Article - Criminal Procedure

§1–101.

(a) In this article the following words have the meanings indicated.

(b) "Absconding" has the meaning stated in § 6–101 of the Correctional Services Article.

(c) (1) "Charging document" means a written accusation alleging that a defendant has committed a crime.

(2) "Charging document" includes a citation, an indictment, an information, a statement of charges, and a warrant.

(d) "Correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

(e) "County" means a county of the State or Baltimore City.

(f) "Crime of violence" has the meaning stated in § 14–101 of the Criminal Law Article.

(g) "Department" means the Department of Public Safety and Correctional Services.

(h) "Inmate" has the meaning stated in § 1–101 of the Correctional Services Article.

(i) "Local correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

(j) "Managing official" has the meaning stated in § 1–101 of the Correctional Services Article.

(k) "Nolle prosequi" means a formal entry on the record by the State that declares the State's intention not to prosecute a charge.

(l) "Nolo contendere" means a plea stating that the defendant will not contest the charge but does not admit guilt or claim innocence.

(m) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(n) "Secretary" means the Secretary of the Department of Public Safety and Correctional Services.

(o) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

(p) "State correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

(q) "Technical violation" has the meaning stated in § 6–101 of the Correctional Services Article.

§1–201.

(a) (1) Except as provided in subsection (b) of this section, a person may not record or broadcast any criminal matter, including a trial, hearing, motion, or argument, that is held in trial court or before a grand jury.

(2) This prohibition applies to the use of television, radio, and photographic or recording equipment.

(b) Subsection (a) of this section does not apply to the use of electronic or photographic equipment approved by the court:

(1) to take the testimony of a child victim under § 11-303 of this article; or

(2) to perpetuate a court record.

(c) A person who violates this section may be held in contempt of court.

§1–202.

(a) (1) The court shall appoint a qualified interpreter to help a defendant in a criminal proceeding throughout any criminal proceeding when the defendant:

(i) is deaf; or

(ii) cannot readily understand or communicate the English language and cannot understand a charge made against the defendant or help present the defense.

(2) On application of a victim or victim's representative, as defined in § 11–104(a) of this article, the court shall appoint a qualified interpreter to help the victim or the victim's representative throughout any criminal proceeding when the victim or the victim's representative:

(i) is deaf; or

(ii) cannot readily understand or communicate the English language.

(b) The court shall give an interpreter appointed under this section:

(1) compensation for services in an amount equal to that provided for interpreters of languages other than English; and

(2) reimbursement for actual and necessary expenses incurred in the performance of services.

§1–203.

(a) (1) In this subsection, "no–knock search warrant" means a search warrant that authorizes the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose.

(2) A circuit court judge or District Court judge may issue forthwith a search warrant whenever it is made to appear to the judge, by application as described in paragraph (3) of this subsection, that there is probable cause to believe that:

(i) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the territorial jurisdiction of the judge; or

(ii) property subject to seizure under the criminal laws of the State is on the person or in or on the building, apartment, premises, place, or thing.

(3) (i) An application for a search warrant shall be:

1. in writing;

2. signed, dated, and sworn to by the applicant; and

3. accompanied by an affidavit that:

A. sets forth the basis for probable cause as described in paragraph (1) of this subsection; and

B. contains facts within the personal knowledge of the affiant that there is probable cause.

(ii) An application for a search warrant may be submitted to a judge:

1. by in–person delivery of the application, the affidavit, and a proposed search warrant;

2. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or

3. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

(iii) The applicant and the judge may converse about the search warrant application:

1. in person;

2. via telephone; or

3. via video.

(iv) The judge may issue the search warrant:

1. by signing the search warrant, indicating the date and time of issuance on the search warrant, and physically delivering the signed and dated search warrant, the application, and the affidavit to the applicant;

2. by signing the search warrant, writing the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure fax; or

3. by signing the search warrant, either electronically or in writing, indicating the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure electronic mail.

(v) The judge shall file a copy of the signed and dated search warrant, the application, and the affidavit with the court.

(vi) 1. If approved in writing by a police supervisor and the State's Attorney, an application for a search warrant may contain a request that the search warrant be a no–knock search warrant, on the ground that there is reasonable suspicion to believe that, without the authorization the life or safety of the executing officer or another person may be endangered.

2. An application for a no–knock search warrant under this subparagraph shall contain:

A. a description of the evidence in support of the application;

B. an explanation of the investigative activities that have been undertaken and the information that has been gathered to support the request for a no–knock search warrant;

C. an explanation of why the affiant is unable to detain the suspect or search the premises using other, less invasive methods;

D. acknowledgment that any police officers who will execute the search warrant have successfully completed the same training in breach and call–out entry procedures as SWAT team members;

E. a statement as to whether the search warrant can effectively be executed during daylight hours and, if not, what facts or circumstances preclude effective execution in daylight hours; and

F. a list of any additional occupants of the premises by age and gender, as well as an indication as to whether any individuals with cognitive or physical disabilities or pets reside at the premises, if known.

3. A no–knock search warrant shall be executed between 8:00 a.m. and 7:00 p.m., absent exigent circumstances.

(4) The search warrant shall:

(i) be directed to a duly constituted police officer, the State Fire Marshal, or a full–time investigative and inspection assistant of the Office of the State Fire Marshal and authorize the police officer, the State Fire Marshal, or a full–time investigative and inspection assistant of the Office of the State Fire Marshal to search the suspected person, building, apartment, premises, place, or thing and to seize any property found subject to seizure under the criminal laws of the State;

(ii) name or describe, with reasonable particularity:

1. the person, building, apartment, premises, place, or thing to be searched;

2. the grounds for the search; and

3. the name of the applicant on whose application the search warrant was issued; and

(iii) if warranted by application as described in paragraph (3) of this subsection, authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose.

(5) (i) The search and seizure under the authority of a search warrant shall be made within 10 calendar days after the day that the search warrant is issued.

(ii) After the expiration of the 10–day period, the search warrant is void.

(6) The executing law enforcement officer shall give a copy of the search warrant, the application, and the affidavit to an authorized occupant of the premises searched or leave a copy of the search warrant, the application, and the affidavit at the premises searched.

(7) (i) The executing law enforcement officer shall prepare a detailed search warrant return which shall include the date and time of the execution of the search warrant.

(ii) The executing law enforcement officer shall:

1. give a copy of the search warrant return to an authorized occupant of the premises searched or leave a copy of the return at the premises searched; and

2. file a copy of the search warrant return with the court in person, by secure fax, or by secure electronic mail.

(8) (i) In this paragraph, "exigent circumstances" retains its judicially determined meaning.

(ii) While executing a search warrant, a police officer shall be clearly recognizable and identifiable as a police officer, wearing a uniform, badge, and tag bearing the name and identification number of the police officer.

(iii) 1. This subparagraph applies to a police officer whose law enforcement agency requires the use of body–worn cameras.

2. A police officer executing a search warrant shall use a body–worn camera during the course of the search in accordance with the policies established by the police officer's law enforcement agency.

(iv) Unless executing a no–knock search warrant, a police officer shall allow a minimum of 20 seconds for the occupants of a residence to respond and open the door before the police officer attempts to enter the residence, absent exigent circumstances.

(v) A police officer may not use flashbang, stun, distraction, or other similar military–style devices when executing a search warrant, absent exigent circumstances.

(b) (1) A circuit court judge or District Court judge shall cause property taken under a search warrant to be restored to the person from whom it was taken if, at any time, on application to the judge, it appears that:

(i) the property taken is not the same as that described in the search warrant;

(ii) there is no probable cause for believing the existence of the grounds on which the search warrant was issued; or

(iii) the property was taken under a search warrant issued more than 15 calendar days before the seizure.

(2) The judge may receive an oral motion made in open court at any time making application for the return of seized property if the application for return is based on any ground described in paragraph (1) of this subsection.

(3) If the judge grants the oral motion described in paragraph (2) of this subsection, the order of the court shall be in writing and a copy of the order shall be sent to the State's Attorney.

(4) Court costs may not be assessed against the person from whom the property was taken if:

(i) the judge denies the oral motion and requires the person from whom the property was taken to proceed for return of the seized property by petition and an order to show cause to the police authority seizing the property; and

(ii) it is later ordered that the property be restored to the person from whom it was taken.

(5) If the judge finds that the property taken is the same as that described in the search warrant and that there is probable cause for believing the existence of the grounds on which the search warrant was issued, the judge shall order the property to be retained in the custody of the police authority seizing it or to be otherwise disposed of according to law.

(c) (1) This subsection does not apply to contraband or other property prohibited by law from being recoverable.

(2) Property seized under a search warrant issued under subsection (a) of this section may be returned to the person to whom the property belongs without the necessity of that person bringing an action for replevin or any other proceeding against the unit with custody of the property if:

(i) the criminal case in which the property was seized is disposed of because of a nolle prosequi, dismissal, or acquittal;

(ii) the State does not appeal the criminal case in which the property was seized; or

(iii) the time for appeal has expired.

(d) (1) A circuit court judge or District Court judge shall cause property rightfully taken under a search warrant to be restored to the person from whom it was taken if, at any time, on application to the judge, the judge finds that the property is being wrongfully withheld after there is no further need for retention of the property.

(2) The judge may receive an oral motion made in open court at any time making application for the return of seized property if the application for return

is based on the ground that the property, although rightfully taken under a search warrant, is being wrongfully withheld after there is no further need for retention of the property.

(3) If the judge grants the oral motion described in paragraph (2) of this subsection, the order of the court shall be in writing and a copy of the order shall be sent to the State's Attorney.

(4) Court costs may not be assessed against the person from whom the property was taken if:

(i) the judge denies the oral motion and requires the person from whom the property was taken to proceed for return of the seized property by petition and an order to show cause to the police authority wrongfully withholding the property; and

(ii) it is later ordered that the property be restored to the person from whom it was taken.

(e) (1) Notwithstanding any provision of the Maryland Rules, a circuit court judge or District Court judge, on a finding of good cause, may order that an affidavit presented in support of a search and seizure warrant be sealed for a period not exceeding 30 days.

(2) A finding of good cause required by paragraph (1) of this subsection is established by evidence that:

(i) the criminal investigation to which the affidavit is related is of a continuing nature and likely to yield further information that could be of use in prosecuting alleged criminal activities; and

(ii) the failure to maintain the confidentiality of the investigation would:

1. jeopardize the use of information already obtained in the investigation;

2. impair the continuation of the investigation; or

3. jeopardize the safety of a source of information.

(3) A court may grant one 30–day extension of the time that an affidavit presented in support of a search and seizure warrant is to remain sealed if:

(i) law enforcement provides continued evidence as described in paragraph (2) of this subsection; and

(ii) the court makes a finding of good cause based on the evidence.

(4) After the order sealing the affidavit expires, the affidavit shall be:

(i) unsealed; and

(ii) delivered within 15 days:

1. to the person from whom the property was taken; or

2. if that person is not on the premises at the time of delivery, to the person apparently in charge of the premises from which the property was taken.

§1–203.1.

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

(2) "Cell site simulator" means a device that mimics a cell tower and captures identifying information of electronic devices in the range of the device.

(3) "Court" means the District Court or a circuit court having jurisdiction over the crime being investigated, regardless of the location of the electronic device from which location information is sought.

(4) (i) "Electronic device" means a device that enables access to or use of an electronic communication service, as defined in § 10–401 of the Courts Article, a remote computing service, as defined in § 10–4A–01(c) of the Courts Article, or a geographic location information service.

(ii) "Electronic device" does not include:

1. an automatic identification system installed on a vessel in accordance with Title 33, Part 164.46 of the Code of Federal Regulations; or

2. a vessel monitoring system (VMS) or a VMS unit installed on board a vessel for vessel monitoring in accordance with Title 50, Part 648 of the Code of Federal Regulations.

(5) "Exigent circumstances" means an emergency or other judicially recognized exception to constitutional warrant requirements.

(6) "Location information" means real–time or present information concerning the geographic location of an electronic device that is generated by or derived from the operation of that device.

(7) "Location information service" means a global positioning service or other mapping, locational, or directional information service.

(8) "Owner" means a person or an entity having the legal title, claim, or right to an electronic device.

(9) "Service provider" means the provider of an electronic communication service, a remote computing service, or any location information service.

(10) "User" means a person that uses or possesses an electronic device.

(b) (1) A court may issue an order authorizing or directing a law enforcement officer to use a cell site simulator or obtain location information from an electronic device after determining from an application described in paragraph (2) of this subsection that there is probable cause to believe that:

(i) a misdemeanor or felony has been, is being, or will be committed by the owner or user of the electronic device or by the individual about whom location information is being sought; and

(ii) the information sought by the cell site simulator or the location information being sought:

1. is evidence of, or will lead to evidence of, the misdemeanor or felony being investigated; or

2. will lead to the apprehension of an individual for whom an arrest warrant has been previously issued.

(2) An application for an order under this section shall be:

(i) in writing;

(ii) signed and sworn to by the applicant; and

(iii) accompanied by an affidavit that:

1. sets forth the basis for probable cause as described in paragraph (1) of this subsection; and

2. contains facts within the personal knowledge of the affiant.

(3) An application for a court order under this section may be submitted to a judge:

(i) by in–person delivery of the application, the affidavit, and a proposed court order;

(ii) by secure fax, if a complete and printable image of the application, the affidavit, and a proposed court order are submitted; or

(iii) by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed court order are submitted.

(4) The applicant and the judge may converse about the court order application:

(i) in person;

(ii) via telephone; or

(iii) via video.

(5) The judge may issue the court order:

(i) by signing the court order, indicating the date and time of issuance on the court order, and physically delivering the signed and dated court order, the application, and the affidavit to the applicant;

(ii) by signing the court order, writing the date and time of issuance on the court order, and sending complete and printable images of the signed and dated court order, the application, and the affidavit to the applicant by secure fax; or

(iii) by signing the court order, either electronically or in writing, indicating the date and time of issuance on the court order, and sending complete and printable images of the signed and dated court order, the application, and the affidavit to the applicant by secure electronic mail.

(6) An order to obtain location information issued under this section shall:

(i) name or describe with reasonable particularity:

1. the type of electronic device associated with the location information being sought;

2. the user of the electronic device, if known, or the identifying number of the electronic device about which location information is sought;

3. the owner, if known and if the owner is a person or an entity other than the user, of the electronic device;

4. the grounds for obtaining the location information; and

5. the name of the applicant on whose application the order was issued;

(ii) authorize the executing law enforcement officer to obtain the location information without giving notice to the owner or user of the electronic device or to the individual about whom the location information is being sought for the duration of the order;

(iii) specify the period of time for which location information is authorized to be obtained; and

(iv) if applicable, order the service provider to:

1. disclose to the executing law enforcement officer the location information associated with the electronic device for the period of time authorized; and

2. refrain from notifying the user, owner, or any other person of the disclosure of location information for as long as the notice under subsection (d) of this section is delayed.

(7) An order authorizing use of a cell site simulator issued under this section shall:

(i) name or describe with reasonable particularity:

1. the type of electronic device associated with the use of the cell site simulator;

2. the user of the electronic device, if known, or the identifying number of the electronic device;

3. the owner of the electronic device, if known, and whether the owner is a person or an entity other than the user;

4. the grounds for using the cell site simulator; and

5. the name of the applicant on whose application the order was issued;

(ii) authorize the executing law enforcement officer to use a cell site simulator without giving notice to the owner or user of the electronic device or to the individual about whom information is being sought for the duration of the order;

(iii) specify the period of time for which use of a cell site simulator is authorized;

(iv) require that any third–party or nontarget data be permanently destroyed on the expiration of the order;

(v) require that no content data be obtained;

(vi) restrict the investigative use of any third–party or nontarget data without further court order; and

(vii) require that a copy of the application and order be provided in discovery.

(c) (1) (i) The period of time during which a cell site simulator may be used or location information may be obtained under the authority of an order under subsection (b) of this section may not exceed 30 days unless extended as provided in paragraph (3) of this subsection.

(ii) Cell site simulator use shall begin or location information shall begin to be obtained by the executing law enforcement officer within 10 calendar days after the order is issued or, if applicable, the order shall be delivered to the service provider within 10 calendar days after the order is issued.

(2) If none of the events described in paragraph (1)(ii) of this subsection occurs within 10 calendar days of the issuance of the order, the order is void.

(3) (i) The authority to use a cell site simulator or obtain location information under the order may be extended beyond 30 calendar days on a finding of continuing probable cause.

(ii) An extension under this paragraph may not exceed an additional 30 calendar days, unless the court finds continuing probable cause and determines that good cause exists for a longer extension.

(d) (1) Notice of the court's order shall be delivered to the user and, if known and if the owner is a person or an entity other than the user, the subscriber of the electronic device at issue.

(2) The notice shall:

(i) state the general nature of the law enforcement inquiry; and

(ii) inform the user or owner:

1. if applicable, that a cell site simulator was used or that location information maintained by the service provider was supplied to a law enforcement officer;

2. if applicable, of the identifying number associated with the electronic device;

3. of the dates during which the cell site simulator was used or for which the location information was supplied;

4. whether notification was delayed; and

5. which court authorized the order.

(3) Subject to paragraph (4) of this subsection, notice must be delivered within 10 calendar days after the expiration of the order.

(4) Notwithstanding any provision of the Maryland Rules or this subtitle, the court, on a finding of good cause, may order that the application, affidavit, and order be sealed and that the notification required under this section be delayed for a period of 30 calendar days.

(5) A finding of good cause under paragraph (4) of this subsection may be established by evidence that:

(i) the criminal investigation to which the affidavit is related is of a continuing nature and likely to yield further information that could be of use in prosecuting alleged criminal activities; and

(ii) the failure to maintain the confidentiality of the investigation would:

1. jeopardize the use of information already obtained in the investigation;

2. impair the continuation of the investigation; or

3. jeopardize the safety of a source of information.

(6) A court may order that notification under this section be delayed beyond 30 calendar days if:

(i) a law enforcement officer provides continued evidence of a circumstance described in paragraph (5) of this subsection; and

(ii) the court makes a finding of good cause based on evidence that notice should be further delayed to preserve the continuation of the investigation.

(e) (1) Discovery of the application, affidavit, order, and related documents, if any, is subject to the provisions of Maryland Rules 4–262 and 4–263.

(2) Subject to paragraph (3) of this subsection, evidence obtained in violation of this section is subject to the exclusionary rule as judicially determined.

(3) Under no circumstances is information collected on a nontarget device admissible in a criminal, civil, administrative, or other proceeding.

(f) Notwithstanding any other provision of this section, a law enforcement officer may use a cell site simulator or obtain location information for a period not to exceed 48 hours:

(1) in exigent circumstances; or

(2) with the express consent of the user or owner of the electronic device.

(g) A person may not be held civilly liable for complying with this section by providing location information.

§1–205.

(a) A court in a county where a crime is committed may issue process against a person charged with the crime even if:

(1) the person is not a resident of the county; or

(2) the person is a resident of the county but leaves the county.

(b) (1) Process issued under subsection (a) of this section shall be directed to the sheriff of the county where the person resides.

(2) The sheriff shall serve and return the process as if issued by a court of the sheriff's county.

(3) A court that issued process under subsection (a) of this section may fine a sheriff who neglects the process or delays serving and returning the process.

§1–206.

Whenever process is served on a defendant in a criminal case, the process server shall leave with the defendant a copy of the process.

§1–207.

(a) The Governor may remit all or part of a fine or forfeiture.

(b) A defendant or surety applying for the remission of all or part of a recognizance that has been forfeited:

(1) may apply to a court to order the remission in accordance with Title 4 of the Maryland Rules; and

(2) need not apply to the Governor to order the remission.

§1–208.

The Governor may not grant a nolle prosequi unless the applicant for the nolle prosequi pays the cost of prosecution.

§1–209.

(a) (1) In this section, "department" means:

(i) the Department of Agriculture;

(ii) the Department of the Environment;

(iii) the Maryland Department of Health;

(iv) the Department of Human Services;

(v) the Maryland Department of Labor; or

(vi) the Department of Public Safety and Correctional Services.

(2) "Department" includes any unit of a department specified in paragraph (1) of this subsection.

(b) This section does not apply to a person who was previously convicted of a crime of violence, as defined in § 14–101 of the Criminal Law Article.

(c) It is the policy of the State to encourage the employment of nonviolent ex–offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State.

(d) Except as provided in subsection (f) of this section, a department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:

(1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or

(2) the issuance of the license or certificate would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

(e) In making the determination under subsection (d) of this section, the department shall consider:

(1) the policy of the State expressed in subsection (c) of this section;

(2) the specific duties and responsibilities required of a licensee or certificate holder;

(3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate;

(4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction;

(5) the seriousness of the offense for which the applicant was convicted;

(6) other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and

(7) the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.

(f) (1) This subsection does not apply to a conviction of a crime for which registration on the sex offender registry is required under Title 11, Subtitle 7 of this article.

(2) If a period of 7 years or more has passed since an applicant completed serving the sentence for a crime, including all imprisonment, mandatory supervision, probation, and parole, and the applicant has not been charged with another crime other than a minor traffic violation, as defined in § 10–101 of this article, during that time, a department may not deny an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of the crime.

§1–210.

(a) The act of seeking, providing, or assisting with the provision of medical assistance for another person who is experiencing a medical emergency after ingesting or using alcohol or drugs may be used as a mitigating factor in a criminal prosecution of:

(1) the person who experienced the medical emergency; or

(2) any person who sought, provided, or assisted in the provision of medical assistance.

(b) A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person reasonably believed to be experiencing a medical emergency after ingesting or using alcohol or drugs shall be immune from criminal arrest, charge, or prosecution for a violation of § 5–601, § 5–619, § 5–620, § 10–114, § 10–116, or § 10–117 of the Criminal Law Article if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance.

(c) A person who reasonably believes that the person is experiencing a medical emergency after ingesting or using alcohol or drugs shall be immune from criminal arrest, charge, or prosecution for a violation of § 5–601, § 5–619, § 5–620, § 10–114, § 10–116, or § 10–117 of the Criminal Law Article if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person seeking or receiving medical assistance.

(d) A person who seeks, provides, or assists with the provision of medical assistance in accordance with subsection (b) or (c) of this section may not be sanctioned for a violation of a condition of pretrial release, probation, or parole if the evidence of the violation was obtained solely as a result of the person seeking, providing, or assisting with the provision of medical assistance.

§2–101.

(a) In this title the following words have the meanings indicated.

(b) "Emergency" means a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act.

(c) "Police officer" means a person who in an official capacity is authorized by law to make arrests and is:

(1) a member of the Department of State Police;

(2) a member of the Police Department of Baltimore City;

(3) a member of the Baltimore City School Police Force;

(4) a member of the police department, bureau, or force of a county;

(5) a member of the police department, bureau, or force of a municipal corporation;

(6) a member of the Maryland Transit Administration Police Force or Maryland Transportation Authority Police Force;

(7) a member of the University System of Maryland Police Force or Morgan State University Police Force;

(8) a special police officer who is appointed to enforce the law and maintain order on or protect property of the State or any of its units;

(9) a member of the Maryland Capitol Police of the Department of General Services;

(10) the sheriff of a county whose usual duties include the making of arrests;

(11) a regularly employed deputy sheriff of a county who is compensated by the county and whose usual duties include the making of arrests;

(12) a member of the Natural Resources Police Force of the Department of Natural Resources;

(13) an authorized employee of the Field Enforcement Bureau of the Comptroller's Office;

(14) an authorized member of the Field Enforcement Division of the Alcohol and Tobacco Commission;

(15) a member of the Maryland–National Capital Park and Planning Commission Park Police;

(16) a member of the Housing Authority of Baltimore City Police Force;

(17) a member of the Crofton Police Department;

(18) a member of the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified at § 10–204 of the Transportation Article;

(19) a member of the Intelligence and Investigative Division of the Department;

(20) a member of the State Forest and Park Service Police Force of the Department of Natural Resources;

(21) a member of the Washington Suburban Sanitary Commission Police Force;

(22) a member of the Ocean Pines Police Department;

(23) a member of the police force of the Baltimore City Community College;

(24) a member of the police force of the Hagerstown Community College;

(25) an employee of the Warrant Apprehension Unit of the Intelligence and Investigative Division in the Department;

(26) a member of the police force of the Anne Arundel Community College; or

(27) a member of the police department of the Johns Hopkins University established in accordance with Title 24, Subtitle 12 of the Education Article.

§2–102.

(a) This section does not apply to an employee of the Department of State Police to whom the Secretary of State Police assigns the powers contained in § 2-412 of the Public Safety Article.

(b) (1) Subject to the limitations of paragraph (3) of this subsection, a police officer may make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the State without limitations as to jurisdiction.

(2) This section does not authorize a police officer who acts under the authority granted by this section to enforce the Maryland Vehicle Law beyond the police officer's sworn jurisdiction, unless the officer is acting under a mutual aid agreement authorized under § 2-105 of this subtitle.

(3) A police officer may exercise the powers granted by this section when:

(i) 1. the police officer is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

2. the police officer is rendering assistance to another police officer;

3. the police officer is acting at the request of a police officer or State Police officer; or

4. an emergency exists; and

(ii) the police officer is acting in accordance with regulations adopted by the police officer's employing unit to carry out this section.

(4) The powers granted by this section are in addition to the powers granted by §§ 5-801, 5-802, 5-807, 5-808, and 5-901 of the Criminal Law Article and to the powers of fresh pursuit granted by Subtitle 3 of this title.

(c) (1) A police officer who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i) 1. the chief of police, if any, or chief's designee, when in a municipal corporation;

2. the Police Commissioner or Police Commissioner's designee, when in Baltimore City;

3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;

4. the sheriff or sheriff's designee, when in a county without a county police department;

5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources;

6. the chief of police of the Maryland Transportation Authority or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration;

7. the chief of police of the Department of General Services or the chief's designee, when on property owned, leased, operated, managed, patrolled by, or under the control of the Department of General Services; or

8. the chief of police of the Maryland-National Capital Park and Planning Commission for the county in which the property is located, when on property owned, leased, or operated by or under the control of the Maryland-National Capital Park and Planning Commission; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the police officer participates in a joint investigation with officials from another state, federal, or local law enforcement unit, the police officer shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(d) A police officer who acts under the authority granted by this section:

(1) has all the immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the police officer is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

(e) (1) This section does not impair a right of arrest otherwise existing under the Code.

(2) This section does not deprive a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as provided by law or the Maryland Rules.

§2–103.

(a) In this section, "primary law enforcement officer" means:

(1) the chief of police, if any, or the chief's designee, in a municipal corporation;

(2) the chief of police or the chief's designee in a county with a county police department;

(3) the sheriff or the sheriff's designee in a county without a police department;

(4) the Police Commissioner or the Police Commissioner's designee in Baltimore City;

(5) the Secretary of Natural Resources or the Secretary's designee on any property owned, leased, operated by, or under the control of the Department of Natural Resources;

(6) the chief of police of the Maryland Transportation Authority or chief's designee on property owned, leased, operated by, or under the control of the Maryland Aviation Administration, the Maryland Port Administration, or the Maryland Transportation Authority; or

(7) the Secretary of State Police.

