Acts of 2007. The terms of the
17 members serving on October 1, 2007, end as follows: (1) six in 2008; (2) six
18 in 2009; and (3) six in 2010.

19 Also in subsection (c)(2) of this section, the former reference to the "terms
20 of one-third of those members end[ing] each year" is deleted as
21 unnecessary.

22 Defined terms: "Department" § 9-101
23 "State Advisory Board" § 9-101

24 9-213. STATE ADVISORY BOARD — OFFICERS.

25 (A) CHAIR.

26 FROM AMONG THE MEMBERS OF THE STATE ADVISORY BOARD, THE GOVERNOR
27 SHALL APPOINT A CHAIR.

28 (B) SECRETARY.

29 (1) FROM AMONG THE MEMBERS OF THE STATE ADVISORY BOARD, THE
30 CHAIR SHALL APPOINT A SECRETARY.

31 (2) THE SECRETARY SHALL KEEP FULL AND ACCURATE MINUTES OF
32 EACH STATE ADVISORY BOARD MEETING.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 83C, § 2-108.

35 In subsections (a) and (b)(1) of this section, the references to a "chair" are
36 substituted for the former references to a "chairman" because SG §

1 12–1238 requires the use of terms that are neutral as to gender to the
2 extent practicable.

3 In subsection (b) of this section, the former references to the “Board” chair
4 and the “Board” secretary are deleted as surplusage.

5 Defined term: “State Advisory Board” § 9–101

6 9–214. STATE ADVISORY BOARD — MEETINGS; COMPENSATION; CONFLICTS OF
7 INTEREST.

8 (A) MEETINGS.

9 THE STATE ADVISORY BOARD SHALL MEET REGULARLY AT LEAST SIX TIMES A
10 YEAR ON THE CALL OF ITS CHAIR.

11 (B) COMPENSATION.

12 A MEMBER OF THE STATE ADVISORY BOARD:

13 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE STATE
14 ADVISORY BOARD; BUT

15 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
16 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

17 (C) CONFLICTS OF INTEREST.

18 A MEMBER OF THE STATE ADVISORY BOARD MAY NOT HAVE A DIRECT OR
19 INDIRECT INTEREST IN ANY CONTRACT FOR BUILDING, REPAIRING, EQUIPPING, OR
20 PROVIDING MATERIALS OR SUPPLIES TO THE DEPARTMENT OR HAVE ANY OTHER
21 FINANCIAL INTEREST IN A CONTRACT WITH THE DEPARTMENT.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 83C, § 2–109.

24 In subsection (a) of this section, the reference to a “chair” is substituted for
25 the former reference to a “chairman” because SG § 12–1238 requires the
26 use of terms that are neutral as to gender to the extent practicable.

27 The Human Services Article Review Committee notes, for consideration by
28 the General Assembly, that the conflict of interest provisions in subsection
29 (c) of this section may be too narrow. The General Assembly may wish to
30 consider clarifying that members of the State Advisory Board are subject to
31 the Maryland Public Ethics Law.

32 Defined terms: “Department” § 9–101
33 “State Advisory Board” § 9–101

1 9–215. STATE ADVISORY BOARD — DUTIES.

2 IN ADDITION TO ITS OTHER DUTIES SPECIFIED IN THIS TITLE, THE STATE
3 ADVISORY BOARD SHALL:

4 (1) CONSULT WITH AND ADVISE THE SECRETARY ON:

5 (I) EACH ASPECT OF THE JUVENILE SERVICES PROGRAM IN THE
6 STATE;

7 (II) THE EDUCATIONAL PROGRAMS AND SERVICES OF THE
8 DEPARTMENT; AND

9 (III) PROGRAMS DESIGNED TO DIVERT CHILDREN FROM THE
10 JUVENILE JUSTICE SYSTEM;

11 (2) RECOMMEND TO THE SECRETARY POLICIES AND PROGRAMS TO
12 IMPROVE JUVENILE SERVICES IN THE STATE;

13 (3) PARTICIPATE IN INTERPRETING FOR THE PUBLIC THE OBJECTIVES
14 OF THE DEPARTMENT; AND

15 (4) PARTICIPATE IN PLANNING THE DEVELOPMENT AND USE OF
16 AVAILABLE RESOURCES TO MEET THE NEEDS OF THE DEPARTMENT.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83C, § 2–110.

19 As to the substitution of references to juvenile “services” for the former
20 references to juvenile “justice” in items (1)(i) and (2) of this section, *see*
21 General Revisor’s Note to title.

22 Defined terms: “Department” § 9–101

23 “Secretary” § 9–101

24 “State Advisory Board” § 9–101

25 9–216. FUNCTIONS OF DEPARTMENT.

26 (A) CENTRAL ADMINISTRATIVE DEPARTMENT.

27 THE DEPARTMENT IS THE CENTRAL ADMINISTRATIVE DEPARTMENT FOR:

28 (1) JUVENILE INTAKE, DETENTION AUTHORIZATION, COMMUNITY
29 DETENTION, INVESTIGATION, PROBATION, PROTECTIVE SUPERVISION,
30 PREDELINQUENT DIVERSION SERVICES, AND AFTERCARE SERVICES; AND

31 (2) THE STATE JUVENILE DIAGNOSTIC, TRAINING, DETENTION, AND
32 REHABILITATION INSTITUTIONS.

33 (B) REQUIRED PROGRAMS.

1 THE DEPARTMENT SHALL:

2 (1) DEVELOP PROGRAMS FOR PREDELINQUENT CHILDREN WHOSE
3 BEHAVIOR TENDS TO LEAD TO CONTACT WITH LAW ENFORCEMENT AGENCIES;

4 (2) PROMOTE PREDELINQUENT PROGRAMS, INCLUDING GREATER
5 UTILIZATION OF YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE, THAT
6 PROVIDE SERVICES TO DIVERT CHILDREN FROM THE JUVENILE JUSTICE SYSTEM;

7 (3) COLLABORATE WITH LOCAL GOVERNMENTS TO ENCOURAGE THE
8 USE OF PREDELINQUENT PROGRAMS PROVIDED BY YOUTH SERVICES BUREAUS
9 UNDER § 9-233 OF THIS SUBTITLE IN RESPONSE TO IDENTIFIED COMMUNITY NEEDS;

10 (4) PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS AND
11 YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE TO IDENTIFY
12 ALTERNATIVE FUNDING SOURCES FOR PREDELINQUENT PROGRAMS; AND

13 (5) ADMINISTER THE SUMMER OPPORTUNITY PILOT PROGRAM UNDER §
14 9-246 OF THIS SUBTITLE.

15 (C) PROHIBITED PROGRAMS.

16 THE DEPARTMENT MAY NOT ADMINISTER ANY CHILD WELFARE PROGRAM OF
17 THE DEPARTMENT OF HUMAN RESOURCES, INCLUDING THE FAMILY INVESTMENT
18 PROGRAM AND THE FOSTER CARE PROGRAM.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83C, § 2-111.

21 In subsection (a)(2) of this section, the former comma following "juvenile" is
22 deleted for accuracy.

23 In subsection (c) of this section, the reference to the "Family Investment
24 Program" is substituted for the former obsolete reference to the "Aid to
25 Families with Dependent Children Program".

26 Also in subsection (c) of this section, the reference to the "Department of
27 Human Resources" is substituted for the former reference to the "State
28 Social Services Administration" for accuracy.

29 Defined term: "Department" § 9-101

30 9-217. USE OF AND AID TO PUBLIC AND PRIVATE AGENCIES.

31 THE DEPARTMENT MAY:

32 (1) DESIGNATE ANY PUBLIC OR PRIVATE AGENCY OR ORGANIZATION IN
33 THE STATE AS ITS AGENT FOR THE PURPOSES OF THIS TITLE; AND

1 (2) SPEND FUNDS TO AID THAT AGENT OR TO BUY SERVICES FROM IT
2 OR, IF ADEQUATE SERVICES ARE NOT AVAILABLE IN THE STATE, TO BUY SERVICES
3 FROM AN AGENCY OR ORGANIZATION OUTSIDE THE STATE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83C, § 2-114.

6 Defined term: "Department" § 9-101

7 9-218. FUNDS.

8 (A) FEDERAL FUNDS.

9 (1) THE SECRETARY MAY APPLY FOR, RECEIVE, AND SPEND FEDERAL
10 FUNDS AVAILABLE FOR USE IN CARRYING OUT THE POWERS AND DUTIES OF THE
11 SECRETARY OR THE DEPARTMENT.

12 (2) THE DEPARTMENT MAY:

13 (I) ACCEPT, MANAGE, AND DISPOSE OF FEDERAL FUNDS AND
14 COMMODITIES; AND

15 (II) TAKE ADVANTAGE OF ANY AVAILABLE FEDERAL PROGRAM OR
16 GRANT OR OTHER PUBLIC OR PRIVATE ASSISTANCE THAT ACCOMPLISHES OR
17 FURTHERS THE OBJECTIVES OF THIS TITLE.

18 (B) GIFTS AND GRANTS.

19 (1) WITH THE APPROVAL OF THE SECRETARY OF BUDGET AND
20 MANAGEMENT, THE DEPARTMENT SHALL ACCEPT, ON BEHALF OF THE STATE, A
21 CONDITIONAL OR UNCONDITIONAL GIFT OR GRANT.

22 (2) THE DEPARTMENT SHALL PAY ALL FUNDS COLLECTED UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION INTO A SPECIAL FUND OF THE STATE
24 TREASURY AND USE THE SPECIAL FUND TO CARRY OUT THE PROVISIONS OF THIS
25 TITLE.

26 (C) PAYMENT INTO GENERAL FUND.

27 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR OTHERWISE
28 PROVIDED BY LAW, THE SECRETARY SHALL PAY ALL MONEY COLLECTED BY THE
29 DEPARTMENT UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83C, §§ 2-116 and 2-104(h) and (i).

32 In subsection (a)(1) of this section, the former reference to the authority of
33 the Department to apply for, receive, and spend "grants-in-aid by the
34 federal government or any of its agencies" is deleted as redundant in light
35 of the reference to "federal funds".

1 The Human Services Article Review Committee notes, for consideration by
2 the General Assembly, that in subsection (b)(2) of this section, the General
3 Assembly may wish to add standard language used for special funds.

4 In subsection (c) of this section, the reference to “subsection (b) of this
5 section” is added for clarity.

6 Defined terms: “Department” § 9–101
7 “Secretary” § 9–101

8 9–219. CONFIDENTIAL RESEARCH RECORDS.

9 (A) “CONFIDENTIAL RESEARCH RECORD” DEFINED.

10 (1) IN THIS SECTION, “CONFIDENTIAL RESEARCH RECORD” MEANS A
11 RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT:

12 (I) IS ASSEMBLED OR OBTAINED FOR RESEARCH OR STUDY BY THE
13 DEPARTMENT OR THE SECRETARY; AND

14 (II) NAMES OR OTHERWISE IDENTIFIES A PERSON.

15 (2) “CONFIDENTIAL RESEARCH RECORD” INCLUDES A RECORD THAT
16 WAS TRANSFERRED TO THE CUSTODY OF THE DEPARTMENT BY A PREDECESSOR
17 AGENCY.

18 (B) CUSTODY.

19 EACH CONFIDENTIAL RESEARCH RECORD SHALL REMAIN IN THE CUSTODY
20 AND CONTROL OF THE DEPARTMENT.

21 (C) USE.

22 A CONFIDENTIAL RESEARCH RECORD MAY BE USED ONLY FOR THE RESEARCH
23 AND STUDY FOR WHICH IT WAS ASSEMBLED OR OBTAINED.

24 (D) DISCLOSURE.

25 A PERSON MAY NOT DISCLOSE A CONFIDENTIAL RESEARCH RECORD TO ANY
26 PERSON WHO IS NOT ENGAGED IN THE RESEARCH OR STUDY FOR WHICH IT WAS
27 ASSEMBLED OR OBTAINED.

28 (E) STATISTICAL INFORMATION.

29 THIS SECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF
30 ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR
31 REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING
32 THE IDENTITY OF ANY PERSON WHO IS THE SUBJECT OF A CONFIDENTIAL RECORD.

33 (F) DISCLOSURE TO BALTIMORE CITY HEALTH DEPARTMENT.

1 (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
2 DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH DEPARTMENT, ON
3 A WRITTEN REQUEST:

4 (I) A CONFIDENTIAL RESEARCH RECORD CONCERNING A CHILD
5 TO WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING TREATMENT
6 OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR
7 CARE; AND

8 (II) A CONFIDENTIAL RESEARCH RECORD CONCERNING A VICTIM
9 OF A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE,
10 WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING
11 APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST
12 CHILDREN IN BALTIMORE CITY.

13 (2) (I) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL KEEP
14 CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION.

16 (II) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE
17 FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED UNDER PARAGRAPH
18 (1) OF THIS SUBSECTION.

19 (3) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH
20 DEPARTMENT RECEIVES A CONFIDENTIAL RESEARCH RECORD UNDER PARAGRAPH
21 (1) OF THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL
22 SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH THE
23 CONFIDENTIAL RECORD WAS USED.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83C, § 2–115(a), (c), (d), (e), (f), (g), and (h).

26 Throughout this section, references to a “confidential research record” are
27 substituted for the former references to a “confidential record” to avoid
28 confusion with confidential case records.

29 In subsection (b) of this section, the former conditions under which records
30 were required to remain in the custody and control of the Department are
31 deleted as unnecessary in light of the definition of “confidential research
32 record”.

33 In subsection (d) of this section, the reference to the research or study
34 project “for which it was assembled or obtained” is substituted for the
35 former reference to the research or study “project” for consistency within
36 this section.

37 Defined terms: “Department” § 9–101

38 “Person” § 1–101

39 “Secretary” § 9–101

1 9-220. RESEARCH AND DEVELOPMENT UNIT.

2 THE DEPARTMENT SHALL HAVE A UNIT FOR RESEARCH AND DEVELOPMENT
3 THAT SHALL:

4 (1) COMPILE ACCURATE STATISTICS AND RELIABLE INFORMATION ON
5 ALL ASPECTS OF THE JUVENILE PROGRAM OF THE STATE;

6 (2) MONITOR CURRENT DEVELOPMENTS IN THE FIELD OF JUVENILE
7 SERVICES;

8 (3) ASSESS EXISTING PROGRAMS AND ACTIVITIES, INCLUDING YOUTH
9 SERVICES BUREAUS;

10 (4) HELP DEVELOP NEW OR IMPROVED MEANS, INCLUDING GREATER
11 UTILIZATION OF YOUTH SERVICES BUREAUS UNDER § 9-233 OF THIS SUBTITLE, TO
12 PREVENT JUVENILE OFFENSES AND CONTROL AND TREAT JUVENILE OFFENDERS;

13 (5) IF NECESSARY, INITIATE STUDIES TO HELP THE SECRETARY IN
14 GENERAL PLANNING AND PROGRAM DEVELOPMENT FOR THE DEPARTMENT; AND

15 (6) FOR THESE AND RELATED PURPOSES, USE RESEARCH AND
16 INFORMATION AVAILABLE FROM ALL SOURCES.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83C, § 2-115(b).

19 As to the substitution of the references to juvenile "services" for the former
20 references to juvenile "justice" in item (2) of this section, *see* General
21 Revisor's Note to title.

22 Defined terms: "Department" § 9-101
23 "Secretary" § 9-101

24 9-221. INTERAGENCY COOPERATION.

25 (A) COOPERATION OF OTHER UNITS.

26 TO CARRY OUT THE OBJECTIVES OF THIS TITLE, THE FOLLOWING STATE UNITS
27 SHALL COOPERATE FULLY WITH THE DEPARTMENT:

28 (1) THE STATE DEPARTMENT OF EDUCATION;

29 (2) THE DEPARTMENT OF GENERAL SERVICES;

30 (3) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

31 (4) THE DEPARTMENT OF HUMAN RESOURCES;

32 (5) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;

1 (6) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
2 SERVICES; AND

3 (7) EACH OTHER AGENCY NEEDED TO ACCOMPLISH THESE OBJECTIVES.

4 (B) COOPERATION WITH JUVENILE JUSTICE MONITORING UNIT.

5 (1) THE DEPARTMENT SHALL COOPERATE WITH THE JUVENILE JUSTICE
6 MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED
7 UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE BY:

8 (I) PROVIDING THE UNIT WITH ACCESS TO ALL FACILITIES,
9 REPORTS, AND RECORDS RELATING TO A CHILD ON REQUEST;

10 (II) ALLOWING THE JUVENILE JUSTICE MONITORS TO CONDUCT
11 INTERVIEWS WITH STAFF, CHILDREN, AND ANY OTHER INDIVIDUALS ON REQUEST;
12 AND

13 (III) SUBMITTING CORRECTIVE ACTION PLANS AND INCIDENT
14 REPORTS TO THE UNIT IN RESPONSE TO FINDINGS AND RECOMMENDATIONS MADE
15 BY THE JUVENILE JUSTICE MONITORS REGARDING A FACILITY.

16 (2) (I) THE DEPARTMENT SHALL RESPOND TO REQUESTS FOR
17 INFORMATION FROM A JUVENILE JUSTICE MONITOR CONCERNING A FACILITY
18 WITHIN 30 DAYS AFTER THE DATE OF THE REQUEST.

19 (II) IF THE DEPARTMENT DOES NOT RESPOND TO A REQUEST FOR
20 INFORMATION, THE MONITOR MAY CONDUCT A REASONABLE INVESTIGATION
21 RELATING TO THE ORIGINAL REQUEST FOR INFORMATION.

22 (C) COOPERATION WITH STATE DEPARTMENT OF EDUCATION.

23 THE DEPARTMENT SHALL COOPERATE WITH THE STATE DEPARTMENT OF
24 EDUCATION TO ESTABLISH EDUCATIONAL PROGRAMS AS REQUIRED UNDER TITLE
25 22, SUBTITLE 3 OF THE EDUCATION ARTICLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83C, §§ 2-113 and 2-118(g), (h), and (i).

28 In subsection (b)(1) of this section, the references to "child" and "children"
29 are substituted for the former references to "youth" for consistency within
30 this subtitle.

31 Also in subsection (b)(1) of this section, the former reference to "individual"
32 youth is deleted as surplusage.

33 Defined term: "Department" § 9-101

34 9-222. APPLICABILITY OF OTHER LAWS.

35 (A) COURT ACTIONS.

1 TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE GOVERNS DETENTION,
2 ADJUDICATION, DISPOSITION, AND PLACE AND PERIOD OF COMMITMENT OF
3 CHILDREN IN NEED OF SUPERVISION AND DELINQUENT CHILDREN.

4 (B) STATE FINANCE AND PROCUREMENT LAWS.

5 THE DEPARTMENT SHALL BE SUBJECT TO STATE FINANCE AND PROCUREMENT
6 LAWS UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 83C, §§ 2-112 and 2-104(1).

9 In subsection (a) of this section, the former phrase "in juvenile causes" is
10 deleted as surplusage.

11 Defined term: "Department" § 9-101

12 9-223. STATE POLICY.

13 IT IS THE POLICY OF THE STATE THAT THE DEPARTMENT COMPLY WITH THE
14 PROVISIONS OF §§ 3-802 AND 3-8A-02 OF THE COURTS ARTICLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83C, § 2-101(b).

17 Defined term: "Department" § 9-101

18 9-224. RESERVED.

19 9-225. RESERVED.

20 PART II. FACILITIES, PROGRAMS, AND SERVICES.

21 9-226. STATE FACILITIES — ESTABLISHMENT AND OPERATION.

22 (A) IN GENERAL.

23 THE DEPARTMENT MAY ESTABLISH AND OPERATE THE FACILITIES THAT ARE
24 NECESSARY TO PROPERLY DIAGNOSE, CARE FOR, TRAIN, EDUCATE, AND
25 REHABILITATE CHILDREN WHO NEED THESE SERVICES.

26 (B) INCLUDED FACILITIES.

27 THE FACILITIES DESCRIBED IN SUBSECTION (A) OF THIS SECTION INCLUDE:

- 28 (1) THE ALFRED D. NOYES CHILDREN'S CENTER;
- 29 (2) THE BALTIMORE CITY JUVENILE JUSTICE CENTER;
- 30 (3) THE CHARLES H. HICKEY, JR. SCHOOL;

- 1 (4) THE CHELTENHAM YOUTH FACILITY;
- 2 (5) THE J. DEWEESE CARTER CENTER;
- 3 (6) THE LOWER EASTERN SHORE CHILDREN'S CENTER;
- 4 (7) THE THOMAS J. S. WAXTER CHILDREN'S CENTER;
- 5 (8) THE VICTOR CULLEN CENTER;
- 6 (9) THE WESTERN MARYLAND CHILDREN'S CENTER; AND
- 7 (10) THE YOUTH CENTERS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83C, § 2-117(a).

10 Defined term: "Department" § 9-101

11 9-227. STATE FACILITIES — MANAGEMENT.

12 (A) IN GENERAL.

13 EACH FACILITY DESCRIBED IN § 9-226 OF THIS SUBTITLE SHALL OPERATE
14 UNDER THE CONTROL AND GENERAL MANAGEMENT OF THE DEPARTMENT.

15 (B) REGULATIONS.

16 THE DEPARTMENT SHALL:

17 (1) SUBJECT TO TITLE 3, SUBTITLES 8 AND 8A OF THE COURTS ARTICLE,
18 ADOPT REGULATIONS THAT SET:

19 (I) POLICIES FOR DETENTION AUTHORIZATION, COMMUNITY
20 DETENTION, ADMISSION, TRANSFER, DISCHARGE, AND AFTERCARE SUPERVISION;
21 AND

22 (II) STANDARDS OF CARE, INCLUDING PROVISIONS TO ADMINISTER
23 ANY EARLY, PERIODIC SCREENING DIAGNOSIS AND TREATMENT PROGRAM THAT THE
24 DEPARTMENT APPROVES FOR ESTABLISHMENT UNDER 42 U.S.C., § 1396D(A)(4)(B) AND
25 TO TREAT APPROPRIATELY ANY CONDITION THAT THE SCREENING REVEALS;

26 (2) ADOPT REGULATIONS APPLICABLE TO RESIDENTIAL FACILITIES IT
27 OPERATES THAT:

28 (I) PROHIBIT THE USE OF LOCKED DOOR SECLUSION AND
29 RESTRAINTS AS PUNISHMENT AND DESCRIBE THE CIRCUMSTANCES UNDER WHICH
30 LOCKED DOOR SECLUSION AND RESTRAINTS MAY BE USED; AND

31 (II) PROHIBIT ABUSE OF A CHILD; AND

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1 (3) EXCEPT AS PROVIDED IN § 22-308 OF THE EDUCATION ARTICLE,
2 ADOPT REGULATIONS THAT REQUIRE EACH STATE RESIDENTIAL PROGRAM TO
3 PROVIDE:

4 (I) YEAR-ROUND EDUCATIONAL PROGRAMS THAT ARE DESIGNED
5 TO MEET THE PARTICULAR NEEDS OF ITS RESIDENTS;

6 (II) MEDICAL AND MENTAL HEALTH ASSESSMENT SERVICES;

7 (III) ALCOHOL ABUSE AND DRUG ABUSE ASSESSMENT SERVICES;

8 (IV) EITHER ALCOHOL ABUSE AND DRUG ABUSE REFERRAL
9 SERVICES OR AN ALCOHOL ABUSE AND DRUG ABUSE TREATMENT PROGRAM THAT
10 HAS BEEN CERTIFIED IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 8 OF
11 THE HEALTH – GENERAL ARTICLE; AND

12 (V) A SAFE, HUMANE, AND CARING ENVIRONMENT.

13 (C) POLICIES.

14 (1) THE DEPARTMENT SHALL ADOPT A POLICY TO GOVERN
15 DISCIPLINARY ACTIONS AND GRIEVANCES IN ITS FACILITIES.

16 (2) THE POLICY SHALL:

17 (I) REQUIRE PREPARATION OF A WRITTEN REPORT OF ANY
18 DISCIPLINARY ACTION TAKEN AGAINST A CHILD OR OF ANY GRIEVANCE MADE BY OR
19 ON BEHALF OF A CHILD;

20 (II) REQUIRE THAT EACH WRITTEN REPORT BE FORWARDED TO
21 AND REVIEWED BY THE ADMINISTRATIVE HEAD OF THE FACILITY; AND

22 (III) REQUIRE THE DEPARTMENT TO FORWARD IN A TIMELY
23 MANNER ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES, AND GRIEVANCE
24 DISPOSITIONS FROM EACH FACILITY TO THE JUVENILE JUSTICE MONITORING UNIT
25 OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6,
26 SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE.

27 (D) SPECIAL PROGRAMS.

28 IN EACH FACILITY, THE DEPARTMENT SHALL DEVELOP SPECIAL PROGRAMS
29 THAT ARE DESIGNED TO MEET THE PARTICULAR NEEDS OF ITS RESIDENTS.

30 (E) CHANGES IN POLICY, CONDUCT, AND MANAGEMENT.

31 SUBJECT TO TITLE 3, SUBTITLES 8 AND 8A OF THE COURTS ARTICLE, THE
32 DEPARTMENT SHALL ORDER ANY NECESSARY CHANGES IN THE POLICY, CONDUCT,
33 OR MANAGEMENT OF A STATE RESIDENTIAL PROGRAM TO PROVIDE ADEQUATE CARE
34 FOR THE CHILDREN AND ADEQUATE SERVICES TO THE COURTS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83C, § 2–118(a) through (f).

3 In subsections (b)(3)(i) and (d) of this section, the references to a facility's
4 "residents" are substituted for the former references to its "population" for
5 clarity.

6 In subsection (b)(3)(v) of this section, the former reference to "programs
7 that ensure" a safe, humane, and caring environment is deleted as
8 surplusage.

9 In subsection (c)(1) of this section, the requirement that the Department
10 adopt a policy "to govern" disciplinary actions and grievances is
11 substituted for the former requirement that the Department adopt a policy
12 "for addressing" disciplinary actions and grievances for clarity.

13 In subsection (c)(2)(i) of this section, the reference to any grievance "made
14 by or on behalf of a child" is added for clarity.

15 Defined term: "Department" § 9–101

16 9–228. STATE FACILITIES — BOND REQUESTS.

17 BEFORE THE DEPARTMENT REQUESTS A BOND ISSUE FROM THE GENERAL
18 ASSEMBLY TO BUILD OR RENOVATE A FACILITY, THE DEPARTMENT SHALL CONSULT
19 ON THE PROPOSED CONSTRUCTION OR RENOVATION PLANS WITH THE GOVERNING
20 BODY OF:

21 (1) THE COUNTY WHERE THE FACILITY IS TO BE BUILT OR RENOVATED;
22 AND

23 (2) EACH COUNTY TO BE SERVED BY THE FACILITY.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83C, § 2–117(b).

26 In item (2) of this section, the reference to each county to be served "by the
27 facility" is added for clarity.

28 Defined terms: "County" § 1–101
29 "Department" § 9–101

30 9–229. STATE FACILITIES — BALTIMORE CITY JUVENILE JUSTICE CENTER.

31 (A) OPERATION AND MANAGEMENT.

32 THE DEPARTMENT SHALL OPERATE AND MANAGE THE BALTIMORE CITY
33 JUVENILE JUSTICE CENTER AS A CENTRALIZED REGIONAL JUVENILE INTAKE,
34 ASSESSMENT, COURT, AND DETENTION FACILITY FOR BALTIMORE CITY.

35 (B) INCLUDED UNITS.

1 THE BALTIMORE CITY JUVENILE JUSTICE CENTER SHALL INCLUDE:

2 (1) THE DEPARTMENT;

3 (2) THE JUVENILE DIVISION OF THE CIRCUIT COURT FOR BALTIMORE
4 CITY;

5 (3) AN OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY;

6 (4) AN OFFICE OF THE BALTIMORE CITY DEPARTMENT OF SOCIAL
7 SERVICES;

8 (5) BALTIMORE CITY POLICE SERVICES; AND

9 (6) COURTHOUSE SECURITY SERVICES OF THE SHERIFF OF BALTIMORE
10 CITY.

11 (C) CHILD IN CUSTODY.

12 IF A CHILD WHO IS DELINQUENT OR IS ALLEGED TO HAVE COMMITTED A
13 DELINQUENT ACT IS TAKEN INTO CUSTODY BY A LAW ENFORCEMENT OFFICER AND
14 BROUGHT TO THE BALTIMORE CITY JUVENILE JUSTICE CENTER, THE DEPARTMENT,
15 IN CONJUNCTION WITH BALTIMORE CITY POLICE SERVICES, SHALL:

16 (1) FOR PURPOSES OF POSITIVE IDENTIFICATION, OBTAIN
17 PHOTOGRAPHS AND FINGERPRINTS AND SUBMIT THEM TO:

18 (I) THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
19 REPOSITORY; AND

20 (II) ANY OTHER AUTOMATED JUVENILE JUSTICE INFORMATION
21 SYSTEM OR REPOSITORY APPROVED BY THE SECRETARY;

22 (2) CONDUCT A CRIMINAL AND JUVENILE HISTORY RECORDS CHECK;
23 AND

24 (3) CONDUCT AN AUTOMATED SEARCH FOR OUTSTANDING WARRANTS
25 AND WRITS OF ATTACHMENT.

26 (D) CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY —
27 DISSEMINATION OF INFORMATION.

28 (1) AFTER THE PROCESSING OF FINGERPRINTS, THE CRIMINAL JUSTICE
29 INFORMATION SYSTEM CENTRAL REPOSITORY SHALL PROVIDE TO THE
30 DEPARTMENT, IN ACCORDANCE WITH STATE AND FEDERAL LAW, INFORMATION
31 CONCERNING CHILDREN TAKEN INTO CUSTODY UNDER SUBSECTION (C) OF THIS
32 SECTION.

33 (2) INFORMATION CONCERNING A CHILD DISSEMINATED FROM THE
34 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IS A POLICE
35 RECORD UNDER § 10-101(H) OF THE CRIMINAL PROCEDURE ARTICLE AND MAY NOT

1 BE REDISSEMINATED EXCEPT IN ACCORDANCE WITH § 3-8A-27(A) OF THE COURTS
2 ARTICLE.

3 (E) ADMINISTRATORS.

4 SUBJECT TO THE AUTHORITY OF THE SECRETARY:

5 (1) THE MANAGING DIRECTOR OF THE BALTIMORE CITY JUVENILE
6 JUSTICE CENTER IS ITS CHIEF ADMINISTRATOR; AND

7 (2) THE DIRECTOR OF DETENTION OF THE BALTIMORE CITY JUVENILE
8 JUSTICE CENTER IS ITS ADMINISTRATOR OF JUVENILE DETENTION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83C, § 2-118.1.

11 In subsection (d) of this section, the references to "children" and "child" are
12 substituted for the former references to "juveniles" for consistency within
13 this section and this subtitle.

14 In subsection (d)(1) of this section, the reference to "children taken into
15 custody under subsection (c) of this section" is substituted for the former
16 reference to "arrested juveniles" for clarity and consistency with subsection
17 (c) of this section.

18 Also in subsection (d)(1) of this section, the former reference to State and
19 federal law "and regulation" is deleted because the broad reference to a
20 "law" includes a "regulation" adopted under the authority of a law. *See, e.g.,*
21 *Maryland Port Administration v. Browner Contracting Co.*, 303 Md. 44, 60
22 (1985).

23 Defined terms: "Department" § 9-101

24 "Secretary" § 9-101

25 9-230. STATE FACILITIES — ADVISORY BOARDS.

26 (A) AUTHORIZED.

27 WITH THE CONSENT OF THE STATE ADVISORY BOARD, THE SECRETARY MAY
28 ESTABLISH AN ADVISORY BOARD FOR ONE OR MORE FACILITIES.

29 (B) COMPOSITION.

30 EACH BOARD SHALL CONSIST OF INDIVIDUALS THAT THE SECRETARY AND THE
31 STATE ADVISORY BOARD CONSIDER TO BE HELPFUL IN MATTERS THAT RELATE TO
32 THE EFFECTIVE OPERATION AND IMPROVEMENT OF THE FACILITY.

33 (C) MEETINGS — ATTENDANCE BY JUVENILE JUSTICE MONITORS.

34 A REPRESENTATIVE OF THE JUVENILE JUSTICE MONITORING UNIT OF THE
35 OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF

1 THE STATE GOVERNMENT ARTICLE SHALL BE AVAILABLE TO ATTEND MEETINGS OF
2 EACH ADVISORY BOARD.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83C, § 2-119.

5 In subsection (b) of this section, the reference to individuals that the
6 Secretary and the State Advisory Board "consider to" be helpful is
7 substituted for the former reference to individuals that the Secretary and
8 the State Advisory Board "believe may" be helpful for clarity.

9 Defined terms: "Secretary" § 9-101
10 "State Advisory Board" § 9-101

11 9-231. GROUP HOMES AND INSTITUTIONS.

12 (A) PROVISION OF SERVICES.

13 THE DEPARTMENT MAY PLACE CHILDREN IN GROUP HOMES AND
14 INSTITUTIONS OPERATED BY NONPROFIT OR FOR-PROFIT ENTITIES TO PROVIDE
15 FOR THEIR CARE, DIAGNOSIS, TRAINING, EDUCATION, AND REHABILITATION.

16 (B) REIMBURSEMENT.

17 (1) THE DEPARTMENT SHALL REIMBURSE THE ENTITIES DESCRIBED IN
18 SUBSECTION (A) OF THIS SECTION FOR THE COST OF THE SERVICES AT APPROPRIATE
19 MONTHLY RATES THAT THE DEPARTMENT DETERMINES, AS PROVIDED IN THE STATE
20 BUDGET.

21 (2) THE DEPARTMENT MAY ESTABLISH DIFFERENT REIMBURSEMENT
22 RATES FOR HOMES AND INSTITUTIONS THAT PROVIDE INTERMEDIATE SERVICES
23 AND HOMES AND INSTITUTIONS THAT PROVIDE FULL SERVICES.

24 (C) COMPLIANCE WITH LICENSING LAWS.

25 THE DEPARTMENT MAY NOT PLACE A CHILD IN A GROUP HOME OR OTHER
26 RESIDENTIAL FACILITY THAT IS NOT OPERATING IN COMPLIANCE WITH APPLICABLE
27 STATE LICENSING LAWS.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83C, § 2-120.

30 In subsection (a) of this section, the authority of the Department to "place
31 children in group homes and institutions ... to provide for their care,
32 diagnosis, training, education, and rehabilitation" is substituted for the
33 former requirement that the Department "provide for" these services by
34 placing children in group homes and institutions for clarity. The Human
35 Services Article Review Committee calls this substitution to the attention
36 of the General Assembly.

1 In subsection (b)(1) of this section, the reference to “the entities described
2 in subsection (a) of this section” is substituted for the former reference to
3 “these entities” for clarity.

4 In subsection (b)(2) of this section, the phrase “[t]he Department may
5 establish different reimbursement rates” is substituted for the former
6 phrase “[t]he reimbursement rate may differ” for clarity.

7 Also in subsection (b)(2) of this section, the former reference to
8 intermediate services “as defined by the Department” is deleted as implicit
9 in the Department’s authority to establish reimbursement rates.

10 The Human Services Article Review Committee notes, for consideration by
11 the General Assembly, that while subsections (a) and (b) of this section
12 refer to group homes and “institutions”, subsection (c) of this section refers
13 to a group home or “other residential facility”. The General Assembly may
14 wish to address this inconsistency.

15 Defined term: “Department” § 9–101

16 9–232. RUNAWAY YOUTH HOMES.

17 THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO HELP HOMES FOR
18 RUNAWAY YOUTHS.

19 REVISOR’S NOTE: This section formerly was Art. 83C, § 2–121.

20 No changes are made.

21 Defined term: “Department” § 9–101

22 9–233. YOUTH SERVICES BUREAUS.

23 (A) “YOUTH SERVICES BUREAU” DEFINED.

24 IN THIS SECTION, “YOUTH SERVICES BUREAU” MEANS A COMMUNITY–BASED
25 ENTITY THAT IS OPERATED:

26 (1) TO PROVIDE COMMUNITY–ORIENTED DELINQUENCY PREVENTION,
27 YOUTH SUICIDE PREVENTION, DRUG AND ALCOHOL ABUSE PREVENTION, AND
28 YOUTH DEVELOPMENT;

29 (2) TO AMELIORATE CONDITIONS THAT CONTRIBUTE TO DELINQUENCY,
30 YOUTH SUICIDE, DRUG AND ALCOHOL ABUSE, AND FAMILY DISRUPTION; AND

31 (3) TO FUNCTION AS AN ADVOCATE OF YOUTH NEEDS.

32 (B) REGULATIONS.

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1 (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET
2 ELIGIBILITY GUIDELINES FOR STATE FUNDING OF YOUTH SERVICES BUREAUS
3 UNDER THIS SECTION.

4 (2) THE REGULATIONS SHALL REQUIRE THAT EACH YOUTH SERVICES
5 BUREAU THAT RECEIVES STATE FUNDING:

6 (I) PROVIDE, AT CONVENIENT HOURS:

7 1. INDIVIDUAL, FAMILY, OR GROUP COUNSELING;

8 2. REFERRAL AND INFORMATION SERVICES;

9 3. CRISIS INTERVENTION, INCLUDING INTERVENTION
10 RELATING TO YOUTH SUICIDE PREVENTION;

11 4. ALCOHOL AND DRUG ABUSE ASSESSMENT AND REFERRAL
12 SERVICES BY STAFF WHO HAVE RECEIVED SUBSTANCE ABUSE ASSESSMENT AND
13 REFERRAL TRAINING FROM THE OFFICE OF EDUCATION AND TRAINING FOR
14 ADDICTION SERVICES (OETAS) IN THE DEPARTMENT OF HEALTH AND MENTAL
15 HYGIENE OR FROM ANY OTHER ENTITY THAT THE SECRETARY DETERMINES TO BE
16 QUALIFIED TO PROVIDE SUBSTANCE ABUSE ASSESSMENT AND REFERRAL TRAINING;

17 5. INFORMAL COUNSELING; AND

18 6. IN ACCORDANCE WITH THE NEEDS OF THE COMMUNITY
19 AND SUBJECT TO THE AVAILABILITY OF FUNDS:

20 A. TUTORING;

21 B. ALTERNATIVE LEISURE ACTIVITIES;

22 C. EMPLOYMENT ASSISTANCE;

23 D. COMMUNITY EDUCATION, INCLUDING TRAINING AND
24 INFORMATION RELATING TO YOUTH SUICIDE PREVENTION;

25 E. AFTERCARE SERVICES; AND

26 F. OTHER SPECIALIZED SERVICES;

27 (II) SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, PROVIDE
28 THE SERVICES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH FREE OF CHARGE OR AT
29 A RATE THAT ITS BOARD OF DIRECTORS ESTABLISHES, IN CONSULTATION WITH THE
30 DEPARTMENT, THAT IS BASED ON THE CLIENT'S FAMILY INCOME; AND

31 (III) DISPOSE OF ALL INFORMATION AND RECORDS ON EACH
32 INDIVIDUAL RECEIVING SERVICES FROM THE YOUTH SERVICES BUREAU 5 YEARS
33 AFTER SERVICES TO THE INDIVIDUAL TERMINATE.

34 (C) FEES.

1 (1) A YOUTH SERVICES BUREAU MAY RETAIN ANY FEES CHARGED
2 UNDER SUBSECTION (B)(2)(II) OF THIS SECTION.

3 (2) THE FEES AUTHORIZED UNDER SUBSECTION (B)(2)(II) OF THIS
4 SECTION DO NOT APPLY TO YOUTH REFERRED TO A YOUTH SERVICES BUREAU BY
5 COURT ORDER.

6 (D) MONITORING AND EVALUATION BY DEPARTMENT.

7 (1) THE DEPARTMENT SHALL:

8 (I) MONITOR THE OPERATIONS OF EACH YOUTH SERVICES
9 BUREAU THAT RECEIVES STATE FUNDING;

10 (II) EVALUATE ANNUALLY THE EFFECTIVENESS OF EACH YOUTH
11 SERVICES BUREAU; AND

12 (III) DISCONTINUE FUNDING A YOUTH SERVICES BUREAU THAT IS
13 INEFFECTIVE OR THAT, FOR 2 YEARS, FAILS TO MEET THE ELIGIBILITY GUIDELINES
14 FOR STATE FUNDING.

15 (2) THE DEPARTMENT SHALL REVIEW AND APPROVE OR DISAPPROVE
16 AN APPLICATION FOR STATE FUNDING OF A YOUTH SERVICES BUREAU OR
17 PROPOSED YOUTH SERVICES BUREAU.

18 (E) FUNDING.

19 (1) (I) THE STATE AND THE LOCAL GOVERNMENT SHALL JOINTLY
20 FUND AN ELIGIBLE YOUTH SERVICES BUREAU.

21 (II) THE STATE SHALL PROVIDE 75% OF THE FUNDING FOR AN
22 ELIGIBLE YOUTH SERVICES BUREAU, AS PROVIDED IN THE STATE BUDGET.

23 (2) AT THE TIMES THAT THE DEPARTMENT SPECIFIES, EACH ELIGIBLE
24 YOUTH SERVICES BUREAU SHALL SUBMIT A PROPOSED ANNUAL BUDGET TO THE
25 DEPARTMENT FOR REVIEW AND APPROVAL.

26 (3) THE PROPOSED BUDGET OF THE DEPARTMENT SHALL LIST THE
27 ELIGIBLE YOUTH SERVICES BUREAUS AND ESTIMATE THE AMOUNT OF STATE FUNDS
28 TO BE ALLOCATED TO EACH.

29 (4) (I) THE LOCAL GOVERNING BODY THAT PROVIDES THE MATCHING
30 FUNDS FOR AN ELIGIBLE YOUTH SERVICES BUREAU MAY CHOOSE TO HAVE THE
31 STATE FUNDS FOR THE YOUTH SERVICES BUREAU PAID DIRECTLY TO ITS PRIVATE
32 SPONSOR OR TO THE LOCAL GOVERNING BODY.

33 (II) BEFORE THE STATE FUNDS ARE PAID, THE FISCAL OFFICER OF
34 THE LOCAL GOVERNMENT SHALL CERTIFY IN WRITING THE SOURCE OF THE
35 MATCHING FUNDS PROVIDED BY THE LOCAL GOVERNMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83C, § 2–122.

3 In subsection (a)(2) of this section, the reference to conditions that
4 “contribute to” delinquency is substituted for the former reference to
5 conditions that “breed” delinquency for clarity.

6 In subsection (b)(1) and the introductory language of (2) of this section, the
7 former references to “rules” are deleted in light of the references to
8 “regulations”. *See* General Revisor’s Note to article.

9 In the introductory language of subsection (b)(2) of this section, the
10 reference to each youth services bureau “that receives State funding” is
11 substituted for the former reference to each “State–aided” youth services
12 bureau for clarity and consistency.

13 In subsection (b)(2)(i)4 of this section, the reference to the Office of
14 Education and Training for “Addiction” Services is substituted for the
15 former incorrect reference to the Office of Education and Training for
16 “Addictions” Services.

17 In subsection (b)(2)(ii) of this section, the phrase “subject to subsection
18 (c)(2) of this section” is added for clarity.

19 In subsection (b)(2)(iii) of this section, the reference to 5 years after
20 services “terminate” is substituted for the former reference to 5 years after
21 services “are no longer necessary” for clarity.

22 Also in subsection (b)(2)(iii) of this section, the former reference to services
23 “under this section” is deleted as surplusage.

24 In subsection (c)(2) of this section, the former reference to a youth services
25 bureau retaining fees “for the purposes of the youth services bureau” is
26 deleted as implicit.

27 In subsection (e)(1)(i) of this section, the requirement that the State and
28 the local government “jointly fund” an eligible youth services bureau is
29 substituted for the former requirement that “the funding ... be a shared
30 responsibility of this State and of local governments” for clarity and
31 brevity.

32 In subsection (e)(1)(ii) of this section, the requirement that the State
33 “provide 75% of the funding for” an eligible youth services bureau is
34 substituted for the former reference to the State’s “share ... of the funding”
35 for clarity.

36 In subsection (e)(4)(ii) of this section, the reference to the “matching funds
37 provided by the local government” is substituted for the former reference to
38 the “25 percent local funds” for clarity and consistency.

1 Defined terms: "Department" § 9-101
2 "Secretary" § 9-101

3 9-234. JUVENILE CARE FACILITIES — IN GENERAL.

4 (A) LEGISLATIVE INTENT.

5 THE GENERAL ASSEMBLY INTENDS THAT:

6 (1) ALL CHILDREN WHOSE CARE IS THE RESPONSIBILITY OF THE STATE
7 SHALL HAVE SIMILAR PROTECTION FOR THEIR HEALTH, THEIR SAFETY, AND THE
8 QUALITY OF THEIR CARE; AND

9 (2) THE REGULATIONS OF STATE UNITS THAT ARE CHARGED WITH
10 CHILD CARE SHALL BE COMPARABLE.

11 (B) REGULATIONS.

12 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT §§ 9-235 AND
13 9-236 OF THIS SUBTITLE.

14 (C) MULTIPLE LICENSES NOT REQUIRED.

15 A CHILD CARE HOME OR CHILD CARE INSTITUTION MAY NOT BE REQUIRED TO
16 OBTAIN A LICENSE FROM MORE THAN ONE STATE UNIT.

17 (D) COOPERATIVE ARRANGEMENTS AMONG LICENSING UNITS.

18 A STATE UNIT AUTHORIZED TO LICENSE CHILD CARE HOMES OR CHILD CARE
19 INSTITUTIONS MAY MAKE A COOPERATIVE LICENSING ARRANGEMENT WITH
20 ANOTHER STATE UNIT.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 83C, § 2-125.

23 In subsections (a)(2) and (b) of this section, the former references to "rules"
24 are deleted in light of the references to "regulations". *See* General Revisor's
25 Note to article.

26 In subsection (a)(2) of this section, the reference to "State units" is
27 substituted for the former reference to "agencies" for consistency with
28 terminology used throughout this article. Similarly, in subsections (c) and
29 (d) of this section, the references to a State "unit" are substituted for the
30 former references to a State "agency". *See* General Revisor's Note to article.

31 In subsection (d) of this section, the reference to a cooperative "licensing"
32 arrangement is substituted for the former reference to a cooperative
33 arrangement "to this end" for clarity.

34 Defined term: "Department" § 9-101

1 9-235. JUVENILE CARE FACILITIES — CHILD CARE HOMES.

2 (A) LICENSE REQUIRED.

3 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON SHALL
4 BE LICENSED BY THE DEPARTMENT AS A CHILD CARE HOME BEFORE THE PERSON
5 MAY EXERCISE CARE, CUSTODY, OR CONTROL OVER A CHILD WHO IS ALLEGED TO BE
6 OR IS ADJUDICATED DELINQUENT OR IN NEED OF SUPERVISION.

7 (B) EXCEPTIONS.

8 THIS SECTION DOES NOT APPLY TO:

9 (1) A PARENT OF THE CHILD;

10 (2) AN INDIVIDUAL RELATED TO THE CHILD BY BLOOD OR MARRIAGE
11 WITHIN 4 DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW RULE;

12 (3) A GUARDIAN OF THE CHILD;

13 (4) A PERSON WHO EXERCISES TEMPORARY CUSTODY OR CONTROL
14 OVER THE CHILD AT THE REQUEST OF A PARENT OR GUARDIAN OF THE CHILD AND
15 WHO IS NOT REQUIRED OTHERWISE TO BE LICENSED;

16 (5) A PERSON WHO HAS THE CARE, CUSTODY, OR CONTROL OF THE
17 CHILD THROUGH PLACEMENT BY A PARENT OR GRANDPARENT OF THE CHILD IN
18 CONTEMPLATION OF ADOPTION, IF THE REQUIREMENTS OF § 5-507(B)(2) AND (C) OF
19 THE FAMILY LAW ARTICLE ARE MET;

20 (6) AN INSTITUTION THAT HAS A CHILD CARE INSTITUTION LICENSE
21 UNDER THIS SUBTITLE OR § 5-509 OF THE FAMILY LAW ARTICLE;

22 (7) AN INSTITUTION OPERATED BY A UNIT OF THE STATE OR A
23 POLITICAL SUBDIVISION; OR

24 (8) A FOSTER CARE PROVIDER WITH WHOM THE CHILD IS PLACED BY:

25 (I) A LICENSED CHILD PLACEMENT AGENCY;

26 (II) A LOCAL DEPARTMENT OF SOCIAL SERVICES;

27 (III) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

28 (IV) THE DEPARTMENT; OR

29 (V) A COURT OF COMPETENT JURISDICTION.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83C, § 2-123.

32 In subsection (a) of this section, the more specific reference to "subsection

1 (b) of this section” is substituted for the more general reference to “this
2 section” for clarity.

3 In subsection (b)(7) of this section, as to the substitution of the reference to
4 “unit” for the former reference to “agency”, *see* General Revisor’s Note to
5 article.

6 In the introductory language of subsection (b)(8) of this section, the
7 reference to a “foster care provider with whom the child is placed” is
8 substituted for the former reference to “an individual with whom the child
9 is placed in foster care” for brevity.

10 In subsection (b)(8)(i) of this section, the reference to a licensed “child”
11 placement agency is added for consistency with Title 5, Subtitle 5 of the
12 Family Law Article.

13 Defined terms: “Department” § 9–101
14 “Person” § 1–101

15 9–236. JUVENILE CARE FACILITIES — CHILD CARE INSTITUTIONS.

16 (A) LICENSE REQUIRED.

17 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
18 PERSON SHALL BE LICENSED BY THE DEPARTMENT AS A CHILD CARE INSTITUTION
19 BEFORE THE PERSON MAY OPERATE AN INSTITUTION FOR THE CARE, CUSTODY, OR
20 CONTROL OF A CHILD ALLEGED TO BE OR ADJUDICATED DELINQUENT OR IN NEED
21 OF SUPERVISION.

22 (B) EXCEPTIONS.

23 THIS SECTION DOES NOT APPLY TO:

24 (1) AN INSTITUTION OR FACILITY OPERATED BY A UNIT OF THE STATE
25 OR A POLITICAL SUBDIVISION; OR

26 (2) A CHILD CARE HOME THAT HAS A LICENSE UNDER THIS SUBTITLE
27 OR § 5–508 OF THE FAMILY LAW ARTICLE.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 83C, § 2–124.

30 In subsection (a) of this section, the more specific reference to “subsection
31 (b) of this section” is substituted for the more general reference to “this
32 section” for clarity.

33 In subsection (b)(1) of this section, the reference to a “unit” is substituted
34 for the former reference to an “agency” for consistency with terminology
35 used throughout this article. *See* General Revisor’s Note to article.

1 Defined terms: "Department" § 9-101
2 "Person" § 1-101

3 9-237. JUVENILE DETENTION FACILITIES — STANDARDS.

4 (A) IN GENERAL.

5 THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR
6 JUVENILE DETENTION FACILITIES OPERATED BY THE DEPARTMENT AND BY
7 PRIVATE AGENCIES UNDER CONTRACT WITH THE DEPARTMENT.

8 (B) PURPOSES.

9 THE STANDARDS SHALL REFLECT THE FOLLOWING CENTRAL PURPOSES OF
10 JUVENILE DETENTION:

11 (1) TO PROTECT THE PUBLIC;

12 (2) TO PROVIDE A SAFE, HUMANE, AND CARING ENVIRONMENT FOR
13 CHILDREN; AND

14 (3) TO PROVIDE ACCESS TO REQUIRED SERVICES FOR CHILDREN.

15 (C) INCLUDED PROVISIONS.

16 THE STANDARDS SHALL INCLUDE PROVISIONS ESTABLISHING:

17 (1) A POLICY THAT ELIMINATES THE UNNECESSARY USE OF DETENTION
18 AND THAT PRIORITIZES DIVERSION AND APPROPRIATE NONSECURE ALTERNATIVES;

19 (2) CRITERIA FOR THE PLACEMENT OF A CHILD IN A PARTICULAR
20 JUVENILE DETENTION FACILITY;

21 (3) POPULATION LIMITS FOR EACH JUVENILE DETENTION FACILITY
22 THAT MAY NOT BE EXCEEDED EXCEPT IN EMERGENCY CIRCUMSTANCES;

23 (4) A REQUIREMENT THAT STAFFING RATIOS AND LEVELS OF SERVICES
24 BE MAINTAINED DURING EMERGENCIES;

25 (5) SPECIFICATIONS FOR THE ARCHITECTURAL STRUCTURE OF A
26 JUVENILE DETENTION FACILITY;

27 (6) STAFF QUALIFICATIONS AND TRAINING, INCLUDING TRAINING IN
28 RECOGNIZING AND REPORTING CHILD ABUSE AND NEGLECT;

29 (7) THE RATIO OF STAFF TO CHILDREN IN A JUVENILE DETENTION
30 FACILITY;

31 (8) THE RIGHTS OF CHILDREN IN A JUVENILE DETENTION FACILITY,
32 INCLUDING THE RIGHT TO PRIVACY, VISITORS, TELEPHONE USE, AND MAIL
33 DELIVERY;

1 (9) PROHIBITIONS AGAINST THE USE OF EXCESSIVE FORCE AGAINST A
2 CHILD; AND

3 (10) INTERNAL AUDITING AND MONITORING OF PROGRAMS AND
4 FACILITIES IN THE JUVENILE SERVICES SYSTEM.

5 (D) CONSISTENCY WITH OTHER LAWS.

6 THE STANDARDS SHALL BE CONSISTENT WITH THIS TITLE AND TITLE 3,
7 SUBTITLE 8A OF THE COURTS ARTICLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83C, § 2–135.

10 As to the substitution of the reference to the “juvenile services system” for
11 the former references to the “Juvenile Justice System” in subsection (c)(10)
12 of this section, *see* General Revisor’s Note to title.

13 Defined term: “Department” § 9–101

14 9–238. PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTIONS.

15 (A) “PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION” DEFINED.

16 IN THIS SECTION, “PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION”
17 MEANS A PRIVATE, NONPROFIT FACILITY THAT:

18 (1) SERVES 150 OR MORE COURT–ADJUDICATED CHILDREN, INCLUDING
19 CHILDREN IN THE CUSTODY OF THE DEPARTMENT;

20 (2) PROVIDES ACADEMIC, ATHLETIC, AND WORKFORCE DEVELOPMENT
21 SERVICES TO THE CHILDREN DESCRIBED IN ITEM (1) OF THIS SUBSECTION; AND

22 (3) HAS BEEN APPROVED TO SERVE CHILDREN DESCRIBED IN THIS
23 SUBSECTION ON OR BEFORE OCTOBER 1, 2005.

24 (B) EDUCATIONAL PROGRAM.

25 (1) A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION SHALL
26 DEVELOP AN EDUCATIONAL PROGRAM.

27 (2) SUBJECT TO THE APPROVAL OF THE EDUCATIONAL PROGRAM
28 DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION BY THE STATE
29 DEPARTMENT OF EDUCATION, A PRIVATE REHABILITATIVE INSTITUTION SHALL
30 IMPLEMENT THE EDUCATIONAL PROGRAM.

31 (C) PLACEMENT OF CHILDREN.

32 A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION SHALL:

33 (1) RECEIVE STATEWIDE REFERRALS; AND

1 (2) SERVE AS AN OPTION FOR THE PLACEMENT OF CHILDREN WHO ARE
 2 TRANSFERRED TO THE JUVENILE COURT UNDER § 4-202 OF THE CRIMINAL
 3 PROCEDURE ARTICLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 83C, § 2-137.

6 Throughout subsection (a) of this section, the references to "children" are
 7 substituted for the former references to "youths" for consistency within
 8 this subtitle.

9 In subsection (c)(2) of this section, the reference to "children who are
 10 transferred to the juvenile court under § 4-202 of the Criminal Procedure
 11 Article" is substituted for former Art. 83C, § 2-137(a)(3), which defined
 12 "reverse-waiver juvenile", for accuracy and for consistency with the
 13 terminology used in § 4-202 of the Criminal Procedure Article.

14 Defined term: "Department" § 9-101

15 9-239. NONSECURE PLACEMENT ALTERNATIVES — STANDARDS.

16 BY REGULATION, THE DEPARTMENT SHALL SET STANDARDS FOR NONSECURE
 17 ALTERNATIVES FOR THE PLACEMENT OF A CHILD COMMITTED UNDER § 3-8A-19 OF
 18 THE COURTS ARTICLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 83C, § 2-136.

21 In this section, the requirement that the Department "[b]y
 22 regulation ... set" standards for nonsecure alternatives is substituted for
 23 the former requirement that the Department "develop and adopt
 24 regulations providing" standards for nonsecure alternatives for brevity.

25 Defined term: "Department" § 9-101

26 9-240. STEP-DOWN AFTERCARE.

27 (A) DEFINITIONS.

28 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 29 INDICATED.

30 (2) "STEP-DOWN AFTERCARE" MEANS:

31 (I) A NETWORK OF PROGRAMS THAT PROVIDE EDUCATION AND
 32 REHABILITATION; AND

33 (II) SERVICES AND TREATMENT TO EASE THE TRANSITION OF
 34 CHILDREN FROM THE CUSTODY OF THE DEPARTMENT TO THEIR HOMES AND
 35 COMMUNITIES.

1 (3) "STEP-DOWN AFTERCARE PLAN" MEANS AN INDIVIDUALIZED PLAN
2 FOR EACH CHILD IN STEP-DOWN AFTERCARE THAT PROPOSES SPECIFIC
3 ASSISTANCE, GUIDANCE, TREATMENT, SERVICES, AND SUPERVISION THAT:

4 (I) PREPARES THE CHILD FOR REENTRY INTO THE SPECIFIC
5 COMMUNITY TO WHICH THE CHILD WILL RETURN;

6 (II) ENSURES THE DELIVERY OF PRESCRIBED SERVICES TO THE
7 CHILD IN THE COMMUNITY; AND

8 (III) MONITORS CONDUCT IN THE COMMUNITY TO ENSURE PUBLIC
9 SAFETY.

10 (B) SERVICES REQUIRED.

11 (1) A CHILD DISCHARGED FROM A COMMITTED RESIDENTIAL
12 PLACEMENT SHALL RECEIVE STEP-DOWN AFTERCARE FOR THE PERIOD THAT THE
13 DEPARTMENT DETERMINES.

14 (2) A CHILD IN STEP-DOWN AFTERCARE SHALL RECEIVE:

15 (I) A STEP-DOWN AFTERCARE PLAN;

16 (II) SUPERVISION BY STEP-DOWN AFTERCARE STAFF IN
17 ACCORDANCE WITH THE STEP-DOWN AFTERCARE PLAN;

18 (III) EDUCATIONAL SERVICES; AND

19 (IV) ANY OTHER SERVICES NECESSARY TO IMPLEMENT THE
20 STEP-DOWN AFTERCARE PLAN.

21 (C) DUTIES OF STAFF.

22 THE STEP-DOWN AFTERCARE STAFF SHALL:

23 (1) PREPARE A STEP-DOWN AFTERCARE PLAN FOR EACH CHILD
24 ASSIGNED TO THE STEP-DOWN AFTERCARE PROGRAM AND FILE THE PLAN WITH
25 THE DEPARTMENT;

26 (2) KEEP REGULAR RECORDS CONCERNING THE PROGRESS OF EACH
27 CHILD;

28 (3) FILE WITH THE DEPARTMENT A MONTHLY PROGRESS REPORT ON
29 EACH CHILD; AND

30 (4) FILE WITH THE DEPARTMENT AN ANNUAL REPORT ON THE
31 OUTCOME OF STEP-DOWN AFTERCARE PLANS FOR THE CHILDREN IN THE
32 STEP-DOWN AFTERCARE PROGRAM, THAT INCLUDES TO THE EXTENT POSSIBLE:

33 (I) INFORMATION ON THE NUMBER OF CHILDREN WHO:

SENATE BILL 6

- 1 1. ARE REARRESTED;
- 2 2. ARE REARRESTED AND CHARGED WITH SERIOUS OR
- 3 VIOLENT OFFENSES;
- 4 3. ARE REARRESTED AND WAIVED TO THE ADULT SYSTEM;
- 5 4. ARE RE-REFERRED TO THE DEPARTMENT;
- 6 5. ARE READJUDICATED AND RECOMMITTED;
- 7 6. GRADUATE FROM HIGH SCHOOL OR SUCCESSFULLY
- 8 COMPLETE A HIGH SCHOOL EQUIVALENCY EXAMINATION; AND
- 9 7. ARE EMPLOYED; AND

10 (II) OTHER RELEVANT INFORMATION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 83C, § 2-127.1.

13 In subsection (c)(1) of this section, the former reference to each child "in
14 aftercare" is deleted as surplusage.

15 In subsection (c)(4) of this section, the requirement to file an annual report
16 "with the Department" is added for clarity and consistency with subsection
17 (c)(1) and (3) of this section.

18 Defined term: "Department" § 9-101

19 9-241. REQUIRED PROGRAMS.

20 (A) IN GENERAL.

21 THE SECRETARY SHALL ESTABLISH PROGRAMS FOR JUVENILE INTAKE,
22 PREDELINQUENT DIVERSION SERVICES, COMMUNITY DETENTION, INVESTIGATION,
23 PROBATION, AND AFTERCARE SERVICES.

24 (B) STAFF.

25 (1) EXCEPT FOR PREDELINQUENT DIVERSION SERVICES, THE
26 SECRETARY SHALL PROVIDE SUFFICIENT STAFF TO OPERATE THE PROGRAMS
27 DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

28 (2) THE STAFF OF THE DEPARTMENT IS UNDER THE IMMEDIATE
29 DIRECTION AND CONTROL OF THE SECRETARY.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83C, § 2-127.

1 Defined terms: "Department" § 9-101
2 "Secretary" § 9-101

3 9-242. INFORMATIONAL PROGRAMS.

4 THE SECRETARY SHALL HOLD INSTITUTES, CONFERENCES, AND OTHER
5 PROGRAMS TO FAMILIARIZE THE JUDICIARY, THE BALTIMORE CITY SOCIAL SERVICES
6 COMMISSION AND OTHER BOARDS OF LOCAL DEPARTMENTS OF SOCIAL SERVICES,
7 CITIZENS ACTION GROUPS, AND OTHER INTERESTED PERSONS WITH THE
8 FUNCTIONS AND PROGRAMS OF THE DEPARTMENT.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83C, § 2-130.

11 The reference to "familiariz[ing]" various persons with the functions and
12 programs of the Department is substituted for the former reference to
13 "inform[ing] and acquaint[ing]" various persons with the functions and
14 programs of the Department for brevity and clarity.

15 The former reference to "plan[ning]" programs is deleted as included in the
16 reference to "hold[ing]" programs.

17 Defined terms: "Department" § 9-101
18 "Person" § 1-101
19 "Secretary" § 9-101

20 9-243. RELATIONSHIP TO COURTS.

21 (A) PROVISION OF SERVICES.

22 IF REQUESTED BY A JUVENILE COURT OR BY ANY OTHER COURT IN A
23 PROCEEDING THAT INVOLVES THE INTEREST OF A MINOR, THE DEPARTMENT SHALL
24 PROVIDE THE SERVICES DESCRIBED IN THIS TITLE.

25 (B) EMPLOYEES.

26 THE DEPARTMENT SHALL PROVIDE THE EMPLOYEES NECESSARY FOR ANY
27 SERVICES THAT A JUVENILE COURT ORDERS.

28 (C) COOPERATION WITH JUVENILE COURT.

29 THE DEPARTMENT SHALL COOPERATE WITH THE JUVENILE COURT IN
30 CARRYING OUT THE OBJECTIVES OF THIS TITLE AND TITLE 3, SUBTITLES 8 AND 8A OF
31 THE COURTS ARTICLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 83C, § 2-126.

34 In subsection (a) of this section, the reference to a "juvenile court" is
35 substituted for the former reference to a "court sitting as a juvenile court"
36 for brevity and consistency with other revised articles (*see, e.g.*, CP §

1 4–202). Correspondingly, in subsection (b) of this section, the reference to a
 2 “juvenile court” is substituted for the former reference to a “judge sitting as
 3 a juvenile court” and in subsection (c) of this section, the reference to the
 4 “juvenile court” is substituted for the former reference to the “judges of the
 5 juvenile court”.

6 In subsection (b) of this section, the reference to employees “necessary for
 7 any” services is substituted for the former reference to employees “needed
 8 to supply such” services for clarity and brevity.

9 Defined term: “Department” § 9–101

10 9–244. PROVISION OF COURT STAFF.

11 (A) IN GENERAL.

12 THE SECRETARY SHALL:

13 (1) STUDY THE PROBLEM OF THE UNITS OF WORK THAT ARE INVOLVED
 14 IN THE JUVENILE COURTS; AND

15 (2) ESTABLISH A SYSTEM FOR UNITS OF WORK.

16 (B) COURT STAFF.

17 (1) ON THE BASIS OF THE COMPARATIVE WORKLOAD OF ANY JUVENILE
 18 COURT, THE SECRETARY SHALL PROVIDE THE COURT WITH ADEQUATE STAFF AND
 19 AN ADEQUATE VARIETY OF STAFF.

20 (2) UNLESS THE JUDGES OF THE COURT CONSENT, A JUVENILE COURT
 21 MAY NOT BE ASSIGNED A SMALLER STAFF THAN AUTHORIZED AS OF JULY 1, 1986.

22 (C) ADDITIONAL STAFF.

23 (1) WITHIN THE FORMULA DESCRIBED IN THIS SECTION, A JUDGE OF
 24 ANY JUVENILE COURT MAY REQUEST THE ADDITIONAL CLERICAL AND
 25 PROFESSIONAL COURT SERVICE STAFF THAT THE WORKLOAD OF THE COURT
 26 REQUIRES.

27 (2) THE SECRETARY SHALL CONSIDER AND RESPOND TO A REQUEST
 28 UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ACCORDANCE WITH §§ 9–241 AND
 29 9–243 OF THIS SUBTITLE.

30 REVISOR’S NOTE: This section is new language derived without substantive
 31 change from former Art. 83C, § 2–128.

32 In subsection (a)(1) of this section, the reference to the “juvenile” courts is
 33 substituted for the former reference to the “several” courts for clarity and
 34 consistency within this subtitle.

35 Throughout subsections (b) and (c) of this section, the references to the

1 “juvenile” court are added for clarity and consistency within this subtitle.

2 In subsection (b)(2) of this section, the former word “[h]owever” is deleted
3 as surplusage.

4 Defined term: “Secretary” § 9–101

5 9–245. FOSTER PARENTS — LIABILITY INSURANCE AND REIMBURSEMENT.

6 (A) “FOSTER PARENT” DEFINED.

7 IN THIS SECTION, “FOSTER PARENT” INCLUDES AN INDIVIDUAL WHO CARES
8 FOR A CHILD ON AN EMERGENCY BASIS UNDER A SHELTER CARE PROGRAM.

9 (B) INSURANCE REQUIRED.

10 (1) THE DEPARTMENT SHALL PROVIDE LIABILITY INSURANCE FOR
11 FOSTER PARENTS WHO CARE FOR CHILDREN UNDER FOSTER PARENT PROGRAMS.

12 (2) SUBJECT TO A REASONABLE DEDUCTIBLE LIMIT THAT THE
13 DEPARTMENT SETS, THE LIABILITY INSURANCE SHALL COVER:

14 (I) BODILY INJURY AND PROPERTY DAMAGE THAT A FOSTER
15 CHILD CAUSES TO THE PERSON OR PROPERTY OF A PERSON OTHER THAN A FOSTER
16 PARENT; AND

17 (II) ACTIONS AGAINST A FOSTER PARENT BY A PARENT FOR ANY
18 ACCIDENTAL INJURY TO THE FOSTER CHILD.

19 (C) REIMBURSEMENT.

20 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY
21 SHALL REIMBURSE A FOSTER PARENT FOR THE COSTS OF BODILY INJURY OR
22 PROPERTY DAMAGE THAT THE FOSTER CHILD CAUSES TO THE FOSTER PARENT AND
23 THAT INSURANCE DOES NOT COVER, IF THE SECRETARY IS SATISFIED THAT THE
24 ACTIONS OF THE FOSTER PARENT DID NOT CONTRIBUTE SUBSTANTIALLY TO THE
25 BODILY INJURY OR PROPERTY DAMAGE.

26 (2) (I) REIMBURSEMENT UNDER THIS SUBSECTION MAY NOT EXCEED
27 \$5,000.

28 (II) REIMBURSEMENT EXCEEDING \$2,000 REQUIRES THE APPROVAL
29 OF THE BOARD OF PUBLIC WORKS.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83C, § 2–131.

32 In subsection (b)(2)(ii) of this section, the former reference to a “natural”
33 parent is deleted for consistency throughout this article.

34 Also in subsection (b)(2)(ii) of this section, the reference to an “accidental

injury” is substituted for the former reference to an “accident” for clarity.

In subsection (c)(1) of this section, the reference to “paragraph (2) of this section” is substituted for the former reference to “the provisions of this section” for clarity.

Also in subsection (c)(1) of this section, the former phrase “[b]efore reimbursement under this subsection” is deleted as unnecessary in light of the reorganization of former Art. 83C, § 2–131(c)(1) and (2) in this revision.

In subsection (c)(2)(i) of this section, the phrase “[r]eimbursement ... may not exceed \$5,000” is substituted for the former phrase “[r]eimbursement ... shall be made for all costs to a maximum amount of \$5,000” for clarity and brevity.

In subsection (c)(2)(ii) of this section, the reference to “[r]eimbursement” is substituted for the former reference to “all payments” for consistency within this section.

Also in subsection (c)(2)(ii) of this section, the former word “[h]owever” is deleted as surplusage.

Defined terms: “Department” § 9–101
“Secretary” § 9–101

9–246. SUMMER OPPORTUNITY PILOT PROGRAM.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COUNTY BOARD” MEANS THE BOARD OF EDUCATION OF A COUNTY.

(II) “COUNTY BOARD” INCLUDES THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS.

(3) “FUND” MEANS THE DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM FUND.

(4) “PROGRAM” MEANS THE DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM.

(B) ESTABLISHED.

THERE IS A DEPARTMENT OF JUVENILE SERVICES SUMMER OPPORTUNITY PILOT PROGRAM.

(C) PURPOSE.

1 THE PURPOSE OF THE PROGRAM IS TO DEVELOP AND IMPLEMENT
2 EDUCATIONAL CURRICULUM AND ACTIVITIES DURING THE SUMMER FOR THE
3 ENRICHMENT OF CHILDREN WHO ARE UNDER THE SUPERVISION OF THE
4 DEPARTMENT.

5 (D) FUND.

6 (1) THERE IS A DEPARTMENT OF JUVENILE SERVICES SUMMER
7 OPPORTUNITY PILOT PROGRAM FUND TO FINANCE THE PROGRAM.

8 (2) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS
9 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (3) THE FUND CONSISTS OF:

11 (I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
12 AND

13 (II) MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
14 BENEFIT OF THE FUND.

15 (4) THE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL
16 ACCOUNT FOR THE FUND.

17 (5) THE FUND SHALL BE INVESTED AND REINVESTED AND ANY
18 INVESTMENT EARNINGS SHALL BE PAID INTO THE FUND.

19 (E) ADMINISTRATION OF PROGRAM.

20 (1) THE PROGRAM SHALL BE ADMINISTERED AS PROVIDED IN THIS
21 SUBSECTION.

22 (2) A GROUP HOME OPERATOR OR OTHER INTERESTED PERSON IN A
23 COUNTY:

24 (I) MAY DEVELOP A PROPOSAL FOR EDUCATIONAL CURRICULUM
25 AND ACTIVITIES DURING THE SUMMER USING FACULTY OF THE COUNTY SCHOOL
26 SYSTEM FOR CHILDREN IN THAT COUNTY WHO ARE UNDER THE SUPERVISION OF
27 THE DEPARTMENT; AND

28 (II) SHALL SUBMIT THE PROPOSAL TO THE COUNTY BOARD FOR
29 REVIEW.

30 (3) THE COUNTY BOARD:

31 (I) SHALL REVIEW THE PROPOSAL;

32 (II) IN CONSULTATION WITH THE PERSON THAT SUBMITTED THE
33 PROPOSAL, MAY MAKE ANY CHANGES TO THE PROPOSAL THAT IT CONSIDERS
34 NECESSARY; AND

1 (III) FROM AMONG THE PROPOSALS SUBMITTED, MAY FORWARD A
2 FINAL PROPOSAL BY JANUARY 15 OF EACH YEAR TO THE DEPARTMENT FOR
3 APPROVAL.

4 (4) THE DEPARTMENT:

5 (I) IN CONSULTATION WITH THE STATE BOARD OF EDUCATION,
6 SHALL REVIEW A FINAL PROPOSAL BY MARCH 15 OF EACH YEAR;

7 (II) MAY MAKE RECOMMENDATIONS THAT IT CONSIDERS
8 NECESSARY; AND

9 (III) MAY APPROVE A FINAL PROPOSAL OF A COUNTY BOARD FOR
10 IMPLEMENTATION IN THAT COUNTY.

11 (5) (I) IF THE DEPARTMENT APPROVES A FINAL PROPOSAL OF A
12 COUNTY BOARD, THE DEPARTMENT SHALL DISTRIBUTE TO THE COUNTY BOARD
13 MONEY FROM THE FUND TO EXTEND THE CONTRACTS OF PARTICIPATING TEACHERS
14 TO IMPLEMENT AND OPERATE THE PROGRAM.

15 (II) MONEY THAT THE DEPARTMENT DISTRIBUTES FROM THE
16 FUND MAY BE USED ONLY TO EXTEND THE CONTRACTS OF PARTICIPATING
17 TEACHERS.

18 (F) CONTENTS OF FINAL PROPOSAL.

19 (1) A COUNTY BOARD MAY INCLUDE IN A FINAL PROPOSAL:

20 (I) CURRICULUM AND ACTIVITIES FOR CHILDREN IN ANY GRADE
21 FROM KINDERGARTEN THROUGH GRADE 12 WHO ARE UNDER THE SUPERVISION OF
22 THE DEPARTMENT;

23 (II) CURRICULUM AND ACTIVITIES THAT USE SCHOOL FACILITIES,
24 LIBRARIES, OR ANY OTHER FACILITIES AT A LOCATION DESCRIBED IN THE FINAL
25 PROPOSAL;

26 (III) CURRICULUM AND ACTIVITIES THAT ARE IMPLEMENTED FOR A
27 SCHOOL, A GROUP OF SCHOOLS, OR A COUNTY SCHOOL SYSTEM;

28 (IV) CURRICULUM AND ACTIVITIES THAT ARE COORDINATED WITH
29 AN AFTER-SCHOOL OPPORTUNITY PROGRAM OPERATING UNDER TITLE 6, SUBTITLE
30 10 OF THIS ARTICLE;

31 (V) TUTORING IN SUBJECTS SPECIFIED IN THE FINAL PROPOSAL;
32 OR

33 (VI) FIELD TRIPS DESCRIBED IN THE FINAL PROPOSAL.

34 (2) A COUNTY BOARD SHALL INCLUDE IN A FINAL PROPOSAL THE
35 ESTIMATED COST OF EXTENDING THE CONTRACTS OF PARTICIPATING TEACHERS.

1 (G) FUNDING.

2 (1) THE GOVERNOR MAY INCLUDE FUNDS IN THE STATE BUDGET TO
3 ESTABLISH AND MAINTAIN THE PROGRAM AND THE FUND AND TO CARRY OUT THIS
4 SECTION.

5 (2) AN APPROPRIATION MADE UNDER THIS SECTION TO EXTEND THE
6 CONTRACTS OF PARTICIPATING TEACHERS MAY NOT BE USED TO SUPPLANT THE
7 EXISTING STATE SHARE OF THE FOUNDATION PROGRAM UNDER § 5-202 OF THE
8 EDUCATION ARTICLE.

9 (H) REGULATIONS.

10 THE DEPARTMENT MAY ADOPT REGULATIONS TO:

- 11 (1) ESTABLISH CRITERIA FOR APPROVING A FINAL PROPOSAL;
12 (2) ADMINISTER THE FUND; AND
13 (3) CARRY OUT THIS SECTION.

14 REVISOR'S NOTE: Subsections (a)(1), (3), and (4) and (b) through (h) of this
15 section are new language derived without substantive change from former
16 Art. 83C, § 2-134.

17 Subsection (a)(2) of this section is new language added to avoid repetition
18 of the full reference to a "county board of education" and to conform to the
19 definition of "county board" in ED § 1-101.

20 In subsection (c) of this section, the phrase "during the summer" is
21 substituted for the former phrase "in the summer months" for clarity and
22 brevity.

23 In subsection (e)(2)(i) of this section, the former reference to summer
24 "months" is deleted as surplusage.

25 In subsection (e)(3)(ii) of this section, the reference to any changes "to the
26 proposal" is added for clarity.

27 Also in subsection (e)(3)(ii) of this section, the reference to the "person that
28 submitted the proposal" is substituted for the former reference to the
29 "requesting party" for clarity and for consistency within this section.

30 In subsection (f)(1)(i) of this section, the former reference to curriculum
31 and activities for "the benefit of" children is deleted as unnecessary in
32 light of the reference to curriculum and activities "for children".

33 In subsection (g)(1) of this section, the authority of the Governor to include
34 funds to "carry out" this section is substituted for the former authority of
35 the Governor to "accomplish the purposes of" this section for clarity.

1 Also in subsection (g)(1) of this section, the former reference to “[f]iscal
2 year 2004 and each succeeding fiscal year” is deleted as obsolete.

3 Defined term: “Department” § 9–101

4 GENERAL REVISOR’S NOTE TO SUBTITLE:

5 Former Art. 83C, § 2–119.1, which created the Charles H. Hickey, Jr. School
6 Citizen’s Advisory Committee, and which terminated July 1, 1991, is deleted as
7 obsolete.

8 SUBTITLE 3. INTERSTATE COMPACT ON JUVENILES.

9 9–301. FINDINGS; POLICY; DEFINITION.

10 (A) FINDINGS.

11 THE GENERAL ASSEMBLY FINDS THAT:

12 (1) JUVENILES WHO ARE NOT UNDER PROPER SUPERVISION AND
13 CONTROL OR WHO ABSCOND, ESCAPE, OR RUN AWAY ARE LIKELY TO ENDANGER THE
14 HEALTH, MORALS, AND WELFARE OF THEMSELVES AND OTHERS; AND

15 (2) COOPERATION OF THIS STATE WITH OTHER STATES IS NECESSARY
16 TO PROVIDE FOR THE WELFARE AND PROTECTION OF JUVENILES AND OF THE
17 PEOPLE OF THIS STATE.

18 (B) POLICY.

19 IT IS THE POLICY OF THIS STATE, IN ADOPTING THE INTERSTATE COMPACT ON
20 JUVENILES, TO COOPERATE FULLY WITH OTHER STATES IN ACCORDANCE WITH THE
21 COMPACT:

22 (1) TO RETURN JUVENILES TO OTHER STATES IF THEIR RETURN IS
23 SOUGHT; AND

24 (2) TO INITIATE PROCEEDINGS FOR THE RETURN OF A JUVENILE AND
25 ACCEPT THE RETURN OF A JUVENILE, IF A JUVENILE RESIDING IN THIS STATE IS
26 FOUND OR APPREHENDED IN ANOTHER STATE.

27 (C) DEFINITION OF “PERSON”.

28 (1) IN THIS SUBTITLE, “PERSON” MEANS AN INDIVIDUAL.

29 (2) “PERSON” DOES NOT INCLUDE A RECEIVER, TRUSTEE, GUARDIAN,
30 PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND,
31 PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 83C, § 3–101.

1 In subsection (c) of this section, the definition of the term “person” is
2 substituted for former Art. 83C, § 3–101(c), which provided that the
3 “definitions of the word ‘person’ in § 1–101 of this article and Art. 1, § 15 of
4 the Code do not apply to this title”, for clarity.

5 As to the general policy of the Human Services Article Review Committee
6 concerning changes to interstate compacts, *see* General Revisor’s Note to
7 subtitle.

8 Defined term: “State” § 9–303

9 9–302. EXECUTION OF COMPACT, ADDITIONAL ARTICLE, AND AMENDMENTS.

10 ON BEHALF OF THIS STATE, THE GOVERNOR SHALL EXECUTE WITH ANY OTHER
11 STATE OR STATES LEGALLY JOINING IN IT:

12 (1) AN INTERSTATE COMPACT ON JUVENILES SUBSTANTIALLY AS IT
13 APPEARS IN § 9–303 OF THIS SUBTITLE;

14 (2) AN ADDITIONAL ARTICLE TO THE COMPACT SUBSTANTIALLY AS IT
15 APPEARS IN § 9–304 OF THIS SUBTITLE; AND

16 (3) AMENDMENTS TO THE COMPACT SUBSTANTIALLY AS THEY APPEAR
17 IN § 9–305 OF THIS SUBTITLE.

18 REVISOR’S NOTE: This section formerly was Art. 83C, § 3–102.

19 The only changes are in style and cross–references.

20 Defined term: “State” § 9–303

21 9–303. INTERSTATE COMPACT ON JUVENILES.

22 THE CONTRACTING STATES SOLEMNLY AGREE:

23 ARTICLE I — FINDINGS AND PURPOSES

24 THAT JUVENILES WHO ARE NOT UNDER PROPER SUPERVISION AND CONTROL,
25 OR WHO HAVE ABSCONDED, ESCAPED, OR RUN AWAY, ARE LIKELY TO ENDANGER
26 THEIR OWN HEALTH, MORALS, AND WELFARE, AND THE HEALTH, MORALS, AND
27 WELFARE OF OTHERS. THE COOPERATION OF THE STATES PARTY TO THIS COMPACT
28 IS THEREFORE NECESSARY TO PROVIDE FOR THE WELFARE AND PROTECTION OF
29 JUVENILES AND OF THE PUBLIC WITH RESPECT TO (1) COOPERATIVE SUPERVISION
30 OF DELINQUENT JUVENILES ON PROBATION OR PAROLE; (2) THE RETURN, FROM ONE
31 STATE TO ANOTHER, OF DELINQUENT JUVENILES WHO HAVE ESCAPED OR
32 ABSCONDED; (3) THE RETURN, FROM ONE STATE TO ANOTHER, OF NON–DELINQUENT
33 JUVENILES WHO HAVE RUN AWAY FROM HOME; AND (4) ADDITIONAL MEASURES FOR
34 THE PROTECTION OF JUVENILES AND OF THE PUBLIC, WHICH ANY TWO OR MORE OF
35 THE PARTY STATES MAY FIND DESIRABLE TO UNDERTAKE COOPERATIVELY. IN
36 CARRYING OUT THE PROVISIONS OF THIS COMPACT THE PARTY STATES SHALL BE

1 GUIDED BY THE NONCRIMINAL, REFORMATIVE, AND PROTECTIVE POLICIES WHICH
2 GUIDE THEIR LAWS CONCERNING DELINQUENT, NEGLECTED, OR DEPENDENT
3 JUVENILES GENERALLY. IT SHALL BE THE POLICY OF THE STATES PARTY TO THIS
4 COMPACT TO COOPERATE AND OBSERVE THEIR RESPECTIVE RESPONSIBILITIES FOR
5 THE PROMPT RETURN AND ACCEPTANCE OF JUVENILES AND DELINQUENT
6 JUVENILES WHO BECOME SUBJECT TO THE PROVISIONS OF THIS COMPACT. THE
7 PROVISIONS OF THIS COMPACT SHALL BE REASONABLY AND LIBERALLY CONSTRUED
8 TO ACCOMPLISH THE FOREGOING PURPOSES.