(b) A police officer may arrest a person throughout the State without limitations as to jurisdiction if:

(1) a warrant has been issued against the person;

(2) the police officer is participating in a joint operation created by an agreement between the primary law enforcement officers;

(3) the arrest occurs within one of the participating jurisdictions in accordance with the agreement; and

(4) the police officer is acting in accordance with regulations that the police officer's employing unit adopts to carry out this section.

(c) A police officer who acts under the authority granted by this section:

(1) has all the immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the police officer is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

§2–104.

(a) In this section, "federal law enforcement officer" means an officer who may:

(1) make an arrest with or without a warrant for violations of the United States Code; and

(2) carry firearms in the performance of the officer's duties.

(b) (1) Subject to the limitations of paragraph (2) of this subsection, a federal law enforcement officer may:

(i) make arrests as set forth in Subtitle 2 of this title; and

(ii) execute arrest and search and seizure warrants issued under the laws of the State.

(2) A federal law enforcement officer may exercise the powers granted by this subsection when:

(i) the federal law enforcement officer is participating in a joint investigation with officials from a State or local law enforcement unit;

(ii) the federal law enforcement officer is rendering assistance to a police officer;

(iii) the federal law enforcement officer is acting at the request of a local police officer or State Police officer; or

(iv) an emergency exists.

(c) (1) A federal law enforcement officer who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i) 1. the chief of police, if any, or chief's designee, when in a municipal corporation;

2. the police commissioner or police commissioner's designee, when in Baltimore City;

3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;

4. the sheriff or sheriff's designee, when in a county without a county police department;

5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources; or

6. the chief of police of the Maryland Transportation Authority or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the federal law enforcement officer participates in a joint investigation with officials from a State or local law enforcement unit, the federal law enforcement officer shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(d) A federal law enforcement officer who acts under the authority granted by this section:

(1) has the same legal status as a police officer;

(2) has the same protections as a police officer under § 2-608 of the Courts Article with regard to charging documents against police officers; and

(3) has the same immunity from liability described in § 5-611 of the Courts Article.

(e) This section does not impose liability on or require indemnification by the State or a local subdivision for an act performed by a federal law enforcement officer under this section.

§2–104.1.

A United States Park Police officer may make arrests, conduct investigations, issue citations, and otherwise enforce the laws of the State within areas of the National Park System.

§2–105.

(a) In this section, "governing body" means:

(1) the county executive and county council of a charter county with a county executive;

(2) the county council of a charter county with no county executive;

(3) the board of county commissioners of a county; or

(4) the mayor and council, by whatever name known, of a municipal corporation.

(b) By action as in the regular routine for legislative enactment, the governing body of a county or municipal corporation may determine the circumstances under which the police officers and other officers, agents, and employees of the county or municipal corporation, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the county or municipal corporation to any place within or outside the State.

(c) (1) The acts done by the police officers or other officers, agents, or employees of a county or municipal corporation under the authority of subsection (b) of this section and the expenditures made by the county or municipal corporation are considered to be for a public and governmental purpose.

(2) When a county or municipal corporation is acting through its police officers or other officers, agents, or employees for a public or governmental purpose beyond its boundaries under this section or other lawful authority, the county or municipal corporation has the same immunities from liability that the county or municipal corporation has when acting through its police officers or other officers, agents, or employees for a public or governmental purpose within its boundaries.

(3) When the police officers or other officers, agents, or employees of a county or municipal corporation are acting beyond the boundaries of the county or municipal corporation within the State under this section or other lawful authority, the police officers and other officers, agents, and employees of the county or municipal corporation have the same immunity from liability described in § 5-612 of the Courts Article and exemptions from laws, ordinances, and regulations, and the same pension, relief, disability, workers' compensation, and other benefits as those persons have while performing their duties within the boundaries of the county or municipal corporation.

(d) In accordance with subsection (b) of this section, Allegany County and a municipal corporation in that county may make a reciprocal agreement to provide police officers and other officers, employees, and agents, together with all necessary equipment.

(e) (1) The governing body of a county or municipal corporation or the Maryland-National Capital Park and Planning Commission may make a reciprocal agreement for the period that it considers advisable with the District of Columbia or a county, municipal corporation, or the Maryland-National Capital Park and Planning Commission, within or outside the State, and establish and carry out a plan to provide mutual aid by providing its police officers and other officers, employees, and agents, together with all necessary equipment as provided in subsection (b) of this section.

(2) A county, municipal corporation, or the Maryland-National Capital Park and Planning Commission may not make a reciprocal agreement unless the agreement provides that each party shall:

(i) waive any and all claims that are against the other parties to the agreement and that may arise out of their activities outside their respective jurisdictions under the agreement; and

(ii) indemnify and hold harmless the other parties to the agreement from all claims by third parties that are for property damage or personal injury and that may arise out of the activities of the other parties to the agreement outside their respective jurisdictions under the agreement.

(f) The governing body of a county or municipal corporation in the State may obtain or extend the necessary public liability insurance to cover claims that arise out of mutual aid agreements made with another county or municipal corporation outside the State.

(g) (1) The police officers and other officers, agents, and employees coming from one county or municipal corporation to another within the State under a reciprocal agreement under this section may enforce the laws of the State to the same extent as authorized law enforcement officers of the receiving county or municipal corporation.

(2) The police officers and other officers, agents, and employees coming into the State under a reciprocal agreement under this section may enforce the laws of the State to the same extent as authorized law enforcement officers of a county or municipal corporation in the State.

§2–106.

(a) (1) A peace officer, who is appointed in the jurisdiction in which a person is arrested, may keep custody of the arrested person in another jurisdiction in which a District Court commissioner is located to bring the person before the District Court commissioner in the other jurisdiction.

(2) The peace officer has the same power to keep custody of the arrested person under paragraph (1) of this subsection that the peace officer has in the jurisdiction for which the peace officer is appointed and the arrest is made.

(b) (1) A peace officer, who is appointed in the jurisdiction for which a charging document is issued for a person who is arrested in another jurisdiction, may obtain custody of the arrested person in the other jurisdiction to bring the person before a District Court commissioner in the jurisdiction in which the charging document is issued.

(2) The peace officer has the same power to keep custody of the arrested person under paragraph (1) of this subsection that the peace officer has in the jurisdiction for which the peace officer is appointed.

(c) This section does not affect or extend the time period for bringing an arrested person before a judicial officer after arrest.

§2–106.1.

(a) This section applies only in Allegany County.

(b) Except as provided in subsection (c) of this section, a police officer or an agent acting on behalf of a law enforcement agency shall keep custody of an arrested person from the time of arrest until the arrested person is:

(1) committed by lawful authority to a State or local correctional facility;

(2) released from custody; or

(3) in the custody of another police officer.

(c) A correctional officer may keep custody of or provide transport for an arrested person who is awaiting transfer to another jurisdiction or waiting to see a judicial officer of the court if:

(1) the Commissioner of the Division of Pretrial Detention and Services or local managing official has assigned the correctional officer to supervise and transport inmates;

(2) the correctional officer will supervise the arrested person in a correctional facility or during transport; and

(3) the correctional facility is not addressing a situation that poses a severe threat to maintaining the desired level of security and safety of the arrested person or persons inside the correctional facility at the time of the transfer of custody.

§2–107.

(a) (1) Before a law enforcement officer may charge with a crime a person who is found by the law enforcement officer in a semiconscious or unconscious condition, the law enforcement officer shall make a diligent effort to determine whether the person:

(i) suffers from epilepsy, diabetes, a cardiac condition, or another type of illness that causes semiconsciousness or unconsciousness; and

(ii) is carrying the identification bracelet, tag, or card described in subsection (b) of this section.

(2) If the law enforcement officer determines that the person suffers from an illness that causes semiconsciousness or unconsciousness, and the person is carrying the identification bracelet, tag, or card described in subsection (b) of this section, the law enforcement officer shall:

(i) notify the person's physician immediately; or

(ii) have the person immediately transported to:

1. a physician; or

2. a facility where the services of a physician are available.

(b) A person who suffers from epilepsy, diabetes, a cardiac condition, or other type of illness that causes temporary blackouts, semiconscious periods, or complete unconsciousness may wear an identification bracelet or metal tag or carry an identification card that is engraved, stamped, or imprinted with the person's name, type of illness, physician's name, and required medication.

(c) (1) A person may not willfully and knowingly falsify identification described in subsection (b) of this section.

(2) A person may not deliberately misrepresent an illness that causes blackouts, semiconsciousness, or unconsciousness as described in subsection (b) of this section.

(3) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

§2–108.

(a) A law enforcement officer who charges a minor with a criminal offense shall make a reasonable attempt to provide actual notice to the parent or guardian of the minor of the charge.

(b) If a law enforcement officer takes a minor into custody, the law enforcement officer or the officer's designee shall make a reasonable attempt to notify the parent or guardian of the minor in accordance with the requirements of § 3–8A–14 of the Courts Article.

§2–109. NOT IN EFFECT

** TAKES EFFECT JULY 1, 2022 PER CHAPTER 59 OF 2021 **

(a) At the commencement of a traffic stop or other stop, absent exigent circumstances, a police officer shall:

(1) display proper identification to the stopped individual; and

(2) provide the following information to the stopped individual:

(i) the officer's name;

(ii) the officer's identification number issued by the law enforcement agency the officer is representing;

(iii) the name of the law enforcement agency the police officer is representing; and

(iv) the reason for the traffic stop or other stop.

(b) A police officer's failure to comply with subsection (a) of this section:

(1) may be grounds for administrative disciplinary action against the officer; and

(2) may not serve as the basis for the exclusion of evidence under the exclusionary rule.

(c) A police officer may not prohibit or prevent a citizen from recording the police officer's actions if the citizen is otherwise acting lawfully and safely.

§2–201.

(a) This subtitle does not impair a right of arrest otherwise existing under the Code.

(b) This subtitle does not deprive a person of the right to receive a citation for:

(1) a traffic violation as provided in the Maryland Vehicle Law; or

(2) a criminal violation as provided by law or the Maryland Rules.

§2–202.

(a) A police officer may arrest without a warrant a person who commits or attempts to commit a felony or misdemeanor in the presence or within the view of the police officer.

(b) A police officer who has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer may arrest without a warrant any person whom the police officer reasonably believes to have committed the crime.

(c) A police officer without a warrant may arrest a person if the police officer has probable cause to believe that a felony has been committed or attempted and the person has committed or attempted to commit the felony whether or not in the presence or within the view of the police officer.

§2–203.

(a) A police officer without a warrant may arrest a person if the police officer has probable cause to believe:

(1) that the person has committed a crime listed in subsection (b) of this section; and

(2) that unless the person is arrested immediately, the person:

(i) may not be apprehended;

(ii) may cause physical injury or property damage to another; or

(iii) may tamper with, dispose of, or destroy evidence.

(b) The crimes referred to in subsection (a)(1) of this section are:

(1) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article;

(2) malicious burning under § 6–104 or § 6–105 of the Criminal Law Article or an attempt to commit the crime;

(3) malicious mischief under § 6–301 of the Criminal Law Article or an attempt to commit the crime;

(4) a theft crime where the value of the property or services stolen is less than $1,000 under § 7–104 or § 7–105 of the Criminal Law Article or an attempt to commit the crime;

(5) the crime of giving or causing to be given a false alarm of fire under § 9–604 of the Criminal Law Article;

(6) indecent exposure under § 11–107 of the Criminal Law Article;

(7) a crime that relates to controlled dangerous substances under Title 5 of the Criminal Law Article or an attempt to commit the crime;

(8) the wearing, carrying, or transporting of a handgun under § 4–203 or § 4–204 of the Criminal Law Article;

(9) carrying or wearing a concealed weapon under § 4–101 of the Criminal Law Article;

(10) prostitution and related crimes under Title 11, Subtitle 3 of the Criminal Law Article; and

(11) violation of a condition of pretrial or posttrial release under § 5–213.1 of this article.

§2–204.

(a) A police officer without a warrant may arrest a person if:

(1) the police officer has probable cause to believe that:

(i) the person battered the person's spouse or another person with whom the person resides;

(ii) there is evidence of physical injury; and

(iii) unless the person is arrested immediately, the person:

1. may not be apprehended;

2. may cause physical injury or property damage to another; or

3. may tamper with, dispose of, or destroy evidence; and

(2) a report to the police was made within 48 hours of the alleged incident.

(b) If the police officer has probable cause to believe that mutual battery occurred and arrest is necessary under subsection (a) of this section, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the police officer believes to be the primary aggressor.

§2–204.1.

A police officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of a protective order as described in § 4–508.1(c) or § 4–509(b) of the Family Law Article.

§2–205.

A police officer without a warrant may arrest a person if:

(1) the police officer has probable cause to believe the person has engaged in stalking under § 3-802 of the Criminal Law Article;

(2) there is credible evidence other than the statements of the alleged stalking victim to support the probable cause under item (1) of this section; and

(3) the police officer has reason to believe that the alleged stalking victim or another person is in danger of imminent bodily harm or death.

§2–206.

(a) This section applies during a public emergency, as defined in § 14–301(e)(1) or (2) of the Public Safety Article, and when public safety is imperiled, or on reasonable apprehension of immediate danger of public safety being imperiled.

(b) During a time described in subsection (a) of this section, the authority to make an arrest without a warrant granted to police officers under this title is granted to a person who:

(1) is serving under a proclamation of a state of emergency issued by the Governor, as provided in § 14–303 of the Public Safety Article, as:

(i) a member of a law enforcement unit that is listed in § 2–101(c) of this title; or

(ii) a member of the militia called into action by the Governor, as provided in § 14–306 of the Public Safety Article;

(2) is serving as a member of the militia ordered into active service by the Governor under § 13–702 of the Public Safety Article; or

(3) is a member of the armed forces of the United States under orders to aid civil authorities of the State in enforcing law and order, subject to subsection (c) of this section.

(c) The grant of authority under subsection (b)(3) of this section does not limit or impair any power or duty of a member of the armed forces of the United States or authorize any action incompatible with federal law or regulations.

§2–207.

(a) Correctional employees assigned by the Commissioner of Correction to monitor inmates on home detention under Title 3, Subtitle 4 of the Correctional Services Article have the same powers to arrest inmates in the home detention program as are set forth in this title for police officers.

(b) Parole and probation employees assigned by the Director of Parole and Probation to supervise offenders on home detention under § 6-108 of the Correctional Services Article have the same powers to arrest these offenders as are set forth in this title for police officers.

(c) Correctional officers designated by the Commissioner of Correction under § 3-216 of the Correctional Services Article have the same powers to arrest persons on the property of a correctional facility of the Division of Correction as are set forth in this title for police officers.

(d) Correctional officers designated by the managing official of a local correctional facility under § 11-802 of the Correctional Services Article have the same powers to arrest persons on the property of the facility as are set forth in this title for police officers.

§2–208.

(a) (1) The State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) a felony that is a crime listed in paragraph (2) of this subsection has been committed or attempted; and

(ii) the person to be arrested has committed or attempted to commit the felony whether or not in the presence or within the view of the State Fire Marshal or assistant.

(2) The powers of arrest set forth in paragraph (1) of this subsection apply only to the crimes listed in this paragraph and to attempts, conspiracies, and solicitations to commit these crimes:

(i) murder under § 2–201(4) of the Criminal Law Article;

(ii) setting fire to a dwelling or occupied structure under § 6–102 of the Criminal Law Article;

(iii) setting fire to a structure under § 6–103 of the Criminal Law Article;

(iv) a crime that relates to destructive devices under § 4–503 of the Criminal Law Article; and

(v) making a false statement or rumor as to a destructive device under § 9–504 of the Criminal Law Article.

(b) (1) The State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person

without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) the person has committed a crime listed in paragraph (2) of this subsection; and

(ii) unless the person is arrested immediately, the person:

1. may not be apprehended;

2. may cause physical injury or property damage to another; or

3. may tamper with, dispose of, or destroy evidence.

(2) The crimes referred to in paragraph (1) of this subsection are:

(i) a crime that relates to a device that is constructed to represent a destructive device under § 9–505 of the Criminal Law Article;

(ii) malicious burning in the first or second degree under § 6–104 or § 6–105 of the Criminal Law Article;

(iii) burning the contents of a trash container under § 6–108 of the Criminal Law Article;

(iv) making a false alarm of fire under § 9–604 of the Criminal Law Article;

(v) a crime that relates to burning or attempting to burn property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the Criminal Law Article;

(vi) a crime that relates to interference, obstruction, or false representation of fire and safety personnel under § 6–602 or § 7–402 of the Public Safety Article; and

(vii) threatening arson or attempting, causing, aiding, counseling, or procuring arson in the first or second degree or malicious burning in the first or second degree under Title 6, Subtitle 1 of the Criminal Law Article.

(c) (1) The State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal may act under the

authority granted by § 2–102 of this title to police officers as provided under paragraph (2) of this subsection.

(2) When acting under the authority granted by § 2–102 of this title, the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal has the powers of arrest set forth in §§ 2–202, 2–203, and 2–204 of this subtitle.

(d) (1) The State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i) 1. the chief of police, if any, or chief's designee, when in a municipal corporation;

2. the Police Commissioner or Police Commissioner's designee, when in Baltimore City;

3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;

4. the sheriff or sheriff's designee, when in a county without a county police department;

5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources; or

6. the respective chief of police or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal participates in a joint investigation with officials from another state, federal, or local law enforcement unit, the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(e) A State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section:

(1) has the same immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the State Fire Marshal or full–time investigative and inspection assistant is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

(f) (1) This section does not impair a right of arrest otherwise existing under the Code.

(2) This section does not deprive a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as provided by law or the Maryland Rules.

§2–208.1.

(a) In this section, "Montgomery County fire and explosive investigator" means an individual who:

(1) is assigned full time to the Fire and Explosive Investigations Unit of the Montgomery County Fire and Rescue Service and is a paid employee;

(2) has been employed by the Montgomery County Fire and Rescue Service as a firefighter/rescuer for at least 5 years;

(3) has successfully completed a training program from a police training school approved by the Maryland Police Training and Standards Commission established under Title 3, Subtitle 2 of the Public Safety Article; and

(4) at all times maintains active certification by the Maryland Police Training and Standards Commission.

(b) Except as provided in subsection (c) of this section, a Montgomery County fire and explosive investigator has the same authority granted to the State Fire Marshal or a full-time investigative and inspection assistant of the Office of the State Fire Marshal under § 2-208 of this subtitle:

(1) while operating in Montgomery County; and

(2) while operating outside Montgomery County when:

(i) the Montgomery County fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the Montgomery County fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the Montgomery County fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(c) The Montgomery County Fire Chief:

(1) may limit the authority of a Montgomery County fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

§2–208.2.

(a) In this section, "Anne Arundel County or City of Annapolis fire and explosive investigator" means an individual who:

(1) is assigned full time to the Fire and Explosive Investigations Section of the Anne Arundel County or City of Annapolis Fire Marshal's Office and is a paid employee;

(2) has been employed by the Anne Arundel County or City of Annapolis Fire Department as a firefighter for at least 5 years;

(3) has successfully completed a training program from a police training school approved by the Maryland Police Training and Standards Commission established under Title 3, Subtitle 2 of the Public Safety Article; and

(4) at all times maintains active certification by the Maryland Police Training and Standards Commission.

(b) Except as provided in subsection (c) of this section, an Anne Arundel County or City of Annapolis fire and explosive investigator has the same authority

granted to the State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal under § 2–208 of this subtitle:

(1) while operating in Anne Arundel County or the City of Annapolis; and

(2) while operating outside Anne Arundel County or the City of Annapolis when:

(i) the Anne Arundel County or City of Annapolis fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the Anne Arundel County or City of Annapolis fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the Anne Arundel County or City of Annapolis fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(c) The Anne Arundel County or City of Annapolis Fire Chief:

(1) may limit the authority of an Anne Arundel County or City of Annapolis fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

§2–208.3.

(a) In this section, "Prince George's County fire and explosive investigator" means an individual who:

(1) is assigned full time to the Fire and Explosive Investigations Section of the Prince George's County Fire/EMS Department;

(2) has attained the position of deputy fire marshal; and

(3) has successfully completed a training program from a police training school approved by the Maryland Police Training and Standards Commission established under Title 3, Subtitle 2 of the Public Safety Article.

(b) Except as provided in subsection (c) of this section, a Prince George's County fire and explosive investigator has the same authority granted to the State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal under § 2–208 of this subtitle:

(1) while operating in Prince George's County; and

(2) while operating outside Prince George's County when:

(i) the Prince George's County fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the Prince George's County fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the Prince George's County fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(c) The Prince George's County Fire Chief:

(1) may limit the authority of a Prince George's County fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

§2–208.4.

(a) In this section, "fire and explosive investigator" means an individual who:

(1) is assigned full–time to the fire and explosive investigations section of the County Fire Marshal's Office; and

(2) (i) has the rank of deputy fire marshal or higher; and

(ii) has successfully completed a training program from a police training school approved by the Maryland Police Training and Standards Commission established under Title 3, Subtitle 2 of the Public Safety Article.

(b) This section applies only to Worcester County.

(c) Except as provided in subsection (d) of this section, a fire and explosive investigator has the same authority granted to the State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal under § 2–208 of this subtitle:

(1) while operating in Worcester County; and

(2) while operating outside Worcester County when:

(i) the fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(d) The County Fire Marshal:

(1) may limit the authority of a fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

§2–208.5.

(a) In this section, "fire and explosive investigator" means an individual who:

(1) is assigned full time to the fire and explosive investigations section of the City of Hagerstown Fire Marshal's Office and is a paid employee;

(2) has been employed by the City of Hagerstown Fire Department as a firefighter for at least 5 years;

(3) has successfully completed a training program from a police training school approved by the Police Training Commission established under Title 3, Subtitle 2 of the Public Safety Article; and

(4) at all times maintains active certification by the Police Training Commission.

(b) Except as provided in subsection (c) of this section, a fire and explosive investigator has the same authority granted to the State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal under § 2–208 of this subtitle:

(1) while operating in the City of Hagerstown; and

(2) while operating outside the City of Hagerstown when:

(i) the fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(c) The City of Hagerstown Fire Chief:

(1) may limit the authority of a fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

§2–208.6.

(a) In this section, "fire and explosive investigator" means an individual who:

(1) is assigned full–time to the Fire Investigations Division of the Howard County Fire Marshal's Office and is a paid employee;

(2) has been employed by the Howard County Fire Department as a firefighter for at least 5 years;

(3) has successfully completed a training program from a police training school approved by the Maryland Police Training and Standards Commission established under Title 3, Subtitle 2 of the Public Safety Article; and

(4) at all times maintains active certification by the Maryland Police Training and Standards Commission.

(b) Except as provided in subsection (c) of this section, a fire and explosive investigator has the same authority granted to the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal under § 2–208 of this subtitle:

(1) while operating in Howard County; and

(2) while operating outside Howard County when:

(i) the fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(c) The Howard County Fire Chief:

(1) may limit the authority of a fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

§2–210.

(a) If a person employed as a watchman or guard believes that a person is trespassing on posted property that is used for a defense-related activity as defined in § 9-701 of the Criminal Law Article, the employee may detain the person and notify a law enforcement officer.

(b) If a law enforcement officer has probable cause to believe that a person has trespassed on posted property that is used for a defense-related activity as

defined in § 9-701 of the Criminal Law Article, the law enforcement officer may arrest the person without a warrant for a violation of § 9-702 or § 9-703 of the Criminal Law Article.

§2–301.

(a) This section applies to a law enforcement officer of a jurisdiction in the State who engages in fresh pursuit of a person in the State.

(b) (1) Fresh pursuit is pursuit that is continuous and without unreasonable delay.

(2) Fresh pursuit need not be instant pursuit.

(3) In determining whether the pursuit meets the elements of fresh pursuit, a court shall apply the requirements of the common law definition of fresh pursuit that relates to these elements.

(c) A law enforcement officer may engage in fresh pursuit of a person who:

(1) has committed or is reasonably believed by the law enforcement officer to have committed a felony in the jurisdiction in which the law enforcement officer has the power of arrest; or

(2) has committed a misdemeanor in the presence of the law enforcement officer in the jurisdiction in which the law enforcement officer has the power of arrest.

(d) A law enforcement officer who is engaged in fresh pursuit of a person may:

(1) arrest the person anywhere in the State and hold the person in custody; and

(2) return the person to the jurisdiction in which a court has proper venue for the crime alleged to have been committed by the person.

§2–304.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Fresh pursuit" includes:

(1) fresh pursuit as defined by the common law; and

(2) pursuit without unreasonable delay, but not necessarily instant pursuit, of a person who:

(i) has committed or is reasonably suspected of having committed a felony; or

(ii) is suspected of having committed a felony, although a felony has not been committed, if there is reasonable ground for believing that a felony has been committed.

(c) "State" means a state of the United States or the District of Columbia.

§2–305.

(a) A member of a state, county, or municipal law enforcement unit of another state who enters this State in fresh pursuit and continues within this State in fresh pursuit of a person to arrest the person on the ground that the person is believed to have committed a felony in the other state has the same authority to arrest and hold the person in custody as has a member of a duly organized State, county, or municipal corporation law enforcement unit of this State to arrest and hold a person in custody on the ground that the person is believed to have committed a felony in this State.

(b) This section does not make unlawful an arrest in this State that would otherwise be lawful.

§2–306.

(a) If an officer of another state makes an arrest in this State in accordance with § 2-305(a) of this subtitle, the officer shall, without unnecessary delay, take the person arrested before a judge of the circuit court of the county in which the arrest was made for a hearing to determine the lawfulness of the arrest.

(b) If the judge determines that the arrest was unlawful, the judge shall discharge the arrested person.

§2–307.

After this Part II of this subtitle is passed and approved by the Governor, the Secretary of State shall certify a copy of this subtitle to the executive department of each state.

§2–308.

If any provision of Part II of this subtitle is for any reason declared void, the rest of Part II of this subtitle will still be valid.

§2–309.

Part II of this subtitle is the Maryland Uniform Act on Fresh Pursuit.

§2–401.

In this subtitle, "custodial interrogation" retains its judicially determined meaning.

§2–402.

It is the public policy of the State that:

(1) a law enforcement unit that regularly utilizes one or more interrogation rooms capable of creating audiovisual recordings of custodial interrogations shall make reasonable efforts to create an audiovisual recording of a custodial interrogation of a criminal suspect in connection with a case involving murder, rape, sexual offense in the first degree, or sexual offense in the second degree, whenever possible; and

(2) a law enforcement unit that does not regularly utilize one or more interrogation rooms capable of creating audiovisual recordings of custodial interrogations shall make reasonable efforts to create an audio recording of a custodial interrogation of a criminal suspect in connection with a case involving murder, rape, sexual offense in the first degree, or sexual offense in the second degree, whenever possible.

§2–403.

An audio or audiovisual recording made by a law enforcement unit of a custodial interrogation of a criminal suspect is exempt from the Maryland Wiretapping and Electronic Surveillance Act.

§2–404.

On or before December 31, 2009, and annually thereafter, the Governor's Office of Crime Prevention, Youth, and Victim Services shall report to the House Judiciary Committee and the Senate Judicial Proceedings Committee, in accordance with § 2–1257 of the State Government Article on the progress of jurisdictions and the

Department of State Police in establishing interrogation rooms capable of creating audiovisual recordings of custodial interrogations.

§2–405.

A custodial interrogation of a minor shall be conducted in accordance with the requirements of § 3–8A–14.2 of the Courts Article.

§3–101.

(a) In this title the following words have the meanings indicated.

(b) "Committed person" means a person committed to the Health Department as not criminally responsible under the test for criminal responsibility.

(c) "Court" means a court that has criminal jurisdiction.

(d) "Health Department" means the Maryland Department of Health.

(e) "Hospital warrant" means a legal document issued by a court that:

(1) authorizes any law enforcement officer in the State to apprehend a person who is alleged to have violated an order for conditional release and transport the person to a facility designated by the Health Department; and

(2) requires that the issuance of the warrant is entered in the person's criminal history record information of the criminal justice information system.

(f) "Incompetent to stand trial" means not able:

(1) to understand the nature or object of the proceeding; or

(2) to assist in one's defense.

(g) (1) "Mental disorder" means a behavioral or emotional illness that results from a psychiatric or neurological disorder.

(2) "Mental disorder" includes a mental illness that so substantially impairs the mental or emotional functioning of a person as to make care or treatment necessary or advisable for the welfare of the person or for the safety of the person or property of another.

(3) "Mental disorder" does not include mental retardation.

(h) "Office" means the Office of Administrative Hearings.

§3–102.

The Secretary of the Health Department shall adopt regulations to carry out the provisions of this title that relate to the Health Department.

§3–103.

(a) (1) The court shall appoint a qualified interpreter to help a defendant throughout any court proceedings under this title when the defendant:

(i) is deaf; or

(ii) cannot readily understand or communicate the English language and cannot understand a charge made against the defendant or help present the defense.

(2) On application of a victim or victim's representative, as defined in § 11–104(a) of this article, the court shall appoint a qualified interpreter to help the victim or the victim's representative throughout any court proceeding when the victim or the victim's representative:

(i) is deaf; or

(ii) cannot readily understand or communicate the English language.

(b) The court shall give an interpreter appointed under this section:

(1) compensation for services in an amount equal to that provided for interpreters of languages other than English; and

(2) reimbursement for actual and necessary expenses incurred in the performance of services.

§3–104.

(a) If, before or during a trial, the defendant in a criminal case or a violation of probation proceeding appears to the court to be incompetent to stand trial or the defendant alleges incompetence to stand trial, the court shall determine, on evidence presented on the record, whether the defendant is incompetent to stand trial.

(b) If, after receiving evidence, the court finds that the defendant is competent to stand trial, the trial shall begin as soon as practicable or, if already begun, shall continue.

(c) At any time before final judgment, the court may reconsider the question of whether the defendant is incompetent to stand trial.

§3–105.

(a) (1) For good cause and after giving the defendant an opportunity to be heard, the court may order the Health Department to examine the defendant to determine whether the defendant is incompetent to stand trial.

(2) The court shall set and may change the conditions under which the examination is to be made.

(b) On consideration of the nature of the charge, the court:

(1) may require or allow the examination to be done on an outpatient basis; and

(2) if an outpatient examination is authorized, shall set bail for the defendant or authorize release of the defendant on recognizance.

(c) (1) If a defendant is to be held in custody for examination under this section, the defendant may be confined in a correctional facility until the Health Department can conduct the examination. If the court finds it appropriate for the health or safety of the defendant, the court may order confinement in a medical wing or other isolated and secure unit of the correctional facility.

(2) (i) If the court finds that, because of the apparent severity of the mental disorder or mental retardation, a defendant in custody would be endangered by confinement in a correctional facility, the court may order that the Health Department, in the Health Department's discretion:

1. confine the defendant, pending examination, in a medical facility that the Health Department designates as appropriate; or

2. immediately conduct a competency examination of the defendant by a community forensic screening program or other agency that the Health Department finds appropriate.

(ii) Unless the Health Department retains the defendant, the defendant shall be promptly returned to the court after the examination.

(3) A defendant who is held for examination under this section may question at any time the legality of the detention by petition for a writ of habeas corpus.

(d) (1) If a court orders an examination under this section, the Health Department shall:

(i) examine the defendant; and

(ii) send a complete report of its findings to:

1. the court;

2. the State's Attorney; and

3. the defense counsel.

(2) Unless there is a plea that the defendant was not criminally responsible under § 3–109 of this title, the defendant is entitled to have the report within 7 days after the court orders the examination. However, failure of the Health Department to send the complete report within that time is not, of itself, grounds for dismissal of the charges. On good cause shown, the court may extend the time for examination.

(3) If the Health Department reports that, in its opinion, the defendant is incompetent to stand trial, the report shall state, in a complete supplementary opinion, whether, because of mental retardation or mental disorder, the defendant would be a danger to self or the person or property of another, if released.

(4) A statement made by the defendant in the course of an examination under this section is not admissible in a criminal proceeding for the purpose of proving the commission of a criminal offense or to enhance the sentence of the defendant.

(5) Except for the purpose of impeaching the testimony of the defendant, a report prepared as the result of an examination under this section is not admissible in a criminal proceeding for the purpose of proving the commission of a criminal offense or to enhance the sentence of the defendant.

§3–106.

(a) (1) In this section, "designated health care facility" means:

(i) a State facility as defined in § 10–101 of the Health – General Article;

(ii) a State forensic residential center; or

(iii) a hospital or private residential facility under contract with the Health Department to house and treat individuals found to be incompetent to stand trial or not criminally responsible.

(2) "Designated health care facility" does not include a correctional or detention facility or a unit within a correctional or detention facility.

(b) If, after a hearing, the court finds that the defendant is incompetent to stand trial but is not dangerous, as a result of a mental disorder or mental retardation, to self or the person or property of others, the court may set bail for the defendant or authorize release of the defendant on recognizance.

(c) (1) (i) If, after a hearing, the court finds that the defendant is incompetent to stand trial and, because of mental retardation or a mental disorder, is a danger to self or the person or property of another, the court shall order the defendant committed to the facility that the Health Department designates until the court finds that:

1. the defendant no longer is incompetent to stand trial;

2. the defendant no longer is, because of mental retardation or a mental disorder, a danger to self or the person or property of others; or

3. there is not a substantial likelihood that the defendant will become competent to stand trial in the foreseeable future.

(ii) If a court commits the defendant because of mental retardation, the Health Department shall require the Developmental Disabilities Administration to provide the care or treatment that the defendant needs.

(2) If the court commits a defendant to the Health Department under paragraph (1) of this subsection, the Health Department shall:

(i) admit the defendant to a designated health care facility as soon as possible, but not later than 10 business days after the Health Department receives the order of commitment; and

(ii) notify the court of the date on which the defendant was admitted to the designated health care facility.

(3) If the court commits the defendant under paragraph (1) of this subsection because of a mental disorder, the court may order the Health Department, as soon as possible after the defendant's admission, but not to exceed 48 hours, to:

(i) evaluate the defendant;

(ii) develop a prompt plan of treatment for the defendant under § 10–706 of the Health – General Article; and

(iii) evaluate whether there is a substantial likelihood that, without immediate treatment, including medication, the defendant will remain a danger to self or the person or property of another.

(4) If the Health Department fails to admit a defendant to a designated health care facility within the time period specified in paragraph (2)(i) of this subsection, the court may impose any sanction reasonably designed to compel compliance, including requiring the Health Department to reimburse a detention facility for expenses and costs incurred in retaining the defendant beyond the time period specified in paragraph (2)(i) of this subsection at the daily rate specified in § 9–402(b) of the Correctional Services Article.

(d) (1) To determine whether the defendant continues to meet the criteria for commitment set forth in subsection (c) of this section, the court shall hold a hearing:

(i) every year from the date of commitment;

(ii) within 30 days after the filing of a motion by the State's Attorney or counsel for the defendant setting forth new facts or circumstances relevant to the determination; and

(iii) within 10 business days after receiving a report from the Health Department stating opinions, facts, or circumstances that have not been previously presented to the court and are relevant to the determination.

(2) At any time, and on its own initiative, the court may hold a conference or a hearing on the record with the State's Attorney and the counsel of record for the defendant to review the status of the case.

(e) At a competency hearing under subsection (d) of this section, if the court finds that the defendant is incompetent and is not likely to become competent in the foreseeable future, the court shall:

(1) civilly commit the defendant as an inpatient in a medical facility that the Health Department designates provided the court finds by clear and convincing evidence that:

(i) the defendant has a mental disorder;

(ii) inpatient care is necessary for the defendant;

(iii) the defendant presents a danger to the life or safety of self or others;

(iv) the defendant is unable or unwilling to be voluntarily committed to a medical facility; and

(v) there is no less restrictive form of intervention that is consistent with the welfare and safety of the defendant; or

(2) order the confinement of the defendant for 21 days as a resident in a Developmental Disabilities Administration facility for the initiation of admission proceedings under § 7–503 of the Health – General Article provided the court finds that the defendant, because of mental retardation, is a danger to self or others.

(f) The provisions under Title 10 of the Health – General Article shall apply to the continued retention of a defendant civilly committed under subsection (e) of this section.

(g) (1) For a defendant who has been found incompetent to stand trial but not dangerous, as a result of a mental disorder or mental retardation, to self or the person or property of others, and released on bail or on recognizance, the court:

(i) shall hold a hearing annually from the date of release;

(ii) may hold a hearing, at any time, on its own initiative; or

(iii) shall hold a hearing, at any time, upon motion of the State's Attorney or the counsel for the defendant.

(2) At a hearing under paragraph (1) of this subsection, the court shall reconsider whether the defendant remains incompetent to stand trial or a

danger to self or the person or property of another because of mental retardation or a mental disorder.

(3) At a hearing under paragraph (1) of this subsection, the court may modify or impose additional conditions of release on the defendant.

(4) If the court finds, at a hearing under paragraph (1) of this subsection, that the defendant is incompetent and is not likely to become competent in the foreseeable future and is a danger to self or the person or property of another because of mental retardation or a mental disorder, the court shall revoke the pretrial release of the defendant and:

(i) civilly commit the defendant in accordance with subsection (e)(1) of this section; or

(ii) order confinement of the defendant in accordance with subsection (e)(2) of this section.

(h) If the defendant is found incompetent to stand trial, defense counsel may make any legal objection to the prosecution that may be determined fairly before trial and without the personal participation of the defendant.

(i) The court shall notify the Criminal Justice Information System Central Repository of any commitment ordered or release authorized under this section and of any determination that a defendant is no longer incompetent to stand trial.

§3–107.

(a) Whether or not the defendant is confined and unless the State petitions the court for extraordinary cause to extend the time, the court shall dismiss the charge against a defendant found incompetent to stand trial under this subtitle:

(1) when charged with a felony or a crime of violence as defined under § 14–101 of the Criminal Law Article, after the lesser of the expiration of 5 years or the maximum sentence for the most serious offense charged; or

(2) when charged with an offense not covered under item (1) of this subsection, after the lesser of the expiration of 3 years or the maximum sentence for the most serious offense charged.

(b) Whether or not the defendant is confined, if the court considers that resuming the criminal proceeding would be unjust because so much time has passed since the defendant was found incompetent to stand trial, the court shall dismiss the charge without prejudice. However, the court may not dismiss a charge without

providing the State's Attorney and a victim or victim's representative who has requested notification under § 3–123(c) of this title advance notice and an opportunity to be heard.

(c) If charges are dismissed under this section, the court shall notify:

(1) the victim of the crime charged or the victim's representative who has requested notification under § 3–123(c) of this title; and

(2) the Criminal Justice Information System Central Repository.

§3–108.

(a) (1) In addition to any other report required under this title, the Health Department shall report to the court that has ordered commitment of a defendant under § 3–106 of this title:

(i) every 6 months from the date of commitment of the defendant; and

(ii) whenever the Health Department determines that:

1. the defendant no longer is incompetent to stand trial;

2. the defendant no longer is, because of mental retardation or a mental disorder, a danger to self or the person or property of others; or

3. there is not a substantial likelihood that the defendant will become competent to stand trial in the foreseeable future.

(2) The Department shall include a supplemental report that provides a plan for services to facilitate the defendant remaining competent to stand trial or not dangerous, as a result of mental retardation or a mental disorder, to self or the person or property of others, if:

(i) a report required under this title states an opinion that the defendant is competent to stand trial or is not dangerous, as a result of mental retardation or a mental disorder, to self or the person or property of others; and

(ii) services are necessary to maintain the defendant safely in the community, to maintain competency, or to restore competency.

(3) If appropriate, the plan required in the report under paragraph (2) of this subsection shall include recommended:

(i) mental health treatment, including providers of care;

(ii) vocational, rehabilitative, or support services;

(iii) housing;

(iv) case management services;

(v) alcohol or substance abuse treatment; and

(vi) other clinical services.

(4) If the report required under paragraph (2) of this subsection recommends community placement for the defendant, the report shall include:

(i) the location of the recommended community placement;

(ii) the names and addresses of the recommended service providers;

(iii) a statement indicating if the service provider is willing and able to serve the defendant; and

(iv) if available, the date of placement or service for the defendant.

(5) If the plan required in the report under paragraph (2) of this subsection is for a defendant committed to a State residential center, the report shall state whether:

(i) the defendant meets the requirements for commitment under § 3–106(e) of this title;

(ii) the services required for the defendant may be provided in a less restrictive setting; and

(iii) the defendant is eligible for services pursuant to § 7–404 of the Health – General Article.

(6) If the report required under paragraph (2) of this subsection states an opinion that there is not a substantial likelihood that the defendant will

become competent in the foreseeable future, the report shall contain an opinion regarding whether the defendant meets the criteria for commitment under § 3–106(e) of this title.

(7) A statement made by the defendant in the course of any examination for a report under this section is not admissible as evidence in any criminal proceeding for the purpose of proving the commission of a criminal offense or to enhance the sentence of the defendant.

(8) A report prepared under this section is not admissible in a criminal proceeding for the purpose of proving the commission of a criminal offense or to enhance the sentence of the defendant.

(b) The clerk of court shall give the State's Attorney and the last counsel of record for the defendant a copy of any report received under this section.

(c) The facility of the Health Department that has charge of a person committed as incompetent to stand trial shall notify the Criminal Justice Information System Central Repository if the person escapes.

§3–109.

(a) A defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation, lacks substantial capacity to:

(1) appreciate the criminality of that conduct; or

(2) conform that conduct to the requirements of law.

(b) For purposes of this section, "mental disorder" does not include an abnormality that is manifested only by repeated criminal or otherwise antisocial conduct.

§3–110.

(a) (1) If a defendant intends to rely on a plea of not criminally responsible, the defendant or defense counsel shall file a written plea alleging, in substance, that when the alleged crime was committed, the defendant was not criminally responsible by reason of insanity under the test for criminal responsibility in § 3-109 of this title.

(2) A written plea of not criminally responsible by reason of insanity shall be filed at the time provided for initial pleading, unless, for good cause shown, the court allows the plea to be filed later.

(b) The defendant has the burden to establish, by a preponderance of the evidence, the defense of not criminally responsible.

(c) If the trier of fact finds that the State has proved beyond a reasonable doubt that the defendant committed the criminal act charged, then, if the defendant has pleaded not criminally responsible, the trier of fact separately shall find whether the defendant has established, by a preponderance of the evidence, that the defendant was at the time criminally responsible or not criminally responsible by reason of insanity under the test for criminal responsibility in § 3-109 of this title.

(d) A court may not enter a verdict of not criminally responsible unless the defendant or defense counsel has filed a written plea under subsection (a) of this section.

§3–111.

(a) If a defendant has entered a plea of not criminally responsible, the court may order the Health Department to examine the defendant to determine whether the defendant was not criminally responsible under § 3-109 of this title and whether the defendant is competent to stand trial.

(b) (1) If a defendant is to be held in custody for examination under this section, the defendant shall be confined in a correctional facility until the Health Department can do the examination. If the court finds it appropriate for the health or safety of the defendant, the court may order confinement:

(i) in a medical wing or other isolated and secure unit of the correctional facility; or

(ii) if a medical wing or other secure unit is not available, in a medical facility that the Secretary of the Health Department designates as appropriate.

(2) (i) When the Health Department can do the examination, a court unit shall take the defendant to the evaluation facility that the Health Department designates.

(ii) After the examination, unless the Health Department retains the defendant, a court unit shall return the defendant to the place of confinement.

(c) If a court orders an examination under this section:

(1) the Health Department shall:

(i) examine the defendant; and

(ii) send a report of its opinions to the court, the State's Attorney, the defendant, and the defense counsel;

(2) the defendant is entitled to have the report within 60 days after the court orders the examination. However, failure of the Health Department to send the complete report within that time is not, of itself, grounds for dismissal of the charges; and

(3) for good cause shown, the court may extend the time for examination or order an additional examination.

§3–112.

(a) (1) In this section, "designated health care facility" means:

(i) a State facility as defined in § 10–101 of the Health – General Article;

(ii) a State forensic residential center; or

(iii) a hospital or private residential facility under contract with the Health Department to house and treat individuals found to be incompetent to stand trial or not criminally responsible.

(2) "Designated health care facility" does not include a correctional or detention facility or a unit within a correctional or detention facility.

(b) Except as provided in subsection (f) of this section, after a verdict of not criminally responsible, the court shall order the defendant committed to the facility that the Health Department designates for institutional inpatient care or treatment.

(c) If the court commits a defendant who was found not criminally responsible primarily because of a mental disorder, the court may order the Health Department, as soon as possible after the defendant's admission, but not to exceed 48 hours, to:

(1) evaluate the defendant;

(2) develop a prompt plan of treatment for the defendant under § 10–706 of the Health – General Article; and

(3) evaluate whether there is a substantial likelihood that, without immediate treatment, including medication, the defendant will remain a danger to self or the person or property of another.

(d) If the court commits a defendant who was found not criminally responsible primarily because of mental retardation, the Health Department shall designate a facility for mentally retarded persons for care and treatment of the committed person.

(e) If the court commits a defendant to the Health Department under subsection (b) or (d) of this section, the Health Department shall:

(1) admit the defendant to a designated health care facility as soon as possible, but not later than 10 business days after the Health Department receives the order of commitment; and

(2) notify the court of the date on which the defendant was admitted to the designated health care facility.

(f) If the Health Department fails to admit a defendant to a designated health care facility within the time period specified in subsection (e)(1) of this section, the court may impose any sanction reasonably designed to compel compliance, including requiring the Health Department to reimburse a detention facility for expenses and costs incurred in retaining the defendant beyond the time period specified in subsection (e)(1) of this section at the daily rate specified in § 9–402(b) of the Correctional Services Article.

(g) After a verdict of not criminally responsible, a court may order that a person be released, with or without conditions, instead of committed to the Health Department, but only if:

(1) the court has available an evaluation report within 90 days preceding the verdict made by an evaluating facility designated by the Health Department;

(2) the report indicates that the person would not be a danger, as a result of mental retardation or mental disorder, to self or to the person or property of others if released, with or without conditions; and

(3) the person and the State's Attorney agree to the release and to any conditions for release that the court imposes.

(h) The court shall notify the Criminal Justice Information System Central Repository of each person it orders committed under this section.

§3–113.

(a) (1) Within 10 days after commitment of a person under § 3-112 of this title, the facility that receives the committed person shall send to the Health Department an admission report on the committed person.

(2) The report shall contain the information and be on the form that the Health Department requires.

(b) (1) The facility of the Health Department that has charge of the committed person shall notify the State's Attorney any time a committed person:

(i) is transferred;

(ii) is approved for temporary leaves of more than 24 hours; or

(iii) is absent without authorization.

(2) For information purposes, a copy of this notice shall be sent for inclusion in the court file and to counsel for the committed person.

(c) The facility of the Health Department that has charge of a committed person shall notify the Criminal Justice Information System Central Repository if the committed person escapes.

§3–114.

(a) A committed person may be released under the provisions of this section and §§ 3–115 through 3–122 of this title.

(b) A committed person is eligible for discharge from commitment only if that person would not be a danger, as a result of mental disorder or mental retardation, to self or to the person or property of others if discharged.

(c) A committed person is eligible for conditional release from commitment only if that person would not be a danger, as a result of mental disorder or mental retardation, to self or to the person or property of others if released from confinement with conditions imposed by the court.

(d) To be released, a committed person has the burden to establish by a preponderance of the evidence eligibility for discharge or eligibility for conditional release.

§3–115.

(a) Within 50 days after commitment to the Health Department under § 3-112 of this title, a hearing officer of the Health Department shall hold a hearing to consider any relevant information that will enable the hearing officer to make recommendations to the court as to whether the committed person is eligible for release under § 3-114 of this title.

(b) (1) The release hearing may be postponed for good cause or by agreement of the committed person and the Health Department.

(2) The committed person may waive the release hearing.

(c) (1) Unless the Health Department has completed an examination and report during the 90 days preceding the release hearing, at least 7 days before the release hearing is scheduled, the Health Department shall complete an examination and evaluation of the committed person.

(2) Whether or not the release hearing is waived, the Health Department shall send a copy of the evaluation report:

(i) to the committed person;

(ii) to counsel for the committed person;

(iii) to the State's Attorney; and

(iv) to the Office of Administrative Hearings.

(d) (1) The Health Department shall send notice of the release hearing to:

(i) the committed person;

(ii) counsel for the committed person; and

(iii) the State's Attorney.

(2) The Office shall issue any appropriate subpoena for any person or evidence. The court may compel obedience to the subpoena.

(e) (1) Formal rules of evidence do not apply to the release hearing, and the Office may admit and consider any relevant evidence.

(2) The hearing shall be recorded, but the recording need not be transcribed unless requested. The requesting party shall pay the costs of the transcript and, if exceptions have been filed, provide copies to other parties and the court. If the court orders a transcript, the court shall pay the costs of the transcript.

(3) Any record that relates to evaluation or treatment of the committed person by this State shall be made available, on request, to the committed person or counsel for the committed person.

(4) The Health Department shall present the evaluation report on the committed person and any other relevant evidence.

(5) At the release hearing, the committed person is entitled:

(i) to be present, to offer evidence, and to cross-examine adverse witnesses; and

(ii) to be represented by counsel, including, if the committed person is indigent, the Public Defender or a designee of the Public Defender.

(6) At the release hearing, the State's Attorney and the Health Department are entitled to be present, to offer evidence, and to cross-examine witnesses.

§3–116.

(a) Within 10 days after the hearing ends, the Office shall prepare a report of recommendations to the court that contains:

(1) a summary of the evidence presented at the hearing;

(2) recommendations of the Office as to whether the committed person proved, by a preponderance of the evidence, eligibility for conditional release or eligibility for discharge; and

(3) if the Office determines that the committed person proved eligibility for conditional release, the recommended conditions of the release in accordance with subsection (b) of this section.

(b) In recommending the conditions of a conditional release, the Office shall give consideration to any specific conditions recommended by the facility of the Health Department that has charge of the committed person, the committed person, or counsel for the committed person.

(c) The Office shall send copies of the report of recommendations:

(1) to the committed person;

(2) to counsel for the committed person;

(3) to the State's Attorney;

(4) to the court; and

(5) to the facility of the Health Department that has charge of the committed person.

(d) The committed person, the State's Attorney, or the Health Department may file exceptions to the report of the Office within 10 days after receiving the report.

§3–117.

(a) Within 30 days after the court receives the report of recommendations from the Office:

(1) the court on its own initiative may hold a hearing; or

(2) if timely exceptions are filed, or if the court requires more information, the court shall hold a hearing unless the committed person and the State's Attorney waive the hearing.

(b) (1) The court shall hold the hearing on the record that was made before the Office.

(2) At the judicial hearing, the committed person is entitled to be present and to be represented by counsel.

(3) The court may continue its hearing and remand for the Office to take additional evidence.

§3–118.

(a) Within 15 days after a judicial hearing ends or is waived, the court shall determine whether the evidence indicates that the committed person proved by a preponderance of the evidence eligibility for release, with or without conditions, in accordance with § 3-114 of this title, and enter an appropriate order containing a concise statement of the findings of the court, the reasons for those findings, and ordering:

(1) continued commitment;

(2) conditional release; or

(3) discharge from commitment.

(b) (1) If timely exceptions are not filed, and, on review of the report of recommendations from the Office, the court determines that the recommendations are supported by the evidence and a judicial hearing is not necessary, the court shall enter an order in accordance with the recommendations within 30 days after receiving the report from the Office.

(2) A court may not enter an order that is not in accordance with the recommendations from the Office unless the court holds a hearing or the hearing is waived.

(c) Unless the conditional release is extended under § 3-122 of this title, the court may not continue the conditions of a conditional release for more than 5 years.

(d) The court shall notify the Criminal Justice Information System Central Repository whenever it orders conditional release or discharge of a committed person.

(e) (1) An appeal from a District Court order shall be on the record in the circuit court.

(2) An appeal from a circuit court order shall be by application for leave to appeal to the Court of Special Appeals.

§3–119.

(a) (1) Not earlier than 1 year after the initial release hearing ends or was waived, and not more than once a year thereafter, a committed person may apply for release under either subsection (b) or (c) of this section, but not both.

(2) Notwithstanding the time restrictions in paragraph (1) of this subsection, a committed person may file an application for release at any time if the application is accompanied by an affidavit of a physician or licensed psychologist that

states an improvement in the mental condition of the committed person since the last hearing.

(b) (1) To apply for release under this subsection, the committed person shall file an application for release with the Health Department and notify the court and State's Attorney, in writing, of this request.

(2) The provisions of this title governing administrative hearing and judicial determination of eligibility for release apply to any application for release under this subsection.

(c) (1) To apply for release under this subsection, the committed person shall file a petition for release with the court that ordered commitment.

(2) The committed person shall send a copy of the petition for release to the Health Department and the State's Attorney.

(3) If the committed person requests a trial by jury, the trial shall be held in a circuit court with a jury as in a civil action at law.

(4) The trier of fact shall:

(i) determine whether the committed person has proved eligibility for release by a preponderance of the evidence; and

(ii) render a verdict for:

1. continued commitment;

2. conditional release; or

3. discharge from commitment.

(5) If the trier of fact renders a verdict for conditional release, within 30 days after the verdict, the court shall release the committed person under conditions it imposes in accordance with specific recommendations for conditions under § 3-116(b) of this title.

(d) (1) An appeal from a District Court order shall be on the record in the circuit court.

(2) An appeal from a circuit court order shall be by application for leave to appeal to the Court of Special Appeals.

§3–120.

(a) (1) If at any time the Health Department considers that a committed person is eligible for conditional release, the Health Department may apply for the conditional release to the court that committed the person.

(2) The Health Department shall send a copy of the application for conditional release:

(i) to the committed person;

(ii) to counsel for the committed person; and

(iii) to the State's Attorney, by certified mail, return receipt requested.

(b) Within 30 days after receipt of the application from the Health Department, the court shall issue an order that is in accordance with § 3-114 of this title for:

(1) continued commitment; or

(2) conditional release under the conditions it imposes after giving consideration to the recommendations of specific conditions from the Health Department.

(c) If the court orders a conditional release of the committed person under this section, the committed person, the State's Attorney, or the Health Department may apply for a revocation, change, or extension under § 3-122 of this title.

(d) (1) An appeal from a District Court order shall be on the record in circuit court.

(2) An appeal from a circuit court order shall be by application for leave to appeal to the Court of Special Appeals.

§3–121.