9 ARTICLE II — EXISTING RIGHTS AND REMEDIES

10 THAT ALL REMEDIES AND PROCEDURES PROVIDED BY THIS COMPACT SHALL
11 BE IN ADDITION TO AND NOT IN SUBSTITUTION FOR OTHER RIGHTS, REMEDIES, AND
12 PROCEDURES, AND SHALL NOT BE IN DEROGATION OF PARENTAL RIGHTS AND
13 RESPONSIBILITIES.

14 ARTICLE III — DEFINITIONS

15 THAT, FOR THE PURPOSES OF THIS COMPACT, “DELINQUENT JUVENILE” MEANS
16 ANY JUVENILE WHO HAS BEEN ADJUDGED DELINQUENT AND WHO, AT THE TIME
17 THE PROVISIONS OF THIS COMPACT ARE INVOKED, IS STILL SUBJECT TO THE
18 JURISDICTION OF THE COURT THAT HAS MADE SUCH ADJUDICATION OR TO THE
19 JURISDICTION OR SUPERVISION OF AN AGENCY OR INSTITUTION PURSUANT TO AN
20 ORDER OF SUCH COURT; “PROBATION OR PAROLE” MEANS ANY KIND OF
21 CONDITIONAL RELEASE OF JUVENILES AUTHORIZED UNDER THE LAWS OF THE
22 STATES PARTY HERETO; “COURT” MEANS ANY COURT HAVING JURISDICTION OVER
23 DELINQUENT, NEGLECTED, OR DEPENDENT CHILDREN; “STATE” MEANS ANY STATE,
24 TERRITORY, OR POSSESSIONS OF THE UNITED STATES, THE DISTRICT OF COLUMBIA,
25 AND THE COMMONWEALTH OF PUERTO RICO; AND “RESIDENCE” OR ANY VARIANT
26 THEREOF MEANS A PLACE AT WHICH A HOME OR REGULAR PLACE OF ABODE IS
27 MAINTAINED.

28 ARTICLE IV — RETURN OF RUNAWAYS

29 (A) THAT THE PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO LEGAL
30 CUSTODY OF A JUVENILE WHO HAS NOT BEEN ADJUDGED DELINQUENT BUT WHO
31 HAS RUN AWAY WITHOUT THE CONSENT OF SUCH PARENT, GUARDIAN, PERSON, OR
32 AGENCY MAY PETITION THE APPROPRIATE COURT IN THE DEMANDING STATE FOR
33 THE ISSUANCE OF A REQUISITION FOR THE JUVENILE’S RETURN. THE PETITION
34 SHALL STATE THE NAME AND AGE OF THE JUVENILE, THE NAME OF THE
35 PETITIONER AND THE BASIS OF ENTITLEMENT TO THE JUVENILE’S CUSTODY, THE
36 CIRCUMSTANCES OF THE RUNNING AWAY, THE JUVENILE’S LOCATION IF KNOWN AT
37 THE TIME APPLICATION IS MADE, AND SUCH OTHER FACTS AS MAY TEND TO SHOW
38 THAT THE JUVENILE WHO HAS RUN AWAY IS ENDANGERING THE JUVENILE’S OWN
39 WELFARE OR THE WELFARE OF OTHERS AND IS NOT AN EMANCIPATED MINOR. THE
40 PETITION SHALL BE VERIFIED BY AFFIDAVIT, SHALL BE EXECUTED IN DUPLICATE,
41 AND SHALL BE ACCOMPANIED BY TWO CERTIFIED COPIES OF THE DOCUMENT OR
42 DOCUMENTS ON WHICH THE PETITIONER’S ENTITLEMENT TO THE JUVENILE’S
43 CUSTODY IS BASED, SUCH AS BIRTH CERTIFICATES, LETTERS OF GUARDIANSHIP, OR

1 CUSTODY DECREES. SUCH FURTHER AFFIDAVITS AND OTHER DOCUMENTS AS MAY
2 BE DEEMED PROPER MAY BE SUBMITTED WITH SUCH PETITION. THE JUDGE OF THE
3 COURT TO WHICH THIS APPLICATION IS MADE MAY HOLD A HEARING THEREON TO
4 DETERMINE WHETHER FOR THE PURPOSES OF THIS COMPACT THE PETITIONER IS
5 ENTITLED TO THE LEGAL CUSTODY OF THE JUVENILE, WHETHER OR NOT IT
6 APPEARS THAT THE JUVENILE HAS IN FACT RUN AWAY WITHOUT CONSENT,
7 WHETHER OR NOT THE JUVENILE IS AN EMANCIPATED MINOR, AND WHETHER OR
8 NOT IT IS IN THE BEST INTEREST OF THE JUVENILE TO COMPEL THE JUVENILE'S
9 RETURN TO THE STATE. IF THE JUDGE DETERMINES, EITHER WITH OR WITHOUT A
10 HEARING, THAT THE JUVENILE SHOULD BE RETURNED, THE JUDGE SHALL PRESENT
11 TO THE APPROPRIATE COURT OR TO THE EXECUTIVE AUTHORITY OF THE STATE
12 WHERE THE JUVENILE IS ALLEGED TO BE LOCATED A WRITTEN REQUISITION FOR
13 THE RETURN OF SUCH JUVENILE. SUCH REQUISITION SHALL SET FORTH THE NAME
14 AND AGE OF THE JUVENILE, THE DETERMINATION OF THE COURT THAT THE
15 JUVENILE HAS RUN AWAY WITHOUT THE CONSENT OF A PARENT, GUARDIAN,
16 PERSON, OR AGENCY ENTITLED TO LEGAL CUSTODY, AND THAT IT IS IN THE BEST
17 INTEREST AND FOR THE PROTECTION OF SUCH JUVENILE THAT THE JUVENILE BE
18 RETURNED. IN THE EVENT THAT A PROCEEDING FOR THE ADJUDICATION OF THE
19 JUVENILE AS A DELINQUENT, NEGLECTED, OR DEPENDENT JUVENILE IS PENDING
20 IN THE COURT AT THE TIME WHEN SUCH JUVENILE RUNS AWAY, THE COURT MAY
21 ISSUE A REQUISITION FOR THE RETURN OF SUCH JUVENILE UPON ITS OWN MOTION,
22 REGARDLESS OF THE CONSENT OF THE PARENT, GUARDIAN, PERSON, OR AGENCY
23 ENTITLED TO LEGAL CUSTODY, RECITING THEREIN THE NATURE AND
24 CIRCUMSTANCES OF THE PENDING PROCEEDING. THE REQUISITION SHALL IN
25 EVERY CASE BE EXECUTED IN DUPLICATE AND SHALL BE SIGNED BY THE JUDGE.
26 ONE COPY OF THE REQUISITION SHALL BE FILED WITH THE COMPACT
27 ADMINISTRATOR OF THE DEMANDING STATE, THERE TO REMAIN ON FILE SUBJECT
28 TO THE PROVISIONS OF LAW GOVERNING RECORDS OF SUCH COURT. UPON THE
29 RECEIPT OF A REQUISITION DEMANDING THE RETURN OF A JUVENILE WHO HAS RUN
30 AWAY, THE COURT OR THE EXECUTIVE AUTHORITY TO WHOM THE REQUISITION IS
31 ADDRESSED SHALL ISSUE AN ORDER TO ANY PEACE OFFICER OR OTHER
32 APPROPRIATE PERSON DIRECTING THE PERSON TO TAKE INTO CUSTODY AND
33 DETAIN SUCH JUVENILE. SUCH DETENTION ORDER MUST SUBSTANTIALLY RECITE
34 THE FACTS NECESSARY TO THE VALIDITY OF ITS ISSUANCE HEREUNDER. NO
35 JUVENILE DETAINED UPON SUCH ORDER SHALL BE DELIVERED OVER TO THE
36 OFFICER WHOM THE COURT DEMANDING THE JUVENILE SHALL HAVE APPOINTED
37 TO RECEIVE THE JUVENILE, UNLESS THE JUVENILE SHALL FIRST BE TAKEN
38 FORTHWITH BEFORE A JUDGE OF A COURT IN THE STATE, WHO SHALL INFORM THE
39 JUVENILE OF THE DEMAND MADE FOR THE JUVENILE'S RETURN AND WHO MAY
40 APPOINT COUNSEL OR GUARDIAN AD LITEM FOR THE JUVENILE. IF THE JUDGE OF
41 SUCH COURT SHALL FIND THAT THE REQUISITION IS IN ORDER, THE JUDGE SHALL
42 DELIVER SUCH JUVENILE OVER TO THE OFFICER WHOM THE COURT DEMANDING
43 THE JUVENILE SHALL HAVE APPOINTED TO RECEIVE THE JUVENILE. THE JUDGE,
44 HOWEVER, MAY FIX A REASONABLE TIME TO BE ALLOWED FOR THE PURPOSE OF
45 TESTING THE LEGALITY OF THE PROCEEDING.

46 UPON REASONABLE INFORMATION THAT A PERSON IS A JUVENILE WHO HAS
47 RUN AWAY FROM ANOTHER STATE PARTY TO THIS COMPACT WITHOUT THE
48 CONSENT OF A PARENT, GUARDIAN, PERSON, OR AGENCY ENTITLED TO LEGAL

1 CUSTODY, SUCH JUVENILE MAY BE TAKEN INTO CUSTODY WITHOUT A REQUISITION
2 AND BROUGHT FORTHWITH BEFORE A JUDGE OF THE APPROPRIATE COURT WHO
3 MAY APPOINT COUNSEL OR GUARDIAN AD LITEM FOR SUCH JUVENILE AND WHO
4 SHALL DETERMINE AFTER A HEARING WHETHER SUFFICIENT CAUSE EXISTS TO
5 HOLD THE PERSON, SUBJECT TO THE ORDER OF THE COURT, FOR THE PERSON'S OWN
6 PROTECTION AND WELFARE, FOR SUCH A TIME NOT EXCEEDING 90 DAYS AS WILL
7 ENABLE THE RETURN OF THE PERSON TO ANOTHER STATE PARTY TO THIS COMPACT
8 PURSUANT TO A REQUISITION FOR RETURN FROM A COURT OF THAT STATE. IF, AT
9 THE TIME WHEN A STATE SEEKS THE RETURN OF A JUVENILE WHO HAS RUN AWAY,
10 THERE IS PENDING IN THE STATE WHEREIN THE JUVENILE IS FOUND ANY CRIMINAL
11 CHARGE, OR ANY PROCEEDING TO HAVE THE JUVENILE ADJUDICATED A
12 DELINQUENT JUVENILE FOR AN ACT COMMITTED IN SUCH STATE, OR IF THE
13 JUVENILE IS SUSPECTED OF HAVING COMMITTED WITHIN SUCH STATE A CRIMINAL
14 OFFENSE OR AN ACT OF JUVENILE DELINQUENCY, THE JUVENILE SHALL NOT BE
15 RETURNED WITHOUT THE CONSENT OF SUCH STATE UNTIL DISCHARGED FROM
16 PROSECUTION OR OTHER FORM OF PROCEEDING, IMPRISONMENT, DETENTION, OR
17 SUPERVISION FOR SUCH OFFENSE OR JUVENILE DELINQUENCY. THE DULY
18 ACCREDITED OFFICERS OF ANY STATE PARTY TO THIS COMPACT, UPON THE
19 ESTABLISHMENT OF THEIR AUTHORITY AND THE IDENTITY OF THE JUVENILE BEING
20 RETURNED, SHALL BE PERMITTED TO TRANSPORT SUCH JUVENILE THROUGH ANY
21 AND ALL STATES PARTY TO THIS COMPACT, WITHOUT INTERFERENCE. UPON
22 RETURN TO THE STATE FROM WHICH THE JUVENILE RAN AWAY, THE JUVENILE
23 SHALL BE SUBJECT TO SUCH FURTHER PROCEEDINGS AS MAY BE APPROPRIATE
24 UNDER THE LAWS OF THAT STATE.

25 (B) THAT THE STATE TO WHICH A JUVENILE IS RETURNED UNDER THIS
26 ARTICLE SHALL BE RESPONSIBLE FOR PAYMENT OF THE TRANSPORTATION COSTS
27 OF SUCH RETURN.

28 (C) THAT "JUVENILE" AS USED IN THIS ARTICLE MEANS ANY PERSON WHO IS
29 A MINOR UNDER THE LAW OF THE STATE OF RESIDENCE OF THE PARENT, GUARDIAN,
30 PERSON, OR AGENCY ENTITLED TO THE LEGAL CUSTODY OF SUCH MINOR.

31 ARTICLE V — RETURN OF ESCAPEES AND ABSCONDERS

32 (A) THAT THE APPROPRIATE PERSON OR AUTHORITY FROM WHOSE
33 PROBATION OR PAROLE SUPERVISION A DELINQUENT JUVENILE HAS ABSCONDED
34 OR FROM WHOSE INSTITUTIONAL CUSTODY THE DELINQUENT JUVENILE HAS
35 ESCAPED SHALL PRESENT TO THE APPROPRIATE COURT OR TO THE EXECUTIVE
36 AUTHORITY OF THE STATE WHERE THE DELINQUENT JUVENILE IS ALLEGED TO BE
37 LOCATED, A WRITTEN REQUISITION FOR THE RETURN OF SUCH DELINQUENT
38 JUVENILE. SUCH REQUISITION SHALL STATE THE NAME AND AGE OF THE
39 DELINQUENT JUVENILE, THE PARTICULARS OF THE JUVENILE'S ADJUDICATION AS A
40 DELINQUENT JUVENILE, THE CIRCUMSTANCES OF THE BREACH OF THE TERMS OF
41 PROBATION OR PAROLE OR OF THE JUVENILE'S ESCAPE FROM AN INSTITUTION OR
42 AGENCY VESTED WITH LEGAL CUSTODY OR SUPERVISION, AND THE LOCATION OF
43 SUCH DELINQUENT JUVENILE, IF KNOWN, AT THE TIME THE REQUISITION IS MADE.
44 THE REQUISITION SHALL BE VERIFIED BY AFFIDAVIT, SHALL BE EXECUTED IN
45 DUPLICATE, AND SHALL BE ACCOMPANIED BY TWO CERTIFIED COPIES OF THE

1 JUDGMENT, FORMAL ADJUDICATION, OR ORDER OF COMMITMENT WHICH SUBJECTS
2 SUCH DELINQUENT JUVENILE TO PROBATION OR PAROLE OR TO THE LEGAL
3 CUSTODY OF THE INSTITUTION OR AGENCY CONCERNED. SUCH FURTHER
4 AFFIDAVITS AND OTHER DOCUMENTS AS MAY BE DEEMED PROPER MAY BE
5 SUBMITTED WITH SUCH REQUISITION. ONE COPY OF THE REQUISITION SHALL BE
6 FILED WITH THE COMPACT ADMINISTRATOR OF THE DEMANDING STATE, THERE TO
7 REMAIN ON FILE SUBJECT TO THE PROVISIONS OF LAW GOVERNING RECORDS OF
8 THE APPROPRIATE COURT. UPON THE RECEIPT OF A REQUISITION DEMANDING THE
9 RETURN OF A DELINQUENT JUVENILE WHO HAS ABSCONDED OR ESCAPED, THE
10 COURT OR THE EXECUTIVE AUTHORITY TO WHOM THE REQUISITION IS ADDRESSED
11 SHALL ISSUE AN ORDER TO ANY PEACE OFFICER OR OTHER APPROPRIATE PERSON
12 DIRECTING THE PERSON TO TAKE INTO CUSTODY AND DETAIN SUCH DELINQUENT
13 JUVENILE. SUCH DETENTION ORDER MUST SUBSTANTIALLY RECITE THE FACTS
14 NECESSARY TO THE VALIDITY OF ITS ISSUANCE HEREUNDER. NO DELINQUENT
15 JUVENILE DETAINED UPON SUCH ORDER SHALL BE DELIVERED OVER TO THE
16 OFFICER WHOM THE APPROPRIATE PERSON OR AUTHORITY DEMANDING THE
17 JUVENILE SHALL HAVE APPOINTED TO RECEIVE THE JUVENILE, UNLESS THE
18 JUVENILE SHALL FIRST BE TAKEN FORTHWITH BEFORE A JUDGE OF AN
19 APPROPRIATE COURT IN THE STATE, WHO SHALL INFORM THE JUVENILE OF THE
20 DEMAND MADE FOR THE JUVENILE'S RETURN AND WHO MAY APPOINT COUNSEL OR
21 GUARDIAN AD LITEM FOR THE JUVENILE. IF THE JUDGE OF SUCH COURT SHALL
22 FIND THAT THE REQUISITION IS IN ORDER, THE JUDGE SHALL DELIVER SUCH
23 DELINQUENT JUVENILE OVER TO THE OFFICER WHOM THE APPROPRIATE PERSON
24 OR AUTHORITY DEMANDING THE JUVENILE SHALL HAVE APPOINTED TO RECEIVE
25 THE JUVENILE. THE JUDGE, HOWEVER, MAY FIX A REASONABLE TIME TO BE
26 ALLOWED FOR THE PURPOSE OF TESTING THE LEGALITY OF THE PROCEEDING.

27 UPON REASONABLE INFORMATION THAT A PERSON IS A DELINQUENT
28 JUVENILE WHO HAS ABSCONDED WHILE ON PROBATION OR PAROLE, OR ESCAPED
29 FROM AN INSTITUTION OR AGENCY VESTED WITH LEGAL CUSTODY OR SUPERVISION
30 IN ANY STATE PARTY TO THIS COMPACT, SUCH PERSON MAY BE TAKEN INTO
31 CUSTODY IN ANY OTHER STATE PARTY TO THIS COMPACT WITHOUT A REQUISITION.
32 BUT IN SUCH EVENT, THE PERSON MUST BE TAKEN FORTHWITH BEFORE A JUDGE OF
33 THE APPROPRIATE COURT, WHO MAY APPOINT COUNSEL OR GUARDIAN AD LITEM
34 FOR SUCH PERSON AND WHO SHALL DETERMINE, AFTER A HEARING, WHETHER
35 SUFFICIENT CAUSE EXISTS TO HOLD THE PERSON SUBJECT TO THE ORDER OF THE
36 COURT FOR SUCH A TIME, NOT EXCEEDING 90 DAYS, AS WILL ENABLE DETENTION OF
37 THE PERSON UNDER A DETENTION ORDER ISSUED ON A REQUISITION PURSUANT TO
38 THIS ARTICLE. IF, AT THE TIME WHEN A STATE SEEKS THE RETURN OF A
39 DELINQUENT JUVENILE WHO HAS EITHER ABSCONDED WHILE ON PROBATION OR
40 PAROLE OR ESCAPED FROM AN INSTITUTION OR AGENCY VESTED WITH LEGAL
41 CUSTODY OR SUPERVISION, THERE IS PENDING IN THE STATE WHEREIN THE
42 DELINQUENT JUVENILE IS DETAINED ANY CRIMINAL CHARGE OR ANY PROCEEDING
43 TO HAVE THE JUVENILE ADJUDICATED A DELINQUENT JUVENILE FOR AN ACT
44 COMMITTED IN SUCH STATE, OR IF THE JUVENILE IS SUSPECTED OF HAVING
45 COMMITTED WITHIN SUCH STATE A CRIMINAL OFFENSE OR AN ACT OF JUVENILE
46 DELINQUENCY, THE JUVENILE SHALL NOT BE RETURNED WITHOUT THE CONSENT
47 OF SUCH STATE UNTIL DISCHARGED FROM PROSECUTION OR OTHER FORM OF
48 PROCEEDING, IMPRISONMENT, DETENTION, OR SUPERVISION FOR SUCH OFFENSE

1 OR JUVENILE DELINQUENCY. THE DULY ACCREDITED OFFICERS OF ANY STATE
2 PARTY TO THIS COMPACT, UPON THE ESTABLISHMENT OF THEIR AUTHORITY AND
3 THE IDENTITY OF THE DELINQUENT JUVENILE BEING RETURNED, SHALL BE
4 PERMITTED TO TRANSPORT SUCH DELINQUENT JUVENILE THROUGH ANY AND ALL
5 STATES PARTY TO THIS COMPACT, WITHOUT INTERFERENCE. UPON RETURN TO THE
6 STATE FROM WHICH THE DELINQUENT JUVENILE ESCAPED OR ABSCONDED, THE
7 DELINQUENT JUVENILE SHALL BE SUBJECT TO SUCH FURTHER PROCEEDINGS AS
8 MAY BE APPROPRIATE UNDER THE LAWS OF THAT STATE.

9 (B) THAT THE STATE TO WHICH A DELINQUENT JUVENILE IS RETURNED
10 UNDER THIS ARTICLE SHALL BE RESPONSIBLE FOR THE PAYMENT OF THE
11 TRANSPORTATION COSTS OF SUCH RETURN.

12 ARTICLE VI — VOLUNTARY RETURN PROCEDURE

13 THAT ANY DELINQUENT JUVENILE WHO HAS ABSCONDED WHILE ON
14 PROBATION OR PAROLE, OR ESCAPED FROM AN INSTITUTION OR AGENCY VESTED
15 WITH LEGAL CUSTODY OR SUPERVISION IN ANY STATE PARTY TO THIS COMPACT,
16 AND ANY JUVENILE WHO HAS RUN AWAY FROM ANY STATE PARTY TO THIS
17 COMPACT, WHO IS TAKEN INTO CUSTODY WITHOUT A REQUISITION IN ANOTHER
18 STATE PARTY TO THIS COMPACT UNDER THE PROVISIONS OF ARTICLE IV(A) OR OF
19 ARTICLE V(A), MAY CONSENT TO THE IMMEDIATE RETURN TO THE STATE FROM
20 WHICH THE JUVENILE OR DELINQUENT JUVENILE ABSCONDED, ESCAPED, OR RAN
21 AWAY. SUCH CONSENT SHALL BE GIVEN BY THE JUVENILE OR DELINQUENT
22 JUVENILE AND THE JUVENILE'S COUNSEL OR GUARDIAN AD LITEM, IF ANY, BY
23 EXECUTING OR SUBSCRIBING A WRITING, IN THE PRESENCE OF A JUDGE OF THE
24 APPROPRIATE COURT, WHICH STATES THAT THE JUVENILE OR DELINQUENT
25 JUVENILE AND THE JUVENILE'S COUNSEL OR GUARDIAN AD LITEM, IF ANY,
26 CONSENT TO THE RETURN TO THE DEMANDING STATE. BEFORE SUCH CONSENT
27 SHALL BE EXECUTED OR SUBSCRIBED, HOWEVER, THE JUDGE, IN THE PRESENCE OF
28 COUNSEL OR GUARDIAN AD LITEM, IF ANY, SHALL INFORM THE JUVENILE OR
29 DELINQUENT JUVENILE OF THE JUVENILE'S RIGHTS UNDER THIS COMPACT. WHEN
30 THE CONSENT HAS BEEN DULY EXECUTED, IT SHALL BE FORWARDED TO AND FILED
31 WITH THE COMPACT ADMINISTRATOR OF THE STATE IN WHICH THE COURT IS
32 LOCATED AND THE JUDGE SHALL DIRECT THE OFFICER HAVING THE JUVENILE OR
33 DELINQUENT JUVENILE IN CUSTODY TO DELIVER THE JUVENILE OR DELINQUENT
34 JUVENILE TO THE DULY ACCREDITED OFFICER OR OFFICERS OF THE STATE
35 DEMANDING RETURN OF THE JUVENILE OR DELINQUENT JUVENILE, AND SHALL
36 CAUSE TO BE DELIVERED TO SUCH OFFICER OR OFFICERS A COPY OF THE CONSENT.
37 THE COURT MAY, HOWEVER, UPON THE REQUEST OF THE STATE TO WHICH THE
38 JUVENILE OR DELINQUENT JUVENILE IS BEING RETURNED, ORDER THE JUVENILE
39 OR DELINQUENT JUVENILE TO RETURN UNACCOMPANIED TO SUCH STATE AND
40 SHALL PROVIDE THE JUVENILE OR DELINQUENT JUVENILE WITH A COPY OF SUCH
41 COURT ORDER; IN SUCH EVENT A COPY OF THE CONSENT SHALL BE FORWARDED TO
42 THE COMPACT ADMINISTRATOR OF THE STATE TO WHICH SAID JUVENILE OR
43 DELINQUENT JUVENILE IS ORDERED TO RETURN.

1 ARTICLE VII — COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES

2 (A) THAT THE DULY CONSTITUTED JUDICIAL AND ADMINISTRATIVE
3 AUTHORITIES OF A STATE PARTY TO THIS COMPACT (HEREIN CALLED “SENDING
4 STATE”) MAY PERMIT ANY DELINQUENT JUVENILE WITHIN SUCH STATE, PLACED ON
5 PROBATION OR PAROLE, TO RESIDE IN ANY OTHER STATE PARTY TO THIS COMPACT
6 (HEREIN CALLED “RECEIVING STATE”) WHILE ON PROBATION OR PAROLE, AND THE
7 RECEIVING STATE SHALL ACCEPT SUCH DELINQUENT JUVENILE, IF THE PARENT,
8 GUARDIAN, OR PERSON ENTITLED TO THE LEGAL CUSTODY OF SUCH DELINQUENT
9 JUVENILE IS RESIDING OR UNDERTAKES TO RESIDE WITHIN THE RECEIVING STATE.
10 BEFORE GRANTING SUCH PERMISSION, OPPORTUNITY SHALL BE GIVEN TO THE
11 RECEIVING STATE TO MAKE SUCH INVESTIGATIONS AS IT DEEMS NECESSARY. THE
12 AUTHORITIES OF THE SENDING STATE SHALL SEND TO THE AUTHORITIES OF THE
13 RECEIVING STATE COPIES OF PERTINENT COURT ORDERS, SOCIAL CASE STUDIES,
14 AND ALL OTHER AVAILABLE INFORMATION WHICH MAY BE OF VALUE TO AND ASSIST
15 THE RECEIVING STATE IN SUPERVISING A PROBATIONER OR PAROLEE UNDER THIS
16 COMPACT. A RECEIVING STATE, IN ITS DISCRETION, MAY AGREE TO ACCEPT
17 SUPERVISION OF A PROBATIONER OR PAROLEE IN CASES WHERE THE PARENT,
18 GUARDIAN, OR PERSON ENTITLED TO THE LEGAL CUSTODY OF THE DELINQUENT
19 JUVENILE IS NOT A RESIDENT OF THE RECEIVING STATE, AND IF SO ACCEPTED THE
20 SENDING STATE MAY TRANSFER SUPERVISION ACCORDINGLY.

21 (B) THAT EACH RECEIVING STATE WILL ASSUME THE DUTIES OF VISITATION
22 AND OF SUPERVISION OVER ANY SUCH DELINQUENT JUVENILE AND IN THE
23 EXERCISE OF THOSE DUTIES WILL BE GOVERNED BY THE SAME STANDARDS OF
24 VISITATION AND SUPERVISION THAT PREVAIL FOR ITS OWN DELINQUENT
25 JUVENILES RELEASED ON PROBATION OR PAROLE.

26 (C) THAT, AFTER CONSULTATION BETWEEN THE APPROPRIATE AUTHORITIES
27 OF THE SENDING STATE AND OF THE RECEIVING STATE AS TO THE DESIRABILITY
28 AND NECESSITY OF RETURNING SUCH A DELINQUENT JUVENILE, THE DULY
29 ACCREDITED OFFICERS OF A SENDING STATE MAY ENTER A RECEIVING STATE AND
30 THERE APPREHEND AND RETAKE ANY SUCH DELINQUENT JUVENILE ON PROBATION
31 OR PAROLE. FOR THAT PURPOSE, NO FORMALITIES WILL BE REQUIRED, OTHER THAN
32 ESTABLISHING THE AUTHORITY OF THE OFFICER AND THE IDENTITY OF THE
33 DELINQUENT JUVENILE TO BE RETAKEN AND RETURNED. THE DECISION OF THE
34 SENDING STATE TO RETAKE A DELINQUENT JUVENILE ON PROBATION OR PAROLE
35 SHALL BE CONCLUSIVE UPON AND NOT REVIEWABLE WITHIN THE RECEIVING
36 STATE, BUT IF, AT THE TIME THE SENDING STATE SEEKS TO RETAKE A DELINQUENT
37 JUVENILE ON PROBATION OR PAROLE, THERE IS PENDING AGAINST THE
38 DELINQUENT JUVENILE WITHIN THE RECEIVING STATE ANY CRIMINAL CHARGE OR
39 ANY PROCEEDING TO HAVE THE DELINQUENT JUVENILE ADJUDICATED A
40 DELINQUENT JUVENILE FOR ANY ACT COMMITTED IN SUCH STATE OR IF THE
41 DELINQUENT JUVENILE IS SUSPECTED OF HAVING COMMITTED WITHIN SUCH STATE
42 A CRIMINAL OFFENSE OR ANY ACT OF JUVENILE DELINQUENCY, THE DELINQUENT
43 JUVENILE SHALL NOT BE RETURNED WITHOUT THE CONSENT OF THE RECEIVING
44 STATE UNTIL DISCHARGED FROM PROSECUTION OR OTHER FORM OF PROCEEDING,
45 IMPRISONMENT, DETENTION, OR SUPERVISION FOR SUCH OFFENSE OR JUVENILE
46 DELINQUENCY. THE DULY ACCREDITED OFFICERS OF THE SENDING STATE SHALL BE

1 PERMITTED TO TRANSPORT DELINQUENT JUVENILES BEING SO RETURNED
2 THROUGH ANY AND ALL STATES PARTY TO THIS COMPACT, WITHOUT
3 INTERFERENCE.

4 (D) THAT THE SENDING STATE SHALL BE RESPONSIBLE UNDER THIS ARTICLE
5 FOR PAYING THE COSTS OF TRANSPORTING ANY DELINQUENT JUVENILE TO THE
6 RECEIVING STATE OR OF RETURNING ANY DELINQUENT JUVENILE TO THE SENDING
7 STATE.

8 ARTICLE VIII — RESPONSIBILITY FOR COSTS

9 (A) THAT THE PROVISIONS OF ARTICLES IV(B), V(B), AND VII(D) OF THIS
10 COMPACT SHALL NOT BE CONSTRUED TO ALTER OR AFFECT ANY INTERNAL
11 RELATIONSHIP AMONG THE DEPARTMENTS, AGENCIES, AND OFFICERS OF AND IN
12 THE GOVERNMENT OF A PARTY STATE, OR BETWEEN A PARTY STATE AND ITS
13 SUBDIVISIONS, AS TO THE PAYMENT OF COSTS, OR RESPONSIBILITIES THEREFOR.

14 (B) THAT NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PREVENT
15 ANY PARTY STATE OR SUBDIVISION THEREOF FROM ASSERTING ANY RIGHT AGAINST
16 ANY PERSON, AGENCY, OR OTHER ENTITY IN REGARD TO COSTS FOR WHICH SUCH
17 PARTY STATE OR SUBDIVISION THEREOF MAY BE RESPONSIBLE PURSUANT TO
18 ARTICLES IV(B), V(B), OR VII(D) OF THIS COMPACT.

19 ARTICLE IX — DETENTION PRACTICES

20 THAT, TO EVERY EXTENT POSSIBLE, IT SHALL BE THE POLICY OF STATES PARTY
21 TO THIS COMPACT THAT NO JUVENILE OR DELINQUENT JUVENILE SHALL BE
22 PLACED OR DETAINED IN ANY PRISON, JAIL, OR LOCKUP NOR BE DETAINED OR
23 TRANSPORTED IN ASSOCIATION WITH CRIMINAL, VICIOUS, OR DISSOLUTE PERSONS.

24 ARTICLE X — SUPPLEMENTARY AGREEMENTS

25 THAT THE DULY CONSTITUTED ADMINISTRATIVE AUTHORITIES OF A STATE
26 PARTY TO THIS COMPACT MAY ENTER INTO SUPPLEMENTARY AGREEMENTS WITH
27 ANY OTHER STATE OR STATES PARTY HERETO FOR THE COOPERATIVE CARE,
28 TREATMENT, AND REHABILITATION OF DELINQUENT JUVENILES WHENEVER THEY
29 SHALL FIND THAT SUCH AGREEMENTS WILL IMPROVE THE FACILITIES OR
30 PROGRAMS AVAILABLE FOR SUCH CARE, TREATMENT, AND REHABILITATION. SUCH
31 CARE, TREATMENT, AND REHABILITATION MAY BE PROVIDED IN AN INSTITUTION
32 LOCATED WITHIN ANY STATE ENTERING INTO SUCH SUPPLEMENTARY AGREEMENT.
33 SUCH SUPPLEMENTARY AGREEMENTS SHALL (1) PROVIDE THE RATES TO BE PAID
34 FOR THE CARE, TREATMENT, AND CUSTODY OF SUCH DELINQUENT JUVENILES,
35 TAKING INTO CONSIDERATION THE CHARACTER OF FACILITIES, SERVICES, AND
36 SUBSISTENCE FURNISHED; (2) PROVIDE THAT THE DELINQUENT JUVENILE SHALL BE
37 GIVEN A COURT HEARING PRIOR TO BEING SENT TO ANOTHER STATE FOR CARE,
38 TREATMENT, AND CUSTODY; (3) PROVIDE THAT THE STATE RECEIVING SUCH A
39 DELINQUENT JUVENILE IN ONE OF ITS INSTITUTIONS SHALL ACT SOLELY AS AGENT
40 FOR THE STATE SENDING SUCH DELINQUENT JUVENILE; (4) PROVIDE THAT THE
41 SENDING STATE SHALL AT ALL TIMES RETAIN JURISDICTION OVER DELINQUENT

1 JUVENILES SENT TO AN INSTITUTION IN ANOTHER STATE; (5) PROVIDE FOR
2 REASONABLE INSPECTION OF SUCH INSTITUTIONS BY THE SENDING STATE; (6)
3 PROVIDE THAT THE CONSENT OF THE PARENT, GUARDIAN, PERSON, OR AGENCY
4 ENTITLED TO THE LEGAL CUSTODY OF SAID DELINQUENT JUVENILE SHALL BE
5 SECURED PRIOR TO THE DELINQUENT JUVENILE BEING SENT TO ANOTHER STATE;
6 AND (7) MAKE PROVISION FOR SUCH OTHER MATTERS AND DETAILS AS SHALL BE
7 NECESSARY TO PROTECT THE RIGHTS AND EQUITIES OF SUCH DELINQUENT
8 JUVENILES AND OF THE COOPERATING STATES.

9 ARTICLE XI — ACCEPTANCE OF FEDERAL AND OTHER AID

10 THAT ANY STATE PARTY TO THIS COMPACT MAY ACCEPT ANY AND ALL
11 DONATIONS, GIFTS, AND GRANTS OF MONEY, EQUIPMENT, AND SERVICES FROM THE
12 FEDERAL OR ANY LOCAL GOVERNMENT, OR ANY AGENCY THEREOF AND FROM ANY
13 PERSON, FIRM, OR CORPORATION, FOR ANY OF THE PURPOSES AND FUNCTIONS OF
14 THIS COMPACT, AND MAY RECEIVE AND UTILIZE, THE SAME SUBJECT TO THE TERMS,
15 CONDITIONS, AND REGULATIONS GOVERNING SUCH DONATIONS, GIFTS, AND
16 GRANTS.

17 ARTICLE XII — COMPACT ADMINISTRATORS

18 THAT THE GOVERNOR OF EACH STATE PARTY TO THIS COMPACT SHALL
19 DESIGNATE AN OFFICER WHO, ACTING JOINTLY WITH LIKE OFFICERS OF OTHER
20 PARTY STATES, SHALL PROMULGATE RULES AND REGULATIONS TO CARRY OUT
21 MORE EFFECTIVELY THE TERMS AND PROVISIONS OF THIS COMPACT.

22 ARTICLE XIII — EXECUTION OF COMPACT

23 THAT THIS COMPACT SHALL BECOME OPERATIVE IMMEDIATELY UPON ITS
24 EXECUTION BY ANY STATE AS BETWEEN IT AND ANY OTHER STATE OR STATES SO
25 EXECUTING. WHEN EXECUTED IT SHALL HAVE THE FULL FORCE AND EFFECT OF
26 LAW WITHIN SUCH STATE, THE FORM OR EXECUTION TO BE IN ACCORDANCE WITH
27 THE LAWS OF THE EXECUTING STATE.

28 ARTICLE XIV — RENUNCIATION

29 THAT THIS COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON
30 EACH EXECUTING STATE UNTIL RENOUNCED BY IT. RENUNCIATION OF THIS
31 COMPACT SHALL BE BY THE SAME AUTHORITY WHICH EXECUTED IT, BY SENDING
32 SIX MONTHS NOTICE IN WRITING OF ITS INTENTION TO WITHDRAW FROM THE
33 COMPACT TO THE OTHER STATES PARTY HERETO. THE DUTIES AND OBLIGATIONS OF
34 A RENOUNCING STATE UNDER ARTICLE VII HEREOF SHALL CONTINUE AS TO
35 PAROLEES AND PROBATIONERS RESIDING THEREIN AT THE TIME OF WITHDRAWAL
36 UNTIL RETAKEN OR FINALLY DISCHARGED. SUPPLEMENTARY AGREEMENTS
37 ENTERED INTO UNDER ARTICLE X HEREOF SHALL BE SUBJECT TO RENUNCIATION AS
38 PROVIDED BY SUCH SUPPLEMENTARY AGREEMENTS, AND SHALL NOT BE SUBJECT
39 TO THE SIX MONTHS' RENUNCIATION NOTICE OF THE PRESENT ARTICLE.

ARTICLE XV — SEVERABILITY

1
2 THAT THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY
3 PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS COMPACT IS DECLARED TO BE
4 CONTRARY TO THE CONSTITUTION OF ANY PARTICIPATING STATE OR OF THE
5 UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY,
6 PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER
7 OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT,
8 AGENCY, PERSON, OR CIRCUMSTANCES SHALL NOT BE AFFECTED THEREBY. IF THIS
9 COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE
10 PARTICIPATING THEREIN, THE COMPACT SHALL REMAIN IN FULL FORCE AND
11 EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE
12 STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

13 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–103.

14 In Articles IV(a), V(a), VI, VII(c), and X of this section, gender neutral
15 terms are substituted for the former references to “his”, “he”, and “him”
16 because SG § 2–1238 requires the use of words that are neutral as to
17 gender to the extent practicable. *See* General Revisor's Note to subtitle.

18 The only other changes are in style.

19 9–304. ADDITIONAL ARTICLE TO COMPACT.

ARTICLE XVI — ADDITIONAL ARTICLE

21 THAT THIS ARTICLE SHALL PROVIDE ADDITIONAL REMEDIES, AND SHALL BE
22 BINDING ONLY AS AMONG AND BETWEEN THOSE PARTY STATES WHICH
23 SPECIFICALLY EXECUTE THE SAME.

24 FOR THE PURPOSES OF THIS ARTICLE, “CHILD,” AS USED HEREIN, MEANS ANY
25 MINOR WITHIN THE JURISDICTIONAL AGE LIMITS OF ANY COURT IN THE HOME
26 STATE, AND IN THIS STATE MEANS ANY PERSON UNDER EIGHTEEN YEARS OF AGE.

27 WHEN ANY CHILD IS BROUGHT BEFORE A COURT OF A STATE OF WHICH SUCH
28 CHILD IS NOT A RESIDENT, AND SUCH STATE IS WILLING TO PERMIT SUCH CHILD'S
29 RETURN TO THE HOME STATE OF SUCH CHILD, SUCH HOME STATE, UPON BEING SO
30 ADVISED BY THE STATE IN WHICH SUCH PROCEEDING IS PENDING, SHALL
31 IMMEDIATELY INSTITUTE PROCEEDINGS TO DETERMINE THE RESIDENCE AND
32 JURISDICTIONAL FACTS AS TO SUCH CHILD IN SUCH HOME STATE, AND UPON
33 FINDING THAT SUCH CHILD IS IN FACT A RESIDENT OF SAID STATE AND SUBJECT TO
34 THE JURISDICTION OF THE COURT THEREOF, SHALL WITHIN FIVE DAYS AUTHORIZE
35 THE RETURN OF SUCH CHILD TO THE HOME STATE, AND TO THE PARENTS OR
36 CUSTODIAL AGENCY LEGALLY AUTHORIZED TO ACCEPT SUCH CUSTODY IN SUCH
37 HOME STATE, AND AT THE EXPENSE OF SUCH HOME STATE, TO BE PAID FROM SUCH
38 FUNDS AS SUCH HOME STATE MAY PROCURE, DESIGNATE, OR PROVIDE, PROMPT
39 ACTION BEING OF THE ESSENCE.

40 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–104.

1 No changes are made.

2 Defined terms: "Court" § 9-303

3 "Residence" § 9-303

4 "State" § 9-303

5 9-305. AMENDMENTS TO COMPACT.

6 (A) INTERSTATE RENDITION OF JUVENILES ALLEGED TO BE DELINQUENT.

7 (I) THIS AMENDMENT SHALL PROVIDE ADDITIONAL REMEDIES, AND
8 SHALL BE BINDING ONLY AS AMONG AND BETWEEN THOSE PARTY STATES WHICH
9 SPECIFICALLY EXECUTE THE SAME.

10 (II) ALL PROVISIONS AND PROCEDURES OF ARTICLES V AND VI OF THE
11 INTERSTATE COMPACT ON JUVENILES SHALL BE CONSTRUED TO APPLY TO ANY
12 JUVENILE CHARGED WITH BEING A DELINQUENT BY REASON OF A VIOLATION OF
13 ANY CRIMINAL LAW. ANY JUVENILE CHARGED WITH BEING A DELINQUENT BY
14 REASON OF VIOLATING ANY CRIMINAL LAW, SHALL BE RETURNED TO THE
15 REQUESTING STATE UPON A REQUISITION TO THE STATE WHERE THE JUVENILE
16 MAY BE FOUND. A PETITION IN SUCH CASE SHALL BE FILED IN A COURT OF
17 COMPETENT JURISDICTION IN THE REQUESTING STATE WHERE THE VIOLATION OF
18 CRIMINAL LAW IS ALLEGED TO HAVE BEEN COMMITTED. THE PETITION MAY BE
19 FILED REGARDLESS OF WHETHER THE JUVENILE HAS LEFT THE STATE BEFORE OR
20 AFTER THE FILING OF THE PETITION. THE REQUISITION DESCRIBED IN ARTICLE V
21 OF THE COMPACT SHALL BE FORWARDED BY THE JUDGE OF THE COURT IN WHICH
22 THE PETITION HAS BEEN FILED.

23 (B) OUT-OF-STATE CONFINEMENT OF JUVENILES.

24 (I) WHENEVER THE DULY CONSTITUTED JUDICIAL OR ADMINISTRATIVE
25 AUTHORITIES IN A SENDING STATE SHALL DETERMINE THAT CONFINEMENT OF A
26 PROBATIONER OR RECONFINEMENT OF A PAROLEE IS NECESSARY OR DESIRABLE,
27 SAID OFFICIALS MAY DIRECT THAT THE CONFINEMENT OR RECONFINEMENT BE IN
28 AN APPROPRIATE INSTITUTION FOR DELINQUENT JUVENILES WITHIN THE
29 TERRITORY OF THE RECEIVING STATE, SUCH RECEIVING STATE TO ACT IN THAT
30 REGARD SOLELY AS AGENT FOR THE SENDING STATE.

31 (II) ESCAPEES AND ABSCONDERS WHO WOULD OTHERWISE BE
32 RETURNED PURSUANT TO ARTICLE V OF THE COMPACT MAY BE CONFINED OR
33 RECONFINED IN THE RECEIVING STATE PURSUANT TO THIS AMENDMENT. IN ANY
34 SUCH CASE THE INFORMATION AND ALLEGATIONS REQUIRED TO BE MADE AND
35 FURNISHED IN A REQUISITION PURSUANT TO SUCH ARTICLE SHALL BE MADE AND
36 FURNISHED, BUT IN PLACE OF THE DEMAND PURSUANT TO ARTICLE V, THE SENDING
37 STATE SHALL REQUEST CONFINEMENT OR RECONFINEMENT IN THE RECEIVING
38 STATE. WHENEVER APPLICABLE, DETENTION ORDERS AS PROVIDED IN ARTICLE V
39 MAY BE EMPLOYED PURSUANT TO THIS PARAGRAPH PRELIMINARY TO DISPOSITION
40 OF THE ESCAPEE OR ABSCONDER.

1 (III) THE CONFINEMENT OR RECONFINEMENT OF A PAROLEE,
2 PROBATIONER, ESCAPEE, OR ABSCONDER PURSUANT TO THIS AMENDMENT SHALL
3 REQUIRE THE CONCURRENCE OF THE APPROPRIATE JUDICIAL OR ADMINISTRATIVE
4 AUTHORITIES OF THE RECEIVING STATE.

5 (IV) AS USED IN THIS AMENDMENT, (1) "SENDING STATE" MEANS
6 SENDING STATE AS THAT TERM IS USED IN ARTICLE VII OF THE COMPACT OR THE
7 STATE FROM WHICH A DELINQUENT JUVENILE HAS ESCAPED OR ABSCONDED
8 WITHIN THE MEANING OF ARTICLE V OF THE COMPACT; (2) "RECEIVING STATE"
9 MEANS ANY STATE, OTHER THAN THE SENDING STATE, IN WHICH A PAROLEE,
10 PROBATIONER, ESCAPEE, OR ABSCONDER MAY BE FOUND, PROVIDED THAT SAID
11 STATE IS A PARTY TO THIS AMENDMENT.

12 (V) EVERY STATE WHICH ADOPTS THIS AMENDMENT SHALL DESIGNATE
13 AT LEAST ONE OF ITS INSTITUTIONS FOR DELINQUENT JUVENILES AS A "COMPACT
14 INSTITUTION" AND SHALL CONFINE PERSONS THEREIN AS PROVIDED IN PARAGRAPH
15 (I) HEREOF UNLESS THE SENDING AND RECEIVING STATE IN QUESTION SHALL MAKE
16 SPECIFIC CONTRACTUAL ARRANGEMENTS TO THE CONTRARY. ALL STATES PARTY TO
17 THIS AMENDMENT SHALL HAVE ACCESS TO "COMPACT INSTITUTIONS" AT ALL
18 REASONABLE HOURS FOR THE PURPOSE OF INSPECTING THE FACILITIES THEREOF
19 AND FOR THE PURPOSE OF VISITING SUCH OF SAID STATE'S DELINQUENTS AS MAY
20 BE CONFINED IN THE INSTITUTION.

21 (VI) PERSONS CONFINED IN "COMPACT INSTITUTIONS" PURSUANT TO
22 THE TERMS OF THIS COMPACT SHALL AT ALL TIMES BE SUBJECT TO THE
23 JURISDICTION OF THE SENDING STATE AND MAY AT ANY TIME BE REMOVED FROM
24 SAID "COMPACT INSTITUTION" FOR TRANSFER TO AN APPROPRIATE INSTITUTION
25 WITHIN THE SENDING STATE, FOR RETURN TO PROBATION OR PAROLE, FOR
26 DISCHARGE, OR FOR ANY PURPOSE PERMITTED BY THE LAWS OF THE SENDING
27 STATE.

28 (VII) ALL PERSONS WHO MAY BE CONFINED IN A "COMPACT INSTITUTION"
29 PURSUANT TO THE PROVISIONS OF THIS AMENDMENT SHALL BE TREATED IN A
30 REASONABLE AND HUMANE MANNER. THE FACT OF CONFINEMENT OR
31 RECONFINEMENT IN A RECEIVING STATE SHALL NOT DEPRIVE ANY PERSON SO
32 CONFINED OR RECONFINED OF ANY RIGHTS WHICH SAID PERSON WOULD HAVE HAD
33 IF CONFINED OR RECONFINED IN AN APPROPRIATE INSTITUTION OF THE SENDING
34 STATE; NOR SHALL ANY AGREEMENT TO SUBMIT TO CONFINEMENT OR
35 RECONFINEMENT PURSUANT TO THE TERMS OF THIS AMENDMENT BE CONSTRUED
36 AS A WAIVER OF ANY RIGHTS WHICH THE DELINQUENT WOULD HAVE HAD IF THE
37 DELINQUENT HAD BEEN CONFINED OR RECONFINED IN ANY APPROPRIATE
38 INSTITUTION OF THE SENDING STATE EXCEPT THAT THE HEARING OR HEARINGS, IF
39 ANY, TO WHICH A PAROLEE, PROBATIONER, ESCAPEE, OR ABSCONDER MAY BE
40 ENTITLED (PRIOR TO CONFINEMENT OR RECONFINEMENT) BY THE LAWS OF THE
41 SENDING STATE MAY BE HAD BEFORE THE APPROPRIATE JUDICIAL OR
42 ADMINISTRATIVE OFFICERS OF THE RECEIVING STATE. IN THIS EVENT, SAID
43 JUDICIAL OR ADMINISTRATIVE OFFICERS SHALL ACT AS AGENTS OF THE SENDING
44 STATE AFTER CONSULTATION WITH APPROPRIATE OFFICERS OF THE SENDING
45 STATE.

1 (VIII) ANY RECEIVING STATE INCURRING COSTS OR OTHER EXPENSES
2 UNDER THIS AMENDMENT SHALL BE REIMBURSED IN THE AMOUNT OF SUCH COSTS
3 OR OTHER EXPENSES BY THE SENDING STATE UNLESS THE STATES CONCERNED
4 SHALL SPECIFICALLY OTHERWISE AGREE. ANY TWO OR MORE STATES PARTY TO
5 THIS AMENDMENT MAY ENTER INTO SUPPLEMENTARY AGREEMENTS DETERMINING
6 A DIFFERENT ALLOCATION OF COSTS AS AMONG THEMSELVES.

7 (IX) THIS AMENDMENT SHALL TAKE INITIAL EFFECT WHEN ENTERED
8 INTO BY ANY TWO OR MORE STATES PARTY TO THE COMPACT AND SHALL BE
9 EFFECTIVE AS TO THOSE STATES WHICH HAVE SPECIFICALLY ENACTED THIS
10 AMENDMENT. RULES AND REGULATIONS NECESSARY TO EFFECTUATE THE TERMS
11 OF THIS AMENDMENT MAY BE PROMULGATED BY THE APPROPRIATE OFFICERS OF
12 THOSE STATES WHICH HAVE ENACTED THIS AMENDMENT.

13 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–105.

14 In subsection (b)(vii) of this section, the reference to “the delinquent” is
15 substituted for the former reference to “he” because SG § 2–1238 requires
16 the use of words that are neutral as to gender to the extent practicable. *See*
17 *General Revisor’s Note to subtitle.*

18 The only other changes are in style.

19 9–306. COMPACT ADMINISTRATOR; DUTIES.

20 (A) COMPACT ADMINISTRATOR.

21 IN ACCORDANCE WITH THE INTERSTATE COMPACT ON JUVENILES, THE
22 GOVERNOR SHALL DESIGNATE A COMPACT ADMINISTRATOR, WHO SERVES AT THE
23 PLEASURE OF THE GOVERNOR.

24 (B) DUTIES.

25 (1) ACTING JOINTLY WITH COMPACT ADMINISTRATORS IN OTHER
26 PARTY STATES, THE COMPACT ADMINISTRATOR SHALL ADOPT RULES AND
27 REGULATIONS TO CARRY OUT EFFECTIVELY THE TERMS OF THE COMPACT.

28 (2) TO FACILITATE THE PROPER ADMINISTRATION OF THE COMPACT
29 AND OF ANY SUPPLEMENTARY AGREEMENT ENTERED INTO BY THIS STATE UNDER
30 THE COMPACT, THE COMPACT ADMINISTRATOR SHALL COOPERATE WITH ALL
31 AGENCIES OR OFFICERS OF THIS STATE AND ITS SUBDIVISIONS.

32 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–106.

33 The only changes are in style.

34 Defined term: “State” § 1–101

35 9–307. SUPPLEMENTARY AGREEMENTS WITH OTHER STATES.

36 (A) SUPPLEMENTARY AGREEMENTS.

1 IN ACCORDANCE WITH THE INTERSTATE COMPACT ON JUVENILES, THE
2 COMPACT ADMINISTRATOR MAY ENTER INTO SUPPLEMENTARY AGREEMENTS WITH
3 APPROPRIATE OFFICIALS OF OTHER STATES.

4 (B) APPROVAL FOR USE OF FACILITY.

5 IF A SUPPLEMENTARY AGREEMENT REQUIRES OR CONTEMPLATES THE USE OF
6 AN INSTITUTION OR FACILITY OF THIS STATE OR THE PROVISION OF A SERVICE BY
7 THIS STATE, THE SUPPLEMENTARY AGREEMENT IS NOT EFFECTIVE UNTIL
8 APPROVED BY THE HEAD OF THE AGENCY:

9 (1) WITH JURISDICTION OVER THE INSTITUTION OR FACILITY; OR

10 (2) THAT WILL BE CHARGED WITH PROVIDING THE SERVICE.

11 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–107.

12 The only changes are in style.

13 Defined term: "State" § 1–101

14 9–308. DISCHARGE OF FINANCIAL OBLIGATIONS.

15 WITH THE APPROVAL OF THE GOVERNOR, THE COMPACT ADMINISTRATOR MAY
16 MAKE OR ARRANGE FOR ANY PAYMENT NECESSARY TO DISCHARGE A FINANCIAL
17 OBLIGATION IMPOSED ON THIS STATE BY THE INTERSTATE COMPACT ON JUVENILES
18 OR BY A SUPPLEMENTARY AGREEMENT ENTERED INTO UNDER THE COMPACT.

19 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–108.

20 The only changes are in style.

21 9–309. ENFORCEMENT OF COMPACT.

22 EACH COURT, AGENCY, AND OFFICER OF THIS STATE AND ITS SUBDIVISIONS
23 SHALL:

24 (1) ENFORCE THE INTERSTATE COMPACT ON JUVENILES; AND

25 (2) WITHIN ITS RESPECTIVE JURISDICTION, DO EVERYTHING
26 APPROPRIATE TO CARRY OUT ITS PURPOSES AND INTENT.

27 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–109.

28 No changes are made.

29 9–310. ADDITIONAL PROCEDURES FOR RETURN OF RUNAWAY JUVENILE.

30 IN ADDITION TO ANY PROCEDURE PROVIDED IN ARTICLES IV AND VI OF THE
31 INTERSTATE COMPACT ON JUVENILES FOR THE RETURN OF A RUNAWAY JUVENILE,
32 THE STATE, THE JUVENILE, THE JUVENILE'S PARENTS, THE COURTS, OR OTHER

1 LEGAL CUSTODIAN INVOLVED MAY AGREE TO AND ADOPT ANY OTHER PLAN OR
2 PROCEDURE AUTHORIZED UNDER THE LAWS OF THIS STATE AND THE LAWS OF THE
3 OTHER RESPECTIVE PARTY STATES FOR THE RETURN OF A RUNAWAY JUVENILE.

4 REVISOR'S NOTE: This section formerly was Art. 83C, § 3–110.

5 The only changes are in style.

6 Defined term: "State" § 1–101

7 GENERAL REVISOR'S NOTE TO SUBTITLE:

8 In revising the various articles of the Annotated Code, it was the usual practice
9 of the former Commission to Revise the Annotated Code and article review
10 committees to make very few, if any, changes to compacts. The Human Services
11 Article Review Committee has made only minor technical and stylistic changes to the
12 Interstate Compact on Juveniles, which comprises this subtitle. These changes
13 include making minor changes to conform to current drafting conventions and
14 deleting pronouns that are not neutral as to gender. These changes do not affect the
15 substance of the Compact. Also, to conform to current code revision drafting
16 conventions, catchlines have been added to sections and subsections of sections of this
17 subtitle. These catchlines, however, are not law and the addition of catchlines to this
18 subtitle does not affect the substance of the Compact.

19 The Interstate Compact on Juveniles was promulgated in 1955 and ratified by
20 all 50 states, the District of Columbia, the Virgin Islands, and Guam by 1986. A new
21 compact, the Interstate Compact for Juveniles, was promulgated in 2002. As of
22 September, 2006, the new compact has been adopted in 30 states. The compact will
23 become effective upon legislative enactment by at least 35 jurisdictions. The General
24 Assembly may wish to consider adopting the new compact.

25 SUBTITLE 4. JUVENILE SERVICES FACILITIES CAPITAL PROGRAM.

26 9–401. DEFINITIONS.

27 (A) IN GENERAL.

28 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 83C, § 4–101(a).

31 (B) JUVENILE FACILITY.

32 "JUVENILE FACILITY" MEANS A PROPERTY USED FOR A JUVENILE PROGRAM
33 THAT IS:

34 (1) OPERATED UNDER THE AUTHORITY OF:

35 (I) A COUNTY OR MUNICIPAL CORPORATION, OR BOTH;

1 (II) A FOR PROFIT ORGANIZATION; OR

2 (III) A NONPROFIT ORGANIZATION; AND

3 (2) (I) WHOLLY OWNED BY THE ENTITY DESCRIBED IN PARAGRAPH (1)
4 OF THIS SUBSECTION; OR

5 (II) LEASED BY THE ENTITY IF:

6 1. THE LEASE IS FOR A MINIMUM TERM OF 30 YEARS AFTER
7 COMPLETION OF THE PROJECT OR GIVES THE LESSEE THE RIGHT OF PURCHASE;
8 AND

9 2. THE LESSOR CONSENTS TO THE RECORDING OF A NOTICE
10 OF THE STATE'S RIGHT OF RECOVERY UNDER § 9-405 OF THIS SUBTITLE IN THE LAND
11 RECORDS OF THE COUNTY IN WHICH THE FACILITY IS LOCATED.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 83C, § 4-101(c) and (f).

14 The term "juvenile facility" is substituted for the former term "facility" for
15 clarity.

16 In the introductory language of this subsection, the reference to a juvenile
17 facility as a "property used for a juvenile program" is added for clarity.

18 In item (2)(ii)2 of this subsection, the reference to the "county" is
19 substituted for the former reference to the "political subdivision" because
20 land records are held in each county.

21 Defined terms: "County" § 1-101
22 "Juvenile program" § 9-401

23 (C) JUVENILE PROGRAM.

24 "JUVENILE PROGRAM" MEANS A:

25 (1) PROGRAM THAT:

26 (I) 1. IS A GROUP HOME OR INSTITUTION DESCRIBED UNDER
27 § 9-231 OF THIS TITLE; OR

28 2. IS A HOME FOR RUNAWAY YOUTHS DESCRIBED UNDER
29 § 9-232 OF THIS TITLE; AND

30 (II) PROVIDES RESIDENTIAL SERVICES TO YOUTH PLACED BY THE
31 DEPARTMENT; OR

32 (2) NONRESIDENTIAL PROGRAM THAT UNDER CONTRACT TO THE STATE
33 PROVIDES EDUCATIONAL, VOCATIONAL, RECREATIONAL, COUNSELING, OR OTHER
34 DAY SERVICES TO YOUTH.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 83C, § 4-101(d).

3 In item (1)(i)1 and 2 of this subsection, the references to a "group home or
4 institution described under § 9-231 of this title" and a "home for runaway
5 youths described under § 9-232 of this title" are substituted for the former
6 reference to a program "that ... [m]eets the definition in §§ 2-120 and
7 2-121 of this article" for clarity.

8 In item (2) of this subsection, the reference to providing services "to youth"
9 is added for clarity and consistency with item (1)(ii) of this subsection.

10 Defined term: "Department" § 9-101

11 REVISOR'S NOTE TO SECTION:

12 Former Art. 83C, § 4-101(b), which defined "Department", is deleted in
13 light of § 9-101 of this title to the same effect.

14 Former Art. 83C, § 4-101(e), which defined "nonprofit organization", is
15 deleted as surplusage because a for profit organization may also qualify as
16 a program applicant.

17 9-402. GRANTS.

18 (A) APPLICANT.

19 A COUNTY, MUNICIPAL CORPORATION, FOR PROFIT ORGANIZATION, OR
20 NONPROFIT ORGANIZATION SPONSORING A PROJECT INVOLVING THE PLANNING,
21 DESIGN, CONSTRUCTION, CONVERSION, ACQUISITION, RENOVATION, AND
22 EQUIPPING OF A JUVENILE FACILITY IN THE STATE MAY APPLY TO THE
23 DEPARTMENT FOR A GRANT UNDER THIS SUBTITLE.

24 (B) APPLICATIONS AND REQUIRED SUBMISSIONS.

25 (1) AN APPLICATION SHALL BE FILED WITH THE DEPARTMENT IN THE
26 FORM THE DEPARTMENT REQUIRES.

27 (2) THE APPLICANT SHALL FILE WITH THE DEPARTMENT A STATEMENT
28 THAT INCLUDES:

29 (I) A LIST OF THE PERSONNEL EMPLOYED OR TO BE EMPLOYED AT
30 THE JUVENILE FACILITY;

31 (II) ALL COMPENSATION AND OTHER EXPENSES PAID OR TO BE
32 PAID TO THE PERSONNEL;

33 (III) ALL OTHER EXPENSES INCURRED OR TO BE INCURRED IN
34 OPERATING THE JUVENILE FACILITY; AND

1 (IV) A SCHEDULE OF RATES CHARGED OR TO BE CHARGED FOR
2 SERVICES PROVIDED AT THE JUVENILE FACILITY.

3 (C) APPROVAL OF PROJECT.

4 IF THE SECRETARY APPROVES THE PROJECT AND THE PROJECT PLANS, THE
5 SECRETARY SHALL PROMPTLY:

6 (1) REPORT THE APPLICATION TO THE BOARD OF PUBLIC WORKS; AND

7 (2) RECOMMEND THAT THE BOARD MAKE FUNDS AVAILABLE AS
8 PROVIDED IN THIS SUBTITLE.

9 (D) CONSIDERATIONS FOR DETERMINING AMOUNT.

10 THE AMOUNT OF THE STATE GRANT FOR A PROJECT SHALL BE DETERMINED
11 AFTER CONSIDERING:

12 (1) ALL ELIGIBLE APPLICATIONS;

13 (2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE WHEN THE
14 APPLICATION IS RECEIVED; AND

15 (3) THE PRIORITIES OF AREA NEED THAT THE DEPARTMENT
16 ESTABLISHES.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83C, §§ 4-102, 4-103(a), and 4-104(4).

19 In subsection (b)(1) of this section, the requirement that an application be
20 "filed with the Department in the form that the Department requires" is
21 substituted for the former requirement that an application "be directed to
22 the Secretary" for clarity and consistency with similar provisions in other
23 revised articles.

24 In the introductory language of subsection (b)(2) of this section, the former
25 phrase "[b]efore the Department approves any project" is deleted as
26 surplusage.

27 In subsection (b)(2)(ii) of this section, the reference to "compensation" is
28 substituted for the former reference to "remuneration and prerequisite for
29 personal services" for brevity and consistency with terminology used
30 elsewhere in this article.

31 In subsection (b)(4) of this section, the phrase "at the juvenile facility" is
32 added for clarity.

33 In the introductory language of subsection (c) of this section, the reference
34 to the "Secretary" is substituted for the former reference to the
35 "Department" for clarity and consistency.

1 Defined terms: "Department" § 9-101

2 "Juvenile facility" § 9-401

3 "Secretary" § 9-101

4 9-403. ALLOCATION OF FUNDS.

5 (A) ALLOCATION BY BOARD OF PUBLIC WORKS.

6 THE BOARD OF PUBLIC WORKS SHALL:

7 (1) MAKE ALLOCATIONS OF FUNDS AVAILABLE FOR THE JUVENILE
8 SERVICES FACILITIES CAPITAL PROGRAM IN ACCORDANCE WITH THIS SUBTITLE;
9 AND

10 (2) CERTIFY THE ALLOCATIONS TO THE COMPTROLLER AND THE
11 TREASURER.

12 (B) PAYMENTS BY TREASURER.

13 AFTER THE BOARD CERTIFIES THE ALLOCATIONS, THE TREASURER SHALL
14 MAKE PAYMENTS TO OR ON BEHALF OF AN APPLICANT, WHEN NEEDED, FOR THE
15 PROJECT.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83C, § 4-105(a) and (b).

18 In subsection (a)(1) of this section, the reference to the "Juvenile Services
19 Facilities Capital Program" is substituted for the former obsolete reference
20 to the "Juvenile Justice Facilities Capital Program".

21 In subsection (a)(2) of this section, the reference to the "Comptroller and
22 the Treasurer" is substituted for the former reference to "the proper State
23 officers" for clarity.

24 In subsection (b) of this section, the reference to "the project" is substituted
25 for the former reference to the "planning, design, construction, conversion,
26 acquisition, renovation, and equipping of a facility" for brevity.

27 9-404. TERMS AND CONDITIONS OF GRANTS.

28 (A) IN GENERAL.

29 (1) A STATE GRANT MAY BE USED ONLY TO PLAN, DESIGN, CONSTRUCT,
30 CONVERT, ACQUIRE, RENOVATE, AND EQUIP A JUVENILE FACILITY, INCLUDING
31 RELATED REPORTS, PLANS, SPECIFICATIONS, SITE IMPROVEMENTS, SURVEYS, AND
32 PROGRAMS.

33 (2) ANY AVAILABLE FEDERAL OR OTHER GRANT SHALL BE APPLIED
34 FIRST TO THE COST OF PLANNING, DESIGN, CONSTRUCTION, CONVERSION,
35 ACQUISITION, RENOVATION, OR EQUIPPING OF A JUVENILE FACILITY.

1 (3) A STATE GRANT MAY NOT EXCEED 50% OF THE COST OF ELIGIBLE
2 WORK REMAINING UNPAID AFTER ALL FEDERAL AND OTHER GRANTS HAVE BEEN
3 APPLIED.

4 (B) RELIGIOUS PURPOSES PROHIBITED.

5 (1) A STATE GRANT MAY NOT BE USED:

6 (I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

7 (II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR
8 CONSTRUCTION OF A BUILDING USED OR TO BE USED AS A PLACE OF SECTARIAN
9 RELIGIOUS WORSHIP OR INSTRUCTION; OR

10 (III) IN CONNECTION WITH A PROGRAM OR DEPARTMENT OF
11 DIVINITY FOR A RELIGIOUS DENOMINATION.

12 (2) ON REQUEST OF THE BOARD OF PUBLIC WORKS, AN APPLICANT
13 SHALL SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT A GRANT IS NOT
14 BEING USED AND HAS NOT BEEN USED FOR A PURPOSE PROHIBITED UNDER THIS
15 SECTION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83C, § 4-104(1), (2), (3), and (5).

18 In subsection (a)(1) of this section, the reference to a State "grant" is
19 substituted for the former reference to State "funds" for consistency
20 throughout this section.

21 In subsection (b)(2) and the introductory language of (1) of this section, the
22 former references to a "portion of the proceeds" and "none of the proceeds"
23 are deleted as surplusage.

24 In subsection (b)(2) of this section, the reference to "this section" is
25 substituted for the former overbroad reference to "this title".

26 The introductory language of former Art. 83C, § 4-104, which provided
27 that "[t]he allocation and use of State funds under this title are subject to
28 the following terms and conditions", is deleted as surplusage.

29 Defined terms: "Department" § 9-101

30 "Juvenile facility" § 9-401

31 9-405. NOTICE OF STATE'S RIGHT OF RECOVERY.

32 (A) RECORDATION OF NOTICE.

33 BEFORE ANY STATE FUNDS ARE PAID FOR AN APPROVED PROJECT, THE
34 DEPARTMENT SHALL CAUSE A NOTICE OF THE STATE'S RIGHT OF RECOVERY TO BE
35 RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS
36 LOCATED.

1 (B) EFFECT OF RECORDATION.

2 THE RECORDING OF THE NOTICE:

3 (1) DOES NOT CREATE A LIEN AGAINST THE PROPERTY; BUT

4 (2) CONSTITUTES NOTICE TO ANY POTENTIAL TRANSFEREE, POTENTIAL
5 CREDITOR, OR OTHER INTERESTED PERSON THAT THE STATE MAY OBTAIN A LIEN
6 UNDER THIS SUBTITLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 83C, § 4-106(b).

9 In subsection (a) of this section, the reference to "State funds [being] paid"
10 is substituted for the former reference to the "State mak[ing] ... funds
11 available" for clarity and brevity.

12 Also in subsection (a) of this section, the former reference to "Baltimore
13 City" is deleted as unnecessary in light of the definition of "county", which
14 includes the City of Baltimore.

15 In subsection (b)(2) of this section, the reference to an interested "person"
16 is substituted for the former reference to an interested "party" for clarity.

17 The Human Services Article Review Committee notes, for consideration by
18 the General Assembly, that the General Assembly may wish to consider
19 clarifying who is required to file the notice under subsection (a) of this
20 section.

21 Defined terms: "County" § 1-101
22 "Department" § 9-101

23 9-406. STATE'S RIGHT OF RECOVERY.

24 (A) GROUNDS.

25 THE STATE MAY RECOVER GRANT FUNDS PAID UNDER THIS SUBTITLE IF,
26 WITHIN 30 YEARS AFTER COMPLETION OF A PROJECT, THE PROJECT PROPERTY:

27 (1) IS SOLD OR TRANSFERRED TO A PERSON THAT:

28 (I) WOULD NOT QUALIFY AS AN APPLICANT UNDER THIS
29 SUBTITLE; OR

30 (II) THE BOARD OF PUBLIC WORKS DOES NOT APPROVE AS A
31 TRANSFEREE; OR

32 (2) CEASES TO BE A JUVENILE FACILITY.

33 (B) PERSONS LIABLE.

1 THE STATE MAY RECOVER FROM THE:

2 (1) TRANSFEROR;

3 (2) TRANSFEREE; OR

4 (3) OWNER OF A PROPERTY THAT HAS CEASED TO BE A JUVENILE
5 FACILITY.

6 (C) AMOUNT.

7 THE STATE IS ENTITLED TO RECOVER THE SUM OF:

8 (1) AN AMOUNT THAT EQUALS THE VALUE OF THE PROJECT PROPERTY
9 AT THE TIME OF THE RECOVERY MULTIPLIED BY A FRACTION:

10 (I) THE NUMERATOR OF WHICH IS THE AMOUNT OF THE STATE
11 FUNDS FOR THE PROJECT; AND

12 (II) THE DENOMINATOR OF WHICH IS THE TOTAL ELIGIBLE COST
13 OF THE PROJECT; AND

14 (2) ALL COSTS AND REASONABLE ATTORNEYS' FEES INCURRED IN THE
15 RECOVERY PROCEEDINGS.

16 (D) WAIVER.

17 THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY
18 FOR GOOD CAUSE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83C, § 4–106(a) and the second sentence of (e).

21 In the introductory language of subsection (a) of this section, the reference
22 to “grant funds paid under this subtitle” is added for clarity.

23 Also in the introductory language of subsection (a) of this section, the
24 reference to the “project property” is substituted for the former reference to
25 a “juvenile program, with respect to which funds have been paid under this
26 title” for clarity and consistency.

27 In subsection (a)(1) of this section, the former reference to an “agency, or
28 organization” is deleted as included in the reference to a “person”.

29 In subsection (c)(1) of this section, the reference to the “project property” is
30 substituted for the former reference to “so much of the property as
31 constituted an approved project” for brevity.

32 Also in subsection (c)(1) of this section, the reference to the value “at the
33 time of recovery” is substituted for the former reference to the “then
34 current” value for clarity.

1 Defined terms: "Juvenile facility" § 9-401

2 "Person" § 1-101

3 9-407. PROCEDURE FOR RECOVERY; TEMPORARY LIEN.

4 (A) FILING OF CIVIL ACTION.

5 (1) IF A DEFAULT DESCRIBED IN § 9-406(A) OF THIS SUBTITLE IS
6 ALLEGED, THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL
7 ACTION UNDER THIS SUBTITLE IN THE CIRCUIT COURT OF THE COUNTY IN WHICH
8 THE PROPERTY IS LOCATED AGAINST THE OWNER OF THE PROPERTY AND ANY
9 OTHER INTERESTED PARTIES, INCLUDING ANY TRANSFEROR.

10 (2) THE INITIAL FILING SHALL INCLUDE AFFIDAVITS STATING FACTS
11 ON WHICH THE ALLEGATIONS OF DEFAULT ARE BASED AND A DETAILED
12 JUSTIFICATION OF THE AMOUNT CLAIMED.

13 (B) TEMPORARY LIEN — AUTHORIZATION.

14 (1) IF THE COURT DETERMINES FROM THE STATE'S INITIAL FILING
15 THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A DEFAULT DESCRIBED IN §
16 9-406(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL AUTHORIZE A
17 TEMPORARY LIEN ON THE PROPERTY PENDING FULL DETERMINATION OF THE
18 STATE'S CLAIM.

19 (2) THE TEMPORARY LIEN SHALL BE IN THE AMOUNT OF THE STATE'S
20 CLAIM, PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER
21 THE COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE, OR
22 ANOTHER AMOUNT THAT THE COURT DETERMINES IS REASONABLE.

23 (C) TEMPORARY LIEN — EFFECTIVE DATE; RIGHTS OF OWNER OR
24 TRANSFEREE.

25 (1) THE TEMPORARY LIEN TAKES EFFECT:

26 (I) ON THE DATE OF THE COURT ORDER AUTHORIZING THE LIEN
27 IF, WITHIN 10 DAYS, THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A
28 NOTICE OF TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE
29 PROPERTY IS LOCATED; OR

30 (II) IF THE SECRETARY FAILS TO RECORD THE NOTICE WITHIN 10
31 DAYS, ON THE DATE THE NOTICE OF TEMPORARY LIEN IS RECORDED.

32 (2) WHILE THE TEMPORARY LIEN IS IN EFFECT, THE OWNER OR ANY
33 PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST
34 MADE FUNDS AVAILABLE UNDER THIS SUBTITLE MAY NOT TAKE AN ACTION THAT
35 WOULD AFFECT THE TITLE TO THE PROPERTY OR INSTITUTE PROCEEDINGS TO
36 ENFORCE A SECURITY INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY,
37 WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE.

1 (D) TEMPORARY LIEN — RELEASE BY BOND.

2 (1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN
3 RELEASE OF THE TEMPORARY LIEN AT ANY TIME BY FILING WITH THE COURT A
4 BOND SECURING THE PAYMENT IN FULL OF THE AMOUNT DESCRIBED IN
5 SUBSECTION (B)(2) OF THIS SECTION.

6 (2) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE
7 RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE
8 PROPERTY IS LOCATED.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83C, § 4-106(c).

11 In subsections (a)(1) and (c)(1)(i) of this section, the former references to
12 "Baltimore City" are deleted as unnecessary in light of the definition of
13 "county", which includes the City of Baltimore.

14 In subsection (a)(1) of this section, the reference to "a default described in
15 § 9-406(a) of this subtitle" is substituted for the former reference to "the
16 event of an alleged sale or transfer as described above or in the event that
17 a property is alleged to have ceased to be a facility as defined in this title"
18 for brevity and clarity.

19 Also in subsection (a)(1) of this section, the reference to a "civil action" is
20 substituted for the former reference to a "claim ... styled as a civil action"
21 for brevity.

22 Also in subsection (a)(1) of this section, the former reference to a transferor
23 "that the State wishes to make a party" is deleted as surplusage.

24 In subsection (a)(2) of this section, the former reference to "sworn"
25 affidavits is deleted as redundant.

26 In subsection (b)(1) of this section, the reference to a default "described in
27 § 9-406(a) of this subtitle" is added for clarity and consistency.

28 Also in subsection (b)(1) of this section, the former reference to the "circuit"
29 court is deleted as unnecessary in light of subsection (a)(1) of this section,
30 which provides for the filing of an action for recovery in the "circuit" court.

31 In subsection (c)(1)(ii) of this section, the phrase "if the Secretary fails to
32 record the notice within 10 days" is substituted for the former word
33 "otherwise" for clarity.

34 In subsection (d)(1) of this section, the reference to the "amount described
35 in subsection (b)(2) of this section" is substituted for the former reference
36 to the "State's claim and any additional amount necessary to cover the
37 costs and reasonable attorneys' fees incurred by the State" to avoid the
38 repetition of the specific amounts described in subsection (b)(2) of this

1 section.

2 Defined term: "County" § 1-101

3 9-408. PRIORITY OF PROCEEDINGS; FINAL JUDGMENT; LIEN.

4 (A) PRIORITY OF PROCEEDINGS.

5 PROCEEDINGS TO DETERMINE THE STATE'S RIGHT TO RECOVER AND THE
6 AMOUNT OF ITS RECOVERY UNDER THIS SUBTITLE HAVE PRIORITY OVER OTHER
7 CIVIL PROCEEDINGS IN THE CIRCUIT COURT.

8 (B) FINAL JUDGMENT; LIEN.

9 (1) AFTER A FULL ADVERSARY PROCEEDING, IF THE COURT FINDS THAT
10 A DEFAULT DESCRIBED IN § 9-406(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT
11 SHALL ISSUE A FINAL JUDGMENT FOR THE AMOUNT THE COURT FINDS TO BE
12 RECOVERABLE BY THE STATE.

13 (2) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING THE OWNER
14 OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE
15 FOR THE AMOUNT OF THE JUDGMENT.

16 (3) IF THE COURT DOES NOT FIND THAT A DEFAULT DESCRIBED IN §
17 9-406(A) OF THIS SUBTITLE HAS OCCURRED OR IF THE COURT'S JUDGMENT IS PAID IN
18 FULL TO THE STATE WITHIN 30 DAYS AFTER THE COURT'S FINAL ORDER, ANY
19 TEMPORARY LIEN SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE
20 BOARD OF PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE
21 LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

22 (4) (I) IF THE JUDGMENT REMAINS UNPAID FOR MORE THAN 30 DAYS
23 AFTER THE COURT'S FINAL ORDER, THE AMOUNT SHALL BE A LIEN ON THE
24 PROPERTY.

25 (II) UNLESS THE STATE PROVIDES OTHERWISE IN A WRITTEN
26 SUBORDINATION AGREEMENT, THE LIEN IS SUPERIOR TO A LIEN OR OTHER
27 INTEREST OF ANY MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT CREDITOR
28 WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER THE STATE
29 AWARDED A GRANT.

30 (C) EFFECTIVE DATE OF LIEN; NOTICE.

31 (1) A LIEN UNDER THIS SECTION TAKES EFFECT ON THE LATER OF:

32 (I) THE 31ST DAY AFTER THE COURT'S FINAL ORDER IF THE
33 SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE
34 LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR
35 BEFORE THE 41ST DAY AFTER THE FINAL ORDER; OR

36 (II) THE DATE A NOTICE OF LIEN IS RECORDED.

1 (2) (I) WHEN THE LIEN TAKES EFFECT, ANY TEMPORARY LIEN IS
2 AUTOMATICALLY AND FULLY RELEASED.

3 (II) THE RECORDED NOTICE OF THE LIEN CONSTITUTES NOTICE OF
4 THE RELEASE OF THE TEMPORARY LIEN.

5 (D) ENFORCEMENT AND FORECLOSURE OF LIEN.

6 A LIEN UNDER THIS SECTION MAY BE ENFORCED AND FORECLOSED IN
7 ACCORDANCE WITH THE MARYLAND RULES, EXCEPT THAT THE STATE OR ANY
8 AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY DOES NOT NEED TO FILE
9 A BOND.

10 (E) RELEASE OF LIEN.

11 (1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN
12 RELEASE OF A LIEN UNDER THIS SECTION BY PAYING TO THE STATE THE FULL
13 AMOUNT OF THE JUDGMENT ENTERED BY THE CIRCUIT COURT, AND ANY INTEREST
14 THAT HAS ACCRUED FROM THE DATE OF JUDGMENT.

15 (2) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC
16 WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE
17 COUNTY IN WHICH THE PROPERTY IS LOCATED.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 83C, § 4-106(d).

20 In subsection (b)(1) and (3) of this section, the references to a default
21 "described in § 9-406(a) of this subtitle" are added for clarity and
22 consistency within this subtitle.

23 Also in subsection (b)(1) and (3) of this section, the former references to the
24 "circuit" court are deleted as unnecessary in light of § 9-407(a)(1) of this
25 subtitle, which provides for the filing of an action for recovery in the
26 "circuit" court.

27 In subsection (b)(1) of this section, the former reference to "proceedings on
28 the issue of default and on any disputes over the amount of the State's
29 recovery" is deleted as implicit in the reference to "full adversary
30 proceedings".

31 In subsection (b)(2) of this section, the former phrase "in every case" is
32 deleted as surplusage.

33 In subsections (b)(3) and (e)(2) of this section, the references to land
34 records "of the county in which the property is located" are added for
35 clarity.

36 In subsection (b)(3) of this section, the former reference to a temporary lien
37 "then in effect" is deleted as surplusage.

1 In subsection (b)(4)(ii) of this section, the phrase “awarded a grant” is
2 substituted for the former phrase “first made funds available in connection
3 with the property under this title” for brevity.

4 In subsections (c)(1), (d), and (e)(1) of this section, the references to a “lien
5 under this section” are substituted for the former references to “this lien”
6 for clarity.

7 In subsection (c)(1)(i) of this section, the former reference to “Baltimore
8 City” is deleted as unnecessary in light of the definition of “county”, which
9 includes the City of Baltimore.

10 In subsection (d) of this section, the former reference to the “procedures
11 prescribed” in the Maryland Rules is deleted as surplusage.

12 In subsection (e)(1) of this section, the reference to interest “that has
13 accrued” is added for clarity.

14 Also in subsection (e)(1) of this section, the former phrase “at any time” is
15 deleted as surplusage.

16 Defined term: “County” § 1–101

17 9–409. DEPOSIT OF FUNDS RECOVERED.

18 ALL FUNDS RECOVERED UNDER THIS SUBTITLE SHALL BE DEPOSITED IN THE
19 ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE
20 STATE.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from the first sentence of former Art. 83C, § 4–106(e).

23 The reference to funds recovered “under this subtitle” is substituted for the
24 former reference to funds recovered “as a result of this right of recovery”
25 for clarity.

26 9–410. REGULATIONS.

27 (A) DEPARTMENT OF JUVENILE SERVICES.

28 (1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
29 SUBTITLE.

30 (2) THE REGULATIONS SHALL REQUIRE EACH JUVENILE FACILITY TO
31 SUBMIT CERTIFIED FINANCIAL STATEMENTS ANNUALLY FOR AT LEAST THE TERM
32 OF THE BONDS USED TO FINANCE ANY PROJECT AT THAT JUVENILE FACILITY.

33 (3) THE REGULATIONS MAY REQUIRE THE SUBMISSION OF OTHER
34 REPORTS.

35 (B) BOARD OF PUBLIC WORKS.

1 THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS FOR:

2 (1) RECEIVING APPLICATIONS;

3 (2) CONSIDERING APPLICATIONS; AND

4 (3) DISBURSING FUNDS TO OR ON BEHALF OF APPLICANTS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83C, §§ 4–103(b) and 4–105(c).