(a) (1) If the State's Attorney receives a report that alleges that a committed person has violated a condition of a conditional release, or if the State's Attorney is notified by the court or Health Department under subsection (b) of this section, the State's Attorney shall determine whether there is a factual basis for the complaint.

(2) If the State's Attorney determines that there is no factual basis for the complaint, the State's Attorney shall notify the person who made the report and take no further action.

(3) If the State's Attorney determines that there is a factual basis to believe that the committed person has violated the terms of a conditional release and believes further action by the court is necessary, the State's Attorney promptly shall:

(i) notify the Health Department of the alleged violation; and

(ii) file with the court a petition for revocation or modification of conditional release and send a copy of the petition to the Health Department.

(b) (1) If a court receives a report that alleges that a committed person has violated a condition of a conditional release, the court promptly shall:

(i) notify the Health Department; and

(ii) notify the State's Attorney and provide the name, address, and telephone number of the person who reported the violation and a copy of the order for conditional release.

(2) If the Health Department receives a report that alleges that a committed person has violated conditional release, the Department shall:

(i) notify the court and the State's Attorney; and

(ii) provide the State's Attorney with the name, address, and telephone number of the person who reported the violation and a copy of the order for conditional release.

(c) The petition for revocation or modification of a conditional release shall contain:

(1) a statement that the committed person has violated a term of a conditional release and that there is therefore reason to believe that the committed person no longer meets the criteria for eligibility for conditional release;

(2) a statement of the conditions violated;

(3) the factual basis for the statements in items (1) and (2) of this subsection;

(4) the most recent evaluation report on the committed person; and

(5) the designation by the Health Department of the facility to receive the returned committed person.

(d) If the court's review of the petition determines that there is no probable cause to believe that the committed person has violated a conditional release, the court shall:

(1) note the determination on the petition and file it in the court file on the committed person; and

(2) notify the State's Attorney, the Health Department, and the person who reported the violation.

(e) If the court's review of the petition determines that there is probable cause to believe that the committed person has violated a conditional release, the court promptly shall:

(1) issue a hospital warrant for the committed person and direct that on execution the committed person shall be transported to the facility designated by the Health Department; and

(2) send a copy of the hospital warrant and the petition to:

(i) the State's Attorney;

(ii) the Public Defender;

(iii) the counsel of record for the committed person;

(iv) the person who reported the violation;

(v) the Office; and

(vi) the Health Department.

(f) Within 10 days after the committed person is returned to the Health Department in accordance with the hospital warrant, the Office shall hold a hearing unless:

(1) the hearing is postponed or waived by agreement of the parties; or

(2) the Office postpones the hearing for good cause shown.

(g) At the hearing on revocation or modification:

(1) the committed person is entitled to be represented by counsel including, if the committed person is indigent, the Public Defender or designee of the Public Defender;

(2) the committed person, Health Department, and State's Attorney are entitled to offer evidence, to cross-examine adverse witnesses, and to exercise any other rights that the Office considers necessary for a fair hearing; and

(3) the Office shall find:

(i) whether, by a preponderance of the evidence, the State has proved that the committed person violated conditional release; and

(ii) whether, by a preponderance of the evidence, the committed person nevertheless has proved eligibility for conditional release.

(h) (1) The Office promptly shall:

(i) send a report of the hearing and determination to the court; and

(ii) send copies of the report to the committed person, counsel for the committed person, the State's Attorney, and the Health Department.

(2) Within 5 days after receipt of the report of the Office, the committed person, the State's Attorney, or the Health Department may file exceptions to the determination of the Office.

(i) After the court considers the report of the Office, the evidence, and any exceptions filed, within 10 days after the court receives the report, the court shall:

(1) revoke the conditional release and order the committed person returned to the facility designated by the Health Department;

(2) modify the conditional release as required by the evidence;

(3) continue the present conditions of release; or

(4) extend the conditional release by an additional term of 5 years.

(j) The court shall notify the Criminal Justice Information System Central Repository of the issuance of any hospital warrant and any revocation it orders under this section.

(k) (1) An appeal from a District Court order shall be on the record in circuit court.

(2) An appeal from a circuit court order shall be by application for leave to appeal to the Court of Special Appeals.

§3–122.

(a) (1) An application to the court for a change in conditional release of a committed person may be made by:

(i) the Health Department or the State's Attorney at any time; or

(ii) the committed person not earlier than 6 months after the court ordered the conditional release, unless the court for good cause permits an earlier application.

(2) The applicant for a change in conditional release shall notify the court and other parties, in writing, of the application and the reasons for the requested change.

(b) The burden of proof of any issue raised by the application for change in conditional release rests with the applicant.

(c) After the court considers the application for change in conditional release and the evidence, in accordance with § 3-114 of this title, the court shall:

(1) change the conditions;

(2) impose appropriate additional conditions;

(3) revoke the conditional release;

(4) continue the present conditions of release; or

(5) extend the conditional release by an additional term of 5 years.

(d) (1) Not earlier than 1 year after the court action on the application for change filed by the committed person, and not more than once a year thereafter, a committed person may reapply for a change in conditional release.

(2) Notwithstanding the time restrictions in paragraph (1) of this subsection, a committed person may apply for a change in conditional release at any time if the application is accompanied by an affidavit of a physician or licensed psychologist that states an improvement in the mental condition of the committed person.

§3–123.

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

(2) "Defendant" means:

(i) a committed individual;

(ii) an individual found incompetent to stand trial; or

(iii) an individual charged with a crime and the issue of whether the individual is incompetent to stand trial has been raised or where a plea of not criminally responsible has been entered.

(3) "Victim" means a victim of a crime of violence or a victim who has filed a notification request form under § 11–104 of this article.

(4) "Victim's representative" includes a family member or guardian of a victim who is:

(i) a minor;

(ii) deceased; or

(iii) disabled.

(b) A State's Attorney shall notify a victim or victim's representative of all rights provided under this section.

(c) (1) A victim or victim's representative may request notification under this section by:

(i) notifying the State's Attorney and the Health Department of the request for notification; or

(ii) filing a notification request form under § 11–104 of this article.

(2) A request for notification under paragraph (1)(i) of this subsection shall designate:

(i) the address and telephone number of the victim; or

(ii) the name, address, and telephone number of a victim's representative.

(3) A victim or victim's representative may, at any time, withdraw a request for notification.

(d) If a victim or victim's representative has requested notification in the manner provided under subsection (c) of this section, the Health Department shall promptly notify the victim or the victim's representative in writing when:

(1) the Health Department receives a court order to examine a defendant under this title;

(2) the Health Department receives a court order committing a defendant to the Health Department under this title;

(3) a hearing relating to a defendant is scheduled under this title;

(4) the Health Department receives notice that a defendant has applied for a hearing or filed a petition for release;

(5) the Office recommends that a committed person be released under this title;

(6) the Health Department submits a recommendation to the court for a defendant's conditional release;

(7) the facility of the Health Department that has charge of a defendant has notified the State's Attorney that a defendant is absent without authorization; or

(8) the Health Department receives a court order for the conditional release or discharge from commitment of a defendant.

(e) (1) A victim or victim's representative may submit, in writing or orally, to the State's Attorney and to the facility of the Health Department that has charge of a defendant:

(i) any information that the victim or victim's representative considers relevant; and

(ii) a request that the defendant be prohibited from having any contact with the victim or victim's representative, as a condition of release.

(2) Except for a court hearing to determine if a person is incompetent to stand trial or not criminally responsible, a victim or victim's representative may submit a written or oral statement to the court or the Office conducting a hearing or review relating to a defendant under this title containing:

(i) any information regarding the nature and consequences of the crime and any contact after the crime between the defendant and the victim or the victim's family; and

(ii) a request that the defendant be prohibited from having any contact with the victim as a condition of release.

(f) (1) If a victim or victim's representative submits written or oral information under this section, the Health Department, court, or Office shall:

(i) consider the information;

(ii) maintain at the facility that has charge of the defendant, separate from the medical record of the defendant, the written statement of the victim or victim's representative; and

(iii) delete the victim's or the victim's representative's address and telephone number before any document is examined by the defendant or defendant's representative.

(2) (i) If a victim or a victim's representative has submitted a written factual statement under subsection (e)(2)(i) of this section to the Health Department, at least 30 days before a hearing or review under this title the Health Department shall notify the defendant or defendant's representative in writing of the intended use of the victim's or victim's representative's written factual statement and send to the defendant or the defendant's representative a copy of the written factual statement to be admitted.

(ii) If the defendant objects to the admission of the written factual statement of the victim or victim's representative, the defendant shall notify the Health Department, State's Attorney, and court or the Office in writing no later than 20 days before the hearing or review.

(iii) If the timely and proper notice required under subparagraph (ii) of this paragraph is provided by the defendant, the written factual statement is inadmissible without the testimony of the victim or victim's representative.

(iv) Failure of the defendant to give the timely and proper notice under subparagraph (ii) of this paragraph is a waiver of the defendant's right to the presence and testimony of the victim or victim's representative and the written factual statement of the victim or victim's representative shall be admitted.

(v) If a defendant provides notice under subparagraph (ii) of this paragraph, the Health Department shall notify the victim that:

1. the victim's or victim's representative's written factual statement is inadmissible at the hearing without the testimony of the victim or victim's representative; and

2. the victim or victim's representative may attend the hearing and testify.

(g) Except as otherwise provided under this section, this section may not be construed to authorize the release to the victim or victim's representative of any medical, psychological, or psychiatric information on a defendant.

(h) The Health Department shall promptly notify the State's Attorney and a victim or a victim's representative who has requested notification regarding a defendant under this section if:

(1) the defendant is absent without authorization;

(2) a hospital warrant is issued for the defendant; or

(3) notification is required under § 11–508 of this article.

(i) An agent or employee of the Health Department who acts in compliance with this section shall have the immunity from liability described under § 5–522 of the Courts Article.

(j) Before a hearing under this article relating to a defendant, the victim or victim's representative shall be notified of the proceeding as provided under § 11–104 or § 11–503 of this article.

(k) (1) Except as provided in paragraph (2) of this subsection, a victim or victim's representative shall have the right to attend a hearing under this article relating to a defendant as provided under § 11–102 of this article.

(2) At the request of a defendant, the Office, in a release hearing or a violation hearing under this subtitle for an individual found not criminally responsible, may exclude a victim or victim's representative from the expert testimony regarding the defendant's medical, psychological, or psychiatric information if the Office finds the medical, psychological, or psychiatric information is:

(i) highly sensitive to the defendant; and

(ii) not relevant to whether the defendant should be released or has violated the conditions of release.

(l) (1) This subsection applies only to a defendant as defined in subsection (a)(2)(ii) or (iii) of this section after the criminal charges against the defendant have been dismissed under § 3–107 or § 3–108 of this title.

(2) If a victim or victim's representative has requested notification in the manner provided under subsection (c) of this section, the Health Department shall promptly notify the victim or the victim's representative in writing if the defendant:

(i) escapes;

(ii) is recaptured;

(iii) is transferred to another facility;

(iv) is released; or

(v) has died.

§3–124.

(a) Notwithstanding any other provision of law, the Health Department shall have access to information maintained by the Judiciary about a criminal defendant who is:

(1) subject to examination under the provisions of this title;

(2) committed to the Health Department under the provisions of this title; or

(3) on conditional release under the provisions of this title.

(b) Before exchanging any information in accordance with this section, the Health Department and the Judiciary shall enter into an agreement regarding:

(1) the individuals who may have access to information under this section;

(2) what information is accessible to the individuals in item (1) of this subsection; and

(3) the ways in which the information accessed may be used.

§4–101.

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

(2) (i) "Citation" means a written charging document that a police officer or fire marshal issues to a defendant, alleging the defendant has committed a crime.

(ii) "Citation" does not include an indictment, information, or statement of charges.

(3) "Fire marshal" means:

(i) the State Fire Marshal;

(ii) a deputy State fire marshal; or

(iii) as designated under § 6–304 of the Public Safety Article:

1. an assistant State fire marshal; or

2. a special assistant State fire marshal.

(4) "Police officer" has the meaning stated in § 2–101 of this article.

(b) Within areas of the National Park System, a United States Park Police officer may exercise the authority of a police officer to issue a citation under this section.

(c) (1) (i) Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a police officer shall charge by citation for:

1. any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;

2. any other misdemeanor or local ordinance violation not involving serious injury or an immediate health risk for which the maximum penalty of imprisonment is 90 days or less, except:

A. failure to comply with a peace order under § 3–1508 of the Courts Article;

B. failure to comply with a protective order under § 4–509 of the Family Law Article;

C. violation of a condition of pretrial or posttrial release under § 5–213.1 of this article;

D. possession of an electronic control device after conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;

E. violation of an out–of–state domestic violence order under § 4–508.1 of the Family Law Article; or

F. abuse or neglect of an animal under § 10–604 of the Criminal Law Article; or

3. possession of cannabis under § 5–601 of the Criminal Law Article.

(ii) Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a police officer may charge by citation for:

1. sale of an alcoholic beverage to an underage drinker or intoxicated person under § 6–304, § 6–307, § 6–308, or § 6–309 of the Alcoholic Beverages Article;

2. malicious destruction of property under § 6–301 of the Criminal Law Article, if the amount of damage to the property is less than $500;

3. misdemeanor theft under § 7–104(g)(2) of the Criminal Law Article;

4. possession of a controlled dangerous substance other than cannabis under § 5–601 of the Criminal Law Article;

5. possession with intent to distribute cannabis under § 5–602(b)(1) of the Criminal Law Article; or

6. growing or manufacturing cannabis or a cannabis product under § 5–603(b) of the Criminal Law Article.

(2) A police officer may charge a defendant by citation only if:

(i) the officer is satisfied with the defendant's evidence of identity;

(ii) the officer reasonably believes that the defendant will comply with the citation;

(iii) the officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety;

(iv) the defendant is not subject to arrest:

1. for an alleged misdemeanor involving serious injury or immediate health risk or an alleged felony arising out of the same incident; or

2. based on an outstanding arrest warrant; and

(v) the defendant complies with all lawful orders by the officer.

(3) A police officer who has grounds to make a warrantless arrest for an offense that may be charged by citation under this subsection may:

(i) issue a citation in lieu of making the arrest; or

(ii) make the arrest and subsequently issue a citation in lieu of continued custody.

(d) (1) Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a fire marshal may issue a citation for:

(i) discharging fireworks without a permit under § 10–104 or § 10–110 of the Public Safety Article;

(ii) possessing with intent to discharge or allowing the discharge of fireworks under § 10–104 or § 10–110 of the Public Safety Article; or

(iii) maintaining a fire hazard under § 6–317 of the Public Safety Article.

(2) A fire marshal may issue a citation if the fire marshal is satisfied with the defendant's evidence of identity and reasonably believes that the defendant will comply with the citation.

(e) (1) This section does not apply to a citation that is:

(i) authorized for a violation of a parking ordinance or a regulation adopted by a State unit or political subdivision of the State under Title 26, Subtitle 3 of the Transportation Article;

(ii) authorized by the Department of Natural Resources under § 1–205 of the Natural Resources Article; or

(iii) authorized by Baltimore City under § 16–16A (special enforcement officers) of the Code of Public Local Laws of Baltimore City for violation of a code, ordinance, or public local law of Baltimore City concerning building, housing, health, fire, safety, zoning, or sanitation.

(2) Except as otherwise expressly provided by law, the Chief Judge of the District Court shall prescribe a uniform, statewide form of a citation.

(3) Except for the uniform motor vehicle citation form, the law enforcement agencies of the State, the United States Park Police, and the Office of the State Fire Marshal shall reimburse the District Court for printing the citation forms that law enforcement officers and the State Fire Marshal require.

§4–102.

A State's Attorney may charge by information:

(1) in a case involving a felony that does not involve a felony within the jurisdiction of the District Court, if the defendant is entitled to a preliminary hearing but does not request a hearing within 10 days after a court or court commissioner informs the defendant about the availability of a preliminary hearing; or

(2) in any other case, if a court in a preliminary hearing finds that there is probable cause to hold the defendant.

§4–103.

(a) If a defendant is charged with a felony other than a felony within the jurisdiction of the District Court, at the time of the defendant's initial appearance, as required by Maryland Rule 4-213, a court or court commissioner shall advise the defendant of the defendant's right to request a preliminary hearing.

(b) (1) If a defendant is charged with a felony other than a felony within the jurisdiction of the District Court, the defendant may request a preliminary hearing at the defendant's initial appearance or at any time within 10 days after the initial appearance.

(2) If the defendant does not request a preliminary hearing within 10 days after the initial appearance, the right to a preliminary hearing is waived.

(c) (1) If a defendant is charged with a felony other than a felony within the jurisdiction of the District Court, the right of a defendant to a preliminary hearing is absolute if:

(i) the defendant is charged by criminal information; and

(ii) the defendant requests a preliminary hearing in accordance with subsection (b) of this section.

(2) If the defendant is charged by grand jury indictment, the right of a defendant to a preliminary hearing is not absolute but the court may allow the defendant to have a preliminary hearing.

(3) In any other case, the right of a defendant to a preliminary hearing is not absolute, but on motion of the State's Attorney or the defendant, and subject to the Maryland Rules, the court may allow the defendant to have a preliminary hearing.

§4–104.

If a statute makes a felony of a crime that is a misdemeanor at common law, a charging document:

(1) may not merge the misdemeanor in the felony; but

(2) may contain counts for the felony and for the misdemeanor.

§4–105.

(a) In speaking of any partners, joint tenants, heirs, tenants in common, or trustees, a charging document may name any one of them and speak of them as the named person and another or others, as the case may be.

(b) In stating the ownership or possession of real or personal property owned or possessed by two or more persons, a charging document may name one of the persons and lay the ownership or possession in the named person and another or others, as the case may be.

§4–106.

(a) A charging document may describe an amount of money in dollars and cents without specifying the particular notes, denominations, coins, or certificates circulating as money that constitute the amount.

(b) A description of an amount of money in dollars and cents under subsection (a) of this section is sustained by proof of any number of notes, denominations, coins, or certificates circulating as money without proof of the particular species of notes, denominations, coins, or certificates that constitute the amount.

§4–107.

(a) It is not necessary to set forth a copy of an ordinance or a section of an ordinance in a charging document for the violation of an ordinance of a municipal corporation, a county, or a special taxing area.

(b) A charging document specified in subsection (a) of this section is sufficient if it:

(1) cites the ordinance alleged to have been violated by date of passage or, if codified, by article and section number;

(2) conforms to the law governing the framing of charging documents for a violation of an act of the General Assembly; and

(3) concludes with the words "against the peace, government, and dignity of the State.".

§4–108.

(a) In making an averment as to an instrument, whether the instrument consists wholly or partly of writing, print, or figures, a charging document may describe the instrument by its usual name or designation or by its purport, without setting out a copy of the instrument or part of the instrument.

(b) (1) This subsection applies to a charging document for:

(i) counterfeiting, issuing, disposing of, altering, stealing, embezzling, destroying, or passing any kind of instrument; or

(ii) theft by the obtaining of property by false pretenses.

(2) A charging document is sufficient if the charging document alleges that the defendant acted with the intent to defraud, without alleging the intent of the defendant to defraud any particular person.

§4–109.

(a) This section applies only to a warrant, summons, or other criminal process for a misdemeanor offense.

(b) A law enforcement agency may make a written request for the State's Attorney within the jurisdiction of the law enforcement agency to petition the administrative judge of the district to have a warrant, summons, or other criminal process in the possession of the law enforcement agency invalidated and destroyed due to the age of the unexecuted warrant, summons, or other criminal process and unavailability of the defendant, or other special circumstances, if:

(1) the warrant, summons, or other criminal process was issued for the arrest of the defendant in order that the defendant might stand for trial and has remained unexecuted for at least 5 years;

(2) the warrant, summons, or other criminal process was issued for the failure of the defendant to make a deferred payment of a fine or costs as ordered by the court and has remained unexecuted for at least 5 years;

(3) the warrant, summons, or other criminal process was issued for a violation of probation and has remained unexecuted for at least 5 years;

(4) except as provided in item (5) of this subsection, the warrant, summons, or other criminal process was issued for the arrest of the defendant for the failure of the defendant to appear as directed by the court and has remained unexecuted for at least 5 years; or

(5) the defendant was released on bail posted by a private surety, and the warrant was issued for the arrest of the defendant for the failure of the defendant to appear as directed by the court and has remained unexecuted for at least 10 years.

(c) (1) On receipt of a request made under subsection (b)(1), (b)(2), (b)(3), or (b)(4) of this section, the State's Attorney:

(i) if the warrant, summons, or other criminal process has remained unexecuted for more than 5 years but less than 7 years, may petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other process; and

(ii) if the warrant, summons, or other criminal process has remained unexecuted for at least 7 years, shall petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other process.

(2) On receipt of a request made under subsection (b)(5) of this section, the State's Attorney shall petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other criminal process.

(d) The State's Attorney may argue against the invalidation and destruction of a warrant, summons, or other criminal process of which the State's Attorney has petitioned the court for invalidation and destruction under subsection (c)(1)(ii) or (2) of this section due to a justifiable continuing active investigation of the case.

(e) Unless preservation is determined by the court to be justifiable, the court shall order the invalidation and destruction of the unexecuted warrant, summons, or other criminal process in accordance with § 1–605 of the Courts and Judicial Proceedings Article.

(f) An arrest may not be made under the authority of a warrant, summons, or other criminal process that has been ordered invalidated and destroyed.

(g) The State's Attorney may enter a nolle prosequi or place the case on the stet docket at the time of the court order under this section.

(h) Nothing in this section may be construed to:

(1) prevent the reissuance of a warrant, summons, or other criminal process;

(2) affect the time within which a prosecution for a misdemeanor may be commenced;

(3) nullify or remove a failure to appear designation that has been placed on an individual's driving record by the Motor Vehicle Administration; or

(4) affect any pending criminal charge.

§4–201.

(a) In the District Court, a prosecution for a crime shall be brought in the district that includes the county where the crime was committed, and the trial shall be held in that county unless the case is lawfully removed.

(b) If a person is feloniously stricken or poisoned in a county and dies in another county of the same stroke or poison, a prosecution for the felony shall be brought in the county where the stroke or poison was given.

(c) A prosecution may be brought in the county in which the defendant is arrested or first brought if the prosecution is for:

(1) a crime committed on the waters of the Chesapeake Bay and not in a county;

(2) aiding, abetting, or comforting the perpetrator of such a crime; or

(3) being an accessory to such a crime.

(d) If a person is feloniously stricken or poisoned on the waters of the Chesapeake Bay and not in a county, and dies of the same stroke or poison in a county, a prosecution for the felony, or for being an accessory to the felony, shall be brought in the county where the person died.

(e) If a person is feloniously stricken or poisoned in a county, and dies of the same stroke or poison on the waters of the Chesapeake Bay and not in a county, a prosecution for the felony, or for being an accessory to the felony, shall be brought in the county where the stroke or poison was given.

(f) (1) In this subsection, "common carrier" means a steamboat, railroad train, motor bus, airplane, or other means of intercity or interstate public transportation.

(2) Subject to paragraph (3) of this subsection, a prosecution for an indictable crime committed on a common carrier may be brought, and a District Court commissioner may hold the defendant to bail if the crime is bailable, in any county from, to, or through which the common carrier runs.

(3) If the accused is held to bail under this subsection by a District Court commissioner, prosecution for the crime shall be in the county where the defendant is held.

(g) (1) A prosecution for a crime may be brought in the county in which process for the arrest and prosecution of the defendant is first issued if:

(i) the crime was committed at the boundary between counties; or

(ii) the boundary is so uncertain or the site of the crime is so near to the boundary that it is doubtful in which county the crime was committed.

(2) To establish the venue alleged in the charging document, the State need only prove that a set of facts in paragraph (1)(i) or (ii) of this subsection is true.

(h) Except as otherwise provided by law, a prosecution of a person for being an accessory after the fact to murder or other felony shall be brought in the county in which the person became an accessory.

(i) Except as otherwise provided in this section, a prosecution of a person for a violation of § 2–201, § 2–204, or § 2–207 of the Criminal Law Article may be brought in the county in which the crime occurred or, if the location of the crime cannot be determined, in the county in which the body or parts of the body were found.

§4–202.

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

(2) "Victim" has the meaning stated in § 11–104 of this article.

(3) "Victim's representative" has the meaning stated in § 11–104 of this article.

(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4–242 if:

(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;

(2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3–8A–03(e)(1), (4), or (5) of the Courts Article; and

(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.

(c) The court may not transfer a case to the juvenile court under subsection (b) of this section if:

(1) the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court under § 3–8A–03(e)(1) or (4) of the Courts Article; or

(2) the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.

(d) In determining whether to transfer jurisdiction under subsection (b) of this section, the court shall consider:

(1) the age of the child;

(2) the mental and physical condition of the child;

(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;

(4) the nature of the alleged crime; and

(5) the public safety.

(e) In making a determination under this section, the court may order that a study be made concerning the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.

(f) The court shall make a transfer determination within 10 days after the date of a transfer hearing.

(g) If the court transfers its jurisdiction under this section, the court may order the child held for an adjudicatory hearing under the regular procedure of the juvenile court.

(h) (1) Pending a determination under this section to transfer its jurisdiction, the court shall order the child to be held in a secure juvenile facility unless:

(i) the child is released on bail, recognizance, or other conditions of pretrial release;

(ii) there is not available capacity in a secure juvenile facility, as determined by the Department of Juvenile Services; or

(iii) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others.

(2) If the court makes a finding under paragraph (1)(iii) of this subsection that detention in a secure juvenile facility would pose a risk of harm to the child or others, the court shall state the reasons for the finding on the record.

(i) (1) The provisions of § 3–8A–27 of the Courts Article relating to confidentiality of records apply to all police records and court records concerning the child excluded from the jurisdiction of the juvenile court under § 3–8A–03(e)(1), (4), or (5) of the Courts Article from the time of the child's arrest until:

(i) the time for filing of a motion to transfer to juvenile court under the Maryland Rules has expired and no such motion has been filed; or

(ii) a motion to transfer to juvenile court has been denied.

(2) If a case is transferred to the juvenile court under this section:

(i) the provisions of § 3–8A–27 of the Courts Article relating to confidentiality of records continue to apply to all police and court records concerning the child; and

(ii) the criminal charge is subject to expungement under § 10–106 of this article.

(j) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11–104 of this article.

(2) (i) A victim or a victim's representative may submit a victim impact statement to the court as provided in § 11–402 of this article.

(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11–104 of this article from submitting a victim impact statement to the court.

(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.

(k) (1) Regardless of whether the District Court has jurisdiction over the case, at a bail review or preliminary hearing before the District Court involving a child whose case is eligible for transfer under subsection (b) of this section, the District Court:

(i) may order that a study be made under the provisions of subsection (e) of this section; and

(ii) shall order that the child be held in a secure juvenile facility pending a transfer determination under this section unless:

1. the child is released on bail, recognizance, or other conditions of pretrial release;

2. there is not available capacity at a secure juvenile facility as determined by the Department of Juvenile Services; or

3. the District Court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others.

(2) If the District Court makes a finding under paragraph (1)(ii)3 of this subsection that detention in a secure juvenile facility would pose a risk of harm to the child or others, the District Court shall state the reasons for the finding on the record.

§4–202.1.