7 In subsection (a)(3) of this section, the reference to “requir[ing] the
8 submission of” certified financial statements is substituted for the former
9 reference to “provid[ing] for” certified financial statements for clarity.

10 Defined terms: “Juvenile facility” § 9–401

11 “Secretary” § 9–101

12 GENERAL REVISOR'S NOTE TO TITLE:

13 Throughout this title, references to juvenile “services” are substituted for the
14 former obsolete references to juvenile “justice”.

15 TITLE 10. DEPARTMENT OF AGING.

16 SUBTITLE 1. DEFINITIONS.

17 10–101. DEFINITIONS.

18 (A) IN GENERAL.

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

20 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 1(a).

21 In this section and throughout this title, the references to this “title” are
22 substituted for the former references to this “article” to reflect the
23 organization of this article.

24 No other changes are made.

25 (B) AREA AGENCY.

26 “AREA AGENCY” MEANS THE LOCAL AGENCY THAT THE DEPARTMENT
27 DESIGNATES IN ACCORDANCE WITH THE OLDER AMERICANS ACT OF 1965 TO
28 ADMINISTER THE DELIVERY OF A COMPREHENSIVE AND COORDINATED PLAN OF
29 SOCIAL AND OTHER SERVICES AND ACTIVITIES FOR SENIORS IN A PLANNING AND
30 SERVICE AREA.

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 70B, § 1(b).

1 The former reference to the Older Americans Act “as amended” is deleted
2 in light of Art. 1, § 21, which provides generally that a reference to a law
3 includes any amendments to the law.

4 As to the substitution of the reference to “seniors” for the former reference
5 to “the elderly”, *see* General Revisor’s Note to title.

6 Defined terms: “Department” § 10–101
7 “Planning and service area” § 10–101

8 (C) CONGREGATE HOUSING SERVICES.

9 “CONGREGATE HOUSING SERVICES” MEANS SERVICES PROVIDED IN AN
10 APARTMENT BUILDING THAT PROMOTE INDEPENDENT LIVING FOR AN ELIGIBLE
11 INDIVIDUAL.

12 REVISOR’S NOTE: This subsection is new language derived without
13 substantive change from former Art. 70B, § 1(c), except as it related to the
14 services included in “congregate housing services” and eligibility
15 requirements for services.

16 (D) DEPARTMENT.

17 “DEPARTMENT” MEANS THE DEPARTMENT OF AGING.

18 REVISOR’S NOTE: This subsection formerly was Art. 70B, § 1(d).

19 No changes are made.

20 (E) INTERAGENCY COMMITTEE.

21 “INTERAGENCY COMMITTEE” MEANS THE UNIT ESTABLISHED IN § 10–301 OF
22 THIS TITLE TO OVERSEE THE COORDINATION AND CONSOLIDATION OF SERVICES
23 FOR SENIORS IN THE STATE.

24 REVISOR’S NOTE: This subsection is new language derived without
25 substantive change from former Art. 70B, § 1(e).

26 The reference to the “unit established in § 10–301 of this title” is
27 substituted for the former reference to the “body designated in this article”
28 for clarity.

29 As to the substitution of the reference to “seniors” for the former reference
30 to “the elderly”, *see* General Revisor’s Note to title.

31 The former reference to the Interagency Committee “on Aging Services” is
32 deleted for brevity.

33 (F) PLANNING AND SERVICE AREA.

1 "PLANNING AND SERVICE AREA" MEANS AN AREA OF THE STATE THAT THE
2 DEPARTMENT DESIGNATES IN ACCORDANCE WITH THE OLDER AMERICANS ACT OF
3 1965 FOR THE PLANNING AND ADMINISTRATION OF SOCIAL, HEALTH, AND OTHER
4 SERVICES FOR SENIORS.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 70B, § 1(f).

7 The reference to an "area" is substituted for the former reference to a
8 "subdivision or subdivisions" for clarity.

9 As to the substitution of the reference to "seniors" for the former reference
10 to "the elderly", *see* General Revisor's Note to title.

11 The former reference to the Older Americans Act "as amended" is deleted
12 in light of Art. 1, § 21, which provides generally that a reference to a law
13 includes any amendments to the law.

14 Defined term: "Department" § 10–101

15 (G) SECRETARY.

16 "SECRETARY" MEANS THE SECRETARY OF AGING.

17 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 1(g).

18 No changes are made.

19 SUBTITLE 2. DEPARTMENT OF AGING.

20 10–201. ESTABLISHED.

21 THERE IS A DEPARTMENT OF AGING ESTABLISHED AS A PRINCIPAL
22 DEPARTMENT OF THE STATE GOVERNMENT.

23 REVISOR'S NOTE: This section formerly was Art. 70B, § 2(a).

24 It is set forth as a separate section for emphasis.

25 The only changes are in style.

26 *See* SG § 8–201, which lists the principal departments of State
27 government.

28 10–202. SECRETARY.

29 (A) POSITION AND APPOINTMENT.

30 (1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR
31 SHALL APPOINT THE SECRETARY OF AGING.

1 (2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

2 (B) OATH.

3 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
4 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

5 (C) RESPONSIBILITY TO GOVERNOR.

6 (1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND
7 IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

8 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS
9 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE
10 GOVERNOR'S POLICIES ON THOSE MATTERS.

11 (D) COMPENSATION.

12 THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
13 BUDGET.

14 REVISOR'S NOTE: Subsections (a), (c), and (d) of this section are new language
15 derived without substantive change from former Art. 70B, § 2(b), (d), and
16 (c)(1).

17 Subsection (b) of this section is standard language added to state the
18 requirement that an individual appointed to any office of profit or trust
19 shall take the oath specified in Md. Constitution, Art. I, § 9. This addition
20 is supported by 64 Op. Att'y Gen. 246 (1979).

21 In subsection (d) of this section, the reference to the Secretary's
22 "compensation" is substituted for the former reference to the Secretary's
23 "salary" for accuracy and consistency throughout this article. *See* General
24 Revisor's Note to article.

25 Defined terms: "Department" § 10-101

26 "Secretary" § 10-101

27 10-203. ADMINISTRATION OF DEPARTMENT.

28 (A) OPERATION OF DEPARTMENT.

29 THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT
30 AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY
31 AND EFFICIENT OPERATION OF THE DEPARTMENT.

32 (B) AREAS OF RESPONSIBILITY.

33 THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF
34 RESPONSIBILITY IN THE DEPARTMENT AS NECESSARY TO FULFILL THE DUTIES
35 ASSIGNED TO THE SECRETARY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 2(c)(2).

3 In subsection (b) of this section, the reference to duties assigned "to" the
4 Secretary is substituted for the former reference to duties assigned "by"
5 the Secretary for accuracy and consistency with §§ 2-203(b) and 7-106(b)
6 of this article and with similar provisions in other revised articles of the
7 Code. *See, e.g.*, EN § 1-402(b)(2), HG § 2-101(b)(2), and SF § 3-202(d)(2).
8 This substitution is called to the attention of the General Assembly.

9 The Human Services Article Review Committee notes, for consideration by
10 the General Assembly, that former Article 70B did not include provisions
11 typically included in similar provisions in other revised articles of the Code
12 establishing principal departments of State government, such as legal
13 counsel, authority to employ staff, authority to adopt regulations, and
14 responsibility for planning activities of the Department. The General
15 Assembly may wish to address these omissions.

16 Defined terms: "Department" § 10-101
17 "Secretary" § 10-101

18 10-204. DUTIES OF SECRETARY.

19 (A) ADMINISTRATION OF PROGRAMS AND ACTIVITIES.

20 THE SECRETARY SHALL ADMINISTER THE PROGRAMS AND ACTIVITIES THAT
21 THE FEDERAL GOVERNMENT DELEGATES TO THE STATE UNDER THE OLDER
22 AMERICANS ACT OF 1965 THAT ARE NOT OTHERWISE COMMITTED BY LAW TO
23 ANOTHER UNIT OF STATE GOVERNMENT.

24 (B) RELATIONSHIP TO OTHER GOVERNMENTAL LEVELS AND UNITS.

25 THE SECRETARY:

26 (1) IS A MEMBER OF THE GOVERNOR'S EXECUTIVE COUNCIL; AND

27 (2) SHALL COOPERATE WITH AND RECEIVE THE COOPERATION OF
28 STATE, FEDERAL, AND LOCAL GOVERNMENTAL UNITS TO CARRY OUT THE PURPOSES
29 OF THIS TITLE.

30 (C) COORDINATION OF PROGRAMS AND SERVICES.

31 THE SECRETARY SHALL:

32 (1) EVALUATE THE SERVICE NEEDS OF SENIORS IN THE STATE;

33 (2) DETERMINE THE EXTENT TO WHICH EXISTING PUBLIC AND PRIVATE
34 PROGRAMS MEET THE NEEDS OF SENIORS;

35 (3) ESTABLISH PRIORITIES FOR MEETING THE NEEDS OF SENIORS;

1 (4) COORDINATE, SUBJECT TO EXISTING LAW, AND ASSESS AND
2 EVALUATE ALL STATE AND LOCAL PROGRAMS AND SERVICES, BOTH PUBLIC AND
3 PRIVATE, THAT RELATE AND ARE IMPORTANT TO THE WELL-BEING OF SENIORS IN
4 THE STATE, INCLUDING PROGRAMS AND SERVICES IN THE AREAS OF:

5 (I) INCOME MAINTENANCE;

6 (II) PUBLIC HEALTH;

7 (III) MENTAL HEALTH;

8 (IV) HOUSING AND URBAN DEVELOPMENT;

9 (V) EMPLOYMENT;

10 (VI) EDUCATION;

11 (VII) RECREATION; AND

12 (VIII) REHABILITATION OF SENIORS WITH PHYSICAL OR MENTAL
13 DISABILITIES; AND

14 (5) DEVELOP A STATEWIDE PLAN INCORPORATING LOCAL PLANS FOR A
15 COMPREHENSIVE AND COORDINATED SYSTEM OF HEALTH, SOCIAL, AND
16 COMMUNITY SERVICES FOR SENIORS, INCLUDING HOUSING AND INSTITUTIONAL
17 AND NONINSTITUTIONAL CARE.

18 (D) ADVOCACY AND CONSULTATION.

19 THE SECRETARY SHALL:

20 (1) REPRESENT THE INTERESTS OF SENIORS BY SERVING AS AN
21 ADVOCATE AT ALL LEVELS OF GOVERNMENT;

22 (2) CONSULT WITH AND ADVISE THE SECRETARIES OF THE PRINCIPAL
23 DEPARTMENTS OF STATE GOVERNMENT ABOUT THE PROGRAMS AND SERVICES FOR
24 SENIORS THAT ARE THE PRIMARY RESPONSIBILITY OF THOSE DEPARTMENTS;

25 (3) CONSULT WITH THE COMMISSION ON AGING ON ALL MATTERS
26 PERTAINING TO PROGRAMS FOR SENIORS;

27 (4) PROVIDE CONSULTATION AND TECHNICAL ASSISTANCE TO
28 COMMUNITIES AND CIVIC GROUPS DEVELOPING LOCAL SERVICES FOR SENIORS;

29 (5) MAINTAIN A CLEARINGHOUSE OF INFORMATION RELATED TO THE
30 INTERESTS OF SENIORS; AND

31 (6) REVIEW AND RECOMMEND POLICIES TO THE GOVERNOR ON
32 PUBLICLY FUNDED PLANS AND PROGRAMS THAT AFFECT SENIORS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 4(a)(1) through (10) and (12) through (15).

3 As to the substitution of references to "seniors" for the former references to
4 "elderly persons", "the elderly", and "the aged" throughout this section, *see*
5 General Revisor's Note to title.

6 In subsection (a) of this section, the former reference to the Older
7 Americans Act of 1965 "as amended" is deleted in light of Art. 1, § 21,
8 which provides that a reference to a statute includes amendments.

9 In subsection (b)(2) of this section, the former reference to "agencies" is
10 deleted in light of the reference to "units". *See* General Revisor's Note to
11 article.

12 In subsection (c)(4)(viii) of this section, the reference to "seniors with
13 physical or mental disabilities" is substituted for the former obsolete
14 reference to "the physically and mentally handicapped".

15 In subsection (d)(3) of this section, the reference to programs "for seniors"
16 is added for clarity.

17 In subsection (d)(6) of this section, the reference to "recommend[ing]
18 policies" is substituted for the former reference to "formulat[ing] policy
19 recommendations" for brevity.

20 Defined term: "Secretary" § 10-101

21 10-205. FUNDING.

22 (A) BUDGET.

23 THE SECRETARY SHALL PREPARE AND SUBMIT A BUDGET FOR THE
24 DEPARTMENT.

25 (B) ACCEPTANCE OF FUNDS.

26 THE SECRETARY MAY ACCEPT AND USE ANY STATE OR FEDERAL FUNDS FOR
27 THE PURPOSES SPECIFIED IN THIS TITLE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 70B, § 4(a)(16) and (17).

30 In subsection (a) of this section, the former phrase "in accordance with the
31 normal budget procedures" is deleted as surplusage.

32 In subsection (b) of this section, the word "may" is substituted for the
33 former word "shall" to make it clear that the Secretary is not obligated to
34 accept federal funds regardless of the conditions attached to the funding by
35 federal law. The Human Services Article Review Committee calls this
36 substitution to the attention of the General Assembly.

1 Defined terms: "Department" § 10-101

2 "Secretary" § 10-101

3 10-206. ANNUAL REPORT.

4 (A) IN GENERAL.

5 WITH THE ADVICE AND RECOMMENDATION OF THE COMMISSION ON AGING,
6 THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF
7 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE
8 JANUARY 1 OF EACH YEAR.

9 (B) CONTENTS.

10 THE REPORT SHALL INCLUDE:

11 (1) A DESCRIPTION OF THE SENIOR CITIZEN ACTIVITIES CENTERS IN
12 EACH COUNTY;

13 (2) THE ALLOCATION AND USE OF FUNDS MADE AVAILABLE FOR SENIOR
14 CITIZEN ACTIVITIES CENTERS;

15 (3) THE RESULTS OF ANY STUDIES; AND

16 (4) ANY RECOMMENDATIONS FOR LEGISLATION.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 70B, § 4(a)(18).

19 In subsection (b)(1) and (2) of this section, the references to "senior citizen
20 activities centers" are substituted for the former references to "elderly
21 citizen activities centers" for consistency with Subtitle 5 of this title.

22 In subsection (b)(1) of this section, the reference to each "county" is
23 substituted for the former reference to each "political subdivision" for
24 clarity.

25 Defined terms: "County" § 1-101

26 "Secretary" § 10-101

27 10-207. DEPUTY SECRETARY.

28 THE SECRETARY SHALL APPOINT A DEPUTY SECRETARY.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 70B, § 4(a)(19).

31 The former phrase "[s]ubject to § 2 of this article" is deleted as surplusage.

32 Defined term: "Secretary" § 10-101

1 10-208. COMMISSION ON AGING.

2 (A) ESTABLISHED.

3 THERE IS A COMMISSION ON AGING IN THE DEPARTMENT.

4 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

5 (1) THE COMMISSION CONSISTS OF 13 MEMBERS APPOINTED BY THE
6 GOVERNOR AS FOLLOWS:

7 (I) 1 SHALL BE A MEMBER OF THE SENATE OF MARYLAND, WHO
8 MAY NOT VOTE;

9 (II) 1 SHALL BE A MEMBER OF THE MARYLAND HOUSE OF
10 DELEGATES, WHO MAY NOT VOTE; AND

11 (III) 11 SHALL BE SELECTED TO REFLECT THE GEOGRAPHIC
12 DIVERSITY OF THE STATE AND BECAUSE OF THEIR INTEREST IN THE NEEDS OF
13 SENIORS.

14 (2) AT LEAST 7 MEMBERS SHALL BE AT LEAST 55 YEARS OLD.

15 (C) TENURE; VACANCIES.

16 (1) THE TERM OF A MEMBER OF THE COMMISSION IS 4 YEARS.

17 (2) THE TERMS OF MEMBERS APPOINTED UNDER SUBSECTION (B)(1)(III)
18 OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR
19 MEMBERS OF THE COMMISSION ON OCTOBER 1, 2007.

20 (3) A MEMBER OF THE COMMISSION APPOINTED UNDER SUBSECTION
21 (B)(1)(III) OF THIS SECTION MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

22 (4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
23 SUCCESSOR IS APPOINTED AND QUALIFIES.

24 (5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
25 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
26 QUALIFIES.

27 (D) CHAIR.

28 FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL
29 DESIGNATE A CHAIR.

30 (E) COMPENSATION.

31 A MEMBER OF THE COMMISSION:

1 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
2 COMMISSION; BUT

3 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
4 STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

5 (F) POWERS AND DUTIES.

6 THE COMMISSION SHALL:

7 (1) EXERCISE THE POWERS AND PERFORM THE DUTIES SPECIFIED IN
8 THIS TITLE;

9 (2) REVIEW:

10 (I) ONGOING STATEWIDE PROGRAMS AND ACTIVITIES FOR
11 SENIORS; AND

12 (II) NEW STATEWIDE PROGRAMS FOR SENIORS BEFORE THE
13 PROGRAMS ARE IMPLEMENTED;

14 (3) MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT STATEWIDE
15 PROGRAMS AND ACTIVITIES FOR SENIORS; AND

16 (4) PREPARE AND SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND
17 THE SECRETARY THAT INCLUDES RECOMMENDATIONS FOR LEGISLATIVE OR OTHER
18 ACTIONS TO STRENGTHEN STATEWIDE PROGRAMS AND ACTIVITIES FOR SENIORS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 70B, § 3.

21 In subsection (b)(1)(iii) of this section, the reference to "seniors" is
22 substituted for the former reference to "the aging" for consistency
23 throughout this title. *See* General Revisor's Note to title.

24 Also in subsection (b)(1)(iii) of this section, the reference to the "needs" of
25 seniors is substituted for the former reference to the "problems" of seniors
26 for consistency with the duties of the Commission.

27 Subsection (c) of this section is revised in standard language for
28 consistency with similar provisions throughout the revised articles of the
29 Code.

30 In subsection (c)(2) of this section, the reference to terms being staggered
31 as required by the terms provided for Commission members on "October 1,
32 2007" is substituted for the former obsolete reference to the terms of the
33 initial members "[b]eginning in 1983". This substitution is not intended to
34 alter the term of any member of the Commission. *See* § ____ of Ch. ____,
35 Acts of 2007. The terms of the members serving on October 1, 2007, end as
36 follows: (1) 3 on June 30, 2009; (2) 4 on June 30, 2010; and (3) 4 on June 30,

1 2011.

2 In subsection (c)(3) of this section, the reference to a “member ... appointed
3 under subsection (b)(1)(iii)” of this section being prohibited from serving
4 more than two consecutive terms is substituted for the former reference to
5 the “limitation of tenure ... not apply[ing] to any members from the
6 General Assembly of Maryland” for brevity and clarity.

7 In subsection (c)(5) of this section, the former reference to “the Governor”
8 filling a vacancy is deleted in light of subsection (b)(1) of this section, which
9 requires the Governor to appoint all of the members.

10 Subsection (e) of this section is revised in standard language used to
11 provide for reimbursement for members of boards and commissions.

12 In subsection (f)(1) of this section, the reference to “perform[ing]” duties is
13 added for clarity.

14 Defined term: “Secretary” § 10–101

15 10–209. CONGREGATE HOUSING SERVICES.

16 (A) IN GENERAL.

17 (1) THE SECRETARY SHALL DEVELOP CONGREGATE HOUSING SERVICES
18 PROGRAMS FOR SENIORS IN CONJUNCTION WITH:

19 (I) PUBLIC OR PRIVATE FOR PROFIT OR NONPROFIT
20 CORPORATIONS; OR

21 (II) STATE OR FEDERAL UNITS.

22 (2) CONGREGATE HOUSING SERVICES SHALL INCLUDE CONGREGATE
23 MEALS, HOUSEKEEPING, AND PERSONAL SERVICES.

24 (B) ELIGIBILITY FOR SERVICES.

25 (1) AN INDIVIDUAL IS ELIGIBLE FOR CONGREGATE HOUSING SERVICES
26 IF THE INDIVIDUAL IS AT LEAST 62 YEARS OLD AND HAS TEMPORARY OR PERIODIC
27 DIFFICULTY WITH ONE OR MORE ESSENTIAL ACTIVITIES OF DAILY LIVING, SUCH AS
28 FEEDING, BATHING, GROOMING, DRESSING, OR TRANSFERRING.

29 (2) THE SPOUSE OF AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF
30 THIS SUBSECTION IS ELIGIBLE FOR CONGREGATE HOUSING SERVICES IF THE
31 SPOUSE IS AT LEAST 55 YEARS OLD AND HAS TEMPORARY OR PERIODIC DIFFICULTY
32 WITH ONE OR MORE ESSENTIAL ACTIVITIES OF DAILY LIVING, SUCH AS FEEDING,
33 BATHING, GROOMING, DRESSING, OR TRANSFERRING.

34 (C) SECRETARY'S DUTIES.

35 THE SECRETARY SHALL:

1 (1) MAKE MAXIMUM USE OF RENT AND OTHER SUBSIDIES AVAILABLE
2 FROM FEDERAL AND STATE SOURCES;

3 (2) PROVIDE FOR SUBSIDIES NECESSARY FROM STATE GENERAL FUNDS
4 TO ASSIST LOW-INCOME SENIORS TO RESIDE IN CONGREGATE HOUSING AS AN
5 ALTERNATIVE TO MORE COSTLY INSTITUTIONAL CARE THAT IS NOT REQUIRED;

6 (3) FIND SPONSORS OR MANAGERS FOR CONGREGATE HOUSING
7 SERVICES PROGRAMS;

8 (4) ASSIST DEVELOPERS IN FORMULATING DESIGN CONCEPTS AND
9 MEETING PROGRAM NEEDS; AND

10 (5) WHEN NECESSARY, PROVIDE SUBSIDIES FOR CONGREGATE MEALS,
11 HOUSEKEEPING, AND PERSONAL SERVICES IN CONGREGATE HOUSING SERVICES
12 PROGRAMS AND DEVELOP ELIGIBILITY REQUIREMENTS FOR THE SUBSIDIES.

13 (D) REGULATIONS.

14 THE SECRETARY SHALL ADOPT REGULATIONS TO:

15 (1) GOVERN THE CERTIFICATION AND OPERATION OF CONGREGATE
16 HOUSING SERVICES PROGRAMS; AND

17 (2) PROVIDE FOR INVESTIGATIONS OF CRIMINAL RECORDS OF
18 CONGREGATE HOUSING SERVICES PROVIDERS AND EMPLOYEES UNDER
19 SUBSECTION (E) OF THIS SECTION.

20 (E) CRIMINAL RECORDS CHECKS.

21 THE SECRETARY IS AUTHORIZED TO CONDUCT FEDERAL AND STATE CRIMINAL
22 BACKGROUND INVESTIGATIONS OF PROVIDERS OF CONGREGATE HOUSING
23 SERVICES PROGRAMS AND THEIR EMPLOYEES.

24 (F) CONGREGATE HOUSING SERVICES PROGRAM CERTIFICATION.

25 (1) A CONGREGATE HOUSING SERVICES PROGRAM MUST BE CERTIFIED
26 BY THE SECRETARY.

27 (2) THE SECRETARY SHALL REVIEW THE COMPLIANCE OF CONGREGATE
28 HOUSING SERVICES PROGRAMS WITH THE REGULATIONS GOVERNING THEIR
29 CERTIFICATION AND OPERATION.

30 (3) BEFORE THE SECRETARY MAY CERTIFY OR RENEW THE
31 CERTIFICATION OF A PROVIDER OF CONGREGATE HOUSING SERVICES FOR SENIORS
32 WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS, THE PROVIDER SHALL HAVE
33 AN IN-SERVICE EDUCATION PROGRAM THAT INCLUDES INSTRUCTION ON DEMENTIA
34 AND THE TECHNIQUES NECESSARY TO MANAGE PATIENTS WITH PHYSICAL,
35 INTELLECTUAL, AND BEHAVIORAL MANIFESTATIONS OF DEMENTIA.

1 REVISOR'S NOTE: This section is new language derived without substantive
 2 change from former Art. 70B, § 4(b)(1) through (10) and, as it related to the
 3 services included in "congregate housing services" and eligibility
 4 requirements for services, § 1(c).

5 As to the substitution of references to "seniors" for the former references to
 6 "the elderly", "aged", and "elderly individuals" throughout this section, *see*
 7 General Revisor's Note to title.

8 In subsection (a)(1)(ii) of this section, the reference to State or federal
 9 "units" is substituted for the former reference to a State or federal
 10 "agency". *See* General Revisor's Note to article.

11 In subsection (c)(2) of this section, the reference to "congregate housing" is
 12 substituted for the former reference to "congregate housing services
 13 programs" for brevity and clarity.

14 In subsection (d)(2) of this section, the reference to "subsection (e) of this
 15 section" is substituted for the former incorrect reference to "paragraph (6)
 16 of this subsection".

17 Defined terms: "Congregate housing services" § 10–101
 18 "Secretary" § 10–101

19 10–210. CONGREGATE HOUSING SERVICES — VIOLATIONS; PENALTIES.

20 (A) IN GENERAL.

21 THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY AGAINST A PROVIDER
 22 OF CONGREGATE HOUSING SERVICES FOR A VIOLATION:

23 (1) THAT RESULTS IN CONDITIONS PRESENTING AN IMMINENT DANGER
 24 OR A SUBSTANTIAL PROBABILITY OF DEATH OR SERIOUS PHYSICAL HARM TO A
 25 RESIDENT OF CONGREGATE HOUSING;

26 (2) OF A RESIDENT'S RIGHTS AS SPECIFIED IN REGULATIONS ADOPTED
 27 UNDER THIS TITLE; OR

28 (3) OF A STATE OR LOCAL FIRE SAFETY LAW.

29 (B) NOTICE OF VIOLATION.

30 BEFORE IMPOSING A PENALTY UNDER THIS SECTION, THE DEPARTMENT SHALL
 31 SEND A NOTICE OF VIOLATION TO THE PROVIDER THAT STATES:

32 (1) WHEN THE PROVIDER MUST SUBMIT A PLAN OF CORRECTION THAT
 33 IS ACCEPTABLE TO THE DEPARTMENT;

34 (2) WHEN EACH IDENTIFIED VIOLATION MUST BE SUBSTANTIALLY
 35 CORRECTED; AND

1 (3) THAT A CIVIL MONEY PENALTY MAY BE IMPOSED FOR FAILURE TO:

2 (I) SUBMIT AN ACCEPTABLE PLAN OF CORRECTION; OR

3 (II) CORRECT AN IDENTIFIED VIOLATION.

4 (C) REINSPECTION.

5 (1) AFTER THE TIME FOR CORRECTING A VIOLATION HAS ENDED, THE
6 DEPARTMENT SHALL REINSPECT THE FACILITY TO DETERMINE WHETHER THE
7 VIOLATION HAS BEEN CORRECTED.

8 (2) AFTER THE REINSPECTION, THE SECRETARY MAY:

9 (I) EXTEND THE TIME TO CORRECT THE VIOLATION; OR

10 (II) IMPOSE A CIVIL MONEY PENALTY UNDER SUBSECTION (D) OF
11 THIS SECTION.

12 (D) AMOUNT OF PENALTY.

13 (1) THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY NOT
14 EXCEEDING \$20 PER VIOLATION PER RESIDENT FOR EACH DAY THAT A VIOLATION
15 REMAINS UNCORRECTED AFTER THE TIME SET FOR CORRECTION UNDER
16 SUBSECTION (B)(2) OF THIS SECTION.

17 (2) A PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$1,000
18 PER VIOLATION OR \$5,000 IN TOTAL.

19 (E) NOTICE OF PENALTY.

20 (1) THE SECRETARY SHALL PROVIDE WRITTEN NOTICE OF A CIVIL
21 MONEY PENALTY TO THE PROVIDER.

22 (2) THE NOTICE SHALL:

23 (I) BE SERVED ON THE PROVIDER BY CERTIFIED MAIL; AND

24 (II) STATE:

25 1. EACH PENALTY IMPOSED;

26 2. THE REGULATION OR PROVISION VIOLATED;

27 3. THE AMOUNT OF THE PENALTY;

28 4. THE PROVIDER'S RIGHT TO REQUEST A REDUCTION OF
29 THE PENALTY; AND

30 5. HOW TO FILE AN ADMINISTRATIVE APPEAL OF THE
31 PENALTY.

1 (F) REQUEST FOR REDUCTION.

2 (1) A PROVIDER OF CONGREGATE HOUSING SERVICES MAY REQUEST A
3 REDUCTION OF A CIVIL MONEY PENALTY.

4 (2) A REQUEST FOR A REDUCTION SHALL:

5 (I) BE MADE IN WRITING WITHIN 10 DAYS AFTER THE PROVIDER
6 RECEIVES THE NOTICE OF THE CIVIL MONEY PENALTY; AND

7 (II) STATE THE REASONS FOR THE REQUEST.

8 (3) A REQUEST FOR A REDUCTION OF A CIVIL MONEY PENALTY DOES
9 NOT AFFECT THE ACCRUAL OF THE PENALTIES UNDER SUBSECTION (D) OF THIS
10 SECTION.

11 (4) WITHIN 14 DAYS AFTER RECEIVING THE REQUEST FOR REDUCTION,
12 THE DEPARTMENT SHALL HOLD AN INFORMAL CONFERENCE WITH THE PROVIDER
13 ON THE ISSUE OF WHETHER TO REDUCE THE CIVIL MONEY PENALTY.

14 (5) IN DECIDING WHETHER TO REDUCE THE PENALTY, THE SECRETARY
15 SHALL CONSIDER:

16 (I) THE PROVIDER'S HISTORY OF VIOLATIONS;

17 (II) THE PROVIDER'S CURRENT AND PAST DILIGENCE IN
18 CORRECTING VIOLATIONS; AND

19 (III) OTHER FACTORS THAT THE SECRETARY CONSIDERS
20 APPROPRIATE.

21 (6) THE SECRETARY SHALL ISSUE A WRITTEN DETERMINATION
22 GRANTING OR DENYING THE REQUEST FOR A REDUCTION OF A CIVIL MONEY
23 PENALTY THAT STATES THE REASONS FOR THE DETERMINATION.

24 (7) AS A CONDITION OF REDUCING A PENALTY, THE SECRETARY SHALL
25 REQUIRE CORRECTION OF ALL VIOLATIONS.

26 (G) APPEAL.

27 IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE PROVIDER
28 HAS THE RIGHT TO APPEAL FROM THE ORDER IN ACCORDANCE WITH TITLE 10,
29 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

30 (H) TRIPLE PENALTY.

31 THE SECRETARY MAY IMPOSE A PENALTY OF THREE TIMES THE AMOUNT SET
32 FORTH IN SUBSECTION (D) OF THIS SECTION ON A PROVIDER OF CONGREGATE
33 HOUSING SERVICES IF A PENALTY WAS IMPOSED ON THE PROVIDER FOR THE SAME
34 VIOLATION DURING THE 2 YEARS BEFORE THE DATE ON WHICH THE NOTICE OF
35 VIOLATION WAS ISSUED.

1 (I) FINAL ORDER.

2 (1) AN ORDER IMPOSING A CIVIL MONEY PENALTY IS FINAL WHEN THE
3 PROVIDER HAS EXHAUSTED ALL OPPORTUNITIES TO CONTEST THE PENALTY UNDER
4 SUBSECTION (F) OR (G) OF THIS SECTION.

5 (2) A PROVIDER SHALL PAY ALL PENALTIES TO THE DEPARTMENT
6 WITHIN 10 DAYS AFTER THE PROVIDER RECEIVES A FINAL ORDER IMPOSING A
7 PENALTY.

8 (3) IF A PROVIDER DOES NOT COMPLY WITH THIS SECTION, THE
9 DEPARTMENT MAY FILE A CIVIL ACTION TO RECOVER THE PENALTY.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 70B, §§ 4–I and 4(b)(11).

12 In the introductory language of subsection (a) of this section, the former
13 phrase “under § 4–I of this article” is deleted as surplusage.

14 In subsection (a)(1) of this section, the reference to a resident of
15 “congregate housing” is substituted for the former reference to a resident of
16 the “program” for clarity.

17 Also in subsection (a)(1) of this section, the former reference to a violation
18 “in a congregate housing services program” is deleted as implicit.

19 In subsection (a)(3) of this section, the reference to a fire safety “law” is
20 substituted for the former reference to “regulations” for clarity.

21 Also in subsection (a)(3) of this section, the reference to “a violation ... of”
22 a State or local fire safety law is substituted for the former reference to
23 “[n]oncompliance with” a State or local fire safety law for clarity.

24 In the introductory language of subsection (b) of this section, the phrase
25 “[b]efore imposing a penalty under this section” is substituted for the
26 former phrase “[i]f the Department issues a notice of a violation under
27 subsection (a) of this section” for clarity.

28 Also in the introductory language of subsection (b) of this section, the
29 requirement that “the Department shall send a notice of violation to the
30 provider” is added for clarity.

31 In subsection (b)(1) and (2) of this section, the word “when” is substituted
32 for the former references to “[t]he time in which” for brevity.

33 In subsections (b)(2) and (3)(ii) and (c)(1) of this section, the references to a
34 “violation” are substituted for the former references to a “deficiency or
35 deficiencies” for consistency.

36 In subsection (b)(3) of this section, the former phrases “as required by item

1 (1) of this subsection”, “as required by item (2) of this subsection”, and “an
2 order ... under subsection (d) of this section” are deleted as surplusage.

3 In subsection (c)(1) of this section, the requirement that the Department
4 “reinspect” the facility is substituted for the former requirement that the
5 Department “schedule a reinspection of” the facility for brevity.

6 Also in subsection (c)(1) of this section, the former reference to the time
7 “set forth in subsection (b)(2) of this section” is deleted as surplusage.

8 In subsection (c)(2) of this section, the reference to extending “the time to
9 correct the violation” is substituted for the former reference to extending
10 “the time frame in which the deficiency must be corrected” for brevity and
11 clarity.

12 In the introductory language of subsection (e)(2) of this section, the former
13 reference to the notice “of a civil money penalty” is deleted as implicit.

14 In subsection (e)(2)(ii) of this section, the word “state” is substituted for the
15 former phrase “include a statement specifying” for brevity.

16 In subsection (e)(2)(ii)4 of this section, the former phrase “under subsection
17 (e) of this section” is deleted as surplusage.

18 In subsection (f)(3) of this section, the word “affect” is substituted for the
19 former word “interrupt” for clarity.

20 In subsection (f)(4) of this section, the former reference to a request “under
21 this subsection” is deleted as surplusage.

22 In subsection (f)(5) of this section, the former reference to considering
23 “such factors as” those listed is deleted in light of the reference to “other
24 factors” for brevity.

25 In subsection (f)(7) of this section, the former phrase “[i]n granting a
26 provider’s request for reduction of a civil money penalty” is deleted as
27 implicit.

28 Defined terms: “Congregate housing services” § 10–101
29 “Department” § 10–101
30 “Secretary” § 10–101

31 10–211. ASSISTED LIVING PROGRAMS.

32 (A) “ASSISTED LIVING PROGRAM” DEFINED.

33 IN THIS SECTION, “ASSISTED LIVING PROGRAM” HAS THE MEANING STATED IN §
34 19–1801 OF THE HEALTH – GENERAL ARTICLE.

35 (B) IN GENERAL.

1 THE SECRETARY SHALL DEVELOP ASSISTED LIVING PROGRAMS FOR SENIORS
2 IN CONJUNCTION WITH:

3 (1) PUBLIC OR PRIVATE FOR PROFIT OR NONPROFIT CORPORATIONS; OR

4 (2) STATE OR FEDERAL UNITS.

5 (C) SUBSIDIES.

6 (1) THE SECRETARY SHALL:

7 (I) MAKE MAXIMUM USE OF RENT AND OTHER SUBSIDIES
8 AVAILABLE FROM FEDERAL AND STATE SOURCES; AND

9 (II) PROVIDE FOR AND SET, BY REGULATION, THE AMOUNT OF
10 SUBSIDIES NECESSARY FROM STATE GENERAL FUNDS TO ASSIST LOW-INCOME
11 SENIORS TO RESIDE IN ASSISTED LIVING PROGRAMS AS AN ALTERNATIVE TO MORE
12 COSTLY INSTITUTIONAL CARE THAT IS NOT REQUIRED.

13 (2) SUBSIDIES UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION MAY
14 INCLUDE, WHEN NECESSARY AND IN ACCORDANCE WITH AVAILABLE FUNDS,
15 MONTHLY SUBSIDIES FOR RESIDENTS OF ASSISTED LIVING PROGRAMS WHOSE
16 ADJUSTED GROSS ANNUAL INCOME IS LESS THAN THEIR COST OF CARE FOR
17 ASSISTED LIVING SERVICES.

18 (3) WHEN NECESSARY AND IN ACCORDANCE WITH AVAILABLE FUNDS,
19 THE SECRETARY SHALL PROVIDE SUBSIDIES FOR CONGREGATE MEALS,
20 HOUSEKEEPING, AND PERSONAL SERVICES FOR ASSISTED LIVING PROGRAMS AND
21 DEVELOP ELIGIBILITY REQUIREMENTS FOR THESE SUBSIDIES.

22 (4) THE SECRETARY SHALL ADOPT REGULATIONS TO GOVERN
23 ELIGIBILITY REQUIREMENTS FOR SUBSIDIES.

24 (D) PROMOTION OF PROGRAMS.

25 THE SECRETARY SHALL:

26 (1) FIND SPONSORS FOR ASSISTED LIVING PROGRAMS; AND

27 (2) ASSIST DEVELOPERS IN FORMULATING DESIGN CONCEPTS AND
28 MEETING PROGRAM NEEDS.

29 (E) COMPLIANCE.

30 THE SECRETARY SHALL REVIEW THE COMPLIANCE OF ASSISTED LIVING
31 PROGRAMS WITH THE REGULATIONS THAT THE SECRETARY OF HEALTH AND
32 MENTAL HYGIENE ADOPTS FOR LICENSING THESE PROGRAMS TO OPERATE IN THE
33 STATE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 70B, § 4(d).

1 As to the substitution of the references to “seniors” for the former
2 references to “the elderly” and “elderly individuals” in the introductory
3 language of subsection (b) and in subsection (c)(1)(ii) of this section, *see*
4 General Revisor’s Note to title.

5 In subsection (b)(2) of this section, the reference to State or federal “units”
6 is substituted for the former reference to a State or federal “agency”. *See*
7 General Revisor’s Note to article.

8 Defined term: “Secretary” § 10–101

9 10–212. RELATED INSTITUTIONS.

10 (A) “RELATED INSTITUTION” DEFINED.

11 IN THIS SECTION, “RELATED INSTITUTION” HAS THE MEANING STATED IN
12 § 19–301 OF THE HEALTH – GENERAL ARTICLE.

13 (B) INVESTIGATIONS AND OVERSIGHT.

14 ON THE SECRETARY’S INITIATIVE, THE SECRETARY MAY VISIT A RELATED
15 INSTITUTION TO DETERMINE WHETHER THE RELATED INSTITUTION IS COMPLYING
16 WITH APPLICABLE LAWS AND REGULATIONS.

17 (C) COMPLAINTS.

18 THE SECRETARY SHALL RECEIVE, INVESTIGATE, AND SEEK TO RESOLVE
19 COMPLAINTS ABOUT THE OPERATION OF A RELATED INSTITUTION.

20 (D) FINDINGS.

21 (1) IF THE SECRETARY FINDS THAT A RELATED INSTITUTION IS IN
22 VIOLATION OF ANY LAW OR ANY REGULATION OF A STATE UNIT THAT IS DIRECTLY
23 AND SPECIFICALLY CHARGED WITH REGULATING ANY ASPECT OF THE RELATED
24 INSTITUTION, THE SECRETARY SHALL NOTIFY THE UNIT IMMEDIATELY IN WRITING
25 OF THE FINDING.

26 (2) IF THE VIOLATION IS NOT CORRECTED WITHIN A REASONABLE TIME:

27 (I) THE SECRETARY SHALL REQUEST THE STATE UNIT TO TAKE
28 THE STEPS NECESSARY TO BRING THE RELATED INSTITUTION INTO COMPLIANCE;
29 AND

30 (II) THE STATE UNIT SHALL TAKE APPROPRIATE ACTION.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 70B, § 5(a) and (b).

33 In subsection (b) of this section, the reference to the Secretary’s “initiative”
34 is substituted for the former reference to the Secretary’s “own motion” for
35 clarity.

1 Also in subsection (b) of this section, the word “visit” is substituted for the
2 former phrase “make on-site visits” for brevity.

3 In subsections (b) and (d)(1) of this section, the former references to “rules”
4 and “rule” are deleted in light of the references to “regulations” and
5 “regulation”. *See* General Revisor’s Note to article.

6 In subsection (d) of this section, the references to a State “unit” are
7 substituted for the former references to a State “agency” for consistency
8 throughout this article. *See* General Revisor’s Note to article.

9 In subsection (d)(1) of this section, the reference to a “law” is substituted
10 for the former reference to a “statute” for consistency with subsection (b) of
11 this section.

12 Defined term: “Secretary” § 10–101

13 10–213. LONG-TERM CARE OMBUDSMAN PROGRAM.

14 (A) DEFINITIONS.

15 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) “PROGRAM” MEANS THE MARYLAND LONG-TERM CARE OMBUDSMAN
18 PROGRAM.

19 (3) “RELATED INSTITUTION” HAS THE MEANING STATED IN § 19–301 OF
20 THE HEALTH – GENERAL ARTICLE.

21 (B) ESTABLISHED.

22 THERE IS A MARYLAND LONG-TERM CARE OMBUDSMAN PROGRAM IN THE
23 DEPARTMENT.

24 (C) LONG-TERM CARE OMBUDSMAN.

25 (1) THE SECRETARY SHALL DESIGNATE A MARYLAND LONG-TERM CARE
26 OMBUDSMAN.

27 (2) THE SECRETARY MAY DELEGATE THE SECRETARY’S AUTHORITY
28 UNDER § 10–212 OF THIS SUBTITLE TO:

29 (I) THE MARYLAND LONG-TERM CARE OMBUDSMAN; AND

30 (II) THE DIRECTOR OF AN AREA AGENCY IN ACCORDANCE WITH A
31 LOCAL LONG-TERM CARE OMBUDSMAN PROGRAM ESTABLISHED UNDER
32 REGULATIONS THAT THE SECRETARY ADOPTS.

33 (D) REGULATIONS.

1 THE SECRETARY SHALL ADOPT REGULATIONS TO GOVERN:

2 (1) CONFLICTS OF INTEREST WITHIN THE PROGRAM;

3 (2) MINIMUM TRAINING REQUIREMENTS FOR ALL PROGRAM STAFF AND
4 VOLUNTEERS;

5 (3) COOPERATION WITH THE DEPARTMENT OF HEALTH AND MENTAL
6 HYGIENE AND THE DEPARTMENT OF HUMAN RESOURCES;

7 (4) ANNUAL REVIEW BY THE DEPARTMENT OF ALL OMBUDSMAN
8 ACTIVITIES;

9 (5) COMPLAINT REVIEW, INVESTIGATION, AND RESOLUTION
10 PROCEDURES, INCLUDING PROVISIONS TO ENSURE THE CONFIDENTIALITY OF
11 COMPLAINTS AND THE RIGHT OF PRIVACY OF A COMPLAINANT OR RESIDENT OF A
12 RELATED INSTITUTION;

13 (6) MAINTENANCE OF RECORDKEEPING OR INFORMATION SYSTEMS BY
14 THE LOCAL OMBUDSMAN THAT ENSURE THE CONFIDENTIALITY OF RECORDS AND
15 THE RIGHT OF PRIVACY OF A COMPLAINANT OR RESIDENT OF A RELATED
16 INSTITUTION;

17 (7) ACCESS, REVIEW, AND COPYING OF MEDICAL RECORDS TO THE
18 EXTENT AUTHORIZED BY § 4-305(B)(3) OF THE HEALTH – GENERAL ARTICLE WHEN
19 THE LOCAL OMBUDSMAN IS THE PERSON IN INTEREST OR AS OTHERWISE PROVIDED
20 BY LAW; AND

21 (8) A PROCESS FOR ASSISTING INDIVIDUALS WITH ORGANIZING AND
22 OPERATING A FAMILY COUNCIL IN A NURSING HOME.

23 (E) STAFFING RATIOS.

24 THE SECRETARY SHALL ESTABLISH AND SUBMIT A BUDGET FOR MINIMUM
25 STAFFING RATIOS FOR THE PROGRAM AT THE HIGHEST OF:

26 (1) ONE FULL-TIME OMBUDSMAN PER 1,000 LONG-TERM CARE BEDS;

27 (2) 20 HOURS OF OMBUDSMAN TIME PER WEEK PER AREA AGENCY; OR

28 (3) 10 HOURS OF OMBUDSMAN TIME PER WEEK PER NURSING HOME.

29 (F) LIABILITY.

30 A REPRESENTATIVE OF THE PROGRAM MAY NOT BE HELD LIABLE FOR THE
31 GOOD FAITH PERFORMANCE OF AN OFFICIAL DUTY.

32 (G) PROHIBITED ACTS.

33 (1) A PERSON MAY NOT WILLFULLY INTERFERE WITH A
34 REPRESENTATIVE OF THE PROGRAM IN THE PERFORMANCE OF AN OFFICIAL DUTY.

1 (2) A PERSON MAY NOT RETALIATE OR MAKE REPRISALS WITH RESPECT
2 TO ANY PERSON WHO FILED A COMPLAINT WITH, OR PROVIDED INFORMATION TO, A
3 REPRESENTATIVE OF THE PROGRAM.

4 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
5 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A PENALTY NOT EXCEEDING
6 \$1,500.

7 REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as
8 the standard introductory language to a definition section.

9 Subsection (a)(2) of this section is new language added to avoid repetition
10 of the full reference to the "Maryland Long-Term Care Ombudsman
11 Program".

12 Subsections (a)(3) and (b) through (g) of this section are new language
13 derived without substantive change from former Art. 70B, § 5(c) through
14 (f) and, as it defined "related institution", (a).

15 Subsection (b) of this section is revised in standard language for
16 consistency with similar provisions throughout this article.

17 In subsection (c)(2)(ii) of this section, the defined term "area agency" is
18 substituted for the former reference to a "local office on aging" for
19 consistency throughout this title.

20 In subsection (d)(6) of this section, the former reference to "files" is deleted
21 in light of the reference to "records".

22 In the introductory language of subsection (e) of this section, the word
23 "highest" is substituted for the former incorrect word "higher".

24 The Human Services Article Review Committee notes, for consideration by
25 the General Assembly, that although the term "nursing home" is used in
26 subsections (d)(8) and (e)(3) of this section, the term is not defined. The
27 General Assembly may wish to define the term for purposes of this section.

28 Defined terms: "Area agency" § 10-101

29 "Department" § 10-101

30 "Person" § 1-101

31 "Secretary" § 10-101

32 10-214. UNCLAIMED DECEASED NURSING HOME RESIDENTS.

33 (A) DEFINITIONS.

34 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
35 INDICATED.

1 (2) "NURSING HOME" MEANS COMPREHENSIVE CARE FACILITIES AND
2 EXTENDED CARE FACILITIES.

3 (3) "UNCLAIMED DECEASED NURSING HOME RESIDENT" MEANS A
4 RESIDENT OF A NURSING HOME:

5 (I) WHO HAS NOT PREARRANGED AND PREPAID FOR THE
6 DISPOSAL OF THE RESIDENT'S BODY; AND

7 (II) FOR WHOM NO PERSON HAS CLAIMED THE BODY AND
8 ASSUMED FUNERAL OR BURIAL RESPONSIBILITY ON THE DEATH OF THE RESIDENT.

9 (B) REGULATIONS.

10 THE SECRETARY SHALL ADOPT REGULATIONS ESTABLISHING GUIDELINES FOR
11 NURSING HOME ADMINISTRATORS REGARDING FUNERAL AND BURIAL
12 ARRANGEMENTS FOR UNCLAIMED DECEASED NURSING HOME RESIDENTS:

13 (1) CONSISTENT WITH § 5-406 OF THE HEALTH - GENERAL ARTICLE; AND

14 (2) WITH THE COOPERATION OF THE STATE ANATOMY BOARD.

15 (C) NOTIFICATION.

16 A NURSING HOME ADMINISTRATOR SHALL:

17 (1) IMMEDIATELY NOTIFY THE DEPARTMENT OF THE DEATH OF AN
18 UNCLAIMED DECEASED NURSING HOME RESIDENT; AND

19 (2) OBTAIN THE APPROVAL OF THE DEPARTMENT BEFORE BURYING OR
20 MAKING FUNERAL ARRANGEMENTS FOR THE UNCLAIMED DECEASED NURSING
21 HOME RESIDENT.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 70B, § 5A.

24 In the introductory language of subsection (b) of this section, the reference
25 to "adopt[ing] regulations" is added for consistency with Title 10, Subtitle 1
26 of the State Government Article and to reflect current practice.

27 Defined terms: "Department" § 10-101
28 "Secretary" § 10-101

29 GENERAL REVISOR'S NOTE TO SUBTITLE:

30 Former Art. 70B, § 25, which established a Senior Housing Managers Training
31 Program, is deleted as obsolete. The Department of Aging advises that the Program
32 no longer exists.

1 SUBTITLE 3. INTERAGENCY COMMITTEE ON AGING SERVICES.

2 10-301. ESTABLISHED.

3 THERE IS AN INTERAGENCY COMMITTEE ON AGING SERVICES IN THE
4 EXECUTIVE DEPARTMENT.

5 REVISOR'S NOTE: This section formerly was Art. 70B, § 4A.

6 No changes are made.

7 10-302. MEMBERSHIP.

8 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

9 THE INTERAGENCY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

10 (1) THE SECRETARY OF AGING;

11 (2) THE SECRETARY OF DISABILITIES;

12 (3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

13 (4) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;

14 (5) THE SECRETARY OF HUMAN RESOURCES;

15 (6) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

16 (7) THE SECRETARY OF TRANSPORTATION;

17 (8) A REPRESENTATIVE FROM AN AREA AGENCY APPOINTED BY THE
18 GOVERNOR FROM A LIST SUBMITTED BY THE MARYLAND ASSOCIATION OF AREA
19 AGENCIES ON AGING; AND

20 (9) A MEMBER OF THE PUBLIC APPOINTED BY THE GOVERNOR.

21 (B) TENURE; VACANCIES.

22 (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR UNDER
23 SUBSECTION (A)(8) OR (9) OF THIS SECTION IS 2 YEARS.

24 (2) A MEMBER APPOINTED BY THE GOVERNOR UNDER SUBSECTION
25 (A)(8) OR (9) OF THIS SECTION MAY NOT BE REAPPOINTED FOR MORE THAN 2
26 ADDITIONAL TERMS.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 70B, § 4B(a) and (b).

29 In subsection (a)(8) of this section, the defined term "area agency" is
30 substituted for the former reference to a "local area agency on aging" for

1 consistency throughout this title.

2 In subsection (a)(9) of this section, the former reference to the “general”
3 public is deleted as surplusage.

4 In subsection (b) of this section, the references to a “member appointed by
5 the Governor under subsection (a)(8) or (9) of this section” are substituted
6 for the former reference to the “representative from the local area agency
7 and the general public member” for clarity.

8 Defined terms: “Area agency” § 10–101
9 “Interagency Committee” § 10–101

10 10–303. CHAIR.

11 THE GOVERNOR SHALL APPOINT THE CHAIR OF THE INTERAGENCY
12 COMMITTEE FROM AMONG THE MEMBERS LISTED IN § 10–302(A)(1) THROUGH (7) OF
13 THIS SUBTITLE.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 70B, § 4B(c).

16 In this section and throughout this subtitle, the reference to the “chair” is
17 substituted for the former reference to the “Chairman” because SG §
18 2–1238 requires the use of terms that are neutral as to gender to the
19 extent possible.

20 The reference to the “members listed in § 10–302(a)(1) through (7) of this
21 subtitle” is substituted for the former reference to “the agency heads who
22 serve on the Committee” for clarity.

23 Former Art. 70B, § 4(a)(11), which required that the Secretary of Aging
24 chair the Interagency Committee on Aging Services, is deleted as
25 inconsistent with former Art. 70B, § 4B(c), which required the Governor to
26 appoint the chair from among the agency heads who serve on the
27 Committee. If two statutes contain an irreconcilable conflict, the later
28 statute governs to the extent of the conflict. *See State v. Ghajari*, 346 Md.
29 101 (1997). Former Art. 70B, § 4(a)(11) was enacted by Ch. 101, Acts of
30 1982; former Art. 70B, § 4B(c) was enacted by Ch. 538, Acts of 1989.
31 Accordingly, the later enactment has been given effect in this revision. The
32 Human Services Article Review Committee calls this deletion to the
33 attention of the General Assembly.

34 Defined term: “Interagency Committee” § 10–101

35 10–304. EXECUTIVE DIRECTOR; LIAISONS.

36 (A) EXECUTIVE DIRECTOR.

1 (1) AN EXECUTIVE DIRECTOR SHALL SERVE AS THE PRINCIPAL STAFF
2 OF THE INTERAGENCY COMMITTEE.

3 (2) THE EXECUTIVE DIRECTOR SHALL BE AN EMPLOYEE OF THE
4 DEPARTMENT.

5 (B) LIAISONS.

6 EACH MEMBER OF THE INTERAGENCY COMMITTEE LISTED IN § 10–302(A)(1)
7 THROUGH (7) OF THIS SUBTITLE SHALL DESIGNATE AN EMPLOYEE AS LIAISON WITH
8 THE EXECUTIVE DIRECTOR TO:

9 (1) IMPLEMENT POLICIES OF THE INTERAGENCY COMMITTEE; AND

10 (2) MONITOR THE EXPENDITURE OF FUNDS TO SERVE SENIORS.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 70B, § 4B(d).

13 In the introductory language of subsection (b) of this section, the reference
14 to “[e]ach member of the Interagency Committee listed in § 10–302(a)(1)
15 through (7) of this subtitle” is substituted for the former reference to
16 “[e]ach member agency” for clarity.

17 As to the substitution of the reference to “seniors” for the former reference
18 to “the elderly” in subsection (b)(2) of this section, *see* General Revisor’s
19 Note to title.

20 Defined terms: “Department” § 10–101
21 “Interagency Committee” § 10–101

22 10–305. MEETINGS.

23 (A) IN GENERAL.

24 THE INTERAGENCY COMMITTEE SHALL MEET AT LEAST QUARTERLY.

25 (B) EXECUTIVE MEETING.

26 THE CHAIR SHALL DESIGNATE AT LEAST ONE MEETING EACH YEAR AS AN
27 EXECUTIVE MEETING.

28 (C) DESIGNEES.

29 A MEMBER OF THE INTERAGENCY COMMITTEE MAY SEND A DESIGNEE TO
30 REPRESENT THE MEMBER AT ANY MEETING THAT IS NOT AN EXECUTIVE MEETING.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 70B, § 4C(c).

33 In subsection (a) of this section, the former reference to meeting quarterly

1 “during each year” is deleted as implicit.

2 Defined term: “Interagency Committee” § 10–101

3 10–306. DUTIES.

4 (A) COORDINATED SERVICES PLAN.

5 (1) THE INTERAGENCY COMMITTEE SHALL DEVELOP AND UPDATE
6 ANNUALLY A PLAN FOR PROVIDING COORDINATED HEALTH SERVICES, SOCIAL
7 SERVICES, TRANSPORTATION, HOUSING, AND EMPLOYMENT SERVICES TO SENIORS
8 IN THE STATE CONSISTENT WITH THE PRIORITIES THAT THE DEPARTMENT
9 ESTABLISHES.

10 (2) IF THE MEMBERS OF THE INTERAGENCY COMMITTEE CANNOT
11 AGREE ON A PLAN, THE CHAIR SHALL REFER THE MATTER TO THE GOVERNOR FOR
12 RESOLUTION.

13 (B) CONSOLIDATED OPERATING BUDGET.

14 ANNUALLY ON OR BEFORE A DATE THAT THE GOVERNOR SETS, THE
15 INTERAGENCY COMMITTEE SHALL DEVELOP AND PRESENT TO THE GOVERNOR AND
16 THE GENERAL ASSEMBLY A CONSOLIDATED OPERATING BUDGET FOR SERVICES TO
17 SENIORS THAT:

18 (1) SETS FORTH THE RELEVANT PORTIONS OF THE OPERATING BUDGET
19 OF ANY UNIT RESPONSIBLE FOR SERVICES TO SENIORS; AND

20 (2) IS CONSISTENT WITH THE PLAN DEVELOPED UNDER SUBSECTION (A)
21 OF THIS SECTION.

22 (C) INTERAGENCY AGREEMENTS.

23 THE INTERAGENCY COMMITTEE SHALL ESTABLISH INTERAGENCY
24 AGREEMENTS AND ADOPT REGULATIONS TO:

25 (1) IMPLEMENT AND COORDINATE SERVICES TO SENIORS CONSISTENT
26 WITH THE PLAN DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION;

27 (2) MAXIMIZE THE SHARING OF RESOURCES AMONG UNITS OF STATE
28 GOVERNMENT FOR SERVICES TO SENIORS;

29 (3) CONSOLIDATE PLANNING AND EVALUATION EFFORTS AT THE STATE
30 AND LOCAL LEVELS; AND

31 (4) COORDINATE AND EXPEDITE THE DELIVERY OF SERVICES TO
32 SENIORS BY PROVIDING TECHNICAL ASSISTANCE TO LOCAL AGENCIES.

33 (D) LOCAL INTERAGENCY COMMITTEES.

1 (1) THE INTERAGENCY COMMITTEE SHALL ASSIST COUNTY AGENCIES
2 TO ESTABLISH LOCAL INTERAGENCY COMMITTEES COMPOSED OF:

3 (I) THE DIRECTORS OF THE LOCAL HEALTH DEPARTMENT, LOCAL
4 DEPARTMENT OF SOCIAL SERVICES, AND AREA AGENCY; AND

5 (II) OFFICIALS FROM HOUSING, TRANSPORTATION, MENTAL
6 HEALTH, EMPLOYMENT, AND ECONOMIC DEVELOPMENT AGENCIES.

7 (2) LOCAL INTERAGENCY COMMITTEES SHALL COORDINATE AND
8 EXPEDITE THE DELIVERY OF SERVICES TO SENIORS AT THE LOCAL LEVEL.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 70B, § 4C(b) and (d).

11 As to the substitution of the references to "seniors" for the former
12 references to "elderly persons" and "the elderly" in subsections (a)(1), (c)(4),
13 and (d)(2) of this section and the substitution of the references to "services
14 to seniors" for the former references to "aging services" in subsections
15 (b)(1) and (c)(1) and the introductory language of (b) of this section, *see*
16 General Revisor's Note to title.

17 In subsection (a)(2) of this section, the former reference to a plan "for
18 services to elderly persons" is deleted as implicit.

19 In subsection (b)(2) of this section, the reference to the "plan developed
20 under subsection (a) of this section" is substituted for the former reference
21 to the "Interagency Committee plan for providing coordinated health
22 services, social services, transportation, housing, and employment services
23 to elderly persons in this State" for brevity.

24 In the introductory language of subsection (c) of this section, the former
25 reference to "appropriate" agreements is deleted as implicit in the
26 authority to establish agreements. Similarly, the former reference to
27 "necessary" regulations is deleted.

28 Also in the introductory language of subsection (c) of this section, the
29 former reference to "rules" is deleted in light of the reference to
30 "regulations". *See* General Revisor's Note to article.

31 In subsection (c)(1) of this section, the reference to the "plan developed
32 under subsection (a) of this section" is substituted for the former reference
33 to the "Interagency Committee plan" for clarity and consistency.

34 In subsection (c)(2) of this section, the reference to "units of State
35 government" is substituted for the former word "agency" for clarity and
36 consistency. *See* General Revisor's Note to article.

37 Former Art. 70B, § 4C(a), which provided that the powers and duties under
38 this section are in addition to any other powers and duties under this

1 subtitle, is deleted as surplusage.

2 Defined terms: "Area agency" § 10-101
3 "County" § 1-101
4 "Department" § 10-101
5 "Interagency Committee" § 10-101

6 10-307. SINGLE POINT OF ENTRY PROGRAM.

7 (A) IN GENERAL.

8 (1) THE INTERAGENCY COMMITTEE SHALL ESTABLISH AND
9 COORDINATE A PROGRAM TO PROVIDE SINGLE POINTS OF ENTRY WITHIN EACH
10 PLANNING AND SERVICE AREA.

11 (2) THE DEPARTMENT SHALL SUPERVISE THE PROGRAM FOR THE
12 INTERAGENCY COMMITTEE.

13 (B) OPERATION.

14 EACH AREA AGENCY SHALL OPERATE A SINGLE POINT OF ENTRY PROGRAM TO
15 ASSESS THE NEEDS OF SENIORS AND THEIR CAREGIVERS AND PROVIDE
16 APPROPRIATE SERVICES.

17 (C) SERVICES.

18 THE FOLLOWING SERVICES SHALL BE PROVIDED THROUGH A SINGLE POINT OF
19 ENTRY:

20 (1) PROVIDING CURRENT INFORMATION ON AVAILABLE PROGRAMS,
21 SERVICES, OR BENEFITS;

22 (2) DETERMINING THE SERVICE NEEDS OF EACH SENIOR WHO
23 REQUESTS SERVICE;

24 (3) PROCESSING REQUESTS FOR SERVICE FROM SENIORS;

25 (4) THROUGH WIDELY PUBLICIZED LOCAL OUTREACH FACILITIES AND
26 COMMUNICATIONS SYSTEMS, PROVIDING ACCESS TO AVAILABLE PUBLIC AND
27 PRIVATE PROGRAMS AND SERVICES FOR SENIORS, INCLUDING:

28 (I) TRANSPORTATION SERVICES;

29 (II) HEALTH AND NUTRITION SERVICES;

30 (III) FINANCIAL ASSISTANCE;

31 (IV) SOCIAL SERVICES;

32 (V) EDUCATIONAL SERVICES;

1 (VI) SERVICES AVAILABLE THROUGH VOLUNTEER ORGANIZATIONS
2 OR PRIVATE AGENCIES;

3 (VII) APPROPRIATE HOUSING ARRANGEMENTS;

4 (VIII) HEALTH INSURANCE COUNSELING;

5 (IX) EMPLOYMENT AND VOLUNTEER OPPORTUNITIES;

6 (X) RESPITE CARE SERVICES; AND

7 (XI) OTHER PROGRAMS, INFORMATION, COUNSELING, OR BENEFITS
8 FOR SENIORS;

9 (5) MONITORING THE OUTCOME OF REQUESTS FOR SERVICE OR
10 INFORMATION; AND

11 (6) ARRANGING WITH OTHER AGENCIES FOR INDIVIDUAL ASSESSMENT
12 TO DETERMINE THE SERVICE NEEDS OF A FRAIL OR HEALTH-IMPAIRED SENIOR.

13 (D) LOCATION; HOURS.

14 TO THE EXTENT POSSIBLE, EACH SINGLE POINT OF ENTRY SHALL BE:

15 (1) LOCATED IN A SENIOR CITIZEN CENTER; AND

16 (2) AVAILABLE FOR ACCESS AT LEAST 5 DAYS A WEEK.

17 (E) STAFF.

18 LOCAL INTERAGENCY COMMITTEES ON SERVICES TO SENIORS SHALL MAKE
19 AGREEMENTS AMONG THEMSELVES AND WITH OTHER AGENCIES TO PROVIDE STAFF
20 ON A REGULAR BASIS AT THE SINGLE POINTS OF ENTRY TO:

21 (1) PROVIDE INFORMATION AND SERVICES TO SENIORS; AND

22 (2) ADMINISTER AGENCY PROGRAMS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 70B, §§ 4E and 4F.

25 As to the substitution of references to "seniors" and "senior" for the former
26 references to "elderly persons", "the elderly", and "elderly person"
27 throughout this section, *see* General Revisor's Note to title.

28 In subsection (a) of this section, the former reference to a "designated"
29 planning and service area is deleted in light of the definition of "planning
30 and service area". *See* § 10-101 of this title.

31 Also in subsection (a) of this section, the former reference to each planning
32 and service area "throughout the State" is deleted as implicit.

1 As to the substitution of the reference to “services to seniors” for the former
 2 reference to “aging services” in subsection (e) of this section, *see* General
 3 Revisor’s Note to title.

4 Also in subsection (e) of this section, the former reference to other “public
 5 and private” agencies is deleted as implicit and for consistency throughout
 6 this subtitle. *See, e.g.*, §§ 10–306(c)(4) and (d) and 10–307(c)(6).

7 Defined terms: “Area agency” § 10–101
 8 “Department” § 10–101
 9 “Interagency Committee” § 10–101
 10 “Planning and service area” § 10–101

11 10–308. TELEPHONE INFORMATION AND REFERRAL SERVICE.

12 EACH PLANNING AND SERVICE AREA SHALL HAVE A TELEPHONE
 13 INFORMATION AND REFERRAL SERVICE THAT IS AVAILABLE ON A 24–HOUR BASIS.

14 REVISOR’S NOTE: This section is new language derived without substantive
 15 change from former Art. 70B, § 4G.

16 The reference to being “available” is substituted for the former reference to
 17 being “in effect” for clarity.

18 The former reference to a “designated” planning and service area is deleted
 19 in light of the definition of “planning and service area”. *See* § 10–101 of this
 20 title.

21 Defined term: “Planning and service area” § 10–101

22 10–309. SERVICES FOR FRAIL OR HEALTH–IMPAIRED SENIORS.

23 (A) IN GENERAL.

24 (1) THE INTERAGENCY COMMITTEE SHALL:

25 (I) DEVELOP A SYSTEM TO PROVIDE SERVICES TO FRAIL OR
 26 HEALTH–IMPAIRED SENIORS AT RISK OF INSTITUTIONALIZATION; AND

27 (II) COORDINATE THE SYSTEM AMONG THE AGENCIES
 28 REPRESENTED ON THE INTERAGENCY COMMITTEE.

29 (2) THE DEPARTMENT SHALL ADMINISTER THE SYSTEM FOR THE
 30 INTERAGENCY COMMITTEE.

31 (B) SERVICES INCLUDED.

32 THE SERVICES SHALL INCLUDE:

33 (1) INTEGRATED SCREENING AND EVALUATION;

1 (2) DEVELOPMENT OF AN INDIVIDUAL PLAN OF CARE;

2 (3) IN-HOME SERVICES SUCH AS MINOR HOME REPAIR, SHOPPING
3 ASSISTANCE, HOMEMAKING, PERSONAL CARE, MEAL DELIVERY OR PREPARATION,
4 SUPPORTIVE SERVICES TO GROUP OR SHARED LIVING ARRANGEMENTS,
5 TRANSPORTATION SERVICES, AND HEALTH SERVICES; AND

6 (4) COMMUNITY SERVICES SUCH AS DAY CARE, CONGREGATE MEALS,
7 AND OTHER PROGRAMS TO ASSIST SENIORS OR ADULT CAREGIVERS IN PROVIDING
8 CARE FOR SENIORS.

9 (C) COMMUNITY-BASED PLAN.

10 TO BE ELIGIBLE TO PARTICIPATE IN THE SYSTEM, A COUNTY OR COUNTIES
11 SHALL ESTABLISH A COMMUNITY-BASED PLAN THAT:

12 (1) IS DEVELOPED BY A LOCAL OR REGIONAL COMMITTEE COMPOSED
13 OF:

14 (I) THE DIRECTORS OF THE LOCAL HEALTH DEPARTMENT, LOCAL
15 DEPARTMENT OF SOCIAL SERVICES, AND AREA AGENCY; AND

16 (II) OFFICIALS OF OTHER RELEVANT AGENCIES, SUCH AS LOCAL
17 HOUSING, TRANSPORTATION, EMPLOYMENT, AND ECONOMIC DEVELOPMENT
18 OFFICIALS;

19 (2) IS CONSISTENT WITH THE PLAN DEVELOPED UNDER § 10-306(A) OF
20 THIS SUBTITLE;

21 (3) SPECIFIES ADMINISTRATIVE ARRANGEMENTS TO EVALUATE AND
22 DEVELOP CARE PLANS FOR FRAIL OR HEALTH-IMPAIRED SENIORS;

23 (4) ENCOURAGES FURTHER COORDINATION OF SERVICE DELIVERY;

24 (5) FOSTERS INDIVIDUAL CONTRIBUTIONS FOR SERVICES PROVIDED;

25 (6) FOSTERS THE DEVELOPMENT OF INNOVATIVE SERVICE DELIVERY;

26 (7) FOSTERS THE DEVELOPMENT OF SERVICES IN CONJUNCTION WITH
27 THE PRIVATE SECTOR; AND

28 (8) FOSTERS COMMUNITY INVOLVEMENT THROUGH THE USE OF
29 VOLUNTEERS.

30 (D) MANAGEMENT AND COORDINATION.

31 THE INTERAGENCY COMMITTEE, THROUGH THE DEPARTMENT, SHALL WORK
32 WITH LOCAL HEALTH DEPARTMENTS, LOCAL DEPARTMENTS OF SOCIAL SERVICES,
33 AREA AGENCIES, AND LOCAL HOUSING, TRANSPORTATION, ECONOMIC
34 DEVELOPMENT, AND EMPLOYMENT DEVELOPMENT OFFICIALS TO DEVELOP:

1 (1) A SYSTEM TO DESIGNATE CASE MANAGERS TO SECURE AND
 2 MANAGE NECESSARY SERVICES FOR EACH FRAIL OR HEALTH-IMPAIRED SENIOR IN
 3 NEED; AND

4 (2) GUIDELINES TO ESTABLISH LOCAL OR REGIONAL COMMITTEES TO
 5 COORDINATE THE SERVICES SYSTEM TO IMPLEMENT THIS SECTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
 7 change from former Art. 70B, § 4H.

8 As to the substitution of references to "seniors" and "senior" for the former
 9 references to "elderly persons", "the elderly", and "elderly person"
 10 throughout this section, *see* General Revisor's Note to title.

11 In subsection (a)(1)(ii) of this section, the reference to the "agencies
 12 represented on the Interagency Committee" is substituted for the former
 13 reference to the "various agencies" for clarity.

14 In subsection (a)(2) of this section, the former reference to the "services"
 15 system is deleted as surplusage.

16 In subsection (b)(4) of this section, the reference to "providing care for"
 17 seniors is substituted for the former reference to "maintaining" seniors for
 18 clarity.

19 Also in subsection (b)(4) of this section, the former reference to "[o]ther"
 20 community services is deleted as surplusage.

21 In subsection (c)(1) of this section, the defined term "area agency" is
 22 substituted for the former reference to an "area agency on aging" for
 23 consistency throughout this subtitle.

24 In subsection (c)(2) of this section, the reference to the "plan developed
 25 under § 10-306(a) of this subtitle" is substituted for the former reference to
 26 the "Interagency Committee coordinated plan for elderly persons" for
 27 clarity and consistency.

28 Defined terms: "Area agency" § 10-101
 29 "County" § 1-101
 30 "Department" § 10-101
 31 "Interagency Committee" § 10-101

32 10-310. ANNUAL REPORT.

33 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE INTERAGENCY
 34 COMMITTEE SHALL PRESENT A REPORT BEFORE EACH LEGISLATIVE SESSION TO
 35 THE GENERAL ASSEMBLY ON:

36 (1) THE PLAN DEVELOPED UNDER § 10-306(A) OF THIS SUBTITLE;

1 (2) THE ACTIVITIES OF THE INTERAGENCY COMMITTEE; AND

2 (3) THE STATUS OF SERVICES TO SENIORS IN THE STATE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 70B, § 4D.

5 In item (1) of this section, the reference to the "plan developed under §
6 10-306(a) of this subtitle" is substituted for the former reference to "the
7 annual aging services plan" for clarity and consistency.

8 As to the substitution of the reference to "services to seniors" for the former
9 reference to "aging services" in item (3) of this section, *see* General
10 Revisor's Note to title.

11 Also in item (3) of this section, the former reference to the "current" status
12 of services is deleted as implicit.

13 Defined term: "Interagency Committee" § 10-101

14 SUBTITLE 4. CONTINUING CARE.

15 PART I. DEFINITIONS; GENERAL PROVISIONS.

16 10-401. DEFINITIONS.

17 (A) IN GENERAL.

18 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(a).

20 No changes are made.

21 (B) ASSISTED LIVING PROGRAM.

22 "ASSISTED LIVING PROGRAM" HAS THE MEANING STATED IN § 19-1801 OF THE
23 HEALTH - GENERAL ARTICLE.

24 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(b).

25 No changes are made.

26 (C) CERTIFIED FINANCIAL STATEMENT.

27 "CERTIFIED FINANCIAL STATEMENT" MEANS A COMPLETE AUDIT PREPARED
28 AND CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

29 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(c).

30 No changes are made.

1 (D) CONTINUING CARE.

2 “CONTINUING CARE” MEANS:

3 (1) CONTINUING CARE IN A RETIREMENT COMMUNITY; OR

4 (2) CONTINUING CARE AT HOME.

5 REVISOR’S NOTE: This subsection is new language added for clarity.

6 Defined terms: “Continuing care at home” § 10–401

7 “Continuing care in a retirement community” § 10–401

8 (E) CONTINUING CARE AGREEMENT.

9 “CONTINUING CARE AGREEMENT” MEANS AN AGREEMENT BETWEEN A
10 PROVIDER AND A SUBSCRIBER TO PROVIDE CONTINUING CARE.

11 REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(e).

12 No changes are made.

13 Defined terms: “Continuing care” § 10–401

14 “Provider” § 10–401

15 “Subscriber” § 10–401

16 (F) CONTINUING CARE AT HOME.

17 (1) “CONTINUING CARE AT HOME” MEANS PROVIDING MEDICAL,
18 NURSING, OR OTHER HEALTH RELATED SERVICES DIRECTLY OR BY CONTRACTUAL
19 ARRANGEMENT:

20 (I) TO AN INDIVIDUAL WHO IS AT LEAST 60 YEARS OF AGE AND
21 NOT RELATED BY BLOOD OR MARRIAGE TO THE PROVIDER;

22 (II) FOR THE LIFE OF THE INDIVIDUAL OR FOR A PERIOD
23 EXCEEDING 1 YEAR; AND

24 (III) UNDER A WRITTEN AGREEMENT THAT REQUIRES A TRANSFER
25 OF ASSETS OR AN ENTRANCE FEE NOTWITHSTANDING PERIODIC CHARGES.

26 (2) “CONTINUING CARE AT HOME” INCLUDES PROVIDING ASSISTANCE
27 WITH THE PHYSICAL MAINTENANCE OF THE INDIVIDUAL’S DWELLING.

28 REVISOR’S NOTE: This subsection is new language derived without
29 substantive change from former Art. 70B, § 22A(a).

30 The former introductory language “[i]n this section:” is deleted as
31 unnecessary in light of subsection (a) of this section.

1 Defined terms: "Entrance fee" § 10-401

2 "Health related services" § 10-401

3 (G) CONTINUING CARE IN A RETIREMENT COMMUNITY.

4 "CONTINUING CARE IN A RETIREMENT COMMUNITY" MEANS PROVIDING
5 SHELTER AND PROVIDING EITHER MEDICAL AND NURSING OR OTHER HEALTH
6 RELATED SERVICES OR MAKING THE SERVICES READILY ACCESSIBLE THROUGH THE
7 PROVIDER OR AN AFFILIATE OF THE PROVIDER, WHETHER OR NOT THE SERVICES
8 ARE SPECIFICALLY OFFERED IN THE WRITTEN AGREEMENT FOR SHELTER:

9 (1) TO AN INDIVIDUAL WHO IS AT LEAST 60 YEARS OF AGE AND NOT
10 RELATED BY BLOOD OR MARRIAGE TO THE PROVIDER;

11 (2) FOR THE LIFE OF THE INDIVIDUAL OR FOR A PERIOD EXCEEDING 1
12 YEAR; AND

13 (3) UNDER ONE OR MORE WRITTEN AGREEMENTS THAT REQUIRE A
14 TRANSFER OF ASSETS OR AN ENTRANCE FEE NOTWITHSTANDING PERIODIC
15 CHARGES.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 70B, § 7(d) and (r).

18 In the introductory language of this section, the former phrase "for use by
19 a subscriber" is deleted as surplusage.

20 The former defined term "[m]aking available either medical and nursing
21 services or other health related services" in former Art. 70B, § 7(r) was only
22 used in the former definition of "[c]ontinuing care" in former § 7(d). The
23 elements of former § 7(r) are incorporated into the revised definition of
24 "[c]ontinuing care in a retirement community" in this subsection.

25 In this subsection and throughout this subtitle, references to "continuing
26 care in a retirement community" are substituted for former references to
27 "continuing care", where appropriate, to clearly distinguish it from
28 "continuing care at home".

29 Defined terms: "Entrance fee" § 10-401

30 "Health related services" § 10-401

31 "Provider" § 10-401

32 (H) CONTRACTUAL ENTRANCE FEE REFUND.

33 (1) "CONTRACTUAL ENTRANCE FEE REFUND" MEANS A REPAYMENT OF
34 ALL OR PART OF A SUBSCRIBER'S ENTRANCE FEE TO THE SUBSCRIBER OR THE
35 SUBSCRIBER'S ESTATE OR DESIGNATED BENEFICIARY, AS REQUIRED BY THE TERMS
36 OF THE CONTINUING CARE AGREEMENT.

1 (2) "CONTRACTUAL ENTRANCE FEE REFUND" DOES NOT INCLUDE A
2 PAYMENT REQUIRED UNDER § 10-446 OR § 10-448 OF THIS SUBTITLE.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 70B, § 7(f).

5 In paragraph (2) of this subsection, the word "include" is substituted for
6 the former word "mean" to conform to standard language used in
7 definitions throughout other revised articles of the Code.

8 Defined terms: "Continuing care agreement" § 10-401

9 "Entrance fee" § 10-401

10 "Subscriber" § 10-401

11 (I) CONVERSION.

12 "CONVERSION" MEANS CONVERTING A PHYSICAL PLANT THAT PROVIDES
13 HOUSING OR SHELTER INTO A FACILITY IF:

14 (1) THE RESIDENTIAL ACCOMMODATIONS EXIST BEFORE A STATEMENT
15 OF INTENT IS FILED UNDER § 10-409(B) OF THIS SUBTITLE; AND

16 (2) AT LEAST 60% OF THE AVAILABLE RESIDENTIAL ACCOMMODATIONS
17 OF THE FACILITY OWNER WERE OCCUPIED DURING THE TWO FISCAL YEARS PRIOR
18 TO THE FILING OF A STATEMENT OF INTENT.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 70B, § 7(f-1).

21 In the introductory language of this subsection, the reference to a "physical
22 plant" is substituted for the former reference to a "facility" to avoid
23 confusion with the defined term "facility".

24 Also in the introductory language of this subsection, the former phrase
25 "the process of taking" is deleted for brevity.

26 Also in the introductory language of this subsection, the former reference
27 to a "continuing care" facility is deleted as surplusage.

28 In item (2) of this subsection, the reference to "the filing of a statement of
29 intent" is added for clarity.

30 Defined term: "Facility" § 10-401

31 (J) DEPOSIT.

32 "DEPOSIT" MEANS A PORTION OF AN ENTRANCE FEE.

33 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(i).

34 No changes are made.

1 Defined term: "Entrance fee" § 10-401

2 (K) ENTRANCE FEE.

3 (1) "ENTRANCE FEE" MEANS A SUM OF MONEY OR OTHER
4 CONSIDERATION PAID INITIALLY OR IN DEFERRED PAYMENTS, THAT:

5 (I) ASSURES A SUBSCRIBER CONTINUING CARE FOR THE LIFE OF
6 THE SUBSCRIBER OR FOR A PERIOD EXCEEDING 1 YEAR; AND

7 (II) IS AT LEAST THREE TIMES THE WEIGHTED AVERAGE OF THE
8 MONTHLY COST OF THE PERIODIC FEES CHARGED FOR INDEPENDENT LIVING AND
9 ASSISTED LIVING UNITS.

10 (2) "ENTRANCE FEE" INCLUDES A FEE OF SIMILAR FORM AND
11 APPLICATION, REGARDLESS OF TITLE.

12 (3) "ENTRANCE FEE" DOES NOT INCLUDE A SURCHARGE.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 70B, § 7(j).

15 Defined terms: "Continuing care" § 10-401

16 "Subscriber" § 10-401

17 "Surcharge" § 10-401

18 (L) EXPANSION.

19 (1) "EXPANSION" MEANS ANY SINGLE NEW CAPITAL ADDITION TO AN
20 EXISTING FACILITY THAT MEETS EITHER OF THE FOLLOWING CRITERIA:

21 (I) IF INDEPENDENT OR ASSISTED LIVING UNITS ARE TO BE
22 CONSTRUCTED, THE NUMBER OF UNITS TO BE CONSTRUCTED IS LESS THAN OR
23 EQUAL TO 25% OF THE NUMBER OF EXISTING INDEPENDENT AND ASSISTED LIVING
24 UNITS; OR

25 (II) IF INDEPENDENT OR ASSISTED LIVING UNITS ARE NOT TO BE
26 CONSTRUCTED, THE TOTAL PROJECTED COST EXCEEDS THE SUM OF:

27 1. 10% OF THE TOTAL OPERATING EXPENSES, LESS
28 DEPRECIATION, AMORTIZATION, AND INTEREST EXPENSE OF THE FACILITY AS
29 SHOWN ON THE CERTIFIED FINANCIAL STATEMENT FOR THE MOST RECENT FISCAL
30 YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE; AND

31 2. THE AMOUNT OF THE EXISTING RESERVES PROPERLY
32 ALLOCABLE TO, AND ALLOCATED FOR, THE EXPANSION.

33 (2) "EXPANSION" DOES NOT INCLUDE RENOVATION AND NORMAL
34 REPAIR AND MAINTENANCE.

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1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 70B, § 7(k).

3 In the introductory language of this subsection, the reference to an
4 addition to "an existing facility" is added for clarity.

5 Defined terms: "Certified financial statement" § 10-401
6 "Facility" § 10-401

7 (M) FACILITY.

8 "FACILITY" MEANS A PHYSICAL PLANT IN WHICH CONTINUING CARE IN A
9 RETIREMENT COMMUNITY IS PROVIDED IN ACCORDANCE WITH THIS SUBTITLE.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 70B, § 7(m).

12 Defined term: "Continuing care in a retirement community" § 10-401

13 (N) FINANCIAL DIFFICULTY.

14 "FINANCIAL DIFFICULTY" MEANS CURRENT OR IMPENDING FINANCIAL
15 CONDITIONS THAT IMPAIR OR MAY IMPAIR THE ABILITY OF A PROVIDER TO MEET
16 EXISTING OR FUTURE OBLIGATIONS.

17 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(n).

18 The only changes are in style.

19 Defined term: "Provider" § 10-401

20 (O) GOVERNING BODY.

21 "GOVERNING BODY" MEANS A BOARD OF DIRECTORS, BOARD OF TRUSTEES, OR
22 SIMILAR GROUP THAT ULTIMATELY DIRECTS THE AFFAIRS OF A PROVIDER, BUT
23 WHOSE MEMBERS ARE NOT REQUIRED TO HAVE AN EQUITY INTEREST IN THE
24 PROVIDER.