(a) In this section, "child" means a defendant who is under the age of 18 years and whose case is eligible for transfer under the provisions of § 4-202(b)(1) and (2) and (c) of this subtitle.

(b) If a child remains in custody for any reason after a bail review hearing:

(1) in the case of a child charged with a felony that is not within the jurisdiction of the District Court, the District Court shall:

(i) clearly indicate on the case file and in computer records that the case involves a detained child; and

(ii) set a preliminary hearing to be held within 15 days after the bail review hearing; or

(2) in the case of a child charged with a crime in the District Court, the District Court:

(i) shall clearly indicate on the case file and in computer records that the case involves a detained child;

(ii) shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days after the filing of the charging document;

(iii) may order that a study be made under § 4-202 of this subtitle; and

(iv) shall require that prompt notice be given to counsel for the child, or, if the child is not represented by counsel, to the Office of the Public Defender.

(c) On receipt of a District Court case file that indicates that the case involves a child who was detained after a bail review hearing under subsection (b) of this section, a circuit court:

(1) unless previously set by the District Court under subsection (b)(2) of this section, shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days after the filing of the charging document in the circuit court;

(2) unless previously ordered by the District Court under subsection (b)(2) of this section, may order that a study be made under § 4-202 of this subtitle; and

(3) shall require that prompt notice be given to counsel for the child, or, if the child is not represented by counsel, to the Office of the Public Defender.

§4–202.2.

(a) At sentencing, a court exercising criminal jurisdiction in a case involving a child shall determine whether to transfer jurisdiction to the juvenile court if:

(1) as a result of trial or a plea entered under Maryland Rule 4–242, all charges that excluded jurisdiction from the juvenile court under § 3–8A–03(e)(1) or (4) of the Courts Article do not result in a finding of guilty; and

(2) (i) pretrial transfer was prohibited under § 4–202(c)(2) of this subtitle; or

(ii) the court did not transfer jurisdiction after a hearing under § 4–202(b) of this subtitle.

(b) In determining whether to transfer jurisdiction under subsection (a) of this section, the court shall consider:

(1) the age of the child;

(2) the mental and physical condition of the child;

(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;

(4) the nature of the child's acts as proven in the trial or admitted to in a plea entered under Maryland Rule 4–242; and

(5) public safety.

(c) The court may not consider transferring jurisdiction to the juvenile court under this section if:

(1) under the terms of a plea agreement entered under Maryland Rule 4–243, the child agrees that jurisdiction is not to be transferred; or

(2) pretrial transfer was prohibited under § 4–202(c)(1) of this subtitle.

(d) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11–104 of this article.

(2) (i) A victim or victim's representative may submit a victim impact statement to the court as provided in § 11–402 of this article.

(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11–104 of this article from submitting a victim impact statement to the court.

(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.

(e) (1) If the court transfers its jurisdiction to the juvenile court, the court shall conduct a disposition under the regular procedures of the juvenile court.

(2) The record of the hearing and of the disposition shall be transferred to the juvenile court, subject to § 3–8A–27 of the Courts Article.

§4–203.

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

(2) "Corporation" includes a joint-stock company and an association.

(3) "Limited liability company" includes a limited liability partnership and a limited liability limited partnership.

(b) If a charging document is filed against a corporation or limited liability company, the clerk of court may issue a summons to the corporation or limited liability company in its corporate or company name to appear at the court to answer the charging document.

(c) A summons served under subsection (b) of this section may be served in the same manner as provided for service of process in a civil suit under the Maryland Rules.

(d) (1) If a sheriff or other officer returns a summons served under this section as "summoned" or "served":

(i) the corporation or limited liability company to whom the summons was issued shall be considered as in court and as appearing to the charging document; and

(ii) the court shall order the clerk to enter an appearance for the corporation or limited liability company and to endorse a plea of not guilty on the charging document.

(2) After the clerk makes the entry and endorsement specified in paragraph (1)(ii) of this subsection, further proceedings may occur concerning the charging document in the same manner as if the corporation or limited liability company had appeared and pleaded not guilty.

(e) (1) If a corporation or limited liability company is served a summons under this section and is convicted on the charging document, a court may:

(i) pass a judgment concerning the charging document; and

(ii) issue process of execution to the sheriff of the county against the property of the corporation or limited liability company for the amount of the fine and costs that may be awarded against the corporation or limited liability company in the same manner as on a judgment in a civil action.

(2) A sheriff shall sell the property of the corporation or limited liability company on an execution under paragraph (1) of this subsection in the same manner as on an execution issued in a civil suit.

§4–204.

(a) In this section, the words "accessory before the fact" and "principal" have their judicially determined meanings.

(b) Except for a sentencing proceeding under § 2–304 of the Criminal Law Article:

(1) the distinction between an accessory before the fact and a principal is abrogated; and

(2) an accessory before the fact may be charged, tried, convicted, and sentenced as a principal.

(c) An accessory before the fact may be charged, tried, convicted, and sentenced for a crime regardless of whether a principal in the crime has been:

(1) charged with the crime;

(2) acquitted of the crime; or

(3) convicted of a lesser or different crime.

(d) If a crime is committed in the State, an accessory before the fact may be charged, tried and convicted, and sentenced in a county where:

(1) an act of accessoryship was committed; or

(2) a principal in the crime may be charged, tried and convicted, and sentenced.

§4–205.

(a) Before trial, a court exercising criminal jurisdiction in a case involving a child may order the child to undergo blood lead level testing.

(b) A copy of the results of a test performed under subsection (a) of this section shall be provided to:

(1) the child;

(2) the child's parent or guardian;

(3) the child's counsel; and

(4) the State's Attorney.

§4–206.

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

(2) "Final disposition" means a dismissal, an entry of a nolle prosequi, the marking of a criminal charge "stet" on the docket, an entry of a not guilty verdict, the pronouncement of a sentence, or the imposition of probation under § 6–220 of this article.

(3) "Financial institution" has the meaning stated in § 1–101 of the Financial Institutions Article.

(4) "Freeze assets" means to prohibit a person from transferring the person's money by placing the money under seal or removing the money to a place designated by a court.

(b) A State's Attorney may file a petition to freeze assets of a defendant charged with violating § 8–801 of the Criminal Law Article with the circuit court of the county in which the defendant was charged if:

(1) the petition is filed within 60 days of the defendant being charged with a violation of § 8–801 of the Criminal Law Article;

(2) the alleged value of lost or stolen property in the criminal charge giving rise to the petition is $10,000 or more;

(3) the amount of money subject to the petition does not exceed the alleged value of lost or stolen property in the criminal charge giving rise to the petition; and

(4) the State's Attorney sends a notice of intent to file a petition to each financial institution in possession of money subject to the petition.

(c) (1) A petition to freeze assets shall be served on the defendant in accordance with the Maryland Rules and include:

(i) the name of the defendant;

(ii) the case number of the charge giving rise to the petition;

(iii) a description of the money that is subject to the petition;

(iv) if known or reasonably subject to discovery, the name of each financial institution in possession of any of the money; and

(v) an oath or affirmation that the contents of the petition are true to the best of the State's Attorney's knowledge, information, and belief.

(2) A petition to freeze assets shall be mailed to each financial institution in possession of money subject to the petition.

(d) A court may grant a petition to freeze assets and issue an order to freeze assets if the State's Attorney proves by a preponderance of the evidence that:

(1) the defendant has a legal, equitable, or possessory interest in the money listed in the petition; and

(2) the money listed in the petition is not jointly held unless the State's Attorney also proves by a preponderance of the evidence that:

(i) the defendant transferred the defendant's money to avoid being subject to an order to freeze assets; or

(ii) the money listed in the petition was used in connection with a violation of § 8–801 of the Criminal Law Article.

(e) (1) The order to freeze assets shall be served on each financial institution in possession of money subject to the order.

(2) The order shall be served in accordance with the Maryland Rules and include:

(i) the name of the account holder;

(ii) the case number of the proceeding in which the court issued the order to freeze assets; and

(iii) a description of the money that is subject to the order to freeze assets.

(f) A financial institution is not obligated to restrict access to money described in a petition until:

(1) an order to freeze assets has been served on the financial institution; and

(2) the financial institution has had a reasonable opportunity to freeze the assets.

(g) An order to freeze assets shall remain in effect until the earlier of:

(1) a dismissal, an entry of a nolle prosequi, or an entry of a not guilty verdict for the criminal charge for the violation giving rise to the order;

(2) the marking of the charge "stet" on the docket, the pronouncement of a sentence, or the imposition of probation under § 6–220 of this article for the criminal charge giving rise to the order, provided that the defendant has made full restitution if ordered by the court; or

(3) 1 year after the final disposition of the criminal charge for the violation giving rise to the order.

(h) On motion, the court may modify an order to freeze assets to allow the defendant to make restitution, to allow the victim to collect restitution, or for good cause.

(i) This section does not prohibit a financial institution from exercising rights under applicable law, including the right to set off mutual debts under common law.

§5–101.

(a) This section shall be liberally construed to carry out the purpose of relying on criminal sanctions instead of financial loss to ensure the appearance of a defendant in a criminal case before verdict or pending a new trial.

(b) (1) Except as provided in subsection (c) of this section, if, from all the circumstances, the court believes that a minor or adult defendant in a criminal case will appear as required for trial before verdict or pending trial, the defendant may be released on personal recognizance.

(2) A failure to appear as required by personal recognizance is subject to the penalties provided in § 5-211 of this title.

(c) A defendant may not be released on personal recognizance if the defendant is charged with:

(1) a crime listed in § 5–202(d) of this title after having been convicted of a crime listed in § 5–202(d) of this title; or

(2) a crime punishable by life imprisonment without parole.

§5–102.

A defendant charged with a crime punishable by life imprisonment may be released on bail or other conditions of release before conviction.

§5–103.

(a) In this section, "pretrial risk scoring instrument" means a tool, a metric, an algorithm, or software that is used to assist in determining the eligibility of a defendant for pretrial release in a pretrial proceeding based on the defendant's flight risk and threat to community safety.

(b) A jurisdiction that uses a pretrial risk scoring instrument to determine the eligibility of a defendant for pretrial release shall have an independent validation study of the pretrial risk scoring instrument conducted at least once every 5 years.

§5–104.

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

(2) "Civil immigration violation" means a violation of federal civil immigration law.

(3) "Family member" means a relative by blood, adoption, or marriage.

(4) "Household member" means a person who lives with another or is a regular presence in the home of another.

(5) (i) "Law enforcement agent" means an individual who is certified by the Maryland Police Training and Standards Commission under § 3–209 of the Public Safety Article.

(ii) "Law enforcement agent" does not include an agent or employee of a State correctional facility or a local correctional facility.

(6) "Local correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

(7) "State correctional facility" has the meaning stated in § 1–101 of the Correctional Services Article.

(b) (1) In this subsection, "arrest" does not include a routine booking procedure.

(2) Except as provided in paragraphs (3) and (4) of this subsection, a law enforcement agent may not, during the performance of regular police functions:

(i) inquire about an individual's citizenship, immigration status, or place of birth during a stop, a search, or an arrest;

(ii) detain, or prolong the detention of, an individual:

1. for the purpose of investigating the individual's citizenship or immigration status; or

2. based on the suspicion that the individual has committed a civil immigration violation;

(iii) transfer an individual to federal immigration authorities unless required by federal law; or

(iv) coerce, intimidate, or threaten any individual based on the actual or perceived citizenship or immigration status of the individual or:

1. the individual's family member;

2. the individual's household member;

3. the individual's legal guardian; or

4. another individual for whom the individual is a legal guardian.

(3) Nothing in this subsection shall prevent a law enforcement agent from inquiring about any information that is material to a criminal investigation.

(4) If the citizenship or immigration status of an individual is relevant to a protection accorded to the individual under State or federal law, or subject to a requirement imposed by international treaty, a law enforcement agent may:

(i) notify the individual of the protection or requirement; and

(ii) provide the individual an opportunity to voluntarily disclose the individual's citizenship or immigration status for the purpose of receiving the protection or complying with the requirement.

§5–105.

(a) This section applies only in Baltimore City.

(b) If a defendant is released before trial, the Department of Public Safety and Correctional Services shall provide notice within 24 hours of the release to the Baltimore Police Department.

(c) Notice provided under this section shall be provided in a manner that allows the sorting and filtering of the information provided by the Department of Public Safety and Correctional Services.

§5–201.

(a) (1) The court or a District Court commissioner shall consider including, as a condition of pretrial release for a defendant, reasonable protections for the safety of the alleged victim.

(2) If a victim has requested reasonable protections for safety, the court or a District Court commissioner shall consider including, as a condition of pretrial release, provisions regarding no contact with the alleged victim or the alleged victim's premises or place of employment.

(b) (1) In accordance with eligibility criteria, conditions, and procedures required under the Maryland Rules, the court may require, as a condition of a defendant's pretrial release, that the defendant be monitored by a private home detention monitoring agency licensed under Title 20 of the Business Occupations and Professions Article.

(2) Except as provided under paragraph (3) of this subsection, a defendant placed in private home detention under paragraph (1) of this subsection shall pay directly to the private home detention monitoring agency the agency's monitoring fee.

(3) Subject to the availability of federal funding under paragraph (4) of this subsection, a defendant may not be required to pay a private home detention monitoring agency's monitoring fee or pay for a home detention monitoring device if:

(i) the defendant qualifies as an indigent individual under § 16–210 of this article; or

(ii) a home detention monitoring device or global positioning system device is provided by the State or a local jurisdiction.

(4) The State shall use available federal funds to provide payment to a private home detention monitoring agency for any costs or fees incurred that are not required to be paid by a defendant under paragraph (3) of this subsection.

§5–202.

(a) A District Court commissioner may not authorize pretrial release for a defendant charged with escaping from a correctional facility or any other place of confinement in the State.

(b) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.

(2) A judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(3) There is a rebuttable presumption that, if released, a defendant charged as a drug kingpin will flee and pose a danger to another person or the community.

(c) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant has been previously convicted:

(i) in this State of a crime of violence;

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State; or

(iii) of an offense listed in subsection (f)(1) of this section.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(d) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on bail or personal recognizance for a pending prior charge of committing one of the following crimes:

(i) aiding, counseling, or procuring arson in the first degree under § 6–102 of the Criminal Law Article;

(ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6–103 of the Criminal Law Article;

(iii) burglary in the first degree under § 6–202 of the Criminal Law Article;

(iv) burglary in the second degree under § 6–203 of the Criminal Law Article;

(v) burglary in the third degree under § 6–204 of the Criminal Law Article;

(vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal Law Article;

(vii) a crime that relates to a destructive device under § 4–503 of the Criminal Law Article;

(viii) a crime that relates to a controlled dangerous substance under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;

(ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article; and

(x) a crime of violence.

(2) A defendant under this subsection remains ineligible to give bail or be released on recognizance on the subsequent charge until all prior charges have finally been determined by the courts.

(3) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(4) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community if released before final determination of the prior charge.

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

(i) the provisions of a temporary protective order described in § 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of an order for protection, as defined in § 4–508.1 of the Family Law Article, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4–508.1 of the Family Law Article.

(2) A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

(ii) any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

(iii) both bail and other conditions described under item (ii) of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(f) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with one of the following crimes if the defendant has previously been convicted of a crime of violence or one of the following crimes:

(i) wearing, carrying, or transporting a handgun under § 4–203 of the Criminal Law Article;

(ii) use of a handgun or an antique firearm in commission of a crime under § 4–204 of the Criminal Law Article;

(iii) violating prohibitions relating to assault weapons under § 4–303 of the Criminal Law Article;

(iv) use of a machine gun in a crime of violence under § 4–404 of the Criminal Law Article;

(v) use of a machine gun for an aggressive purpose under § 4–405 of the Criminal Law Article;

(vi) use of a weapon as a separate crime under § 5–621 of the Criminal Law Article;

(vii) possession of a regulated firearm under § 5–133 of the Public Safety Article;

(viii) transporting a regulated firearm for unlawful sale or trafficking under § 5–140 of the Public Safety Article; or

(ix) possession of a rifle or shotgun by a person with a mental disorder under § 5–205 of the Public Safety Article.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(g) (1) A District Court commissioner may not authorize the pretrial release of a defendant who:

(i) is registered, or the commissioner knows is required to register, under Title 11, Subtitle 7 of this article; or

(ii) is a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

§5–203.

(a) (1) Subject to paragraphs (2) and (3) of this subsection, a circuit court may adopt rules setting the terms and conditions of bail bonds filed in that court and rules on the qualifications of and fees charged by bail bondsmen.

(2) Notwithstanding any other law or rule to the contrary, if expressly authorized by the court, a defendant or a private surety acting for the defendant may post a bail bond by executing it in the full penalty amount and depositing with the clerk of court the greater of 10% of the penalty amount or $25.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, if an order setting "cash bail" or "cash bond" specifies that it may be posted by the defendant only, the "cash bail" or "cash bond" may be posted by the defendant, by an individual, or by a private surety, acting for the defendant, that holds a certificate of authority in the State.

(ii) Unless otherwise ordered by the court, an order setting "cash bail" or "cash bond" for a failure to pay support under Title 10, Title 11, Title 12, or Title 13 of the Family Law Article may be posted by the defendant only.

(4) A bail bond commissioner may be appointed to carry out rules adopted under this section.

(5) A violation of a rule adopted under this section is contempt of court and shall be punished in accordance with Title 15, Chapter 200 of the Maryland Rules.

(6) A person may not engage in the business of becoming a surety for compensation on bail bonds in criminal cases unless the person is:

(i) approved in accordance with any rules adopted under this section; and

(ii) if required under the Insurance Article, licensed in accordance with the Insurance Article.

(b) (1) In the circuit courts in the Seventh Judicial Circuit, a bail bondsman approved under subsection (a) of this section shall pay a license fee of 1% of the gross value of all bail bonds written in all courts of the circuit, if the fee is approved by the court of the county in which it applies.

(2) The fee shall be paid to the court as required by the rules of court and shall be used to pay the expenses of carrying out this section.

(3) Any absolute bail bond forfeitures collected may be used to pay the expenses of carrying out this section.

§5–204.

(a) In a criminal case in a circuit court in which the defendant is allowed to give bail, the clerk of the court may take the bail if:

(1) the court adjourns before the defendant has secured the bail; and

(2) the court before adjournment, or any judge of the court after adjournment, issues an order that sets the amount of the bail and directs the clerk to take the bail.

(b) If a defendant is arrested on indictment in a bailable case in a circuit court and is confined during the recess of the court, any judge of the court, by written

order, may set the amount of the bail and direct the clerk to take the bail with security.

(c) The clerk may not accept security for bail unless:

(1) the person offering the security states under oath that the person owns real or personal property worth the amount of the bail, exclusive of the person's right to exemption from execution; and

(2) the clerk is satisfied that the statement is true.

§5–205.

(a) A District Court judge may:

(1) set bond or bail;

(2) release a defendant on personal recognizance or on a personal or other bail bond;

(3) commit a defendant to a correctional facility in default of a bail bond;

(4) order a bail bond forfeited if the defendant fails to meet the conditions of the bond; and

(5) exercise all of the powers of a justice of the peace under the Constitution of 1867.

(b) (1) Except as provided in paragraph (2) of this subsection, if an order setting "cash bail" or "cash bond" specifies that it may be posted by the defendant only, the "cash bail" or "cash bond" may be posted by the defendant, by an individual, or by a private surety, acting for the defendant, that holds a certificate of authority in the State.

(2) Unless otherwise expressly ordered by the court or District Court commissioner, an order setting "cash bail" or "cash bond" for a failure to pay support under Title 10, Title 11, Title 12, or Title 13 of the Family Law Article may be posted by the defendant only.

(c) (1) This subsection does not apply to a defendant who has been arrested for failure to appear in court or for contempt of court.

(2) (i) Notwithstanding any other law or rule to the contrary, in a criminal or traffic case in the District Court in which a bail bond has been set and if expressly authorized by the court or District Court commissioner, the defendant or a private surety acting for the defendant may post the bail bond by:

1. executing it in the full penalty amount; and

2. depositing with the clerk of the court or a commissioner the greater of 10% of the penalty amount or $25.

(ii) A judicial officer may increase the percentage of cash surety required in a particular case but may not authorize a cash deposit of less than $25.

(3) On depositing the amount required under paragraph (2) of this subsection and executing the recognizance, the defendant shall be released from custody subject to the conditions of the bail bond.

(d) (1) When all conditions of the bail bond have been performed without default and the defendant has been discharged from all obligations in the cause for which the recognizance was posted, the clerk of the court shall return the deposit to the person or private surety who deposited it.

(2) (i) If the defendant fails to perform any condition of the bail bond, the bail bond shall be forfeited.

(ii) If the bail bond is forfeited, the liability of the bail bond shall extend to the full amount of the bail bond set and the amount posted as a deposit shall be applied to reduce the liability incurred by the forfeiture.

§5–206.

In a criminal case, a judge may reinstate any bail, bond, or recognizance for criminal charges discharged at a preliminary hearing in the District Court, if a new charging document arises out of the substantially same set of facts.

§5–207.

(a) If a defendant is found guilty in a circuit court and sentenced to imprisonment, a bond on which the defendant was released before the sentencing is terminated.

(b) If the defendant files a notice of appeal and the sentencing court requires a bond to be posted, the defendant shall post a new bond.

§5–208.

(a) In this section, "return" means to place in the custody of a police officer, sheriff, or other commissioned law enforcement officer who is authorized to make arrests within the jurisdiction of the court.

(b) (1) Subject to paragraph (2) of this subsection, a court that exercises criminal jurisdiction shall strike out a forfeiture of bail or collateral and discharge the underlying bail bond if the defendant can show reasonable grounds for the defendant's failure to appear.

(2) (i) The court shall allow a surety 90 days after the date of the defendant's failure to appear or, for good cause shown, 180 days to return the defendant before requiring the payment of any forfeiture of bail or collateral.

(ii) The court shall strike out a forfeiture of bail or collateral and deduct only the actual expense incurred for the defendant's arrest, apprehension, or surrender, if:

1. the surety paid the forfeiture of bail or collateral during the period allowed for the return of the defendant under subparagraph (i) of this paragraph;

2. the defendant is returned; and

3. the arrest, apprehension, or surrender occurs more than 90 days after the defendant's failure to appear or at the end of the period that the court allows to return the defendant.

(c) Evidence of confinement of a fugitive defendant in a correctional facility in the United States is a wholly sufficient ground to strike out a forfeiture, if assurance is given that the defendant will come back to the jurisdiction of the court on expiration of the sentence at no expense to the State, county, or municipal corporation.

(d) (1) Except as provided in paragraph (2) of this subsection, if the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" on the docket:

(i) the defendant or other person who gave collateral for bail or recognizance is entitled to a refund; and

(ii) if a bail bond or other security was given, the bail bond or other security shall be discharged.

(2) If the bail bond or other security has been declared forfeited and 10 years have passed since the bail bond or other security was posted, the defendant or other person may not receive a refund or discharge.

(e) (1) A court exercising criminal jurisdiction may not order a forfeiture of the bail bond or collateral posted by a surety and shall give back the bail bond or collateral to the surety if:

(i) the defendant fails to appear in court; and

(ii) the surety produces evidence, within the time limits established under subsection (b) of this section, that:

1. the defendant is confined in a correctional facility outside the State;

2. the State's Attorney is unwilling to issue a detainer and later extradite the defendant; and

3. the surety agrees in writing to defray the expense of returning the defendant to the jurisdiction in accordance with subsection (c) of this section.

(2) Subject to paragraph (3) of this subsection, a court exercising criminal jurisdiction that has ordered forfeiture of a bail bond or collateral after expiration of the time limits established under subsection (b) of this section for a surety to return a defendant shall give back the forfeited bail bond or collateral if, within 10 years after the date the bail bond or collateral was posted, the surety produces evidence that:

(i) the defendant is confined in a correctional facility outside the State;

(ii) the State's Attorney is unwilling to issue a detainer and later extradite the defendant; and

(iii) the surety agrees in writing to defray the expense of returning the defendant to the jurisdiction in accordance with subsection (c) of this section.

(3) (i) Subject to subparagraph (ii) of this paragraph, the court may not refund a forfeited bail bond or collateral to a surety under this subsection unless the surety paid the forfeiture of bail or collateral within the time limits established for the surety to return the defendant under subsection (b)(2)(i) of this section.

(ii) The court may refund a forfeited bail bond or collateral that was not paid within the time limits established under subsection (b) of this section, if:

1. on motion, the surety produces evidence that the defendant was incarcerated when the judgment of forfeiture was entered; and

2. the court strikes out the judgment of forfeiture for fraud, mistake, or irregularity.

§5–209.

(a) In this section, "property bondsman" means a person other than a defendant who executes a bail bond secured by real estate in the State.

(b) This section does not apply in the seventh judicial circuit.

(c) A property bondsman may authorize an agent in writing to execute on behalf of the property bondsman:

(1) a bail bond; and

(2) a declaration of trust or deed of trust to secure a bail bond by real estate.

(d) If all other requirements of law are met, a person authorized by law to take a bail bond shall take a bail bond secured by declaration of trust or deed of trust on real estate properly executed by an authorized agent of a property bondsman.

(e) (1) A person who acts as a property bondsman for compensation shall provide to the court documentation of ownership, tax status, and liens against the property posted.

(2) A person described under paragraph (1) of this subsection who willfully provides false documentation is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

§5–210.

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

(2) "Agent" means a person that acts or is authorized to act as the representative of a bail bondsman.

(3) (i) "Bail bondsman" means a licensed limited surety agent or a licensed professional bail bondsman.

(ii) "Bail bondsman" does not include a person that contracts with a public agency to provide bail bonds to persons detained in a correctional facility.

(b) On the grounds of a courthouse or correctional facility, a bail bondsman, an agent of a bail bondsman, an employee of the courthouse, or an employee of a correctional facility may not:

(1) approach, entice, or invite a person to use the services of a specific bail bondsman;

(2) distribute, display, or wear an item that advertises the services of a bail bondsman; or

(3) otherwise solicit business as a bail bondsman.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding $2,500, and if licensed in accordance with the Insurance Article, a 30–day license suspension for a first offense; and

(2) a fine not exceeding $5,000, and if licensed in accordance with the Insurance Article, a 90–day license suspension for a subsequent offense.

(d) A person convicted of a violation of subsection (b) of this section shall be referred to the Insurance Commissioner for appropriate action.

§5–211.

(a) If a person has been charged with a crime and admitted to bail or released on recognizance and the person forfeits the bail or recognizance and willfully fails to surrender, a bench warrant shall be issued for the person's arrest.

(b) (1) On issuing a bench warrant under subsection (a) of this section, a judge may also set a bond in the case.

(2) If a person against whom a bench warrant has been issued posts a bond that has been set by a judge under paragraph (1) of this subsection:

(i) a judicial officer shall mark the bench warrant satisfied; and

(ii) the court shall reschedule the hearing or trial.

(c) A person who has been admitted to bail or released on recognizance in a criminal case in the State and who willfully fails to surrender within 30 days after the date of forfeiture is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both, if the bail or recognizance was given in connection with a charge of a felony or pending an appeal, certiorari, habeas corpus, or postconviction proceeding after conviction of any crime; or

(2) a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both, if the bail or recognizance was given in connection with a charge of a misdemeanor, or for appearance as a witness.