25 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(p).

26 No changes are made.

27 Defined term: "Provider" § 10-401

28 (P) HEALTH RELATED SERVICES.

29 (1) "HEALTH RELATED SERVICES" MEANS SERVICES THAT ARE NEEDED
30 BY A SUBSCRIBER TO MAINTAIN THE SUBSCRIBER'S HEALTH.

31 (2) "HEALTH RELATED SERVICES" INCLUDES:

1 (I) PRIORITY ADMISSION TO A NURSING HOME OR ASSISTED
2 LIVING PROGRAM; OR

3 (II) EXCEPT FOR THE PROVISION OF MEALS, ASSISTANCE WITH THE
4 ACTIVITIES OF DAILY LIVING.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 70B, § 7(q).

7 Defined terms: "Assisted living program" § 10-401
8 "Subscriber" § 10-401

9 (Q) PERSON.

10 "PERSON" INCLUDES A GOVERNMENTAL ENTITY OR UNIT.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 70B, § 7(t).

13 The reference to a "governmental entity or unit" is substituted for the
14 former reference to a "public body" for clarity and consistency.

15 The former reference to "any natural person, firm, association, corporation,
16 company, trust, partnership, limited liability company ..., or other business
17 or nonprofit entity" is deleted as included in the definition of "person" in §
18 1-101 of this article.

19 Defined term: "Person" § 1-101

20 (R) PROCESSING FEE.

21 "PROCESSING FEE" MEANS A FEE IMPOSED BY A PROVIDER FOR DETERMINING
22 THE FINANCIAL, MENTAL, AND PHYSICAL ELIGIBILITY OF AN APPLICANT FOR
23 ENTRANCE INTO A FACILITY.

24 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(u).

25 The only changes are in style.

26 Defined terms: "Facility" § 10-401
27 "Provider" § 10-401

28 (S) PROVIDER.

29 "PROVIDER" MEANS A PERSON WHO:

30 (1) UNDERTAKES TO PROVIDE CONTINUING CARE; AND

31 (2) IS:

32 (I) THE OWNER OR OPERATOR OF A FACILITY; OR

1 (II) AN APPLICANT FOR OR THE HOLDER OF A PRELIMINARY,
2 INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION.

3 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(v).

4 The only changes are in style.

5 Defined terms: "Continuing care" § 10-401

6 "Facility" § 10-401

7 "Person" §§ 1-101, 10-401

8 (T) RECORDS.

9 "RECORDS" MEANS INFORMATION MAINTAINED BY A PROVIDER FOR THE
10 PROPER OPERATION OF A FACILITY UNDER THIS SUBTITLE.

11 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(x).

12 The only changes are in style.

13 Defined terms: "Facility" § 10-401

14 "Provider" § 10-401

15 (U) RENOVATION.

16 (1) "RENOVATION" MEANS ANY SINGLE CAPITAL IMPROVEMENT TO, OR
17 REPLACEMENT OF, ALL OR PART OF AN EXISTING FACILITY THAT WILL NOT
18 INCREASE THE NUMBER OF INDEPENDENT OR ASSISTED LIVING UNITS AND FOR
19 WHICH THE TOTAL PROJECTED COST EXCEEDS THE SUM OF:

20 (I) 20% OF THE TOTAL OPERATING EXPENSES, LESS
21 DEPRECIATION, AMORTIZATION, AND INTEREST EXPENSE OF THE FACILITY AS
22 SHOWN ON THE CERTIFIED FINANCIAL STATEMENT FOR THE MOST RECENT FISCAL
23 YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE; AND

24 (II) THE AMOUNT OF EXISTING RESERVES PROPERLY ALLOCABLE
25 TO, AND ALLOCATED FOR, THE RENOVATION.

26 (2) "RENOVATION" DOES NOT INCLUDE NORMAL REPAIR OR
27 MAINTENANCE.

28 REVISOR'S NOTE: This subsection is new language derived without
29 substantive change from former Art. 70B, § 7(y).

30 Defined terms: "Certified financial statement" § 10-401

31 "Facility" § 10-401

32 (V) SUBSCRIBER.

33 "SUBSCRIBER" MEANS AN INDIVIDUAL FOR WHOM A CONTINUING CARE
34 AGREEMENT IS PURCHASED.

1 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(bb).

2 No changes are made.

3 Defined term: "Continuing care agreement" § 10-401

4 (W) SURCHARGE.

5 (1) "SURCHARGE" MEANS A SEPARATE AND ADDITIONAL CHARGE THAT:

6 (I) IS IMPOSED SIMULTANEOUSLY WITH THE ENTRANCE FEE; AND

7 (II) MAY BE REQUIRED OF SOME, BUT NOT ALL, SUBSCRIBERS
8 BECAUSE OF A CONDITION OR CIRCUMSTANCE THAT APPLIES ONLY TO THOSE
9 SUBSCRIBERS.

10 (2) "SURCHARGE" DOES NOT INCLUDE A SECOND PERSON ENTRANCE
11 FEE.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 70B, § 7(cc).

14 Defined terms: "Entrance fee" § 10-401

15 "Person" §§ 1-101, 10-401

16 "Subscriber" § 10-401

17 10-402. APPLICATION OF SUBTITLE AND OTHER LAWS.

18 (A) APPLICATION OF SUBTITLE.

19 (1) A CONTINUING CARE AT HOME PROVIDER IS SUBJECT TO EACH
20 PROVISION OF THIS SUBTITLE EXCEPT PART II AND §§ 10-446 AND 10-448.

21 (2) A CONTINUING CARE IN A RETIREMENT COMMUNITY PROVIDER IS
22 SUBJECT TO EACH PROVISION OF THIS SUBTITLE EXCEPT PART VI.

23 (B) APPLICATION OF OTHER LAWS.

24 (1) A CONTINUING CARE OPERATION THAT IS SUBJECT TO THE
25 PROVISIONS OF THIS SUBTITLE IS NOT SUBJECT TO:

26 (I) THE MARYLAND HEALTH MAINTENANCE ORGANIZATION ACT
27 UNDER TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE;

28 (II) EXCEPT FOR § 15-603 OF THE INSURANCE ARTICLE, THE
29 INSURANCE ARTICLE;

30 (III) TITLE 8 OF THE REAL PROPERTY ARTICLE; OR

31 (IV) ANY COUNTY OR MUNICIPAL LANDLORD-TENANT LAW.

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1 (2) IF A PROVIDER CONTRACTUALLY UTILIZES THE SERVICES OF A
 2 LICENSED HOME HEALTH AGENCY OR RESIDENTIAL SERVICE AGENCY AND IS NOT
 3 ITSELF DIRECTLY PROVIDING THE TYPE OF SERVICES PROVIDED BY A HOME HEALTH
 4 AGENCY OR RESIDENTIAL SERVICE AGENCY, THE PROVIDER IS NOT SUBJECT TO
 5 TITLE 19, SUBTITLES 4 AND 4A OF THE HEALTH – GENERAL ARTICLE.

6 (3) EXCEPT AS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS
 7 SUBSECTION, A CONTINUING CARE AT HOME PROVIDER IS SUBJECT TO ALL OTHER
 8 APPLICABLE LICENSING OR CERTIFICATION REQUIREMENTS OF STATE LAW.

9 (C) SUBTITLE NOT APPLICABLE TO INSURANCE AGREEMENTS.

10 THIS SUBTITLE DOES NOT APPLY TO AN AGREEMENT THAT IS REGULATED AS
 11 INSURANCE UNDER THE INSURANCE ARTICLE.

12 (D) ASSISTED LIVING PROGRAM SERVICES.

13 A PROVIDER THAT OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A
 14 CONTINUUM OF CARE IN ACCORDANCE WITH A CONTINUING CARE AGREEMENT
 15 MAY:

16 (1) EXECUTE A SEPARATE ASSISTED LIVING RESIDENT AGREEMENT
 17 AND A SEPARATE ASSISTED LIVING DISCLOSURE STATEMENT; OR

18 (2) MEET THE REQUIREMENTS OF §§ 10–425(C) AND 10–444(E) OF THIS
 19 SUBTITLE.

20 (E) LIMITATION ON LIABILITY.

21 THE LIABILITY OF A PROVIDER TO THE DEPARTMENT OF HEALTH AND MENTAL
 22 HYGIENE UNDER § 15–603 OF THE INSURANCE ARTICLE SHALL BE LIMITED TO THE
 23 AMOUNT OF THE REFUND THAT WOULD BE DUE TO THE SUBSCRIBER IF THE
 24 SUBSCRIBER WERE DISMISSED UNDER § 10–448 OF THIS SUBTITLE AT THE TIME OF
 25 ENROLLMENT IN SERVICES PROVIDED BY OR PAID WHOLLY OR PARTLY BY THE
 26 DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

27 REVISOR’S NOTE: This section is new language derived without substantive
 28 change from former Art. 70B, §§ 23, 7(ee), and 22A(o) and (p).

29 In subsection (a)(1) of this section, the reference to “Part II”, which
 30 includes former Art. 70B, § 9, is substituted for the former reference to “§§
 31 10, 11, 14, and 15 of this subtitle” for accuracy.

32 In subsections (a)(2) and (c) of this section, the former definition of the
 33 term “written agreement” is revised as substantive scope provisions for
 34 clarity.

35 In subsection (b)(1)(i) of this section, the reference to the “Maryland”
 36 Health Maintenance Organization Act is added for accuracy.

1 Also in subsection (b)(1)(i) of this section, the reference to “Title 19,
2 Subtitle 7” of the Health – General Article is added for clarity.

3 Defined terms: “Assisted living program” § 10–401
4 “Continuing care” § 10–401
5 “Continuing care agreement” § 10–401
6 “Continuing care at home” § 10–401
7 “Continuing care in a retirement community” § 10–401
8 “County” § 1–101
9 “Provider” § 10–401
10 “Subscriber” § 10–401

11 10–403. DUTIES OF DEPARTMENT.

12 (A) IN GENERAL.

13 THE DEPARTMENT SHALL:

14 (1) ADMINISTER THIS SUBTITLE;

15 (2) PREPARE AND FURNISH ALL FORMS NECESSARY OR DESIRABLE
16 UNDER THIS SUBTITLE;

17 (3) ESTABLISH AND COLLECT REASONABLE FILING FEES TO CARRY OUT
18 THIS SUBTITLE;

19 (4) ADOPT REGULATIONS NECESSARY TO ENFORCE THIS SUBTITLE; AND

20 (5) PREPARE AND DISTRIBUTE RELEVANT PUBLIC INFORMATION AND
21 EDUCATIONAL MATERIALS DESIGNED TO ADVISE INDIVIDUALS, INSTITUTIONS, AND
22 ORGANIZATIONS OF THEIR RIGHTS AND RESPONSIBILITIES UNDER THIS SUBTITLE.

23 (B) AVAILABILITY OF INFORMATION.

24 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
25 DEPARTMENT SHALL MAKE AVAILABLE TO INTERESTED PERSONS ANY
26 INFORMATION REQUIRED TO BE PROVIDED TO THE DEPARTMENT UNDER THIS
27 SUBTITLE AND PUBLICIZE THE AVAILABILITY OF THE INFORMATION.

28 (2) (I) A FEASIBILITY STUDY FILED UNDER § 10–408 OF THIS SUBTITLE
29 MAY NOT BE DISCLOSED UNTIL THE DEPARTMENT ISSUES AN INITIAL CERTIFICATE
30 OF REGISTRATION FOR THE PROJECT.

31 (II) INFORMATION REQUIRED TO BE PROVIDED UNDER §
32 10–434(B)(2) OF THIS SUBTITLE SHALL BE DISCLOSED ONLY TO THE EXTENT
33 REQUIRED UNDER THE PUBLIC INFORMATION ACT.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 70B, §§ 8 and 11(1).

36 In the introductory language and in item (1) of subsection (a) this section,

1 the phrase “[t]he Department shall ... administer this subtitle” is
2 substituted for the introductory language of former Art. 70B, § 8, which
3 provided “[t]he administration of this subtitle is vested in the Department”
4 for clarity and consistency in the enumerated duties of the Department.

5 In subsection (a)(3) of this section, the former reference to filing fees
6 “established for” is deleted as redundant in light of the requirement that
7 the Department “establish” filing fees.

8 In subsection (b)(1) of this section, the reference to information required to
9 be provided “to the Department” is added for clarity.

10 In subsection (b)(2)(i) of this section, the phrase “may not be disclosed” is
11 substituted for the former phrase “which shall be confidential” for clarity.

12 In subsection (b)(2)(ii) of this section, the former phrase “[p]aragraph (1) of
13 this subsection does not apply” is deleted as unnecessary in light of the
14 phrase “[e]xcept as provided in paragraph (2) of this subsection” in
15 subsection (b)(1) of this section.

16 Defined terms: “Department” § 10–101

17 “Person” §§ 1–101, 10–401

18 10–404. PAYMENT FOR HEALTH RELATED SERVICES.

19 MEDICAL AND NURSING SERVICES AND OTHER HEALTH RELATED SERVICES
20 MAY BE COVERED BY AN ENTRANCE FEE OR PERIODIC CHARGES OR, AT THE OPTION
21 OF THE SUBSCRIBER, MAY BE PURCHASED FOR AN ADDITIONAL FEE.

22 REVISOR’S NOTE: This section formerly was Art. 70B, § 7A.

23 No changes are made.

24 Defined terms: “Entrance fee” § 10–401

25 “Health related services” § 10–401

26 “Subscriber” § 10–401

27 10–405. RESERVED.

28 10–406. RESERVED.

29 PART II. CONTINUING CARE IN A RETIREMENT COMMUNITY — CERTIFICATES OF
30 REGISTRATION.

31 10–407. SCOPE OF PART.

32 THIS PART APPLIES ONLY TO CONTINUING CARE IN A RETIREMENT
33 COMMUNITY OPERATIONS.

34 REVISOR’S NOTE: This section is new language added for clarity.

1 Defined term: “Continuing care in a retirement community” § 10–401

2 10–408. GENERAL REQUIREMENTS.

3 (A) COMPLIANCE WITH APPLICABLE PROVISIONS.

4 A PROVIDER SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF §§ 10–409
5 THROUGH 10–415 OF THIS SUBTITLE BEFORE THE PROVIDER MAY:

6 (1) OFFER CONTINUING CARE IN A RETIREMENT COMMUNITY;

7 (2) ENTER INTO OR RENEW CONTINUING CARE AGREEMENTS;

8 (3) BEGIN CONSTRUCTION OF A NEW FACILITY;

9 (4) BEGIN CONSTRUCTION OF AN EXPANSION TO OR RENOVATION OF AN
10 EXISTING FACILITY; OR

11 (5) COLLECT DEPOSITS FOR CONTINUING CARE IN THIS STATE.

12 (B) CAPITAL ADDITIONS AND IMPROVEMENTS.

13 (1) A NEW CAPITAL ADDITION TO A FACILITY THAT WILL RESULT IN THE
14 CONSTRUCTION OF A NUMBER OF INDEPENDENT AND ASSISTED LIVING UNITS THAT
15 IS GREATER THAN 25% OF THE NUMBER OF EXISTING UNITS IS CONSIDERED NEW
16 DEVELOPMENT AND IS SUBJECT TO §§ 10–409 THROUGH 10–411 OF THIS SUBTITLE.

17 (2) A NEW CAPITAL ADDITION TO A FACILITY THAT DOES NOT INVOLVE
18 THE CONSTRUCTION OF INDEPENDENT OR ASSISTED LIVING UNITS AND THAT DOES
19 NOT MEET THE STANDARD OF § 10–401(L)(1)(II) OF THIS SUBTITLE IS NOT SUBJECT TO
20 REVIEW BY THE DEPARTMENT UNDER §§ 10–409 THROUGH 10–415 OF THIS SUBTITLE.

21 (3) A CAPITAL IMPROVEMENT OR REPLACEMENT THAT DOES NOT MEET
22 THE STANDARD OF § 10–401(W) OF THIS SUBTITLE IS NOT SUBJECT TO REVIEW BY
23 THE DEPARTMENT UNDER §§ 10–409 THROUGH 10–415 OF THIS SUBTITLE.

24 (C) APPLICANTS WITH MORE THAN ONE FACILITY.

25 A PROVIDER THAT HAS MORE THAN ONE FACILITY OFFERING CONTINUING
26 CARE SHALL MAKE A SEPARATE APPLICATION FOR EACH FACILITY FOR
27 PRELIMINARY, INITIAL, AND RENEWAL CERTIFICATES OF REGISTRATION.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 70B, § 9.

30 In subsection (b)(1) and (2) of this section, the references to a capital
31 addition “to a facility” are added for clarity.

32 Defined terms: “Continuing care” § 10–401

33 “Continuing care agreement” § 10–401

34 “Continuing care in a retirement community” § 10–401

- 1 "Department" § 10-101
- 2 "Deposit" § 10-401
- 3 "Expansion" § 10-401
- 4 "Facility" § 10-401
- 5 "Provider" § 10-401
- 6 "Renovation" § 10-401

7 10-409. FEASIBILITY STUDY.

8 (A) REQUIRED.

9 A PROVIDER MAY NOT COLLECT DEPOSITS FOR CONTINUING CARE OR BEGIN
10 CONSTRUCTION OF A NEW FACILITY UNTIL THE DEPARTMENT APPROVES A
11 FEASIBILITY STUDY.

12 (B) STATEMENT OF INTENT.

13 A PERSON WHO INTENDS TO SUBMIT A FEASIBILITY STUDY UNDER
14 SUBSECTION (C) OF THIS SECTION SHALL FILE WITH THE DEPARTMENT A
15 STATEMENT OF INTENT TO PROVIDE CONTINUING CARE AT LEAST 30 DAYS BEFORE
16 THE PERSON SUBMITS THE FEASIBILITY STUDY TO THE DEPARTMENT.

17 (C) FORM AND CONTENTS.

18 A FEASIBILITY STUDY SHALL:

19 (1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND

20 (2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

21 (I) A STATEMENT OF THE PURPOSE OF THE PROPOSED
22 CONSTRUCTION OR CONVERSION;

23 (II) DOCUMENTATION OF THE FINANCIAL RESOURCES OF THE
24 PROVIDER;

25 (III) A STATEMENT OF THE CAPITAL EXPENDITURES NECESSARY TO
26 ACCOMPLISH THE PROJECT AND THE PLAN FOR ACQUIRING THE NECESSARY
27 CAPITAL;

28 (IV) A PLAN DEMONSTRATING THE FINANCIAL FEASIBILITY OF THE
29 PROPOSED PROJECT, INCLUDING FUTURE FUNDING SOURCES;

30 (V) A STUDY THAT DEMONSTRATES THE MARKET FOR THE
31 PROJECT;

32 (VI) AN ACTUARIAL FORECAST REVIEWED BY A QUALIFIED
33 ACTUARY;

34 (VII) A STATEMENT OF THE PLANNED FEE STRUCTURE, INCLUDING
35 ANY PROPOSED ESCALATOR OR OTHER AUTOMATIC ADJUSTMENT PROVISION;

1 (VIII) A DESCRIPTION OF THE FACILITY PROPOSED TO BE USED OR
2 BEING USED FOR CONTINUING CARE;

3 (IX) A COPY OF THE PROPOSED ESCROW AND DEPOSIT
4 AGREEMENTS; AND

5 (X) THE FORM AND SUBSTANCE OF ANY PROPOSED
6 ADVERTISEMENT, ADVERTISING CAMPAIGN, OR PROMOTIONAL MATERIAL FOR THE
7 FACILITY THAT IS AVAILABLE AT THE TIME OF FILING.

8 (D) APPROVAL OF FEASIBILITY STUDY.

9 THE DEPARTMENT MAY APPROVE A FEASIBILITY STUDY IF THE DEPARTMENT
10 DETERMINES THAT:

11 (1) THE NUMBER OF COMPREHENSIVE CARE OR ASSISTED LIVING BEDS
12 IN THE FACILITY FOR WHICH LICENSES ARE REQUIRED BY THE DEPARTMENT OF
13 HEALTH AND MENTAL HYGIENE IS NOT INCONSISTENT WITH THE STATE HEALTH
14 PLAN;

15 (2) A REASONABLE FINANCIAL PLAN HAS BEEN SUBMITTED FOR
16 DEVELOPING AND OPERATING THE PROJECT;

17 (3) A MARKET FOR THE FACILITY APPEARS TO EXIST;

18 (4) A RECOGNIZED AUTHORITY PREPARED THE FEASIBILITY STUDY;

19 (5) THE ACTUARIAL FORECAST SUPPORTS THE PROJECTIONS FOR THE
20 PROJECT;

21 (6) THE DEPARTMENT HAS APPROVED THE ESCROW AGREEMENT AND
22 DEPOSIT AGREEMENT; AND

23 (7) THE APPROVED ESCROW AGREEMENT IS EXECUTED BY THE
24 PROVIDER AND THE FINANCIAL INSTITUTION.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 70B, § 10(a), (b), and (d).

27 Defined terms: "Continuing care" § 10-401

28 "Conversion" § 10-401

29 "Department" § 10-101

30 "Deposit" § 10-401

31 "Facility" § 10-401

32 "Person" § 10-401

33 "Provider" § 10-401

34 10-410. DEPOSITS.

35 (A) COLLECTION OF DEPOSITS.

1 A PROVIDER MAY COLLECT DEPOSITS FROM PROSPECTIVE SUBSCRIBERS IF:

2 (1) THE DEPARTMENT HAS APPROVED THE PROVIDER'S FEASIBILITY
3 STUDY; AND

4 (2) FUNDS COLLECTED ARE MAINTAINED IN AN ESCROW ACCOUNT.

5 (B) DEPOSIT AGREEMENTS.

6 EACH DEPOSIT AGREEMENT SHALL COMPLY WITH THE REQUIREMENTS OF
7 SUBSECTION (C) OR (D) OF THIS SECTION.

8 (C) REQUIREMENTS FOR DEPOSIT AGREEMENTS — WITHOUT APPROVAL TO
9 WITHDRAW DEPOSITS.

10 IF A DEPOSIT AGREEMENT IS USED FOR A DEPOSIT ON A UNIT FOR WHICH THE
11 PROVIDER HAS NOT RECEIVED WRITTEN APPROVAL TO WITHDRAW DEPOSITS, THE
12 DEPOSIT AGREEMENT SHALL:

13 (1) STATE THAT ALL DEPOSITS AND ENTRANCE FEES WILL BE HELD IN
14 ESCROW UNTIL:

15 (I) AN INITIAL CERTIFICATE OF REGISTRATION FOR THE UNIT IS
16 ISSUED;

17 (II) CONSTRUCTION IS COMPLETED;

18 (III) A CERTIFICATE OF OCCUPANCY, OR ITS EQUIVALENT, IS
19 ISSUED BY THE LOCAL JURISDICTION; AND

20 (IV) THE PROVIDER HAS THE APPROPRIATE LICENSES OR
21 CERTIFICATES FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE
22 MARYLAND HEALTH CARE COMMISSION, AND THE DEPARTMENT;

23 (2) DESCRIBE THE DISPOSITION OF ANY INTEREST EARNED ON
24 DEPOSITS AND ENTRANCE FEES;

25 (3) STATE THE AMOUNT OF ANY PROCESSING FEE AND WHETHER IT
26 WILL BE REFUNDED IF THE DEPOSIT AGREEMENT IS CANCELED; AND

27 (4) DESCRIBE THE DISPOSITION OF THE DEPOSIT IF THE DEPOSIT
28 AGREEMENT IS CANCELED BEFORE THE CONTINUING CARE AGREEMENT IS
29 EXECUTED.

30 (D) REQUIREMENTS FOR DEPOSIT AGREEMENTS — WITH APPROVAL TO
31 WITHDRAW DEPOSITS.

32 IF A DEPOSIT AGREEMENT IS USED FOR A DEPOSIT ON A UNIT FOR WHICH THE
33 PROVIDER HAS RECEIVED WRITTEN APPROVAL TO WITHDRAW DEPOSITS, THE
34 DEPOSIT AGREEMENT SHALL:

1 (1) STATE THAT THE PROVIDER MAY USE ALL DEPOSITS AND ENTRANCE
2 FEES AT ANY TIME; OR

3 (2) DESCRIBE ANY APPLICABLE LIMITATIONS ON THE USE OF DEPOSITS
4 AND ENTRANCE FEES.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 70B, § 10(c) and (c-1).

7 In subsection (a)(1) of this section, the reference to "the provider's"
8 feasibility study is added for clarity.

9 In the introductory language of subsections (c) and (d) of this section, the
10 former reference to written approval to withdraw deposits "under § 11(c) of
11 this subtitle" is deleted for accuracy. Former Art. 70B, § 11(c), which is
12 revised in § 10-412(f) of this subtitle, did not expressly authorize the
13 issuance of written approval to withdraw deposits. This deletion is called
14 to the attention of the General Assembly.

15 Defined terms: "Continuing care agreement" § 10-401

16 "Department" § 10-101

17 "Deposit" § 10-401

18 "Entrance fee" § 10-401

19 "Processing fee" § 10-401

20 "Provider" § 10-401

21 "Subscriber" § 10-401

22 10-411. PRELIMINARY CERTIFICATE OF REGISTRATION.

23 (A) REQUIRED.

24 A PROVIDER MAY NOT ENTER INTO A CONTINUING CARE AGREEMENT UNTIL
25 THE DEPARTMENT ISSUES A PRELIMINARY CERTIFICATE OF REGISTRATION.

26 (B) APPLICATION — FORM.

27 AN APPLICATION FOR A PRELIMINARY CERTIFICATE OF REGISTRATION SHALL
28 BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT.

29 (C) APPLICATION — CONTENTS.

30 AN APPLICATION SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

31 (1) THE NAME AND ADDRESS OF THE FACILITY AND THE NAME AND
32 ADDRESS OF ANY AFFILIATE, PARENT, OR SUBSIDIARY;

33 (2) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE
34 PROVIDER, INCLUDING:

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1 (I) FOR A CORPORATION OR LIMITED LIABILITY COMPANY, ITS
2 NAME, THE STATE IN WHICH IT IS INCORPORATED OR FORMED, AND THE NAME OF
3 THE CHIEF EXECUTIVE OFFICER;

4 (II) FOR A PARTNERSHIP, THE NAMES OF THE GENERAL PARTNERS,
5 THE STATE GOVERNING ITS FORMATION, AND THE NAME OF THE PRIMARY
6 INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

7 (III) FOR AN UNINCORPORATED ASSOCIATION, THE NAMES OF THE
8 MEMBERS, THE STATE GOVERNING ITS ACTIVITIES, AND THE NAME OF THE PRIMARY
9 INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

10 (IV) FOR A PARTNERSHIP THAT HAS A CORPORATION OR LIMITED
11 LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS, THE NAME OF
12 EACH CORPORATION OR LIMITED LIABILITY COMPANY, THE STATE IN WHICH IT IS
13 INCORPORATED OR FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

14 (V) FOR A TRUST, THE NAME OF THE TRUSTEE, THE NAMES OF THE
15 OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE STATE GOVERNING IT, AND
16 THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR OVERSEEING ITS
17 ACTIVITIES;

18 (VI) THE NAME AND OCCUPATION OF EACH OFFICER, DIRECTOR,
19 TRUSTEE, MANAGING OR GENERAL PARTNER, AND EACH PERSON WITH A 10% OR
20 GREATER FINANCIAL EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER AND A
21 DESCRIPTION OF THE PERSON'S FINANCIAL INTEREST IN OR OCCUPATION WITH THE
22 PROVIDER;

23 (VII) THE NAME AND ADDRESS OF ANY ENTITY IN WHICH A PERSON
24 IDENTIFIED IN ITEM (VI) OF THIS PARAGRAPH HAS A 10% OR GREATER FINANCIAL
25 INTEREST AND THAT IS ANTICIPATED TO PROVIDE GOODS, PREMISES, OR SERVICES
26 WITH A VALUE OF \$10,000 OR MORE TO THE FACILITY OR PROVIDER IN A FISCAL YEAR
27 AND A DESCRIPTION OF THE GOODS, PREMISES, OR SERVICES AND THEIR
28 ANTICIPATED COST TO THE FACILITY OR PROVIDER, WHICH NEED NOT INCLUDE
29 SALARY, WAGE, OR BENEFIT INFORMATION OF EMPLOYEES OF THE PROVIDER; AND

30 (VIII) A STATEMENT WHETHER THE PROVIDER IS QUALIFIED, OR
31 INTENDS TO QUALIFY, AS A TAX EXEMPT ORGANIZATION UNDER THE INTERNAL
32 REVENUE CODE;

33 (3) A COPY OF THE CORPORATE CHARTER, PARTNERSHIP AGREEMENT,
34 ARTICLES OF ASSOCIATION, MEMBERSHIP AGREEMENT, TRUST AGREEMENT, OR
35 SIMILAR INSTRUMENT OR AGREEMENT GOVERNING THE LEGAL ORGANIZATION OF
36 THE PROVIDER;

37 (4) (I) A CERTIFIED FINANCIAL STATEMENT OF THE PROVIDER FOR
38 AS MANY OF THE MOST RECENT FISCAL YEARS, NOT EXCEEDING 3 YEARS, FOR
39 WHICH CERTIFIED FINANCIAL STATEMENTS ARE OBTAINABLE UNDER GENERALLY
40 ACCEPTED ACCOUNTING PRINCIPLES; AND

1 (II) IF THE PROVIDER'S FISCAL YEAR ENDED MORE THAN 90 DAYS
2 BEFORE THE DATE THE APPLICATION IS FILED, AN INCOME STATEMENT, WHICH
3 NEED NOT BE CERTIFIED, COVERING THE PERIOD BETWEEN THE END OF THE
4 FISCAL YEAR AND A DATE NOT MORE THAN 90 DAYS BEFORE THE DATE THE
5 APPLICATION IS FILED;

6 (5) A STATEMENT OF ANY AFFILIATION WITH A RELIGIOUS,
7 CHARITABLE, OR OTHER NONPROFIT ORGANIZATION, THE EXTENT OF THE
8 AFFILIATION, AND THE EXTENT, IF ANY, TO WHICH THE AFFILIATE ORGANIZATION
9 WILL BE RESPONSIBLE FOR THE PROVIDER'S FINANCIAL AND CONTRACTUAL
10 OBLIGATIONS;

11 (6) A COPY OF THE PROPOSED CONTINUING CARE AGREEMENT;

12 (7) A COPY OF ANY PRIORITY ADMISSION AGREEMENTS BETWEEN THE
13 PROVIDER AND ANY HEALTH CARE PROVIDER FOR HEALTH RELATED SERVICES;

14 (8) A STATEMENT OF THE CURRENT FEE STRUCTURE, INCLUDING
15 ESCALATOR OR OTHER AUTOMATIC ADJUSTMENT PROVISIONS;

16 (9) A STATEMENT OF THE ROLE OF ANY PUBLICLY FUNDED BENEFIT OR
17 INSURANCE PROGRAM IN THE FINANCING OF CARE;

18 (10) THE FORM AND SUBSTANCE OF ANY ADVERTISEMENT, ADVERTISING
19 CAMPAIGN, OR OTHER PROMOTIONAL MATERIAL FOR THE FACILITY THAT HAS NOT
20 BEEN PREVIOUSLY SUBMITTED TO THE DEPARTMENT; AND

21 (11) OTHER REASONABLE AND PERTINENT INFORMATION THAT THE
22 DEPARTMENT REQUIRES.

23 (D) ISSUANCE.

24 THE DEPARTMENT SHALL ISSUE A PRELIMINARY CERTIFICATE OF
25 REGISTRATION TO A PROVIDER IF:

26 (1) THE FEASIBILITY STUDY HAS BEEN APPROVED; AND

27 (2) THE DEPARTMENT DETERMINES THAT:

28 (I) THE PROPOSED CONTINUING CARE AGREEMENT MEETS THE
29 REQUIREMENTS OF §§ 10-444, 10-445, 10-446, AND 10-448 OF THIS SUBTITLE;

30 (II) ALL OF THE FINANCIAL AND ORGANIZATIONAL MATERIALS
31 REQUIRED TO BE SUBMITTED UNDER SUBSECTION (C) OF THIS SECTION HAVE BEEN
32 SUBMITTED TO THE DEPARTMENT; AND

33 (III) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
34 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE
35 NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

36 (E) FAILURE TO OBTAIN PRELIMINARY CERTIFICATE.

1 IF A PRELIMINARY CERTIFICATE OF REGISTRATION IS NOT ISSUED WITHIN 6
 2 MONTHS AFTER THE FEASIBILITY STUDY IS APPROVED, OR A LONGER TIME
 3 ALLOWED BY THE DEPARTMENT FOR GOOD CAUSE SHOWN, THE PROVIDER SHALL
 4 REFUND ALL DEPOSITS AND STOP MARKETING CONTINUING CARE UNDER THAT
 5 APPLICATION.

6 (F) ADVERTISEMENTS.

7 A PROVIDER THAT PLANS TO ADVERTISE BEFORE AN INITIAL CERTIFICATE OF
 8 REGISTRATION IS ISSUED UNDER § 10-412 OF THIS SUBTITLE SHALL SUBMIT TO THE
 9 DEPARTMENT THE FORM AND SUBSTANCE OF ANY ADVERTISEMENT, ADVERTISING
 10 CAMPAIGN, OR OTHER PROMOTIONAL MATERIAL BEFORE IT MAY BE USED.

11 REVISOR'S NOTE: This section is new language derived without substantive
 12 change from former Art. 70B, § 10(e) through (h).

13 In subsection (c)(1) of this section, the former reference to an affiliate,
 14 parent, or subsidiary "person" is deleted as surplusage.

15 In subsection (c)(2)(vii) of this section, the reference to an "entity" is
 16 substituted for the former reference to a "professional service firm,
 17 association, trust, partnership, company, or corporation" for brevity.

18 In subsection (c)(6) of this section, the reference to the "proposed
 19 continuing care agreement" is substituted for the former reference to "the
 20 agreement to be entered into between the provider and subscriber for
 21 continuing care" for brevity. Similarly, in subsection (d)(2) of this section,
 22 the reference to the "proposed" continuing care agreement is substituted
 23 for the former reference to the continuing care agreement "to be used
 24 between the provider and the subscriber".

25 Defined terms: "Certified financial statement" § 10-401

26 "Continuing care" § 10-401

27 "Continuing care agreement" § 10-401

28 "Department" § 10-101

29 "Deposit" § 10-401

30 "Facility" § 10-401

31 "Health related services" § 10-401

32 "Person" §§ 1-101, 10-401

33 "Provider" § 10-401

34 "State" § 10-101

35 10-412. INITIAL CERTIFICATE OF REGISTRATION.

36 (A) REQUIRED.

37 A PROVIDER MAY NOT PROVIDE CONTINUING CARE UNTIL THE DEPARTMENT
 38 ISSUES AN INITIAL CERTIFICATE OF REGISTRATION.

39 (B) APPLICATION — FORM.

1 AN APPLICATION FOR AN INITIAL CERTIFICATE OF REGISTRATION SHALL BE
2 FILED IN A FORM SATISFACTORY TO THE DEPARTMENT.

3 (C) APPLICATION — CONTENTS.

4 AN APPLICATION SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

5 (1) FOR A PROJECT OTHER THAN A CONVERSION, VERIFICATION THAT
6 CONTINUING CARE AGREEMENTS HAVE BEEN EXECUTED WITH SUBSCRIBERS FOR
7 AT LEAST 65% OF THE INDEPENDENT LIVING UNITS AND AT LEAST 10% OF THE
8 TOTAL ENTRANCE FEE FOR EACH CONTRACTED UNIT HAS BEEN COLLECTED;

9 (2) FOR A CONVERSION PROJECT, VERIFICATION THAT AT LEAST 80% OF
10 THE ACCOMMODATIONS IN THE PROJECT THAT ARE NOT LICENSED AS ASSISTED
11 LIVING OR COMPREHENSIVE CARE BEDS ARE OCCUPIED OR RESERVED IN
12 ACCORDANCE WITH:

13 (I) LEASES;

14 (II) CONTINUING CARE AGREEMENTS EXECUTED WITH
15 SUBSCRIBERS WHO HAVE PAID A DEPOSIT THAT:

16 1. EQUALS AT LEAST 10% OF THE TOTAL ENTRANCE FEE;
17 AND

18 2. HAS BEEN DEPOSITED BY THE PROVIDER UNDER AN
19 ESCROW AGREEMENT APPROVED BY THE DEPARTMENT; OR

20 (III) OTHER APPROPRIATE CONTRACTUAL ARRANGEMENTS;

21 (3) VERIFICATION THAT THE PROVIDER HAS RECEIVED A WRITTEN
22 COMMITMENT FOR PERMANENT LONG-TERM FINANCING; AND

23 (4) IF CONSTRUCTION FINANCING IS REQUIRED, VERIFICATION THAT
24 THE PROVIDER HAS APPLIED FOR THE FINANCING.

25 (D) LENDERS.

26 (1) IF REQUESTED BY THE PERMANENT FINANCING LENDER, THE
27 DEPARTMENT MAY ISSUE A LETTER STATING THAT THE REQUIREMENTS OF
28 SUBSECTION (C)(1) OF THIS SECTION HAVE BEEN MET.

29 (2) IF REQUESTED BY THE CONSTRUCTION LENDER, THE DEPARTMENT
30 MAY ISSUE A LETTER STATING THAT:

31 (I) THE REQUIREMENTS OF SUBSECTION (C)(1) AND (3) OF THIS
32 SECTION HAVE BEEN MET; AND

33 (II) THE INITIAL CERTIFICATE OF REGISTRATION WILL BE ISSUED
34 ON THE CLOSING OF THE CONSTRUCTION LOAN.

1 (E) ISSUANCE OF CERTIFICATE.

2 (1) THE DEPARTMENT SHALL ISSUE AN INITIAL CERTIFICATE OF
3 REGISTRATION TO A PROVIDER IF THE DEPARTMENT DETERMINES THAT:

4 (I) THE PROVIDER HAS A PRELIMINARY CERTIFICATE OF
5 REGISTRATION;

6 (II) THE PROVIDER HAS SUBMITTED THE REQUIRED DOCUMENTS;

7 (III) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
8 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE
9 NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

10 (IV) FOR A PROJECT OTHER THAN A CONVERSION, CONTINUING
11 CARE AGREEMENTS HAVE BEEN EXECUTED WITH SUBSCRIBERS FOR AT LEAST 65%
12 OF THE INDEPENDENT LIVING UNITS AND AT LEAST 10% OF THE ENTRANCE FEE HAS
13 BEEN PAID AS A DEPOSIT FOR EACH CONTRACTED UNIT;

14 (V) FOR A CONVERSION PROJECT, AT LEAST 80% OF THE
15 ACCOMMODATIONS IN THE PROJECT THAT ARE NOT LICENSED AS ASSISTED LIVING
16 OR COMPREHENSIVE CARE BEDS ARE OCCUPIED OR RESERVED IN ACCORDANCE
17 WITH:

18 1. LEASES;

19 2. CONTINUING CARE AGREEMENTS EXECUTED WITH
20 SUBSCRIBERS WHO HAVE PAID A DEPOSIT THAT:

21 A. EQUALS AT LEAST 10% OF THE TOTAL ENTRANCE FEE;
22 AND

23 B. HAS BEEN DEPOSITED BY THE PROVIDER UNDER AN
24 ESCROW AGREEMENT APPROVED BY THE DEPARTMENT; OR

25 3. OTHER APPROPRIATE CONTRACTUAL ARRANGEMENTS;

26 (VI) IF CONSTRUCTION FINANCING IS REQUIRED, CLOSING ON THE
27 FINANCING HAS OCCURRED; AND

28 (VII) THE PROVIDER HAS A COMMITMENT FOR PERMANENT
29 LONG-TERM FINANCING.

30 (2) THE DEPARTMENT MAY ISSUE THE INITIAL CERTIFICATE OF
31 REGISTRATION FOR A PERIOD NOT EXCEEDING 18 MONTHS.

32 (F) USE OF DEPOSITS HELD IN ESCROW.

33 A DEPOSIT HELD IN ESCROW MAY NOT BE USED UNTIL:

34 (1) AN INITIAL CERTIFICATE OF REGISTRATION HAS BEEN ISSUED;

1 (2) CONSTRUCTION IS COMPLETED;

2 (3) THE PROVIDER HAS A CERTIFICATE OF OCCUPANCY OR THE
3 EQUIVALENT FROM THE APPROPRIATE LOCAL JURISDICTION; AND

4 (4) THE PROVIDER HAS THE APPROPRIATE LICENSES OR CERTIFICATES
5 FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR THE DEPARTMENT.

6 (G) FAILURE TO OBTAIN CERTIFICATE OF REGISTRATION.

7 IF AN INITIAL CERTIFICATE OF REGISTRATION IS NOT ISSUED WITHIN 24
8 MONTHS AFTER THE ISSUANCE OF A PRELIMINARY CERTIFICATE OF REGISTRATION,
9 OR A LONGER TIME ALLOWED BY THE DEPARTMENT FOR GOOD CAUSE SHOWN, THE
10 PROVIDER SHALL REFUND ALL DEPOSITS AND STOP OFFERING CONTINUING CARE
11 UNDER THAT APPLICATION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 70B, § 11(a) through (d).

14 In subsections (c)(2)(ii)2 and (e)(1)(v)2B of this section, the reference to "an
15 escrow agreement approved by the Department" is substituted for the
16 former reference to "a proper escrow agreement" for clarity.

17 In subsection (e)(1)(iv) of this section, the reference to "continuing care
18 agreements hav[ing] been executed with subscribers" for at least 65% of
19 the independent living units is substituted for the former reference to at
20 least 65% having been "contracted for" for clarity.

21 In subsection (e)(2) of this section, the former phrase "at the discretion of
22 the Department" is deleted as surplusage.

23 In subsection (g) of this section, the requirement that a provider "stop"
24 offering continuing care is substituted for the former requirement that a
25 provider "cease in its attempts" for brevity.

26 Defined terms: "Continuing care" § 10-401

27 "Continuing care agreement" § 10-401

28 "Conversion" § 10-401

29 "Department" § 10-101

30 "Deposit" § 10-401

31 "Entrance fee" § 10-401

32 "Provider" § 10-401

33 "Subscriber" § 10-401

34 10-413. RENEWAL CERTIFICATE OF REGISTRATION.

35 (A) APPLICATION.

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1 (1) EACH YEAR, WITHIN 120 DAYS AFTER THE END OF A PROVIDER'S
2 FISCAL YEAR, THE PROVIDER SHALL FILE AN APPLICATION FOR A RENEWAL
3 CERTIFICATE OF REGISTRATION IN A FORM SATISFACTORY TO THE DEPARTMENT.

4 (2) A RENEWAL APPLICATION SHALL CONTAIN:

5 (I) ANY ADDITIONS OR CHANGES TO THE INFORMATION
6 REQUIRED BY §§ 10-408 THROUGH 10-410 OF THIS SUBTITLE;

7 (II) AN AUDITED FINANCIAL STATEMENT FOR THE PRECEDING
8 FISCAL YEAR PREPARED IN ACCORDANCE WITH AN AUDIT GUIDE THAT THE
9 DEPARTMENT ADOPTS;

10 (III) AN OPERATING BUDGET FOR THE CURRENT FISCAL YEAR AND
11 A PROJECTED OPERATING BUDGET FOR THE NEXT FISCAL YEAR;

12 (IV) A CASH FLOW PROJECTION FOR THE CURRENT FISCAL YEAR
13 AND THE NEXT TWO FISCAL YEARS;

14 (V) A PROJECTION OF THE LIFE EXPECTANCY AND THE NUMBER
15 OF RESIDENTS WHO WILL REQUIRE NURSING HOME CARE;

16 (VI) AN ACTUARIAL STUDY REVIEWED BY A QUALIFIED ACTUARY
17 AND SUBMITTED EVERY 3 YEARS, UNLESS THE PROVIDER IS EXEMPTED FROM THE
18 REQUIREMENT FOR AN ACTUARIAL STUDY BY REGULATIONS ADOPTED BY THE
19 DEPARTMENT EXEMPTING CATEGORIES OF PROVIDERS THAT THE DEPARTMENT
20 DETERMINES HAVE SUBSTANTIALLY LIMITED LONG-TERM CARE LIABILITY
21 EXPOSURE;

22 (VII) THE FORM AND SUBSTANCE OF ANY PROPOSED
23 ADVERTISEMENT, ADVERTISING CAMPAIGN, OR OTHER PROMOTIONAL MATERIAL
24 NOT PREVIOUSLY SUBMITTED TO THE DEPARTMENT; AND

25 (VIII) ANY FURTHER INFORMATION THAT THE DEPARTMENT
26 REQUIRES.

27 (B) FAILURE TO MAKE TIMELY APPLICATION.

28 (1) THE DEPARTMENT MAY CHARGE A LATE FEE IF THE APPLICATION
29 AND ACCOMPANYING INFORMATION ARE NOT RECEIVED BY THE DEPARTMENT
30 WITHIN 120 DAYS AFTER THE END OF THE PROVIDER'S FISCAL YEAR.

31 (2) FAILURE TO FILE THE REQUIRED INFORMATION WITHIN 90 DAYS
32 AFTER THE DUE DATE IS A VIOLATION OF THIS SUBTITLE.

33 (C) ISSUANCE.

34 THE DEPARTMENT SHALL ISSUE A RENEWAL CERTIFICATE OF REGISTRATION
35 IF THE DEPARTMENT DETERMINES THAT:

36 (1) THE REQUIRED DOCUMENTS HAVE BEEN FILED;

1 (2) ANY REVISED CONTINUING CARE AGREEMENTS MEET THE
2 REQUIREMENTS OF THIS SUBTITLE;

3 (3) IF THE PROVIDER HAS BEEN FOUND TO BE IN FINANCIAL
4 DIFFICULTY, THE PROVIDER HAS COMPLIED WITH PART VII OF THIS SUBTITLE;

5 (4) WHEN APPROPRIATE, THE FACILITY HAS BEEN LICENSED OR
6 CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR THE
7 DEPARTMENT; AND

8 (5) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
9 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED TO
10 THE DEPARTMENT ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 70B, § 11(e) through (g).

13 In the introductory language of subsection (a) of this section, the reference
14 to the end of "a provider's" fiscal year is substituted for the former
15 reference to "the" fiscal year for clarity. Similarly, in subsection (b)(1) of
16 this section, the reference to "120 days after the end of the provider's fiscal
17 year" is substituted for the former reference to "the 120-day period".

18 In subsection (a)(2)(iii) of this section, the former reference to the next
19 "succeeding" fiscal year is deleted as surplusage.

20 Defined terms: "Continuing care agreement" § 10-401

21 "Department" § 10-101

22 "Facility" § 10-401

23 "Financial difficulty" § 10-401

24 "Provider" § 10-401

25 10-414. RENOVATIONS.

26 (A) APPROVAL REQUIRED.

27 A PROVIDER MAY NOT BEGIN CONSTRUCTION OF A RENOVATION UNTIL THE
28 PROVIDER RECEIVES WRITTEN APPROVAL FROM THE DEPARTMENT.

29 (B) REQUEST FOR APPROVAL.

30 (1) A PROVIDER SHALL FILE WITH THE DEPARTMENT A REQUEST FOR
31 APPROVAL FOR EACH RENOVATION.

32 (2) AT LEAST 30 DAYS BEFORE FILING THE REQUEST, THE PROVIDER
33 SHALL SUBMIT TO THE DEPARTMENT A WRITTEN STATEMENT OF INTENT TO FILE A
34 REQUEST FOR APPROVAL OF A RENOVATION.

35 (3) A REQUEST FOR APPROVAL OF A RENOVATION SHALL BE IN A FORM
36 SATISFACTORY TO THE DEPARTMENT.

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1 (4) A REQUEST FOR APPROVAL SHALL INCLUDE:

2 (I) A STATEMENT OF THE PURPOSE OF AND NEED FOR THE
3 RENOVATION;

4 (II) A FINANCIAL PLAN THAT DEMONSTRATES TO THE
5 SATISFACTION OF THE DEPARTMENT THAT THE RENOVATION WILL NOT HAVE AN
6 UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER
7 TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE
8 AGREEMENTS AND THIS SUBTITLE AT THE FACILITY TO BE RENOVATED AND AT THE
9 PROVIDER'S OTHER FACILITIES IN THE STATE; AND

10 (III) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

11 (C) CONDITIONS FOR APPROVAL.

12 THE DEPARTMENT SHALL APPROVE A RENOVATION IF THE DEPARTMENT
13 DETERMINES THAT THE PROPOSED RENOVATION WILL NOT HAVE AN
14 UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER
15 TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE
16 AGREEMENTS AND THIS SUBTITLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 70B, § 11(h) and (i).

19 In subsection (b)(2) of this section, the reference to a "statement of intent"
20 is substituted for the former reference to a "statement that sets forth the
21 provider's intent" for brevity.

22 In subsection (b)(4)(ii) of this section, the reference to the facility "to be
23 renovated" is substituted for the former reference to the facility "identified
24 in the plan" for clarity.

25 In subsection (c) of this section, the former reference to a renovation
26 "requested in accordance with this section" is deleted as surplusage.

27 Defined terms: "Continuing care" § 10-401

28 "Continuing care agreement" § 10-401

29 "Department" § 10-101

30 "Facility" § 10-401

31 "Provider" § 10-401

32 "Renovation" § 10-401

33 10-415. EXPANSIONS.

34 (A) APPROVAL REQUIRED.

35 A PROVIDER MAY NOT BEGIN CONSTRUCTION OF AN EXPANSION UNTIL THE
36 PROVIDER RECEIVES WRITTEN APPROVAL FROM THE DEPARTMENT.

1 (B) REQUEST FOR APPROVAL.

2 (1) A PROVIDER SHALL FILE WITH THE DEPARTMENT A REQUEST FOR
3 APPROVAL FOR EACH EXPANSION.

4 (2) AT LEAST 30 DAYS BEFORE FILING THE REQUEST, THE PROVIDER
5 SHALL SUBMIT TO THE DEPARTMENT A WRITTEN STATEMENT OF INTENT TO FILE A
6 REQUEST FOR APPROVAL OF AN EXPANSION.

7 (3) A REQUEST FOR APPROVAL OF AN EXPANSION SHALL BE IN A FORM
8 SATISFACTORY TO THE DEPARTMENT.

9 (4) A REQUEST FOR APPROVAL SHALL INCLUDE:

10 (I) A STATEMENT OF THE PURPOSE OF AND NEED FOR THE
11 EXPANSION;

12 (II) IF THE EXPANSION INVOLVES LIVING UNITS, A PLAN THAT
13 DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT A MARKET
14 EXISTS FOR THE ADDITIONAL LIVING UNITS;

15 (III) A FINANCIAL PLAN THAT DEMONSTRATES TO THE
16 SATISFACTION OF THE DEPARTMENT THAT THE EXPANSION WILL NOT HAVE AN
17 UNREASONABLY ADVERSE EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER
18 TO PROVIDE CONTINUING CARE IN ACCORDANCE WITH ITS CONTINUING CARE
19 AGREEMENTS AND THIS SUBTITLE AT THE FACILITY TO BE EXPANDED AND AT THE
20 PROVIDER'S OTHER FACILITIES IN THE STATE; AND

21 (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

22 (C) CONDITIONS FOR APPROVAL.

23 THE DEPARTMENT SHALL APPROVE AN EXPANSION AND, IF APPROPRIATE,
24 ISSUE A NEW CERTIFICATE OF REGISTRATION IF THE DEPARTMENT DETERMINES
25 THAT THE PROPOSED EXPANSION WILL NOT HAVE AN UNREASONABLY ADVERSE
26 EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO PROVIDE CONTINUING
27 CARE IN ACCORDANCE WITH ITS CONTINUING CARE AGREEMENTS AND THIS
28 SUBTITLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 70B, § 11(j) and (k).

31 In subsection (b)(2) of this section, the reference to a "statement of intent"
32 is substituted for the former references to a "statement that sets forth the
33 provider's intent" for brevity.

34 In subsection (b)(4)(iii) of this section, the reference to the facility "to be
35 expanded" is substituted for the former reference to the facility "identified
36 in the plan" for clarity.

1 In subsection (c) of this section, the former reference to an expansion
2 “requested in accordance with this section” is deleted as surplusage.

3 Defined terms: “Continuing care” § 10–401
4 “Continuing care agreement” § 10–401
5 “Department” § 10–101
6 “Expansion” § 10–401
7 “Facility” § 10–401
8 “Provider” § 10–401

9 10–416. DENIAL, SUSPENSION, OR REVOCATION.

10 (A) AUTHORIZED.

11 FOR CAUSE, THE DEPARTMENT MAY:

12 (1) DENY A FEASIBILITY STUDY APPROVAL; OR

13 (2) DENY, SUSPEND, OR REVOKE A PRELIMINARY, INITIAL, OR RENEWAL
14 CERTIFICATE OF REGISTRATION.

15 (B) GROUNDS.

16 (1) GROUNDS FOR A DENIAL, SUSPENSION, OR REVOCATION INCLUDE:

17 (I) VIOLATION OF THIS SUBTITLE;

18 (II) VIOLATION OF A REGULATION THE DEPARTMENT ADOPTS
19 UNDER THIS SUBTITLE;

20 (III) MISREPRESENTATION; OR

21 (IV) SUBMISSION OF A FALSE FINANCIAL STATEMENT.

22 (2) THE DEPARTMENT SHALL SET FORTH IN WRITING ITS REASONS FOR
23 A DENIAL, SUSPENSION, OR REVOCATION.

24 (C) APPEAL.

25 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE GOVERNS THE
26 APPEAL OF A DENIAL, REVOCATION, OR SUSPENSION.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 70B, § 22.

29 In subsection (c) of this section, the reference to “Title 10, Subtitle 2 of the
30 State Government Article” is substituted for the former reference to “[t]he
31 Maryland Administrative Procedure Act” for accuracy and consistency with
32 § 10–210 of this title.

33 Also in subsection (c) of this section, the former reference to “[t]he

1 proceedings ... [being] conducted in accordance with” is deleted as
2 surplusage.

3 Defined term: “Department” § 10–101

4 10–417. RESERVED.

5 10–418. RESERVED.

6 GENERAL REVISOR’S NOTE TO PART:

7 Throughout this part, references to “proposed advertisements”, “advertising
8 campaigns”, and “other promotional materials” are substituted for the former
9 references to “any advertising campaign or proposed advertisement”, “any advertising
10 campaign, advertisement, or other promotional material”, “all advertising and other
11 promotional materials”, “any advertisement or advertising campaign”, and “any
12 advertising campaign, proposed advertisement, or other promotional materials” for
13 consistency throughout this part and with Part VI of this subtitle.

14 PART III. PROVIDERS.

15 10–419. “NET OPERATING EXPENSES” DEFINED.

16 IN THIS PART, “NET OPERATING EXPENSES” MEANS THE TOTAL OPERATING
17 EXPENSES AT EACH FACILITY OF A PROVIDER, LESS DEPRECIATION, AMORTIZATION,
18 UNUSUAL AND INFREQUENT EXPENSES, CHANGES IN THE OBLIGATION TO PROVIDE
19 FUTURE SERVICES, AND CHANGES IN THE FAIR MARKET VALUE OF INTEREST RATE
20 SWAP AGREEMENTS NOT INVOLVING AN EXCHANGE OF FUNDS.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from the first sentence of former Art. 70B, § 11B(a).

23 In this section and in § 10–420(b)(1) of this subtitle, references to this
24 “part” are substituted for the former references to this “section” to reflect
25 the reorganization of provisions formerly contained in Art. 70B, § 11B. No
26 substantive change is intended.

27 Defined terms: “Facility” § 10–401

28 “Provider” § 10–401

29 10–420. OPERATING RESERVES — IN GENERAL.

30 (A) EXCLUSION OF INTEREST EXPENSES.

31 INTEREST EXPENSES MAY BE EXCLUDED FROM THE CALCULATION OF NET
32 OPERATING EXPENSES FOR A FISCAL YEAR, IF THE PROVIDER FUNDED A DEBT
33 SERVICE RESERVE OR OTHER INTEREST RESERVE UNDER REQUIREMENTS IMPOSED
34 BY A FINANCIAL INSTITUTION OR UNDER APPLICABLE FINANCING DOCUMENTS, TO
35 THE EXTENT THE RESERVE FUND INCLUDED AMOUNTS TO COVER INTEREST FOR
36 THAT FISCAL YEAR.

1 (B) OPERATING RESERVES — AMOUNT AND FORM.

2 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, A PROVIDER SHALL
3 SET ASIDE FOR EACH FACILITY SUBJECT TO THIS SUBTITLE OPERATING RESERVES
4 EQUAL TO 15% OF THE FACILITY'S NET OPERATING EXPENSES FOR THE MOST
5 RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS
6 AVAILABLE.

7 (2) THE PROVIDER SHALL KEEP THE OPERATING RESERVES IN A
8 REASONABLY LIQUID FORM IN THE JUDGMENT OF THE PROVIDER.

9 (C) OPERATING RESERVES — TIME PERIOD FOR MEETING RESERVE
10 REQUIREMENT.

11 (1) A PROVIDER SHALL MEET THE REQUIREMENTS OF SUBSECTION (B)
12 OF THIS SECTION WITHIN 10 FULL FISCAL YEARS AFTER THE DATE OF ITS INITIAL
13 CERTIFICATE OF REGISTRATION.

14 (2) A PROVIDER SHALL SET ASIDE AT LEAST 10% OF THE RESERVES
15 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AT THE END OF EACH FISCAL
16 YEAR AFTER THE DATE OF ITS INITIAL CERTIFICATE OF REGISTRATION, UP TO A
17 TOTAL OF 100% AT THE END OF THE 10TH FISCAL YEAR.

18 (3) THE DEPARTMENT MAY ALLOW A PROVIDER TO MODIFY THE
19 MINIMUM RATE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION OR EXTEND
20 THE TIME TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF
21 THE MODIFICATION IS NECESSARY TO MAINTAIN THE FINANCIAL VIABILITY OF THE
22 FACILITY.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 70B, § 11B(b), (g), and the second sentence of (a).

25 In subsection (a) of this section, the reference to the calculation of net
26 operating expenses "for a fiscal year" is added for clarity.

27 Also in subsection (a) of this section, the reference to "that fiscal year" is
28 substituted for the former reference to "the year in question" for clarity.

29 In subsection (c)(1) and (2) of this section, the former reference to "the later
30 of October 1, 1996 or" is deleted as obsolete.

31 In subsection (c)(3) of this section, the reference to the minimum rate
32 "required under paragraph (2) of this subsection" is added for clarity.

33 Also in subsection (c)(3) of this section, the reference to "extend[ing]" the
34 time is substituted for the former reference to "authoriz[ing] an additional
35 amount of" time for brevity.

36 Defined terms: "Certified financial statement" § 10-401

37 "Department" § 10-101

1 "Facility" § 10-401
2 "Net operating expenses" § 10-419
3 "Provider" § 10-401

4 10-421. OPERATING RESERVES — COMPUTATION.

5 (A) COMPUTING OPERATING RESERVES.

6 (1) A PROVIDER SHALL COMPUTE OPERATING RESERVES FOR EACH
7 FACILITY AS OF THE END OF THE FACILITY'S MOST RECENT FISCAL YEAR.

8 (2) WHEN A PROVIDER FILES AN APPLICATION FOR A RENEWAL
9 CERTIFICATE OF REGISTRATION, THE PROVIDER SHALL SHOW COMPLIANCE WITH
10 OPERATING RESERVE REQUIREMENTS BY INCLUDING WITH THE APPLICATION:

11 (I) A LETTER TO THE DEPARTMENT FROM A CERTIFIED PUBLIC
12 ACCOUNTANT THAT STATES THE AMOUNT SET ASIDE; OR

13 (II) A CERTIFIED FINANCIAL STATEMENT THAT STATES THE
14 AMOUNT SET ASIDE.

15 (B) APPLICATION OF OTHER RESERVES.

16 A PROVIDER MAY APPLY TOWARD THE OPERATING RESERVES REQUIRED BY §
17 10-420(B) OF THIS SUBTITLE ANY RESERVES, EXCEPT DEBT SERVICE RESERVES, THAT
18 ARE MAINTAINED UNDER APPLICABLE FINANCING DOCUMENT REQUIREMENTS IF
19 THE RESERVES ARE AVAILABLE TO THE PROVIDER TO MEET THE FACILITY'S
20 OPERATING EXPENSES.

21 (C) VALUE OF INVESTMENTS.

22 FOR THE PURPOSE OF COMPUTING A PROVIDER'S OPERATING RESERVES,
23 INVESTMENTS HELD TO THE CREDIT OF THE RESERVES SHALL BE CALCULATED AT
24 THEIR MARKET VALUE AS OF THE END OF THE PROVIDER'S MOST RECENT FISCAL
25 YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 70B, § 11B(c), (d), and (e).

28 In subsection (a)(2)(i) of this section, the former reference to the amount
29 "actually" set aside is deleted as surplusage.

30 In subsection (c) of this section, the reference to "computing" operating
31 reserves is substituted for the former reference to "calculating" operating
32 reserves for consistency with subsection (a) of this section.

33 Defined terms: "Certified financial statement" § 10-401
34 "Department" § 10-101
35 "Facility" § 10-401
36 "Provider" § 10-401

1 10-422. OPERATING RESERVES — DRAWING FUNDS FROM RESERVES.

2 (A) NOTICE OF WITHDRAWAL.

3 A PROVIDER SHALL NOTIFY THE DEPARTMENT IN WRITING IMMEDIATELY ON
4 THE WITHDRAWAL OF ANY AMOUNT FROM THE FUNDS AVAILABLE TO SATISFY THE
5 OPERATING RESERVES REQUIRED BY § 10-420(B) OF THIS SUBTITLE.

6 (B) WRITTEN PLAN.

7 WITHIN 30 DAYS AFTER MAKING A WITHDRAWAL DESCRIBED IN SUBSECTION
8 (A) OF THIS SECTION, THE PROVIDER SHALL SUBMIT TO THE DEPARTMENT A
9 WRITTEN PLAN FOR RESTORING THE RESERVES TO THE LEVEL REQUIRED BY §
10 10-420(B) OF THIS SUBTITLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 70B, § 11B(f).

13 In subsection (b) of this section, the reference to "a withdrawal described in
14 subsection (a) of this section" is substituted for the former reference to
15 "such draw" for clarity.

16 Also in subsection (b) of this section, the reference to the "reserves" is
17 substituted for the former reference to the "funds in the reserve" for
18 brevity and consistency throughout this part.

19 Defined terms: "Department" § 10-101
20 "Provider" § 10-401

21 10-423. OPERATING RESERVES — UNCONVERTED FACILITIES.

22 (A) AMOUNT.

23 FOR A FACILITY THAT HAS NOT BEEN THE SUBJECT OF A CONVERSION AND
24 THAT HAS RESIDENTS WHO ARE NOT PARTIES TO CONTINUING CARE AGREEMENTS,
25 THE PROVIDER SHALL SET ASIDE OPERATING RESERVES EQUAL TO AT LEAST 15% OF
26 THE PRO RATA PROPORTION OF THE NET OPERATING EXPENSES CALCULATED
27 UNDER SUBSECTION (B) OF THIS SECTION.

28 (B) CALCULATION OF PRO RATA PROPORTION OF NET OPERATING EXPENSES.

29 THE PRO RATA PROPORTION OF THE NET OPERATING EXPENSES EQUALS THE
30 NUMBER OF UNITS IN THE FACILITY FOR WHICH THE DEPARTMENT HAS ISSUED A
31 CERTIFICATE OF REGISTRATION DIVIDED BY THE TOTAL NUMBER OF
32 ACCOMMODATIONS IN THE FACILITY MULTIPLIED BY THE NET OPERATING
33 EXPENSES FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED
34 FINANCIAL STATEMENT IS AVAILABLE.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 70B, § 11B(h).

1 In subsection (a) of this section, the reference to the pro rata proportion of
2 the net operating expenses “calculated under subsection (b) of this section”
3 is added for clarity.

4 Defined terms: “Certified financial statement” § 10–401

5 “Continuing care agreement” § 10–401

6 “Conversion” § 10–401

7 “Department” § 10–101

8 “Facility” § 10–401

9 “Net operating expenses” § 10–419

10 “Provider” § 10–401

11 10–424. DISCLOSURE STATEMENTS — IN GENERAL.

12 (A) REQUIRED.

13 (1) A PROVIDER SHALL GIVE WITHOUT COST A DISCLOSURE STATEMENT
14 FOR EACH FACILITY FOR WHICH THE PROVIDER HOLDS A PRELIMINARY, INITIAL, OR
15 RENEWAL CERTIFICATE OF REGISTRATION:

16 (I) TO A PROSPECTIVE SUBSCRIBER BEFORE THE EARLIER OF
17 PAYMENT OF ANY PART OF THE ENTRANCE FEE OR EXECUTION OF A CONTINUING
18 CARE AGREEMENT; AND

19 (II) ANNUALLY TO ANY SUBSCRIBER WHO REQUESTS A
20 DISCLOSURE STATEMENT.

21 (2) A PROVIDER SHALL SUBMIT ITS INITIAL DISCLOSURE STATEMENT TO
22 THE DEPARTMENT FOR REVIEW AT LEAST 45 DAYS BEFORE GIVING THE STATEMENT
23 TO ANY PROSPECTIVE SUBSCRIBER.

24 (B) ANNUAL REVISIONS.

25 (1) A PROVIDER SHALL REVISE THE DISCLOSURE STATEMENT
26 ANNUALLY AND FILE IT WITH THE DEPARTMENT WITHIN 120 DAYS AFTER THE END
27 OF THE PROVIDER’S FISCAL YEAR.

28 (2) THE DEPARTMENT SHALL REVIEW THE DISCLOSURE STATEMENT
29 SOLELY TO ENSURE COMPLIANCE WITH § 10–425 OF THIS SUBTITLE.

30 (C) AMENDED STATEMENTS.

31 (1) AN AMENDED DISCLOSURE STATEMENT IS SUBJECT TO EACH
32 REQUIREMENT OF THIS SUBTITLE.

33 (2) A PROVIDER SHALL FILE AN AMENDED DISCLOSURE STATEMENT
34 WITH THE DEPARTMENT WHEN IT IS DELIVERED TO A SUBSCRIBER OR PROSPECTIVE
35 SUBSCRIBER.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 11C(a), (b), and (e).

3 Defined terms: "Continuing care agreement" § 10-401
4 "Department" § 10-101
5 "Entrance fee" § 10-401
6 "Facility" § 10-401
7 "Provider" § 10-401
8 "Subscriber" § 10-401

9 10-425. DISCLOSURE STATEMENTS — CONTENTS.

10 (A) IN GENERAL.

11 A DISCLOSURE STATEMENT SHALL INCLUDE:

12 (1) THE NAME, ADDRESS, AND DESCRIPTION OF THE FACILITY AND THE
13 IDENTITY OF THE OWNER OR OWNERS OF THE FACILITY AND THE LAND ON WHICH IT
14 IS LOCATED;

15 (2) THE NAME AND ADDRESS OF THE PROVIDER AND OF ANY PARENT OR
16 SUBSIDIARY;

17 (3) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE
18 PROVIDER, INCLUDING:

19 (I) FOR A CORPORATION OR LIMITED LIABILITY COMPANY, ITS
20 NAME, THE STATE IN WHICH IT IS INCORPORATED OR FORMED, AND THE NAME OF
21 THE CHIEF EXECUTIVE OFFICER;

22 (II) FOR A PARTNERSHIP, THE NAMES OF THE GENERAL PARTNERS,
23 THE STATE GOVERNING ITS FORMATION, AND THE NAME OF THE PRIMARY
24 INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

25 (III) FOR AN UNINCORPORATED ASSOCIATION, THE NAMES OF THE
26 MEMBERS, THE STATE GOVERNING ITS ACTIVITIES, AND THE NAME OF THE PRIMARY
27 INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

28 (IV) FOR A PARTNERSHIP THAT HAS A CORPORATION OR LIMITED
29 LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS, THE NAME OF
30 EACH CORPORATION OR LIMITED LIABILITY COMPANY, THE STATE IN WHICH IT IS
31 INCORPORATED OR FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

32 (V) FOR A TRUST, THE NAME OF THE TRUSTEE, THE NAMES OF THE
33 OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE STATE GOVERNING IT, AND
34 THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR OVERSEEING ITS
35 ACTIVITIES; AND

1 (VI) A STATEMENT WHETHER THE PROVIDER IS QUALIFIED, OR
2 INTENDS TO QUALIFY, AS A TAX-EXEMPT ORGANIZATION UNDER THE INTERNAL
3 REVENUE CODE;

4 (4) THE NAME AND OCCUPATION OF EACH OFFICER, DIRECTOR,
5 TRUSTEE, MANAGING OR GENERAL PARTNER, AND EACH PERSON WITH A 10% OR
6 GREATER EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER, AND A DESCRIPTION
7 OF THE PERSON'S FINANCIAL INTEREST IN OR OCCUPATION WITH THE PROVIDER;

8 (5) THE NAME AND ADDRESS OF ANY ENTITY IN WHICH A PERSON
9 IDENTIFIED IN ITEM (4) OF THIS SUBSECTION HAS A 10% OR GREATER FINANCIAL
10 INTEREST AND THAT IS ANTICIPATED TO PROVIDE GOODS, PREMISES, OR SERVICES
11 WITH A VALUE OF \$10,000 OR MORE TO THE FACILITY OR PROVIDER IN A FISCAL YEAR
12 AND A DESCRIPTION OF THE GOODS, PREMISES, OR SERVICES AND THEIR
13 ANTICIPATED COST TO THE FACILITY OR PROVIDER, WHICH NEED NOT INCLUDE
14 SALARY, WAGE, OR BENEFIT INFORMATION OF EMPLOYEES OF THE PROVIDER;

15 (6) A DESCRIPTION OF ANY MATTER IN WHICH AN INDIVIDUAL
16 IDENTIFIED IN ITEM (4) OF THIS SUBSECTION:

17 (I) HAS BEEN CONVICTED OF A FELONY OR PLEADED NOLO
18 CONTENDERE TO A FELONY CHARGE, IF THE FELONY INVOLVED FRAUD,
19 EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY;

20 (II) HAS BEEN HELD LIABLE OR ENJOINED IN A CIVIL ACTION BY
21 FINAL JUDGMENT, IF THE CIVIL ACTION INVOLVED FRAUD, EMBEZZLEMENT,
22 FRAUDULENT CONVERSION, OR MISAPPROPRIATION AS A FIDUCIARY;

23 (III) HAS BEEN SUBJECT TO AN EFFECTIVE INJUNCTIVE OR
24 RESTRICTIVE ORDER OF A COURT OF RECORD IN AN ACTION THAT AROSE OUT OF OR
25 RELATED TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING AN ACTION THAT
26 AFFECTED A LICENSE TO OPERATE A FACILITY OR SERVICE FOR SENIOR, IMPAIRED,
27 OR DEPENDENT PERSONS; OR

28 (IV) IN THE PAST 10 YEARS, HAD A STATE OR FEDERAL LICENSE OR
29 PERMIT SUSPENDED OR REVOKED BECAUSE A GOVERNMENTAL UNIT BROUGHT AN
30 ACTION THAT AROSE OUT OF OR RELATED TO BUSINESS ACTIVITY OR HEALTH CARE,
31 INCLUDING AN ACTION THAT AFFECTED A LICENSE TO OPERATE A FACILITY OR
32 SERVICE FOR SENIOR, IMPAIRED, OR DEPENDENT PERSONS;

33 (7) A DESCRIPTION OF THE PROVIDER'S FORM OF GOVERNANCE AND
34 THE COMPOSITION OF ITS GOVERNING BODY, AND A STATEMENT THAT THE
35 PROVIDER WILL SATISFY THE REQUIREMENTS OF §§ 10-426 AND 10-427 OF THIS
36 SUBTITLE;

37 (8) A STATEMENT OF ANY AFFILIATION OF THE PROVIDER WITH A
38 RELIGIOUS, CHARITABLE, OR OTHER NONPROFIT ORGANIZATION, AND THE EXTENT
39 OF THE ORGANIZATION'S RESPONSIBILITY FOR THE FINANCIAL AND CONTRACTUAL
40 OBLIGATIONS OF THE PROVIDER;

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1 (9) IF THE FACILITY WILL BE MANAGED ON A DAY-TO-DAY BASIS BY A
2 PERSON OTHER THAN AN INDIVIDUAL WHO IS DIRECTLY EMPLOYED BY THE
3 PROVIDER, THE NAME OF THE PROPOSED MANAGER OR MANAGEMENT COMPANY
4 AND A DESCRIPTION OF THE BUSINESS EXPERIENCE OF THE MANAGER OR COMPANY
5 IN OPERATING OR MANAGING SIMILAR FACILITIES;

6 (10) A COPY OF THE MOST RECENT CERTIFIED FINANCIAL STATEMENT
7 OBTAINABLE UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES;

8 (11) A DESCRIPTION OF THE LONG-TERM FINANCING FOR THE FACILITY;

9 (12) A CASH FLOW FORECAST FOR THE CURRENT AND THE NEXT TWO
10 FISCAL YEARS;

11 (13) A DESCRIPTION OF ANY ACTIVITY RELATED TO A RENOVATION,
12 EXPANSION, OR NEW DEVELOPMENT DURING THE PRECEDING FISCAL YEAR OR
13 PROPOSED FOR THE CURRENT FISCAL YEAR;

14 (14) A DESCRIPTION OF:

15 (I) THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY
16 WITH THE OPERATING RESERVE REQUIREMENTS UNDER § 10-420(B) OF THIS
17 SUBTITLE; AND

18 (II) THE PROVIDER'S INVESTMENT POLICY RELATED TO THE
19 REQUIRED RESERVES, INCLUDING HOW OFTEN AND BY WHOM THE RESERVE FUND
20 INVESTMENT IS REVIEWED;

21 (15) A DESCRIPTION OF THE FINANCIAL ARRANGEMENTS THAT THE
22 PROVIDER HAS MADE, IF ANY, TO ADDRESS THE RENEWAL AND REPLACEMENT OF
23 THE BUILDINGS AND IMPROVEMENTS AT THE FACILITY, SUCH AS THE
24 ESTABLISHMENT OF A RENEWAL AND REPLACEMENT FUND;

25 (16) IF THE FACILITY HAS NOT REACHED 85% OCCUPANCY OF ITS
26 INDEPENDENT LIVING UNITS, A SUMMARY OF THE FEASIBILITY STUDY;

27 (17) IF APPLICABLE, A DESCRIPTION OF THE CONDITIONS UNDER WHICH
28 THE PROVIDER MAY BE ISSUED AN INITIAL CERTIFICATE OF REGISTRATION AND
29 MAY USE ESCROWED DEPOSITS;

30 (18) A DESCRIPTION OF ALL BASIC FEES, INCLUDING ENTRANCE FEES,
31 FEES FOR HEALTH RELATED SERVICES, AND PERIODIC FEES THAT THE PROVIDER
32 COLLECTS FROM SUBSCRIBERS, AND THE AMOUNT AND FREQUENCY OF ANY FEE
33 CHANGES DURING THE PREVIOUS 5 YEARS OR, IF THE FACILITY HAS BEEN IN
34 OPERATION LESS THAN 5 YEARS, FOR EACH YEAR OF OPERATION;

35 (19) A SUMMARY OF THE BASIC SERVICES PROVIDED OR PROPOSED TO BE
36 PROVIDED AT THE FACILITY UNDER THE CONTINUING CARE AGREEMENT,
37 INCLUDING THE EXTENT TO WHICH HEALTH RELATED SERVICES ARE PROVIDED,
38 THAT CLEARLY STATES WHICH SERVICES ARE INDICATED IN THE AGREEMENT AS

1 INCLUDED IN THE BASIC FEE AND WHICH SERVICES ARE OR WILL BE MADE
2 AVAILABLE AT OR BY THE FACILITY AT AN EXTRA CHARGE;

3 (20) IF APPLICABLE, A STATEMENT THAT IT IS THE PROVIDER'S POLICY
4 TO IMPOSE A SURCHARGE ON SOME, BUT NOT ALL, SUBSCRIBERS BECAUSE OF A
5 CONDITION OR CIRCUMSTANCE THAT APPLIES ONLY TO THOSE SUBSCRIBERS AND
6 THAT THE SURCHARGE IS NOT PART OF THE ENTRANCE FEE REFUND REQUIRED
7 UNDER § 10-448 OF THIS SUBTITLE;

8 (21) A DESCRIPTION OF THE ROLE OF ANY RESIDENT ASSOCIATION;

9 (22) A DESCRIPTION OF THE INTERNAL GRIEVANCE PROCEDURE;

10 (23) A STATEMENT THAT THE PROVIDER WILL AMEND ITS DISCLOSURE
11 STATEMENT WHENEVER THE PROVIDER OR THE DEPARTMENT CONSIDERS AN
12 AMENDMENT NECESSARY TO PREVENT THE DISCLOSURE STATEMENT FROM
13 CONTAINING:

14 (I) A MATERIAL MISSTATEMENT OF A FACT REQUIRED BY THIS
15 SECTION TO BE STATED IN THE DISCLOSURE STATEMENT; OR

16 (II) AN OMISSION OF A MATERIAL FACT REQUIRED BY THIS
17 SECTION TO BE STATED IN THE DISCLOSURE STATEMENT; AND

18 (24) ANY OTHER MATERIAL INFORMATION ABOUT THE FACILITY OR THE
19 PROVIDER THAT THE DEPARTMENT REQUIRES OR THAT THE PROVIDER WISHES TO
20 INCLUDE.

21 (B) REQUIRED NOTICES.

22 THE DISCLOSURE STATEMENT SHALL CONTAIN A COVER PAGE THAT STATES,
23 IN A PROMINENT LOCATION AND TYPE FACE:

24 (1) THE DATE OF THE DISCLOSURE STATEMENT; AND

25 (2) THAT THE ISSUANCE OF A CERTIFICATE OF REGISTRATION DOES
26 NOT:

27 (I) CONSTITUTE APPROVAL, RECOMMENDATION, OR
28 ENDORSEMENT OF THE FACILITY BY THE DEPARTMENT; OR

29 (II) EVIDENCE OR ATTEST TO THE ACCURACY OR COMPLETENESS
30 OF THE INFORMATION IN THE DISCLOSURE STATEMENT.

31 (C) ADDITIONAL DISCLOSURES REGARDING ASSISTED LIVING PROGRAM.

32 (1) THIS SUBSECTION APPLIES TO A PROVIDER THAT:

33 (I) HAS A CONTINUING CARE AGREEMENT THAT INCLUDES A
34 PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES; AND

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1 (II) DOES NOT EXECUTE A SEPARATE ASSISTED LIVING
2 AGREEMENT.

3 (2) IN ADDITION TO ANY OTHER REQUIREMENT OF THIS SECTION, THE
4 DISCLOSURE STATEMENT SHALL CONTAIN THE FOLLOWING INFORMATION ABOUT
5 THE ASSISTED LIVING PROGRAM:

6 (I) THE NAME AND ADDRESS AND A DESCRIPTION OF EACH
7 FACILITY THAT THE PROVIDER OPERATES;

8 (II) A STATEMENT REGARDING THE RELATIONSHIP OF THE
9 PROVIDER TO OTHER PROVIDERS OR SERVICES IF THE RELATIONSHIP AFFECTS THE
10 CARE OF THE RESIDENT;

11 (III) A DESCRIPTION OF ANY SPECIAL PROGRAMMING, STAFFING,
12 AND TRAINING PROVIDED BY THE PROGRAM FOR INDIVIDUALS WITH PARTICULAR
13 NEEDS OR CONDITIONS SUCH AS COGNITIVE IMPAIRMENT;

14 (IV) NOTICE OF:

15 1. THE AVAILABILITY OF LOCKS FOR STORAGE;

16 2. THE AVAILABILITY OF LOCKS FOR THE SUBSCRIBER'S
17 ROOM;

18 3. THE SECURITY PROCEDURES THAT THE PROVIDER WILL
19 IMPLEMENT TO PROTECT THE SUBSCRIBER AND THE SUBSCRIBER'S PROPERTY; AND

20 4. THE PROVIDER'S RIGHT, IF ANY, TO ENTER A
21 SUBSCRIBER'S ROOM;

22 (V) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER, THE
23 SUBSCRIBER, OR THE SUBSCRIBER'S AGENT FOR:

24 1. ARRANGING OR OVERSEEING MEDICAL CARE;

25 2. MONITORING THE SUBSCRIBER'S HEALTH STATUS;

26 3. PURCHASING OR RENTING ESSENTIAL OR DESIRED
27 EQUIPMENT AND SUPPLIES; AND

28 4. ASCERTAINING THE COST OF AND PURCHASING DURABLE
29 MEDICAL EQUIPMENT;

30 (VI) AN EXPLANATION OF THE ASSISTED LIVING PROGRAM'S
31 COMPLAINT OR GRIEVANCE PROCEDURE; AND

32 (VII) NOTICE OF ANY MATERIAL CHANGES IN THE ASSISTED LIVING
33 PROGRAM.

34 (3) THE PROVIDER SHALL:

1 (I) GIVE TO EACH SUBSCRIBER ANNUALLY AND WITHOUT COST
2 REVISIONS TO THE DISCLOSURE STATEMENT PROVISIONS UNDER PARAGRAPH (2) OF
3 THIS SUBSECTION;

4 (II) ENSURE THAT EACH SUBSCRIBER OR THE SUBSCRIBER'S
5 AGENT INITIALS THE REVISED DISCLOSURE STATEMENT TO ACKNOWLEDGE THE
6 REVISIONS; AND

7 (III) MAKE COPIES OF THE INITIALED DISCLOSURE STATEMENTS
8 AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF HEALTH AND MENTAL
9 HYGIENE UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH – GENERAL ARTICLE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 70B, § 11C(c), (d), and (f).

12 In subsection (a)(2) of this section, the former reference to a parent or
13 subsidiary "person" is deleted as surplusage.

14 In subsection (a)(5) of this section, the reference to an "entity" is
15 substituted for the former reference to a "professional service firm,
16 association, trust, partnership, company, or corporation" for brevity.

17 As to the substitution in subsection (a)(6)(iii) of the reference to "senior"
18 persons for the former reference to "aging" persons, *see* General Revisor's
19 Note to title.

20 In subsection (a)(13) of this section, the former phrase "whether or not
21 subject to Department review" is deleted for accuracy. All renovations,
22 expansions, and new developments are subject to review by the
23 Department. This deletion is called to the attention of the General
24 Assembly.

25 In subsection (a)(14) of this section, the reference to a "description of" the
26 provider's investment policy is substituted for the former reference to a
27 "general statement regarding" the policy for consistency throughout this
28 section.

29 In subsection (a)(20) of this section, the reference to a condition or
30 circumstance "that applies only to those subscribers" is substituted for the
31 former reference to "some" condition or circumstance for clarity and
32 consistency with the definition of "surcharge".

33 In subsection (a)(21) of this section, the reference to a description of "any"
34 resident association is substituted for the former reference to a description
35 of "the existence of" the resident association for clarity.

36 In subsection (a)(23) of this section, the word "whenever" is substituted for
37 the former phrase "if, at any time" for brevity.

38 Also in subsection (a)(23) of this section, the word "considers" is

1 substituted for the former phrase “in the opinion of” for brevity.

2 In subsection (c)(2)(iv)2 of this section, the former phrase “if any” is deleted
3 for clarity and consistency with subsection (c)(2)(iv)1 of this section.

4 Defined terms: “Assisted living program” § 10–401

5 “Certified financial statement” § 10–401

6 “Continuing care agreement” § 10–401

7 “Department” § 10–101

8 “Deposit” § 10–401

9 “Entrance fee” § 10–401

10 “Expansion” § 10–401

11 “Facility” § 10–401

12 “Governing body” § 10–401

13 “Health related services” § 10–401

14 “Person” §§ 1–101, 10–401

15 “Provider” § 10–401

16 “Renovation” § 10–401

17 “State” § 1–101

18 “Subscriber” § 10–401

19 “Surcharge” § 10–401

20 10–426. ANNUAL MEETING.

21 (A) IN GENERAL.

22 AT LEAST ONCE A YEAR, EACH PROVIDER SHALL HOLD A MEETING OPEN TO ALL
23 OF THE PROVIDER’S SUBSCRIBERS.

24 (B) PURPOSE.

25 AT THE MEETING, AN AUTHORIZED OFFICER OF THE PROVIDER SHALL:

26 (1) SUMMARIZE THE PROVIDER’S OPERATIONS, SIGNIFICANT CHANGES
27 FROM THE PREVIOUS YEAR, AND GOALS AND OBJECTIVES FOR THE NEXT YEAR; AND

28 (2) ANSWER SUBSCRIBERS’ QUESTIONS.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 70B, § 11A(a).

31 In subsection (b)(2) of this section, the former reference to the provider
32 “mak[ing] provisions to have an authorized officer receive” questions is
33 deleted as surplusage.

34 Defined terms: “Provider” § 10–401

35 “Subscriber” § 10–401

1 10-427. SUBSCRIBER INPUT.

2 (A) PROVIDER WITH GOVERNING BODY.

3 (1) IF A PROVIDER HAS A GOVERNING BODY, AT LEAST ONE OF THE
4 PROVIDER'S SUBSCRIBERS SHALL BE A FULL AND REGULAR MEMBER OF THE
5 GOVERNING BODY.

6 (2) IF THE PROVIDER OWNS OR OPERATES MORE THAN THREE
7 FACILITIES IN THE STATE, THE GOVERNING BODY SHALL INCLUDE AT LEAST ONE OF
8 THE PROVIDER'S SUBSCRIBERS FOR EVERY THREE FACILITIES IN THE STATE.

9 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A MEMBER OF
10 THE GOVERNING BODY WHO IS SELECTED TO MEET THE REQUIREMENTS OF THIS
11 SUBSECTION SHALL BE A SUBSCRIBER AT A FACILITY IN THE STATE AND BE
12 SELECTED ACCORDING TO THE SAME GENERAL WRITTEN STANDARDS AND CRITERIA
13 USED TO SELECT OTHER MEMBERS OF THE GOVERNING BODY.

14 (4) THE GOVERNING BODY SHALL CONFER WITH THE RESIDENT
15 ASSOCIATION AT EACH OF THE PROVIDER'S FACILITIES BEFORE THE SUBSCRIBER
16 OFFICIALLY JOINS THE GOVERNING BODY.

17 (5) THE SECRETARY MAY WAIVE THE REQUIREMENTS OF THIS
18 SUBSECTION FOR A PROVIDER IN THE PROCESS OF DECERTIFYING AS A PROVIDER, IF
19 THE SECRETARY DETERMINES THAT THERE ARE NO SUBSCRIBERS WILLING AND
20 ABLE TO SERVE ON THE GOVERNING BODY.

21 (B) PROVIDER WITHOUT A GOVERNING BODY.

22 (1) IF A PROVIDER DOES NOT HAVE A GOVERNING BODY, THE PROVIDER
23 SHALL APPOINT A SELECT COMMITTEE OF ITS OFFICERS OR PARTNERS TO MEET AT
24 LEAST TWICE A YEAR WITH THE RESIDENT ASSOCIATION AT EACH OF ITS FACILITIES
25 TO ADDRESS CONCERNS OF THE SUBSCRIBERS AND TO ENSURE THAT THE OPINIONS
26 OF SUBSCRIBERS ARE RELAYED TO ALL OFFICERS OR PARTNERS OF THE PROVIDER.

27 (2) IF A FACILITY DOES NOT HAVE A RESIDENT ASSOCIATION, THE
28 COMMITTEE SHALL MEET WITH A REASONABLE NUMBER OF REPRESENTATIVES,
29 NOT REQUIRED TO EXCEED FIFTEEN, THAT THE SUBSCRIBERS ELECT.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 70B, § 11A(b) and (c).

32 In subsection (a)(2) of this section, the former reference to including a
33 subscriber "as a full and regular member of the governing body" is deleted
34 as implicit in the requirement that the "governing body shall include at
35 least one subscriber".

36 Defined terms: "Facility" § 10-401

37 "Governing body" § 10-401

38 "Provider" § 10-401

1 "Secretary" § 10-101
2 "Subscriber" § 10-401

3 10-428. INTERNAL GRIEVANCE PROCEDURE.

4 (A) IN GENERAL.

5 A PROVIDER SHALL ESTABLISH AN INTERNAL GRIEVANCE PROCEDURE TO
6 ADDRESS A SUBSCRIBER'S GRIEVANCE.

7 (B) PROCEDURE.

8 THE INTERNAL GRIEVANCE PROCEDURE SHALL:

9 (1) ALLOW A SUBSCRIBER TO SUBMIT A WRITTEN GRIEVANCE TO THE
10 PROVIDER;

11 (2) REQUIRE THE PROVIDER TO SEND A WRITTEN ACKNOWLEDGMENT
12 TO THE SUBSCRIBER WITHIN 5 DAYS AFTER RECEIPT OF THE WRITTEN GRIEVANCE;

13 (3) GIVE A SUBSCRIBER WHO FILES A WRITTEN GRIEVANCE THE RIGHT
14 TO MEET WITH MANAGEMENT OF THE PROVIDER WITHIN 45 DAYS AFTER RECEIPT OF
15 THE WRITTEN GRIEVANCE TO PRESENT THE SUBSCRIBER'S GRIEVANCE; AND

16 (4) REQUIRE THE PROVIDER TO RESPOND WITHIN 45 DAYS AFTER
17 RECEIPT OF THE WRITTEN GRIEVANCE REGARDING THE INVESTIGATION AND
18 RESOLUTION OF THE GRIEVANCE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 70B, § 11G.

21 In subsection (b)(1) of this section, the reference to "allow[ing]" a
22 subscriber to submit a written grievance is substituted for the former
23 reference to "provid[ing] for ... [t]he opportunity for" a subscriber to submit
24 a written grievance for brevity.

25 In subsection (b)(3) of this section, the former phrase "to afford the
26 subscriber the opportunity" is deleted as surplusage.

27 Defined terms: "Provider" § 10-401
28 "Subscriber" § 10-401

29 10-429. COPIES OF MATERIALS.

30 A PROVIDER SHALL MAKE READILY AVAILABLE TO ITS SUBSCRIBERS FOR
31 REVIEW AT THE FACILITY COPIES OF ALL MATERIALS THAT THE PROVIDER SUBMITS
32 TO THE DEPARTMENT THAT ARE REQUIRED TO BE DISCLOSED UNDER THE PUBLIC
33 INFORMATION ACT.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 70B, § 11A(d).

1 Defined terms: "Department" § 10-101

2 "Facility" § 10-401

3 "Provider" § 10-401

4 "Subscriber" § 10-401

5 10-430. RESERVED.

6 10-431. RESERVED.

7 PART IV. FACILITIES AND ASSETS.

8 10-432. SALE OR TRANSFER OF FACILITY OWNERSHIP — IN GENERAL.

9 (A) SCOPE OF PROVISIONS GOVERNING SALE OR TRANSFER OF FACILITY
10 OWNERSHIP.

11 (1) THIS SECTION AND §§ 10-433 THROUGH 10-435 OF THIS SUBTITLE DO
12 NOT APPLY TO A TRANSFER OF OWNERSHIP OF A FACILITY, OR A TRANSFER OF
13 OWNERSHIP OR CONTROL OF A PERSON THAT OWNS OR CONTROLS A FACILITY, IF:

14 (I) THE TRANSFER IS PART OF A BUSINESS REORGANIZATION; AND

15 (II) THE SAME PERSON OR PERSONS HOLDING A MAJORITY OF
16 OWNERSHIP OR RIGHT TO CONTROL BEFORE THE BUSINESS REORGANIZATION WILL
17 RETAIN, DIRECTLY OR INDIRECTLY, A MAJORITY OF OWNERSHIP OR RIGHT TO
18 CONTROL AFTER THE BUSINESS REORGANIZATION.

19 (2) THE PROVIDER SHALL NOTIFY THE DEPARTMENT AND THE
20 FACILITY'S SUBSCRIBERS 30 DAYS BEFORE ANY REORGANIZATION DESCRIBED IN
21 PARAGRAPH (1) OF THIS SUBSECTION.

22 (B) RESTRICTIONS ON SALE OR TRANSFER OF FACILITY.

23 UNLESS THE DEPARTMENT APPROVES THE SALE OR TRANSFER IN
24 ACCORDANCE WITH §§ 10-433 THROUGH 10-435 OF THIS SUBTITLE, A PROVIDER THAT
25 HOLDS A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE OF REGISTRATION OR A
26 PERSON WITH AN OWNERSHIP INTEREST IN OR A RIGHT TO CONTROL THE PROVIDER,
27 THROUGH GOVERNING BODY APPOINTMENTS OR CONTRACTUAL OR SIMILAR
28 ARRANGEMENTS, MAY NOT SELL OR OTHERWISE TRANSFER, DIRECTLY OR
29 INDIRECTLY:

30 (1) MORE THAN 50% OF THE PROVIDER'S OWNERSHIP OF A FACILITY; OR

31 (2) MORE THAN 50% OF THE OWNERSHIP OF OR RIGHT TO CONTROL A
32 PERSON THAT OWNS OR CONTROLS A FACILITY.

33 (C) AGGREGATION.

1 ANY SERIES OF SALES OR OTHER TRANSFERS DESCRIBED IN SUBSECTION (B)
 2 OF THIS SECTION THAT OCCUR IN A 12-MONTH PERIOD SHALL BE AGGREGATED FOR
 3 PURPOSES OF THIS SECTION AND §§ 10-433 THROUGH 10-435 OF THIS SUBTITLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 70B, § 11D(a).

6 In subsection (a)(1)(ii) of this section, the reference to the "same person or
 7 persons" is substituted for the former reference to "the same party or
 8 parties" for internal consistency.

9 In subsection (a)(2) of this section, the reference to a reorganization
 10 "described in" paragraph (1) of this subsection is substituted for the former
 11 reference to a reorganization "meeting the standards of" paragraph (3) for
 12 clarity.

13 Also in subsection (a)(2) of this section, the former phrase
 14 "[n]otwithstanding paragraph (3) of this subsection" is deleted as
 15 surplusage.

16 In the introductory language of subsection (b) of this section, the phrase
 17 "[u]nless the Department approves" is substituted for the former phrase
 18 "unless the provider or person obtains the approval of the Department" for
 19 brevity.

20 In subsection (c) of this section, the reference to sales or other transfers
 21 "described in subsection (b) of this section" is substituted for the former
 22 reference to "such" sales or other transfers for clarity.

23 Defined terms: "Department" § 10-101

24 "Facility" § 10-401

25 "Governing body" § 10-401

26 "Person" §§ 1-101, 10-401

27 "Provider" § 10-401

28 "Subscriber" § 10-401

29 10-433. SALE OR TRANSFER OF FACILITY OWNERSHIP — NOTICES.

30 (A) IN GENERAL.

31 (1) AT LEAST 90 DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF A
 32 SALE OR OTHER TRANSFER, A PROVIDER SUBJECT TO § 10-432(B) OF THIS SUBTITLE
 33 SHALL FILE WITH THE DEPARTMENT A STATEMENT OF INTENT TO TRANSFER
 34 OWNERSHIP OR CONTROL.

35 (2) AT LEAST 65 DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF THE
 36 SALE OR OTHER TRANSFER, A PROVIDER SUBJECT TO § 10-432(B) OF THIS SUBTITLE
 37 AND ANY PROPOSED NEW PROVIDER SHALL GIVE WRITTEN NOTICE OF THE
 38 PROPOSED SALE OR OTHER TRANSFER, INCLUDING NOTICE OF THE PLACE AND TIME

1 OF THE MEETING REQUIRED BY § 10-434(B) OF THIS SUBTITLE, TO THE SUBSCRIBERS
2 OF THE AFFECTED FACILITY AND THE DEPARTMENT.

3 (B) CONTENTS OF NOTICE.

4 (1) THE WRITTEN NOTICE TO THE DEPARTMENT REQUIRED UNDER
5 SUBSECTION (A)(2) OF THIS SECTION SHALL INCLUDE:

6 (I) THE NAME AND ADDRESS OF THE EXISTING PROVIDER AND
7 ANY PROPOSED NEW PROVIDER AND THE OFFICE OF EACH TO WHICH COMMENTS
8 MAY BE SENT UNDER § 10-434 OF THIS SUBTITLE;

9 (II) THE NAME AND ADDRESS OF THE AFFECTED FACILITY;

10 (III) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE
11 PROVIDER AND THE FACILITY AFTER THE PROPOSED SALE OR OTHER TRANSFER IS
12 COMPLETED, INCLUDING:

13 1. IF THE PROVIDER IS TO BE A CORPORATION OR LIMITED
14 LIABILITY COMPANY, ITS NAME, ITS STATE OF INCORPORATION OR FORMATION, AND
15 THE NAME OF THE CHIEF EXECUTIVE OFFICER;

16 2. IF THE PROVIDER IS TO BE A PARTNERSHIP, THE NAMES
17 OF THE GENERAL PARTNERS, THE STATE GOVERNING ITS FORMATION, AND THE
18 NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING IT;

19 3. IF THE PROVIDER IS TO BE AN UNINCORPORATED
20 ASSOCIATION, THE NAMES OF THE MEMBERS, THE STATE GOVERNING ITS
21 ACTIVITIES, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR
22 MANAGING IT;

23 4. IF THE PROVIDER IS TO BE A TRUST, THE TRUSTEE'S
24 NAME, THE NAMES OF THE OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE
25 STATE THAT GOVERNS IT, AND THE NAME OF THE PRIMARY INDIVIDUAL
26 RESPONSIBLE FOR OVERSEEING ITS ACTIVITIES;

27 5. IF THE PROVIDER IS TO BE A PARTNERSHIP THAT HAS A
28 CORPORATION OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL
29 PARTNERS, THE NAME OF EACH CORPORATION OR LIMITED LIABILITY COMPANY, ITS
30 STATE OF INCORPORATION OR FORMATION, AND THE NAME OF ITS CHIEF
31 EXECUTIVE OFFICER; AND

32 6. THE NAME AND OCCUPATION OF EACH OFFICER,
33 DIRECTOR, TRUSTEE, GENERAL PARTNER, PRINCIPAL, AND EACH PERSON WHO WILL
34 HAVE A 10% OR GREATER EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER OR IN
35 A PERSON THAT OWNS OR CONTROLS THE PROVIDER;

36 (IV) A COPY OF THE CORPORATE CHARTER, PARTNERSHIP
37 AGREEMENT, ARTICLES OF ASSOCIATION, MEMBERSHIP AGREEMENT, OR TRUST

1 AGREEMENT THAT WILL GOVERN THE LEGAL ORGANIZATION OF THE PROVIDER
2 AFTER THE SALE OR TRANSFER;

3 (V) A STATEMENT OF ANY AFFILIATION WITH A RELIGIOUS,
4 CHARITABLE, OR OTHER NONPROFIT ORGANIZATION AFTER THE PROPOSED SALE OR
5 TRANSFER AND THE EXTENT, IF ANY, OF THE AFFILIATE ORGANIZATION'S
6 RESPONSIBILITY FOR THE FINANCIAL AND CONTRACTUAL OBLIGATIONS OF THE
7 PROVIDER;

8 (VI) THE NAME AND ADDRESS OF ANY BUSINESS OR PROFESSIONAL
9 ENTITY IN WHICH A PERSON IDENTIFIED IN ITEM (III)6 OF THIS PARAGRAPH HAS A
10 10% OR GREATER FINANCIAL INTEREST AND THAT IS LIKELY TO PROVIDE GOODS,
11 PREMISES, OR SERVICES WITH A VALUE OF \$10,000 OR MORE A YEAR TO THE
12 FACILITY OR PROVIDER AFTER THE SALE OR TRANSFER, AND A DESCRIPTION OF THE
13 GOODS, PREMISES, OR SERVICES;

14 (VII) THE NAME OF THE PROPOSED MANAGER OR MANAGEMENT
15 COMPANY THAT WILL MANAGE THE DAY-TO-DAY OPERATIONS OF THE FACILITY
16 AFTER THE SALE OR OTHER TRANSFER, AND A DESCRIPTION OF THE BUSINESS
17 EXPERIENCE OF THE MANAGER OR COMPANY IN OPERATING OR MANAGING SIMILAR
18 FACILITIES;

19 (VIII) A DESCRIPTION OF ANY MATTER IN WHICH A PERSON
20 IDENTIFIED IN ITEM (III)6 OF THIS PARAGRAPH:

21 1. HAS BEEN CONVICTED OF A FELONY OR PLEADED NOLO
22 CONTENDERE TO A FELONY CHARGE, IF THE FELONY INVOLVED FRAUD,
23 EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY;

24 2. HAS BEEN HELD LIABLE OR ENJOINED IN A CIVIL ACTION
25 BY FINAL JUDGMENT, IF THE CIVIL ACTION INVOLVED FRAUD, EMBEZZLEMENT,
26 FRAUDULENT CONVERSION, OR MISAPPROPRIATION AS A FIDUCIARY;

27 3. WAS SUBJECT TO AN EFFECTIVE INJUNCTIVE OR
28 RESTRICTIVE ORDER OF A COURT OF RECORD IN AN ACTION THAT AROSE OUT OF OR
29 RELATED TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING AN ACTION THAT
30 AFFECTED A LICENSE TO OPERATE A FACILITY OR SERVICE FOR SENIOR, IMPAIRED,
31 OR DEPENDENT PERSONS; OR

32 4. WITHIN THE PAST 10 YEARS, HAD A STATE OR FEDERAL
33 LICENSE OR PERMIT SUSPENDED OR REVOKED BECAUSE OF AN ACTION BROUGHT
34 BY A GOVERNMENTAL UNIT ARISING OUT OF OR RELATING TO BUSINESS ACTIVITY
35 OR HEALTH CARE, INCLUDING ACTIONS AFFECTING A LICENSE TO OPERATE A
36 FACILITY OR SERVICE FOR SENIOR, IMPAIRED, OR DEPENDENT PERSONS;

37 (IX) A FINANCIAL PLAN PROVIDED BY THE ENTITY THAT WILL BE
38 THE PROVIDER AFTER THE PROPOSED SALE OR OTHER TRANSFER IS COMPLETED IN
39 A FORM REASONABLY ACCEPTABLE TO THE DEPARTMENT THAT DEMONSTRATES
40 THE PROJECTED EFFECTS OF THE SALE OR TRANSFER ON THE FINANCIAL
41 OPERATIONS OF THE PROVIDER AND THE FACILITY, INCLUDING ANY OBLIGATIONS

1 OF THE PROVIDER TO MAKE PAYMENTS IN CONNECTION WITH THE SALE OR
2 TRANSFER FROM THE FINANCIAL RESOURCES OF THE PROVIDER OR THE FACILITY;
3 AND

4 (X) A STATEMENT BY THE ENTITY THAT WILL BE THE PROVIDER
5 AFTER THE PROPOSED SALE OR TRANSFER IS COMPLETED THAT DEMONSTRATES
6 THAT THE SALE OR TRANSFER IS NOT LIKELY TO HAVE AN UNREASONABLY ADVERSE
7 EFFECT ON:

8 1. THE PROVIDER'S FINANCIAL STABILITY; OR

9 2. THE PROVIDER'S CAPACITY TO PERFORM ITS CONTINUING

10 CARE AGREEMENT OBLIGATIONS TO SUBSCRIBERS.

11 (2) IN ADDITION TO THE INFORMATION REQUIRED TO BE PROVIDED
12 UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PROVIDER SUBJECT TO § 10-432(B) OF
13 THIS SUBTITLE AND ANY PROPOSED NEW PROVIDER SHALL PROVIDE TO THE
14 DEPARTMENT ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES TO
15 EVALUATE THE PROPOSED TRANSACTION.

16 (3) ON REQUEST, THE EXISTING PROVIDER AND ANY PROPOSED NEW
17 PROVIDER SHALL GIVE TO A SUBSCRIBER OF THE AFFECTED FACILITY THE
18 INFORMATION INCLUDED IN THE WRITTEN NOTICE TO THE DEPARTMENT UNDER
19 PARAGRAPH (1) OF THIS SUBSECTION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 70B, § 11D(b)(1), (2), (3), and (4).

22 In subsection (a)(2) of this section, the reference to the notice "including"
23 notice of the place and time of the meeting is substituted for the former
24 reference to the notice "specify[ing]" the place and time for brevity.

25 In the introductory language of subsection (b)(1) of this section, the
26 reference to the notice "required under subsection (a)(2) of this section" is
27 added for clarity.

28 In subsection (b)(1)(i) of this section, the reference to the office to which
29 comments may be sent "under § 10-434 of this subtitle" is added for clarity.

30 In subsection (b)(1)(iii)6 of this section, the former references to an "entity"
31 are deleted as included in the reference to a "person".

32 In subsection (b)(1)(iv) of this section, the reference to the document "that
33 will govern" the legal organization of the provider is substituted for the
34 former reference to the document "as it will pertain to" the legal
35 organization for clarity.

36 In subsection (b)(1)(v) of this section, the former reference to any affiliation
37 "that will exist" after the proposed sale or transfer is deleted as
38 surplusage.

1 In subsection (b)(1)(vi) of this section, the former reference to an
2 “operation” is deleted as included in the reference to an “entity”.

3 In subsection (b)(1)(viii) of this section, the reference to a governmental
4 “unit” is substituted for the former reference to a governmental “agency”
5 for consistency throughout this article. *See* General Revisor’s Note to
6 article.

7 As to the substitution of the reference to “senior” persons for the former
8 reference to “aging” persons in subsection (b)(1)(viii) of this section, *see*
9 General Revisor’s Note to title.

10 In the introductory language of subsection (b)(1)(x) of this section, and
11 throughout this part, the word “effect” is substituted for the former word
12 “impact” for clarity and consistency throughout this part.

13 Defined terms: “Department” § 10–101

14 “Facility” § 10–401

15 “Person” §§ 1–101, 10–401

16 “Provider” § 10–401

17 “State” § 1–101

18 “Subscriber” § 10–401

19 10–434. SALE OR TRANSFER OF FACILITY OWNERSHIP — SUBSCRIBER QUESTIONS
20 AND COMMENTS.

21 (A) SUBMISSION OF WRITTEN QUESTIONS AND COMMENTS.

22 WITHIN 15 DAYS AFTER THE NOTICE REQUIRED UNDER § 10–433(A)(2) OF THIS
23 SUBTITLE IS GIVEN, SUBSCRIBERS MAY SUBMIT TO THE EXISTING PROVIDER, ANY
24 PROPOSED NEW PROVIDER, AND THE DEPARTMENT WRITTEN QUESTIONS AND
25 COMMENTS ABOUT THE PROPOSED SALE OR TRANSFER.

26 (B) MEETING REQUIRED.

27 (1) WITHIN 25 DAYS AFTER THE NOTICE REQUIRED UNDER § 10–433(A)(2)
28 OF THIS SUBTITLE IS GIVEN, REPRESENTATIVES OF THE EXISTING PROVIDER AND
29 ANY PROPOSED NEW PROVIDER SHALL HOLD A MEETING WITH NOT MORE THAN 15
30 REPRESENTATIVES CHOSEN BY THE SUBSCRIBERS OF THE AFFECTED FACILITY TO
31 DISCUSS THE PROPOSED SALE OR TRANSFER.

32 (2) THE SUBSCRIBER REPRESENTATIVES SHALL GIVE THEIR NAMES
33 AND ADDRESSES TO THE EXISTING PROVIDER, ANY PROPOSED NEW PROVIDER, AND
34 THE DEPARTMENT.

35 (3) REPRESENTATIVES OF THE DEPARTMENT MAY ATTEND THE
36 MEETING.

37 (C) ADDITIONAL WRITTEN COMMENTS.

1 WITHIN 10 DAYS AFTER THE MEETING REQUIRED UNDER SUBSECTION (B) OF
2 THIS SECTION, SUBSCRIBERS MAY SUBMIT TO THE EXISTING PROVIDER, ANY
3 PROPOSED NEW PROVIDER, AND THE DEPARTMENT ADDITIONAL WRITTEN
4 COMMENTS ABOUT THE PROPOSED SALE OR TRANSFER.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 70B, § 11D(b)(5), (6), and (7).

7 Defined terms: "Department" § 10-101
8 "Facility" § 10-401
9 "Provider" § 10-401
10 "Subscriber" § 10-401

11 10-435. SALE OR TRANSFER OF FACILITY OWNERSHIP — APPROVAL BY DEPARTMENT.

12 (A) DETERMINATION BY DEPARTMENT.

13 (1) AFTER REVIEWING THE INFORMATION REQUIRED BY §§ 10-433 AND
14 10-434 OF THIS SUBTITLE, THE DEPARTMENT SHALL DETERMINE WHETHER THE
15 SALE OR TRANSFER SATISFIES THE STANDARD FOR APPROVAL SET FORTH IN
16 SUBSECTION (B) OF THIS SECTION.

17 (2) THE DEPARTMENT SHALL MAKE THE DETERMINATION WITHIN 50
18 DAYS AFTER THE DATE OF THE NOTICE REQUIRED UNDER § 10-433(A)(2) OF THIS
19 SUBTITLE UNLESS EXTENDED BY THE DEPARTMENT FOR GOOD CAUSE.

20 (3) THE DEPARTMENT SHALL NOTIFY THE EXISTING PROVIDER, ANY
21 PROPOSED NEW PROVIDER, AND THE SUBSCRIBER REPRESENTATIVES IN WRITING
22 OF THE DETERMINATION AND THE REASONS FOR IT AND, IF APPLICABLE, THAT THE
23 DEPARTMENT INTENDS TO TRANSFER THE CERTIFICATE OF REGISTRATION TO THE
24 NEW PROVIDER.

25 (B) STANDARD FOR APPROVAL.

26 THE DEPARTMENT SHALL APPROVE A SALE OR OTHER TRANSFER OF
27 OWNERSHIP OR CONTROL UNLESS THE DEPARTMENT DETERMINES THAT THE SALE
28 OR TRANSFER IS LIKELY TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

29 (1) THE FINANCIAL STABILITY OF THE PROVIDER; OR

30 (2) THE CAPACITY OF THE PROVIDER TO PERFORM CONTINUING CARE
31 AGREEMENT OBLIGATIONS TO SUBSCRIBERS.

32 (C) APPEAL OF DECISION.

33 (1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
34 GOVERNMENT ARTICLE, THE PROVIDER MAY APPEAL THE DEPARTMENT'S DECISION
35 ON THE PROPOSED SALE OR TRANSFER.

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1 (2) A PERSON OTHER THAN THE PROVIDER MAY NOT APPEAL THE
2 DEPARTMENT'S DECISION OR BE A PARTY IN INTEREST TO THE PROCEEDINGS.

3 (3) THE DEPARTMENT SHALL GIVE PROMPT NOTICE OF ANY APPEAL
4 AND OF ANY DECISION ISSUED IN THE APPEAL TO THE SUBSCRIBER
5 REPRESENTATIVES.

6 (D) COMPLETION OF SALE OR TRANSFER.

7 A SALE OR OTHER TRANSFER OF OWNERSHIP OR CONTROL SUBJECT TO THIS
8 SECTION AND §§ 10-432 THROUGH 10-434 OF THIS SUBTITLE MAY NOT BE
9 COMPLETED UNTIL 15 DAYS AFTER THE LATER OF:

10 (1) THE DAY THE DEPARTMENT ISSUES THE NOTICE REQUIRED UNDER
11 SUBSECTION (A)(3) OF THIS SECTION OF ITS DECISION TO APPROVE THE SALE OR
12 TRANSFER; OR

13 (2) IF AN APPEAL IS TAKEN UNDER SUBSECTION (C) OF THIS SECTION,
14 THE DAY THE ADMINISTRATIVE LAW JUDGE ISSUES A DECISION TO ALLOW THE SALE
15 OR TRANSFER.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 70B, § 11D(c), (d), (e), and (f).

18 In subsection (c)(1) of this section, the reference to "Title 10, Subtitle 2 of
19 the State Government Article" is substituted for the former reference to
20 the "Administrative Procedure Act" for clarity and accuracy.

21 In subsection (c)(2) of this section, the phrase "[a] person other than the
22 provider may not ... be" a party in interest is substituted for the former
23 phrase "[n]o other person shall be deemed to be" a party in interest for
24 clarity.

25 In subsection (c)(3) of this section, the former phrase "[i]f an appeal is
26 taken by the provider" is deleted as implicit.

27 In subsection (d)(2) of this section, the former reference to a "hearing
28 officer" is deleted as obsolete.

29 Defined terms: "Continuing care agreement" § 10-401

30 "Department" § 10-101

31 "Person" §§ 1-101, 10-401

32 "Provider" § 10-401

33 "Subscriber" § 10-401

34 10-436. SALE OR TRANSFER OF ASSETS.

35 (A) SCOPE OF SECTION.

36 THIS SECTION DOES NOT APPLY TO:

1 (1) A TRANSACTION UNDERTAKEN UNDER A CONTRACTUAL
2 OBLIGATION IN EFFECT ON OCTOBER 1, 1996;

3 (2) A TRANSACTION MADE IN THE ORDINARY COURSE OF BUSINESS OF
4 OPERATING A FACILITY;

5 (3) A REFUND UNDER A CONTRACT ENTERED INTO IN THE ORDINARY
6 COURSE OF BUSINESS;

7 (4) A TRANSFER OF CASH, SECURITIES, OR OTHER INVESTMENT
8 PROPERTY IN CONNECTION WITH AN ORDINARY INVESTMENT TRANSACTION;

9 (5) A GRANT OF A MORTGAGE, DEED OF TRUST, OR SECURITY INTEREST
10 TO AN UNRELATED THIRD PARTY;

11 (6) A TRANSACTION INVOLVING AN EASEMENT, RIGHT-OF-WAY, ROAD
12 WIDENING, OR SIMILAR CONVEYANCE FOR THE BENEFIT OF A PUBLIC BODY OR A
13 UTILITY;

14 (7) A TRANSACTION MADE FOR AN EXPANSION OR RENOVATION; OR

15 (8) ANY OTHER SALE, TRANSFER, OR OTHER DISPOSITION EXEMPTED BY
16 THE DEPARTMENT BY REGULATION.

17 (B) RESTRICTIONS ON SALE OR TRANSFER OF ASSETS.

18 (1) A PROVIDER THAT HOLDS A PRELIMINARY, INITIAL, OR RENEWAL
19 CERTIFICATE OF REGISTRATION MAY NOT SELL, TRANSFER, OR OTHERWISE DISPOSE
20 OF MORE THAN 10% OF ITS TOTAL ASSETS IN ANY 12-MONTH PERIOD UNLESS THE
21 DEPARTMENT APPROVES THE SALE, TRANSFER, OR DISPOSITION IN ACCORDANCE
22 WITH §§ 10-437 AND 10-438 OF THIS SUBTITLE.

23 (2) A PROVIDER MAY NOT SELL, TRANSFER, OR OTHERWISE DISPOSE OF
24 ASSETS EQUAL TO OR LESS THAN 10% OF ITS TOTAL ASSETS IF THE SALE, TRANSFER,
25 OR DISPOSITION IS LIKELY, ACCORDING TO STANDARDS SET BY REGULATION, TO
26 HAVE AN UNREASONABLY ADVERSE EFFECT ON:

27 (I) THE FINANCIAL STABILITY OF THE PROVIDER; OR

28 (II) THE CAPACITY OF THE PROVIDER TO PERFORM ITS
29 OBLIGATIONS UNDER ITS CONTINUING CARE AGREEMENTS.

30 (3) DETERMINATIONS OF TOTAL ASSETS SHALL BE BASED ON THE
31 PROVIDER'S LATEST CERTIFIED FINANCIAL STATEMENTS AVAILABLE AT THE TIME
32 THE SALE, TRANSFER, OR OTHER DISPOSITION IS MADE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 70B, § 11E(a) and (b).

35 In the introductory language of subsection (a) of this section, the phrase
36 "[t]his section does not apply to" is substituted for the former phrase "[t]he

1 following transactions are not considered sales, transfers, or other
2 dispositions of assets for purposes of subsection (a) of this section” for
3 brevity.

4 In subsection (a)(8) of this section, the phrase “exempted by the
5 Department by regulation” is substituted for the former phrase “identified
6 by the Department in regulations as appropriate to fall within this
7 subsection” for brevity and clarity.

8 In subsection (b)(1) of this section, the phrase “unless the Department
9 approves” is substituted for the former phrase “unless the provider obtains
10 the approval of the Department” for brevity.

11 Defined terms: “Certified financial statement” § 10–401

12 “Continuing care agreement” § 10–401

13 “Department” § 10–101

14 “Expansion” § 10–401

15 “Facility” § 10–401

16 “Provider” § 10–401

17 “Renovation” § 10–401

18 10–437. SALE OR TRANSFER OF ASSETS — NOTICES TO DEPARTMENT.

19 (A) IN GENERAL.

20 A PROVIDER SUBJECT TO § 10–436(B)(1) OF THIS SUBTITLE SHALL:

21 (1) AT LEAST 60 DAYS BEFORE THE SALE, TRANSFER, OR OTHER
22 DISPOSITION, FILE WITH THE DEPARTMENT A STATEMENT OF INTENT TO SELL,
23 TRANSFER, OR OTHERWISE DISPOSE OF ASSETS; AND

24 (2) AT LEAST 30 DAYS BEFORE THE SALE, TRANSFER, OR OTHER
25 DISPOSITION, GIVE WRITTEN NOTICE TO THE DEPARTMENT OF THE PROPOSED SALE,
26 TRANSFER, OR OTHER DISPOSITION OF ASSETS.

27 (B) STATEMENT OF INTENT — CONTENTS.

28 THE STATEMENT OF INTENT REQUIRED TO BE FILED WITH THE DEPARTMENT
29 UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL INCLUDE:

30 (1) IDENTIFICATION OF EACH ASSET TO BE SOLD, TRANSFERRED, OR
31 OTHERWISE DISPOSED OF;

32 (2) IF THE PROVIDER IS SUBJECT TO § 10–436(B)(1) OF THIS SUBTITLE
33 BECAUSE OF A SERIES OF SALES, TRANSFERS, OR OTHER DISPOSITIONS THAT HAVE
34 EXCEEDED CUMULATIVELY 10% OF ITS TOTAL ASSETS, IDENTIFICATION OF EACH
35 ASSET THAT HAS BEEN SOLD, TRANSFERRED, OR DISPOSED OF; AND

36 (3) THE REASON FOR THE SALE, TRANSFER, OR OTHER DISPOSITION
37 IDENTIFIED IN ITEM (1) OF THIS SUBSECTION.

1 (C) NOTICE OF PROPOSED SALE, TRANSFER, OR DISPOSITION — CONTENTS.

2 THE NOTICE TO THE DEPARTMENT REQUIRED UNDER SUBSECTION (A)(2) OF
3 THIS SECTION SHALL INCLUDE:

4 (1) A STATEMENT THAT DEMONSTRATES THAT THE PROPOSED SALE,
5 TRANSFER, OR OTHER DISPOSITION IS NOT LIKELY TO HAVE AN UNREASONABLY
6 ADVERSE EFFECT ON:

7 (I) THE FINANCIAL STABILITY OF THE PROVIDER; OR

8 (II) THE CAPACITY OF THE PROVIDER TO PERFORM ITS
9 OBLIGATIONS UNDER ITS CONTINUING CARE AGREEMENTS; AND

10 (2) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 70B, § 11E(c).

13 In the introductory language of subsection (b) of this section, the former
14 phrase "the following information" is deleted as surplusage.

15 In subsection (b)(1) and (2) of this section, the references to "each asset"
16 are substituted for the former references to "the asset or assets" and "all of
17 the assets" for brevity and clarity.

18 In subsection (b)(2) of this section, the former requirement that "the
19 provider shall" identify each asset is deleted as implicit.

20 Also in subsection (b)(2) of this section, the former reference to assets that
21 "have resulted cumulatively in exceeding the 10% amount" is deleted as
22 redundant.

23 In subsection (c)(1)(ii) of this section, the reference to "its" continuing care
24 agreements is substituted for the former reference to continuing care
25 agreements "to which it is a party" for brevity.

26 Defined terms: "Continuing care agreement" § 10-401

27 "Department" § 10-101

28 "Provider" § 10-401

29 10-438. SALE OR TRANSFER OF ASSETS — APPROVAL BY DEPARTMENT.

30 (A) DETERMINATION BY DEPARTMENT.

31 (1) AFTER REVIEWING THE INFORMATION REQUIRED BY § 10-437 OF
32 THIS SUBTITLE, THE DEPARTMENT SHALL DETERMINE WHETHER THE SALE,
33 TRANSFER, OR OTHER DISPOSITION SATISFIES THE STANDARD FOR APPROVAL SET
34 FORTH IN SUBSECTION (B) OF THIS SECTION.

1 (2) THE DEPARTMENT SHALL MAKE ITS DETERMINATION AND NOTIFY
2 THE PROVIDER IN WRITING WITHIN 25 DAYS AFTER THE DATE OF THE NOTICE
3 REQUIRED BY § 10-437(A)(2) OF THIS SUBTITLE, UNLESS EXTENDED BY THE
4 DEPARTMENT FOR GOOD CAUSE.

5 (3) IF THE DEPARTMENT DOES NOT APPROVE THE PROPOSED SALE,
6 TRANSFER, OR OTHER DISPOSITION, THE DEPARTMENT SHALL INCLUDE THE
7 REASONS FOR ITS DETERMINATION IN THE WRITTEN NOTICE TO THE PROVIDER.

8 (B) STANDARD FOR APPROVAL.

9 THE DEPARTMENT SHALL APPROVE THE SALE, TRANSFER, OR OTHER
10 DISPOSITION OF ASSETS UNLESS IT DETERMINES THAT THE SALE, TRANSFER, OR
11 DISPOSITION IS LIKELY TO HAVE AN UNREASONABLY ADVERSE EFFECT ON:

12 (1) THE FINANCIAL STABILITY OF THE PROVIDER; OR

13 (2) THE CAPACITY OF THE PROVIDER TO PERFORM ITS OBLIGATIONS
14 UNDER ITS CONTINUING CARE AGREEMENTS.

15 (C) REGULATIONS.

16 (1) BY REGULATION, THE DEPARTMENT SHALL ADOPT REASONABLE
17 OBJECTIVE FINANCIAL STANDARDS FOR A PROPOSED SALE, TRANSFER, OR OTHER
18 DISPOSITION OF ASSETS.

19 (2) IF THE DEPARTMENT DETERMINES THAT THE PROVIDER HAS MET
20 THE OBJECTIVE FINANCIAL STANDARDS, THE DEPARTMENT SHALL APPROVE THE
21 PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

22 (3) IF THE DEPARTMENT DETERMINES THAT THE PROVIDER HAS NOT
23 MET THE OBJECTIVE FINANCIAL STANDARDS, THE DEPARTMENT MAY APPROVE A
24 PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS IF IT SATISFIES THE
25 REQUIREMENTS SET FORTH IN SUBSECTION (B) OF THIS SECTION.

26 (D) APPEAL OF DEPARTMENT'S DETERMINATION.

27 (1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
28 GOVERNMENT ARTICLE, THE PROVIDER MAY APPEAL THE DEPARTMENT'S DECISION
29 ON THE PROPOSED SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

30 (2) A PERSON OTHER THAN THE PROVIDER MAY NOT APPEAL THE
31 DEPARTMENT'S DECISION OR BE A PARTY IN INTEREST TO THE PROCEEDINGS.

32 (E) COMPLETION OF TRANSFER OR OTHER DISPOSITION.

33 A SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS SUBJECT TO THIS PART
34 MAY NOT BE COMPLETED UNTIL 5 DAYS AFTER THE LATER OF:

1 (1) THE DAY THE DEPARTMENT ISSUES THE NOTICE REQUIRED UNDER
2 SUBSECTION (A)(2) OF THIS SECTION OF ITS DECISION TO APPROVE THE SALE,
3 TRANSFER, OR OTHER DISPOSITION; OR

4 (2) IF AN APPEAL IS TAKEN UNDER SUBSECTION (D) OF THIS SECTION,
5 THE DAY THE ADMINISTRATIVE LAW JUDGE ISSUES A DECISION TO ALLOW THE
6 SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 70B, § 11E(d), (e), (f), (g), and (h).

9 In subsection (a)(2) of this section, the requirement that the Department
10 "notify" the provider of its determination is substituted for the former
11 requirement that the determination be "communicated to" the provider for
12 clarity. Similarly, in subsection (a)(3) of this section, the reference to the
13 written "notice" is substituted for the former reference to the written
14 "communication".

15 In subsection (b)(2) of this section, the reference to "its" continuing care
16 agreements is substituted for the former reference to the continuing care
17 agreements "to which it is a party" for brevity.

18 In subsection (c)(2) of this section, the requirement that the Department
19 approve a proposed transaction "[i]f the Department determines that the
20 provider has met the objective financial standards" is substituted for the
21 former phrase "satisfaction of which will result in approval" for clarity.

22 In subsection (c)(3) of this section, the authority for the Department to
23 approve a proposed transaction "if it satisfies the requirements set forth in
24 subsection (b) of this section" is substituted for the former prohibition that
25 "[t]hose objective standards may not be the only basis on which a
26 determination can be made that a proposed [transaction] satisfies the
27 condition" set forth in subsection (b) of this section for brevity and clarity.

28 In subsection (d)(1) of this section, the reference to "Title 10, Subtitle 2 of
29 the State Government Article" is substituted for the former reference to
30 the "Administrative Procedure Act" for clarity and accuracy.

31 In subsection (d)(2) of this section, the phrase "[a] person other than the
32 provider may not ... be" a party in interest is substituted for the former
33 phrase "[n]o other person shall be deemed to be" a party in interest for
34 clarity.

35 In the introductory language of subsection (e) and in subsection (e)(2) of
36 this section, the reference to a "sale", transfer, or other disposition is added
37 for consistency within this section. Similarly, in subsection (e)(1) of this
38 section, the reference to a sale, transfer, "or other disposition" is added.
39 These additions are called to the attention of the General Assembly.

40 In subsection (e)(2) of this section, the former reference to a "hearing

1 officer” is deleted as obsolete.

2 Defined terms: “Continuing care agreement” § 10–401

3 “Department” § 10–101

4 “Person” §§ 1–101, 10–401

5 “Provider” § 10–401

6 10–439. TERMINATION OF OR FAILURE TO RENEW LEASE AFTER CONVERSION.

7 A PROVIDER WHOSE FACILITY HAS BEEN THE SUBJECT OF A CONVERSION MAY
8 NOT TERMINATE OR FAIL TO RENEW A LEASE FOR AN ACCOMMODATION IN ORDER
9 TO ENTER INTO A CONTINUING CARE AGREEMENT FOR THAT ACCOMMODATION.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 70B, § 11F.

12 Defined terms: “Continuing care agreement” § 10–401

13 “Conversion” § 10–401

14 “Facility” § 10–401

15 “Provider” § 10–401

16 10–440. REMOVAL OF RECORDS OR ASSETS FROM STATE.

17 (A) IN GENERAL.

18 A PROVIDER MAY NOT REMOVE A RECORD OR ASSET OF THE PROVIDER
19 RELATED TO THE OPERATION OF A FACILITY OR THE PROVISION OF SERVICES
20 UNDER A CONTINUING CARE AGREEMENT FROM THE STATE UNLESS THE
21 DEPARTMENT CONSENTS IN WRITING.

22 (B) CONSENT OF DEPARTMENT.

23 CONSENT SHALL BE BASED ON THE PROVIDER’S SUBMISSION OF
24 SATISFACTORY EVIDENCE THAT THE REMOVAL:

25 (1) WILL FACILITATE AND MAKE THE OPERATIONS OF THE PROVIDER
26 MORE ECONOMICAL; AND

27 (2) WILL NOT DIMINISH THE SERVICE OR PROTECTION TO BE GIVEN TO
28 THE PROVIDER’S SUBSCRIBERS IN THE STATE.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 70B, § 12.

31 In subsection (a) of this section, the former phrase “to such removal” is
32 deleted as surplusage.

33 In subsection (b)(2) of this section, the former word “thereafter” is deleted
34 as surplusage.

1 Defined terms: “Continuing care agreement” § 10–401

2 “Department” § 10–101

3 “Facility” § 10–401

4 “Provider” § 10–401

5 “Records” § 10–401

6 “Subscriber” § 10–401

7 10–441. INSPECTIONS.

8 (A) AUTHORITY TO INSPECT.

9 THE DEPARTMENT MAY:

10 (1) INSPECT A FACILITY THAT OFFERS CONTINUING CARE;

11 (2) EXAMINE THE FACILITY’S BOOKS AND RECORDS; AND

12 (3) AUDIT OR OBSERVE A SERVICE PROVIDED UNDER A CONTINUING
13 CARE AGREEMENT.

14 (B) COORDINATION WITH DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

15 IF ALL OR PART OF A FACILITY IS SUBJECT TO LICENSURE BY THE
16 DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE DEPARTMENT SHALL
17 COORDINATE ITS INSPECTIONS UNDER THIS SECTION WITH THE DEPARTMENT OF
18 HEALTH AND MENTAL HYGIENE TO AVOID DUPLICATION.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 70B, § 17.

21 Defined terms: “Continuing care agreement” § 10–401

22 “Department” § 10–101

23 “Facility” § 10–401

24 “Records” § 10–401

25 10–442. RESERVED.

26 10–443. RESERVED.

27 PART V. CONTINUING CARE AGREEMENTS.

28 10–444. CONTINUING CARE AGREEMENTS — CONTENTS.

29 (A) SCOPE OF SECTION.

30 EXCEPT AS PROVIDED IN SUBSECTION (B)(23) OF THIS SECTION, A
31 REQUIREMENT OF THIS SECTION DOES NOT APPLY TO ANY CONTINUING CARE
32 AGREEMENT ENTERED INTO BEFORE THE EFFECTIVE DATE OF THE REQUIREMENT.

33 (B) REQUIRED PROVISIONS.

1 IN A FORM ACCEPTABLE TO THE DEPARTMENT, EACH CONTINUING CARE
2 AGREEMENT SHALL:

3 (1) SHOW THE TOTAL CONSIDERATION PAID BY THE SUBSCRIBER FOR
4 CONTINUING CARE, INCLUDING THE VALUE OF ALL PROPERTY TRANSFERRED,
5 DONATIONS, ENTRANCE FEES, SUBSCRIPTIONS, MONTHLY FEES, AND ANY OTHER
6 FEES PAID OR PAYABLE BY OR ON BEHALF OF A SUBSCRIBER;

7 (2) SPECIFY ALL SERVICES THAT ARE TO BE PROVIDED BY THE
8 PROVIDER TO EACH SUBSCRIBER, SUCH AS FOOD, SHELTER, MEDICAL CARE,
9 NURSING CARE, OR OTHER HEALTH RELATED SERVICES, INCLUDING IN DETAIL ALL
10 ITEMS THAT EACH SUBSCRIBER WILL RECEIVE, AND WHETHER THE ITEMS WILL BE
11 PROVIDED FOR LIFE OR FOR A DESIGNATED TIME PERIOD;

12 (3) DESIGNATE THE CLASSES OF SUBSCRIBERS ACCORDING TO TYPES
13 OF PAYMENT PLANS;

14 (4) SUBJECT TO SUBSECTION (C) OF THIS SECTION, DESCRIBE THE
15 PROCEDURES TO BE FOLLOWED BY THE PROVIDER WHEN THE PROVIDER
16 TEMPORARILY OR PERMANENTLY CHANGES THE SUBSCRIBER'S ACCOMMODATIONS
17 WITHIN THE FACILITY OR TRANSFERS THE SUBSCRIBER TO ANOTHER HEALTH
18 FACILITY;

19 (5) DESCRIBE THE POLICIES THAT WILL BE IMPLEMENTED IF THE
20 SUBSCRIBER BECOMES UNABLE TO PAY THE MONTHLY FEES;

21 (6) STATE THE POLICY OF THE PROVIDER CONCERNING CHANGES IN
22 ACCOMMODATIONS AND THE PROCEDURE TO IMPLEMENT THAT POLICY IF THE
23 NUMBER OF PERSONS OCCUPYING AN INDIVIDUAL UNIT CHANGES;

24 (7) PROVIDE IN CLEAR AND UNDERSTANDABLE LANGUAGE, IN
25 BOLDFACE TYPE, AND IN THE LARGEST TYPE USED IN THE BODY OF THE
26 AGREEMENT:

27 (I) THE TERMS GOVERNING THE REFUND OF ANY PORTION OF THE
28 ENTRANCE FEE IF THE PROVIDER DISCHARGES THE SUBSCRIBER OR THE
29 SUBSCRIBER CANCELS THE AGREEMENT; AND

30 (II) WHETHER MONTHLY FEES, IF CHARGED, WILL BE SUBJECT TO
31 PERIODIC INCREASES;

32 (8) STATE THE TERMS UNDER WHICH AN AGREEMENT IS CANCELED BY
33 THE DEATH OF THE SUBSCRIBER;

34 (9) PROVIDE THAT CHARGES FOR CARE PAID IN ADVANCE IN A LUMP
35 SUM MAY NOT BE INCREASED OR CHANGED FOR THE DURATION OF THE
36 AGREED-UPON CARE;

1 (10) STATE THAT THE SUBSCRIBER HAS RECEIVED, AT LEAST TWO
2 WEEKS BEFORE SIGNING THE AGREEMENT, THE CURRENT VERSION OF THE
3 WRITTEN RULES OF THE PROVIDER;

4 (11) DESCRIBE THE LIVING QUARTERS;

5 (12) IF APPLICABLE, STATE THE CONDITIONS UNDER WHICH A
6 SUBSCRIBER MAY ASSIGN A UNIT FOR THE USE OF ANOTHER INDIVIDUAL;

7 (13) STATE THE PROVIDER'S RELIGIOUS OR CHARITABLE AFFILIATIONS
8 AND THE EXTENT, IF ANY, TO WHICH THE AFFILIATE ORGANIZATION IS
9 RESPONSIBLE FOR THE PROVIDER'S FINANCIAL AND CONTRACTUAL OBLIGATIONS;

10 (14) STATE THE SUBSCRIBER'S AND PROVIDER'S RESPECTIVE RIGHTS
11 AND OBLIGATIONS CONCERNING:

12 (I) USE OF THE FACILITY; AND

13 (II) ANY REAL AND PERSONAL PROPERTY OF THE SUBSCRIBER
14 PLACED IN THE PROVIDER'S CUSTODY;

15 (15) STATE THAT SUBSCRIBERS HAVE THE RIGHT TO ORGANIZE AND
16 OPERATE A SUBSCRIBER ASSOCIATION AT THE FACILITY AND TO MEET PRIVATELY
17 TO CONDUCT BUSINESS;

18 (16) STATE THAT THERE IS AN INTERNAL GRIEVANCE PROCEDURE TO
19 ADDRESS A SUBSCRIBER'S GRIEVANCE;

20 (17) STATE THE FEE ADJUSTMENTS, IF ANY, THAT WILL BE MADE IF THE
21 SUBSCRIBER IS VOLUNTARILY ABSENT FROM THE FACILITY FOR AN EXTENDED
22 PERIOD OF TIME;

23 (18) SPECIFY THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE
24 SUBSCRIBER WILL BE REQUIRED TO APPLY FOR MEDICAID, MEDICARE, PUBLIC
25 ASSISTANCE, OR ANY PUBLIC BENEFIT PROGRAM AND WHETHER THE FACILITY
26 PARTICIPATES IN MEDICARE OR MEDICAL ASSISTANCE;

27 (19) STATE THAT THE SUBSCRIBER RECEIVED A COPY OF THE LATEST
28 CERTIFIED FINANCIAL STATEMENT AT LEAST TWO WEEKS BEFORE SIGNING THE
29 AGREEMENT AND THAT THE SUBSCRIBER HAS REVIEWED THE STATEMENT;

30 (20) PROVIDE THAT, ON REQUEST, THE PROVIDER WILL MAKE
31 AVAILABLE TO THE SUBSCRIBER ANY CERTIFIED FINANCIAL STATEMENT
32 SUBMITTED TO THE DEPARTMENT;

33 (21) IF APPLICABLE, DESCRIBE THE CONDITIONS UNDER WHICH THE
34 PROVIDER MAY BE ISSUED AN INITIAL CERTIFICATE OF REGISTRATION AND THE
35 CONDITIONS UNDER WHICH THE PROVIDER MAY USE ESCROWED DEPOSITS, AND
36 STATE THE AMOUNT OF THE SUBSCRIBER'S DEPOSIT;

1 (22) STATE THAT FEES COLLECTED BY A PROVIDER UNDER THE TERMS
2 OF A CONTINUING CARE AGREEMENT MAY ONLY BE USED FOR PURPOSES SET FORTH
3 IN THE AGREEMENT;

4 (23) ALLOW A SUBSCRIBER TO DESIGNATE A BENEFICIARY TO RECEIVE
5 ANY REFUNDABLE PORTION OF THE ENTRANCE FEE THAT IS OWED DUE TO THE
6 DEATH OF THE SUBSCRIBER ON OR AFTER THE DATE OF OCCUPANCY, IF THE
7 DESIGNATION IS:

8 (I) IN WRITING;

9 (II) WITNESSED BY AT LEAST TWO COMPETENT WITNESSES;

10 (III) NOT CONTINGENT; AND

11 (IV) SPECIFIED IN PERCENTAGES AND ACCOUNTS FOR 100% OF THE
12 REFUND DUE;

13 (24) STATE THE FUNERAL AND BURIAL SERVICES, IF ANY, THAT THE
14 PROVIDER WILL PROVIDE; AND

15 (25) CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE AND IN
16 THE LARGEST TYPE USED IN THE AGREEMENT: "A PRELIMINARY CERTIFICATE OF
17 REGISTRATION OR CERTIFICATE OF REGISTRATION IS NOT AN ENDORSEMENT OR
18 GUARANTEE OF THIS FACILITY BY THE STATE OF MARYLAND. THE MARYLAND
19 DEPARTMENT OF AGING URGES YOU TO CONSULT WITH AN ATTORNEY AND A
20 SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY DOCUMENTS."

21 (C) RESTRICTIONS ON CHANGE IN ACCOMMODATIONS.

22 A SUBSCRIBER'S ACCOMMODATIONS MAY BE CHANGED ONLY TO PROTECT THE
23 HEALTH OR SAFETY OF THE SUBSCRIBER OR THE GENERAL AND ECONOMIC
24 WELFARE OF OTHER RESIDENTS.

25 (D) ADDITIONAL PROVISIONS.

26 A CONTINUING CARE AGREEMENT MAY CONTAIN, IN A FORM ACCEPTABLE TO
27 THE DEPARTMENT, ANY OTHER APPROPRIATE PROVISION TO EFFECTUATE THE
28 PURPOSE OF THE AGREEMENT.

29 (E) ASSISTED LIVING PROGRAM SERVICES.

30 (1) THIS SUBSECTION APPLIES IF:

31 (I) A PROVIDER'S CONTINUING CARE AGREEMENT INCLUDES A
32 PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES; AND

33 (II) THE PROVIDER DOES NOT EXECUTE A SEPARATE ASSISTED
34 LIVING AGREEMENT.

1 (2) IN ADDITION TO ANY OTHER REQUIREMENT OF THIS SECTION, THE
2 CONTINUING CARE AGREEMENT SHALL INCLUDE THE FOLLOWING PROVISIONS
3 CONCERNING THE ASSISTED LIVING PROGRAM:

4 (I) A STATEMENT OF THE LEVEL OF CARE THAT THE ASSISTED
5 LIVING PROGRAM IS LICENSED TO OFFER;

6 (II) A DESCRIPTION OF THE PROCEDURES TO BE FOLLOWED BY
7 THE PROVIDER FOR NOTIFYING THE SUBSCRIBER OF THE LEVEL OF CARE THE
8 SUBSCRIBER NEEDS IF THE SUBSCRIBER TRANSFERS TO AN ASSISTED LIVING
9 PROGRAM;

10 (III) A STATEMENT INDICATING THE OPTIONS AVAILABLE TO A
11 SUBSCRIBER IF THE SUBSCRIBER'S LEVEL OF CARE, AFTER ADMISSION TO AN
12 ASSISTED LIVING PROGRAM, EXCEEDS THE LEVEL OF CARE FOR WHICH THE
13 PROVIDER IS LICENSED;

14 (IV) BASED ON A SAMPLE LIST OF ASSISTED LIVING PROGRAM
15 SERVICES THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAINTAINS,
16 A STATEMENT OF WHICH SERVICES ARE PROVIDED BY THE ASSISTED LIVING
17 PROGRAM AND WHICH SERVICES ARE NOT;

18 (V) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER AND
19 THE SUBSCRIBER OR THE SUBSCRIBER'S AGENT FOR HANDLING THE SUBSCRIBER'S
20 FINANCES;

21 (VI) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER AND
22 THE SUBSCRIBER OR THE SUBSCRIBER'S AGENT FOR DISPOSITION OF THE
23 SUBSCRIBER'S PROPERTY ON THE SUBSCRIBER'S DISCHARGE OR DEATH; AND

24 (VII) THE APPLICABLE RATE STRUCTURE AND PAYMENT
25 PROVISIONS COVERING:

26 1. ALL RATES TO BE CHARGED TO THE SUBSCRIBER,
27 INCLUDING:

28 A. SERVICE PACKAGES;

29 B. FEE-FOR-SERVICE RATES; AND

30 C. ANY OTHER NONSERVICE-RELATED CHARGES;

31 2. CRITERIA TO BE USED FOR IMPOSING ADDITIONAL
32 CHARGES TO PROVIDE ADDITIONAL SERVICES, IF THE SUBSCRIBER'S SERVICE AND
33 CARE NEEDS CHANGE;

34 3. PAYMENT ARRANGEMENTS AND FEES, IF KNOWN, FOR
35 THIRD-PARTY SERVICES NOT COVERED BY THE CONTINUING CARE AGREEMENT,
36 BUT ARRANGED FOR BY THE SUBSCRIBER, THE SUBSCRIBER'S AGENT, OR THE
37 ASSISTED LIVING PROGRAM;

1 4. IDENTIFICATION OF THE PERSONS RESPONSIBLE TO PAY
2 ALL FEES AND CHARGES AND A CLEAR INDICATION OF WHETHER THE PERSON'S
3 RESPONSIBILITY IS OR IS NOT LIMITED TO THE EXTENT OF THE SUBSCRIBER'S
4 FUNDS;

5 5. A PROVISION FOR NOTICE AT LEAST 45 DAYS BEFORE ANY
6 RATE INCREASE, EXCEPT FOR AN INCREASE NECESSITATED BY A CHANGE IN THE
7 SUBSCRIBER'S MEDICAL CONDITION; AND

8 6. FAIR AND REASONABLE BILLING AND PAYMENT POLICIES.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 70B, § 13(a), (b), and (d).

11 In the introductory language of subsection (b) of this section, the defined
12 term "continuing care agreement" is substituted for the former reference to
13 an "agreement executed between a subscriber and a provider" for
14 consistency.

15 In subsection (b)(4) of this section, the phrase "subject to subsection (c) of
16 this section" is added for clarity.

17 In subsection (b)(6) of this section, the phrase "if the number of persons ...
18 changes" is substituted for the former phrase "in the event of an increase
19 or decrease in the number of persons" for brevity.

20 In subsection (b)(7)(ii) of this section, the former reference to whether "or
21 not" is deleted as implicit.

22 In subsection (b)(16) of this section, the reference to "address[ing] a
23 subscriber's grievance" is substituted for the former reference to
24 "investigat[ing] a subscriber's grievance" for consistency with § 10-428 of
25 this subtitle.

26 In subsection (b)(20) of this section, the reference to the "provider" is
27 substituted for the former reference to the "facility" for consistency.

28 In subsection (e)(2)(ii) of this section, the phrase "if the subscriber
29 transfers" is substituted for the former phrase "if the subscriber is
30 transferred" for accuracy and consistency with the Health Care Decisions
31 Act.

32 Also in subsection (e)(2)(ii) of this section, the former phrase "[a]s part of
33 the procedures to be followed under subsection (a)(4) of this section" is
34 deleted as surplusage.

35 Defined terms: "Assisted living program" § 10-401

36 "Certified financial statement" § 10-401

37 "Continuing care" § 10-401

38 "Continuing care agreement" § 10-401

1 “Department” § 10–101
2 “Deposit” § 10–401
3 “Entrance fee” § 10–401
4 “Facility” § 10–401
5 “Health related services” § 10–401
6 “Person” §§ 1–101, 10–401
7 “Provider” § 10–401
8 “Subscriber” § 10–401

9 10–445. CONTINUING CARE AGREEMENTS — APPROVAL BY DEPARTMENT;
10 AVAILABILITY FOR INSPECTION.

11 (A) APPROVAL BY DEPARTMENT.

12 (1) IF A PROVIDER’S FEASIBILITY STUDY HAS BEEN APPROVED UNDER §
13 10–409 OF THIS SUBTITLE, THE DEPARTMENT SHALL DECIDE WHETHER TO APPROVE
14 A CONTINUING CARE AGREEMENT WITHIN 180 DAYS AFTER RECEIPT OF A COMPLETE
15 AGREEMENT.

16 (2) IF THE DEPARTMENT DOES NOT ACT WITHIN 180 DAYS, THE
17 AGREEMENT IS DEEMED APPROVED.

18 (B) AVAILABILITY FOR INSPECTION.

19 THE PROVIDER SHALL MAINTAIN THE CONTINUING CARE AGREEMENT AT THE
20 FACILITY AND MAKE IT AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF
21 HEALTH AND MENTAL HYGIENE UNDER TITLE 19, SUBTITLE 18, OF THE HEALTH –
22 GENERAL ARTICLE.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 70B, § 13(c) and (e).

25 In subsection (b) of this section, the reference to “at the facility” is
26 substituted for the former reference to “on site” for clarity.

27 Defined terms: “Continuing care agreement” § 10–401
28 “Department” § 10–101
29 “Facility” § 10–401
30 “Provider” § 10–401

31 10–446. RESCISSION OF AGREEMENT; WITHDRAWAL OF APPLICATION.

32 (A) RIGHT TO RESCIND.

33 A SUBSCRIBER MAY RESCIND A CONTINUING CARE AGREEMENT FOR ANY
34 REASON BEFORE THE DATE OF OCCUPANCY BY THE SUBSCRIBER.

35 (B) REFUND — AUTOMATIC CANCELLATION.

1 (1) A CONTINUING CARE AGREEMENT IS AUTOMATICALLY CANCELED
2 IF, BEFORE THE DATE OF OCCUPANCY:

3 (I) THE SUBSCRIBER DIES;

4 (II) THE PROVIDER DETERMINES THAT THE SUBSCRIBER IS
5 INELIGIBLE FOR ADMISSION TO THE FACILITY; OR

6 (III) THE SUBSCRIBER TERMINATES THE CONTINUING CARE
7 AGREEMENT BECAUSE OF A SUBSTANTIAL CHANGE IN THE SUBSCRIBER'S PHYSICAL,
8 MENTAL, OR FINANCIAL CONDITION.

9 (2) WITHIN 30 DAYS AFTER A CONTINUING CARE AGREEMENT IS
10 CANCELED UNDER THIS SUBSECTION, THE SUBSCRIBER OR THE SUBSCRIBER'S
11 LEGAL REPRESENTATIVE SHALL RECEIVE A FULL REFUND OF ALL MONEY PAID TO
12 THE PROVIDER, LESS:

13 (I) A PROCESSING FEE APPROVED BY THE DEPARTMENT; AND

14 (II) ANY SPECIAL ADDITIONAL COSTS INCURRED BY THE PROVIDER
15 DUE TO MODIFICATIONS IN THE STRUCTURE OR FURNISHINGS OF THE UNIT
16 SPECIFICALLY REQUESTED BY THE SUBSCRIBER, IF:

17 1. THE COSTS DO NOT EXCEED THE COSTS OF
18 MODIFICATION AND THE REASONABLE COSTS OF RESTORATION ACTUALLY
19 INCURRED BY THE PROVIDER; AND

20 2. THE COSTS WERE SET FORTH IN WRITING IN A SEPARATE
21 ADDENDUM TO THE AGREEMENT SIGNED BY THE SUBSCRIBER.

22 (C) REFUND — RESCISSION.

23 (1) IF THE SUBSCRIBER RESCINDS THE CONTINUING CARE AGREEMENT
24 WITHIN 90 DAYS AFTER ENTERING INTO THE AGREEMENT AND BEFORE THE DATE
25 OF OCCUPANCY FOR ANY REASON OTHER THAN THE REASONS SPECIFIED IN
26 SUBSECTION (B)(1) OF THIS SECTION, THE PROVIDER SHALL REFUND THE AMOUNT
27 DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION TO THE SUBSCRIBER OR THE
28 SUBSCRIBER'S LEGAL REPRESENTATIVE WITHIN 30 DAYS AFTER THE DATE OF
29 RESCISSION.

30 (2) IF THE SUBSCRIBER RESCINDS THE CONTINUING CARE AGREEMENT
31 MORE THAN 90 DAYS AFTER ENTERING INTO THE AGREEMENT AND BEFORE THE
32 DATE OF OCCUPANCY FOR ANY REASON OTHER THAN THE REASONS SPECIFIED IN
33 SUBSECTION (B)(1) OF THIS SECTION, THE PROVIDER MAY RETAIN UP TO 25% OF THE
34 SUBSCRIBER'S ENTRANCE FEE DEPOSIT.

35 (D) RESCISSION FOR VIOLATION OF SUBTITLE; DAMAGES.

1 (1) A SUBSCRIBER MAY RESCIND A CONTINUING CARE AGREEMENT AT
2 ANY TIME IF A TERM OF THE AGREEMENT VIOLATES THIS SUBTITLE AND THE
3 SUBSCRIBER IS INJURED BY THE VIOLATION.

4 (2) THE SUBSCRIBER IS ENTITLED TO TREBLE DAMAGES FOR
5 EXTENSIVE INJURIES ARISING FROM A VIOLATION.

6 (E) WITHDRAWAL OF APPLICATION.

7 (1) AN APPLICANT FOR ADMISSION TO A FACILITY WHO WITHDRAWS
8 THE APPLICATION BEFORE EXECUTING A CONTINUING CARE AGREEMENT SHALL
9 RECEIVE A REFUND OF ALL MONEY PAID TO THE PROVIDER EXCEPT A PROCESSING
10 FEE APPROVED BY THE DEPARTMENT.

11 (2) THE REFUND SHALL BE PAID WITHIN 60 DAYS AFTER THE
12 APPLICANT WITHDRAWS THE APPLICATION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 70B, § 14.

15 In the introductory language of subsection (b)(2) of this section, the word
16 "less" is substituted for the former word "except" for clarity.

17 In subsection (b)(2)(ii)1 of this section, the reference to the costs of
18 modification "and" the reasonable costs of restoration is substituted for the
19 former reference to "or" for accuracy.

20 In subsection (c)(1) of this section, the requirement that the "provider shall
21 refund the amount described in subsection (b)(2) of this section ... within
22 30 days after the date of rescission" is substituted for the former phrase
23 "the refund provisions shall be the same as those provided for in subsection
24 (b)(1) of this section" for clarity.

25 The Human Services Article Review Committee suggests that the General
26 Assembly may wish to consider clarifying the meaning of the term
27 "extensive injuries" in subsection (d)(2) of this section.

28 Defined terms: "Continuing care agreement" § 10-401

29 "Department" § 10-101

30 "Entrance fee" § 10-401

31 "Facility" § 10-401

32 "Processing fee" § 10-401

33 "Provider" § 10-401

34 "Subscriber" § 10-401

35 10-447. SERVICES UNDER AN EXTENSIVE OR MODIFIED AGREEMENT.

36 (A) DEFINITIONS.

1 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "EXTENSIVE AGREEMENT" MEANS A CONTINUING CARE AGREEMENT
4 UNDER WHICH THE PROVIDER PROMISES TO PROVIDE RESIDENTIAL FACILITIES,
5 MEALS, AMENITIES, AND LONG-TERM CARE SERVICES IN A LICENSED ASSISTED
6 LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM:

7 (I) FOR AS LONG AS THE SUBSCRIBER NEEDS THE SERVICES; AND

8 (II) FOR NO INCREASE IN THE SUBSCRIBER'S ENTRANCE FEE OR
9 PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO ACCOUNT FOR INCREASED
10 OPERATING COSTS CAUSED BY INFLATION OR OTHER FACTORS UNRELATED TO THE
11 INDIVIDUAL SUBSCRIBER.

12 (3) "MODIFIED AGREEMENT" MEANS A CONTINUING CARE AGREEMENT:

13 (I) UNDER WHICH THE PROVIDER PROMISES TO PROVIDE
14 RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND A LIMITED AMOUNT OF
15 LONG-TERM CARE SERVICES IN A LICENSED ASSISTED LIVING PROGRAM OR
16 COMPREHENSIVE CARE PROGRAM:

17 1. FOR AS LONG AS THE SUBSCRIBER NEEDS THE SERVICES;
18 AND

19 2. FOR NO INCREASE IN THE SUBSCRIBER'S ENTRANCE FEE
20 OR PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO ACCOUNT FOR INCREASED
21 OPERATING COSTS CAUSED BY INFLATION OR OTHER FACTORS UNRELATED TO THE
22 INDIVIDUAL SUBSCRIBER; AND

23 (II) THAT PROVIDES THAT LONG-TERM CARE SERVICES IN A
24 LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM
25 BEYOND THE LIMITED AMOUNT OF SERVICES TO BE PROVIDED UNDER ITEM (I) OF
26 THIS PARAGRAPH WILL BE PROVIDED AT A PER DIEM, FEE-FOR-SERVICE, OR OTHER
27 AGREED-UPON RATE.

28 (B) ASSISTED LIVING SERVICES.

29 (1) A PROVIDER SHALL PROVIDE THE ASSISTED LIVING SERVICES A
30 SUBSCRIBER NEEDS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION IF:

31 (I) THE SUBSCRIBER'S CONTINUING CARE AGREEMENT IS AN
32 EXTENSIVE OR MODIFIED AGREEMENT THAT PROMISES THE PROVIDER WILL
33 PROVIDE ASSISTED LIVING SERVICES; AND

34 (II) THE PROVIDER DOES NOT HAVE AN ASSISTED LIVING BED
35 AVAILABLE AT THE FACILITY WHEN THE SUBSCRIBER NEEDS THE PROMISED CARE.

36 (2) THE PROVIDER SHALL PROVIDE ASSISTED LIVING SERVICES
37 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A SUBSCRIBER:

1 (I) AT THE SAME RATE THE SUBSCRIBER WOULD PAY IF AN
2 ASSISTED LIVING BED WERE AVAILABLE; AND

3 (II) AT THE PROVIDER'S OPTION:

- 4 1. IN THE SUBSCRIBER'S INDEPENDENT LIVING UNIT; OR
- 5 2. IN A NEARBY LICENSED ASSISTED LIVING FACILITY.

6 (C) COMPREHENSIVE CARE SERVICES.

7 (1) A PROVIDER SHALL PROVIDE THE COMPREHENSIVE CARE SERVICES
8 A SUBSCRIBER NEEDS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION
9 IF:

10 (I) THE SUBSCRIBER'S CONTINUING CARE AGREEMENT IS AN
11 EXTENSIVE OR MODIFIED AGREEMENT THAT PROMISES THE PROVIDER WILL
12 PROVIDE THE SUBSCRIBER WITH COMPREHENSIVE CARE SERVICES IF THE
13 SUBSCRIBER NEEDS THEM; AND

14 (II) THE PROVIDER DOES NOT HAVE A COMPREHENSIVE CARE BED
15 AVAILABLE WHEN THE SUBSCRIBER NEEDS THE PROMISED CARE.

16 (2) THE PROVIDER SHALL PROVIDE THE SERVICES REQUIRED UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION:

18 (I) AT THE SAME RATE THE SUBSCRIBER WOULD PAY IF A
19 COMPREHENSIVE BED WERE AVAILABLE; AND

20 (II) AT THE PROVIDER'S OPTION:

- 21 1. IN THE SUBSCRIBER'S INDEPENDENT OR ASSISTED
22 LIVING UNIT; OR
- 23 2. IN A NEARBY LICENSED COMPREHENSIVE CARE FACILITY.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 70B, §§ 14A and 7(l) and (s).

26 In subsection (a)(2) and (3) of this section, the references to an "[e]xtensive
27 agreement" and a "[m]odified agreement" are substituted for the former
28 references to an "[e]xtensive contract" and a "[m]odified contract" for
29 consistency with terminology used in subsections (b)(1)(i) and (c)(1)(i) of
30 this section.

31 In subsection (a)(3)(i) of this section, the references to a continuing care
32 contract "under which the provider promises to provide residential
33 facilities, meals, amenities, and a limited amount of long-term care
34 services" is substituted for the former reference to a continuing care
35 agreement that "[w]ould be an extensive contract but for its limiting the
36 amount of long-term care services to be provided" for clarity.

1 The Human Services Article Review Committee suggests that the General
2 Assembly may wish to define the term “comprehensive care services” used
3 in subsection (c) of this section.

4 Defined terms: “Assisted living program” § 10–401
5 “Continuing care agreement” § 10–401
6 “Entrance fee” § 10–401
7 “Facility” § 10–401
8 “Provider” § 10–401
9 “Subscriber” § 10–401

10 10–448. DISMISSAL OR DISCHARGE OF SUBSCRIBER BEFORE EXPIRATION OF
11 AGREEMENT.

12 (A) DISMISSAL OR DISCHARGE OF SUBSCRIBER BY PROVIDER.

13 A CONTINUING CARE AGREEMENT MAY NOT ALLOW DISMISSAL OR DISCHARGE
14 OF THE SUBSCRIBER FROM THE FACILITY PROVIDING CARE BEFORE THE
15 AGREEMENT EXPIRES UNLESS:

16 (1) THE PROVIDER HAS JUST CAUSE FOR THE DISMISSAL OR
17 DISCHARGE; AND

18 (2) THE PROVIDER GIVES THE SUBSCRIBER AT LEAST 60 DAYS’ ADVANCE
19 NOTICE.

20 (B) REFUND REQUIRED.

21 IF A PROVIDER TERMINATES A SUBSCRIBER’S CONTINUING CARE AGREEMENT
22 FOR JUST CAUSE, THE PROVIDER SHALL PAY THE SUBSCRIBER A REFUND
23 CALCULATED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, WITHIN 60
24 DAYS AFTER THE LATER OF:

25 (1) THE DATE OF DISMISSAL OR DISCHARGE; OR

26 (2) THE DATE THE SUBSCRIBER VACATES THE UNIT.

27 (C) CALCULATION OF REFUND.

28 (1) THE SUBSCRIBER’S REFUND SHALL EQUAL THE ENTRANCE FEE
29 DIVIDED BY THE SUBSCRIBER’S YEARS OF EXPECTED LIFETIME AT ADMISSION,
30 MULTIPLIED BY THE SUBSCRIBER’S YEARS OF EXPECTED LIFETIME AT DISMISSAL OR
31 DISCHARGE.

32 (2) A SUBSCRIBER’S YEARS OF EXPECTED LIFETIME AT ADMISSION AND
33 AT DISMISSAL OR DISCHARGE SHALL BE COMPUTED BASED ON THE APPROPRIATE
34 TABLES MOST RECENTLY PUBLISHED BY THE U.S. DEPARTMENT OF HEALTH AND
35 HUMAN SERVICES AT THE TIME OF DISMISSAL OR DISCHARGE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 15.

3 In subsection (a) of this section, the reference to the "dismissal or
4 discharge" is substituted for the former reference to "such removal" for
5 consistency throughout this section.

6 In the introductory language of subsection (b) of this section, the reference
7 to terminating "a subscriber's continuing care agreement" is substituted
8 for the former reference to terminating "a subscriber" for clarity and
9 accuracy.

10 In subsection (c)(2) of this section, the phrase "at admission and at
11 dismissal or discharge" is substituted for the former phrase "for both
12 purposes" for clarity.

13 Defined terms: "Continuing care agreement" § 10-401

14 "Entrance fee" § 10-401

15 "Facility" § 10-401

16 "Provider" § 10-401

17 "Subscriber" § 10-401

18 10-449. CONTRACTUAL ENTRANCE FEE REFUND DUE TO TERMINATION OF
19 CONTINUING CARE AGREEMENT BY SUBSCRIBER.

20 (A) ELECTION TO TERMINATE AGREEMENT.

21 A CONTINUING CARE AGREEMENT SHALL ALLOW A SUBSCRIBER TO
22 TERMINATE THE AGREEMENT BY GIVING A WRITTEN TERMINATION NOTICE TO THE
23 PROVIDER.

24 (B) TERMINATION WITHIN FIRST 90 DAYS OF OCCUPANCY.

25 IF A CONTINUING CARE AGREEMENT IS TERMINATED BY THE SUBSCRIBER'S
26 ELECTION OR DEATH WITHIN THE FIRST 90 DAYS OF OCCUPANCY, THE PROVIDER
27 SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND WITHIN 30 DAYS AFTER THE
28 EARLIER TO OCCUR OF:

29 (1) THE RECONTRACTING OF THE SUBSCRIBER'S UNIT BY:

30 (I) ANOTHER SUBSCRIBER FOR WHOM AN ENTRANCE FEE HAS
31 BEEN PAID; OR

32 (II) ANOTHER PARTY WHO IS NOT A SUBSCRIBER; OR

33 (2) THE LATER TO OCCUR OF:

34 (I) THE 90TH DAY AFTER THE DATE THE WRITTEN TERMINATION
35 NOTICE IS GIVEN OR THE DATE OF DEATH; OR

1 (II) THE DAY THE INDEPENDENT LIVING UNITS AT THE FACILITY
2 HAVE OPERATED AT 95% OF CAPACITY FOR THE PREVIOUS 6 MONTHS.

3 (C) TERMINATION AFTER FIRST 90 DAYS OF OCCUPANCY.

4 IF A CONTINUING CARE AGREEMENT IS TERMINATED BY THE SUBSCRIBER'S
5 ELECTION OR DEATH AFTER THE FIRST 90 DAYS OF OCCUPANCY, THE PROVIDER
6 SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND WITHIN 60 DAYS AFTER THE
7 SUBSCRIBER'S DEATH OR THE EFFECTIVE DATE OF TERMINATION, IF ON THE DATE
8 OF DEATH OR AT ANY TIME BETWEEN THE DATE THE WRITTEN TERMINATION
9 NOTICE IS GIVEN AND THE EFFECTIVE DATE OF TERMINATION:

10 (1) THE SUBSCRIBER RESIDES IN A UNIT AT A HIGHER LEVEL OF CARE
11 THAN THE LEVEL OF CARE IN WHICH THE SUBSCRIBER RESIDED ON INITIALLY
12 ENTERING THE FACILITY; AND

13 (2) THE LAST UNIT IN WHICH THE SUBSCRIBER RESIDED AT THE
14 INITIAL LEVEL OF CARE ON ENTERING THE FACILITY HAS BEEN OCCUPIED BY OR
15 RESERVED FOR ANOTHER SUBSCRIBER WHO HAS PAID AN ENTRANCE FEE.

16 (D) CONSTRUCTION.

17 THIS SECTION DOES NOT PROHIBIT A PROVIDER FROM REQUIRING THAT A
18 SUBSCRIBER'S UNIT BE VACATED BEFORE ANY CONTRACTUAL ENTRANCE FEE
19 REFUND IS PAID AS A RESULT OF THE SUBSCRIBER'S ELECTION TO TERMINATE A
20 CONTINUING CARE AGREEMENT.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 70B, § 15A.

23 In subsection (a) of this section, the former reference to allowing a
24 subscriber "to elect" to terminate the agreement is deleted as surplusage.

25 In subsection (c) of this section, the former reference to a subscriber "no
26 longer resid[ing] in a unit at the level of care in which the subscriber
27 resided upon initially entering the facility" is deleted as included in the
28 reference to a subscriber "resid[ing] in a unit at a higher level of care than
29 the level of care in which the subscriber resided on initially entering the
30 facility".

31 Defined terms: "Continuing care agreement" § 10-401

32 "Contractual entrance fee refund" § 10-401

33 "Facility" § 10-401

34 "Provider" § 10-401

35 "Subscriber" § 10-401

36 10-450. WAIVER OF CERTAIN PROVISIONS PROHIBITED.

37 AN ACT, AGREEMENT, OR STATEMENT BY A SUBSCRIBER OR BY AN INDIVIDUAL
38 PURCHASING CARE FOR A SUBSCRIBER UNDER AN AGREEMENT TO FURNISH CARE

1 TO THE SUBSCRIBER IS NOT A VALID WAIVER OF ANY PROVISION OF THIS SUBTITLE
2 INTENDED FOR THE BENEFIT OR PROTECTION OF THE SUBSCRIBER OR THE
3 INDIVIDUAL PURCHASING CARE FOR THE SUBSCRIBER.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 70B, § 16.

6 Defined term: "Subscriber" § 10-401

7 10-451. RESERVED.

8 10-452. RESERVED.

9 PART VI. CONTINUING CARE AT HOME.

10 10-453. SCOPE OF PART.

11 THIS PART APPLIES ONLY TO CONTINUING CARE AT HOME OPERATIONS.

12 REVISOR'S NOTE: This section is new language added for clarity.

13 Defined term: "Continuing care at home" § 10-401

14 10-454. REGULATIONS.

15 (A) ADOPTION.

16 THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

17 (1) SET STANDARDS FOR CONTINUING CARE AT HOME PROVIDERS; AND

18 (2) PROVIDE FOR THE CERTIFICATION OF CONTINUING CARE AT HOME
19 PROVIDERS AND THE ANNUAL RENEWAL OF CERTIFICATES OF REGISTRATION.

20 (B) CONTENTS.