(d) This section does not diminish the power of a court to punish for contempt.

(e) A person who is prosecuted under subsection (c)(1) of this section is subject to § 5–106(b) of the Courts Article regarding the exemption from the statute of limitations for the institution of prosecution and the right of in banc review.

§5–212.

(a) This section does not apply to a citation:

(1) for a violation of a parking ordinance or regulation adopted under Title 26, Subtitle 3 of the Transportation Article;

(2) adopted by the Chief Judge of the District Court under § 1–605(d) of the Courts Article, for use in traffic offenses; or

(3) issued by a Natural Resources police officer under § 1–205 of the Natural Resources Article.

(b) A bench warrant may be issued for the arrest of a defendant who fails to appear in court in response to a citation.

(c) A person who fails to appear in court in response to a citation is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 90 days or both.

§5–213.

(a) A court may issue a bench warrant for the arrest of a defendant who violates a condition of pretrial release.

(b) After a defendant is presented before a court, the court may:

(1) revoke the defendant's pretrial release; or

(2) continue the defendant's pretrial release with or without conditions.

§5–213.1.

(a) A person may not violate a condition of pretrial or posttrial release prohibiting the person from contacting, harassing, or abusing an alleged victim or going in or near an alleged victim's residence or place of employment if the person is charged with committing:

(1) a violation of Title 3, Subtitle 3 of the Criminal Law Article against a victim who is a minor;

(2) a crime of violence as defined in § 5–101 of the Public Safety Article;

(3) a crime against a victim who is a person eligible for relief as defined in § 4–501 of the Family Law Article; or

(4) a violation of § 3–802 of the Criminal Law Article.

(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days.

§5–214.

Notwithstanding Maryland Rule 4–217(g), after a defendant has appeared in person before the commissioner or judge in a case, the defendant may post bond by

means of electronic transmission or hand delivery of the relevant documentation without appearing before the commissioner or judge, if authorized by:

(1) in the circuit court, the County Administrative Judge; and

(2) in the District Court, the Chief Judge of the District Court.

§5–215.

A defendant who is denied pretrial release by a District Court commissioner or who for any reason remains in custody after a District Court commissioner has determined conditions of release under Maryland Rule 4–216 shall be presented to a District Court judge immediately if the Court is in session, or if the Court is not in session, at the next session of the Court.

§6–101.

In a criminal case tried in a court of general jurisdiction, there is no right to a jury trial unless:

(1) the crime charged is subject to a penalty of imprisonment; or

(2) there is a constitutional right to a jury trial for the crime.

§6–102.

Except as provided in § 6-104 of this subtitle, in the trial of a criminal case in which there is a jury, the jury is the judge of law and fact.

§6–103.

(a) (1) The date for trial of a criminal matter in the circuit court shall be set within 30 days after the earlier of:

(i) the appearance of counsel; or

(ii) the first appearance of the defendant before the circuit court, as provided in the Maryland Rules.

(2) The trial date may not be later than 180 days after the earlier of those events.

(b) (1) For good cause shown, the county administrative judge or a designee of the judge may grant a change of the trial date in a circuit court:

(i) on motion of a party; or

(ii) on the initiative of the circuit court.

(2) If a circuit court trial date is changed under paragraph (1) of this subsection, any subsequent changes of the trial date may only be made by the county administrative judge or that judge's designee for good cause shown.

(c) The Court of Appeals may adopt additional rules to carry out this section.

§6–104.

(a) (1) At the close of the evidence for the State, a defendant may move for judgment of acquittal on one or more counts or on one or more degrees of a crime, on the ground that the evidence is insufficient in law to sustain a conviction as to the count or degree.

(2) Subject to paragraph (3) of this subsection, if the court denies the motion for judgment of acquittal, the defendant may offer evidence on the defendant's behalf without having reserved the right to do so.

(3) If the defendant offers evidence after making a motion for judgment of acquittal, the motion is deemed withdrawn.

(b) (1) The defendant may move for judgment of acquittal at the close of all the evidence whether or not a motion for judgment of acquittal was made at the close of the evidence for the State.

(2) If the court denies the motion for judgment of acquittal, the defendant may have review of the ruling on appeal.

§6–105.

(a) Except as provided in subsection (b) of this section, a court in which a motion for a new trial in a criminal case is pending shall hear the motion:

(1) within 10 days after the motion is filed; or

(2) if an agreed statement of the evidence or a statement of the evidence certified by the trial judge is filed, within 10 days after the statement is filed.

(b) The time for the hearing of a motion for a new trial may be extended by:

(1) a written agreement, signed by the State's Attorney of the county in which the motion is pending and the defendant or the defendant's counsel; or

(2) an order signed by the trial judge.

§6–106.

(a) Before a hearing under § 6-105 of this subtitle, the victim or victim's representative shall be notified as provided under § 11-104 or § 11-503 of this article.

(b) A victim or victim's representative has the right to attend a hearing under § 6-105 of this subtitle as provided under § 11-102 of this article.

§6–201.

In this part, "Commission" means the State Commission on Criminal Sentencing Policy.

§6–202.

The General Assembly intends that:

(1) sentencing should be fair and proportional and that sentencing policies should reduce unwarranted disparity, including any racial disparity, in sentences for criminals who have committed similar crimes and have similar criminal histories;

(2) sentencing policies should help citizens to understand how long a criminal will be confined;

(3) sentencing policies should preserve meaningful judicial discretion and sufficient flexibility to allow individualized sentences;

(4) sentencing guidelines be voluntary;

(5) the priority for the capacity and use of correctional facilities should be the confinement of violent and career criminals; and

(6) sentencing judges in the State should be able to impose the most appropriate criminal penalties, including corrections options programs for appropriate criminals.

§6–203.

There is a State Commission on Criminal Sentencing Policy.

§6–204.

(a) The Commission consists of the following 19 members:

(1) a chairman, appointed by the Governor;

(2) (i) the Chief Judge of the Court of Appeals; or

(ii) a judge or former judge of the Court of Appeals or the Court of Special Appeals designated by the Chief Judge of the Court of Appeals;

(3) one circuit court judge, appointed by the Chief Judge of the Court of Appeals;

(4) one District Court judge, appointed by the Chief Judge of the Court of Appeals;

(5) the Attorney General or the Attorney General's designee;

(6) one State's Attorney who is recommended by the President of the Maryland State's Attorneys Association, appointed by the Governor;

(7) the Public Defender or the Public Defender's designee;

(8) a criminal defense attorney who is recommended by the President of the Maryland Criminal Defense Attorneys Association, appointed by the Governor;

(9) two members of the State Senate, including at least one member of the Senate Judicial Proceedings Committee, appointed by the President of the Senate;

(10) two members of the House of Delegates, including at least one member of the House Judiciary Committee, appointed by the Speaker of the House;

(11) the Secretary of the Department or the Secretary's designee;

(12) one representative from a victims' advocacy group, appointed by the Governor;

(13) one representative from law enforcement, appointed by the Governor;

(14) one member with a background in criminal justice or corrections policy who is a recognized expert in the field and who is appointed by the Governor;

(15) one representative of local correctional facilities, appointed by the Governor; and

(16) two representatives of the public, appointed by the Governor.

(b) (1) The term of an appointed member is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Commission on October 1, 2001.

(3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

§6–205.

(a) A majority of the authorized membership of the Commission is a quorum.

(b) (1) The Commission shall meet quarterly at the times and places that it determines.

(2) The Commission may hold additional meetings at the call of the chairman or any six members of the Commission after giving proper notice in the manner provided in the rules of the Commission.

(c) A member of the Commission:

(1) may not receive compensation for serving on the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The chairman may select a staff in accordance with the State budget.

§6–206.

(a) In addition to any other powers set forth elsewhere, the Commission may:

(1) establish subcommittees or advisory committees composed of Commission members to accomplish the duties imposed under this section;

(2) require each State unit and local government unit to give information to the Commission on request; and

(3) apply for, accept, and use grants or financial or other aid from a public or private source to accomplish the duties established in this part.

(b) At least annually, the Commission shall hold a hearing for public comments about the issues that are being studied by the Commission.

(c) (1) The Commission may adopt rules governing the administration and proceedings of the Commission.

(2) A change to the sentencing guidelines requires adoption by a majority of the total number of members of the Commission.

§6–207.

Each State unit and local governmental unit shall cooperate with the Commission.

§6–208.

(a) (1) The Commission shall adopt sentencing guidelines that the Commission may change.

(2) The sentencing guidelines shall include sentencing guidelines for ordinary sentences and sentencing guidelines for corrections options.

(b) The sentencing guidelines for ordinary sentences shall call for sentences within the limits set by law and shall set forth:

(1) the range of sentences for crimes of a given degree of seriousness;

(2) a range of increased severity for defendants previously convicted of or adjudicated delinquent for a previous crime; and

(3) a list of aggravating and mitigating circumstances.

(c) The sentencing guidelines for corrections options shall be designed to identify defendants qualified for corrections options programs.

§6–209. IN EFFECT

(a) The Commission shall review annually sentencing policy and practice and, on or before January 31 of each year, report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the activities of the preceding calendar year.

(b) (1) The report shall:

(i) include any changes to the sentencing guidelines made during the preceding year;

(ii) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit;

(iii) subject to paragraph (2) of this subsection:

1. for sentences involving a crime of violence, include information disaggregated by circuit on:

A. the number and percentage of sentencing events in each disposition category, as indicated on the sentencing guidelines worksheet;

B. the number and percentage of sentencing events that resulted in a departure from the sentencing guidelines; and

C. for sentencing events that resulted in a departure from the sentencing guidelines, the departure reasons cited and the number and percentage of events in which each reason was cited; and

2. for sentencing events involving a crime of violence, report disaggregated by circuit and crime on:

A. the average total sentence;

B. the average nonsuspended sentence; and

C. for sentences in which a portion of the sentence was suspended, the average percentage of the total sentence suspended;

(iv) review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article; and

(v) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14–101(a) of the Criminal Law Article and by judicial circuit.

(2) The Commission shall consider a sentence to a corrections options program to be within the sentencing guidelines if the sentence falls within a corrections options zone shown on the matrix.

(3) The Commission shall conspicuously post the information required to be included in the report under paragraph (1)(iii) of this subsection in a data dashboard on its public website.

§6–209. // EFFECTIVE SEPTEMBER 30, 2025 PER CHAPTER 141 OF 2022 //

(a) The Commission shall review annually sentencing policy and practice and, on or before January 31 of each year, report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the activities of the preceding calendar year.

(b) (1) The report shall:

(i) include any changes to the sentencing guidelines made during the preceding year;

(ii) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit;

(iii) review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article; and

(iv) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14–101(a) of the Criminal Law Article and by judicial circuit.

(2) The Commission shall consider a sentence to a corrections options program to be within the sentencing guidelines if the sentence falls within a corrections options zone shown on the matrix.

§6–210.

The Commission shall:

(1) collect sentencing guidelines worksheets and automate the information with the help of the Administrative Office of the Courts; and

(2) monitor sentencing practice and adopt changes to the sentencing guideline matrices consistent with the intent of this part.

§6–211.

(a) Subject to subsection (b) of this section, the Commission shall adopt as regulations sentencing guidelines and any changes to those sentencing guidelines, subject to Title 10, Subtitle 1 of the State Government Article.

(b) Regulations adopted under subsection (a) of this section are voluntary sentencing guidelines that a court need not follow.

(c) A change to the sentencing guidelines takes effect on the day that the regulation takes effect as provided under Title 10, Subtitle 1 of the State Government Article.

§6–212.

The Commission shall:

(1) hold training and orientation programs for trial court judges, attorneys, probation officers, and other interested parties as required;

(2) consult with the General Assembly about carrying out, managing, maintaining, and operating the sentencing guidelines system; and

(3) prepare statements containing fiscal and statistical information on proposed legislation affecting sentencing and corrections practice.

§6–213.

(a) The Commission shall use a correctional population simulation model to help determine the State and local correctional resources that:

(1) are required under current laws, policies, and practices relating to sentencing, parole, and mandatory supervision; and

(2) would be required to carry out future Commission recommendations for legislation or changes to the sentencing guidelines.

(b) If the recommendations of the Commission for changes in legislation would result in State and local inmate populations exceeding the operating capacities of available facilities, the Commission shall present additional sentencing model alternatives consistent with these capacities.

(c) In second priority to the work of the Commission, the Commission shall make the model available on request from any member of the General Assembly or the Secretary.

§6–214.

The Commission shall include an entry location on a sentencing guidelines worksheet for a court, in reporting on crimes involving theft and related crimes under Title 7 of the Criminal Law Article or fraud and related crimes under Title 8 of the Criminal Law Article, to report the specific dollar amount, when available, of the economic loss to the victim.

§6–216.

(a) (1) A circuit court shall consider:

(i) the sentencing guidelines for ordinary sentences in deciding on the proper sentence; and

(ii) the sentencing guidelines for corrections options in deciding whether to sentence a defendant to a corrections options program or to impose an ordinary sentence.

(2) In deciding whether to sentence a defendant to a corrections options program, the court primarily shall consider the public safety.

(b) The sentencing guidelines may not:

(1) allow for a sentence exceeding the maximum sentence provided by law; or

(2) be used in violation of any mandatory minimum sentence required by law.

(c) (1) If a court prepares a Maryland sentencing guidelines worksheet, the clerk of court shall deliver a copy of the Maryland sentencing guidelines

worksheet to the unit that has been ordered by the court to retain custody of the defendant.

(2) The copy shall be delivered with the commitment order or as soon as practicable after issuance of the commitment order.

(3) The Parole Commission shall review a Maryland sentencing guidelines worksheet to ensure compliance with the requirements of Title 7 of the Correctional Services Article.

§6–217.

(a) When a sentence of confinement that is to be served is imposed for a violent crime as defined in § 7–101 of the Correctional Services Article for which a defendant will be eligible for parole under § 7–301(c) or (d) of the Correctional Services Article, the court shall state in open court the minimum time the defendant must serve before becoming eligible for parole and before becoming eligible for conditional release under mandatory supervision under § 7–501 of the Correctional Services Article.

(b) The statement required by subsection (a) of this section is for information only and is not a part of the sentence.

(c) The failure of a court to comply with subsection (a) of this section does not affect the legality or efficacy of the sentence.

§6–218.

(a) This section does not apply to a parolee who is returned to the custody of the Division of Correction because of a subsequent crime and is confined before being sentenced for the subsequent crime.

(b) (1) A defendant who is convicted and sentenced shall receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in the custody of a correctional facility, hospital, facility for persons with mental disorders, or other unit because of:

(i) the charge for which the sentence is imposed; or

(ii) the conduct on which the charge is based.

(2) If a defendant is in custody because of a charge that results in a dismissal or acquittal, the time that would have been credited if a sentence had been

imposed shall be credited against any sentence that is based on a charge for which a warrant or commitment was filed during that custody.

(3) In a case other than a case described in paragraph (2) of this subsection, the sentencing court may apply credit against a sentence for time spent in custody for another charge or crime.

(c) A defendant whose sentence is set aside because of a direct or collateral attack and who is reprosecuted or resentenced for the same crime or for another crime based on the same transaction shall receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in custody under the prior sentence, including credit applied against the prior sentence in accordance with subsection (b) of this section.

(d) A defendant who is serving multiple sentences, one of which is set aside as the result of a direct or collateral attack, shall receive credit against and a reduction of the remaining term of a definite or life sentence, or the remaining minimum and maximum terms of an indeterminate sentence, for all time spent in custody under the sentence set aside, including credit applied against the sentence set aside in accordance with subsection (b) of this section.

(e) (1) The court shall award the credit required by this section at the time of sentencing.

(2) After having communicated with the parties, the court shall tell the defendant and shall state on the record the amount of the credit and the facts on which the credit is based.

§6–219.

(a) In this section, "custodial confinement" means:

(1) home detention;

(2) a corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar program involving terms and conditions that constitute the equivalent of confinement; or

(3) inpatient drug or alcohol treatment.

(b) Subject to subsection (c) of this section, a court:

(1) may suspend a sentence generally or for a definite time;

(2) may pass orders and impose terms as to costs, recognizance for appearance, or matters relating to the residence or conduct of the defendant who is convicted as may be deemed proper;

(3) may order confinement in any care or custody as may be deemed proper; or

(4) may order a person to a term of custodial confinement as a condition of a suspended sentence.

(c) (1) If the court places on probation a defendant who has been convicted of a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, the court shall require as a condition that the defendant participate in an alcohol or drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition.

(2) If the court places on probation a defendant who has been convicted of a violation of any provision of Title 5 of the Criminal Law Article, the court shall require as a condition that the defendant participate in a drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition.

(d) The court may impose a sentence of imprisonment as a condition of probation.

(e) In Prince George's County, the court on conviction may sentence a defendant to the local correctional facility, if:

(1) the sentence is to be performed during any 48–hour period in a 7–day period, with each period of confinement to be not less than 2 days of the sentence imposed;

(2) the crime leading to the conviction allows confinement in the local correctional facility; and

(3) the total sentence does not exceed 30 2–day periods of confinement.

(f) If an individual violates the terms of probation, any time served by the individual in custodial confinement shall be credited against any sentence of incarceration imposed by the court.

§6–220.

(a) In this section, "custodial confinement" means:

(1) home detention;

(2) a corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar program involving terms and conditions that constitute the equivalent of confinement; or

(3) inpatient drug or alcohol treatment.

(b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of a crime, a court may stay the entering of judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions if:

(i) the court finds that the best interests of the defendant and the public welfare would be served; and

(ii) the defendant gives written consent after determination of guilt or acceptance of a nolo contendere plea.

(2) Subject to paragraphs (3) and (4) of this subsection, the conditions may include an order that the defendant:

(i) pay a fine or monetary penalty to the State or make restitution; or

(ii) participate in a rehabilitation program, the parks program, or a voluntary hospital program.

(3) Before the court orders a fine, monetary penalty, or restitution, the defendant is entitled to notice and a hearing to determine the amount of the fine, monetary penalty, or restitution, what payment will be required, and how payment will be made.

(4) Any fine or monetary penalty imposed as a condition of probation shall be within the amount set by law for a violation resulting in conviction.

(5) As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment.

(c) (1) When the crime for which the judgment is being stayed is for a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, the court:

(i) before imposing a period of probation, may order the Maryland Department of Health to evaluate the defendant in accordance with § 8–505 of the Health – General Article;

(ii) if an evaluation was ordered under item (i) of this paragraph, shall review the evaluation before imposing a period of probation; and

(iii) shall impose a period of probation and, as a condition of the probation:

1. shall require the defendant to participate in an alcohol or drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition; and

2. may prohibit the defendant from operating a motor vehicle unless the motor vehicle is equipped with an ignition interlock system under § 27–107 of the Transportation Article.

(2) When the crime for which the judgment is being stayed is for a violation of any provision of Title 5 of the Criminal Law Article, the court shall impose a period of probation and, as a condition of probation, require the defendant to participate in a drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition.

(d) Notwithstanding subsections (b) and (c) of this section, a court may not stay the entering of judgment and place a defendant on probation for:

(1) a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, if within the preceding 10 years the defendant has been convicted under § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, or has been placed on probation in accordance with this section,

after being charged with a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article;

(2) a second or subsequent controlled dangerous substance crime under Title 5 of the Criminal Law Article, except that the court may stay the entering of judgment and place a defendant on probation for possession of a controlled dangerous substance under § 5–601 of the Criminal Law Article if:

(i) the defendant has been convicted once previously of or received probation before judgment once previously for possession of a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(ii) the court requires the defendant to graduate from drug court or successfully complete a substance abuse treatment program as a condition of probation; and

(iii) the defendant graduates from drug court or successfully completes a substance abuse treatment program as required;

(3) a violation of any of the provisions of §§ 3–303 through 3–307, § 3–309, § 3–310, § 3–315, or § 3–602 of the Criminal Law Article for a crime involving a person under the age of 16 years; or

(4) a moving violation, as defined in § 11–136.1 of the Transportation Article, if:

(i) the defendant holds a provisional license under § 16–111 of the Transportation Article; and

(ii) the defendant has previously been placed on probation under this section for the commission of a moving violation while the defendant held a provisional license.

(e) (1) By consenting to and receiving a stay of entering of the judgment as provided by subsections (b) and (c) of this section, the defendant waives the right to appeal at any time from the judgment of guilt.

(2) Before granting a stay, the court shall notify the defendant of the consequences of consenting to and receiving a stay of entry of judgment under paragraph (1) of this subsection.

(f) On violation of a condition of probation, the court may enter judgment and proceed as if the defendant had not been placed on probation.

(g) (1) On fulfillment of the conditions of probation, the court shall discharge the defendant from probation.

(2) The discharge is a final disposition of the matter.

(3) Discharge of a defendant under this section shall be without judgment of conviction and is not a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime.

(h) Repealed.

(i) If an individual violates the terms of probation, any time served by the individual in custodial confinement shall be credited against any sentence of incarceration imposed by the court.

§6–221.

On entering a judgment of conviction, the court may suspend the imposition or execution of sentence and place the defendant on probation on the conditions that the court considers proper.

§6–222.

(a) A circuit court or the District Court may:

(1) impose a sentence for a specified time and provide that a lesser time be served in confinement;

(2) suspend the remainder of the sentence; and

(3) (i) order probation for a time longer than the sentence but, subject to subsections (b) and (c) of this section, not longer than:

1. 5 years if the probation is ordered by a circuit court; or

2. 3 years if the probation is ordered by the District Court; or

(ii) if a defendant convicted of sexual abuse of a minor under § 3–602 of the Criminal Law Article, a crime involving a minor under § 3–303, § 3–304, or § 3–307 of the Criminal Law Article, or a crime involving a minor under § 3–305 or § 3–306 of the Criminal Law Article as the sections existed before October 1, 2017,

consents in writing, order probation for a time longer than the sentence that was imposed on the defendant, but not longer than:

1. 10 years if the probation is ordered by a circuit court; or

2. 6 years if the probation is ordered by the District Court.

(b) (1) For the purpose of making restitution, the court may extend the probation beyond the time allowed under subsection (a)(3)(i) of this section for:

(i) an additional 5 years if the probation is ordered by a circuit court; or

(ii) an additional 3 years if the probation is ordered by the District Court.

(2) An extension of probation under this subsection may be unsupervised or supervised by the Division of Parole and Probation.

(c) The court may extend the probation beyond the time allowed under subsection (b) of this section if:

(1) the defendant consents in writing; and

(2) the extension is only for making restitution.

(d) (1) For the purpose of a commitment to the Maryland Department of Health for treatment under § 8–507 of the Health – General Article, the court may extend the probation for 1 year beyond the time allowed under subsection (a)(3)(i) of this section.

(2) An extension of probation under this subsection shall be supervised by the Division of Parole and Probation.

(e) The court may extend the probation beyond the time allowed under subsection (d) of this section only if:

(1) the defendant consents in writing; and

(2) the extension is only for a commitment to the Maryland Department of Health for treatment under § 8–507 of the Health – General Article.

§6–223.

(a) A circuit court or the District Court may end the period of probation at any time.

(b) On receipt of written charges, filed under oath, that a probationer or defendant violated a condition of probation during the period of probation, the District Court may, during the period of probation or within 30 days after the violation, whichever is later, issue a warrant or notice requiring the probationer or defendant to be brought or appear before the judge issuing the warrant or notice:

(1) to answer the charge of violation of a condition of probation or of suspension of sentence; and

(2) to be present for the setting of a timely hearing date for that charge.

(c) Pending the hearing or determination of the charge, a circuit court or the District Court may remand the probationer or defendant to a correctional facility or release the probationer or defendant with or without bail.

(d) If, at the hearing, a circuit court or the District Court finds that the probationer or defendant has violated a condition of probation, the court may:

(1) revoke the probation granted or the suspension of sentence; and

(2) (i) subject to subsection (e) of this section, for a technical violation, impose a period of incarceration of:

1. not more than 15 days for a first technical violation;

2. not more than 30 days for a second technical violation; and

3. not more than 45 days for a third technical violation; and

(ii) for a fourth or subsequent technical violation or a violation that is not a technical violation, impose any sentence that might have originally been imposed for the crime of which the probationer or defendant was convicted or pleaded nolo contendere.

(e) (1) There is a rebuttable presumption that the limits on the period of incarceration that may be imposed for a technical violation established under subsection (d)(2) of this section are applicable.

(2) The presumption may be rebutted if the court finds and states on the record, after consideration of the following factors, that adhering to the limits on the period of incarceration established under subsection (d)(2) of this section would create a risk to public safety, a victim, or a witness:

(i) the nature of the probation violation;

(ii) the facts and circumstances of the crime for which the probationer or defendant was convicted; and

(iii) the probationer's or defendant's history.

(3) On finding that adhering to the limits would create a risk to public safety, a victim, or a witness under paragraph (2) of this subsection, the court may:

(i) direct imposition of a longer period of incarceration than provided under subsection (d)(2) of this section, but no more than the time remaining on the original sentence; or

(ii) commit the probationer or defendant to the Maryland Department of Health for treatment under § 8–507 of the Health – General Article.

(4) A finding under paragraph (2) of this subsection or an action under paragraph (3) of this subsection is subject to appeal under Title 12, Subtitle 3 or Subtitle 4 of the Courts Article.

§6–224.

(a) This section applies to a defendant who is convicted of a crime for which the court:

(1) does not impose a sentence;

(2) suspends the sentence generally;

(3) places the defendant on probation for a definite time; or

(4) passes another order and imposes other conditions of probation.

(b) If a defendant is brought before a circuit court to be sentenced on the original charge or for violating a condition of probation, and the judge then presiding finds that the defendant violated a condition of probation, the judge:

(1) subject to subsection (c) of this section, may sentence the defendant to:

(i) all or any part of the period of imprisonment imposed in the original sentence; or

(ii) any sentence allowed by law, if a sentence was not imposed before; and

(2) may suspend all or part of a sentence and place the defendant on further probation on any conditions that the judge considers proper, and that do not exceed the maximum set under § 6–222 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, if the court finds that the defendant violated a condition of probation that is a technical violation, the court may impose a period of incarceration of:

(i) not more than 15 days for a first technical violation;

(ii) not more than 30 days for a second technical violation;

(iii) not more than 45 days for a third technical violation; and

(iv) all or any part of the period of imprisonment imposed in the original sentence for a fourth or subsequent technical violation.

(2) (i) There is a rebuttable presumption that the limits on the period of incarceration that may be imposed for a technical violation established in paragraph (1) of this subsection are applicable.

(ii) The presumption may be rebutted if the court finds and states on the record, after consideration of the following factors, that adhering to the limits on the period of incarceration established under paragraph (1) of this subsection would create a risk to public safety, a victim, or a witness:

1. the nature of the probation violation;

2. the facts and circumstances of the crime for which the defendant was convicted; and

3. the defendant's history.

(iii) On finding that adhering to the limits would create a risk to public safety, a victim, or a witness under subparagraph (ii) of this paragraph, the court may:

1. direct imposition of a longer period of incarceration than provided in paragraph (1) of this subsection, but no more than the time remaining on the original sentence; or

2. commit the defendant to the Maryland Department of Health for treatment under § 8–507 of the Health – General Article.