21 IN ADDITION TO THE PROVISIONS REQUIRED UNDER SUBSECTION (A) OF THIS
22 SECTION, THE REGULATIONS ADOPTED BY THE DEPARTMENT SHALL, AT A MINIMUM:

23 (1) PROVIDE FOR AND ENCOURAGE THE ESTABLISHMENT OF
24 CONTINUING CARE AT HOME PROGRAMS;

25 (2) FOR AN INDIVIDUAL WHO IS EMPLOYED BY OR UNDER CONTRACT
26 WITH A CONTINUING CARE AT HOME PROVIDER AND WHO WILL ENTER A
27 SUBSCRIBER'S HOME TO PROVIDE CONTINUING CARE AT HOME SERVICES:

28 (I) SET MINIMUM REQUIREMENTS;

29 (II) REQUIRE A CRIMINAL HISTORY RECORDS CHECK, IF THE
30 INDIVIDUAL WILL HAVE ROUTINE, DIRECT ACCESS TO A SUBSCRIBER; AND

1 (III) REQUIRE THE PROVIDER TO SCREEN AND VERIFY THE
2 INDIVIDUAL'S CHARACTER REFERENCES;

3 (3) ESTABLISH STANDARDS FOR THE RENEWAL OF CERTIFICATES OF
4 REGISTRATION;

5 (4) ESTABLISH STANDARDS FOR ENTRANCE FEES, DEPOSITS, AND THE
6 NUMBER OF EXECUTED AGREEMENTS NECESSARY TO BEGIN OPERATIONS;

7 (5) ESTABLISH CONDITIONS FOR THE RELEASE OF DEPOSITS AND
8 ENTRANCE FEES FROM ESCROW ACCOUNTS;

9 (6) ESTABLISH STANDARDS FOR WHEN AND HOW A SUBSCRIBER OR
10 PROVIDER MAY RESCIND A CONTINUING CARE AT HOME AGREEMENT BEFORE
11 CONTINUING CARE AT HOME SERVICES ARE PROVIDED TO THE SUBSCRIBER;

12 (7) ALLOW A SUBSCRIBER TO RESCIND A CONTINUING CARE AT HOME
13 AGREEMENT AT ANY TIME IF THE TERMS OF THE AGREEMENT VIOLATE THIS
14 SUBTITLE; AND

15 (8) ESTABLISH THAT A PROVIDER MAY TERMINATE AN AGREEMENT OR
16 DISCHARGE A SUBSCRIBER ONLY FOR JUST CAUSE AND ESTABLISH PROCEDURES TO
17 CARRY OUT THE TERMINATION OR DISCHARGE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 70B, § 22A(b) and (c).

20 In subsection (a)(1) of this section, the reference to "continuing care at
21 home providers" is substituted for the former reference to "providers that
22 enter into continuing care at home agreements" for consistency with
23 subsection (a)(2) of this section.

24 In subsection (b)(1) of this section and throughout this part, the reference
25 to continuing care at home "programs" is substituted for the former
26 reference to continuing care at home "projects" for clarity.

27 In the introductory language of subsection (b)(2) of this section, the
28 reference to entering a "subscriber's" home is added for clarity.

29 Also in the introductory language of subsection (b)(2) of this section, the
30 reference to an individual who will "enter" a home is substituted for the
31 former reference to "going into" homes for brevity.

32 In subsection (b)(2)(i) of this section, the former phrase "[s]ubject to the
33 provisions of subsection (p) of this section" is deleted as surplusage.

34 In subsection (b)(5) of this section, the reference to establishing "conditions
35 for" is substituted for the former reference to establishing "requirements
36 for when" for brevity and clarity.

1 In subsection (b)(8) of this section, the reference to “establish[ing]
2 procedures to carry out the termination or discharge” is substituted for the
3 former reference to “provid[ing] how such a termination or discharge would
4 be carried out” for brevity and clarity.

5 Defined terms: “Continuing care at home” § 10–401

6 “Department” § 10–101

7 “Deposit” § 10–401

8 “Entrance fee” § 10–401

9 “Provider” § 10–401

10 “Subscriber” § 10–401

11 10–455. FEASIBILITY STUDY.

12 (A) REQUIRED.

13 A PROVIDER MAY NOT COLLECT DEPOSITS TO PROVIDE CONTINUING CARE AT
14 HOME SERVICES UNTIL THE DEPARTMENT APPROVES A FEASIBILITY STUDY.

15 (B) STATEMENT OF INTENT.

16 A PROVIDER THAT INTENDS TO DEVELOP A CONTINUING CARE AT HOME
17 PROGRAM AND PROVIDE CONTINUING CARE AT HOME SERVICES SHALL FILE A
18 STATEMENT OF INTENT WITH THE DEPARTMENT AT LEAST 30 DAYS BEFORE
19 SUBMITTING THE FEASIBILITY STUDY REQUIRED UNDER THIS SECTION.

20 (C) FORM AND CONTENTS.

21 A FEASIBILITY STUDY SHALL:

22 (1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND

23 (2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

24 (I) A STATEMENT OF THE PURPOSE OF THE PROGRAM AND THE
25 NEED FOR THE PROPOSED SERVICES;

26 (II) DOCUMENTATION OF THE FINANCIAL RESOURCES OF THE
27 PROVIDER;

28 (III) A PLAN DEMONSTRATING THE FINANCIAL FEASIBILITY OF THE
29 PROPOSED PROGRAM, INCLUDING FUTURE FUNDING SOURCES;

30 (IV) AN ACTUARIAL FORECAST THAT HAS BEEN REVIEWED BY A
31 QUALIFIED ACTUARY;

32 (V) A STUDY DEMONSTRATING THE PROPOSED MARKET FOR THE
33 PROGRAM;

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1 (VI) THE FORM AND SUBSTANCE OF ANY PROPOSED
2 ADVERTISEMENTS, ADVERTISING CAMPAIGNS, OR OTHER PROMOTIONAL MATERIALS
3 FOR THE PROGRAM THAT IS AVAILABLE AT THE TIME OF FILING;

4 (VII) A DETAILED STATEMENT OF THE COVERED SERVICES; AND

5 (VIII) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

6 (D) APPROVAL.

7 THE DEPARTMENT SHALL APPROVE A FEASIBILITY STUDY FILED UNDER THIS
8 SECTION IF THE DEPARTMENT DETERMINES THAT:

9 (1) THE PROPOSED USE OF NEW OR EXISTING HEALTH FACILITIES IS
10 NOT INCONSISTENT WITH THE STATE HEALTH PLAN;

11 (2) A REASONABLE FINANCIAL PLAN HAS BEEN DEVELOPED TO
12 PROVIDE CONTINUING CARE AT HOME SERVICES, INCLUDING THE NUMBER OF
13 AGREEMENTS TO BE EXECUTED BEFORE BEGINNING OPERATIONS AND THE
14 CRITERIA TO RELEASE FUNDS FROM ESCROW;

15 (3) A MARKET FOR THE CONTINUING CARE AT HOME PROGRAM
16 APPEARS TO EXIST;

17 (4) THE FEASIBILITY STUDY WAS PREPARED BY A RECOGNIZED
18 AUTHORITY;

19 (5) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS,
20 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE
21 PROGRAM;

22 (6) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
23 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE
24 NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

25 (7) THE ACTUARIAL FORECAST SUPPORTS THE MARKET FOR THE
26 PROGRAM;

27 (8) THE APPROVED ESCROW AGREEMENT AND DEPOSIT AGREEMENT
28 STATE THE CONDITIONS FOR THE RELEASE OF DEPOSITS AND ENTRANCE FEES
29 FROM ESCROW;

30 (9) A COPY OF THE ESCROW AGREEMENT EXECUTED BY THE PROVIDER
31 AND THE FINANCIAL INSTITUTION HAS BEEN FILED WITH THE DEPARTMENT; AND

32 (10) ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT HAS
33 BEEN SUBMITTED AND APPROVED.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 70B, § 22A(d), (e), and (f).

1 In subsection (d)(6) of this section, the former reference to being “approved
2 by the Department” is deleted as redundant.

3 As to the substitution of the references to “proposed advertisements”,
4 “advertising campaigns”, and “other promotional materials” in this section,
5 *see* General Revisor’s Note to part.

6 Defined terms: “Continuing care at home” § 10–401

7 “Department” § 10–101

8 “Deposit” § 10–401

9 “Entrance fee” § 10–401

10 “Provider” § 10–401

11 10–456. DEPOSITS.

12 (A) COLLECTION OF DEPOSITS.

13 A PROVIDER MAY COLLECT DEPOSITS FROM PROSPECTIVE SUBSCRIBERS IF:

14 (1) THE DEPARTMENT HAS APPROVED THE PROVIDER’S FEASIBILITY
15 STUDY; AND

16 (2) THE PROVIDER MAINTAINS THE FUNDS COLLECTED IN AN ESCROW
17 ACCOUNT.

18 (B) HOLDING DEPOSITS IN ESCROW.

19 DEPOSITS COLLECTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
20 HELD IN ESCROW UNTIL:

21 (1) THE PROVIDER HAS BEEN ISSUED A CERTIFICATE OF REGISTRATION
22 UNDER § 10–458 OF THIS SUBTITLE; OR

23 (2) A LATER TIME THAT THE DEPARTMENT MAY SET BY REGULATION.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 70B, § 22A(g).

26 In subsection (b)(1) of this section, the former phrase “at least the time” is
27 deleted as surplusage.

28 Defined terms: “Department” § 10–101

29 “Deposit” § 10–401

30 “Provider” § 10–401

31 “Subscriber” § 10–401

32 10–457. PRELIMINARY CERTIFICATION OF REGISTRATION.

33 (A) REQUIRED.

1 A PROVIDER MAY NOT ENTER INTO AN AGREEMENT TO PROVIDE CONTINUING
2 CARE AT HOME SERVICES UNTIL THE DEPARTMENT ISSUES A PRELIMINARY
3 CERTIFICATE OF REGISTRATION TO THE PROVIDER.

4 (B) APPLICATION.

5 AN APPLICATION FOR A PRELIMINARY CERTIFICATE OF REGISTRATION SHALL:

6 (1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND

7 (2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

8 (I) A COPY OF THE PROPOSED CONTINUING CARE AT HOME
9 AGREEMENT, WHICH SHALL INCLUDE THE FOLLOWING STATEMENT SET FORTH IN
10 PRINT NO SMALLER THAN THE LARGEST TYPE USED IN THE BODY OF THE
11 AGREEMENT:

12 "A CERTIFICATE OF REGISTRATION IS NOT AN ENDORSEMENT OR GUARANTEE
13 OF THIS CONTINUING CARE AT HOME PROVIDER BY THE STATE OF MARYLAND. THE
14 MARYLAND DEPARTMENT OF AGING URGES YOU TO CONSULT AN ATTORNEY AND A
15 SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY DOCUMENTS.";

16 (II) THE FORM AND SUBSTANCE OF ANY PROPOSED
17 ADVERTISEMENTS, ADVERTISING CAMPAIGNS, OR OTHER PROMOTIONAL MATERIALS
18 FOR THE PROGRAM THAT IS AVAILABLE AT THE TIME OF FILING THE APPLICATION
19 AND THAT HAS NOT BEEN FILED PREVIOUSLY WITH THE DEPARTMENT; AND

20 (III) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

21 (C) ISSUANCE.

22 THE DEPARTMENT SHALL ISSUE A PRELIMINARY CERTIFICATE OF
23 REGISTRATION TO A PROVIDER IF THE DEPARTMENT DETERMINES THAT:

24 (1) THE PROPOSED CONTINUING CARE AT HOME AGREEMENT IS
25 SATISFACTORY;

26 (2) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS,
27 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE
28 PROGRAM;

29 (3) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
30 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE
31 NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

32 (4) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE
33 FEASIBILITY STUDY UNDER § 10-455 OF THIS SUBTITLE ARE CURRENT AND
34 ACCURATE OR HAVE BEEN UPDATED TO MAKE THEM ACCURATE; AND

35 (5) THE PROVIDER HAS SUBMITTED ANY OTHER INFORMATION THAT
36 THE DEPARTMENT REQUESTS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 22A(h) and (i).

3 In subsections (b)(2)(i) and (c)(1) of this section, the references to the
4 "proposed continuing care at home agreement" are substituted for the
5 former references to the "agreement that is to be entered into between the
6 provider and the subscriber for the provision of continuing care at home
7 services" and the "agreement to be entered into between the provider and
8 the subscriber" for brevity.

9 In subsection (b)(2)(ii) of this section, the reference to the "program" is
10 substituted for the former reference to the "provider" for consistency
11 throughout this part.

12 Also in subsection (b)(2)(ii) of this section, the reference to filing the
13 "application" is substituted for the former reference to filing "for the
14 preliminary certificate of registration" for brevity and clarity.

15 In subsection (c)(3) of this section, the former reference to being "approved
16 by the Department" is deleted as redundant.

17 As to the substitution of the references to "proposed advertisements",
18 "advertising campaigns", and "other promotional materials" in this section,
19 *see* General Revisor's Note to part.

20 Defined terms: "Continuing care at home" § 10-401

21 "Department" § 10-101

22 "Provider" § 10-401

23 10-458. CERTIFICATE OF REGISTRATION.

24 (A) REQUIRED.

25 A PROVIDER MAY NOT PROVIDE CONTINUING CARE AT HOME SERVICES UNTIL
26 THE DEPARTMENT ISSUES A CERTIFICATE OF REGISTRATION TO THE PROVIDER.

27 (B) APPLICATION.

28 AN APPLICATION FOR A CERTIFICATE OF REGISTRATION SHALL:

29 (1) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT; AND

30 (2) INCLUDE AT LEAST THE FOLLOWING INFORMATION:

31 (I) VERIFICATION THAT THE REQUIRED NUMBER OF AGREEMENTS
32 HAS BEEN EXECUTED AND THE CORRESPONDING DEPOSITS COLLECTED;

33 (II) THE FORM AND SUBSTANCE OF ANY PROPOSED
34 ADVERTISEMENTS, ADVERTISING CAMPAIGNS, OR OTHER PROMOTIONAL MATERIALS
35 FOR THE PROGRAM THAT ARE AVAILABLE AT THE TIME OF FILING AND THAT HAVE
36 NOT BEEN FILED PREVIOUSLY WITH THE DEPARTMENT;

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1 (III) VERIFICATION THAT ANY OTHER LICENSE OR CERTIFICATE
2 REQUIRED BY OTHER APPROPRIATE STATE UNITS HAS BEEN ISSUED TO THE
3 PROVIDER; AND

4 (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

5 (C) ISSUANCE.

6 THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF REGISTRATION TO A
7 PROVIDER IF THE DEPARTMENT DETERMINES THAT:

8 (1) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE
9 FEASIBILITY STUDY AND APPLICATION FOR A PRELIMINARY CERTIFICATE OF
10 REGISTRATION ARE CURRENT AND ACCURATE OR HAVE BEEN UPDATED TO MAKE
11 THEM ACCURATE;

12 (2) THE REQUIRED NUMBER OF AGREEMENTS HAS BEEN EXECUTED
13 AND THE CORRESPONDING DEPOSITS COLLECTED;

14 (3) ANY OTHER LICENSE OR CERTIFICATE REQUIRED BY OTHER
15 APPROPRIATE STATE UNITS HAS BEEN ISSUED TO THE PROVIDER;

16 (4) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS,
17 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE
18 PROGRAM;

19 (5) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
20 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE
21 NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD; AND

22 (6) THE PROVIDER HAS SUBMITTED ANY OTHER INFORMATION THAT
23 THE DEPARTMENT REQUIRED.

24 (D) SUBMISSION OF ADVERTISEMENTS.

25 IF A PROVIDER INTENDS TO ADVERTISE BEFORE THE DEPARTMENT ISSUES A
26 CERTIFICATE OF REGISTRATION UNDER SUBSECTION (C) OF THIS SECTION, THE
27 PROVIDER SHALL SUBMIT TO THE DEPARTMENT ANY ADVERTISEMENT,
28 ADVERTISING CAMPAIGN, OR OTHER PROMOTIONAL MATERIALS BEFORE USING IT.

29 (E) FAILURE TO OBTAIN CERTIFICATE OF REGISTRATION.

30 IF A CERTIFICATE OF REGISTRATION IS NOT ISSUED TO A PROVIDER WITHIN 24
31 MONTHS AFTER THE DEPARTMENT APPROVES A FEASIBILITY STUDY, OR A LONGER
32 TIME ALLOWED BY THE DEPARTMENT FOR GOOD CAUSE SHOWN, THE PROVIDER
33 SHALL REFUND ALL DEPOSITS COLLECTED AND STOP OFFERING CONTINUING CARE
34 AT HOME SERVICES UNDER THAT APPLICATION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 70B, § 22A(j), (k), (l), and (m).

1 In subsection (b)(2)(ii) of this section, the reference to the “program” is
2 substituted for the former reference to the “provider” for consistency
3 throughout this part.

4 Also in subsection (b)(2)(ii) of this section, the reference to filing “the
5 application” is substituted for the former reference to filing “for the
6 certificate of registration” for brevity and clarity.

7 In subsection (b)(2)(iii) of this section, the reference to “verification that”
8 other licenses or certificates have been issued is added for clarity.

9 In subsection (c)(5) of this section, the former reference to being “approved
10 by the Department” is deleted as redundant.

11 In subsection (e) of this section, the word “stop” is substituted for the
12 former phrase “cease its attempts” for brevity.

13 As to the substitution of the references to “proposed advertisements”,
14 “advertising campaigns”, and “other promotional materials” in this section,
15 *see* General Revisor’s Note to part.

16 Defined terms: “Continuing care at home” § 10–401

17 “Department” § 10–101

18 “Deposit” § 10–401

19 “Provider” § 10–401

20 10–459. RENEWAL CERTIFICATE OF REGISTRATION.

21 (A) APPLICATION.

22 (1) EACH YEAR, WITHIN 120 DAYS AFTER THE END OF A PROVIDER’S
23 FISCAL YEAR, THE PROVIDER SHALL FILE AN APPLICATION FOR A RENEWAL
24 CERTIFICATE OF REGISTRATION WITH THE DEPARTMENT.

25 (2) AN APPLICATION SHALL:

26 (I) BE FILED IN A FORM SATISFACTORY TO THE DEPARTMENT;
27 AND

28 (II) CONTAIN ANY REASONABLE AND PERTINENT INFORMATION
29 THAT THE DEPARTMENT REQUIRES.

30 (B) ISSUANCE.

31 THE DEPARTMENT SHALL ISSUE A RENEWAL CERTIFICATE OF REGISTRATION
32 IF THE DEPARTMENT DETERMINES THAT:

33 (1) ALL REQUIRED DOCUMENTS HAVE BEEN FILED AND ARE
34 SATISFACTORY;

1 (2) ANY REVISED AGREEMENTS FOR CONTINUING CARE AT HOME
2 SERVICES MEET THE DEPARTMENT'S REQUIREMENTS;

3 (3) THE PROPOSED USE OF NEW OR EXISTING HEALTH FACILITIES IS
4 NOT INCONSISTENT WITH THE STATE HEALTH PLAN;

5 (4) THE PROVIDER HAS SUBMITTED ALL PROPOSED ADVERTISEMENTS,
6 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS FOR THE
7 PROGRAM; AND

8 (5) THE FORM AND SUBSTANCE OF ALL ADVERTISEMENTS,
9 ADVERTISING CAMPAIGNS, AND OTHER PROMOTIONAL MATERIALS SUBMITTED ARE
10 NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 70B, § 22A(n).

13 In subsection (b)(1) of this section, the former reference to being "found by
14 the Department" is deleted as redundant.

15 In subsection (b)(5) of this section, the former reference to being "approved
16 by the Department" is deleted as redundant.

17 As to the substitution of the references to "proposed advertisements",
18 "advertising campaigns", and "other promotional materials" in this section,
19 see General Revisor's Note to part.

20 Defined terms: "Continuing care at home" § 10-401
21 "Department" § 10-101
22 "Provider" § 10-401

23 10-460. DENIAL, SUSPENSION, OR REVOCATION.

24 (A) AUTHORIZED.

25 FOR CAUSE, THE DEPARTMENT MAY:

26 (1) DENY A FEASIBILITY STUDY APPROVAL; OR

27 (2) DENY, SUSPEND, OR REVOKE A PRELIMINARY, INITIAL, OR RENEWAL
28 CERTIFICATE OF REGISTRATION.

29 (B) GROUNDS.

30 (1) GROUNDS FOR A DENIAL, SUSPENSION, OR REVOCATION INCLUDE:

31 (I) VIOLATION OF THIS SUBTITLE;

32 (II) VIOLATION OF A REGULATION THE DEPARTMENT ADOPTS
33 UNDER THIS SUBTITLE;

1 (III) MISREPRESENTATION; OR

2 (IV) SUBMISSION OF A FALSE FINANCIAL STATEMENT.

3 (2) THE DEPARTMENT SHALL SET FORTH IN WRITING ITS REASONS FOR
4 A DENIAL, SUSPENSION, OR REVOCATION.

5 (C) APPEAL.

6 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE GOVERNS THE
7 APPEAL OF A DENIAL, REVOCATION, OR SUSPENSION.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 70B, § 22.

10 In subsection (c) of this section, the reference to "Title 10, Subtitle 2 of the
11 State Government Article" is substituted for the former reference to "the
12 Maryland Administrative Procedure Act" for accuracy and consistency with
13 § 10-210 of this title.

14 Also in subsection (c) of this section, the former reference to "[t]he
15 proceedings ... [being] conducted in accordance with" is deleted as
16 surplusage.

17 Defined term: "Department" § 10-101

18 10-461. RESERVED.

19 10-462. RESERVED.

20 GENERAL REVISOR'S NOTE TO PART

21 Throughout this part, references to "proposed advertisements", "advertising
22 campaigns", and "other promotional materials" are substituted for the former
23 references to the "advertising campaign or proposed advertisement" and the
24 "advertising information" for consistency throughout this part and with Part II of this
25 subtitle.

26 PART VII. FINANCIAL REVIEW.

27 10-463. "COMMITTEE" DEFINED.

28 IN THIS PART, "COMMITTEE" MEANS THE FINANCIAL REVIEW COMMITTEE
29 ESTABLISHED IN § 10-464 OF THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language added to avoid the repetition
31 of the full reference to the Financial Review Committee.

32 10-464. FINANCIAL REVIEW COMMITTEE.

33 THERE IS A FINANCIAL REVIEW COMMITTEE IN THE DEPARTMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 17A(a).

3 The reference to the Committee being "in the Department" is added for
4 clarity and consistency with similar provisions throughout this article.

5 Defined term: "Department" § 10–101

6 10–465. MEMBERSHIP.

7 (A) COMPOSITION; APPOINTMENT.

8 (1) THE COMMITTEE CONSISTS OF SEVEN MEMBERS APPOINTED BY THE
9 SECRETARY.

10 (2) OF THE SEVEN MEMBERS:

11 (I) TWO SHALL BE KNOWLEDGEABLE IN THE FIELD OF
12 CONTINUING CARE;

13 (II) TWO SHALL BE CERTIFIED PUBLIC ACCOUNTANTS;

14 (III) ONE SHALL BE FROM THE FINANCIAL COMMUNITY; AND

15 (IV) TWO SHALL BE CONSUMER MEMBERS.

16 (3) IN APPOINTING THE CONSUMER MEMBERS, THE SECRETARY SHALL
17 GIVE A PREFERENCE TO SUBSCRIBERS OF CONTINUING CARE FACILITIES.

18 (B) TERMS OF OFFICE.

19 (1) THE TERM OF A MEMBER IS 3 YEARS.

20 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
21 TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2007.

22 (3) A MEMBER MAY SERVE CONSECUTIVE TERMS.

23 (C) CHAIR.

24 THE COMMITTEE SHALL ELECT ITS CHAIR.

25 (D) COMPENSATION; EXPENSES.

26 A MEMBER:

27 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
28 COMMITTEE; BUT

29 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
30 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

1 (E) IMMUNITY.

2 A MEMBER IS IMMUNE FROM CIVIL LIABILITY AS PROVIDED IN § 5-514 OF THE
3 COURTS ARTICLE.

4 (F) CONFLICT OF INTEREST PROHIBITED.

5 A MEMBER MAY NOT PARTICIPATE IN A REVIEW OF A PROVIDER'S FINANCIAL
6 CONDITION IF THAT MEMBER HAS AN INTEREST, AS DEFINED UNDER THE
7 MARYLAND PUBLIC ETHICS LAW IN § 15-102 OF THE STATE GOVERNMENT ARTICLE,
8 IN THE PROVIDER.

9 (G) CONFIDENTIALITY.

10 THE DELIBERATIONS OF THE COMMITTEE AND COMMUNICATIONS BETWEEN
11 THE DEPARTMENT AND THE COMMITTEE, INCLUDING RECOMMENDATIONS OF THE
12 COMMITTEE, SHALL BE CONFIDENTIAL.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 70B, § 17A(b).

15 Throughout this section, the references to a "member" are substituted for
16 the former references to a "member of the Committee" or a "Financial
17 Review Committee" member for brevity.

18 In subsection (a)(3) of this section, the reference to the Secretary "giv[ing]
19 a preference" to subscribers in appointing the consumer members is
20 substituted for the former reference to the consumer members being
21 "preferably" subscribers for clarity.

22 In subsection (b)(2) of this section, the reference to "October 1, 2007" is
23 substituted for the former obsolete reference to "July 1, 1985" to reflect the
24 effective date of this revision. This substitution is not intended to alter the
25 term of any member of the Committee. *See* § ___ of Ch. ___ of the Acts of
26 2007. The terms of the members serving on October 1, 2007, end as follows:
27 (1) three in 2008; (2) one in 2009; and (3) three in 2010.

28 In subsection (c) of this section, the reference to a "chair" is substituted for
29 the former reference to a "chairman" because SG § 2-1238 requires the use
30 of terms that are neutral as to gender to the extent practicable.

31 In subsection (d)(1) of this section, the former reference to expenses
32 "incurred in the performance of their official duties" is deleted as
33 surplusage.

34 In subsection (f) of this section, the reference to "§ 15-102 of the State
35 Government Article" is added for clarity.

36 Defined terms: "Committee" § 10-463

37 "Continuing care" § 10-401

1 "Department" § 10-101
2 "Provider" § 10-401
3 "Secretary" § 10-101
4 "Subscriber" § 10-401

5 10-466. REFERRALS TO COMMITTEE.

6 (A) AUTHORIZED.

7 (1) THE DEPARTMENT MAY REFER TO THE COMMITTEE FOR ITS
8 CONSIDERATION:

9 (I) A PROVIDER'S APPLICATION FOR A RENEWAL CERTIFICATE OF
10 REGISTRATION AFTER REVIEW BY THE DEPARTMENT; OR

11 (II) A FINDING OF POSSIBLE FINANCIAL DIFFICULTY, AT ANY TIME.

12 (2) THE DEPARTMENT SHALL PROVIDE TO THE COMMITTEE ANY
13 MATERIALS THE DEPARTMENT CONSIDERS NECESSARY.

14 (B) REVIEW AND RECOMMENDATIONS BY COMMITTEE.

15 (1) THE COMMITTEE SHALL REVIEW THE REFERRAL FROM THE
16 DEPARTMENT AND MAY REQUEST ADDITIONAL INFORMATION FROM THE
17 DEPARTMENT.

18 (2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITHIN
19 45 DAYS AFTER RECEIPT OF A REFERRAL, THE COMMITTEE SHALL NOTIFY THE
20 DEPARTMENT IN WRITING WHETHER THE COMMITTEE RECOMMENDS THAT THE
21 DEPARTMENT:

22 (I) FIND THE PROVIDER IN FINANCIAL DIFFICULTY; AND

23 (II) FIND THAT THE FINANCIAL DIFFICULTY, IF ANY, INCLUDES A
24 SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE WITH § 10-469 OF THIS
25 SUBTITLE.

26 (3) IN MAKING A RECOMMENDATION TO THE DEPARTMENT, THE
27 COMMITTEE SHALL STATE THE REASON FOR THE RECOMMENDATION.

28 (C) EXTENSION.

29 (1) THE COMMITTEE MAY REQUEST FROM THE SECRETARY ONE 30-DAY
30 EXTENSION OF THE DEADLINE UNDER SUBSECTION (B)(2) OF THIS SECTION.

31 (2) THE SECRETARY MAY GRANT OR DENY THE EXTENSION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 70B, § 17A(c).

34 In subsection (a)(2) of this section, the requirement that the Department

1 provide to the Committee “any materials the Department considers
2 necessary” is substituted for the former reference to “accompanying
3 materials” to conform to current practice. This addition is called to the
4 attention of the General Assembly.

5 In subsection (b)(1) of this section, the reference to the “referral” is
6 substituted for the former references to the “application and the materials”
7 and the “finding” for brevity.

8 In the introductory language of subsection (b)(2) of this section, the former
9 reference to whether “or not” is deleted as implicit.

10 In subsection (b)(2)(ii) of this section, the phrase “if any” is added to clarify
11 that only if the provider is found in financial difficulty could the financial
12 difficulty be identified as including a significant risk of financial failure.

13 Also in subsection (b)(2)(ii) of this section, the reference to “find[ing]” is
14 substituted for the former reference to “identifying” for consistency with
15 subsection (b)(1)(i) of this section.

16 In subsection (b)(3) of this section, the reference to “making a
17 recommendation to the Department” is added to clarify the circumstances
18 under which the Committee is required to state its reasons for a
19 recommendation.

20 Also in subsection (b)(3) of this section, the former reference to “reasons” is
21 deleted in light of the reference to “reason” and Art. 1, § 8, which provides
22 that the singular generally includes the plural.

23 In subsection (c)(1) of this section, the reference to an extension of the
24 “deadline” is added for clarity.

25 Defined terms: “Committee” § 10–463
26 “Department” § 10–101
27 “Financial difficulty” § 10–401
28 “Provider” § 10–401
29 “Secretary” § 10–101

30 10–467. FINAL DETERMINATION OF FINANCIAL DIFFICULTY.

31 (A) IN GENERAL.

32 WITHIN 25 DAYS AFTER RECEIPT OF THE COMMITTEE’S RECOMMENDATIONS,
33 THE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS AND MAKE A FINAL
34 DETERMINATION OF WHETHER FINANCIAL DIFFICULTY EXISTS AND, IF SO,
35 WHETHER THERE IS A SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE
36 WITH § 10–469 OF THIS SUBTITLE.

37 (B) NOTICE TO PROVIDER.

1 IF THE DEPARTMENT DETERMINES THAT THE PROVIDER IS IN FINANCIAL
2 DIFFICULTY IT SHALL IMMEDIATELY NOTIFY THE PROVIDER BY CERTIFIED MAIL,
3 RETURN RECEIPT REQUESTED, AND INFORM THE PROVIDER WHETHER THE
4 DEPARTMENT HAS DETERMINED THAT THERE IS A SIGNIFICANT RISK OF FINANCIAL
5 FAILURE.

6 (C) MEETING WITH REPRESENTATIVES OF SUBSCRIBERS.

7 THE PROVIDER SHALL:

8 (1) ADVISE ITS SUBSCRIBERS OF THE DEPARTMENT'S DETERMINATION
9 IN A MEETING TO BE HELD BY THE PROVIDER WITH REPRESENTATIVES OF THE
10 SUBSCRIBERS;

11 (2) HOLD THE MEETING WITHIN 10 DAYS AFTER THE PROVIDER'S
12 RECEIPT OF NOTICE FROM THE DEPARTMENT; AND

13 (3) ADVISE THE DEPARTMENT OF THE DATE, TIME, AND LOCATION OF
14 THE MEETING.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 70B, § 17A(d).

17 In subsection (a) of this section, the phrase "after receipt of" is substituted
18 for the former phrase "of being notified of" for clarity.

19 Also in subsection (a) of this section, the phrase "and, if so," is substituted
20 for the former word "including" to clarify that only if the provider is found
21 in financial difficulty could there be a finding of a significant risk of
22 financial failure.

23 Defined terms: "Committee" § 10-463

24 "Department" § 10-101

25 "Financial difficulty" § 10-401

26 "Provider" § 10-401

27 "Subscriber" § 10-401

28 10-468. FINANCIAL PLAN.

29 (A) SUBMISSION OF 5-YEAR PLAN.

30 (1) A PROVIDER NOTIFIED OF FINANCIAL DIFFICULTY BY THE
31 DEPARTMENT SHALL PREPARE AND SUBMIT TO THE DEPARTMENT FOR ITS
32 APPROVAL A 5-YEAR FINANCIAL PLAN TO CORRECT THE CAUSES OF THE FINANCIAL
33 DIFFICULTY.

34 (2) THE FINANCIAL PLAN SHALL BE SUBMITTED WITHIN 60 DAYS AFTER
35 RECEIPT OF NOTIFICATION.

1 (3) THE PROVIDER MAY REQUEST ONE 30-DAY EXTENSION FROM THE
2 SECRETARY.

3 (4) THE SECRETARY MAY GRANT OR DENY THE EXTENSION.

4 (B) RESPONSE BY DEPARTMENT.

5 (1) THE DEPARTMENT SHALL RESPOND TO THE PROVIDER WITHIN 60
6 DAYS AFTER RECEIPT OF THE PROPOSED FINANCIAL PLAN.

7 (2) THE DEPARTMENT MAY:

8 (I) WORK WITH THE PROVIDER TO ESTABLISH THE FINANCIAL
9 PLAN; AND

10 (II) CONSULT WITH THE COMMITTEE BEFORE APPROVING THE
11 FINANCIAL PLAN.

12 (C) IMPLEMENTATION OF PLAN.

13 (1) ON APPROVAL, THE FINANCIAL PLAN SHALL BE IMPLEMENTED.

14 (2) THE PROVIDER SHALL MAKE AVAILABLE TO ITS SUBSCRIBERS
15 COPIES OF ITS APPROVED FINANCIAL PLAN.

16 (D) PROGRESS REPORTS; REVISION OF PLAN.

17 THE PROVIDER SHALL:

18 (1) SUBMIT TO THE DEPARTMENT AN ANNUAL PROGRESS REPORT FOR
19 THE TERM OF ITS FINANCIAL PLAN; AND

20 (2) REVISE ITS FINANCIAL PLAN IF THE DEPARTMENT DETERMINES
21 THAT REVISIONS ARE NECESSARY.

22 (E) FAILURE TO PREPARE OR IMPLEMENT PLAN.

23 THE DEPARTMENT MAY WITHHOLD THE RENEWAL CERTIFICATE OF
24 REGISTRATION OR WITHDRAW A PRELIMINARY, INITIAL, OR RENEWAL CERTIFICATE
25 OF REGISTRATION IF:

26 (1) THE PROVIDER DOES NOT PREPARE A FINANCIAL PLAN;

27 (2) THE PROVIDER IS UNWILLING OR UNABLE TO PREPARE A FINANCIAL
28 PLAN;

29 (3) THE FINANCIAL PLAN IS INADEQUATE TO CORRECT THE CURRENT
30 OR IMPENDING FINANCIAL CONDITION THAT NECESSITATED THE FINANCIAL PLAN;
31 OR

32 (4) THE PROVIDER FAILS TO IMPLEMENT THE FINANCIAL PLAN.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 17A(e), (f), and (g).

3 In subsection (a)(2) of this section, the reference to "receipt" of notification
4 is added for clarity.

5 In subsection (a)(4) of this section, the reference to "deny[ing]" an
6 extension is added as implicit in the authority to grant an extension and
7 for consistency with § 10-466(c)(2) of this subtitle.

8 In subsections (b)(1) and (2)(ii), (c)(1), and (e)(4) of this section, the
9 references to the "financial" plan are added for consistency and clarity.
10 Similarly, in subsection (c)(2) of this section, the reference to the "financial
11 plan" is substituted for the former reference to the "5-year plan".

12 Defined terms: "Committee" § 10-463

13 "Department" § 10-101

14 "Financial difficulty" § 10-401

15 "Provider" § 10-401

16 "Secretary" § 10-101

17 "Subscriber" § 10-401

18 10-469. DETERMINATION OF RISK OF FINANCIAL FAILURE.

19 THE DEPARTMENT MAY DETERMINE THAT THERE EXISTS A SIGNIFICANT RISK
20 OF THE FINANCIAL FAILURE OF A PROVIDER BASED ON ONE OR MORE OF THE
21 FOLLOWING FINDINGS OR CIRCUMSTANCES:

22 (1) THE PROVIDER HAS FAILED TO MEET LOAN COVENANTS THAT GIVE
23 A LENDER OR A BOND TRUSTEE THE OPTION TO EXERCISE REMEDIES ON ITS
24 COLLATERAL;

25 (2) AN ACTUARIAL REPORT HAS BEEN PROVIDED TO THE DEPARTMENT
26 REFLECTING SIGNIFICANT UNDERFUNDING OF FUTURE LIABILITIES THAT ARE
27 UNLIKELY TO BE READILY ADDRESSED;

28 (3) THERE IS A SIGNIFICANT SHORTFALL BY THE PROVIDER IN
29 MAINTAINING REQUIRED RESERVES FOR A SIGNIFICANT PERIOD OF TIME;

30 (4) A SIGNIFICANT BALLOON PAYMENT OR FUTURE LOAN PAYMENT
31 WILL BECOME DUE WITHIN THE NEXT 12 MONTHS AND THE PROVIDER IS UNABLE TO
32 DEMONSTRATE THAT IT WILL OBTAIN A MODIFICATION FROM ITS LENDER, HAVE
33 THE RESOURCES TO MAKE THE PAYMENT, OR HAVE THE ABILITY TO REFINANCE;

34 (5) THERE HAS BEEN A SIGNIFICANT DECLINE IN THE OCCUPANCY
35 RATE THAT IS LIKELY TO HAVE A MATERIAL ADVERSE FINANCIAL IMPACT ON THE
36 PROVIDER;

1 (6) THERE HAS BEEN A MATERIAL ADVERSE CHANGE IN DEBT SERVICE
2 COVERAGE RATIO FOR AN EXTENDED PERIOD OF TIME THAT REDUCES THE RATIO TO
3 LESS THAN 1.0;

4 (7) THERE HAS BEEN A SIGNIFICANT DECLINE IN DAYS CASH ON HAND
5 THAT IS UNRELATED TO ADDITIONS TO PROPERTY, PLANT, AND EQUIPMENT OR
6 OTHER COMMUNITY ENHANCEMENTS AND THAT COULD RESULT IN AN INABILITY TO
7 PAY OBLIGATIONS OF THE PROVIDER AS THEY BECOME DUE;

8 (8) THERE HAS BEEN A SIGNIFICANT INCREASE IN THE OPERATING
9 RATIO, ADJUSTED FOR UNREALIZED GAINS AND LOSSES ON INVESTMENTS, THAT
10 COULD RESULT IN THE INABILITY OF THE PROVIDER TO MEET ITS OBLIGATIONS; OR

11 (9) THE REFUSAL OR INABILITY OF THE PROVIDER TO PROVIDE
12 ACCURATE INFORMATION OR DATA REQUIRED TO BE SUBMITTED TO THE
13 DEPARTMENT UNDER THIS SUBTITLE AND RELATED REGULATIONS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 70B, § 17A(h).

16 In item (5) of this section, the reference to the financial impact "on the
17 provider" is added for clarity.

18 Also in item (5) of this section, the reference to a "significant decline in the
19 occupancy rate" is substituted for the former reference to a "significant
20 declining occupancy" for accuracy since it would be the occupancy rate that
21 would be declining.

22 Defined terms: "Department" § 10-101
23 "Provider" § 10-401

24 10-470. RESERVED.

25 10-471. RESERVED.

26 PART VIII. DELINQUENCY PROCEEDINGS.

27 10-472. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

32 (B) CREDITOR.

33 "CREDITOR" MEANS A PERSON WITH A CLAIM AGAINST A PROVIDER.

34 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(g).

1 In this subsection and throughout this part, the defined term “provider” is
2 substituted for the former reference to a “continuing care provider” for
3 consistency throughout this subtitle.

4 No other changes are made.

5 Defined terms: “Person” §§ 1–101, 10–401
6 “Provider” § 10–401

7 (C) DELINQUENCY PROCEEDING.

8 “DELINQUENCY PROCEEDING” MEANS A PROCEEDING UNDER THIS SUBTITLE
9 TO LIQUIDATE, REHABILITATE, REORGANIZE, OR CONSERVE A PROVIDER.

10 REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(h).

11 The only changes are in style.

12 Defined term: “Provider” § 10–401

13 (D) GENERAL ASSETS.

14 “GENERAL ASSETS” MEANS:

15 (1) ALL PROPERTY THAT IS NOT SPECIFICALLY MORTGAGED, PLEDGED,
16 DEPOSITED, OR OTHERWISE ENCUMBERED FOR THE SECURITY OR BENEFIT OF
17 SPECIFIED PERSONS OR A LIMITED CLASS OF PERSONS;

18 (2) TO THE EXTENT THAT PROPERTY OF A PROVIDER IS SPECIFICALLY
19 ENCUMBERED, THE AMOUNT OF THE PROPERTY OR ITS PROCEEDS THAT EXCEEDS
20 THE AMOUNT NECESSARY TO DISCHARGE THE ENCUMBRANCE; AND

21 (3) ASSETS HELD IN TRUST AND ASSETS HELD ON DEPOSIT FOR THE
22 SECURITY OR BENEFIT OF ALL SUBSCRIBERS AND CREDITORS IN THE UNITED
23 STATES.

24 REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(o).

25 The only changes are in style.

26 Defined terms: “Creditor” § 10–472
27 “Person” §§ 1–101, 10–401
28 “Provider” § 10–401
29 “Subscriber” § 10–401

30 (E) RECEIVER.

31 “RECEIVER” INCLUDES A CONSERVATOR, REHABILITATOR, AND LIQUIDATOR.

32 REVISOR’S NOTE: This subsection formerly was Art. 70B, § 7(w).

1 No changes are made.

2 (F) SECURED CLAIM.

3 (1) "SECURED CLAIM" MEANS A CLAIM THAT:

4 (I) IS SECURED BY MORTGAGE, TRUST DEED, PLEDGE, DEPOSIT AS
5 SECURITY, ESCROW, OR OTHERWISE; OR

6 (II) HAS BECOME A LIEN ON SPECIFIC ASSETS THROUGH JUDICIAL
7 PROCESS.

8 (2) "SECURED CLAIM" DOES NOT INCLUDE A SPECIAL DEPOSIT CLAIM OR
9 A CLAIM AGAINST GENERAL ASSETS.

10 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(z).

11 No changes are made.

12 Defined terms: "General assets" § 10-472

13 "Special deposit claim" § 10-472

14 (G) SPECIAL DEPOSIT CLAIM.

15 (1) "SPECIAL DEPOSIT CLAIM" MEANS A CLAIM SECURED BY A DEPOSIT
16 REQUIRED BY LAW FOR THE SECURITY OR BENEFIT OF A LIMITED CLASS OF
17 PERSONS.

18 (2) "SPECIAL DEPOSIT CLAIM" DOES NOT INCLUDE A CLAIM AGAINST
19 GENERAL ASSETS.

20 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 7(aa).

21 No changes are made.

22 Defined terms: "Deposit" § 10-401

23 "General assets" § 10-472

24 "Person" §§ 1-101, 10-401

25 (H) TRANSFER.

26 "TRANSFER" MEANS:

27 (1) THE SALE OR OTHER DIRECT OR INDIRECT DISPOSITION OF
28 PROPERTY OR AN INTEREST IN PROPERTY;

29 (2) THE FIXING OF A LIEN ON PROPERTY OR AN INTEREST IN PROPERTY;
30 OR

31 (3) THE RETENTION OF A SECURITY TITLE TO PROPERTY DELIVERED TO
32 A DEBTOR.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 70B, § 7(dd).

3 The former phrase "when used in conjunction with property in §§ 20A
4 through 21 of this subtitle" is deleted as surplusage.

5 10-473. EXCLUSIVENESS OF REMEDY.

6 NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO § 10-493
7 OF THIS SUBTITLE, A DELINQUENCY PROCEEDING IS THE EXCLUSIVE METHOD OF
8 LIQUIDATING, REHABILITATING, REORGANIZING, OR CONSERVING A PROVIDER.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 70B, § 20A.

11 The former phrase "with respect to a continuing care provider" is deleted
12 as surplusage.

13 Defined terms: "Delinquency proceeding" § 10-472
14 "Provider" § 10-401

15 10-474. IMMUNITY FROM LIABILITY.

16 THE SECRETARY, DEPUTY SECRETARY, SPECIAL DEPUTY SECRETARY, OR ANY
17 PERSON ACTING AS RECEIVER IN A REHABILITATION, LIQUIDATION, OR
18 CONSERVATION OF A PROVIDER AS A RESULT OF A COURT ORDER SHALL HAVE THE
19 SAME IMMUNITY FROM LIABILITY THAT THE MARYLAND INSURANCE
20 COMMISSIONER, DEPUTY COMMISSIONER, SPECIAL DEPUTY COMMISSIONER, OR ANY
21 PERSON ACTING AS RECEIVER IN A REHABILITATION, LIQUIDATION, OR
22 CONSERVATION OF AN INSURER WOULD HAVE UNDER § 5-410 OF THE COURTS
23 ARTICLE.

24 REVISOR'S NOTE: This section formerly was Art. 70B, § 20B.

25 The only changes are in style.

26 Defined terms: "Person" §§ 1-101, 10-401
27 "Provider" § 10-401
28 "Receiver" § 10-472
29 "Secretary" § 10-101

30 10-475. FEES AND COSTS.

31 (A) SECRETARY EXEMPT FROM FEES.

32 (1) THIS SUBSECTION APPLIES EVEN IF A PAPER OR INSTRUMENT IS
33 NOT:

34 (I) EXECUTED BY THE SECRETARY OR A DEPUTY, EMPLOYEE, OR
35 ATTORNEY OF RECORD OF THE SECRETARY; AND

1 (II) CONNECTED WITH THE COMMENCEMENT OF AN ACTION OR
2 PROCEEDING BY OR AGAINST THE SECRETARY OR WITH THE SUBSEQUENT CONDUCT
3 OF THE ACTION OR PROCEEDING.

4 (2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY
5 MAY NOT BE REQUIRED TO PAY TO A PUBLIC OFFICER IN THE STATE A FEE FOR
6 FILING, RECORDING, OR ISSUING A TRANSCRIPT OR CERTIFICATE OR FOR
7 AUTHENTICATING A PAPER OR INSTRUMENT THAT RELATES TO THE EXERCISE BY
8 THE SECRETARY OF A POWER OR DUTY OF THE SECRETARY UNDER THIS SUBTITLE.

9 (B) PAYMENT OF COSTS.

10 (1) THE SECRETARY OR DEPUTY SECRETARY, WHEN ACTING AS
11 RECEIVER OR ANCILLARY RECEIVER UNDER THIS SUBTITLE, SHALL PAY ALL COURT
12 COSTS OUT OF THE ASSETS OF THE PROVIDER BEFORE ANY DISTRIBUTION TO
13 CREDITORS OR TERMINATION OF REHABILITATION.

14 (2) IN ALL CASES, COURT COSTS AND THOSE SPECIFIED IN SUBSECTION
15 (A) OF THIS SECTION SHALL:

16 (I) BE CHARGED IN THE ACCOUNTS OF THE SECRETARY TO THE
17 COURT; OR

18 (II) BE PAID BY THE PROVIDER AS A CONDITION OF TERMINATION
19 OF THE ACTION OR PROCEEDING.

20 REVISOR'S NOTE: This section formerly was Art. 70B, § 20C.

21 The only changes are in style.

22 Defined terms: "Creditor" § 10-472

23 "Provider" § 10-401

24 "Receiver" § 10-472

25 "Secretary" § 10-101

26 10-476. APPOINTMENT OF STAFF.

27 (A) IN GENERAL.

28 (1) IN A DELINQUENCY PROCEEDING IN WHICH THE SECRETARY HAS
29 BEEN APPOINTED RECEIVER, THE SECRETARY MAY:

30 (I) APPOINT ONE OR MORE SPECIAL DEPUTY SECRETARIES TO ACT
31 FOR THE SECRETARY; AND

32 (II) EMPLOY COUNSEL, CLERKS, AND ASSISTANTS.

33 (2) COMPENSATION OF THE SPECIAL DEPUTIES, COUNSEL, CLERKS, AND
34 ASSISTANTS AND ALL EXPENSES OF TAKING POSSESSION OF THE PROVIDER AND OF
35 CONDUCTING THE DELINQUENCY PROCEEDING SHALL BE:

1 (I) SET BY THE SECRETARY, SUBJECT TO APPROVAL BY THE
2 COURT; AND

3 (II) PAID OUT OF THE ASSETS OR FUNDS OF THE PROVIDER.

4 (3) WITHIN THE LIMITS OF DUTIES IMPOSED ON A SPECIAL DEPUTY
5 CONCERNING A DELINQUENCY PROCEEDING, THE SPECIAL DEPUTY:

6 (I) HAS ALL POWERS GIVEN TO THE RECEIVER; AND

7 (II) IN THE EXERCISE OF THOSE POWERS, IS SUBJECT TO ALL THE
8 DUTIES IMPOSED ON THE RECEIVER CONCERNING THE DELINQUENCY PROCEEDING.

9 (B) REPRESENTATION.

10 IN A CIVIL PROCEEDING FILED AGAINST A SPECIAL DEPUTY SECRETARY
11 APPOINTED UNDER THIS SUBTITLE, THE SPECIAL DEPUTY SECRETARY IS ENTITLED
12 TO REPRESENTATION BY THE ATTORNEY GENERAL AS SPECIFIED IN TITLE 12,
13 SUBTITLE 3, PART II OF THE STATE GOVERNMENT ARTICLE.

14 REVISOR'S NOTE: This section formerly was Art. 70B, § 20D.

15 The only changes are in style.

16 Defined terms: "Delinquency proceeding" § 10-472

17 "Provider" § 10-401

18 "Receiver" § 10-472

19 "Secretary" § 10-101

20 10-477. JURISDICTION AND VENUE.

21 (A) ORIGINAL JURISDICTION.

22 THE CIRCUIT COURT OF BALTIMORE CITY:

23 (1) HAS EXCLUSIVE ORIGINAL JURISDICTION OVER DELINQUENCY
24 PROCEEDINGS; AND

25 (2) MAY ISSUE ALL NECESSARY AND PROPER ORDERS TO CARRY OUT
26 THIS SUBTITLE.

27 (B) ADDITIONAL JURISDICTION.

28 IF SERVICE IS MADE IN ACCORDANCE WITH THE MARYLAND RULES OR OTHER
29 APPLICABLE LAW, A COURT WITH SUBJECT MATTER JURISDICTION OVER AN ACTION
30 BROUGHT UNDER THIS SUBTITLE ALSO HAS JURISDICTION OVER:

31 (1) AN OFFICER, DIRECTOR, MANAGER, TRUSTEE, ORGANIZER,
32 PROMOTER, OR ATTORNEY IN FACT OF A PROVIDER AGAINST WHICH A DELINQUENCY
33 PROCEEDING HAS BEEN COMMENCED, IN AN ACTION RESULTING FROM OR
34 INCIDENTAL TO THE PERSON'S RELATIONSHIP WITH THE PROVIDER;

1 (2) A PERSON THAT, AT THE TIME OF OR AFTER COMMENCEMENT OF
2 THE DELINQUENCY PROCEEDING, HELD OR WAS IN CONTROL OF ASSETS IN WHICH
3 THE RECEIVER CLAIMS AN INTEREST ON BEHALF OF THE PROVIDER, IN AN ACTION
4 CONCERNING THE ASSETS OF THE PROVIDER; AND

5 (3) A PERSON OBLIGATED TO THE PROVIDER IN ANY WAY, IN AN ACTION
6 ON OR INCIDENTAL TO THE OBLIGATION.

7 (C) VENUE.

8 THE VENUE OF ALL DELINQUENCY PROCEEDINGS IS IN BALTIMORE CITY.

9 REVISOR'S NOTE: This section formerly was Art. 70B, § 20E.

10 The only changes are in style.

11 Defined terms: "Delinquency proceeding" § 10-472

12 "Person" §§ 1-101, 10-401

13 "Provider" § 10-401

14 "Receiver" § 10-472

15 10-478. COMMENCEMENT OF DELINQUENCY PROCEEDINGS.

16 (A) APPLICATION FOR SHOW CAUSE ORDER.

17 THE SECRETARY SHALL COMMENCE A DELINQUENCY PROCEEDING AGAINST A
18 PROVIDER BY APPLYING TO THE COURT FOR AN ORDER THAT DIRECTS THE
19 PROVIDER TO SHOW CAUSE WHY THE COURT SHOULD NOT GRANT THE RELIEF
20 REQUESTED.

21 (B) ACTION BY COURT.

22 (1) THE COURT MAY CONSIDER AN APPLICATION FOR COMMENCEMENT
23 OF A DELINQUENCY PROCEEDING ONLY IF THE APPLICATION IS FILED BY THE
24 SECRETARY IN THE NAME OF THE STATE.

25 (2) AFTER A HEARING UNDER THE TERMS OF THE SHOW CAUSE ORDER,
26 THE COURT:

27 (I) SHALL GRANT OR DENY THE APPLICATION; AND

28 (II) MAY ORDER OTHER RELIEF AS THE NATURE OF THE CASE AND
29 THE INTERESTS OF THE CREDITORS, STOCKHOLDERS, MEMBERS, SUBSCRIBERS, OR
30 THE PUBLIC MAY REQUIRE.

31 REVISOR'S NOTE: This section formerly was Art. 70B, § 20F.

32 The only changes are in style.

33 Defined terms: "Creditor" § 10-472

34 "Delinquency proceeding" § 10-472

1 "Provider" § 10-401
2 "Secretary" § 10-101
3 "Subscriber" § 10-401

4 10-479. GROUNDS FOR CONSERVATION, REHABILITATION, OR LIQUIDATION OF
5 PROVIDERS.

6 (A) CONSERVATION OR REHABILITATION.

7 THE SECRETARY MAY APPLY TO THE COURT FOR AN ORDER THAT DIRECTS THE
8 SECRETARY TO CONSERVE OR REHABILITATE A PROVIDER, IF THE PROVIDER:

9 (1) IS A PROVIDER FOR WHICH THE DEPARTMENT HAS MADE A
10 DETERMINATION OF SIGNIFICANT RISK OF FINANCIAL FAILURE UNDER PART VII OF
11 THIS SUBTITLE;

12 (2) HAS REFUSED TO SUBMIT TO THE SECRETARY OR A DEPUTY OR
13 EXAMINER OF THE SECRETARY, FOR REASONABLE EXAMINATION, ANY OF THE
14 PROPERTY, BOOKS, RECORDS, ACCOUNTS, OR AFFAIRS OF THE PROVIDER, OR OF A
15 SUBSIDIARY OR RELATED COMPANY OF THE PROVIDER WITHIN THE PROVIDER'S
16 CONTROL;

17 (3) HAS CONCEALED OR REMOVED ITS ASSETS OR RECORDS;

18 (4) HAS WILLFULLY VIOLATED ITS CHARTER, ARTICLES OF
19 INCORPORATION, A STATE LAW, OR AN ORDER OF THE SECRETARY;

20 (5) AFTER REASONABLE NOTICE, HAS FAILED PROMPTLY AND
21 EFFECTIVELY TO TERMINATE THE EMPLOYMENT, STATUS, AND INFLUENCE OVER
22 THE MANAGEMENT OF THE PROVIDER OF A PERSON THAT HAS EXECUTIVE
23 AUTHORITY IN FACT OVER THE PROVIDER AND HAS REFUSED TO BE EXAMINED
24 UNDER OATH ABOUT THE AFFAIRS OF THE PROVIDER IN THE STATE OR ELSEWHERE;

25 (6) HAS BEEN OR IS THE SUBJECT OF AN APPLICATION FOR
26 APPOINTMENT OF A RECEIVER, TRUSTEE, CUSTODIAN, SEQUESTRATOR, OR SIMILAR
27 FIDUCIARY OF THE PROVIDER OR ITS PROPERTY IN AN ACTION THAT WAS NOT FILED
28 UNDER THIS SUBTITLE, REGARDLESS OF WHETHER THE APPOINTMENT:

29 (I) HAS BEEN MADE;

30 (II) MAY DENY THE COURTS OF THE STATE JURISDICTION; OR

31 (III) MAY PREJUDICE AN ORDERLY DELINQUENCY PROCEEDING
32 UNDER THIS SUBTITLE;

33 (7) HAS CONSENTED TO THE ORDER FOR CONSERVATION OR
34 REHABILITATION THROUGH A MAJORITY OF ITS DIRECTORS, STOCKHOLDERS,
35 MEMBERS, OR SUBSCRIBERS;

1 (8) HAS FAILED TO PAY A FINAL JUDGMENT RENDERED AGAINST IT IN
2 THE STATE ON A CONTINUING CARE AGREEMENT ISSUED OR ASSUMED BY THE
3 PROVIDER, WITHIN 60 DAYS AFTER THE LATEST OF:

4 (I) THE DAY ON WHICH THE JUDGMENT BECAME FINAL;

5 (II) THE DAY ON WHICH THE TIME FOR TAKING AN APPEAL
6 EXPIRED; OR

7 (III) THE DAY ON WHICH AN APPEAL WAS DISMISSED BEFORE FINAL
8 TERMINATION;

9 (9) AFTER EXAMINATION BY THE SECRETARY, IS FOUND TO BE IN A
10 CONDITION IN WHICH FURTHER TRANSACTION OF ITS BUSINESS WILL BE
11 HAZARDOUS TO ITS SUBSCRIBERS, BONDHOLDERS, CREDITORS, OR THE PUBLIC;

12 (10) HAS FAILED TO REMOVE A PERSON THAT HAS EXECUTIVE
13 AUTHORITY IN FACT OVER THE PROVIDER AFTER THE SECRETARY HAS FOUND THAT
14 PERSON TO BE DISHONEST OR UNTRUSTWORTHY IN A MANNER THAT MAY AFFECT
15 THE BUSINESS OF THE PROVIDER;

16 (11) HAS REASONABLE CAUSE TO KNOW, OR SHOULD HAVE KNOWN,
17 THAT THERE HAS BEEN:

18 (I) EMBEZZLEMENT OF FUNDS FROM THE PROVIDER;

19 (II) WRONGFUL SEQUESTRATION OR DIVERSION OF ASSETS OF THE
20 PROVIDER;

21 (III) FORGERY OR FRAUD THAT AFFECTS THE PROVIDER; OR

22 (IV) OTHER ILLEGAL CONDUCT IN, BY, OR WITH RESPECT TO THE
23 PROVIDER;

24 (12) IS CONTROLLED DIRECTLY OR INDIRECTLY BY A PERSON THAT THE
25 SECRETARY FINDS TO BE UNTRUSTWORTHY; OR

26 (13) HAS FAILED TO FILE A FINANCIAL REPORT REQUIRED BY LAW
27 WITHIN THE TIME ALLOWED BY LAW AND, AFTER WRITTEN DEMAND BY THE
28 SECRETARY, HAS FAILED TO GIVE AN IMMEDIATE AND ADEQUATE EXPLANATION.

29 (B) LIQUIDATION.

30 (1) IF THE APPOINTMENT OF THE SECRETARY AS RECEIVER IS NOT
31 THEN IN EFFECT, AND EVEN IF NO PREVIOUS ORDER HAS DIRECTED THE SECRETARY
32 TO REHABILITATE A PROVIDER, THE SECRETARY MAY APPLY TO THE COURT FOR AN
33 ORDER THAT APPOINTS THE SECRETARY AS RECEIVER AND THAT DIRECTS THE
34 SECRETARY TO LIQUIDATE THE PROVIDER IF THE PROVIDER:

35 (I) HAS NOT DONE BUSINESS FOR AT LEAST 1 YEAR;

1 (II) IS A PROVIDER DETERMINED TO HAVE A SIGNIFICANT RISK OF
 2 FINANCIAL FAILURE UNDER PART VII OF THIS SUBTITLE AND HAS COMMENCED
 3 VOLUNTARY LIQUIDATION OR DISSOLUTION, OR ATTEMPTS TO COMMENCE OR
 4 PROSECUTE AN ACTION OR PROCEEDING TO LIQUIDATE ITS BUSINESS OR AFFAIRS,
 5 TO DISSOLVE ITS CORPORATE CHARTER, OR TO PROCURE THE APPOINTMENT OF A
 6 RECEIVER, TRUSTEE, CUSTODIAN, OR SEQUESTRATOR UNDER ANY LAW EXCEPT THIS
 7 TITLE;

8 (III) IS DOING BUSINESS IN A FRAUDULENT MANNER; OR

9 (IV) IS IN A CONDITION IN WHICH FURTHER REHABILITATION
 10 EFFORTS ON ANY GROUNDS SPECIFIED IN SUBSECTION (A) OF THIS SECTION APPEAR
 11 TO BE USELESS.

12 (2) IF AT ANY TIME DURING A REHABILITATION PROCEEDING THE
 13 SECRETARY DETERMINES THAT FURTHER EFFORTS TO REHABILITATE THE
 14 PROVIDER WOULD BE USELESS, THE SECRETARY MAY APPLY TO THE COURT FOR AN
 15 ORDER OF LIQUIDATION.

16 REVISOR'S NOTE: This section is new language derived without substantive
 17 change from former Art. 70B, § 20G.

18 Defined terms: "Creditor" § 10-472

19 "Delinquency proceeding" § 10-472

20 "Department" § 10-101

21 "Person" §§ 1-101, 10-401

22 "Provider" § 10-401

23 "Receiver" § 10-472

24 "Secretary" § 10-101

25 "Subscriber" § 10-401

26 10-480. ORDERS TO REHABILITATE, LIQUIDATE, OR CONSERVE PROVIDERS.

27 (A) ORDER TO REHABILITATE.

28 (1) AN ORDER TO REHABILITATE A PROVIDER SHALL:

29 (I) APPOINT THE SECRETARY AS REHABILITATOR;

30 (II) DIRECT THE SECRETARY:

31 1. TO TAKE POSSESSION OF THE PROPERTY OF THE
 32 PROVIDER AND CONDUCT THE BUSINESS OF THE PROVIDER UNDER THE GENERAL
 33 SUPERVISION OF THE COURT; AND

34 2. TO TAKE ACTION THE COURT DIRECTS TO REMOVE THE
 35 CAUSES AND CONDITIONS THAT HAVE MADE REHABILITATION NECESSARY;

36 (III) VEST TITLE TO ALL PROPERTY OF THE PROVIDER IN THE
 37 REHABILITATOR; AND

1 (IV) REQUIRE THE REHABILITATOR TO MAKE ACCOUNTINGS TO
2 THE COURT THAT:

3 1. ARE AT INTERVALS AS THE COURT SPECIFIES IN ITS
4 ORDER, BUT NOT LESS FREQUENTLY THAN TWO TIMES EACH YEAR; AND

5 2. INCLUDE THE OPINION OF THE REHABILITATOR ABOUT
6 THE LIKELIHOOD OF SUCCESS OF THE REHABILITATION.

7 (2) ISSUANCE OF AN ORDER OF REHABILITATION:

8 (I) DOES NOT CONSTITUTE AN ANTICIPATORY BREACH OF ANY
9 CONTRACT OF THE PROVIDER; AND

10 (II) IS NOT GROUNDS FOR RETROACTIVE REVOCATION OR
11 RETROACTIVE CANCELLATION OF A CONTRACT OF THE PROVIDER, UNLESS THE
12 REHABILITATOR REVOKES OR CANCELS THE CONTRACT.

13 (B) ORDER TO TERMINATE REHABILITATION PROCEEDING.

14 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY,
15 OR AN INTERESTED PERSON ON DUE NOTICE TO THE SECRETARY, MAY APPLY TO THE
16 COURT AT ANY TIME FOR AN ORDER THAT:

17 (I) TERMINATES A REHABILITATION PROCEEDING; AND

18 (II) ALLOWS THE PROVIDER TO RESUME POSSESSION OF ITS
19 PROPERTY AND THE CONDUCT OF ITS BUSINESS.

20 (2) AN ORDER UNDER THIS SUBSECTION MAY NOT BE ISSUED UNLESS,
21 AFTER A HEARING, THE COURT DETERMINES THAT THE PURPOSES OF THE
22 REHABILITATION PROCEEDING HAVE BEEN FULLY ACCOMPLISHED.

23 (C) ORDER TO LIQUIDATE.

24 (1) AN ORDER TO LIQUIDATE THE BUSINESS OF A PROVIDER SHALL
25 DIRECT THE SECRETARY PROMPTLY TO:

26 (I) TAKE POSSESSION OF THE PROPERTY OF THE PROVIDER;

27 (II) LIQUIDATE THE BUSINESS OF THE PROVIDER;

28 (III) DEAL WITH THE PROPERTY AND BUSINESS OF THE PROVIDER
29 IN THE NAME OF THE SECRETARY OR IN THE NAME OF THE PROVIDER, AS THE
30 COURT DIRECTS; AND

31 (IV) NOTIFY EACH CREDITOR THAT MAY HAVE A CLAIM AGAINST
32 THE PROVIDER TO PRESENT THE CREDITOR'S CLAIM.

33 (2) THE SECRETARY MAY APPLY FOR, AND THE COURT MAY ISSUE, AN
34 ORDER TO DISSOLVE THE CORPORATE EXISTENCE OF A PROVIDER:

1 (I) ON APPLICATION OF THE SECRETARY FOR AN ORDER TO
2 LIQUIDATE THE PROVIDER; OR

3 (II) AT ANY TIME AFTER THE COURT HAS GRANTED THE ORDER OF
4 LIQUIDATION.

5 (D) ORDER TO CONSERVE ASSETS.

6 AN ORDER TO CONSERVE THE ASSETS OF A PROVIDER SHALL REQUIRE THE
7 SECRETARY PROMPTLY TO TAKE POSSESSION OF AND CONSERVE THE PROPERTY OF
8 THE PROVIDER IN THE STATE, SUBJECT TO FURTHER DIRECTION BY THE COURT.

9 REVISOR'S NOTE: This section formerly was Art. 70B, § 20H.

10 The only changes are in style.

11 Defined terms: "Creditor" § 10-472

12 "Provider" § 10-401

13 "Secretary" § 10-101

14 10-481. APPOINTED RECEIVERS.

15 (A) "APPOINTED RECEIVER" DEFINED.

16 IN THIS SECTION, "APPOINTED RECEIVER" MEANS A PERSON, OTHER THAN THE
17 SECRETARY, THAT THE COURT APPOINTS AS A CONSERVATOR, REHABILITATOR, OR
18 RECEIVER UNDER THIS SECTION.

19 (B) IN GENERAL.

20 (1) ON MOTION OF THE COURT OR THE SECRETARY, THE COURT MAY
21 ISSUE AN ORDER THAT APPOINTS OR SUBSTITUTES A PERSON OTHER THAN THE
22 SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER:

23 (I) ON INITIAL APPLICATION BY THE SECRETARY FOR AN ORDER
24 TO APPOINT THE SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER
25 UNDER THIS SUBTITLE; OR

26 (II) AT ANY TIME DURING THE COURSE OF A CONSERVATORSHIP,
27 REHABILITATION, OR RECEIVERSHIP UNDER THIS SUBTITLE.

28 (2) AN APPOINTED RECEIVER HAS THE SAME POWERS AND DUTIES
29 THAT THE SECRETARY HAS UNDER THIS SUBTITLE AS CONSERVATOR,
30 REHABILITATOR, OR RECEIVER.

31 (C) REPORT REQUIRED.

32 (1) IN ADDITION TO ANY OTHER REPORT REQUIRED BY THE COURT, THE
33 COURT SHALL REQUIRE AN APPOINTED RECEIVER AT LEAST QUARTERLY TO FILE
34 WITH THE SECRETARY AND COURT A REPORT ABOUT:

1 (I) THE STATUS OF THE CONSERVATORSHIP, REHABILITATION, OR
2 RECEIVERSHIP; AND

3 (II) THE ACTIVITIES OF THE APPOINTED RECEIVER SINCE THE
4 LAST REPORT FILED UNDER THIS PARAGRAPH.

5 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION AT A MINIMUM SHALL INCLUDE:

7 (I) INFORMATION OF THE CHARACTER REQUIRED BY TITLE 13 OF
8 THE MARYLAND RULES THAT APPLIES TO RECEIVERS GENERALLY;

9 (II) ANY OTHER INFORMATION NECESSARY TO PROVIDE A
10 COMPLETE REPORT ON THE FINANCIAL AFFAIRS AND CONDITION OF THE
11 CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP;

12 (III) A COMPLETE ACCOUNT OF ALL EFFORTS BY THE APPOINTED
13 RECEIVER SINCE THE LAST REPORT:

14 1. TO SELL OR DISPOSE OF THE REMAINING BUSINESS OR
15 ASSETS OF THE PROVIDER; OR

16 2. TO OTHERWISE BRING TO A PROMPT CONCLUSION THE
17 CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP; AND

18 (IV) COPIES OF ANY ACTUARIAL OR OTHER EVALUATIONS OF THE
19 BUSINESS AND ASSETS UNDER THE CONTROL OF THE APPOINTED RECEIVER.

20 (3) THE REPORT SHALL BE AUDITED UNLESS FOR GOOD CAUSE THE
21 COURT WAIVES THE AUDIT.

22 (D) INFORMATION UNDER SEAL.

23 SUBJECT TO ANY PROTECTIVE ORDER THAT THE COURT CONSIDERS
24 APPROPRIATE, INFORMATION FILED UNDER SEAL SHALL BE PROVIDED TO THE
25 SECRETARY.

26 (E) ACCESS TO DOCUMENTS AND RECORDS.

27 THE APPOINTED RECEIVER SHALL GIVE THE SECRETARY FULL ACCESS TO ALL
28 DOCUMENTS AND RECORDS RELATED TO THE CONSERVATORSHIP, REHABILITATION,
29 OR RECEIVERSHIP THAT ARE IN THE POSSESSION OF THE APPOINTED RECEIVER.

30 (F) SECRETARY AS PARTY.

31 THE SECRETARY MAY BE A PARTY TO A CONSERVATORSHIP, REHABILITATION,
32 OR RECEIVERSHIP FOR WHICH THERE IS AN APPOINTED RECEIVER.

33 (G) NEGOTIATION FOR SALE OF ASSETS.

1 (1) SUBJECT TO APPROVAL OF THE COURT, THE SECRETARY MAY
2 NEGOTIATE FOR SALE OF ALL OR PART OF THE ASSETS OR BUSINESS OF THE
3 PROVIDER PLACED IN CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP.

4 (2) THE APPOINTED RECEIVER:

5 (I) SHALL COOPERATE FULLY IN ANY SALES NEGOTIATION UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION; AND

7 (II) MAY OBJECT TO THE TERMS OF A SALE OF THE ASSETS OR
8 BUSINESS OF THE PROVIDER THAT RESULTS FROM THE NEGOTIATION.

9 (3) AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, THE COURT
10 MAY LIMIT THE EFFORTS OF THE SECRETARY TO UNDERTAKE OR CONTINUE
11 NEGOTIATIONS FOR THE SALE OF THE ASSETS OR BUSINESS OF THE PROVIDER IF
12 THE NEGOTIATIONS WOULD IMPAIR THE ABILITY OF THE APPOINTED RECEIVER TO
13 ENGAGE IN SIMILAR NEGOTIATIONS OR DISCHARGE OTHER RESPONSIBILITIES.

14 (H) DISCHARGE OF APPOINTED RECEIVER.

15 (1) IF THE SECRETARY DETERMINES THAT AN APPOINTED RECEIVER IS
16 NOT ADEQUATELY DISCHARGING THE DUTIES AND RESPONSIBILITIES OF THE
17 POSITION, THE SECRETARY MAY FILE WITH THE COURT AN APPLICATION THAT
18 SEEKS TO DISCHARGE THE APPOINTED RECEIVER AND TO APPOINT THE SECRETARY
19 AS CONSERVATOR, REHABILITATOR, OR RECEIVER OR TO APPOINT ANOTHER
20 RECEIVER.

21 (2) IF THE SECRETARY ESTABLISHES BY A PREPONDERANCE OF THE
22 EVIDENCE THAT GROUNDS EXIST FOR DISCHARGE OF AN APPOINTED RECEIVER, THE
23 COURT SHALL GRANT THE APPLICATION OF THE SECRETARY TO DISCHARGE THE
24 APPOINTED RECEIVER AND TO APPOINT THE SECRETARY AS CONSERVATOR,
25 REHABILITATOR, OR RECEIVER OR TO APPOINT ANOTHER RECEIVER.

26 REVISOR'S NOTE: This section formerly was Art. 70B, § 20-I.

27 The only changes are in style.

28 Defined terms: "Person" §§ 1-101, 10-401

29 "Provider" § 10-401

30 "Receiver" § 10-472

31 "Secretary" § 10-101

32 10-482. NOTICE TO SUBSCRIBERS OF DELINQUENCY PROCEEDING.

33 WITHIN 15 DAYS AFTER APPOINTMENT AS RECEIVER OR CONSERVATOR FOR A
34 PROVIDER AGAINST WHICH A DELINQUENCY PROCEEDING HAS BEEN COMMENCED,
35 THE RECEIVER OR CONSERVATOR SHALL NOTIFY EACH SUBSCRIBER OF THE
36 PROVIDER, BY LETTER OR OTHER MEANS APPROVED BY THE COURT, OF THE
37 COMMENCEMENT OF THE DELINQUENCY PROCEEDING AND OF THE POSSIBILITY
38 THAT THE CONTINUING CARE AGREEMENT OF THE SUBSCRIBER MAY BE CANCELED.

1 REVISOR'S NOTE: This section formerly was Art. 70B, § 20J.

2 The only changes are in style.

3 Defined terms: "Continuing care agreement" § 10-401

4 "Delinquency proceeding" § 10-472

5 "Provider" § 10-401

6 "Receiver" § 10-472

7 "Subscriber" § 10-401

8 10-483. APPEALS TO COURT OF SPECIAL APPEALS.

9 AN APPEAL MAY BE TAKEN TO THE COURT OF SPECIAL APPEALS FROM:

10 (1) AN ORDER THAT GRANTS OR REFUSES REHABILITATION,
11 LIQUIDATION, OR CONSERVATION; AND

12 (2) ANY OTHER ORDER IN A DELINQUENCY PROCEEDING THAT HAS THE
13 CHARACTER OF A FINAL ORDER AS TO THE PARTICULAR PART OF THE DELINQUENCY
14 PROCEEDING COVERED BY THE ORDER.

15 REVISOR'S NOTE: This section formerly was Art. 70B, § 20K.

16 No changes are made.

17 Defined term: "Delinquency proceeding" § 10-472

18 10-484. LOANS AND PLEDGES OF ASSETS.

19 (A) IN GENERAL.

20 TO FACILITATE THE REHABILITATION, LIQUIDATION, CONSERVATION, OR
21 DISSOLUTION OF A PROVIDER UNDER THIS SUBTITLE, THE SECRETARY, SUBJECT TO
22 THE APPROVAL OF THE COURT, MAY:

23 (1) BORROW MONEY;

24 (2) EXECUTE, ACKNOWLEDGE, AND DELIVER NOTES OR OTHER
25 EVIDENCES OF INDEBTEDNESS FOR THE LOAN;

26 (3) SECURE THE REPAYMENT OF THE LOAN BY THE MORTGAGE,
27 PLEDGE, ASSIGNMENT, OR TRANSFER IN TRUST OF ALL OR PART OF THE PROPERTY
28 OF THE PROVIDER; AND

29 (4) TAKE ANY OTHER ACTION NECESSARY AND PROPER TO
30 CONSUMMATE THE LOAN AND TO PROVIDE FOR ITS REPAYMENT.

31 (B) OBLIGATION OF SECRETARY.

32 THE SECRETARY IS NOT OBLIGATED PERSONALLY OR IN AN OFFICIAL
33 CAPACITY TO REPAY A LOAN MADE UNDER THIS SECTION.

1 REVISOR'S NOTE: This section formerly was Art. 70B, § 20L.

2 The only changes are in style.

3 Defined terms: "Provider" § 10-401
4 "Secretary" § 10-101

5 10-485. ADMINISTRATION OF ASSETS.

6 (A) IN GENERAL.

7 WHENEVER UNDER THIS SUBTITLE A RECEIVER IS TO BE APPOINTED IN A
8 DELINQUENCY PROCEEDING FOR A PROVIDER, THE COURT SHALL:

9 (1) APPOINT THE SECRETARY AS RECEIVER; AND

10 (2) ORDER THE SECRETARY PROMPTLY TO TAKE POSSESSION OF THE
11 ASSETS OF THE PROVIDER AND TO ADMINISTER THE ASSETS UNDER THE ORDERS OF
12 THE COURT.

13 (B) TITLE TO ASSETS.

14 BEGINNING ON THE DATE OF ISSUANCE OF AN ORDER THAT DIRECTS THE
15 SECRETARY TO REHABILITATE OR LIQUIDATE A PROVIDER, THE SECRETARY AS
16 RECEIVER IS VESTED BY OPERATION OF LAW WITH TITLE TO AND MAY TAKE
17 POSSESSION OF ALL OF THE PROPERTY, CONTRACTS, RIGHTS OF ACTION, BOOKS,
18 AND RECORDS OF THE PROVIDER, WHEREVER LOCATED.

19 (C) EFFECT OF FILING ORDER.

20 THE FILING OF THE ORDER THAT DIRECTS POSSESSION TO BE TAKEN, OR A
21 CERTIFIED COPY OF THE ORDER, IN AN OFFICE WHERE INSTRUMENTS AFFECTING
22 TITLE TO PROPERTY ARE REQUIRED TO BE FILED PROVIDES THE SAME NOTICE AS
23 WOULD BE PROVIDED BY A DEED, BILL OF SALE, OR OTHER EVIDENCE OF TITLE
24 THAT IS SO FILED.

25 (D) DUTIES OF SECRETARY AS RECEIVER.

26 (1) THE SECRETARY AS RECEIVER SHALL ADMINISTER PROPERLY ALL
27 ASSETS THAT COME INTO THE POSSESSION OR CONTROL OF THE SECRETARY.

28 (2) IF CONSIDERED DESIRABLE TO PROTECT THE ASSETS, THE COURT
29 AT ANY TIME MAY REQUIRE A BOND FROM THE SECRETARY OR DEPUTY SECRETARY.

30 (3) ON TAKING POSSESSION OF THE ASSETS OF A PROVIDER AND
31 SUBJECT TO THE DIRECTION OF THE COURT, THE SECRETARY IMMEDIATELY SHALL:

32 (I) CONDUCT THE BUSINESS OF THE PROVIDER; OR

1 (II) TAKE ACTION AUTHORIZED BY THIS SUBTITLE TO
2 REHABILITATE, LIQUIDATE, OR CONSERVE THE AFFAIRS OR ASSETS OF THE
3 PROVIDER.

4 REVISOR'S NOTE: This section formerly was Art. 70B, § 20M.

5 In subsection (d)(3)(i) of this section, the former reference to a "domestic"
6 provider is deleted as inapplicable to continuing care providers.

7 The only other changes are in style.

8 Defined terms: "Delinquency proceeding" § 10-472

9 "Provider" § 10-401

10 "Receiver" § 10-472

11 "Secretary" § 10-101

12 10-486. ATTACHMENT OR GARNISHMENT OF ASSETS.

13 (A) IN GENERAL.

14 DURING PENDENCY OF A DELINQUENCY PROCEEDING FOR A PROVIDER, AN
15 ATTACHMENT, GARNISHMENT, EXECUTION, OR SIMILAR ACTION OR PROCEEDING
16 MAY NOT BE COMMENCED OR MAINTAINED IN A COURT OF THIS STATE AGAINST THE
17 PROVIDER OR ITS ASSETS.

18 (B) EFFECT ON RIGHTS IN DELINQUENCY PROCEEDING.

19 A LIEN OBTAINED OR AN ACTION OR PROCEEDING PROHIBITED BY SUBSECTION
20 (A) OF THIS SECTION IS VOID AS AGAINST ANY RIGHTS ARISING IN THE
21 DELINQUENCY PROCEEDING, IF THE LIEN WAS OBTAINED OR THE ACTION OR
22 PROCEEDING COMMENCED WITHIN 4 MONTHS BEFORE OR AT ANY TIME AFTER
23 COMMENCEMENT OF A DELINQUENCY PROCEEDING.

24 REVISOR'S NOTE: This section formerly was Art. 70B, § 20N.

25 The only changes are in style.

26 Defined terms: "Delinquency proceeding" § 10-472

27 "Provider" § 10-401

28 10-487. VOIDABLE TRANSFERS.

29 (A) IN GENERAL.

30 A TRANSFER OF OR LIEN ON THE PROPERTY OF A PROVIDER IS VOIDABLE IF
31 THE TRANSFER OR LIEN IS:

32 (1) MADE OR CREATED WITHIN 4 MONTHS BEFORE THE ISSUANCE OF A
33 SHOW CAUSE ORDER UNDER THIS SUBTITLE;

1 (2) MADE OR CREATED WITH THE INTENT TO GIVE A CREDITOR A
 2 PREFERENCE OR TO ENABLE THE CREDITOR TO OBTAIN A GREATER PERCENTAGE OF
 3 THE DEBT THAN ANOTHER CREDITOR OF THE SAME CLASS; AND

4 (3) ACCEPTED BY THE CREDITOR HAVING REASONABLE CAUSE TO
 5 BELIEVE THAT THE PREFERENCE WILL OCCUR.

6 (B) PERSONAL LIABILITY.

7 EACH DIRECTOR, OFFICER, EMPLOYEE, STOCKHOLDER, MEMBER, SUBSCRIBER,
 8 AND ANY OTHER PERSON ACTING ON BEHALF OF A PROVIDER THAT IS CONCERNED
 9 IN A VOIDABLE TRANSFER UNDER SUBSECTION (A) OF THIS SECTION AND EACH
 10 PERSON THAT, AS A RESULT OF THE VOIDABLE TRANSFER, RECEIVES ANY PROPERTY
 11 OF THE PROVIDER OR BENEFITS FROM THE VOIDABLE TRANSFER:

12 (1) IS PERSONALLY LIABLE; AND

13 (2) SHALL ACCOUNT TO THE SECRETARY.

14 (C) OTHER TRANSFERS.

15 THE SECRETARY AS RECEIVER IN A DELINQUENCY PROCEEDING MAY:

16 (1) AVOID A TRANSFER OF OR LIEN ON THE PROPERTY OF A PROVIDER
 17 THAT A CREDITOR, STOCKHOLDER, SUBSCRIBER, OR MEMBER OF THE PROVIDER
 18 MIGHT HAVE AVOIDED; AND

19 (2) RECOVER THE TRANSFERRED PROPERTY OR ITS VALUE FROM THE
 20 PERSON THAT RECEIVED IT UNLESS THAT PERSON WAS A BONA FIDE HOLDER FOR
 21 VALUE BEFORE THE DATE OF ISSUANCE OF A SHOW CAUSE ORDER UNDER THIS
 22 SUBTITLE.

23 REVISOR'S NOTE: This section formerly was Art. 70B, § 20–O.

24 The only changes are in style.

25 Defined terms: "Creditor" § 10–472

26 "Delinquency proceeding" § 10–472

27 "Person" §§ 1–101, 10–401

28 "Provider" § 10–401

29 "Receiver" § 10–472

30 "Secretary" § 10–101

31 "Subscriber" § 10–401

32 10–488. DEPOSITS.

33 (A) IN GENERAL.

34 (1) THE SECRETARY SHALL DEPOSIT MONEYS COLLECTED IN A
 35 DELINQUENCY PROCEEDING IN A STATE OR NATIONAL BANK, SAVINGS BANK, OR
 36 TRUST COMPANY.

1 (2) DEPOSITS MADE BY THE SECRETARY UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION HAVE PRIORITY OF PAYMENT EQUAL TO ANY OTHER PRIORITY
3 SPECIFIED BY THE BANKING LAWS OF THIS STATE IF THE DEPOSITORY:

4 (I) IS AN INSTITUTION ORGANIZED AND SUPERVISED UNDER THE
5 LAWS OF THIS STATE; AND

6 (II) BECOMES INSOLVENT OR LIQUIDATES VOLUNTARILY OR
7 INVOLUNTARILY.

8 (3) THE SECRETARY MAY DEPOSIT ALL OR PART OF THE MONEYS
9 COLLECTED IN A NATIONAL BANK OR TRUST COMPANY AS A TRUST FUND.

10 (B) SAVINGS AND LOAN OR BUILDING AND LOAN ASSOCIATION.

11 TO THE EXTENT THAT AN INVESTMENT OR ACCOUNT IS INSURED BY THE
12 FEDERAL DEPOSIT INSURANCE CORPORATION, THE SECRETARY MAY INVEST IN
13 SHARES OF OR DEPOSITS IN A SAVINGS AND LOAN ASSOCIATION OR BUILDING AND
14 LOAN ASSOCIATION.

15 REVISOR'S NOTE: This section formerly was Art. 70B, § 20P.

16 No changes are made.

17 Defined terms: "Delinquency proceeding" § 10-472
18 "Secretary" § 10-101

19 10-489. PROCEDURES FOR FILING CLAIMS.

20 (A) AFTER ORDER THAT PROVIDER IS IMPAIRED.

21 (1) IF ON ISSUANCE OF AN ORDER OF LIQUIDATION UNDER THIS
22 SUBTITLE OR AT ANY TIME DURING A LIQUIDATION PROCEEDING THE PROVIDER IS
23 NOT CLEARLY SOLVENT, THE COURT, AFTER NOTICE IT CONSIDERS PROPER AND A
24 HEARING, SHALL ISSUE AN ORDER THAT THE PROVIDER IS AN IMPAIRED PROVIDER.

25 (2) NOTWITHSTANDING ANY PREVIOUS NOTICE GIVEN TO CREDITORS,
26 AFTER ISSUANCE OF AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
27 SECRETARY SHALL NOTIFY EACH PERSON THAT MAY HAVE A CLAIM AGAINST THE
28 PROVIDER THAT THE CLAIM IS FOREVER BARRED UNLESS THE PERSON FILES THE
29 CLAIM WITH THE SECRETARY AT A PLACE AND WITHIN THE TIME SPECIFIED IN THE
30 NOTICE.

31 (3) THE TIME SPECIFIED IN THE NOTICE:

32 (I) SHALL BE AS SET BY THE COURT FOR FILING CLAIMS; BUT

33 (II) MAY NOT BE LESS THAN 6 MONTHS AFTER ISSUANCE OF THE
34 ORDER THAT THE PROVIDER IS AN IMPAIRED PROVIDER.

1 (4) THE NOTICE SHALL BE GIVEN IN THE MANNER AND FOR THE
2 REASONABLE PERIOD OF TIME THAT THE COURT ORDERS.

3 (B) FORM AND FILING OF CLAIMS.

4 (1) EACH CLAIMANT SHALL SET FORTH IN REASONABLE DETAIL:

5 (I) THE AMOUNT OF THE CLAIM OR THE BASIS ON WHICH THE
6 AMOUNT CAN BE DETERMINED;

7 (II) THE FACTS ON WHICH THE CLAIM IS BASED; AND

8 (III) ANY PRIORITY ASSERTED BY THE CLAIMANT.

9 (2) EACH CLAIM SHALL:

10 (I) BE VERIFIED BY THE AFFIDAVIT OF THE CLAIMANT OR A
11 PERSON AUTHORIZED TO ACT ON BEHALF OF THE CLAIMANT WHO HAS KNOWLEDGE
12 OF THE FACTS; AND

13 (II) BE SUPPORTED BY ANY DOCUMENTS THAT MAY BE MATERIAL
14 TO THE CLAIM.

15 (3) EACH CLAIM SHALL BE FILED WITH THE RECEIVER IN THE STATE ON
16 OR BEFORE THE LAST DATE SPECIFIED UNDER THIS SUBTITLE FOR FILING OF
17 CLAIMS.

18 (C) REPORT AND RECOMMENDATION OF RECEIVER.

19 THE RECEIVER SHALL:

20 (1) REPORT A CLAIM TO THE COURT:

21 (I) WITHIN 10 DAYS AFTER RECEIVING THE CLAIM; OR

22 (II) WITHIN AN ADDITIONAL PERIOD SET BY THE COURT FOR GOOD
23 CAUSE SHOWN; AND

24 (2) RECOMMEND IN THE REPORT ACTION TO BE TAKEN ON THE CLAIM.

25 (D) TIME FOR HEARING; NOTICE.

26 (1) ON RECEIPT OF THE REPORT OF THE RECEIVER, THE COURT SHALL:

27 (I) SET A TIME FOR HEARING THE CLAIM; AND

28 (II) DIRECT THE CLAIMANT OR RECEIVER TO GIVE NOTICE AS THE
29 COURT DETERMINES TO EACH PERSON THAT APPEARS TO THE COURT TO BE
30 INTERESTED IN THE CLAIM.

31 (2) THE NOTICE GIVEN IN ACCORDANCE WITH THIS SUBSECTION SHALL:

1 (I) SPECIFY THE TIME AND PLACE OF THE HEARING; AND

2 (II) STATE CONCISELY:

3 1. THE AMOUNT AND NATURE OF THE CLAIM;

4 2. ANY PRIORITY ASSERTED BY THE CLAIMANT; AND

5 3. THE RECOMMENDATION OF THE RECEIVER ABOUT THE
6 CLAIM.

7 (E) HEARING AND ORDER.

8 (1) AT THE HEARING SPECIFIED UNDER SUBSECTION (D) OF THIS
9 SECTION:

10 (I) EACH PERSON WITH AN INTEREST IN THE CLAIM MAY APPEAR;
11 AND

12 (II) THE COURT SHALL ISSUE AN ORDER IN WHICH THE COURT
13 ALLOWS IN PART, OR DISALLOWS THE CLAIM.

14 (2) AN ORDER UNDER THIS SUBSECTION IS A FINAL ORDER SUBJECT TO
15 APPEAL.

16 REVISOR'S NOTE: This section formerly was Art. 70B, § 20Q.

17 The only changes are in style.

18 Defined terms: "Creditor" § 10-472

19 "Person" §§ 1-101, 10-401

20 "Provider" § 10-401

21 "Receiver" § 10-472

22 "Secretary" § 10-101

23 10-490. PRIORITY OF CLAIMS.

24 (A) "PREFERRED CLAIM" DEFINED.

25 IN THIS SECTION, "PREFERRED CLAIM" MEANS A CLAIM THAT IS GIVEN
26 PRIORITY OF PAYMENT FROM THE GENERAL ASSETS OF A PROVIDER UNDER THE
27 LAWS OF THE STATE OR THE UNITED STATES.

28 (B) COMPENSATION OF OFFICERS OR EMPLOYEES.

29 (1) THE FIRST \$500 OF COMPENSATION OR WAGES OWED TO AN OFFICER
30 OR EMPLOYEE OF A PROVIDER FOR SERVICES RENDERED WITHIN 3 MONTHS BEFORE
31 THE COMMENCEMENT OF A DELINQUENCY PROCEEDING AGAINST THE PROVIDER
32 SHALL BE PAID BEFORE PAYMENT OF ANY OTHER DEBT OR CLAIM.

1 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY
2 MAY PAY THE COMPENSATION REQUIRED TO BE PAID UNDER THIS SUBSECTION AS
3 SOON AS PRACTICABLE AFTER COMMENCEMENT OF THE DELINQUENCY
4 PROCEEDING.

5 (3) AT ALL TIMES, THE SECRETARY SHALL RESERVE FUNDS THAT THE
6 SECRETARY BELIEVES ARE SUFFICIENT FOR EXPENSES OF ADMINISTRATION.

7 (4) THE PRIORITY REQUIRED UNDER THIS SUBSECTION IS INSTEAD OF
8 ANY OTHER SIMILAR PRIORITY THAT MAY BE AUTHORIZED BY LAW AS TO WAGES OR
9 COMPENSATION.

10 (C) CLAIMS BY SUBSCRIBERS.

11 PRIORITY OVER ALL OTHER CLAIMS IN A LIQUIDATION PROCEEDING, OTHER
12 THAN CLAIMS FOR WAGES SPECIFIED IN SUBSECTION (B) OF THIS SECTION,
13 EXPENSES OF ADMINISTRATION, AND TAXES, SHALL BE GIVEN TO CLAIMS BY
14 SUBSCRIBERS THAT ARISE FROM CONTINUING CARE AGREEMENTS WITH THE
15 PROVIDER, INCLUDING CLAIMS TO THE STATUTORY REFUND REQUIRED BY § 10-448
16 OF THIS SUBTITLE.

17 (D) SECURED CLAIMS.

18 (1) THE OWNER OF A SECURED CLAIM AGAINST A PROVIDER FOR WHICH
19 A RECEIVER HAS BEEN APPOINTED IN THIS STATE OR ANOTHER STATE MAY:

20 (I) SURRENDER THE SECURITY AND FILE THE CLAIM AS A
21 GENERAL CREDITOR; OR

22 (II) HAVE THE CLAIM DISCHARGED BY RESORT TO THE SECURITY.

23 (2) IF THE OWNER OF A SECURED CLAIM HAS THE CLAIM DISCHARGED
24 BY RESORT TO THE SECURITY, ANY DEFICIENCY SHALL BE TREATED AS A CLAIM
25 AGAINST THE GENERAL ASSETS OF THE PROVIDER ON THE SAME BASIS AS THE
26 CLAIMS OF UNSECURED CREDITORS.

27 (3) THE AMOUNT OF A DEFICIENCY IS CONCLUSIVE IF ADJUDICATED BY
28 A COURT OF COMPETENT JURISDICTION IN A PROCEEDING IN WHICH THE RECEIVER
29 HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY TO BE HEARD.

30 (4) IF THE AMOUNT OF A DEFICIENCY IS NOT CONCLUSIVE, THE
31 AMOUNT SHALL BE DETERMINED IN A DELINQUENCY PROCEEDING IN THE STATE.

32 REVISOR'S NOTE: This section formerly was Art. 70B, § 20R.

33 The only changes are in style.

34 Defined terms: "Continuing care agreement" § 10-401

35 "Creditor" § 10-472

36 "Delinquency proceeding" § 10-472

1 "General assets" § 10-472
2 "Person" §§ 1-101, 10-401
3 "Provider" § 10-401
4 "Receiver" § 10-472
5 "Secretary" § 10-101
6 "Secured claim" § 10-472
7 "State" § 1-101
8 "Subscriber" § 10-401

9 10-491. DISPOSITION OF CLAIMS.

10 (A) CONTINGENT AND UNLIQUIDATED CLAIMS.

11 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, CONTINGENT
12 AND UNLIQUIDATED CLAIMS MAY NOT SHARE IN A DISTRIBUTION OF THE ASSETS OF
13 A PROVIDER THAT HAS BEEN ADJUDICATED TO BE AN IMPAIRED PROVIDER BY AN
14 ORDER ISSUED UNDER THIS SUBTITLE.

15 (2) IF PROPERLY PRESENTED, A CONTINGENT AND UNLIQUIDATED
16 CLAIM SHALL BE CONSIDERED AND MAY BE ALLOWED TO SHARE IF:

17 (I) THE CLAIM BECOMES ABSOLUTE AGAINST THE PROVIDER ON
18 OR BEFORE THE LAST DAY FOR FILING CLAIMS AGAINST THE ASSETS OF THE
19 PROVIDER; OR

20 (II) THERE IS A SURPLUS AND THE LIQUIDATION IS
21 SUBSEQUENTLY CONDUCTED ON THE BASIS THAT THE PROVIDER IS SOLVENT.

22 (B) CLAIMS OF SECURED CLAIMANTS.

23 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
24 CLAIM OF A PERSON THAT HAS A SECURED CLAIM MAY NOT BE ALLOWED AT A SUM
25 GREATER THAN THE DIFFERENCE BETWEEN:

26 (I) THE VALUE OF THE CLAIM WITHOUT SECURITY; AND

27 (II) THE VALUE OF THE SECURITY ITSELF ON:

28 1. THE DATE OF ISSUANCE OF THE LIQUIDATION ORDER; OR

29 2. ANOTHER DATE SET BY THE COURT FOR DETERMINING
30 RIGHTS AND LIABILITIES AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

31 (2) IF THE CLAIMANT SURRENDERS THE SECURITY TO THE SECRETARY,
32 THE CLAIM SHALL BE ALLOWED IN THE FULL AMOUNT FOR WHICH IT IS VALUED.

33 (C) DATE RIGHTS FIXED ON LIQUIDATION.

34 SUBJECT TO THE PROVISIONS OF THIS SUBTITLE ON THE RIGHTS OF
35 CLAIMANTS HOLDING CONTINGENT CLAIMS, AND UNLESS OTHERWISE DIRECTED BY
36 THE COURT, THE RIGHTS AND LIABILITIES OF A PROVIDER AND CREDITORS,

1 STOCKHOLDERS, MEMBERS, SUBSCRIBERS, AND OTHER PERSONS INTERESTED IN
2 THE ESTATE OF THE PROVIDER ARE FIXED ON THE DATE ON WHICH THE ORDER
3 THAT DIRECTS THE LIQUIDATION OF THE PROVIDER IS FILED IN THE OFFICE OF THE
4 CLERK OF THE COURT THAT ISSUED THE ORDER.

5 REVISOR'S NOTE: This section formerly was Art. 70B, § 20S.

6 The only changes are in style and cross-references.

7 Defined terms: "Creditor" § 10-472

8 "Person" §§ 1-101, 10-401

9 "Provider" § 10-401

10 "Secretary" § 10-101

11 "Secured claim" § 10-472

12 "Subscriber" § 10-401

13 10-492. OFFSETS.

14 (A) REQUIRED.

15 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ALL CASES OF
16 MUTUAL DEBTS AND CREDITS BETWEEN A PROVIDER AND ANOTHER PERSON IN
17 CONNECTION WITH A DELINQUENCY PROCEEDING, THE DEBTS AND CREDITS SHALL
18 BE OFFSET AND THE BALANCE ONLY SHALL BE ALLOWED OR PAID.

19 (B) EXCEPTION.

20 AN OFFSET MAY NOT BE ALLOWED IN FAVOR OF ANOTHER PERSON IF:

21 (1) ON THE DATE OF ISSUANCE OF A LIQUIDATION ORDER OR
22 OTHERWISE, AS SPECIFIED IN § 10-491(C) OF THIS SUBTITLE, THE OBLIGATION OF
23 THE PROVIDER TO THE PERSON WOULD NOT ENTITLE THE PERSON TO SHARE AS A
24 CLAIMANT IN THE ASSETS OF THE PROVIDER; OR

25 (2) THE OBLIGATION OF THE PROVIDER TO THE PERSON WAS
26 PURCHASED BY OR TRANSFERRED TO THE PERSON FOR USE AS AN OFFSET.

27 REVISOR'S NOTE: This section formerly was Art. 70B, § 20T.

28 The only changes are in style.

29 Defined terms: "Delinquency proceeding" § 10-472

30 "Person" §§ 1-101, 10-401

31 "Provider" § 10-401

32 10-493. BANKRUPTCY OR RECEIVERSHIP.

33 IF A PROVIDER IS THE SUBJECT OF A BANKRUPTCY OR RECEIVERSHIP ACTION,
34 THE CLAIMS OF SUBSCRIBERS SHALL BE ADMINISTERED IN ACCORDANCE WITH §
35 10-490(C) OF THIS SUBTITLE FOR THE PURPOSE OF ANY LEGAL ACTION IN
36 CONJUNCTION WITH THE BANKRUPTCY OR RECEIVERSHIP.

1 REVISOR'S NOTE: This section formerly was Art. 70B, § 21.

2 The only changes are in cross-references.

3 Defined terms: "Provider" § 10-401

4 "Subscriber" § 10-401

5 10-494. RESERVED.

6 10-495. RESERVED.

7 PART IX. PROHIBITED ACTS; PENALTIES; REMEDIES.

8 10-496. PROHIBITED ACTS; PENALTIES.

9 (A) MAINTENANCE OR OPERATION OF FACILITY WITHOUT CERTIFICATE OF
10 REGISTRATION.

11 A PERSON MAY NOT MAINTAIN OR OPERATE A FACILITY OFFERING
12 CONTINUING CARE WITHOUT HAVING OBTAINED AN INITIAL OR RENEWAL
13 CERTIFICATE OF REGISTRATION.

14 (B) PROHIBITED ADVERTISING.

15 A PERSON MAY NOT DISSEMINATE PROHIBITED ADVERTISING OR
16 PROMOTIONAL MATERIALS.

17 (C) FALSIFIED REGISTRATION INFORMATION.

18 A PERSON MAY NOT PROVIDE FALSE REGISTRATION INFORMATION TO THE
19 DEPARTMENT.

20 (D) PENALTIES.

21 (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS
22 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
23 NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

24 (2) EACH VIOLATION OF THIS SUBTITLE CONSTITUTES A SEPARATE
25 OFFENSE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 70B, § 18.

28 Throughout this section, the former references to an "association, or
29 corporation" are deleted as included in the defined term "person".

30 In subsection (b) of this section, the reference to "promotional materials" is
31 substituted for the former reference to "circulars" for consistency with
32 terminology used in Parts II and VI of this subtitle.

1 Defined terms: "Continuing care" § 10-401

2 "Department" § 10-101

3 "Facility" § 10-401

4 "Person" §§ 1-101, 10-401

5 10-497. CIVIL MONEY PENALTIES.

6 (A) AUTHORITY OF SECRETARY.

7 THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY AGAINST A PROVIDER
8 FOR AN ACTION OR INACTION THAT VIOLATES THIS SUBTITLE OR ANY REGULATION
9 ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE.

10 (B) NOTICE OF VIOLATION.

11 (1) BEFORE IMPOSING A CIVIL MONEY PENALTY UNDER SUBSECTION (A)
12 OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A NOTICE OF VIOLATION TO THE
13 PROVIDER.

14 (2) THE NOTICE SHALL STATE:

15 (I) WHEN THE PROVIDER MUST SUBMIT A PLAN OF CORRECTION
16 THAT IS ACCEPTABLE TO THE DEPARTMENT;

17 (II) WHEN EACH IDENTIFIED VIOLATION MUST BE SUBSTANTIALLY
18 CORRECTED, WHICH MAY NOT BE LESS THAN 30 DAYS; AND

19 (III) THAT FAILURE TO SUBMIT AN ACCEPTABLE PLAN OF
20 CORRECTION AS REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH OR TO CORRECT AN
21 IDENTIFIED VIOLATION MAY RESULT IN AN ORDER IMPOSING A CIVIL MONEY
22 PENALTY UNDER SUBSECTION (D) OF THIS SECTION.

23 (C) EFFECT OF FAILURE TO CORRECT VIOLATION.

24 IF AT THE EXPIRATION OF THE TIME SET FORTH IN THE NOTICE REQUIRED
25 UNDER SUBSECTION (B) OF THIS SECTION THE DEPARTMENT DETERMINES A
26 VIOLATION HAS NOT BEEN CORRECTED, THE SECRETARY MAY:

27 (1) EXTEND THE TIME IN WHICH THE VIOLATION MUST BE CORRECTED;
28 OR

29 (2) IMPOSE A CIVIL MONEY PENALTY UNDER SUBSECTION (D) OF THIS
30 SECTION.

31 (D) CIVIL MONEY PENALTY.

32 (1) THE SECRETARY MAY IMPOSE A CIVIL MONEY PENALTY NOT
33 EXCEEDING \$5,000 FOR EACH VIOLATION.

34 (2) IN SETTING THE AMOUNT OF A CIVIL MONEY PENALTY UNDER THIS
35 SECTION, THE SECRETARY SHALL CONSIDER THE FOLLOWING FACTORS:

1 (I) THE NUMBER, NATURE, AND SERIOUSNESS OF THE
2 VIOLATIONS;

3 (II) THE DEGREE OF RISK TO THE HEALTH, LIFE, OR PHYSICAL OR
4 FINANCIAL SAFETY OF THE SUBSCRIBERS CAUSED BY THE VIOLATIONS;

5 (III) THE EFFORTS MADE BY THE PROVIDER TO CORRECT THE
6 VIOLATIONS;

7 (IV) WHETHER THE AMOUNT OF THE PROPOSED CIVIL MONEY
8 PENALTY WILL JEOPARDIZE THE FINANCIAL ABILITY OF THE PROVIDER TO
9 CONTINUE OPERATING; AND

10 (V) OTHER FACTORS AS JUSTICE MAY REQUIRE.

11 (3) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE
12 DEPARTMENT SHALL ISSUE AN ORDER STATING:

13 (I) THE BASIS ON WHICH THE ORDER IS MADE;

14 (II) EACH REGULATION OR STATUTE VIOLATED;

15 (III) EACH CIVIL MONEY PENALTY IMPOSED AND THE TOTAL
16 AMOUNT OF THE CIVIL MONEY PENALTY IMPOSED; AND

17 (IV) THE MANNER IN WHICH THE AMOUNT OF THE CIVIL MONEY
18 PENALTY WAS CALCULATED.

19 (4) (I) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO A
20 PROVIDER OF THE IMPOSITION OF A CIVIL MONEY PENALTY.

21 (II) THE NOTICE SHALL BE SERVED ON THE PROVIDER BY
22 CERTIFIED MAIL AND SHALL INCLUDE THE ORDER AND A STATEMENT ON HOW TO
23 FILE AN ADMINISTRATIVE APPEAL.

24 (5) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE
25 PROVIDER HAS THE RIGHT TO APPEAL FROM THE ORDER IN ACCORDANCE WITH
26 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

27 (E) PAYMENT OF CIVIL MONEY PENALTY.

28 (1) A PROVIDER SHALL PAY A CIVIL MONEY PENALTY TO THE
29 DEPARTMENT WITHIN 10 DAYS AFTER THE PROVIDER RECEIVES A FINAL ORDER
30 IMPOSING THE CIVIL MONEY PENALTY.

31 (2) AN ORDER IMPOSING A CIVIL MONEY PENALTY IS FINAL WHEN THE
32 PROVIDER HAS EXHAUSTED ALL OPPORTUNITIES TO CONTEST THE CIVIL PENALTY
33 IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

34 (3) IF A PROVIDER DOES NOT COMPLY WITH THIS SECTION, THE
35 DEPARTMENT MAY FILE A CIVIL ACTION TO RECOVER THE PENALTY.

1 (4) THE DEPARTMENT SHALL DEPOSIT ALL CIVIL MONEY PENALTIES
2 COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 70B, § 18A.

5 The Human Services Article Review Committee suggests that the General
6 Assembly may wish to clarify when the 30-day period for correcting
7 violations under subsection (b)(2)(ii) of this section begins to run.

8 In subsection (b)(2)(iii) of this section, the reference to "item (i) of this
9 paragraph" is substituted for the former reference to "item (1) of this
10 subsection" for accuracy.

11 In the introductory language of subsection (c) of this section, the reference
12 to "the notice required under" subsection (b) is added for accuracy.

13 Also in the introductory language of subsection (c) of this section, the
14 reference to "subsection (b)" is substituted for the former reference to
15 "subsection (b)(2)" for accuracy.

16 In subsection (c)(1) of this section, the former reference to the time "frame"
17 is deleted as surplusage.

18 In the introductory language of subsection (d)(2) of this section, the
19 reference to the "Secretary" is substituted for the former reference to the
20 "Department" for consistency with subsection (d)(1) of this section.

21 In subsection (d)(5) of this section, the former reference to the
22 "Administrative Procedure Act" is deleted as unnecessary in light of the
23 more specific reference to "Title 10, Subtitle 2 of the State Government
24 Article". Similarly, in subsection (e)(2) of this section, the reference to
25 "Title 10, Subtitle 2 of the State Government Article" is substituted for the
26 former reference to the "Administrative Procedure Act" to state explicitly
27 the law governing review of the Department's decisions.

28 Defined terms: "Department" § 10-101

29 "Provider" § 10-401

30 "Secretary" § 10-101

31 "Subscriber" § 10-401

32 10-498. ACTIONS FOR EQUITABLE RELIEF OR DAMAGES.

33 (A) STANDING OF SUBSCRIBER.

34 (1) ANY SUBSCRIBER INJURED BY A VIOLATION OF THIS SUBTITLE MAY
35 BRING AN ACTION FOR EQUITABLE RELIEF OR AN ACTION FOR DAMAGES IN ANY
36 COURT OF GENERAL JURISDICTION.

1 (2) IN AN ACTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION,
2 THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A SUBSCRIBER IN
3 WHOSE FAVOR A JUDGMENT IS ENTERED.

4 (B) AUTHORITY OF DEPARTMENT.

5 THE DEPARTMENT MAY BRING AN ACTION FOR AN APPROPRIATE TEMPORARY
6 RESTRAINING ORDER OR INJUNCTION FOR A VIOLATION OF THIS SUBTITLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 70B, §§ 19 and 20(a).

9 In subsection (a)(1) of this section, the former reference to an "appropriate"
10 action is deleted as surplusage.

11 Also in subsection (a)(1) of this section, the former reference to an action
12 for "the recovery of" damages is deleted as surplusage.

13 Defined terms: "Department" § 10-101
14 "Subscriber" § 10-401

15 10-499. RECEIVERSHIP.

16 (A) IN GENERAL.

17 THE DEPARTMENT MAY USE THE RECEIVERSHIP PROVISIONS OF PART VIII OF
18 THIS SUBTITLE TO PROTECT THE INTERESTS OF SUBSCRIBERS IN:

19 (1) THE SUBSTANTIAL ADVANCE PAYMENTS SUBSCRIBERS HAVE MADE
20 IN THE FORM OF ENTRANCE FEES AND, WHEN APPLICABLE, PERIODIC FEES, FOR
21 FUTURE CONTINUING CARE WITHOUT NECESSARILY HAVING ANY OWNERSHIP IN OR
22 CONTROL OF THE PROVIDER OR THE FACILITY;

23 (2) THE INSURANCE ASPECTS OF CONTINUING CARE AGREEMENTS, AS
24 APPLICABLE; AND

25 (3) THE CONTINUED DELIVERY OF SERVICES COMMITTED TO UNDER
26 CONTINUING CARE AGREEMENTS.

27 (B) PETITION FOR APPOINTMENT OF RECEIVER.

28 THE DEPARTMENT MAY PETITION FOR THE APPOINTMENT OF A RECEIVER:

29 (1) IF THERE IS A THREAT OF IMMEDIATE CLOSURE OF A FACILITY;

30 (2) IF THE PROVIDER IS NOT HONORING ITS CONTRACTS WITH ITS
31 SUBSCRIBERS;

32 (3) TO PROHIBIT THE IMPROPER DIVERSION OF THE PROVIDER'S ASSETS
33 AND RECORDS FROM THE FACILITY OR THE STATE; OR

1 (4) IF THE DEPARTMENT HAS MADE A DETERMINATION OF A
 2 SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE WITH §§ 10-467 AND
 3 10-469 OF THIS SUBTITLE.

4 (C) TIMING OF PETITION.

5 THE DEPARTMENT MAY PETITION FOR THE APPOINTMENT OF A RECEIVER
 6 BEFORE THE PROVIDER FILES A PLAN OF CORRECTION.

7 (D) POWER OF RECEIVER.

8 THE RECEIVER MAY REHABILITATE, CONSERVE, OR LIQUIDATE AS PROVIDED
 9 BY THE ORDER OF APPOINTMENT AND PART VIII OF THIS SUBTITLE.

10 REVISOR'S NOTE: This section is new language derived without substantive
 11 change from former Art. 70B, § 20(b), (c), (d), and (e).

12 In the introductory language of subsection (a) of this section, the reference
 13 to the receivership provisions of "Part VIII of" this subtitle is added for
 14 clarity.

15 In subsection (c) of this section, the reference to "petition[ing]" for the
 16 appointment of a receiver is substituted for the former reference to
 17 "pursu[ing]" the appointment of a receiver for consistency with subsection
 18 (b) of this section.

19 Defined terms: "Continuing care" § 10-401
 20 "Continuing care agreement" § 10-401
 21 "Department" § 10-101
 22 "Entrance fee" § 10-401
 23 "Facility" § 10-401
 24 "Provider" § 10-401
 25 "Receiver" § 10-472
 26 "Subscriber" § 10-401

27 SUBTITLE 5. SENIOR CITIZEN ACTIVITIES CENTERS.

28 PART I. CAPITAL IMPROVEMENT GRANTS PROGRAM.

29 10-501. DEFINITIONS.

30 (A) IN GENERAL.

31 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

32 REVISOR'S NOTE: This subsection is new language derived without
 33 substantive change from former Art. 70B, § 26(a).

34 It is restated in the standard introductory language to a definition section.

1 (B) CAPITAL EQUIPMENT.

2 "CAPITAL EQUIPMENT" MEANS ESSENTIAL FIXED EQUIPMENT AND
3 FURNISHINGS WITH AN EXPECTED USEFUL LIFE OF AT LEAST 15 YEARS.

4 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 26(c).

5 The only changes are in style.

6 (C) COST.

7 (1) "COST" MEANS ALL EXPENSES INCIDENT TO THE CONSTRUCTION,
8 ACQUISITION, CONVERSION, RENOVATION, OR IMPROVEMENT OF A PROJECT.

9 (2) "COST" INCLUDES:

10 (I) THE COST TO ACQUIRE ANY INTEREST IN REAL OR PERSONAL
11 PROPERTY IN CONNECTION WITH A PROJECT;

12 (II) THE COST OF FINANCIAL, TECHNICAL, PROFESSIONAL,
13 ENGINEERING, AND LEGAL SERVICES IN CONNECTION WITH A PROJECT WHETHER
14 THE EXPENSES ARE INCURRED BEFORE OR AFTER ANY BOND, NOTE, OR OTHER
15 EVIDENCE OF INDEBTEDNESS OR OBLIGATION IS ISSUED BY THE STATE TO FINANCE
16 THE PROJECT;

17 (III) THE COST OF DEVELOPMENT OF A SENIOR CITIZEN ACTIVITIES
18 CENTER MASTER PLAN; AND

19 (IV) THE COST OF PLANS, SPECIFICATIONS, SURVEYS, ESTIMATES
20 OF COSTS AND REVENUES, FEASIBILITY OR PRACTICABILITY REPORTS, MACHINERY,
21 EQUIPMENT, AND ADMINISTRATIVE EXPENSES, AND OTHER EXPENSES THAT ARE
22 NECESSARY AND INCIDENT TO THE FINANCING AUTHORIZED FOR THE PROJECT.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 70B, § 26(b) and (d).

25 The former defined term "[b]ond" in former Art. 70B, § 26(b) was only used
26 in the former definition of "[c]ost" in former Art. 70B, § 26(d). The
27 substance of former § 26(b) is incorporated into the revised definition of
28 "[c]ost" in this subsection.

29 In paragraph (1) of this subsection, the reference to cost "means" is
30 substituted for the former reference to cost "includes" as this definition is
31 intended to be exhaustive in nature, not merely illustrative.

32 Also in paragraph (1) of this subsection, the former reference to "as applied
33 to any project" is deleted as unnecessary in light of the reference to the
34 "expenses incident to ... a project".

35 Also in paragraph (1) of this subsection, the former reference to the "cost
36 of" is deleted as redundant.

1 Also in paragraph (1) of this subsection, the former reference to a project
 2 for “use as a senior citizen activities center” is deleted as redundant in
 3 light of the definition of “project”.

4 In the introductory language of paragraph (2) of this subsection, the former
 5 reference to “expenses” is deleted as included in the reference to “cost”.

6 In paragraph (2)(ii) of this subsection, the phrase “whether the expenses
 7 are incurred before or after any bond ... is issued” is substituted for the
 8 former phrase “as to any obligation or expense that is incurred before the
 9 bonds are issued” for clarity.

10 Also in paragraph (2)(ii) of this subsection, the former reference to the cost
 11 of services “that may be used in the construction, acquisition, conversion,
 12 renovations, or improvement” of a project is deleted as included in the
 13 reference to the cost of services “in connection with” a project. Similarly, in
 14 paragraph (2)(iv) of this subsection, the former reference to expenses that
 15 are necessary and incident to the financing authorized for the
 16 “construction, acquisition, conversion, renovation, or improvement” is
 17 deleted as included in the reference to expenses that are necessary and
 18 incident to the financing authorized for the “project”.

19 Also in paragraph (2)(ii) of this subsection, the former reference to the
 20 State being authorized to issue any bond, note, or other evidence of
 21 indebtedness or obligation “under this article” is deleted for accuracy.
 22 Former Article 70B did not authorize the State to issue bonds, notes, or
 23 other evidence of indebtedness or obligation.

24 Defined terms: “Improvement” § 10–501
 25 “Master plan” § 10–501
 26 “Project” § 10–501

27 (D) GRANT.

28 “GRANT” MEANS A GRANT FROM THE STATE UNDER THE PROGRAM.

29 REVISOR’S NOTE: This subsection is new language derived without
 30 substantive change from former Art. 70B, § 26(f).

31 Defined term: “Program” § 10–501

32 (E) IMPROVEMENT.

33 “IMPROVEMENT” MEANS CONSTRUCTION, REPLACEMENT, EXTENSION, OR
 34 BETTERMENT OF A PROJECT OR REAL PROPERTY.

35 REVISOR’S NOTE: This subsection formerly was Art. 70B, § 26(h).

36 The only changes are in style.

1 Defined term: "Project" § 10-501

2 (F) MASTER PLAN.

3 "MASTER PLAN" MEANS A COMPREHENSIVE PLAN FOR A LOCAL GOVERNMENT'S
4 PROJECTED NEED FOR FUNDS FOR SENIOR CITIZEN ACTIVITIES CENTERS OVER 15
5 YEARS.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 70B, § 26(i).

8 The only changes are in style.

9 Defined term: "Senior citizen activities center" § 10-501

10 (G) PROGRAM.

11 "PROGRAM" MEANS THE SENIOR CITIZEN ACTIVITIES CENTERS CAPITAL
12 IMPROVEMENT GRANTS PROGRAM.

13 REVISOR'S NOTE: This subsection is new language added to avoid the
14 repetition of the full reference to the "Senior Citizen Activities Centers
15 Capital Improvement Grants Program".

16 (H) PROJECT.

17 "PROJECT" MEANS A PROPOSED OR EXISTING SENIOR CITIZEN ACTIVITIES
18 CENTER THAT:

19 (1) RECEIVES OR HAS RECEIVED A GRANT FOR WORK THAT IS ELIGIBLE
20 UNDER THIS PART;

21 (2) IS OPERATED UNDER THE AUTHORITY OF A UNIT OF LOCAL
22 GOVERNMENT; AND

23 (3) IS:

24 (I) WHOLLY OWNED BY THE UNIT OF LOCAL GOVERNMENT; OR

25 (II) LEASED BY A UNIT OF LOCAL GOVERNMENT IF:

26 1. THE LEASE IS FOR A MINIMUM TERM OF 15 YEARS AFTER
27 COMPLETION OF THE PROJECT OR GIVES THE LESSEE THE RIGHT OF PURCHASE;
28 AND

29 2. THE LESSOR CONSENTS TO THE RECORDING OF A NOTICE
30 OF THE RIGHT OF RECOVERY UNDER § 10-506 OF THIS SUBTITLE IN THE LAND
31 RECORDS OF THE COUNTY IN WHICH THE FACILITY IS LOCATED.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 70B, § 26(j) and (l).

1 In item (1) of this subsection, the reference to “work that is eligible under
2 this part” is substituted for the former reference to “eligible work” for
3 clarity.

4 In item (2) of this subsection and throughout this subtitle, the term “unit”
5 is substituted for the former term “agency”. The term “unit” is used as the
6 general term for an entity in the government because it is inclusive enough
7 to include all those entities.

8 In item (3)(ii)2 of this subsection, the reference to the “county” is
9 substituted for the former reference to the “political subdivision” because
10 land records are held in each county.

11 The former defined term “wholly owned” is deleted as unnecessary because
12 the substance of the term is included within this subsection.

13 Defined terms: “County” § 1–101
14 “Grant” § 10–501
15 “Senior citizen activities center” § 10–501

16 (I) SENIOR CITIZEN ACTIVITIES CENTER.

17 “SENIOR CITIZEN ACTIVITIES CENTER” MEANS A COMMUNITY OR
18 NEIGHBORHOOD FACILITY IN WHICH A BROAD SPECTRUM OF SERVICES ARE
19 ORGANIZED AND PROVIDED TO INDIVIDUALS AT LEAST 60 YEARS OLD OR THEIR
20 SPOUSES, INCLUDING HEALTH, SOCIAL, NUTRITIONAL, EDUCATIONAL, AND
21 RECREATIONAL SERVICES.

22 REVISOR’S NOTE: This subsection is new language derived without
23 substantive change from former Art. 70B, § 26(e) and (k).

24 The reference to “services” is substituted for the former reference to
25 “programs” for consistency throughout this subsection.

26 The reference to “individuals” is substituted for the former reference to a
27 “person” because only a human being, and not the other entities included
28 in the defined term “person”, may use the described services.

29 The former defined term “elderly citizen” is deleted as unnecessary
30 because the substance of the term is included within this subsection.

31 REVISOR’S NOTE TO SECTION:

32 Former Art. 70B, § 26(g), which defined “[g]rantee” to mean a local
33 government agency, is deleted as unnecessary because only a local
34 government unit may receive a grant under this part.

35 10–502. GRANTS.

36 (A) APPLICATIONS; PURPOSES.

1 A UNIT OF LOCAL GOVERNMENT MAY APPLY TO THE SECRETARY FOR A GRANT
2 FOR THE COST OF:

3 (1) PLANNING, DESIGN, CONSTRUCTION, ACQUISITION, CONVERSION,
4 RENOVATION, OR IMPROVEMENT OF A PROJECT;

5 (2) DEVELOPING A MASTER PLAN;

6 (3) PURCHASING CAPITAL EQUIPMENT FOR A PROJECT;

7 (4) LEASING A PROJECT AS A LESSEE OR LESSOR; OR

8 (5) MAKING A SUBGRANT TO A NONPROFIT ORGANIZATION FOR A
9 PURPOSE DESCRIBED IN ITEM (1), (2), (3), OR (4) OF THIS SUBSECTION.

10 (B) APPROVAL OF APPLICATIONS.

11 IF THE SECRETARY APPROVES AN APPLICATION FOR A GRANT, THE SECRETARY
12 SHALL FILE WITH THE BOARD OF PUBLIC WORKS A REPORT DESCRIBING THE SCOPE
13 OF THE PROJECT AND A RECOMMENDATION THAT THE BOARD MAKE THE
14 REQUESTED FUNDS AVAILABLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 70B, §§ 28 and 27(a) and (b).

17 In subsection (a)(2) of this section, the former references to a
18 "comprehensive" master plan and "projects in a political subdivision" are
19 deleted as unnecessary in light of the definition of "master plan".

20 In subsection (a)(4) of this section, the reference to "leasing a project as a
21 lessee or lessor" derived from former Art. 70B, § 28(5) is included to correct
22 an obvious omission in former Art. 70B, § 27(a).

23 In subsection (b) of this section, the reference to an "application for a
24 grant" is substituted for the former reference to the "project and project
25 plans" for clarity and consistency with the terminology used in subsection
26 (a) of this section.

27 Former Art. 70B, § 28, which authorized a grant to be used to "[c]onvert
28 public buildings or parts of public buildings to senior citizen activities
29 centers", is deleted as unnecessary in light of subsection (a)(1) of this
30 section, which authorizes a grant for the cost of "conversion ... of a project".

31 Defined terms: "Capital equipment" § 10-501

32 "Cost" § 10-501

33 "Grant" § 10-501

34 "Improvement" § 10-501

35 "Master plan" § 10-501

36 "Project" § 10-501

37 "Secretary" § 10-101

1 10-503. USES OF GRANTS.

2 A GRANT MAY BE USED FOR ANY OF THE PURPOSES SPECIFIED IN § 10-502(A) OF
3 THIS SUBTITLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 70B, § 28.

6 The reference to the "purposes specified in § 10-502(a) of this subtitle" is
7 substituted for the former list of specific purposes for brevity.

8 10-504. TERMS AND CONDITIONS; AMOUNT.

9 (A) IN GENERAL.

10 (1) ANY FEDERAL GRANT THAT IS RECEIVED FOR A PROJECT SHALL BE
11 APPLIED FIRST TO THE COST OF THE PROJECT.

12 (2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A STATE
13 GRANT FOR A PROJECT MAY NOT EXCEED THE LESSER OF \$600,000 OR 50% OF THE
14 COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ANY FEDERAL GRANT IS
15 APPLIED.

16 (3) A STATE GRANT TO DEVELOP A MASTER PLAN MAY NOT EXCEED THE
17 LESSER OF \$15,000 OR 50% OF THE COST OF DEVELOPMENT OF THE PLAN.

18 (B) EXCEPTIONS.

19 THE BOARD OF PUBLIC WORKS MAY AUTHORIZE A GRANT FOR A PROJECT THAT
20 EXCEEDS 50% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ANY
21 FEDERAL GRANT IS APPLIED, IF:

22 (1) THE PROJECT INVOLVES THE CONVERSION, ACQUISITION,
23 RENOVATION, CONSTRUCTION, OR IMPROVEMENT OF A BUILDING FOR USE AS A
24 SENIOR CITIZEN ACTIVITIES CENTER;

25 (2) THE VALUE OF REAL PROPERTY AND EXISTING IMPROVEMENTS
26 MADE AVAILABLE BY THE LOCAL GOVERNMENT EQUALS OR EXCEEDS THE AMOUNT
27 OF THE STATE GRANT; AND

28 (3) THE RESIDUAL VALUE OF THE REAL PROPERTY AND EXISTING
29 IMPROVEMENTS MADE AVAILABLE BY THE LOCAL GOVERNMENT EXCEEDS THE SUM
30 OF:

31 (I) ANY PRIOR AMOUNTS USED FOR MATCHING FUNDS UNDER
32 THIS PROGRAM;

33 (II) ANY OUTSTANDING STATE DEBT RELATING TO THE PROPERTY
34 FROM ANOTHER PROGRAM;

35 (III) ANY PRIOR GRANT UNDER THIS PROGRAM; AND

1 (IV) ANY OTHER TANGIBLE STATE INVESTMENT IN THE PROPERTY.

2 (C) CONSIDERATIONS FOR DETERMINING AMOUNT.

3 THE AMOUNT OF A STATE GRANT FOR A PROJECT SHALL BE DETERMINED
4 AFTER CONSIDERATION OF:

5 (1) THE DENSITY OF THE SENIOR POPULATION IN THE AREA AFFECTED
6 BY THE PROJECT;

7 (2) THE PROXIMITY OF THE PROPOSED CENTER TO AN EXISTING SENIOR
8 CITIZEN ACTIVITIES CENTER; AND

9 (3) OTHER LOCALITIES ELIGIBLE FOR STATE FUNDING THAT HAVE NOT
10 RECEIVED PREVIOUS FUNDING UNDER THE PROGRAM OR SIMILAR PROGRAMS.

11 (D) EFFECT OF PRIOR GRANTS.

12 A GRANTEE WHO RECEIVED FUNDS FOR A PROJECT UNDER THIS SUBTITLE OR A
13 PRIOR ACT AUTHORIZING GRANTS FOR SENIOR CITIZEN ACTIVITIES CENTERS MAY
14 RECEIVE ADDITIONAL GRANTS FOR THE PROJECT, BUT ONLY IN AN AMOUNT THAT
15 DOES NOT EXCEED THE DIFFERENCE BETWEEN THE SUM OF ANY PRIOR GRANTS
16 AND THE MAXIMUM FUNDING ALLOWABLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 70B, § 29.

19 In subsection (a) of this section, the former introductory language is
20 deleted as unnecessary.

21 In subsections (a)(1) and (d) of this section, the former references to an
22 "eligible" project are deleted as surplusage.

23 In subsection (a)(3) of this section, the former reference to a
24 "comprehensive" master plan is deleted as included in the definition of
25 "master plan".

26 As to the substitution of the reference to the "senior" population for the
27 former reference to the "elderly" population in subsection (c)(1) of this
28 section, *see* General Revisor's Note to title.

29 In subsection (c)(3) of this section, the reference to the "Program or similar
30 programs" is substituted for the former reference to "this or similar acts"
31 for clarity.

32 In subsection (d) of this section, the former reference to grants "under this
33 subtitle" is deleted as unnecessary in light of the definition of "grant".

34 Defined terms: "Cost" § 10-501

35 "Grant" § 10-501

36 "Improvement" § 10-501

- 1 "Master plan" § 10-501
2 "Program" § 10-501
3 "Project" § 10-501
4 "Senior citizen activities center" § 10-501

5 10-505. INSPECTIONS.

6 AT ANY REASONABLE TIME, A REPRESENTATIVE OF THE DEPARTMENT MAY
7 ENTER A BUILDING OR PLACE FOR WHICH A GRANT WAS AWARDED UNDER THIS
8 PART TO INSPECT ANY PERTINENT EQUIPMENT OR PART OF THE BUILDING OR
9 PLACE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 70B, § 32.

12 The reference to a building or "place" that may be entered is added to be
13 consistent with the reference to the building "or place" that may be
14 inspected.

15 Defined terms: "Department" § 10-101
16 "Grant" § 10-501

17 10-506. RECORDATION; NOTICE.

18 (A) RECORDATION.

19 BEFORE STATE FUNDS ARE PAID UNDER THIS PROGRAM, THE GRANTEE SHALL:

20 (1) RECORD THE NOTICE OF THE STATE'S RIGHT TO RECOVERY IN THE
21 LAND RECORDS OF THE COUNTY IN WHICH THE SENIOR CITIZEN ACTIVITIES CENTER
22 IS OR WILL BE LOCATED; AND

23 (2) PROVIDE EVIDENCE OF THE RECORDATION TO THE DEPARTMENT.

24 (B) NOTICE.

25 THE RECORDATION CONSTITUTES NOTICE TO ANY POTENTIAL TRANSFEREE,
26 POTENTIAL CREDITOR, OR OTHER INTERESTED PARTY OF THE POSSIBILITY THAT
27 THE STATE MAY OBTAIN A LIEN UNDER THIS PART, BUT THE ACT OF RECORDATION
28 DOES NOT CREATE A LIEN AGAINST THE PROPERTY.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 70B, § 30(d).

31 In subsection (a)(1) of this section, the reference to "county" is substituted
32 for the former reference to "jurisdiction" because land records are kept in
33 each county.

34 In subsection (a)(2) of this section, the reference to the "Department" is
35 substituted for the former obsolete reference to the "Office [on Aging]".

1 Defined terms: "County" § 10-101
2 "Program" § 10-501
3 "Senior citizen activities center" § 10-501

4 10-507. RECOVERY OF STATE GRANT FUNDS.

5 (A) CONDITIONS.

6 THE STATE MAY RECOVER STATE GRANT FUNDS IF, WITHIN 15 YEARS AFTER
7 COMPLETION OF A PROJECT:

8 (1) THE PROJECT'S PROPERTY CEASES TO BE OPERATED AS A SENIOR
9 CITIZEN ACTIVITIES CENTER; OR

10 (2) AN INTEREST IN PROPERTY FOR WHICH FUNDS HAVE BEEN PAID
11 UNDER THE PROGRAM IS ASSIGNED, TRANSFERRED, OR CONVEYED:

12 (I) WITHOUT APPROVAL BY THE BOARD OF PUBLIC WORKS; OR

13 (II) FOR USE OTHER THAN AS A SENIOR CITIZEN ACTIVITIES
14 CENTER.

15 (B) AMOUNT.

16 THE STATE IS ENTITLED TO RECOVER THE SUM OF:

17 (1) AN AMOUNT THAT EQUALS THE VALUE OF THE PROJECT PROPERTY
18 AT THE TIME OF THE RECOVERY MULTIPLIED BY A FRACTION:

19 (I) THE NUMERATOR OF WHICH IS THE AMOUNT OF THE STATE
20 FUNDS FOR THE PROJECT; AND

21 (II) THE DENOMINATOR OF WHICH IS THE TOTAL COST OF ALL
22 ELIGIBLE WORK FOR THE PROJECT; AND

23 (2) COSTS, INCLUDING REASONABLE ATTORNEYS' FEES THAT THE
24 STATE INCURS IN RECOVERY PROCEEDINGS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 70B, § 30(a), (b), and (c).

27 In the introductory language of subsection (a) of this section, the former
28 phrase "[u]nder the conditions of subsection (b) of this section" is deleted as
29 surplusage.

30 In subsection (a)(1) of this section, the reference to the "project's property"
31 is substituted for the former reference to "property with respect to which
32 funds have been paid under this Program" for brevity and clarity.

33 In subsection (a)(2)(i) of this section, the former reference to "any person,
34 agency, or organization which has not been ... as transferee" is deleted for

1 brevity.

2 In subsection (b)(1) of this section, the reference to the value “at the time of
3 recovery” is substituted for the former reference to the “then current” value
4 for clarity.

5 Defined terms: “Cost” § 10–501
6 “Grant” § 10–501
7 “Program” § 10–501
8 “Project” § 10–501
9 “Senior citizen activities center” § 10–501

10 10–508. PROCEDURE FOR RECOVERY; TEMPORARY LIEN.

11 (A) FILING OF CIVIL ACTION.

12 (1) IF A DEFAULT DESCRIBED IN § 10–507(A) OF THIS SUBTITLE IS
13 ALLEGED, THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL
14 ACTION UNDER THIS PART IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE
15 PROPERTY IS LOCATED AGAINST THE OWNER OF THE PROPERTY AND ANY OTHER
16 INTERESTED PARTIES, INCLUDING ANY TRANSFEROR THAT THE STATE WISHES TO
17 MAKE A PARTY.

18 (2) THE INITIAL FILING SHALL INCLUDE SWORN AFFIDAVITS STATING
19 FACTS ON WHICH THE ALLEGATIONS OF DEFAULT ARE BASED AND A DETAILED
20 JUSTIFICATION OF THE AMOUNT CLAIMED.

21 (B) TEMPORARY LIEN — AUTHORIZATION.

22 (1) IF THE COURT DETERMINES FROM THE STATE’S INITIAL FILING
23 THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A DEFAULT DESCRIBED IN §
24 10–507(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT SHALL AUTHORIZE A
25 TEMPORARY LIEN ON THE PROPERTY PENDING FULL DETERMINATION OF THE
26 STATE’S CLAIM.

27 (2) THE TEMPORARY LIEN SHALL BE IN THE AMOUNT OF THE STATE’S
28 CLAIM, PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER
29 THE COSTS AND REASONABLE ATTORNEYS’ FEES INCURRED BY THE STATE, OR
30 ANOTHER AMOUNT THAT THE COURT DETERMINES IS REASONABLE.

31 (C) TEMPORARY LIEN — EFFECTIVE DATE; RIGHTS OF OWNER OR
32 TRANSFEREE.

33 (1) THE TEMPORARY LIEN TAKES EFFECT:

34 (I) ON THE DATE OF THE COURT ORDER AUTHORIZING THE LIEN
35 IF, WITHIN 10 DAYS, THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A
36 NOTICE OF TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY IN WHICH THE
37 PROPERTY IS LOCATED; OR

1 (II) IF THE SECRETARY FAILS TO RECORD THE NOTICE WITHIN 10
2 DAYS, ON THE DATE THE NOTICE OF TEMPORARY LIEN IS RECORDED.

3 (2) WHILE THE TEMPORARY LIEN IS IN EFFECT, THE OWNER OR ANY
4 PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST
5 MADE FUNDS AVAILABLE UNDER THE PROGRAM MAY NOT TAKE AN ACTION THAT
6 WOULD AFFECT THE TITLE TO THE PROPERTY OR INSTITUTE PROCEEDINGS TO
7 ENFORCE A SECURITY INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY,
8 WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE.

9 (D) TEMPORARY LIEN — RELEASE BY BOND.

10 (1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN A
11 RELEASE OF THE TEMPORARY LIEN AT ANY TIME BY FILING WITH THE COURT A
12 BOND SECURING THE PAYMENT IN FULL OF THE AMOUNT DESCRIBED IN
13 SUBSECTION (B)(2) OF THIS SECTION.

14 (2) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE
15 RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE
16 PROPERTY IS LOCATED.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 70B, § 31(a) through (d).

19 Throughout this section, the former references to "Baltimore City" are
20 deleted as unnecessary in light of the definition of "county", which includes
21 the City of Baltimore.

22 In subsection (a)(1) of this section, the reference to "a default described in
23 § 10-507(a) of this subtitle [being] alleged" is substituted for the former
24 reference to an "alleged sale or transfer described in § 30(b)(1) of this
25 subtitle, or in the event that the property is alleged to have ceased to be
26 operated as a senior citizen activities center" for brevity and clarity.

27 Also in subsection (a)(1) of this section, the reference to a "civil action" is
28 substituted for the former reference to a "claim ... styled as a civil action"
29 for brevity.

30 In subsection (b)(1) of this section, the reference to a default "described in
31 § 10-507(a) of this subtitle" is added for clarity.

32 Also in subsection (b)(1) of this section and throughout this part, the
33 former reference to the "circuit" court is deleted as unnecessary in light of
34 subsection (a)(1) of this section, which provides for the filing of an action
35 for recovery in the "circuit" court.

36 In subsection (c)(1)(i) of this section, the reference to the "court order
37 authorizing the lien" is substituted for the former reference to the "court's
38 authorization" for clarity.

1 In subsection (c)(2) of this section, the former phrase “in connection with
2 the property” is deleted as surplusage.

3 In subsection (d)(1) of this section, the reference to the “amount described
4 in subsection (b)(2) of this section” is substituted for the former reference
5 to the “State’s claim and any additional amount necessary to cover the
6 costs and reasonable attorneys’ fees incurred by the State” to avoid the
7 repetition of the specific amounts described in subsection (b)(2) of this
8 section.

9 Defined terms: “County” § 1–101
10 “Program” § 10–501

11 10–509. PRIORITY OF PROCEEDINGS; FINAL JUDGMENT; LIEN.

12 (A) PRIORITY OF PROCEEDINGS.

13 PROCEEDINGS TO DETERMINE THE STATE’S RIGHT TO RECOVER AND THE
14 AMOUNT OF ITS RECOVERY UNDER THE PROGRAM HAVE PRIORITY OVER OTHER
15 CIVIL PROCEEDINGS IN THE CIRCUIT COURT.

16 (B) FINAL JUDGMENT; LIENS.

17 (1) AFTER A FULL ADVERSARY PROCEEDING, IF THE COURT FINDS THAT
18 A DEFAULT DESCRIBED IN § 10–507(A) OF THIS SUBTITLE HAS OCCURRED, THE COURT
19 SHALL ISSUE A FINAL JUDGMENT FOR THE AMOUNT THE COURT FINDS TO BE
20 RECOVERABLE BY THE STATE.

21 (2) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING THE OWNER
22 OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE
23 FOR THE AMOUNT OF THE JUDGMENT.

24 (3) IF THE COURT FINDS THAT A DEFAULT DESCRIBED IN § 10–507(A) OF
25 THIS SUBTITLE HAS NOT OCCURRED OR IF THE COURT’S JUDGMENT IS PAID IN FULL
26 TO THE STATE WITHIN 30 DAYS AFTER THE COURT’S FINAL ORDER, ANY TEMPORARY
27 LIEN SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF
28 PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND
29 RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

30 (4) (I) IF THE JUDGMENT REMAINS UNPAID FOR MORE THAN 30 DAYS
31 AFTER THE COURT’S FINAL ORDER, THE AMOUNT SHALL BE A LIEN ON THE
32 PROPERTY.

33 (II) UNLESS THE STATE PROVIDES OTHERWISE IN A WRITTEN
34 SUBORDINATION AGREEMENT, THE LIEN IS SUPERIOR TO A LIEN OR OTHER
35 INTEREST OF ANY MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT CREDITOR
36 WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER THE STATE
37 AWARDED A GRANT.

38 (C) EFFECTIVE DATE OF LIEN; NOTICE.

1 (1) A LIEN ISSUED UNDER THIS SECTION TAKES EFFECT ON THE LATER
2 OF:

3 (I) THE 31ST DAY AFTER THE COURT'S FINAL ORDER IF THE
4 SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE
5 LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR
6 BEFORE THAT DAY; OR

7 (II) THE DATE A NOTICE OF LIEN IS RECORDED.

8 (2) (I) WHEN THE LIEN TAKES EFFECT, ANY TEMPORARY LIEN IS
9 AUTOMATICALLY AND FULLY RELEASED.

10 (II) THE RECORDED NOTICE OF THE LIEN CONSTITUTES NOTICE OF
11 THE RELEASE OF THE TEMPORARY LIEN.

12 (D) ENFORCEMENT AND FORECLOSURE OF LIEN.

13 A LIEN ISSUED UNDER THIS PART MAY BE ENFORCED AND FORECLOSED IN
14 ACCORDANCE WITH THE MARYLAND RULES, EXCEPT THAT THE STATE OR ANY
15 AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY NEED NOT FILE A BOND.

16 (E) RELEASE OF LIEN.

17 (1) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN
18 RELEASE OF A LIEN ISSUED UNDER THIS PART BY PAYING TO THE STATE THE FULL
19 AMOUNT OF THE JUDGMENT ENTERED BY THE CIRCUIT COURT, AND ANY INTEREST
20 THAT HAS ACCRUED FROM THE DATE OF JUDGMENT.

21 (2) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC
22 WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS OF THE
23 COUNTY IN WHICH THE PROPERTY IS LOCATED.

24 (F) DEPOSIT OF FUNDS RECOVERED.

25 FUNDS RECOVERED UNDER THIS SECTION SHALL BE DEPOSITED IN THE
26 ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE
27 STATE.

28 (G) WAIVER OF RIGHT OF RECOVERY.

29 THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY
30 IF THE BOARD DETERMINES THAT THERE IS GOOD CAUSE FOR RELEASING THE
31 TRANSFEROR, TRANSFEREE, OR OWNER FROM THIS OBLIGATION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 70B, § 31(e) through (l).

34 In subsection (b)(1) and (3) of this section, the references to a default
35 "described in § 10-507(a) of this subtitle" are added for clarity and
36 consistency within this subtitle.

1 In subsection (b)(1) of this section, the former reference to proceedings “on
2 the issue of default and on any disputes over the amount of the State’s
3 recovery” is deleted as implicit in the reference to “full adversary
4 proceedings”.

5 In subsection (b)(2) of this section, the former phrase “in every case” is
6 deleted as surplusage.

7 In subsections (b)(3) and (e)(2) of this section, the references to land
8 records “of the county in which the property is located” are added for
9 clarity.

10 In subsections (b)(3) and (c)(2)(i) of this section, the former references to a
11 temporary lien “then in effect” are deleted as surplusage.

12 In subsection (b)(4)(ii) of this section, the phrase “awarded a grant” is
13 substituted for the former phrase “first made funds available in connection
14 with the property under this Program” for brevity as the substance of the
15 former reference is included in the definition of “grant”.

16 In subsection (c)(1)(i) of this section, the reference to “that day” is
17 substituted for the former reference to the “31st day following the final
18 order” for brevity.

19 Also in subsection (c)(1)(i) of this section, the former reference to
20 “Baltimore City” is deleted as unnecessary in light of the definition of
21 “county”, which includes the City of Baltimore.

22 In subsection (d) of this section, the former reference to the “procedures
23 prescribed” in the Maryland Ruler is deleted for brevity.

24 In subsection (e)(1) of this section, the reference to interest “that has
25 accrued” is added for clarity.

26 Also in subsection (e)(1) of this section, the former phrase “at any time” is
27 deleted as surplusage.

28 In subsection (f) of this section, the reference to funds recovered “under
29 this section” is substituted for the former reference to funds recovered “as
30 a result of this right of recovery” for clarity and brevity.

31 Defined terms: “County” § 1–101

32 “Grant” § 10–501

33 “Person” §§ 1–101, 10–401

34 “Program” § 10–501

35 10–510. REGULATIONS.

36 SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS, THE SECRETARY
37 MAY ADOPT REGULATIONS TO CARRY OUT THIS PART.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 27(c).

3 The former phrase "[b]efore adoption, such regulations shall be" is deleted
4 as surplusage.

5 Defined term: "Secretary" § 10–101

6 10–511. RESERVED.

7 10–512. RESERVED.

8 PART II. SENIOR CITIZEN ACTIVITIES CENTER OPERATING FUND.

9 10–513. DEFINITIONS.

10 (A) IN GENERAL.

11 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 70B, § 33(a).

14 (B) FUND.

15 "FUND" MEANS THE SENIOR CITIZEN ACTIVITIES CENTER OPERATING FUND.

16 REVISOR'S NOTE: This subsection is new language added to avoid the
17 repetition of the full reference to the "Senior Citizen Activities Center
18 Operating Fund".

19 (C) SENIOR CITIZEN ACTIVITIES CENTER.

20 "SENIOR CITIZEN ACTIVITIES CENTER" MEANS A COMMUNITY OR
21 NEIGHBORHOOD FACILITY IN WHICH A BROAD SPECTRUM OF SERVICES ARE
22 ORGANIZED AND PROVIDED TO SENIORS AND THEIR SPOUSES, INCLUDING HEALTH,
23 SOCIAL, NUTRITIONAL, EDUCATIONAL, AND RECREATIONAL SERVICES.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 70B, § 33(c).

26 10–514. ESTABLISHED; USES.

27 (A) ESTABLISHED.

28 THERE IS A SENIOR CITIZEN ACTIVITIES CENTER OPERATING FUND.

29 (B) USES.

1 THE FUND SHALL BE USED TO SUPPLEMENT, BUT MAY NOT BE USED TO
2 SUPPLANT, ANY EXISTING FUNDING FOR SENIOR CITIZEN ACTIVITIES CENTERS IN
3 THE STATE BUDGET.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 70B, § 34(a) and (d).

6 Defined terms: "Fund" § 10-513
7 "Senior citizen activities center" § 10-513

8 10-515. ADMINISTRATION; REGULATIONS.

9 (A) ADMINISTRATION.

10 THE SECRETARY SHALL ADMINISTER THE FUND.

11 (B) REGULATIONS.

12 THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THIS PART.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 70B, § 35(a) and (d).

15 In subsection (b) of this section, the former reference to regulations
16 "necessary" is deleted as surplusage.

17 Defined terms: "Fund" § 10-513
18 "Secretary" § 10-101

19 10-516. COMPOSITION; DISTRIBUTION.

20 (A) CONTINUING; NONLAPSING.

21 THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO §
22 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

23 (B) COMPOSITION.

24 (1) THE FUND CONSISTS OF APPROPRIATIONS THAT ARE MADE TO THE
25 FUND FROM THE STATE BUDGET.

26 (2) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE
27 ANNUAL STATE BUDGET AN APPROPRIATION OF \$500,000 FOR THE FUND.

28 (C) DISTRIBUTION.

29 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MONEY FROM
30 THE FUND SHALL BE DISTRIBUTED TO COUNTIES FOR SENIOR CITIZEN ACTIVITIES
31 CENTERS BASED ON A COMPETITIVE GRANT PROCESS ADMINISTERED BY THE
32 DEPARTMENT.

1 (2) AT LEAST 50% OF THE FUND SHALL BE DISTRIBUTED FOR SENIOR
2 CITIZEN ACTIVITIES CENTERS ON THE BASIS OF NEED, AS DETERMINED BY THE
3 DEPARTMENT, TO COUNTIES:

4 (I) THAT HAVE DEVELOPED AND SUBMITTED A LOCAL STRATEGIC
5 PLAN FOR ECONOMIC DEVELOPMENT THAT HAS BEEN APPROVED BY THE
6 SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT; AND

7 (II) FOR WHICH:

8 1. THE AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST
9 RECENT 18-MONTH PERIOD FOR WHICH DATA IS AVAILABLE IS GREATER THAN 150%
10 OF THE AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE DURING THAT
11 SAME PERIOD; OR

12 2. THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE
13 MOST RECENT 24-MONTH PERIOD FOR WHICH DATA IS AVAILABLE IS EQUAL TO OR
14 LESS THAN 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE ENTIRE
15 STATE DURING THAT SAME PERIOD.

16 (D) INVESTMENTS.

17 THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS
18 OTHER STATE FUNDS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 70B, §§ 33(b), 34(b), (c), and (e), and 35(b) and (c).

21 In subsection (b)(2) of this section, the former reference to the budget "bill
22 submitted to the General Assembly" is deleted as surplusage.

23 In the introductory language of subsection (c)(2) of this section, the former
24 defined term "[q]ualified distressed county" and the former reference to
25 "qualified distressed counties" are deleted as unnecessary because the
26 substance of the definition is revised in subsection (c)(2) of this section.

27 Defined terms: "County" § 1-101

28 "Department" § 10-101

29 "Fund" § 10-513

30 "Senior citizen activities center" § 10-513

31 SUBTITLE 6. INNOVATIONS IN AGING SERVICES PROGRAM.

32 10-601. DEFINITIONS.

33 (A) IN GENERAL.

34 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

SENATE BILL 6

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 70B, § 36(a)(1).

3 (B) COUNCIL.

4 "COUNCIL" MEANS THE INNOVATIONS IN AGING SERVICES ADVISORY COUNCIL.

5 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 36(a)(2).

6 The former reference to the Council "established under this section" is
7 deleted as surplusage.

8 No other changes are made.

9 (C) PROGRAM.

10 "PROGRAM" MEANS THE INNOVATIONS IN AGING SERVICES PROGRAM.

11 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 36(a)(3).

12 The former reference to the Program "established under this section" is
13 deleted as surplusage.

14 No other changes are made.

15 10-602. ESTABLISHED; PURPOSES.

16 (A) ESTABLISHED.

17 THERE IS AN INNOVATIONS IN AGING SERVICES PROGRAM IN THE
18 DEPARTMENT.

19 (B) PURPOSES.

20 THE PURPOSES OF THE PROGRAM ARE TO:

21 (1) PROVIDE COMPETITIVE FUNDING GRANTS TO DESIGN AND TEST
22 INNOVATIVE IDEAS IN PROGRAMS AND SERVICES FOR SENIORS;

23 (2) PUBLICLY DISSEMINATE THE RESULTS OF THE TESTS; AND

24 (3) HELP MEET THE NEED FOR PERSONNEL TRAINED TO PROVIDE
25 SERVICES TO SENIORS IN THE STATE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 70B, § 36(b) and (c).

28 In subsection (b)(1) and (3) of this section, the references to "seniors" and
29 "seniors in the State" are substituted for the former references to "older
30 individuals" and "Maryland's senior population" for consistency with
31 terminology used throughout this title.

1 Defined term: "Program" § 10-601

2 10-603. FUNDING.

3 (A) FUNDING PLAN.

4 (1) WITH THE ADVICE OF THE COUNCIL, THE SECRETARY SHALL:

5 (I) DEVELOP ANNUALLY A PROGRAM PLAN; AND

6 (II) SUBMIT THE PLAN TO THE GOVERNOR AND GENERAL
7 ASSEMBLY FOR APPROVAL AS PART OF THE ANNUAL STATE BUDGET.

8 (2) THE PLAN SHALL SET FORTH PRIORITIES FOR:

9 (I) FUNDING GRANTS FOR INNOVATIVE SERVICES TO SENIORS;

10 AND

11 (II) TRAINING PERSONNEL WHO PROVIDE SERVICES TO SENIORS IN
12 THE STATE.

13 (3) THE PLAN SHALL INCLUDE PROVISIONS FOR EVALUATING ANY
14 PROGRAM FUNDED UNDER THE PLAN.

15 (B) ADDITIONAL FUNDING.

16 THE SECRETARY MAY ACCEPT MONEY FROM ANY PUBLIC OR PRIVATE SOURCE
17 TO FUND GRANTS AWARDED UNDER THIS SUBTITLE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 70B, § 36(e) and (i).

20 In the introductory language of subsection (a)(2) of this section, the former
21 reference to "a series of" priorities is deleted as surplusage.

22 As to the substitution of references to "services to seniors" and "seniors" for
23 the former references to "aging services" and "the elderly" in subsection
24 (a)(2) of this section, *see* General Revisor's Note to title.

25 Defined terms: "Council" § 10-601

26 "Program" § 10-601

27 "Secretary" § 10-101

28 10-604. INNOVATIONS IN AGING SERVICES ADVISORY COUNCIL.

29 (A) ESTABLISHED.

30 THERE IS AN INNOVATIONS IN AGING SERVICES ADVISORY COUNCIL IN THE
31 DEPARTMENT.

32 (B) MEMBERSHIP.

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1 THE COUNCIL CONSISTS OF THE FOLLOWING 14 MEMBERS:

2 (1) THE SECRETARY OF AGING;

3 (2) THE CHAIR OF THE MARYLAND COMMISSION ON AGING OR THE
4 CHAIR'S DESIGNEE;

5 (3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE
6 SECRETARY'S DESIGNEE;

7 (4) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE
8 PRESIDENT OF THE SENATE;

9 (5) ONE MEMBER OF THE MARYLAND HOUSE OF DELEGATES,
10 APPOINTED BY THE SPEAKER; AND

11 (6) THE FOLLOWING NINE MEMBERS APPOINTED BY THE SECRETARY OF
12 AGING:

13 (I) FIVE REPRESENTATIVES OF ORGANIZATIONS PROVIDING
14 SERVICES TO SENIORS;

15 (II) TWO REPRESENTATIVES OF SENIOR CONSUMERS OF SERVICES
16 TO SENIORS;

17 (III) A DIRECTOR OF AN AREA AGENCY; AND

18 (IV) A REPRESENTATIVE OF THE UNIVERSITY OF MARYLAND.

19 (C) CHAIR.

20 THE SECRETARY IS THE CHAIR OF THE COUNCIL.

21 (D) TENURE; VACANCIES.

22 (1) THE TERM OF A MEMBER OF THE COUNCIL IS 4 YEARS.

23 (2) THE TERMS OF THE MEMBERS APPOINTED BY THE SECRETARY ARE
24 STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE
25 COUNCIL ON OCTOBER 1, 2007.

26 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
27 SUCCESSOR IS APPOINTED AND QUALIFIES.

28 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
29 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
30 QUALIFIES.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 70B, § 36(d).

1 In subsection (b)(2) of this section, the reference to the “chair” and the
2 “chair’s” are substituted for the former reference to the “chairman” and the
3 “chairman’s” because SG § 2–1238 requires the use of terms that are
4 gender neutral to the extent possible.

5 In subsection (b)(3) of this section, the former reference to the Secretary of
6 “the Department of” Health and Mental Hygiene is deleted as surplusage.

7 In subsection (b)(4) of this section, the reference to the Senate “of
8 Maryland” is substituted for the former reference to the “State” Senate for
9 accuracy.

10 As to the substitution of the references to “seniors” and “services to
11 seniors” for the former references to “the elderly” and “aging services” in
12 subsection (b)(6)(i) and (ii) of this section, *see* General Revisor’s Note to
13 title.

14 In subsection (d)(2) of this section, the reference to terms being staggered
15 as required by the terms provided for members of the Council on “October
16 1, 2007” is substituted for the former obsolete reference to terms being
17 staggered as required by the “terms in effect ... on October 1, 2001”. This
18 substitution is not intended to alter the term of any member of the Council.
19 *See* § ____ of Ch. ____, Acts of 2007. The terms of the members serving on
20 October 1, 2007, end as follows: (1) two in 2008; (2) three in 2009; (3) two in
21 2010; and (4) two in 2011.

22 Defined terms: “Area agency” § 10–101

23 “Council” § 10–519

24 “Secretary” § 10–101

25 10–605. GRANTS.

26 (A) GRANT PROPOSALS.

27 THE SECRETARY SHALL SOLICIT GRANT PROPOSALS TO IMPLEMENT THE
28 PROGRAM PRIORITIES APPROVED BY THE GOVERNOR AND THE GENERAL ASSEMBLY
29 UNDER § 10–603(A) OF THIS SUBTITLE.

30 (B) AWARDING GRANTS.

31 WITH THE ADVICE OF THE COUNCIL, THE SECRETARY SHALL AWARD GRANTS
32 FUNDED IN ACCORDANCE WITH THE APPROVED PROGRAM PRIORITIES.

33 (C) EVALUATION OF PROGRAMS FUNDED.

34 THE SECRETARY SHALL PROVIDE FOR THE EVALUATION, BY RECOGNIZED
35 AUTHORITIES IN THE FIELD OF SERVICES TO SENIORS, OF THE PROGRAMS FUNDED
36 BY THE GRANTS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 70B, § 36(f), (g), and (h).

3 In subsection (a) of this section, the reference to the approval of Program
4 priorities "under § 10-603(a) of this subtitle" is added for clarity.

5 In subsection (b) of this section, the former reference to "approv[ing] the"
6 award of grants is deleted as surplusage.

7 Also in subsection (b) of this section, the former reference to priorities
8 "approved by the Governor and General Assembly" is deleted for brevity.

9 As to the substitution of the reference to "services to seniors" for the former
10 reference to "aging services" in subsection (c) of this section, *see* General
11 Revisor's Note to title.

12 Defined terms: "Council" § 10-601

13 "Program" § 10-601

14 "Secretary" § 10-101

15 10-606. ANNUAL REPORT.

16 THE SECRETARY SHALL REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT
17 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON
18 THE EVALUATIONS OF PROGRAMS FUNDED UNDER THIS SUBTITLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 70B, § 36(j).

21 Defined term: "Secretary" § 10-101

22 10-607. REGULATIONS.

23 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 70B, § 36(k).

26 Defined term: "Secretary" § 10-101

27 SUBTITLE 7. FAMILY CAREGIVER ASSISTANCE PROGRAM.

28 10-701. DEFINITIONS.

29 (A) IN GENERAL.

30 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 70B, § 45(a)(1).

1 (B) ADULT DEPENDENT.

2 “ADULT DEPENDENT” MEANS AN INDIVIDUAL WHO IS:

3 (1) AT LEAST 18 YEARS OLD;

4 (2) AN INDIVIDUAL WITH LONG-TERM CARE NEEDS; AND

5 (3) THE SPOUSE, PARENT, STEPPARENT, GRANDPARENT, CHILD,
6 STEPCHILD, SIBLING, AUNT, UNCLE, SON-IN-LAW, DAUGHTER-IN-LAW,
7 MOTHER-IN-LAW, OR FATHER-IN-LAW OF A FAMILY CAREGIVER.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 70B, § 45(a)(2) and, as it related to an
10 individual with long-term care needs, (a)(3).

11 Defined terms: “Family caregiver” § 10-701

12 “Individual with long-term care needs” § 10-701

13 (C) FAMILY CAREGIVER.

14 “FAMILY CAREGIVER” MEANS AN INDIVIDUAL WHO CARES FOR AN ADULT
15 DEPENDENT.

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from former Art. 70B, § 45(a)(3), except as it related to
18 an individual with long-term care needs.

19 Defined term: “Adult dependent” § 10-701

20 (D) INDIVIDUAL WITH LONG-TERM CARE NEEDS.

21 “INDIVIDUAL WITH LONG-TERM CARE NEEDS” MEANS AN INDIVIDUAL WHO:

22 (1) IS UNABLE TO PERFORM AT LEAST THREE ACTIVITIES OF DAILY
23 LIVING WITHOUT SUBSTANTIAL ASSISTANCE FROM ANOTHER INDIVIDUAL; OR

24 (2) (I) IS UNABLE TO PERFORM AT LEAST ONE ACTIVITY OF DAILY
25 LIVING WITHOUT SUBSTANTIAL ASSISTANCE FROM ANOTHER INDIVIDUAL; AND

26 (II) REQUIRES SUBSTANTIAL SUPERVISION TO PROTECT THE
27 INDIVIDUAL FROM THREATS TO THE INDIVIDUAL’S HEALTH AND SAFETY DUE TO
28 SEVERE COGNITIVE IMPAIRMENT.

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 70B, § 45(a)(4).

31 In paragraph (2)(ii) of this subsection, the reference to “the individual’s”
32 health and safety is added for clarity.

33 (E) PROGRAM.

1 "PROGRAM" MEANS THE FAMILY CAREGIVER ASSISTANCE PROGRAM.

2 REVISOR'S NOTE: This subsection formerly was Art. 70B, § 45(a)(5).

3 The former reference to the Program "established under this section" is
4 deleted as surplusage.

5 No other changes are made.

6 10-702. ESTABLISHED; PURPOSE.

7 (A) ESTABLISHED.

8 THERE IS A FAMILY CAREGIVER ASSISTANCE PROGRAM IN THE DEPARTMENT.

9 (B) PURPOSE.

10 THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO ELIGIBLE FAMILY
11 CAREGIVERS TO SUPPLEMENT THE UNMET EXPENSES OF CARING FOR AN ADULT
12 DEPENDENT.

13 REVISOR'S NOTE: This section formerly was Art. 70B, § 45(b) and (c).

14 No changes are made.

15 Defined terms: "Adult dependent" § 10-701

16 "Family caregiver" § 10-701

17 "Program" § 10-701

18 10-703. FUNDING.

19 (A) STATE BUDGET.

20 FUNDING FOR THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET.

21 (B) OTHER SOURCES.

22 THE SECRETARY MAY ACCEPT MONEY PROVIDED BY OTHER PUBLIC AND
23 PRIVATE SOURCES, INCLUDING FEDERAL FUNDS, TO PROVIDE GRANTS UNDER THE
24 PROGRAM.

25 REVISOR'S NOTE: This section formerly was Art. 70B, § 45(d).

26 The only changes are in style.

27 Defined terms: "Program" § 10-701

28 "Secretary" § 10-101

29 10-704. GRANTS.

30 (A) ELIGIBILITY.

1 A FAMILY CAREGIVER IS ELIGIBLE FOR A GRANT FROM THE PROGRAM IF:

2 (1) THE FAMILY CAREGIVER RESIDES WITH AN ADULT DEPENDENT;

3 (2) THE ADULT DEPENDENT HAS BEEN CERTIFIED BY A LICENSED
4 PHYSICIAN IN THE STATE AS AN INDIVIDUAL WITH LONG-TERM CARE NEEDS FOR AT
5 LEAST 180 CONSECUTIVE DAYS DURING THE YEAR; AND

6 (3) THE FAMILY CAREGIVER'S HOUSEHOLD INCOME IS 200% OR LESS OF
7 THE STATE MEDIAN INCOME, AS ADJUSTED FOR FAMILY SIZE, IN ACCORDANCE WITH
8 REGULATIONS ADOPTED BY THE SECRETARY.

9 (B) GRANT AMOUNT.

10 THE PROGRAM MAY PROVIDE ELIGIBLE FAMILY CAREGIVERS WITH A GRANT OF
11 UP TO \$500 PER HOUSEHOLD PER YEAR.

12 (C) USE OF GRANT.

13 A GRANT MAY BE USED TO FUND GOODS AND SERVICES REQUIRED TO PROVIDE
14 CARE FOR AN ADULT DEPENDENT INCLUDING:

15 (1) DURABLE MEDICAL EQUIPMENT;

16 (2) MEDICAL BILLS;

17 (3) MEDICAL SUPPLIES;

18 (4) PRESCRIPTION OR OVER-THE-COUNTER MEDICATIONS;

19 (5) REPAIRS OR MODIFICATIONS TO THE HOME; AND

20 (6) RESPITE CARE FOR THE FAMILY CAREGIVER.

21 REVISOR'S NOTE: This section formerly was Art. 70B, § 45(e) and (f).

22 In subsection (a)(3) of this section, the reference to regulations adopted by
23 the "Secretary" is substituted for the former reference to regulations
24 adopted by the "Department" for consistency with § 10-705(1) of this
25 subtitle, which requires the Secretary to adopt regulations to implement
26 the Program.

27 The only other changes are in style.

28 Defined terms: "Adult dependent" § 10-701

29 "Family caregiver" § 10-701

30 "Individual with long-term care needs" § 10-701

31 "Program" § 10-701

32 "Secretary" § 10-101

1 10-705. DUTIES OF SECRETARY.

2 THE SECRETARY SHALL:

3 (1) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM;

4 (2) WORK IN COOPERATION WITH THE DEPARTMENT OF DISABILITIES,
5 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE MARYLAND
6 CAREGIVERS SUPPORT COORDINATING COUNCIL TO PROMOTE THE PROGRAM TO
7 FAMILY CAREGIVERS THROUGHOUT THE STATE; AND

8 (3) REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF
9 THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

10 (I) THE NUMBER OF GRANT REQUESTS RECEIVED;

11 (II) THE VALUE OF GRANTS PROVIDED TO FAMILY CAREGIVERS;

12 (III) THE PURPOSES FOR WHICH THE GRANTS WERE PROVIDED; AND

13 (IV) THE NUMBER OF GRANT REQUESTS THAT THE PROGRAM WAS
14 UNABLE TO FUND AND THE REASON WHY THOSE REQUESTS WERE NOT FUNDED.

15 REVISOR'S NOTE: This section formerly was Art. 70B, § 45(g).

16 The only changes are in style.

17 Defined terms: "Family caregiver" § 10-701

18 "Program" § 10-701

19 "Secretary" § 10-101

20 10-706. ALLOCATION OF FUNDS.

21 THE REGULATIONS REQUIRED TO BE ADOPTED UNDER § 10-705 OF THIS
22 SUBTITLE SHALL:

23 (1) ENSURE THAT THE TOTAL AMOUNT OF FUNDING AVAILABLE FOR
24 GRANTS UNDER THE PROGRAM IS ALLOCATED AMONG ALL COUNTIES BASED ON
25 EACH COUNTY'S PROPORTION OF THE TOTAL STATE ADULT POPULATION; AND

26 (2) PROVIDE THAT IF A COUNTY IS UNABLE TO USE ITS ALLOCATION,
27 ANY UNSPENT FUNDS SHALL REVERT TO THE PROGRAM AND BE REDISTRIBUTED
28 AMONG ALL COUNTIES.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 70B, § 45(h).

31 Throughout this section, the former references to "Baltimore City" are
32 deleted in light of § 1-101 of this article, which defines "county" to include
33 Baltimore City.

1 In item (1) of this section, the reference to the “adult” population is
2 substituted for the former reference to the population “aged 18 and older”
3 for brevity. *See* Art. 1, § 24.

4 Defined terms: “County” § 10–101
5 “Program” § 10–701

6 GENERAL REVISOR’S NOTE TO TITLE:

7 Throughout this title, references to “seniors” are substituted for the former
8 references to “the aged”, “the aging”, “the elderly”, “elderly persons”, “older
9 individuals”, and “senior citizens” for consistency. Similarly, references to “services to
10 seniors” are substituted for the former references to “aging services”.

11 TITLE 11. MARYLAND LEGAL SERVICES CORPORATION.

12 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

13 11–101. DEFINITIONS.

14 (A) IN GENERAL.