(iv) A finding under subparagraph (ii) of this paragraph or an action under subparagraph (iii) of this paragraph is subject to appeal under Title 12, Subtitle 3 or Subtitle 4 of the Courts Article.

(d) (1) The District Court judge who originally imposed conditions of probation or suspension of sentence shall hear any charge of violation of the conditions of probation or suspension of sentence.

(2) Except as provided in paragraph (3) of this subsection, the judge shall sentence the defendant if probation is revoked or suspension stricken.

(3) If the judge has been removed from office, has died or resigned, or is otherwise incapacitated, any other judge of the District Court may act in the matter.

§6–225.

(a) (1) In this section, "custodial confinement" means:

(i) home detention;

(ii) a corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar program involving terms and conditions that constitute the equivalent of confinement; or

(iii) inpatient drug or alcohol treatment.

(2) "Custodial confinement" does not include imprisonment.

(b) (1) (i) Probation may be granted whether the crime is punishable by fine or imprisonment or both.

(ii) If the crime is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to the imprisonment.

(iii) Probation may be limited to one or more counts or indictments but, in the absence of express limitation, extends to the entire sentence and judgment.

(iv) The court may revoke or modify a condition of probation or may reduce the period of probation.

(v) As a condition of probation, the court may order a defendant to a term of custodial confinement.

(2) If a sentence of imprisonment is imposed and a part of it is suspended with the defendant placed on probation, the court may impose as a condition of probation that the probation begin on the day the defendant is released from imprisonment.

(c) If the court places on probation a defendant who has been convicted of a violation of any provision of Title 5 of the Criminal Law Article, the court shall require as a condition that the defendant participate in a drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition.

(d) The court may impose a sentence of custodial confinement or imprisonment as a condition of probation.

(e) If an individual violates the terms of probation, any time served by the individual in custodial confinement shall be credited against any sentence of incarceration imposed by the court.

§6–226.

(a) In this section, "supervisee" means a person that the court places under the supervision of the Division of Parole and Probation.

(b) Unless the supervisee is exempt under subsection (d) of this section, the court shall impose a monthly fee of $50 on a supervisee.

(c) (1) The fee imposed under this section shall be paid to the Division of Parole and Probation.

(2) The Division of Parole and Probation shall pay the money collected under this section into the General Fund of the State.

(d) The court may exempt a supervisee as a whole or in part from the fee imposed under this section if:

(1) the supervisee has diligently tried but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;

(2) (i) the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the student for gainful employment; and

(ii) certification of student status is supplied to the court by the institution in which the supervisee is enrolled;

(3) the supervisee has a handicap limiting employment, as determined by a physical or psychological examination accepted or ordered by the court;

(4) the supervisee is responsible for the support of dependents and the payment of the fee is an undue hardship on the supervisee; or

(5) other extenuating circumstances exist.

(e) The fee imposed by this section is in addition to court costs and fines.

(f) (1) The court may revoke probation for failure to make the required payment of the fee imposed under this section.

(2) If the supervisee does not comply with the fee requirement, the Division of Parole and Probation shall notify the court.

(3) The court shall hold a hearing to determine if there are sufficient grounds to find the supervisee in violation.

(4) At a hearing under this subsection, the court may consider:

(i) any material change in the supervisee's financial status;

(ii) good faith efforts of the supervisee to pay the fee; and

(iii) alternative means to ensure payment of the fee before the period of supervision ends.

(g) (1) In addition to fees imposed under this section, the Division of Parole and Probation may require a supervisee to pay:

(i) for drug or alcohol abuse testing if the court orders testing; and

(ii) any monthly program fee provided under § 6-115 of the Correctional Services Article.

(2) Failure to make a payment required for drug or alcohol abuse testing may be considered grounds for revocation of probation by the court.

(3) The Division of Parole and Probation may exempt a supervisee as a whole or in part from a payment for testing if the Division determines that any of the criteria in subsection (d) of this section apply.

(h) The Division of Parole and Probation shall:

(1) adopt guidelines for collecting the supervision fee;

(2) adopt guidelines for collecting the cost of drug and alcohol testing;

(3) investigate requests for an exemption from payment, if the court requests an investigation;

(4) keep records of all payments by each supervisee; and

(5) report delinquencies to the court.

§6–228.

Approver may not be admitted in a case.

§6–229.

(a) This section does not apply to a person:

(1) charged with a crime of violence as defined under § 14–101 of the Criminal Law Article or with a violation of Title 3, Subtitle 6 or Subtitle 8, or § 3–

203, § 3–204, § 5–612, § 5–613, § 5–614, § 5–621, § 5–622, or § 5–628 of the Criminal Law Article; or

(2) who has been convicted of a crime of violence, as defined under § 14–101 of the Criminal Law Article, within the previous 5 years.

(b) Except as otherwise provided in this section:

(1) a nolle prosequi with the requirement of drug or alcohol treatment shall be considered a nolle prosequi under the Maryland Rules; and

(2) a stet with the requirement of drug or alcohol treatment shall be considered a stet under the Maryland Rules, including provisions for rescheduling a trial.

(c) (1) The State's Attorney, on request of the defendant or on the State's Attorney's own motion, may make an offer to a defendant that if the defendant qualifies for drug or alcohol treatment the State's Attorney shall dismiss the charge by entering a nolle prosequi with the requirement of drug or alcohol treatment or move that the court indefinitely postpone trial of the charge by marking the charge stet with the requirement of drug or alcohol abuse treatment on the docket.

(2) In order to qualify for a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, a defendant shall be evaluated for drug or alcohol abuse by the Maryland Department of Health, a designee of the Department, or a private provider licensed to provide substance use disorder treatment under regulations of the Maryland Department of Health and the evaluation shall determine whether the defendant is amenable to treatment and, if so, recommend an appropriate treatment program.

(3) The drug or alcohol treatment program shall be approved under regulations of the Maryland Department of Health.

(4) If a defendant qualified under this section accepts an offer described in paragraph (1) of this subsection:

(i) the defendant shall sign a consent to the disclosure of such treatment information as may be necessary to allow the disclosure of the disposition of nolle prosequi with the requirement of drug or alcohol treatment or stet with the requirement of drug or alcohol abuse treatment to criminal justice units; and

(ii) on successful completion of drug or alcohol treatment, the State's Attorney shall dismiss the charge by entering a nolle prosequi with the requirement of drug or alcohol treatment or move that the court indefinitely postpone

trial of the charge by marking the charge stet with the requirement of drug or alcohol abuse treatment on the docket.

(d) (1) (i) A defendant who has received a disposition of nolle prosequi with the requirement of drug or alcohol treatment or stet with the requirement of drug or alcohol abuse treatment may not receive a disposition of nolle prosequi with the requirement of drug or alcohol treatment or stet with the requirement of drug or alcohol abuse treatment for charges against the defendant arising from a separate incident that are not resolved in the same proceeding.

(ii) This paragraph may not be construed to prohibit the State's Attorney or the court from entering any other appropriate disposition in a proceeding, including a disposition of nolle prosequi or stet in accordance with the Maryland Rules, provided that the disposition is not nolle prosequi with the requirement of drug or alcohol treatment or stet with the requirement of drug or alcohol abuse treatment.

(2) In the manner provided by law, a clerk of the court shall transmit a disposition of nolle prosequi with the requirement of drug or alcohol treatment or stet with the requirement of drug or alcohol abuse treatment for entry into the appropriate criminal records as provided by law.

(e) (1) In addition to any other fees, fines, or costs, unless the court makes a finding on the record that a defendant is unable by reason of indigency to pay the costs, a person who receives a disposition of nolle prosequi with the requirement of drug or alcohol treatment or stet with the requirement of drug or alcohol abuse treatment shall pay to the court an administrative fee of $150.

(2) The fee required under paragraph (1) of this subsection shall be paid into the Maryland Substance Abuse Fund under § 8–6A–01 of the Health – General Article.

§6–230.

(a) (1) Except as provided in subsection (d) of this section, this subsection shall apply in any case where the court agrees that, on successful completion of any treatment ordered as a condition of probation under § 6–219 of this subtitle, the court will enter an order striking the entry of judgment and deferring further proceedings in accordance with § 6–220 of this subtitle.

(2) On notification to the court by the Division of Parole and Probation that the defendant has successfully completed the treatment as ordered in a proceeding under paragraph (1) of this subsection, the court shall, except as provided in subsection (d) of this section and notwithstanding any other provision of

law or rule to the contrary, enter an order striking entry of judgment and deferring further proceedings in accordance with § 6–220 of this subtitle.

(b) (1) Except as provided in subsection (d) of this section, in all other cases, on the successful completion by a defendant of any treatment ordered as a condition of probation imposed under § 6–219 of this subtitle, the Division of Parole and Probation shall notify the court that issued the order and the Office of the State's Attorney in that jurisdiction.

(2) Except as provided in subsection (d) of this section, notwithstanding any other provision of law or rule to the contrary, unless the State's Attorney files an objection within 30 days after receipt of the notice, the court may enter an order striking the entry of judgment and deferring further proceedings in accordance with § 6–220 of this subtitle.

(3) If the State's Attorney files a timely objection, the court shall hold a hearing and may, unless good cause is found to the contrary, enter the order.

(c) Any probation before judgment entered in accordance with this section shall be supervised by the Division of Parole and Probation for the term and under the conditions that the court considers appropriate.

(d) Under this section, a court may not strike the entry of judgment and defer further proceedings in accordance with § 6–220 of this subtitle or stay the entering of a judgment and place a defendant on probation for a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article if, within the preceding 10 years, the defendant:

(1) has been convicted under § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article; or

(2) has been placed on probation in accordance with § 6–220 of this subtitle, after being charged with a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article.

§6–231.

Before the revocation of any probation ordered under this title, and in addition to any other factors the court considers in connection with the determination of an appropriate sentence, the court shall:

(1) consider any evaluation or recommendation of any health professional licensed under the Health Occupations Article;

(2) consider relevant information about the defendant's drug or alcohol abuse; and

(3) make a finding on the record as to the defendant's amenability to treatment and the interest of justice.

§6–232.

(a) In a criminal case, when all of the charges against the defendant are disposed of by acquittal, dismissal, probation before judgment, nolle prosequi, or stet, the court shall advise the defendant that the defendant may be entitled to expunge the records and any DNA sample and DNA record relating to the charge or charges against the defendant in accordance with Title 10, Subtitle 1 of this article and Title 2, Subtitle 5 of the Public Safety Article.

(b) The failure of a court to comply with subsection (a) of this section does not affect the legality or efficacy of the sentence or disposition of the case.

§6–233.

(a) In this section, "domestically related crime" means a crime committed by a defendant against a victim who is a person eligible for relief, as defined in § 4–501 of the Family Law Article, or who had a sexual relationship with the defendant within 12 months before the commission of the crime.

(b) (1) If a defendant is convicted of or receives a probation before judgment disposition for a crime, on request of the State's Attorney, the court shall make a finding of fact, based on evidence produced at trial, as to whether the crime is a domestically related crime.

(2) The State has the burden of proving by a preponderance of the evidence that the crime is a domestically related crime.

(c) If the court finds that the crime is a domestically related crime under subsection (b) of this section, that finding shall become part of the court record for purposes of reporting to the Criminal Justice Information System Central Repository under § 10–215 of this article.

§6–234.

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

(2) "Convicted of a disqualifying crime" has the meaning stated in § 5–101 of the Public Safety Article.

(3) "Disqualifying crime" has the meaning stated in § 5–101 of the Public Safety Article.

(4) "Domestically related crime" has the meaning stated in § 6–233 of this subtitle.

(5) "Federally licensed firearm dealer" means a person who holds a federal firearms license issued under 18 U.S.C. § 9–232(a).

(6) "Law enforcement agency" has the meaning stated in § 3–201 of the Public Safety Article.

(7) "Law enforcement official" has the meaning stated in § 4–201 of the Criminal Law Article.

(8) "Regulated firearm" has the meaning stated in § 5–101 of the Public Safety Article.

(9) "Rifle" has the meaning stated in § 4–201 of the Criminal Law Article.

(10) "Shotgun" has the meaning stated in § 4–201 of the Criminal Law Article.

(b) (1) When a defendant has been charged with a disqualifying crime and the underlying facts of that crime would support a finding by the court under § 6–233 of this subtitle that the crime is a domestically related crime, the State's Attorney shall serve written notice on the defendant, the defendant's counsel, and the court that:

(i) the defendant has been charged with a disqualifying crime; and

(ii) under State law, it is illegal for a person who has been convicted of a disqualifying crime to possess or own a regulated firearm, a rifle, or a shotgun.

(2) The State's Attorney shall serve the notice required under paragraph (1) of this subsection prior to trial or the acceptance of a plea of guilty or the equivalent of a plea of guilty.

(c) When a defendant is convicted of or pleads guilty to a disqualifying crime that the court determines to be a domestically related crime, the court shall

inform the defendant, both verbally and in a written notice to be signed by the defendant, that the defendant is:

(1) prohibited from possessing a regulated firearm under § 5–133 of the Public Safety Article;

(2) prohibited from possessing a rifle or shotgun under § 5–205 of the Public Safety Article; and

(3) ordered to transfer all regulated firearms, rifles, and shotguns owned by the defendant or in the defendant's possession in accordance with this section.

(d) The court shall order the defendant to transfer all regulated firearms, rifles, and shotguns owned by the defendant or in the defendant's possession in accordance with this section.

(e) (1) A transfer of a regulated firearm, rifle, or shotgun under this section shall be made within 2 business days after the conviction to a State or local law enforcement agency or to a federally licensed firearms dealer.

(2) A person ordered to surrender a regulated firearm, rifle, or shotgun under this section may designate a representative to transfer the firearm to a State or local law enforcement agency or to a federally licensed firearms dealer.

(3) A law enforcement agency or federally licensed firearms dealer accepting a transferred firearm under this section shall issue a written proof of transfer to the person transferring the firearm.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, a written proof of transfer described in paragraph (3) of this subsection shall include:

1. the name of the person transferring the firearm;

2. the date the firearm was transferred; and

3. the serial number, make, and model of the firearm.

(ii) For a firearm manufactured before 1968, identifying marks may be substituted for the serial number required under this paragraph.

(f) On application by the State's Attorney or a law enforcement official based on probable cause to believe that the person has failed to surrender one or more regulated firearms, rifles, or shotguns, in accordance with this section, the court may

authorize the execution of a search warrant for the removal of any regulated firearm, rifle, or shotgun at any location where the court has probable cause to believe a regulated firearm, rifle, or shotgun owned or possessed by the person is located.

(g) Law enforcement agencies may develop rules and procedures pertaining to the storage and disposal of firearms that are surrendered in accordance with this section.

§6–235.

Notwithstanding any other provision of law, when sentencing a minor convicted as an adult, a court:

(1) may impose a sentence less than the minimum term required under law; and

(2) may not impose a sentence of life imprisonment without the possibility of parole or release.

§6–236. NOT IN EFFECT

** TAKES EFFECT JULY 1, 2023 PER CHAPTERS 521 AND 522 OF 2022 **

// EFFECTIVE UNTIL JUNE 30, 2028 PER CHAPTERS 521 AND 522 OF 2022 //

(a) There is a Jobs Court Pilot Program in the District Court sitting in Baltimore City.

(b) The purpose of the pilot program is to reduce recidivism by offering defendants an opportunity to participate in full–time job training and job placement programs as a condition of probation, an alternative to incarceration, or a condition of pretrial release.

(c) To accomplish the purpose of the pilot program, the Administrative Office of the Courts shall develop a plan to implement and monitor the pilot program.

(d) On or before June 30, 2027, the Administrative Office of the Courts, in consultation with the Baltimore Workforce Development Board, shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on the operation and results of the pilot program.

§7–101.

This title applies to a person convicted in any court in the State who is:

(1) confined under sentence of imprisonment; or

(2) on parole or probation.

§7–102.

(a) Subject to subsection (b) of this section, §§ 7-103 and 7-104 of this subtitle and Subtitle 2 of this title, a convicted person may begin a proceeding under this title in the circuit court for the county in which the conviction took place at any time if the person claims that:

(1) the sentence or judgment was imposed in violation of the Constitution of the United States or the Constitution or laws of the State;

(2) the court lacked jurisdiction to impose the sentence;

(3) the sentence exceeds the maximum allowed by law; or

(4) the sentence is otherwise subject to collateral attack on a ground of alleged error that would otherwise be available under a writ of habeas corpus, writ of coram nobis, or other common law or statutory remedy.

(b) A person may begin a proceeding under this title if:

(1) the person seeks to set aside or correct the judgment or sentence; and

(2) the alleged error has not been previously and finally litigated or waived in the proceeding resulting in the conviction or in any other proceeding that the person has taken to secure relief from the person's conviction.

§7–103.

(a) For each trial or sentence, a person may file only one petition for relief under this title.

(b) Unless extraordinary cause is shown, a petition under this subtitle may not be filed more than 10 years after the sentence was imposed.

§7–104.

The court may reopen a postconviction proceeding that was previously concluded if the court determines that the action is in the interests of justice.

§7–105.

(a) Before a hearing is held on a petition filed under this title, the victim or victim's representative shall be notified of the hearing as provided under § 11-104 or § 11-503 of this article.

(b) A victim or victim's representative is entitled to attend any hearing under this title as provided under § 11-102 of this article.

§7–106.

(a) For the purposes of this title, an allegation of error is finally litigated when:

(1) an appellate court of the State decides on the merits of the allegation:

(i) on direct appeal; or

(ii) on any consideration of an application for leave to appeal filed under § 7-109 of this subtitle; or

(2) a court of original jurisdiction, after a full and fair hearing, decides on the merits of the allegation in a petition for a writ of habeas corpus or a writ of error coram nobis, unless the decision on the merits of the petition is clearly erroneous.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an allegation of error is waived when a petitioner could have made but intelligently and knowingly failed to make the allegation:

1. before trial;

2. at trial;

3. on direct appeal, whether or not the petitioner took an appeal;

4. in an application for leave to appeal a conviction based on a guilty plea;

5. in a habeas corpus or coram nobis proceeding began by the petitioner;

6. in a prior petition under this subtitle; or

7. in any other proceeding that the petitioner began.

(ii) 1. Failure to make an allegation of error shall be excused if special circumstances exist.

2. The petitioner has the burden of proving that special circumstances exist.

(2) When a petitioner could have made an allegation of error at a proceeding set forth in paragraph (1)(i) of this subsection but did not make an allegation of error, there is a rebuttable presumption that the petitioner intelligently and knowingly failed to make the allegation.

(c) (1) This subsection applies after a decision on the merits of an allegation of error or after a proceeding in which an allegation of error may have been waived.

(2) Notwithstanding any other provision of this title, an allegation of error may not be considered to have been finally litigated or waived under this title if a court whose decisions are binding on the lower courts of the State holds that:

(i) the Constitution of the United States or the Maryland Constitution imposes on State criminal proceedings a procedural or substantive standard not previously recognized; and

(ii) the standard is intended to be applied retrospectively and would thereby affect the validity of the petitioner's conviction or sentence.

§7–107.

(a) The remedy provided under this title is not a substitute for and does not affect any remedy that is incident to the proceedings in the trial court or any remedy of direct review of the sentence or conviction.

(b) (1) In a case in which a person challenges the validity of confinement under a sentence of imprisonment by seeking the writ of habeas corpus or the writ of coram nobis or by invoking a common law or statutory remedy other than this title, a person may not appeal to the Court of Appeals or the Court of Special Appeals.

(2) This subtitle does not bar an appeal to the Court of Special Appeals:

(i) in a habeas corpus proceeding begun under § 9–110 of this article; or

(ii) in any other proceeding in which a writ of habeas corpus is sought for a purpose other than to challenge the legality of a conviction of a crime or sentence of imprisonment for the conviction of the crime, including confinement as a result of a proceeding under Title 4 of the Correctional Services Article.

§7–108.

(a) Except as provided in subsection (b) of this section, a person is entitled to assistance of counsel and a hearing on a petition filed under this title.

(b) (1) If a person seeks to reopen a postconviction proceeding under § 7-104 of this subtitle, the court shall determine whether assistance from counsel or a hearing should be granted.

(2) If an appeal has been taken from the judgment of conviction to the Court of Special Appeals, until the judgment of conviction becomes final in the Court of Special Appeals, the court need not:

(i) appoint counsel;

(ii) hold a hearing; or

(iii) act on the petition.

§7–109.

(a) Within 30 days after the court passes an order in accordance with this subtitle, a person aggrieved by the order, including the Attorney General and a State's Attorney, may apply to the Court of Special Appeals for leave to appeal the order.

(b) (1) The application for leave to appeal shall be in the form set by the Maryland Rules.

(2) If the Attorney General or a State's Attorney states an intention to file an application for an appeal under this section, the court may:

(i) stay the order; and

(ii) set bail for the petitioner.

(3) If the application for leave to appeal is granted:

(i) the procedure for the appeal shall meet the requirements of the Maryland Rules; and

(ii) the Court of Special Appeals may:

1. affirm, reverse, or modify the order appealed from; or

2. remand the case for further proceedings.

(4) If the application for leave to appeal is denied, the order sought to be reviewed becomes final.

(c) The Court of Special Appeals shall direct the political subdivision in which an order is passed to pay the necessary costs and expenses associated with a review under this section, including all court costs, stenographic services, and printing, if:

(1) a person seeks a review under this section within 30 days after judgment;

(2) the Court of Special Appeals grants leave to appeal under this section; and

(3) the Court of Special Appeals finds that the person is unable to pay the costs of the review.

§7–301.

This title is the Uniform Postconviction Procedure Act.

§8–101.

(a) In this subtitle the following terms have the meanings indicated.

(b) "Review panel" means a group of three or more circuit court judges who conduct a review proceeding in connection with an application for a review of a sentence under this subtitle.

(c) "Sentencing court" means the court in which the sentencing judge imposed the sentence or required that a sentence that was wholly or partly suspended be served.

(d) "Sentencing judge" means the judge who imposed a sentence or who required that a sentence that was wholly or partly suspended be served.

§8–102.

(a) Except as provided in subsection (b) of this section, a person convicted of a crime by a circuit court and sentenced to serve a sentence that exceeds 2 years in a correctional facility is entitled to a single sentence review by a review panel.

(b) A person is not entitled:

(1) to a sentence review if the sentence was imposed by more than one circuit court judge; or

(2) to a review of an order requiring a suspended part of a sentence to be served if:

(i) the sentence originally was wholly or partly suspended;

(ii) the sentence was reviewed; and

(iii) the suspended sentence or suspended part of that sentence later was required to be served.

(c) For purposes of this subtitle, a sentence that exceeds 2 years is a sentence in which the total period of the sentence and any unserved time of a prior or simultaneous sentence exceeds 2 years, including:

(1) a sentence imposed by a circuit court;

(2) a requirement by a circuit court that all or part of a suspended sentence be served; and

(3) a prior or simultaneous sentence, suspended or not suspended, that has been imposed by a court or other authority of the State or of another jurisdiction.

§8–103.

(a) A person entitled to file an application for a sentence review under this subtitle has the right to be represented by counsel:

(1) to determine whether to seek a sentence review; and

(2) to file an application for a sentence review.

(b) The counsel representing a person for a sentence review may be:

(1) retained by a person who is entitled to file an application for review under this subtitle;

(2) appointed by the sentencing judge; or

(3) provided under Title 16 of this article.

§8–104.

(a) The filing of an application for sentence review under this subtitle does not:

(1) stay the execution of the sentence;

(2) affect the time allowed to file an appeal or a motion for a new trial; or

(3) affect the power of the sentencing judge to change the sentence to the extent allowed by the Maryland Rules.

(b) After an application is filed, the sentencing judge may grant a stay of the execution of the sentence pending a decision under this subtitle.

§8–105.

(a) A review panel consists of three or more circuit court judges of the judicial circuit in which the sentencing court is located.

(b) Notwithstanding any Maryland Rule, the sentencing judge may not be a member of the review panel, but on request of the sentencing judge, the sentencing judge may sit with the review panel only in an advisory capacity.

(c) (1) A review panel shall consider each application for review of a sentence.

(2) A review panel may require the Division of Parole and Probation to make investigations, reports, and recommendations.

(3) A review panel:

(i) with or without a hearing, may decide that the sentence under review should remain unchanged; or

(ii) after a hearing, may order a different sentence to be imposed or served, including:

1. an increased sentence;

2. subject to § 8-107(c) of this subtitle, a decreased sentence;

3. a suspended sentence to be served wholly or partly; or

4. a sentence to be suspended with or without probation.

(4) In deciding to order a different sentence, the review panel may impose conditions that the review panel considers just and that could have been imposed lawfully by the sentencing court when the sentence was imposed.

(d) If the review panel orders a different sentence, the review panel shall resentence and notify the defendant in accordance with the order of the panel.

§8–106.

(a) A review panel may increase, modify, or reduce a sentence only after notice to each party and notice to any victim or victim's representative as provided under § 11-104 or § 11-503 of this article.

(b) Before changing a sentence, a review panel shall allow:

(1) each party to be heard at the hearing; and

(2) the victim or victim's representative to attend the hearing, as provided by § 11-102 of this article, and to address the review panel, as provided by § 11-403 of this article.

§8–107.

(a) Except as provided in subsection (c) of this section, a majority of the members of the review panel is necessary to make a decision.

(b) The review panel shall make the decision within 30 days after the filing date of the application for review.

(c) A review panel may not order a decrease in a mandatory minimum sentence unless the decision of the review panel is unanimous.

(d) A review panel shall consider time served on the sentence under review to be time served on any sentence that is substituted.

§8–109.

The Court of Appeals shall adopt rules to carry out this subtitle.

§8–110.

(a) This section applies only to an individual who:

(1) was convicted as an adult for an offense committed when the individual was a minor;

(2) was sentenced for the offense before October 1, 2021; and

(3) has been imprisoned for at least 20 years for the offense.

(b) (1) An individual described in subsection (a) of this section may file a motion with the court to reduce the duration of the sentence.

(2) A court shall conduct a hearing on a motion to reduce the duration of a sentence.

(3) (i) The individual shall be present at the hearing, unless the individual waives the right to be present.

(ii) The requirement that the individual be present at the hearing is satisfied if the hearing is conducted by video conference.

(4) (i) The individual may introduce evidence in support of the motion at the hearing.

(ii) The State may introduce evidence in support of or in opposition to the motion at the hearing.

(5) Notice of the hearing under this subsection shall be given to the victim or the victim's representative as provided in §§ 11–104 and 11–503 of this article.

(c) Notwithstanding any other provision of law, after a hearing under subsection (b) of this section, the court may reduce the duration of a sentence imposed on an individual for an offense committed when the individual was a minor if the court determines that:

(1) the individual is not a danger to the public; and

(2) the interests of justice will be better served by a reduced sentence.

(d) A court shall consider the following factors when determining whether to reduce the duration of a sentence under this section:

(1) the individual's age at the time of the offense;

(2) the nature of the offense and the history and characteristics of the individual;

(3) whether the individual has substantially complied with the rules of the institution in which the individual has been confined;

(4) whether the individual has completed an educational, vocational, or other program;

(5) whether the individual has demonstrated maturity, rehabilitation, and fitness to reenter society sufficient to justify a sentence reduction;

(6) any statement offered by a victim or a victim's representative;

(7) any report of a physical, mental, or behavioral examination of the individual conducted by a health professional;

(8) the individual's family and community circumstances at the time of the offense, including any history of trauma, abuse, or involvement in the child welfare system;

(9) the extent of the individual's role in the offense and whether and to what extent an adult was involved in the offense;

(10) the diminished culpability of a juvenile as compared to an adult, including an inability to fully appreciate risks and consequences; and

(11) any other factor the court deems relevant.