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

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from the introductory clause of former Art. 10, § 45C.

18 (B) BOARD.

19 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE MARYLAND LEGAL
20 SERVICES CORPORATION.

21 REVISOR’S NOTE: This subsection formerly was Art. 10, § 45C(a).

22 No changes are made.

23 (C) CORPORATION.

24 “CORPORATION” MEANS THE MARYLAND LEGAL SERVICES CORPORATION.

25 REVISOR’S NOTE: This subsection is new language derived without
26 substantive change from former Art. 10, § 45C(b).

27 The former phrase “established under this subtitle” is deleted as
28 unnecessary.

29 (D) ELIGIBLE CLIENT.

30 “ELIGIBLE CLIENT” MEANS A PERSON WHO IS UNABLE TO AFFORD LEGAL
31 ASSISTANCE AS DETERMINED UNDER § 11–603 OF THIS TITLE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 10, § 45C(c).

3 Defined terms: "Legal assistance" § 11-101
4 "Person" § 1-101

5 (E) FUND.

6 "FUND" MEANS THE MARYLAND LEGAL SERVICES CORPORATION FUND.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former CJ § 7-408(a).

9 The former phrase "[i]n this section" is deleted as unnecessary in light of
10 subsection (a) of this section.

11 (F) GRANTEE.

12 (1) "GRANTEE" MEANS A NONPROFIT ORGANIZATION THAT:

13 (I) IS QUALIFIED UNDER § 501(C)(3) OF THE INTERNAL REVENUE
14 CODE;

15 (II) PROVIDES LEGAL ASSISTANCE TO ELIGIBLE CLIENTS; AND

16 (III) RECEIVES FINANCIAL ASSISTANCE UNDER § 11-501 OF THIS
17 TITLE FROM THE CORPORATION.

18 (2) "GRANTEE" INCLUDES:

19 (I) THE LEGAL AID BUREAU, INC.;

20 (II) THE MARYLAND DISABILITY LAW CENTER; AND

21 (III) THE MARYLAND VOLUNTEER LAWYERS SERVICE, INC.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 10, § 45C(e).

24 In paragraph (1)(iii) of this subsection, the reference to a nonprofit
25 organization that "receives" financial assistance from the Corporation is
26 substituted for the former reference to the Corporation "provid[ing]"
27 financial assistance for clarity.

28 In the introductory language of paragraph (2) of this subsection, the former
29 phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30,
30 which provides that the term "includes" is used "by way of illustration, and
31 not by way of limitation".

32 In paragraph (2)(ii) of this subsection, the reference to the "Maryland
33 Disability Law Center" is substituted for the former reference to the

1 “Maryland Advocacy Unit for the Developmentally Disabled, Inc.”.

2 Defined terms: “Corporation” § 11–101

3 “Eligible client” § 11–101

4 “Internal Revenue Code” § 11–101

5 “Legal assistance” § 11–101

6 (G) INTERNAL REVENUE CODE.

7 “INTERNAL REVENUE CODE” MEANS:

8 (1) TITLE 26 OF THE UNITED STATES CODE; AND

9 (2) REGULATIONS ADOPTED UNDER TITLE 26 OF THE UNITED STATES
10 CODE.

11 REVISOR’S NOTE: This subsection is new language derived without
12 substantive change from former Art. 10, § 45C(f).

13 In this subsection, the reference to “Title 26 of the United States Code” is
14 substituted for the former reference to the “Internal Revenue Code” for
15 clarity and to conform to the definition of “Internal Revenue Code” in other
16 revised articles of the Code. *See, e.g.*, TG § 1–101 and TP § 1–101.

17 (H) LEGAL ASSISTANCE.

18 (1) “LEGAL ASSISTANCE” MEANS THE LEGAL REPRESENTATION OF
19 ELIGIBLE CLIENTS BY GRANTEES.

20 (2) “LEGAL ASSISTANCE” INCLUDES:

21 (I) TRAINING;

22 (II) RESEARCH;

23 (III) COORDINATION WITH PRIVATE ATTORNEYS; AND

24 (IV) OTHER ACTIVITIES NECESSARY TO ENSURE THE DELIVERY OF
25 QUALITY LEGAL SERVICES.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former Art. 10, § 45C(g).

28 Defined terms: “Eligible client” § 11–101

29 “Grantee” § 11–101

30 REVISOR’S NOTE TO SECTION: Former Art. 10, § 45C(e), which defined
31 “Governor” to mean the chief executive officer of the State of Maryland, is
32 deleted as unnecessary.

1 11-102. LEGISLATIVE FINDINGS.

2 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

3 (1) THERE IS A NEED TO PROVIDE EQUAL ACCESS TO THE SYSTEM OF
4 JUSTICE FOR INDIVIDUALS SEEKING REDRESS OF GRIEVANCES;

5 (2) REDUCTION OF FEDERAL FUNDS HAS DIMINISHED THE
6 AVAILABILITY OF LEGAL SERVICES PROVIDED BY EXISTING STATEWIDE LEGAL
7 SERVICES PROGRAMS;

8 (3) THERE IS A NEED TO CONTINUE AND EXPAND LEGAL ASSISTANCE TO
9 THOSE WHO WOULD OTHERWISE BE UNABLE TO AFFORD ADEQUATE LEGAL
10 COUNSEL;

11 (4) THE AVAILABILITY OF LEGAL SERVICES REAFFIRMS FAITH IN OUR
12 GOVERNMENT OF LAWS;

13 (5) THE FUNDING OF LEGAL ASSISTANCE PROGRAMS FOR THOSE WHO
14 ARE UNABLE TO AFFORD LEGAL COUNSEL WILL SERVE THE ENDS OF JUSTICE AND
15 THE GENERAL WELFARE OF THE PUBLIC; AND

16 (6) ATTORNEYS PROVIDING LEGAL ASSISTANCE MUST HAVE FULL
17 FREEDOM TO PROTECT THE BEST INTERESTS OF THEIR CLIENTS IN KEEPING WITH
18 THE MARYLAND RULES OF PROFESSIONAL CONDUCT AND THE HIGH STANDARDS OF
19 THE LEGAL PROFESSION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 10, § 45B.

22 In the introductory language of this section, the former reference to the
23 General Assembly "of Maryland" is deleted as surplusage.

24 In item (2) of this section, the reference to the "availability of" legal
25 services is added for clarity.

26 Also in item (2) of this section, the former reference to "the Legal Aid
27 Bureau, Inc.; the Maryland Advocacy Unit for the Developmentally
28 Disabled, Inc.; and the Maryland Volunteer Lawyers Service, Inc." is
29 deleted for accuracy and to reflect the inclusion of all statewide legal
30 services programs.

31 In item (5) of this section, the reference to the "public" is substituted for
32 the former reference to "all Maryland citizens". *See* General Revisor's Note
33 to article.

34 In item (6) of this section, the reference to the "Maryland Rules" of
35 Professional Conduct is substituted for the former reference to the "Code"
36 of Professional Conduct for accuracy.

1 Defined term: "Legal assistance" § 11-101

2 SUBTITLE 2. ORGANIZATION AND ADMINISTRATION OF CORPORATION.

3 11-201. ESTABLISHED; PURPOSE.

4 (A) ESTABLISHED.

5 (1) THERE IS A MARYLAND LEGAL SERVICES CORPORATION.

6 (2) THE CORPORATION IS A NONSTOCK CORPORATION.

7 (B) PURPOSE.

8 THE PURPOSE OF THE CORPORATION IS TO RECEIVE AND DISTRIBUTE FUNDS
9 TO GRANTEES THAT PROVIDE LEGAL ASSISTANCE TO ELIGIBLE CLIENTS IN CIVIL
10 PROCEEDINGS OR MATTERS.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 10, § 45D(a).

13 In subsection (a) of this section, the former phrase "established in the State
14 of Maryland ... which shall be known as" is deleted as surplusage.

15 In subsection (b) of this section, the reference to "civil" proceedings is
16 substituted for the former reference to "noncriminal" proceedings for
17 consistency within this title.

18 Defined terms: "Corporation" § 11-101

19 "Eligible client" § 11-101

20 "Grantee" § 11-101

21 "Legal assistance" § 11-101

22 11-202. OFFICE; STATUS.

23 (A) PRINCIPAL OFFICE AND DESIGNATED AGENT.

24 (1) THE CORPORATION SHALL MAINTAIN:

25 (I) ITS PRINCIPAL OFFICE IN THE STATE; AND

26 (II) A DESIGNATED AGENT TO ACCEPT SERVICE OF PROCESS.

27 (2) THE CORPORATION SHALL FILE THE NAME AND ADDRESS OF THE
28 DESIGNATED AGENT WITH THE STATE DEPARTMENT OF ASSESSMENTS AND
29 TAXATION.

30 (B) TAX EXEMPT STATUS.

1 THE CORPORATION IS EXEMPT FROM ANY SPECIAL TAX, PROPERTY TAX,
2 RECORDATION TAX, OR TRANSFER TAX IMPOSED BY THE STATE OR A POLITICAL
3 SUBDIVISION OF THE STATE.

4 (C) CORPORATION NOT A UNIT OR INSTRUMENTALITY OF THE STATE.

5 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE CORPORATION IS NOT A
6 UNIT OR INSTRUMENTALITY OF THE STATE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 10, § 45D(b), (c), and (d).

9 In subsection (a)(1)(ii) of this section, the former reference to accepting
10 service of process "for the Corporation" is deleted as implicit.

11 In subsection (a)(2) of this section, the reference to "the Corporation" filing
12 the name and address of the designated agent is substituted for the former
13 phrase "whose name and address shall be filed" for clarity.

14 In subsection (c) of this section, the reference to a "unit" of the State is
15 substituted for the former reference to a "department [or] agency" of the
16 State for brevity and consistency throughout this article. *See* General
17 Revisor's Note to article.

18 Defined term: "Corporation" § 11-101

19 11-203. EXECUTIVE DIRECTOR.

20 (A) APPOINTMENT.

21 THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE CORPORATION.

22 (B) DUTIES.

23 (1) THE EXECUTIVE DIRECTOR IS THE CHIEF EXECUTIVE OFFICER OF
24 THE CORPORATION.

25 (2) SUBJECT TO THIS TITLE AND POLICIES ESTABLISHED BY THE
26 BOARD, THE EXECUTIVE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY FOR:

27 (I) ADMINISTERING THE AFFAIRS OF THE CORPORATION;

28 (II) APPOINTING AND REMOVING EMPLOYEES AS NECESSARY TO
29 CARRY OUT THE PURPOSES OF THIS TITLE;

30 (III) MAKING GRANTS;

31 (IV) ENTERING INTO CONTRACTS;

32 (V) EXERCISING POWERS INCIDENT TO THE OFFICE OF THE
33 EXECUTIVE DIRECTOR; AND

1 (VI) PERFORMING OTHER DUTIES THAT THE BOARD PRESCRIBES.

2 (C) SALARY.

3 THE EXECUTIVE DIRECTOR IS ENTITLED TO A SALARY AS PROVIDED IN THE
4 BUDGET OF THE CORPORATION.

5 (D) REMOVAL.

6 THE EXECUTIVE DIRECTOR MAY BE REMOVED BY A MAJORITY OF THE BOARD.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 10, § 45F(a)(2), (3), (4), and, as it related to the
9 appointment of the executive director, (1).

10 In subsection (b)(2) of this section, the phrase "subject to" is substituted for
11 the former phrase "in accordance with" to clarify the relationship between
12 the responsibility and the authority of the executive director and the
13 Board.

14 In subsection (b)(2)(i) of this section, the former phrase "day-to-day" is
15 deleted as surplusage.

16 Defined terms: "Board" § 11-101

17 "Corporation" § 11-101

18 11-204. EMPLOYEES.

19 (A) POLITICAL CONSIDERATIONS PROHIBITED.

20 A POLITICAL TEST OR POLITICAL QUALIFICATION MAY NOT BE USED IN
21 SELECTING, APPOINTING, PROMOTING, OR TAKING ANY OTHER PERSONNEL ACTION
22 WITH RESPECT TO AN OFFICER, AGENT, OR EMPLOYEE OF THE CORPORATION.

23 (B) SALARIES.

24 EMPLOYEES OF THE CORPORATION ARE ENTITLED TO SALARIES AS PROVIDED
25 IN THE BUDGET OF THE CORPORATION.

26 (C) STATUS.

27 EMPLOYEES OF THE CORPORATION ARE NOT EMPLOYEES OF THE STATE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 10, § 45F(b).

30 In subsection (a) of this section, the reference to a "personnel" action is
31 substituted for the former incorrect reference to a "personal" action.

32 In subsection (b) of this section, the reference to the budget "of the
33 Corporation" is added for clarity and consistency with § 11-203 of this

1 subtitle.

2 Defined term: "Corporation" § 11-101

3 11-205. GENERAL POWERS.

4 TO THE EXTENT CONSISTENT WITH THIS TITLE, THE CORPORATION SHALL
5 EXERCISE THE POWERS GRANTED TO A NONSTOCK CORPORATION UNDER TITLE 5,
6 SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 10, § 45G(a).

9 The reference to "Title 5, Subtitle 2 of the Corporations and Associations
10 Article" is substituted for the former reference to "the Corporations and
11 Associations Article, § 5-201 et seq. of the Code" for clarity.

12 Defined term: "Corporation" § 11-101

13 11-206. INDEMNIFICATION.

14 THE CORPORATION SHALL INDEMNIFY THE MEMBERS OF THE BOARD AND THE
15 OFFICERS, AGENTS, AND EMPLOYEES OF THE CORPORATION TO THE EXTENT
16 AUTHORIZED UNDER THE MARYLAND GENERAL CORPORATION LAW.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 10, § 45G(h).

19 The reference to the officers, agents, and employees "of the Corporation" is
20 substituted for the former reference to "its" officers, agents, and employees
21 for clarity.

22 The former word "maximum" is deleted as surplusage.

23 Defined terms: "Board" § 11-101

24 "Corporation" § 11-101

25 11-207. ANNUAL REPORT.

26 (A) REQUIRED.

27 (1) THE CORPORATION SHALL PUBLISH AN ANNUAL REPORT.

28 (2) THE CORPORATION SHALL SUBMIT THE ANNUAL REPORT TO THE
29 GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
30 GENERAL ASSEMBLY.

31 (B) CONTENTS OF REPORT.

32 THE REPORT SHALL INCLUDE A DESCRIPTION OF SERVICES PROVIDED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 10, § 45G(g)(3).

3 In subsection (a)(2) of this section, the reference to "submit[ting]" the
4 annual report is substituted for the former reference to "fil[ing]" the
5 annual report for consistency with similar provisions throughout the
6 revised articles of the Code.

7 Defined term: "Corporation" § 11-101

8 SUBTITLE 3. BOARD OF DIRECTORS.

9 11-301. ESTABLISHED; MEMBERSHIP.

10 (A) ESTABLISHED.

11 THERE IS A BOARD OF DIRECTORS OF THE CORPORATION.

12 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

13 (1) THE BOARD CONSISTS OF:

14 (I) NINE VOTING MEMBERS APPOINTED BY THE GOVERNOR WITH
15 THE ADVICE AND CONSENT OF THE SENATE; AND

16 (II) THE EXECUTIVE DIRECTOR, WHO IS A NONVOTING EX OFFICIO
17 MEMBER.

18 (2) VOTING MEMBERS SHALL BE RESIDENTS OF THE STATE AND SHALL
19 REPRESENT THE DIFFERENT GEOGRAPHICAL REGIONS OF THE STATE.

20 (3) FIVE VOTING MEMBERS SHALL BE LAWYERS ADMITTED TO THE BAR
21 IN THE STATE AND FOUR VOTING MEMBERS SHALL BE NONLAWYERS.

22 (C) STATUS.

23 A VOTING MEMBER OF THE BOARD IS NOT AN OFFICER OR EMPLOYEE OF THE
24 STATE.

25 (D) TENURE; VACANCIES.

26 (1) THE TERM OF OFFICE OF A VOTING MEMBER IS 3 YEARS.

27 (2) AT THE END OF A TERM A VOTING MEMBER CONTINUES TO SERVE
28 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

29 (3) THE TERMS OF VOTING MEMBERS ARE STAGGERED AS REQUIRED BY
30 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2007.

31 (4) IF A VACANCY OCCURS DURING THE TERM OF A VOTING MEMBER,
32 THE GOVERNOR SHALL FILL THE VACANCY.

1 (5) A VOTING MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
 2 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
 3 AND QUALIFIES.

4 (6) A VOTING MEMBER MAY NOT BE REAPPOINTED FOR MORE THAN 2
 5 CONSECUTIVE TERMS IMMEDIATELY FOLLOWING THE MEMBER'S INITIAL TERM.

6 (E) REMOVAL.

7 (1) A VOTING MEMBER MAY BE REMOVED BY A VOTE OF SEVEN
 8 MEMBERS.

9 (2) A VOTING MEMBER MAY ONLY BE REMOVED FOR:

10 (I) MALFEASANCE IN OFFICE;

11 (II) PERSISTENT NEGLECT OF OR INABILITY TO DISCHARGE
 12 DUTIES; OR

13 (III) OFFENSES INVOLVING MORAL TURPITUDE.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 10, § 45E(a), (b), (c), and (f), and, except as it
 16 related to the appointment of the executive director, § 45F(a)(1).

17 Throughout this section, the reference to "voting" members is added to
 18 distinguish the members appointed by the Governor from the executive
 19 director, who is a nonvoting ex officio member of the Board.

20 In subsection (b)(3) of this section, the reference to "lawyers admitted to
 21 the Bar in the State" is substituted for the former reference to "members of
 22 the Bar of the Court of Appeals of Maryland" for consistency with
 23 terminology used in Title 10 of the Business Occupations and Professions
 24 Article.

25 Subsection (d)(2) and (5) of this section, is standard language substituted
 26 for the former references to each member of the Board continuing "until a
 27 successor has been appointed" and a vacancy occurring being "filled by the
 28 Governor for the remainder of the unexpired term" to avoid gaps in
 29 membership by indicating that a member serves until a successor takes
 30 office.

31 In subsection (d)(3) of this section, the reference to the terms being
 32 staggered as required by the terms provided for members of the Board on
 33 October 1, 2007 is substituted for the former phrase "except that 3 of the
 34 members first appointed, as designated by the Governor when first
 35 appointed, shall served for a term of 1 year and 3 shall served for a term of
 36 2 years". This substitution is not intended to alter the term of any member
 37 of the Board. See § _____ of Ch. _____, Acts of 2007. The terms of the
 38 members serving on October 1, 2007, end as follows: (1) 3 in 2008; (2) 3 in

1 2009; and (3) 3 in 2010.

2 In subsection (e)(1) of this section, the word “may” is substituted for the
3 former word “shall” because the mandatory nature of the word “shall” in
4 the source law was intended to modify the reasons for the removal and not
5 the removal itself.

6 In subsection (e)(2) of this section, the word “only” is substituted for the
7 former phrase “and for no other cause” for brevity.

8 Defined terms: “Board” § 11–101
9 “Corporation” § 11–101

10 11–302. OFFICERS.

11 (A) CHAIR.

12 FROM AMONG ITS VOTING MEMBERS, THE BOARD ANNUALLY SHALL ELECT A
13 CHAIR.

14 (B) OTHER OFFICERS.

15 FROM AMONG ITS MEMBERS, THE BOARD SHALL APPOINT A SECRETARY, A
16 TREASURER, AND OTHER OFFICERS.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 10, § 45E(d) and (e).

19 In subsection (a) of this section, the former requirement that “[t]he
20 Governor shall select from among the voting members of the Board a
21 chairperson, who shall serve for a term of 3 years” is deleted as obsolete.

22 Also in subsection (a) of this section, the reference to a “chair” is
23 substituted for the former reference to a “chairperson” for consistency with
24 terminology used throughout this article.

25 Defined term: “Board” § 11–101

26 11–303. COMPENSATION.

27 A MEMBER OF THE BOARD:

28 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
29 BUT

30 (2) IS ENTITLED TO REIMBURSEMENT FOR NECESSARY EXPENSES
31 INCURRED IN CONNECTION WITH SERVICE ON THE BOARD AS PROVIDED IN THE
32 BUDGET OF THE CORPORATION.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 10, § 45E(g).

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1 In the introductory language of this section, the reference to “[a] member of
2 the Board” is substituted for the former reference to “directors” for clarity
3 and consistency.

4 In item (1) of this section, the phrase “as a member of the Board” is added
5 to clarify that the executive director, who is an ex officio member of the
6 Board, may receive compensation in the role of executive director.

7 In item (2) of this section, the reference to the budget “of the Corporation”
8 is added for clarity.

9 Also in item (2) of this section, the former reference to “travel, subsistence
10 and other” expenses is deleted as included in the reference to “expenses”.

11 Defined terms: “Board” § 11–101
12 “Corporation” § 11–101

13 11–304. MEETINGS.

14 (A) QUARTERLY MEETINGS.

15 THE BOARD SHALL MEET AT LEAST 4 TIMES A YEAR.

16 (B) PUBLIC MEETINGS.

17 EXCEPT AS PROVIDED IN § 10–508 OF THE STATE GOVERNMENT ARTICLE, A
18 MEETING OF THE BOARD SHALL BE OPEN TO THE PUBLIC.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 10, § 45E(h) and (i).

21 In subsection (a) of this section, the former reference to a “calendar” year is
22 deleted as unnecessary.

23 In subsection (b) of this section, the phrase “[e]xcept as provided in” is
24 substituted for the former phrase “except that a meeting may be closed for
25 a purpose listed in” for brevity and for consistency with similar provisions
26 in other revised articles of the Code.

27 Defined term: “Board” § 11–101

28 SUBTITLE 4. FUNDING.

29 11–401. FINANCING.

30 (A) APPROPRIATION IN THE STATE BUDGET.

31 IN THE STATE OPERATING BUDGET OR IN ANY SUPPLEMENTAL BUDGET THAT
32 THE GOVERNOR SUBMITS TO THE GENERAL ASSEMBLY, THE GOVERNOR SHALL
33 APPROPRIATE AT LEAST \$500,000 EACH YEAR TO THE MARYLAND LEGAL SERVICES
34 CORPORATION FUND ESTABLISHED UNDER § 11–402 OF THIS SUBTITLE.

1 (B) TRANSFER FROM ABANDONED PROPERTY FUNDS.

2 (1) TO SUPPORT OR ADD TO THE APPROPRIATION UNDER SUBSECTION
3 (A) OF THIS SECTION, ON JULY 1 OF EACH YEAR, THE GOVERNOR MAY TRANSFER TO
4 THE FUND UP TO \$500,000 FROM THE PORTION OF ABANDONED PROPERTY FUNDS
5 DEPOSITED IN THE GENERAL FUND OF THE STATE UNDER § 17-317 OF THE
6 COMMERCIAL LAW ARTICLE.

7 (2) IF, AFTER DEDUCTING ALL COSTS OF ADMINISTERING THE
8 ABANDONED PROPERTY FUND, THE BALANCE IN THE PORTION OF ABANDONED
9 PROPERTY FUNDS DEPOSITED IN THE GENERAL FUND OF THE STATE UNDER § 17-317
10 OF THE COMMERCIAL LAW ARTICLE IS LESS THAN \$500,000, ONLY THE BALANCE MAY
11 BE TRANSFERRED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

12 (C) NONSTATE FUNDS.

13 NONSTATE FUNDS RECEIVED BY THE CORPORATION SHALL BE ACCOUNTED
14 FOR AND REPORTED AS RECEIPTS AND DISBURSEMENTS SEPARATE AND DISTINCT
15 FROM STATE FUNDS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 10, § 45-O(a), (b), and (d).

18 In subsection (a)(2) of this section, the former reference to the budget
19 submitted "in the third week of January each year" is deleted as
20 surplusage.

21 In subsection (b)(2) of this section, the word "[i]f" is substituted for the
22 former phrase "[t]o the extent that" for brevity.

23 Also in subsection (b)(2) of this section, the reference to the "abandoned
24 property fund" is substituted for the former reference to the "Fund" for
25 clarity.

26 Defined terms: "Corporation" § 11-101
27 "Fund" § 11-101

28 11-402. MARYLAND LEGAL SERVICES CORPORATION FUND.

29 (A) ESTABLISHED.

30 THERE IS A MARYLAND LEGAL SERVICES CORPORATION FUND.

31 (B) ADMINISTRATION.

32 THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ADMINISTER THE FUND.

33 (C) STATUS.

34 THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302
35 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 (D) COMPOSITION.

2 THE FUND CONSISTS OF:

3 (1) MONEY DEPOSITED TO THE FUND FROM THE SURCHARGE ASSESSED
4 IN CIVIL CASES UNDER §§ 7-202 AND 7-301 OF THE COURTS ARTICLE;

5 (2) MONEY APPROPRIATED TO THE FUND UNDER § 11-401 OF THIS
6 SUBTITLE;

7 (3) INTEREST ON ATTORNEY TRUST ACCOUNTS PAID TO THE FUND
8 UNDER § 10-303 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

9 (4) INVESTMENT EARNINGS OF THE FUND.

10 (E) USE OF FUND.

11 THE CORPORATION SHALL USE THE FUND TO PROVIDE FUNDING FOR CIVIL
12 LEGAL SERVICES TO INDIGENTS UNDER THIS TITLE.

13 (F) INVESTMENT.

14 THE TREASURER SHALL:

15 (1) INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER
16 STATE FUNDS; AND

17 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

18 (G) EXPENDITURES.

19 EXPENDITURES FROM THE FUND SHALL BE MADE IN ACCORDANCE WITH AN
20 APPROPRIATION REQUESTED BY THE JUDICIAL BRANCH OF THE STATE
21 GOVERNMENT UNDER § 7-108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
22 AND APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET OR BY THE
23 BUDGET AMENDMENT PROCEDURE UNDER § 7-208.1 OF THE STATE FINANCE AND
24 PROCUREMENT ARTICLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 10, § 45-O(c) and CJ § 7-408(b) through (g).

27 In subsection (c) of this section, the reference to the Fund being a "special"
28 fund is added for consistency with similar provisions in other revised
29 articles of the Code.

30 In subsection (d)(4) of this section, the reference to "investment earnings of
31 the Fund" is new language added for consistency with subsection (f)(2) of
32 this section.

33 In subsection (e) of this section, the former references to "moneys
34 distributed to" and "moneys appropriated to" the Fund are deleted as

1 included in the reference to the “Fund”.

2 Also in subsection (e) of this section, the former phrases “under this
3 section” and “in accordance with § 7–408(g) of the Courts Article” are
4 deleted as unnecessary in light of the revision of former Art. 10, § 45–O(c)
5 and CJ § 7–408(g) in this section.

6 Defined terms: “Corporation” § 11–101
7 “Fund” § 11–101

8 11–403. DISPOSITION OF MONEY AND PROPERTY.

9 THE CORPORATION SHALL ACCEPT AND USE ANY MONEY OR PROPERTY
10 RECEIVED BY GIFT, DEVISE, BEQUEST, OR OTHERWISE TO FURTHER THE PURPOSES
11 OF THIS TITLE.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from former Art. 10, § 45G(c).

14 The word “use” is substituted for the former words “employ or dispose of”
15 for brevity and clarity.

16 The former phrase “in the name of the Corporation” is deleted as
17 surplusage.

18 The former reference to property that is “real, personal, or mixed, tangible
19 or intangible” is deleted as included in the reference to “property”.

20 Defined term: “Corporation” § 11–101

21 11–404. ISSUANCE OF STOCK PROHIBITED.

22 THE CORPORATION MAY NOT ISSUE STOCK OR DECLARE OR PAY DIVIDENDS.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 10, § 45H(a).

25 The former reference to “shares of” stock is deleted as surplusage.

26 Defined term: “Corporation” § 11–101

27 11–405. RESTRICTIONS ON DISPOSITION OF CORPORATE EARNINGS.

28 (A) NET EARNINGS.

29 (1) THIS SUBSECTION DOES NOT APPLY TO REASONABLE
30 COMPENSATION PAID FOR SERVICES RENDERED TO OR FOR THE CORPORATION.

31 (2) NET EARNINGS OF THE CORPORATION MAY NOT INURE TO THE
32 BENEFIT OF ANY INDIVIDUAL.

1 (B) CORPORATE ASSETS.

2 AN INDIVIDUAL MAY NOT SHARE IN THE DISTRIBUTION OF CORPORATE ASSETS
3 ON DISSOLUTION OF THE CORPORATION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 10, § 45H(c).

6 In subsection (a)(1) of this section, the former reference to services
7 "actually" rendered is deleted as surplusage.

8 In subsections (a)(2) and (b) of this section, the references to an
9 "individual" are substituted for the former references to a "member,
10 trustee, or officer of the Corporation, or any private person" for brevity.

11 In subsection (a)(2) of this section, the former reference to a "part of" net
12 earnings is deleted as surplusage.

13 Defined term: "Corporation" § 11-101

14 11-406. DISPOSITION OF ASSETS ON LIQUIDATION.

15 ON THE LIQUIDATION, DISSOLUTION, OR WINDING UP OF THE CORPORATION,
16 AFTER PAYMENT OF THE OBLIGATIONS AND LIABILITIES OF THE CORPORATION, ALL
17 OF THE ASSETS OF THE CORPORATION SHALL BE TRANSFERRED TO ONE OR MORE
18 CORPORATIONS OR ASSOCIATIONS THAT:

- 19 (1) HAVE A CHARACTER OR PURPOSE SIMILAR TO THE CORPORATION'S;
20 (2) ARE SELECTED BY THE BOARD; AND
21 (3) QUALIFY UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 10, § 45H(f).

24 In the introductory language of this section, the word "[o]n" is substituted
25 for the former phrase "[i]n the event of" for brevity.

26 Also in the introductory language of this section, the former phrase "in any
27 manner or for any reason whatever" is deleted as surplusage.

28 In item (1) of this section, the former reference to an "analogous" character
29 is deleted as included in the reference to a "similar" character.

30 In item (2) of this section, the reference to the "Board" is substituted for the
31 former reference to the "Corporation's trustees" for accuracy and
32 consistency within this title.

33 Defined terms: "Board" § 11-101
34 "Corporation" § 11-101

1 “Internal Revenue Code” § 11–101

2 11–407. ANNUAL AUDITS.

3 (A) REQUIRED.

4 (1) THE ACCOUNTS OF THE CORPORATION SHALL BE AUDITED
5 ANNUALLY.

6 (2) THE AUDITS SHALL BE CONDUCTED IN ACCORDANCE WITH
7 GENERALLY ACCEPTED AUDITING STANDARDS BY AN INDEPENDENT CERTIFIED
8 PUBLIC ACCOUNTANT.

9 (B) PROCEDURES.

10 (1) AN AUDIT UNDER THIS SECTION SHALL BE CONDUCTED WHERE THE
11 ACCOUNTS OF THE CORPORATION ARE NORMALLY KEPT.

12 (2) IF OWNED OR IN USE BY THE CORPORATION AND NECESSARY TO
13 FACILITATE THE AUDIT, THE CORPORATION SHALL MAKE AVAILABLE TO THE
14 AUDITOR ALL:

15 (I) BOOKS;

16 (II) ACCOUNTS;

17 (III) FINANCIAL RECORDS;

18 (IV) REPORTS;

19 (V) FILES; AND

20 (VI) OTHER PAPERS OR PROPERTY.

21 (3) FULL FACILITIES FOR VERIFYING TRANSACTIONS WITH THE
22 BALANCES AND SECURITIES HELD BY DEPOSITORIES, FISCAL AGENTS, AND
23 CUSTODIANS SHALL BE AVAILABLE TO THE AUDITORS.

24 (C) REPORT.

25 THE REPORT OF THE ANNUAL AUDIT SHALL:

26 (1) BE SUBMITTED TO THE GOVERNOR, THE DEPARTMENT OF BUDGET
27 AND MANAGEMENT AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT
28 ARTICLE, THE GENERAL ASSEMBLY; AND

29 (2) BE AVAILABLE FOR PUBLIC INSPECTION DURING BUSINESS HOURS
30 AT THE PRINCIPAL OFFICE OF THE CORPORATION.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 10, § 45K(a).

1 In subsection (b)(1) of this section, the reference to an audit “under this
2 section” is added for clarity.

3 Also in subsection (b)(1) of this section, the former phrase “at the place or
4 places” is deleted as surplusage.

5 In subsection (b)(2) of this section, the word “owned” is substituted for the
6 former words “belonging to” for brevity and clarity.

7 Also in subsection (b)(2) of this section, the word “auditor” is substituted
8 for the former words “person or persons conducting the audit” for brevity.

9 In subsection (c)(1) of this section, the words “submitted to” are substituted
10 for the former words “filed with” for clarity.

11 The Human Services Article Review Committee notes, for consideration by
12 the General Assembly, that the meaning of subsection (b)(3) of this section
13 and § 11-408(b)(3) of this subtitle is unclear. The General Assembly may
14 wish to consider clarifying these provisions.

15 Defined term: “Corporation” § 11-101

16 11-408. AUDITS BY LEGISLATIVE AUDITOR.

17 (A) AUTHORIZED.

18 (1) THE AUDIT AUTHORIZED BY THIS SECTION IS IN ADDITION TO THE
19 ANNUAL AUDIT REQUIRED BY § 11-407 OF THIS SUBTITLE.

20 (2) FOR ANY FISCAL YEAR DURING WHICH STATE FUNDS ARE
21 AVAILABLE TO FINANCE ANY PORTION OF THE OPERATIONS OF THE CORPORATION,
22 THE LEGISLATIVE AUDITOR MAY AUDIT THE FINANCIAL TRANSACTIONS OF THE
23 CORPORATION.

24 (B) PROCEDURES.

25 (1) AN AUDIT UNDER THIS SECTION SHALL BE CONDUCTED WHERE THE
26 ACCOUNTS OF THE CORPORATION ARE NORMALLY KEPT.

27 (2) IF OWNED OR IN USE BY THE CORPORATION AND NECESSARY TO
28 FACILITATE THE AUDIT, THE CORPORATION SHALL MAKE AVAILABLE TO THE
29 LEGISLATIVE AUDITOR ALL:

30 (I) BOOKS;

31 (II) ACCOUNTS;

32 (III) FINANCIAL RECORDS;

33 (IV) REPORTS;

1 (V) FILES; AND

2 (VI) OTHER PAPERS OR PROPERTY.

3 (3) FULL FACILITIES FOR VERIFYING TRANSACTIONS WITH THE
4 BALANCES AND SECURITIES HELD BY DEPOSITORY, FISCAL AGENTS, AND
5 CUSTODIANS SHALL BE AVAILABLE TO THE LEGISLATIVE AUDITOR.

6 (4) UNLESS THE LEGISLATIVE AUDITOR REQUIRES A LONGER PERIOD
7 OF RETENTION, THE ITEMS LISTED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL
8 REMAIN IN THE POSSESSION AND CUSTODY OF THE CORPORATION FOR 3 YEARS.

9 (C) REPORT.

10 THE LEGISLATIVE AUDIT SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY
11 AND THE GOVERNOR, WITH ANY RECOMMENDATIONS THE LEGISLATIVE AUDITOR
12 CONSIDERS ADVISABLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 10, § 45K(b).

15 In subsection (b)(1) of this section, the reference to an audit "under this
16 section" is added for clarity.

17 Also in subsection (b)(1) of this section, the former phrase "at the place or
18 places" is deleted as surplusage.

19 In subsection (b)(2) of this section, the requirement to "make available to"
20 the Legislative Auditor the listed items is substituted for the former
21 requirement that the Legislative Auditor "have access to" the listed items
22 for consistency with § 11-407(b)(2) of this subtitle.

23 Also in subsection (b)(2) of this section, the word "owned" is substituted for
24 the former words "belonging to" for brevity and clarity.

25 In subsection (b)(4) of this section, the reference to "items listed in
26 paragraph (2) of this subsection" is substituted for the former reference to
27 "books, accounts, financial records, reports, files, and other papers or
28 property of the Corporation" for brevity.

29 In subsection (c) of this section, the words "submitted to" are substituted
30 for the former words "filed with" for clarity.

31 Defined term: "Corporation" § 11-101

SUBTITLE 5. GRANTEES.

1

2 11-501. FINANCIAL ASSISTANCE TO GRANTEES.

3 THE CORPORATION SHALL MAKE GRANTS OF FINANCIAL ASSISTANCE TO
4 GRANTEES FOR THE PURPOSE OF PROVIDING LEGAL ASSISTANCE TO ELIGIBLE
5 CLIENTS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 45G(b).

8 The reference to "mak[ing] grants of financial assistance" is substituted for
9 the former reference to "provid[ing] financial assistance" for clarity and
10 consistency throughout this subtitle.

11 Defined terms: "Corporation" § 11-101
12 "Eligible client" § 11-101
13 "Grantee" § 11-101
14 "Legal assistance" § 11-101

15 11-502. GRANTS.

16 (A) DUTY OF CORPORATION IN PROVIDING.

17 THE CORPORATION SHALL ENSURE THAT GRANTS AND CONTRACTS ARE MADE
18 TO:

19 (1) PROVIDE THE MOST STABLE, ECONOMICAL, AND EFFECTIVE
20 DELIVERY OF LEGAL ASSISTANCE; AND

21 (2) PROVIDE ACCESS TO LEGAL ASSISTANCE TO ELIGIBLE CLIENTS IN
22 ALL AREAS OF THE STATE.

23 (B) POLITICAL CONSIDERATIONS PROHIBITED.

24 THE CORPORATION MAY NOT USE A POLITICAL TEST OR POLITICAL
25 QUALIFICATIONS TO SELECT OR MONITOR A GRANTEE UNDER THIS TITLE.

26 (C) TERMINATION OR SUSPENSION OF FINANCIAL ASSISTANCE.

27 (1) THIS SUBSECTION DOES NOT APPLY TO A SUSPENSION OR
28 TERMINATION OF FINANCIAL ASSISTANCE OR A DENIAL OF AN APPLICATION FOR
29 REFUNDING BECAUSE OF A LACK OF AVAILABLE FUNDS.

30 (2) THE CORPORATION SHALL PRESCRIBE PROCEDURES IN
31 ACCORDANCE WITH THIS SUBSECTION TO GOVERN:

32 (I) THE SUSPENSION OR TERMINATION OF FINANCIAL
33 ASSISTANCE; AND

34 (II) THE DENIAL OF AN APPLICATION FOR REFUNDING.

1 (3) THE PROCEDURES SHALL ENSURE THAT FINANCIAL ASSISTANCE
2 COMMITTED MAY NOT BE SUSPENDED OR TERMINATED AND AN APPLICATION FOR
3 REFUNDING MAY NOT BE DENIED UNLESS THE GRANTEE HAS BEEN GIVEN:

4 (I) REASONABLE NOTICE; AND

5 (II) AN OPPORTUNITY FOR A TIMELY, FULL, AND FAIR HEARING
6 CONDUCTED BY AN INDEPENDENT HEARING EXAMINER.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 10, § 45G(d) and (g)(4).

9 In subsection (a)(2) of this section, the reference to "legal assistance" is
10 substituted for the former reference to "those services" for consistency with
11 subsection (a)(1) of this section.

12 In subsection (b) of this section, the former reference to a grantee "of
13 financial assistance" is deleted as included in the definition of "grantee".

14 In subsection (c) of this section, the former reference to "the hearing
15 [being] held prior to any final decision by the Corporation to terminate
16 financial assistance or suspend or deny funding" is deleted as unnecessary
17 because it is implicit in the requirement in subsection (c)(3)(ii) of this
18 section that the procedures of the Corporation shall ensure that financial
19 assistance may not be suspended or terminated and an application for
20 refunding may not be denied unless the grantee has been given an
21 opportunity for a timely, full, and fair hearing.

22 Defined terms: "Corporation" § 11-101

23 "Eligible client" § 11-101

24 "Grantee" § 11-101

25 "Legal assistance" § 11-101

26 11-503. DUTIES OF GRANTEES.

27 (A) CONSIDERATION OF CLIENT NEEDS.

28 IN APPLYING FOR AND SPENDING GRANT MONEY FROM THE CORPORATION,
29 GRANTEES SHALL CONSIDER THE RELATIVE NEEDS FOR SERVICE OF CLIENTS,
30 PARTICULARLY THE NEEDS OF ELIGIBLE CLIENTS WHO HAVE SPECIAL
31 DIFFICULTIES OF ACCESS TO LEGAL SERVICES OR WHO HAVE SPECIAL LEGAL
32 PROBLEMS, INCLUDING ELDERLY INDIVIDUALS AND INDIVIDUALS WITH
33 DISABILITIES.

34 (B) RESTRICTIONS ON USE OF FUNDS.

35 FUNDS PROVIDED TO GRANTEES UNDER THIS TITLE MAY NOT BE USED:

36 (1) TO PROVIDE LEGAL ASSISTANCE FOR A FEE-GENERATING CASE;

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1 (2) TO PROVIDE LEGAL ASSISTANCE FOR THE DEFENSE OF A CRIMINAL
2 PROSECUTION;

3 (3) TO PROVIDE LEGAL ASSISTANCE IN A CIVIL ACTION TO A PERSON
4 WHO HAS BEEN CONVICTED OF A CRIMINAL CHARGE IF THE CIVIL ACTION:

5 (I) ARISES OUT OF AN ALLEGED ACT OR FAILURE TO ACT; AND

6 (II) IS BROUGHT AGAINST AN OFFICIAL OF THE COURT OR A LAW
7 ENFORCEMENT OFFICIAL TO CHALLENGE THE VALIDITY OF THE CRIMINAL
8 CONVICTION;

9 (4) TO INFLUENCE THE ISSUANCE, AMENDMENT, OR REVOCATION OF
10 AN EXECUTIVE ORDER OR SIMILAR PROMULGATION BY A FEDERAL, STATE, OR LOCAL
11 UNIT, OR TO INFLUENCE THE PASSAGE OR DEFEAT OF LEGISLATION BY THE UNITED
12 STATES CONGRESS, OR BY A STATE OR LOCAL LEGISLATIVE BODY, OR A STATE
13 PROPOSAL BY REFERENDUM OR PETITION;

14 (5) TO CONTRIBUTE TO OR BE MADE AVAILABLE TO A POLITICAL PARTY
15 OR ASSOCIATION OR THE CAMPAIGN OF A CANDIDATE FOR PUBLIC OR PARTY
16 OFFICE; OR

17 (6) TO PROVIDE REPRESENTATION IN A CLASS ACTION SUIT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 10, § 45J.

20 In subsection (a) of this section, the reference to "spending grant money
21 from the Corporation" is substituted for the former reference to "expending
22 corporate funds" for clarity.

23 Also in subsection (a) of this section, the word "consider" is substituted for
24 the former words "take into account" for brevity and clarity.

25 In the introductory language of subsection (b) of this section, the reference
26 to funds "provided" to grantees is substituted for the former reference to
27 funds "made available" to grantees for brevity and clarity.

28 Also in the introductory language of subsection (b) of this section, the
29 former phrase "by the Corporation" is deleted as implicit in the reference to
30 funds provided to grantees "under this title".

31 In subsection (b)(4) of this section, the reference to a "unit" is substituted
32 for the former reference to an "agency" for consistency throughout this
33 article. *See* General Revisor's Note to article.

34 Also in subsection (b)(4) of this section, the former reference to
35 "undertak[ing]" to influence legislation is deleted as surplusage.

1 Defined terms: "Eligible client" § 11-101

2 "Grantee" § 11-101

3 "Legal assistance" § 11-101

4 11-504. REPORTS AND RECORDS.

5 (A) REPORTS.

6 THE CORPORATION MAY REQUIRE A GRANTEE TO SUBMIT ANY REPORTS THE
7 CORPORATION CONSIDERS NECESSARY REGARDING ACTIVITIES CARRIED OUT
8 UNDER THIS TITLE.

9 (B) RECORDS.

10 (1) THE CORPORATION MAY REQUIRE GRANTEES TO KEEP RECORDS
11 REGARDING FUNDS PROVIDED BY THE CORPORATION.

12 (2) THE CORPORATION SHALL HAVE ACCESS TO THE RECORDS AT ALL
13 REASONABLE TIMES TO ENSURE COMPLIANCE WITH THE GRANT OR CONTRACT OR
14 THE TERMS AND CONDITIONS ON WHICH FINANCIAL ASSISTANCE WAS PROVIDED.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 10, § 45G(g)(1) and (2).

17 Defined terms: "Corporation" § 11-101

18 "Grantee" § 11-101

19 11-505. FINANCIAL AUDIT OR REVIEW.

20 (A) REQUIRED.

21 EACH YEAR, THE CORPORATION SHALL REQUIRE:

22 (1) A FINANCIAL AUDIT BY AN INDEPENDENT CERTIFIED PUBLIC
23 ACCOUNTANT OF EACH GRANTEE WHOSE GRANT INCOME FROM THE CORPORATION
24 IN THE MOST RECENTLY COMPLETED FISCAL YEAR WAS \$50,000 OR MORE; OR

25 (2) A FINANCIAL REVIEW BY AN INDEPENDENT CERTIFIED PUBLIC
26 ACCOUNTANT OF EACH GRANTEE WHOSE GRANT INCOME FROM THE CORPORATION
27 IN THE MOST RECENTLY COMPLETED FISCAL YEAR WAS LESS THAN \$50,000.

28 (B) REPORT.

29 THE REPORT OF EACH AUDIT OR REVIEW SHALL BE:

30 (1) SUBMITTED TO THE GOVERNOR;

31 (2) MADE AVAILABLE TO THE LEGISLATIVE AUDITOR; AND

32 (3) KEPT FOR AT LEAST 5 YEARS AT THE PRINCIPAL OFFICE OF THE
33 CORPORATION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 10, § 45K(c).

3 In subsection (a)(1) and (2) of this section, the references to grant income
4 "from the Corporation" are added for clarity. The Human Services Article
5 Review Committee calls this substitution to the attention of the General
6 Assembly.

7 In subsection (b)(1) of this section, the words "submitted to" are
8 substituted for the former words "filed with" for clarity.

9 Defined terms: "Corporation" § 11-101
10 "Grantee" § 11-101

11 SUBTITLE 6. LEGAL SERVICES.

12 11-601. STANDARDS FOR QUALITY SERVICE.

13 THE CORPORATION SHALL SEEK TO ENSURE THAT A GRANTEE PROVIDING
14 LEGAL ASSISTANCE TO ELIGIBLE CLIENTS:

15 (1) MAINTAINS THE HIGHEST QUALITY OF SERVICE AND PROFESSIONAL
16 STANDARDS;

17 (2) PRESERVES ATTORNEY-CLIENT RELATIONSHIPS; AND

18 (3) PROTECTS THE INTEGRITY OF THE ADVERSARY PROCESS FROM ANY
19 IMPAIRMENT.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 10, § 45G(f).

22 In the introductory language of this section, the reference to "a grantee"
23 providing legal assistance is added for clarity and accuracy.

24 Defined terms: "Corporation" § 11-101
25 "Eligible client" § 11-101
26 "Legal assistance" § 11-101

27 11-602. APPLICATION FOR LEGAL ASSISTANCE.

28 EACH APPLICATION FOR LEGAL ASSISTANCE SHALL BE IN WRITING AND
29 ACCOMPANIED BY AN AFFIDAVIT STATING THAT THE INFORMATION CONTAINED IN
30 THE APPLICATION IS TRUE AND CORRECT.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 10, § 45L.

33 Defined term: "Legal assistance" § 11-101

1 11-603. INCOME ELIGIBILITY LIMITS.

2 (A) ESTABLISHMENT.

3 (1) THE CORPORATION SHALL ESTABLISH MAXIMUM INCOME LEVELS
4 FOR CLIENT ELIGIBILITY.

5 (2) THE INCOME LEVELS SHALL BE BASED ON THE FINANCIAL ABILITY
6 OF A CLIENT TO PAY FOR COMPETENT PRIVATE COUNSEL AND ALL OTHER
7 NECESSARY EXPENSES OF REPRESENTATION.

8 (B) CONSIDERATIONS.

9 THE MAXIMUM INCOME LEVELS ESTABLISHED UNDER THIS SECTION AND
10 ELIGIBILITY GUIDELINES ESTABLISHED BY EACH GRANTEE TO IMPLEMENT THIS
11 SECTION SHALL TAKE INTO CONSIDERATION:

12 (1) THE SIZE OF THE CLIENT'S FAMILY;

13 (2) COST OF LIVING VARIATIONS, INCLUDING DIFFERENCES BETWEEN
14 URBAN AND RURAL AREAS;

15 (3) THE ASSETS AND INCOME OF THE CLIENT;

16 (4) THE FIXED DEBTS AND MEDICAL EXPENSES OF THE CLIENT; AND

17 (5) OTHER FACTORS RELEVANT TO THE CLIENT'S ABILITY TO PAY FOR
18 THE LEGAL SERVICES THE CLIENT REQUIRES.

19 (C) LIMITATION ON MAXIMUM INCOME LEVELS.

20 THE CORPORATION MAY NOT SET THE MAXIMUM INCOME LEVELS FOR
21 ELIGIBILITY UNDER THIS SECTION AT A LEVEL GREATER THAN 50% OF THE MEDIAN
22 FAMILY INCOME FOR THE STATE AS CERTIFIED ANNUALLY BY THE UNITED STATES
23 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 10, § 45G(e).

26 In subsection (a)(2) of this section, the reference to the financial "ability" of
27 a client is substituted for the former reference to the "inability" for clarity
28 and consistency with subsection (b)(5) of this section.

29 Also in subsection (a)(2) of this section, the reference to "pay[ing] for"
30 competent private counsel is substituted for the former reference to
31 "engag[ing] and compensat[ing]" competent private counsel for clarity and
32 consistency with subsection (b)(5) of this section.

33 Defined terms: "Corporation" § 11-101

34 "Grantee" § 11-101

1 11-604. ATTORNEY-CLIENT PRIVILEGE.

2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, INFORMATION
3 SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE IS CONFIDENTIAL AND MAY NOT BE
4 DISCLOSED TO ANY PERSON UNLESS THE PRIVILEGE IS WAIVED BY THE CLIENT OR A
5 COURT ORDERS THE DISCLOSURE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 45N.

8 The reference to a court "order[ing] the disclosure" is added for clarity.

9 Defined term: "Person" § 1-101

10 SUBTITLE 7. PROHIBITED ACTS.

11 11-701. FRAUDULENTLY OBTAINING LEGAL ASSISTANCE.

12 (A) PROHIBITED.

13 A PERSON MAY NOT OBTAIN, ATTEMPT TO OBTAIN, OR AID ANOTHER PERSON IN
14 OBTAINING OR ATTEMPTING TO OBTAIN LEGAL ASSISTANCE TO WHICH THE PERSON
15 IS NOT ENTITLED BY:

16 (1) WILFULLY MAKING A FALSE STATEMENT OR REPRESENTATION;

17 (2) WILFULLY FAILING TO DISCLOSE A MATERIAL CHANGE IN
18 FINANCIAL CONDITION;

19 (3) IMPERSONATING ANOTHER; OR

20 (4) ANY OTHER FRAUDULENT MEANS.

21 (B) PENALTY.

22 (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
23 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
24 EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

25 (2) (I) A PERSON CONVICTED UNDER THIS SECTION SHALL MAKE
26 FULL RESTITUTION OF THE VALUE OF THE LEGAL ASSISTANCE UNLAWFULLY
27 RECEIVED.

28 (II) THE PERSON SHALL BE GIVEN NOTICE AND THE OPPORTUNITY
29 FOR A HEARING ON THE AMOUNT AND TERMS OF THE PAYMENT.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 10, § 45M.

32 Subsection (a) of this section is revised in standard language used to state
33 a prohibition.

1 In subsection (a)(4) of this section, the phrase “any other fraudulent
2 means” is substituted for the former words “fraudulently” and the former
3 phrase “[f]or purposes of this section fraud shall include” for brevity and
4 clarity.

5 Subsection (b)(1) of this section is revised in standard language used to
6 state a penalty.

7 In subsection (b)(2)(ii) of this section, the reference to the “terms” of
8 payment is substituted for the former reference to “how the payment is to
9 be made” for brevity.

10 Defined terms: “Legal assistance” § 11–101

11 “Person” § 1–101

12 11–702. ACTS OF THE CORPORATION.

13 THE CORPORATION MAY NOT:

14 (1) PARTICIPATE IN LITIGATION, UNLESS:

15 (I) THE CORPORATION OR A GRANTEE IS A PARTY; OR

16 (II) A GRANTEE IS REPRESENTING AN ELIGIBLE CLIENT IN
17 LITIGATION IN WHICH THE INTERPRETATION OF THIS TITLE OR A GUIDELINE
18 ESTABLISHED BY THE CORPORATION UNDER THIS TITLE IS AN ISSUE;

19 (2) INTERFERE WITH A LAWYER’S PROFESSIONAL RESPONSIBILITIES TO
20 CLIENTS UNDER THE MARYLAND RULES OF PROFESSIONAL CONDUCT;

21 (3) COMPETE DIRECTLY OR INDIRECTLY WITH ANY GRANTEE;

22 (4) CONTRIBUTE OR MAKE AVAILABLE THE CORPORATION’S FUNDS OR
23 SERVICES TO A POLITICAL PARTY OR ASSOCIATION OR THE CAMPAIGN OF A
24 CANDIDATE FOR PUBLIC OR PARTY OFFICE;

25 (5) EXCEPT AS PROVIDED IN §§ 501(H) AND 4911 OF THE INTERNAL
26 REVENUE CODE:

27 (I) CARRY ON PROPAGANDA OR OTHERWISE ATTEMPT TO
28 INFLUENCE LEGISLATION; AND

29 (II) PARTICIPATE OR INTERVENE IN A POLITICAL CAMPAIGN ON
30 BEHALF OF A CANDIDATE FOR PUBLIC OFFICE, INCLUDING PUBLISHING OR
31 DISTRIBUTING STATEMENTS;

32 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE,
33 CONDUCT OR CARRY ON ACTIVITIES NOT AUTHORIZED FOR AN ORGANIZATION:

34 (I) QUALIFIED UNDER § 501(C)(3) OF THE INTERNAL REVENUE
35 CODE; OR

1 (II) TO WHICH CONTRIBUTIONS ARE DEDUCTIBLE UNDER § 170(C)(2)
2 OF THE INTERNAL REVENUE CODE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 10, § 45H(b), (d), and (e).

5 In item (2) of this section, the reference to a "lawyer's" professional
6 responsibilities is substituted for the former reference to an "attorney's" to
7 conform with other revised articles of the Code. *See, e.g.*, BOP Title 10.

8 Also in item (2) of this section, the reference to the "Maryland Rules" of
9 Professional Conduct is substituted for the former reference to the "Code"
10 of Professional Conduct for accuracy.

11 Also in item (2) of this section, the former phrase "[u]nder any provision of
12 this subtitle" is deleted as surplusage.

13 In item (3) of this section, the former reference to any grantee "named in §
14 45C(e) of this subtitle" is deleted for accuracy and to reflect the inclusion of
15 all grantees.

16 In the introductory language of item (5) of this section, the former word
17 "permitted" is deleted as included in the word "provided".

18 Defined terms: "Corporation" § 11-101
19 "Eligible client" § 11-101
20 "Grantee" § 11-101
21 "Internal Revenue Code" § 11-101

22 SUBTITLE 8. SHORT TITLE.

23 11-801. SHORT TITLE.

24 THIS TITLE MAY BE CITED AS THE "MARYLAND LEGAL SERVICES CORPORATION
25 ACT".

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 10, § 45A.

28 GENERAL REVISOR'S NOTE TO ARTICLE

29 The Department of Legislative Services is charged with revising the law in a
30 clear, concise, and organized manner, without changing the effect of the law. One
31 precept of revision has been that, once something is said, it should be said in the same
32 way every time. To that end, the Human Services Article Review Committee
33 conformed the language and organization of this article to that of previously enacted
34 revised articles to the extent possible.

35 It is the manifest intent both of the General Assembly and the Human Services
36 Article Review Committee that this bulk revision of the substantive human services

1 law of the State render no substantive change. The guiding principle of the
2 preparation of this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417
3 (1952):

4 [T]he principal function of a Code is to reorganize the statutes and state
5 them in simpler form. Consequently any changes made in them by a Code
6 are presumed to be for the purpose of clarity rather than change of
7 meaning. Therefore, even a change in the phraseology of a statute by a
8 codification thereof will not ordinarily modify the law, unless the change
9 is so radical and material that the intention of the Legislature to modify
10 the law appears unmistakably from the language of the Code. (citations
11 omitted)

12 Accordingly, except to the extent that changes, which are noted in Revisor's
13 Notes, clarify the former law, the enactment of this article in no way is intended to
14 make any change to the substantive law of Maryland.

15 Throughout this article, as in other revised articles, the word "regulations"
16 generally is substituted for former references to "rules and regulations" to
17 distinguish, to the extent possible, between regulations of executive units and rules of
18 judicial or legislative units and to establish consistency in the use of the words. This
19 substitution conforms to the practice of the Division of State Documents.

20 Also throughout this article, for consistency and to avoid unnecessary confusion,
21 the singular verb "adopt" is used in relation to rules or regulations, and verbs such as
22 "prescribe" and "promulgate" are deleted. The procedures to be followed in adopting
23 regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

24 Also throughout this article, for consistency, the word "law" is substituted for
25 former phrases such as "law or regulation" because the broad reference to a "law"
26 includes a "regulation" adopted under the authority of a law. *See, e.g., Maryland Port*
27 *Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

28 Also throughout this article, for accuracy, references to "compensation" are
29 substituted for former references to "salary" when referring to remuneration that is
30 provided to an individual in the State budget. The term "compensation" is substituted
31 for the term "salary" to include nonsalary benefits that are provided in the State
32 budget (*e.g.*, retirement and health care benefits). These substitutions do not make
33 substantive changes in law because references to "compensation" in these contexts
34 are always restricted by the phrase "as provided in the State budget".

35 Also throughout this article, for clarity and consistency, references to "the
36 public" or "members of the public" are substituted for former references such as "the
37 citizens of this State" and "the citizens of Maryland" because the meaning of the word
38 "citizen" in this context is unclear.

39 Also throughout this article, for consistency, the term "municipal corporation" is
40 substituted for former references such as "municipality", "incorporated city",
41 "incorporated town", and "incorporated municipality" to conform to Art. XI-E of the
42 Maryland Constitution.

1 In some provisions in this article, as in other revised articles, the term “unit” is
2 substituted for former references to State entities such as an “agency”, “department”,
3 “division”, “office”, “commission”, “board”, “committee”, and “council”. In revised
4 articles of the Code, the term “unit” is used as the general term for an organization in
5 the State government because it is broad enough to include all such entities.

6 References to current units and positions are substituted for obsolete references
7 to entities and positions that have been abolished or have otherwise ceased to exist.

8 In some “Membership” provisions in this article, there is a subsection captioned
9 “Tenure; vacancies”. A standard paragraph included in those subsections provides
10 that a “member who is appointed after a term has begun serves only for the rest of the
11 term and until a successor is appointed and qualifies”. This paragraph applies: (1)
12 when a successor is appointed to replace a member who has died, resigned, or failed
13 for any other reason to complete a term; (2) when a member is appointed to succeed a
14 member who has “held over” into the next term, pending the delayed appointment
15 and qualification of the successor; or (3) when, in any other situation, a member takes
16 office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay
17 in the appointment of a successor but the member who served the prior term does not
18 “hold over”.

19 The Human Services Article Review Committee considered two provisions
20 contained in the human services laws to be more suitable for revision in other articles.

21 Former Art. 88A, § 13B, which provided that each reference to a local
22 department of social services, as applied to Montgomery County, meant the
23 Montgomery County government, is revised in Art. 1, § 34 of the Code.

24 Former Art. 70B, § 4(c), which provided for State employment of individuals 70
25 years old or older, is revised in § 6–306 of the State Personnel and Pensions Article.
26 Some apparently obsolete provisions allocated to the Human Services Article are
27 transferred to the Session Laws for historical purposes or to avoid any inadvertent
28 substantive effect their repeal might have.

29 In some instances, the staff of the Department of Legislative Services may
30 create “Special Revisor’s Notes” to reflect the substantive effect of legislation enacted
31 during the 2007 Session on some provisions of this article.

32 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
33 read as follows:

34 **Article 1 – Rules of Interpretation**

35 25.

36 (a) Unnumbered revised articles of the Annotated Code of Maryland may be
37 cited as stated in this section.

38 (b) A section of the Agriculture Article may be cited as: “§ ___ of the
39 Agriculture Article”.

- 1 (c) A section of the Business Occupations and Professions Article may be cited
2 as: “§ ___ of the Business Occupations and Professions Article”.
- 3 (d) A section of the Business Regulation Article may be cited as: “§ ___ of the
4 Business Regulation Article”.
- 5 (e) A section of the Commercial Law Article may be cited as: “§ ___ of the
6 Commercial Law Article”.
- 7 (f) A section of the Corporations and Associations Article may be cited as: “§
8 ___ of the Corporations and Associations Article”.
- 9 (g) A section of the Correctional Services Article may be cited as: “§ ___ of the
10 Correctional Services Article”.
- 11 (h) A section of the Courts and Judicial Proceedings Article may be cited as: “§
12 ___ of the Courts Article”.
- 13 (i) A section of the Criminal Law Article may be cited as: “§ ___ of the
14 Criminal Law Article”.
- 15 (j) A section of the Criminal Procedure Article may be cited as: “§ ___ of the
16 Criminal Procedure Article”.
- 17 (k) A section of the Education Article may be cited as: “§ ___ of the Education
18 Article”.
- 19 (l) A section of the Election Law Article may be cited as: “§ ___ of the Election
20 Law Article”.
- 21 (m) A section of the Environment Article may be cited as: “§ ___ of the
22 Environment Article”.
- 23 (n) A section of the Estates and Trusts Article may be cited as: “§ ___ of the
24 Estates and Trusts Article”.
- 25 (o) A section of the Family Law Article may be cited as: “§ ___ of the Family
26 Law Article”.
- 27 (p) A section of the Financial Institutions Article may be cited as: “§ ___ of the
28 Financial Institutions Article”.
- 29 (q) A section of the Health – General Article may be cited as: “§ ___ of the
30 Health – General Article”.
- 31 (r) A section of the Health Occupations Article may be cited as: “§ ___ of the
32 Health Occupations Article”.
- 33 (s) A section of the Housing and Community Development Article may be cited
34 as: “§ ___ of the Housing and Community Development Article”.

1 (T) A SECTION OF THE HUMAN SERVICES ARTICLE MAY BE CITED AS “§ ___ OF
2 THE HUMAN SERVICES ARTICLE”.

3 ~~[(t)]~~ (U) A section of the Insurance Article may be cited as: “§ ___ of the
4 Insurance Article”.

5 ~~[(u)]~~ (V) A section of the Labor and Employment Article may be cited as: “§ ___
6 of the Labor and Employment Article”.

7 ~~[(v)]~~ (W) A section of the Natural Resources Article may be cited as: “§ ___ of
8 the Natural Resources Article”.

9 ~~[(w)]~~ (X) A section of the Public Safety Article may be cited as: “§ ___ of the
10 Public Safety Article”.

11 ~~[(x)]~~ (Y) A section of the Public Utility Companies Article may be cited as: “§
12 ___ of the Public Utility Companies Article”.

13 ~~[(y)]~~ (Z) A section of the Real Property Article may be cited as: “§ ___ of the
14 Real Property Article”.

15 ~~[(z)]~~ (AA) A section of the State Finance and Procurement Article may be cited
16 as: “§ ___ of the State Finance and Procurement Article”.

17 ~~[(aa)]~~ (BB) A section of the State Government Article may be cited as: “§ ___ of
18 the State Government Article”.

19 ~~[(bb)]~~ (CC) A section of the State Personnel and Pensions Article may be cited
20 as: “§ ___ of the State Personnel and Pensions Article”.

21 ~~[(cc)]~~ (DD) A section of the Tax – General Article may be cited as: “§ ___ of the
22 Tax – General Article”.

23 ~~[(dd)]~~ (EE) A section of the Tax – Property Article may be cited as: “§ ___ of the
24 Tax – Property Article”.

25 ~~[(ee)]~~ (FF) A section of the Transportation Article may be cited as: “§ ___ of the
26 Transportation Article”.

27 34.

28 IN THIS CODE, UNLESS THE CONTEXT REQUIRES OTHERWISE, EACH
29 REFERENCE TO A LOCAL DEPARTMENT OF SOCIAL SERVICES INCLUDES THE
30 MONTGOMERY COUNTY GOVERNMENT.

31 REVISOR’S NOTE: Chapter __, Acts of 2007, which enacted the Human
32 Services Article, also enacted this section, which is new language derived
33 without substantive change from former Art. 88A, § 13B.

Article – State Personnel and Pensions

6–306. ELIGIBILITY OF INDIVIDUALS 70 OR OLDER FOR STATE EMPLOYMENT.

(A) IN GENERAL.

ANY INDIVIDUAL 70 YEARS OLD OR OLDER IS ELIGIBLE FOR APPOINTMENT TO ANY NONTEMPORARY POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM FOR WHICH THE INDIVIDUAL QUALIFIES, AND THE APPOINTMENT IS SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) PENSION SYSTEM.

ANY INDIVIDUAL WHO IS FIRST APPOINTED TO A NONTEMPORARY POSITION GOVERNED BY THE STATE PERSONNEL MANAGEMENT SYSTEM AT THE AGE OF 70 OR OLDER IS NOT ELIGIBLE FOR MEMBERSHIP IN THE PENSION SYSTEMS OF THE STATE.

REVISOR’S NOTE: Chapter __, Acts of 2007, which enacted the Human Services Article, also enacted this section, which is new language derived without substantive change from former Art. 70B, § 4(c).

Chapter 9 of the Acts of 2006

[SECTION 4. AND BE IT FURTHER ENACTED, That, to the extent practicable, in making appointments under this Act, the Governor, the President of the Senate, and the Speaker of the House shall ensure geographic diversity among the membership of the Maryland Commission for Women.]

SECTION [5] 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2005.

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 3A(c)(3) of Article 88A – Department of Human Resources of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

TRAINING AND COMPETENCY TESTING PROGRAM FOR CASEWORKERS

[3A.] 1.

[(c)]

The Secretary OF HUMAN RESOURCES[:

(3) Shall] SHALL develop and implement a mandatory in-service training program and competency testing program for caseworkers employed on or before December 31, 1998, through which caseworkers:

[(i)] (1) Complete the required training program; and

1 [(ii)](2) Pass a competency test before December 31, 1999, in order
2 to continue their employment; and

3 REVISOR'S NOTE: This section formerly was Art. 88A, § 3A(c)(3).

4 Former Art. 88A, § 3A(c)(3) is obsolete because all caseworkers passed the
5 test, resigned, or were reassigned to a noncaseload status. This provision is
6 decodified and retained in the Session Laws, however, for historical
7 purposes.

8 The only changes are in style.

9 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 4A of Article
10 88A – Department of Human Resources of the Annotated Code of Maryland be
11 repealed and reenacted, with amendments, and transferred to the Session Laws, to
12 read as follows:

13 LOCAL GOVERNMENT CONTRIBUTIONS TO COSTS OF SOCIAL SERVICES AND PUBLIC
14 ASSISTANCE PROGRAMS

15 [4A.] 1.

16 Any requirement for a local government contribution to the costs of social
17 services or public assistance programs, formerly governed by former Article 88A, §
18 18A, was intended to be repealed and terminated when Article 88A, § 18A was
19 repealed by Chapter 103 of the Acts of the General Assembly of 1978. Any provision of
20 the Code inconsistent with that intent to eliminate requirements for local government
21 contributions to the costs of social services or public assistance programs is hereby
22 repealed, and any local contribution which may have been required pursuant to such
23 a provision is hereby waived and terminated and of no further force and effect.

24 REVISOR'S NOTE: This section formerly was Art. 88A, § 4A.

25 Former Art. 88A, § 4A is not retained in the Code because it is apparently
26 obsolete. However, it is transferred to the Session Laws to avoid any
27 inadvertent effect that its repeal might have.

28 No changes are made.

29 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 **Article – Human Services**

32 9–216.

33 (B) THE DEPARTMENT SHALL:

34 (1) DEVELOP PROGRAMS FOR PREDELINQUENT CHILDREN WHOSE
35 BEHAVIOR TENDS TO LEAD TO CONTACT WITH LAW ENFORCEMENT AGENCIES;

1 (2) PROMOTE PREDELINQUENT PROGRAMS, INCLUDING GREATER
2 UTILIZATION OF YOUTH SERVICES BUREAUS UNDER § 9-234 OF THIS SUBTITLE, THAT
3 PROVIDE SERVICES TO DIVERT CHILDREN FROM THE JUVENILE JUSTICE SYSTEM;

4 (3) COLLABORATE WITH LOCAL GOVERNMENTS TO ENCOURAGE THE
5 USE OF PREDELINQUENT PROGRAMS PROVIDED BY YOUTH SERVICES BUREAUS
6 UNDER § 9-234 OF THIS SUBTITLE IN RESPONSE TO IDENTIFIED COMMUNITY NEEDS;
7 AND

8 (4) PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS AND
9 YOUTH SERVICES BUREAUS UNDER § 9-234 OF THIS SUBTITLE TO IDENTIFY
10 ALTERNATIVE FUNDING SOURCES FOR PREDELINQUENT PROGRAMS.

11 SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland
12 read as follows:

13 **Article – Human Services**

14 1-202.

15 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 5, SUBTITLES 7 AND 12 OF THE
16 FAMILY LAW ARTICLE, § 1-203 OF THIS SUBTITLE, AND THIS SECTION, A PERSON MAY
17 NOT DISCLOSE A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT.

18 (B) A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT SHALL BE
19 DISCLOSED:

20 (1) UNDER A COURT ORDER; OR

21 (2) UNDER AN ORDER OF AN ADMINISTRATIVE LAW JUDGE, IF:

22 (I) THE REQUEST FOR DISCLOSURE CONCERNS A CASE PENDING
23 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

24 (II) PROVISIONS ARE MADE TO COMPLY WITH OTHER STATE OR
25 FEDERAL CONFIDENTIALITY LAWS AND TO PROTECT THE IDENTITY OF THE
26 REPORTER OR OTHER PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE
27 ENDANGERED BY THE DISCLOSURE.

28 (C) A REPORT OR RECORD CONCERNING CHILD ABUSE OR NEGLECT:

29 (1) MAY BE DISCLOSED ON REQUEST TO:

30 (I) PERSONNEL OF THE SOCIAL SERVICES ADMINISTRATION OR A
31 LOCAL DEPARTMENT OF SOCIAL SERVICES, LAW ENFORCEMENT PERSONNEL, AND
32 MEMBERS OF MULTIDISCIPLINARY CASE CONSULTATION TEAMS, INCLUDING AN
33 ADDICTION SPECIALIST AS DEFINED IN TITLE 5, SUBTITLE 12 OF THE FAMILY LAW
34 ARTICLE OR § 5-314 OF THIS ARTICLE, WHO ARE INVESTIGATING A REPORT OF
35 KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT OR PROVIDING SERVICES TO OR
36 ASSESSING A CHILD OR FAMILY THAT IS THE SUBJECT OF THE REPORT;

SENATE BILL 6

1 (II) LOCAL OR STATE OFFICIALS RESPONSIBLE FOR THE
2 ADMINISTRATION OF CHILD PROTECTIVE SERVICES, OR CHILD CARE, FOSTER CARE,
3 OR ADOPTION LICENSING, APPROVAL, OR REGULATIONS, AS NECESSARY TO CARRY
4 OUT THEIR OFFICIAL FUNCTIONS;

5 (III) THE STATE COUNCIL ON CHILD ABUSE AND NEGLECT OR ITS
6 DESIGNEE, THE STATE CITIZENS REVIEW BOARD FOR CHILDREN OR ITS DESIGNEE,
7 OR A CHILD FATALITY REVIEW TEAM, AS NECESSARY TO CARRY OUT THEIR OFFICIAL
8 FUNCTIONS;

9 (IV) A PERSON WHO IS THE ALLEGED ABUSER OR NEGLECTOR, IF
10 THAT PERSON IS RESPONSIBLE FOR THE CHILD'S WELFARE AND PROVISIONS ARE
11 MADE FOR THE PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER
12 PERSON WHOSE LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE
13 INFORMATION;

14 (V) A LICENSED PRACTITIONER WHO, OR AN AGENCY,
15 INSTITUTION, OR PROGRAM THAT, IS PROVIDING TREATMENT OR CARE TO A CHILD
16 WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT FOR A PURPOSE
17 RELEVANT TO THE TREATMENT OR CARE;

18 (VI) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR
19 TEMPORARY CARE AND CUSTODY OF THE CHILD, IF PROVISIONS ARE MADE FOR THE
20 PROTECTION OF THE IDENTITY OF THE REPORTER OR ANY OTHER PERSON WHOSE
21 LIFE OR SAFETY IS LIKELY TO BE ENDANGERED BY DISCLOSING THE INFORMATION;

22 (VII) THE APPROPRIATE PUBLIC SCHOOL SUPERINTENDENT TO
23 CARRY OUT APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTIONS FOLLOWING A
24 REPORT OF SUSPECTED CHILD ABUSE INVOLVING A STUDENT COMMITTED BY:

- 25 1. A PUBLIC SCHOOL EMPLOYEE IN THAT SCHOOL SYSTEM;
- 26 2. AN INDEPENDENT CONTRACTOR WHO SUPERVISES OR
27 WORKS DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM; OR
- 28 3. AN EMPLOYEE OF AN INDEPENDENT CONTRACTOR,
29 INCLUDING A BUS DRIVER OR BUS ASSISTANT, WHO SUPERVISES OR WORKS
30 DIRECTLY WITH STUDENTS IN THAT SCHOOL SYSTEM;

31 (VIII) THE DIRECTOR OF A LICENSED CHILD CARE FACILITY OR
32 LICENSED CHILD PLACEMENT AGENCY TO CARRY OUT APPROPRIATE PERSONNEL
33 ACTIONS FOLLOWING A REPORT OF SUSPECTED CHILD ABUSE OR NEGLECT
34 ALLEGED TO HAVE BEEN COMMITTED BY AN EMPLOYEE OF THE FACILITY OR
35 AGENCY AND INVOLVING A CHILD WHO IS CURRENTLY OR WAS PREVIOUSLY UNDER
36 THE CARE OF THAT FACILITY OR AGENCY;

37 (IX) THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF
38 THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 4 OF THE STATE
39 GOVERNMENT ARTICLE; OR

1 (X) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A LICENSED
2 PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER TO MAKE DISCHARGE
3 DECISIONS CONCERNING A CHILD, WHEN THE PRACTITIONER SUSPECTS THAT THE
4 CHILD MAY BE IN DANGER AFTER DISCHARGE BASED ON THE PRACTITIONER'S
5 OBSERVATION OF THE BEHAVIOR OF THE CHILD'S PARENTS OR IMMEDIATE FAMILY
6 MEMBERS; AND

7 (2) MAY BE DISCLOSED BY THE STATE DEPARTMENT OF EDUCATION TO
8 THE OPERATOR OF A CHILD CARE CENTER THAT IS REQUIRED TO BE LICENSED OR
9 TO HOLD A LETTER OF COMPLIANCE UNDER TITLE 5, SUBTITLE 5, PART VII OF THE
10 FAMILY LAW ARTICLE OR TO A FAMILY DAY CARE PROVIDER WHO IS REQUIRED TO BE
11 REGISTERED UNDER TITLE 5, SUBTITLE 5, PART V OF THE FAMILY LAW ARTICLE, TO
12 DETERMINE THE SUITABILITY OF AN INDIVIDUAL FOR EMPLOYMENT IN THE CHILD
13 CARE CENTER OR FAMILY DAY CARE HOME.

14 (D) ONLY THE FOLLOWING INFORMATION CONCERNING CHILD ABUSE AND
15 NEGLECT MAY BE DISCLOSED TO A PRACTITIONER OF A HOSPITAL OR BIRTHING
16 CENTER UNDER SUBSECTION (C)(1)(X) OF THIS SECTION:

17 (1) WHETHER THERE IS A PRIOR FINDING OF INDICATED CHILD ABUSE
18 OR NEGLECT BY EITHER PARENT; AND

19 (2) WHETHER THERE IS AN OPEN INVESTIGATION OF CHILD ABUSE OR
20 NEGLECT PENDING AGAINST EITHER PARENT.

21 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
22 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A
23 FINE NOT EXCEEDING \$500 OR BOTH.

24 9-219.

25 (A) (1) IN THIS SECTION, "CONFIDENTIAL RESEARCH RECORD" MEANS A
26 RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT:

27 (I) IS ASSEMBLED OR OBTAINED FOR RESEARCH OR STUDY BY THE
28 DEPARTMENT OR THE SECRETARY; AND

29 (II) NAMES OR OTHERWISE IDENTIFIES A PERSON.

30 (2) "CONFIDENTIAL RESEARCH RECORD" INCLUDES A RECORD THAT
31 WAS TRANSFERRED TO THE CUSTODY OF THE DEPARTMENT BY A PREDECESSOR
32 AGENCY.

33 (B) EACH CONFIDENTIAL RESEARCH RECORD SHALL REMAIN IN THE
34 CUSTODY AND CONTROL OF THE DEPARTMENT.

35 (C) A CONFIDENTIAL RESEARCH RECORD MAY BE USED ONLY FOR THE
36 RESEARCH AND STUDY FOR WHICH IT WAS ASSEMBLED OR OBTAINED.

1 (D) A PERSON MAY NOT DISCLOSE A CONFIDENTIAL RESEARCH RECORD TO
2 ANY PERSON WHO IS NOT ENGAGED IN THE RESEARCH OR STUDY FOR WHICH IT WAS
3 ASSEMBLED OR OBTAINED.

4 (E) THIS SECTION DOES NOT APPLY TO OR RESTRICT THE USE OR
5 PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT
6 SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE,
7 WITHOUT DISCLOSING THE IDENTITY OF ANY PERSON WHO IS THE SUBJECT OF A
8 CONFIDENTIAL RECORD.

9 SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Article – Human Services**

12 5–310.

13 (A) (1) FOR APPLICANTS TO THE FIP, THE AMOUNT OF ASSISTANCE SHALL
14 BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY
15 MONTH AND DISREGARDING 20% OF THAT EARNED INCOME.

16 (2) FOR ELIGIBLE RECIPIENTS WHO OBTAIN UNSUBSIDIZED
17 EMPLOYMENT, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING
18 NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING
19 35% OF THAT EARNED INCOME.

20 SECTION 9. AND BE IT FURTHER ENACTED, That it is the intention of the
21 General Assembly that, except as expressly provided in this Act, this Act shall be
22 construed as a nonsubstantive revision, and may not otherwise be construed to render
23 any substantive change in the law of the State.

24 SECTION 10. AND BE IT FURTHER ENACTED, That the catchlines,
25 captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes
26 contained in this Act are not law and may not be considered to have been enacted as
27 a part of this Act.

28 SECTION 11. AND BE IT FURTHER ENACTED, That nothing in this Act
29 affects the term of office of an appointed or elected member of any commission, office,
30 department, agency, or other unit. An individual who is a member of a unit on the
31 effective date of this Act shall remain a member for the balance of the term to which
32 appointed or elected, unless the member sooner dies, resigns, or is removed under
33 provisions of law.

34 SECTION 12. AND BE IT FURTHER ENACTED, That, except as expressly
35 provided to the contrary in this Act, any transaction or employment status affected by
36 or flowing from any change of nomenclature or any statute amended, repealed, or
37 transferred by this Act and validly entered into or existing before the effective date of
38 this Act and every right, duty, or interest flowing from a statute amended, repealed,
39 or transferred by this Act remains valid after the effective date of this Act and may be
40 terminated, completed, consummated, or enforced as required or allowed by any

1 statute amended, repealed, or transferred by this Act as though the repeal,
2 amendment, or transfer had not occurred. If a change in nomenclature involves a
3 change in name or designation of any State unit, the successor unit shall be
4 considered in all respects as having the powers and obligations granted the former
5 unit.

6 SECTION 13. AND BE IT FURTHER ENACTED, That the continuity of every
7 commission, office, department, agency, or other unit is retained. The personnel,
8 records, files, furniture, fixtures, and other properties and all appropriations, credits,
9 assets, liabilities, and obligations of each retained unit are continued as the
10 personnel, records, files, furniture, fixtures, properties, appropriations, credits,
11 assets, liabilities, and obligations of the unit under the laws enacted by this Act.

12 SECTION 14. AND BE IT FURTHER ENACTED, That, except as expressly
13 provided to the contrary in this Act, any person licensed, registered, certified, or
14 issued a permit or certificate by any commission, office, department, agency, or other
15 unit established or continued by any statute amended, repealed, or transferred by
16 this Act is considered for all purposes to be licensed, registered, certified, or issued a
17 permit or certificate by the appropriate unit continued under this Act for the duration
18 of the term for which the license, registration, certification, or permit was issued, and
19 may renew that authorization in accordance with the appropriate renewal provisions
20 of this Act.

21 SECTION 15. AND BE IT FURTHER ENACTED, That this Act does not
22 rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is
23 or was in effect on the effective date of this Act concerning the practice and procedure
24 in and the administration of the appellate courts and the other courts of this State.

25 SECTION 16. AND BE IT FURTHER ENACTED, That the publisher of the
26 Annotated Code of Maryland, in consultation with and subject to the approval of the
27 Department of Legislative Services, shall correct, with no further action required by
28 the General Assembly, cross-references and terminology rendered incorrect by this
29 Act or by any other Act of the General Assembly of 2007 that affects provisions
30 enacted by this Act. The publisher shall adequately describe any such correction in an
31 editor's note following the section affected.

32 SECTION 17. AND BE IT FURTHER ENACTED, That Section 6 of this Act
33 shall take effect on the taking effect of the termination provision specified in Section
34 3 of Chapter 691 of the Acts of the General Assembly of 2001, as amended by Chapter
35 164 of the Acts of the General Assembly of 2003. If that termination provision takes
36 effect, Sections 9-216(b) and 9-246 of the Human Services Article, as enacted by
37 Section 2 of this Act, shall be abrogated and of no further force and effect. This Act
38 may not be interpreted to have any effect on that termination provision.

39 SECTION 18. AND BE IT FURTHER ENACTED, That Section 7 of this Act
40 shall take effect on the taking effect of the termination provision specified in Section
41 2 of Chapter 10 of the Acts of the General Assembly of 2006. If that termination
42 provision takes effect, Sections 1-202 and 9-219 of the Human Services Article, as

1 enacted by Section 2 of this Act, shall be abrogated and of no further force and effect.
2 This Act may not be interpreted to have any effect on that termination provision.

3 SECTION 19. AND BE IT FURTHER ENACTED, That Section 8 of this Act
4 shall take effect on the taking effect of the termination provision specified in Section
5 2 of Chapter 229 of the Acts of the General Assembly of 2002. If that termination
6 provision takes effect, Section 5-310(a) of the Human Services Article, as enacted by
7 Section 2 of this Act, shall be abrogated and of no further force and effect. This Act
8 may not be interpreted to have any effect on that termination provision.

9 SECTION 20. AND BE IT FURTHER ENACTED, That, subject to the
10 provisions of Sections 17, 18, and 19 of this Act, this Act shall take effect October 1,
11 2007.