(e) (1) The court shall issue its decision to grant or deny a motion to reduce the duration of a sentence in writing.

(2) The decision shall address the factors listed in subsection (d) of this section.

(f) (1) If the court denies or grants, in part, a motion to reduce the duration of a sentence under this section, the individual may not file a second motion to reduce the duration of that sentence for at least 3 years.

(2) If the court denies or grants, in part, a second motion to reduce the duration of a sentence, the individual may not file a third motion to reduce the duration of that sentence for at least 3 years.

(3) With regard to any specific sentence, an individual may not file a fourth motion to reduce the duration of the sentence.

§8–201.

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

(2) "Biological evidence" includes, but is not limited to, any blood, hair, saliva, semen, epithelial cells, buccal cells, or other bodily substances from which genetic marker groupings may be obtained.

(3) "DNA" means deoxyribonucleic acid.

(4) "Law enforcement agency" means any of the following:

(i) a municipal or county police department;

(ii) sheriff's office;

(iii) the Maryland State Police;

(iv) any prosecuting authority;

(v) any state, university, county, or municipal police unit or police force; and

(vi) any hospital, medical facility, or private entity that is conducting forensic examinations and securing biological evidence related to criminal investigations.

(5) "Scientific identification evidence" means evidence that:

(i) is related to an investigation or prosecution that resulted in a judgment of conviction;

(ii) is in the actual or constructive possession of a law enforcement agency or agent of a law enforcement agency; and

(iii) contains biological evidence from which DNA may be recovered that may produce exculpatory or mitigating evidence relevant to a claim of a convicted person of wrongful conviction or sentencing if subject to DNA testing.

(b) Notwithstanding any other law governing postconviction relief, a person who is convicted of a crime of violence under § 14–101 of the Criminal Law Article may file a petition:

(1) for DNA testing of scientific identification evidence that the State possesses that is related to the judgment of conviction; or

(2) for a search by a law enforcement agency of a law enforcement data base or log for the purpose of identifying the source of physical evidence used for DNA testing.

(c) A petitioner may move for a new trial under this section on the grounds that the conviction was based on unreliable scientific identification evidence and a substantial possibility exists that the petitioner would not have been convicted without the evidence.

(d) (1) Subject to subsection (f) of this section, if a petitioner was convicted as the result of a trial, a guilty plea, an Alford plea, or a plea of nolo contendere, a court shall order DNA testing if the court finds that:

(i) a reasonable probability exists that the DNA testing has the scientific potential to produce exculpatory or mitigating evidence relevant to a claim of wrongful conviction or sentencing; and

(ii) the requested DNA test employs a method of testing generally accepted within the relevant scientific community.

(2) A court shall order a data base search by a law enforcement agency if the court finds that a reasonable probability exists that the data base search will produce exculpatory or mitigating evidence relevant to a claim of wrongful conviction or sentencing.

(e) (1) A petitioner shall notify the State in writing of the filing of a petition under this section.

(2) The State may file a response to the petition within 15 days after notice of the filing or within the time that the court orders.

(f) If the court orders DNA testing under subsection (d) of this section, the court in its order may issue orders the court considers appropriate, including designation of any of the following:

(1) the specific evidence to be tested;

(2) the method of testing to be used;

(3) the preservation of some of the sample for replicate testing and analysis;

(4) the laboratory where the testing is to be performed, provided that if the parties cannot agree on a laboratory, the court may approve testing at any laboratory accredited by the American Society of Crime Laboratory Directors (ASCLAD), the Laboratory Accreditation Board (LAB), or the National Forensic Science Technology Center; and

(5) release of biological evidence by a third party.

(g) (1) Except as provided in paragraph (2) of this subsection, DNA testing ordered under subsection (d) of this section shall be conducted as soon as practicable.

(2) Based on a finding of necessity, the court may order the DNA testing to be completed by a date that the court provides.

(h) (1) Except as provided in paragraph (2) of this subsection, the petitioner shall pay the cost of DNA testing ordered under subsection (d) of this section.

(2) If the results of the DNA testing that the court orders under this section are favorable to the petitioner, the court shall order the State to pay the costs of the testing.

(i) (1) If the results of the postconviction DNA testing are unfavorable to the petitioner, the court shall dismiss the petition.

(2) If the petitioner was convicted as the result of a trial and the results of the postconviction DNA testing are favorable to the petitioner, the court shall:

(i) if no postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, open a postconviction proceeding under § 7–102 of this article;

(ii) if a postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, reopen a postconviction proceeding under § 7–104 of this article; or

(iii) on a finding that a substantial possibility exists that the petitioner would not have been convicted if the DNA testing results had been known or introduced at trial, order a new trial.

(3) If the court finds that a substantial possibility does not exist under paragraph (2)(iii) of this subsection, the court may order a new trial if the court determines that the action is in the interest of justice.

(4) (i) If the petitioner was convicted as the result of a guilty plea, an Alford plea, or a plea of nolo contendere and the court determines that the DNA test results establish by clear and convincing evidence the petitioner's actual innocence of the offense or offenses that are the subject of the petitioner's motion, the court may, as the court considers appropriate:

1. if no postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, open a postconviction proceeding under § 7–102 of this article;

2. if a postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, reopen a postconviction proceeding under § 7–104 of this article; or

3. set aside the conviction and schedule the matter for trial.

(ii) When assessing the impact of the DNA test results on the strength of the State's case against the petitioner at the time the plea was entered, the court may consider, in addition to evidence that was presented as part of the factual support of the plea, admissible evidence submitted by either party that was contained in law enforcement files in existence at the time the plea was entered.

(iii) When determining an appropriate remedy under this paragraph, the court may consider any additional admissible evidence submitted by either party that came into existence after the plea was entered and is relevant to the petitioner's claim of actual innocence.

(5) If a new trial is granted or the matter is scheduled for trial, the court may order the release of the petitioner on bond or on conditions that the court finds will reasonably assure the presence of the petitioner at trial.

(j) (1) The State shall preserve scientific identification evidence that:

(i) the State has reason to know contains DNA material; and

(ii) is secured in connection with a violation of § 2–201, § 2–204, § 2–207, § 3–303, or § 3–304 of the Criminal Law Article.

(2) The State shall preserve scientific identification evidence described in paragraph (1) of this subsection for the time of the sentence, including any consecutive sentence imposed in connection with the offense.

(3) (i) If the State is unable to produce scientific identification evidence described in paragraph (1) of this subsection, the court shall hold a hearing to determine whether the failure to produce evidence was the result of intentional and willful destruction.

(ii) If the court determines at a hearing under subparagraph (i) of this paragraph that the failure to produce evidence was the result of intentional and willful destruction, the court shall:

1. order a postconviction hearing to be conducted in accordance with subparagraph (iii) of this paragraph; and

2. at the postconviction hearing infer that the results of the postconviction DNA testing would have been favorable to the petitioner.

(iii) 1. A court ordering a postconviction hearing under subparagraph (ii) of this paragraph shall open the postconviction hearing under § 7–

102 of this article, if no postconviction hearing has been previously initiated by the petitioner under § 7–102 of this article.

2. A court ordering a postconviction hearing under subparagraph (ii) of this paragraph shall reopen the postconviction hearing under § 7–104 of this article, if a postconviction hearing has been previously initiated by the petitioner under § 7–102 of this article.

(4) The State shall make the scientific identification evidence available to parties in the case under terms that are mutually agreed on between them.

(5) If an agreement cannot be reached, the party requesting the testing may file an application in the circuit court that entered the judgment for an order setting the terms under which the evidence will be made available for testing.

(k) (1) The State may dispose of scientific identification evidence before the expiration of the time period described in subsection (j) of this section if the State notifies the following persons:

(i) the person who is incarcerated in connection with the case;

(ii) any attorney of record for the person incarcerated; and

(iii) the Office of Public Defender for the judicial district in which the judgment of conviction was entered.

(2) The notification required in paragraph (1) of this subsection shall include:

(i) a description of the scientific identification evidence;

(ii) a statement that the State intends to dispose of the evidence;

(iii) a statement that the State will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service in the circuit court that entered the judgment; and

(iv) the name and mailing address of the circuit court where an objection may be filed.

(3) Unless another law or court order requires the preservation of the scientific identification evidence, if no objection to the disposition of the evidence is

filed within 120 days of the notice required under this subsection, the State may dispose of the evidence.

(4) If a person files written objections to the State's notice that it intends to dispose of scientific identification evidence, the court shall hold a hearing on the proposed disposition of the evidence and at the conclusion of the hearing, if the court determines by a preponderance of the evidence that:

(i) the evidence has no significant value for forensic science analysis, the court may order the return of the evidence to its rightful owner, the destruction of the evidence, or other disposition as provided by law; or

(ii) the evidence is of such size, bulk, or physical character that it cannot practicably be retained by a law enforcement agency, on a showing of need, the court shall order that the evidence be made available to the party objecting to the disposition of the evidence for the purpose of obtaining representative samples from the evidence in the form of cuttings, swabs, or other means, prior to the release or destruction of the evidence.

(5) If the court orders that representative samples be made available under paragraph (4)(ii) of this subsection, the court shall further order that the samples be obtained by a qualified crime scene technician acting on behalf of the party seeking to obtain the samples or by the law enforcement agency in possession of the evidence, which also shall preserve and store the representative samples until the representative samples are released to the custody of a DNA testing facility.

(6) An appeal to the court of appeals may be taken from an order entered under this section.

§8–301.

(a) A person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may, at any time, file a petition for writ of actual innocence in the circuit court for the county in which the conviction was imposed if the person claims that there is newly discovered evidence that:

(1) (i) if the conviction resulted from a trial, creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; or

(ii) if the conviction resulted from a guilty plea, an Alford plea, or a plea of nolo contendere, establishes by clear and convincing evidence the petitioner's actual innocence of the offense or offenses that are the subject of the petitioner's motion; and

(2) could not have been discovered in time to move for a new trial under Maryland Rule 4–331.

(b) A petition filed under this section shall:

(1) be in writing;

(2) state in detail the grounds on which the petition is based;

(3) describe the newly discovered evidence;

(4) contain or be accompanied by a request for hearing if a hearing is sought; and

(5) distinguish the newly discovered evidence claimed in the petition from any claims made in prior petitions.

(c) (1) A petitioner shall notify the State in writing of the filing of a petition under this section.

(2) The State may file a response to the petition within 90 days after receipt of the notice required under this subsection or within the period of time that the court orders.

(d) (1) Before a hearing is held on a petition filed under this section, the victim or victim's representative shall be notified of the hearing as provided under § 11–104 or § 11–503 of this article.

(2) A victim or victim's representative has the right to attend a hearing on a petition filed under this section as provided under § 11–102 of this article.

(e) (1) Except as provided in paragraph (2) of this subsection, the court shall hold a hearing on a petition filed under this section if the petition satisfies the requirements of subsection (b) of this section and a hearing was requested.

(2) The court may dismiss a petition without a hearing if the court finds that the petition fails to assert grounds on which relief may be granted.

(f) (1) If the conviction resulted from a trial, in ruling on a petition filed under this section, the court may set aside the verdict, resentence, grant a new trial, or correct the sentence, as the court considers appropriate.

(2) (i) If the conviction resulted from a guilty plea, an Alford plea, or a plea of nolo contendere, when assessing the impact of the newly discovered evidence on the strength of the State's case against the petitioner at the time of the plea, the court may consider admissible evidence submitted by either party, in addition to the evidence presented as part of the factual support of the plea, that was contained in law enforcement files in existence at the time the plea was entered.

(ii) If the court determines that, when considered with admissible evidence, in addition to the evidence presented as part of the factual support of the plea, that was contained in law enforcement files in existence at the time the plea was entered, the newly discovered evidence establishes by clear and convincing evidence the petitioner's actual innocence of the offense or offenses that are the subject of the petitioner's motion, the court may:

1. allow the petitioner to withdraw the guilty plea, Alford plea, or plea of nolo contendere; and

2. set aside the conviction, resentence, schedule the matter for trial, or correct the sentence, as the court considers appropriate.

(iii) When determining the appropriate remedy, the court may allow both parties to present any admissible evidence that came into existence after the plea was entered and is relevant to the petitioner's claim of actual innocence.

(3) The court shall state the reasons for its ruling on the record.

(g) A petitioner in a proceeding under this section has the burden of proof.

(h) If the petitioner was convicted as a result of a guilty plea, an Alford plea, or a plea of nolo contendere, an appeal may be taken either by the State or the petitioner from an order entered under this section.

(i) On written request by the petitioner, the State's Attorney may certify that a conviction was in error, if:

(1) the court grants a petition for relief under this section;

(2) in ruling on a petition under this section, the court:

(i) sets aside the verdict or conviction; or

(ii) schedules the matter for trial or grants a new trial; and

(3) the State's Attorney declines to prosecute the petitioner because the State's Attorney determines that the petitioner is innocent.

§8–301.1.

(a) On a motion of the State, at any time after the entry of a probation before judgment or judgment of conviction in a criminal case, the court with jurisdiction over the case may vacate the probation before judgment or conviction on the ground that:

(1) (i) there is newly discovered evidence that:

1. could not have been discovered by due diligence in time to move for a new trial under Maryland Rule 4–331(c); and

2. creates a substantial or significant probability that the result would have been different; or

(ii) the State's Attorney received new information after the entry of a probation before judgment or judgment of conviction that calls into question the integrity of the probation before judgment or conviction; and

(2) the interest of justice and fairness justifies vacating the probation before judgment or conviction.

(b) A motion filed under this section shall:

(1) be in writing;

(2) state in detail the grounds on which the motion is based;

(3) where applicable, describe the newly discovered evidence; and

(4) contain or be accompanied by a request for a hearing.

(c) (1) The State shall notify the defendant in writing of the filing of a motion under this section.

(2) The defendant may file a response to the motion within 30 days after receipt of the notice required under this subsection or within the period of time that the court orders.

(d) (1) Before a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11–104 or § 11–503 of this article.

(2) A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11–102 of this article.

(e) (1) Except as provided in paragraph (2) of this subsection, the court shall hold a hearing on a motion filed under this section if the motion satisfies the requirements of subsection (b) of this section.

(2) The court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted.

(f) (1) In ruling on a motion filed under this section, the court, as the court considers appropriate, may:

(i) vacate the conviction or probation before judgment and discharge the defendant; or

(ii) deny the motion.

(2) The court shall state the reasons for a ruling under this section on the record.

(g) The State in a proceeding under this section has the burden of proof.

(h) An appeal may be taken by either party from an order entered under this section.

§8–302.

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

(2) "Qualifying offense" means:

(i) unnatural or perverted sexual practice under § 3–322 of the Criminal Law Article;

(ii) possessing or administering a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(iii) possessing or purchasing a noncontrolled substance under § 5–618 of the Criminal Law Article;

(iv) possessing or distributing controlled paraphernalia under § 5–620(a)(2) of the Criminal Law Article;

(v) fourth–degree burglary under § 6–205 of the Criminal Law Article;

(vi) malicious destruction of property in the lesser degree under § 6–301(c) of the Criminal Law Article;

(vii) a trespass offense under Title 6, Subtitle 4 of the Criminal Law Article;

(viii) misdemeanor theft under § 7–104 of the Criminal Law Article;

(ix) misdemeanor obtaining property or services by bad check under § 8–103 of the Criminal Law Article;

(x) possession or use of a fraudulent government identification document under § 8–303 of the Criminal Law Article;

(xi) public assistance fraud under § 8–503 of the Criminal Law Article;

(xii) false statement to a law enforcement officer or public official under § 9–501, § 9–502, or § 9–503 of the Criminal Law Article;

(xiii) disturbing the public peace and disorderly conduct under § 10–201 of the Criminal Law Article;

(xiv) indecent exposure under § 11–107 of the Criminal Law Article;

(xv) prostitution under § 11–303 of the Criminal Law Article;

(xvi) driving with a suspended registration under § 13–401(h) of the Transportation Article;

(xvii) failure to display registration under § 13–409(b) of the Transportation Article;

(xviii) driving without a license under § 16–101 of the Transportation Article;

(xix) failure to display license to police under § 16–112(c) of the Transportation Article;

(xx) possession of a suspended license under § 16–301(j) of the Transportation Article;

(xxi) driving while privilege is canceled, suspended, refused, or revoked under § 16–303 of the Transportation Article;

(xxii) owner failure to maintain security on a vehicle under § 17–104(b) of the Transportation Article;

(xxiii) driving while uninsured under § 17–107 of the Transportation Article; or

(xxiv) prostitution or loitering as prohibited under local law.

(3) "Victim of human trafficking" means a person who has been subjected to an act of another committed in violation of:

(i) Title 3, Subtitle 11 of the Criminal Law Article; or

(ii) § 1589, § 1590, § 1591, or § 1594(a) of Title 18 of the United States Code.

(b) A person convicted of a qualifying offense may file a motion to vacate the judgment if the person's participation in the offense was a direct result of being a victim of human trafficking.

(c) A motion filed under this section shall:

(1) be in writing;

(2) be made within a reasonable period of time after the conviction;

(3) describe the evidence and include copies of any documents showing that the movant is entitled to relief under this section;

(4) be served on the State's Attorney in the jurisdiction where the conviction for the qualifying offense occurred; and

(5) if the qualifying offense occurred within 5 years before the filing of the motion, be mailed to any victim or victim's representative at the victim's or victim's representative's last known address.

(d) (1) The court may grant a motion filed under this section on a finding based on a preponderance of the evidence that the movant committed the qualifying offense as a direct result of being a victim of human trafficking.

(2) When making a finding under this subsection, the court shall consider:

(i) the length of time between the offense and the trafficking of the movant;

(ii) the dynamics of the relationship between the movant and the person committing trafficking against the movant; and

(iii) any other relevant evidence.

(e) The court may grant a motion filed under this section without a hearing if:

(1) the State's Attorney consents to the motion;

(2) no objection to the relief requested has been filed by a victim or victim's representative; and

(3) at least 60 days have elapsed since notice and service under subsection (c) of this section.

(f) The court may dismiss a motion filed under this section without a hearing if the court finds that:

(1) the motion fails to assert grounds on which relief may be granted;

(2) the motion offers no additional evidence beyond that which has previously been considered by the court; or

(3) the movant acted fraudulently or in bad faith in filing the motion.

(g) (1) If a court grants a motion filed under this section, the court shall vacate the conviction.

(2) The court shall state the reasons for its ruling on the record.

(h) A movant in a proceeding under this section has the burden of proof.

(i) A conviction that has been vacated under this section may not be considered a conviction for any purpose.

§8–401.

The failure to seek an appeal in a criminal case may not be construed as a waiver of the right to file a petition for writ of error coram nobis.

§9–101.

(a) In this subtitle the following words have the meanings indicated.

(b) In this title, "executive authority" includes the Governor and any person performing the functions of governor in a state other than this State.

(c) (1) "State" means a state other than this State.

(2) "State" includes the District of Columbia and any other state or territory of the United States of America.

§9–102.

Subject to the provisions of this title, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the executive authority of any other state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this State.

§9–103.

(a) A demand for the extradition of a person charged with crime in another state may not be recognized by the Governor unless it is:

(1) in writing and alleging, except in cases arising under § 9-106 of this title, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter the accused fled from the state; and

(2) accompanied by:

(i) a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a justice of the peace or magistrate there, together with a copy of any warrant which was issued thereupon; or

(ii) a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, or parole.

(b) (1) The indictment, information, or affidavit made before the magistrate or justice of the peace must substantially charge the person demanded with having committed a crime under the law of that state.

(2) The copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

§9–104.

When a demand is made upon the Governor of this State by the executive authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Attorney General or any prosecuting officer in this State:

(1) to investigate or assist in investigating the demand; and

(2) to report to the Governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

§9–105.

(a) When it is desired to have returned to this State a person charged in this State with a crime, and the person is imprisoned or is held under criminal proceedings then pending in another state, the Governor of this State may agree with the executive authority of the other state for the extradition of the person before the conclusion of proceedings or term of sentence in the other state, upon condition that the person be returned to the other state at the expense of this State as soon as the prosecution in this State is terminated.

(b) The Governor of this State may also surrender, on demand of the executive authority of any other state, any person in this State who is charged in the manner provided in § 9-123 of this title with having violated the laws of the state whose executive authority is making the demand, even though the person left the demanding state involuntarily.

§9–106.

(a) The Governor of this State may also surrender, on demand of the executive authority of any other state, any person in this State charged in the other state in the manner provided in § 9-103 of this title with committing an act in this State or in a third state that intentionally results in a crime in the state whose executive authority is making the demand.

(b) The provisions of this title that are not otherwise inconsistent shall apply to those cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

§9–107.

(a) If the Governor decides that the demand should be complied with, the Governor shall sign a warrant of arrest. The warrant shall be sealed with the State seal and be directed to any law enforcement officer or other person whom the Governor may think fit to entrust with the execution thereof.

(b) The warrant must substantially recite the facts necessary to the validity of its issuance.

§9–108.

A warrant issued under § 9-107 of this title shall authorize the law enforcement officer or other person to whom it is directed:

(1) to arrest the accused at any time and any place where the accused is found within the State;

(2) to command the aid of all law enforcement officers or other persons in the execution of the warrant; and

(3) to deliver the accused, subject to the provisions of this title, to the duly authorized agent of the demanding state.

§9–109.

A law enforcement officer or other person empowered to make the arrest under § 9-108 of this title has the same authority in arresting the accused to command assistance as law enforcement officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

§9–110.

(a) (1) A person arrested upon a warrant issued under § 9-107 of this title may not be delivered over to the agent whom the executive authority demanding the person has appointed to receive the person unless the person is first taken forthwith before a judge of a court of record in this State, who shall inform the person:

(i) of the demand made for surrender;

(ii) of the crime charged; and

(iii) of the right to demand and procure legal counsel.

(2) If the person arrested or the person's counsel shall state a desire to test the legality of the arrest, the judge shall fix a reasonable time within which the person can apply for a writ of habeas corpus.

(b) When the writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

(c) If the application for a writ of habeas corpus after an extradition hearing only is denied by the trial court, the denial may be appealed to the Court of Special Appeals.

§9–111.

(a) An officer may not deliver to the agent for extradition of the demanding state a person in the officer's custody under the Governor's warrant in willful disobedience to § 9-110 of this title.

(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

(c) The trial of a case brought for a violation of this section shall be conducted in the circuit court of the county in which the violation was committed.

§9–112.

(a) (1) The officer or person executing the Governor's warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the correctional facility of any county or municipal corporation through which the officer, person, or agent may pass.

(2) The managing official of the correctional facility must receive and safely keep the prisoner until the officer, person, or agent having charge of the prisoner is ready to proceed.

(3) The officer, person, or agent is chargeable with the expense of keeping the prisoner.

(b) (1) The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in another state, and who is passing through this State with the prisoner for the purpose of immediately returning the prisoner to the demanding state may, when necessary, confine the prisoner in the correctional facility of any county or municipal corporation through which the officer or agent may pass.

(2) The managing official of the correctional facility must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed.

(3) The officer or agent is chargeable with the expense of keeping the prisoner.

(4) The officer or agent shall produce and show to the managing official of the correctional facility satisfactory written evidence of the fact that the officer or agent is actually transporting the prisoner to the demanding state after a requisition by the executive authority of the demanding state.

(5) The prisoner is not entitled to demand a new requisition while in this State.

§9–113.

(a) This section applies whenever:

(1) it is charged on the oath of a credible witness before a judge or District Court commissioner that a person in this State:

(i) has committed a crime in another state and, except in cases arising under § 9-106 of this title, has fled from justice; or

(ii) has been convicted of a crime in another state and has escaped from confinement or has broken the terms of bail, probation, or parole; or

(2) complaint is made before a judge or District Court commissioner in this State setting forth on the affidavit of a credible person in another state that a person is believed to be in this State and:

(i) that a crime has been committed in the other state, the person has been charged in the other state with committing the crime and, except in cases arising under § 9-106 of this title, the person has fled from justice; or

(ii) that the person has been convicted of a crime in the other state and has escaped from confinement or has broken the terms of bail, probation, or parole.

(b) A judge or District Court commissioner shall issue a warrant directed to any law enforcement officer commanding the officer to apprehend the person named therein, wherever found in this State, and to bring the person before the judge, District Court commissioner, or any other judge or court available in or convenient to the place where the arrest may be made, to answer the charge or complaint and affidavit.

(c) A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

§9–114.

(a) The arrest of a person may be lawfully made also by any law enforcement officer without a warrant upon reasonable information that the accused stands charged in a court of a state with a crime punishable by death or imprisonment for a term exceeding 1 year.

(b) When an accused is arrested under subsection (a) of this section:

(1) the accused must be taken before a judge or District Court commissioner with all practicable speed;

(2) complaint must be made against the accused under oath setting forth the ground for the arrest as in § 9-113 of this title; and

(3) thereafter, the answer of the accused shall be heard as if the accused had been arrested on a warrant.

§9–115.

If, from the examination before the judge or District Court commissioner, it appears that the person held is the person charged with having committed the crime

alleged and, except in cases arising under § 9-106 of this title, that the person has fled from justice, the judge or District Court commissioner must, by a warrant reciting the accusation, commit the person to the local correctional facility for a term specified in the warrant but not exceeding 30 days, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the crime, unless the person gives bail as provided in § 9-116 of this title or until the person is legally discharged.

§9–116.

(a) Except as provided in subsection (b) of this section, and unless the crime with which the person arrested is charged is shown to be a crime punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this State may admit the person arrested to bail by bond, with sufficient sureties, and in the sum the judge deems proper, conditioned for the person's appearance before the judge at a time specified in the bond, and for the person's surrender, to be arrested upon the warrant of the Governor of this State.

(b) A judge may not admit a person to bail by bond under subsection (a) of this section for the first 10 days following the person's:

(1) arrest under or service with a Governor's warrant under this title; or

(2) signing a waiver of extradition proceedings under this title.

§9–117.

If the accused is not arrested under warrant of the Governor within the time specified in the warrant or bond, a judge or District Court commissioner may discharge the accused or recommit the accused for a further period not to exceed 60 days, or a judge or District Court commissioner may again take bail for the accused's appearance and surrender, as provided in § 9-116 of this title, but within a period not to exceed 60 days after the date of the new bond.

§9–118.

(a) If the accused is admitted to bail and fails to appear and surrender according to the conditions of the bond, the judge or District Court commissioner by proper order shall declare the bond forfeited and order the immediate arrest of the accused without warrant if the accused is within this State.

(b) Recovery may be had on the bond in the name of the State as in the case of other bonds given by the accused in criminal proceedings within this State.

§9–119.

If a criminal prosecution has been instituted against a person under the laws of this State and is still pending, the Governor may:

(1) surrender the person on demand of the executive authority of another state; or

(2) hold the person until the person has been tried and discharged or convicted and punished in this State.

§9–120.

The guilt or innocence of the accused of the crime charged may not be inquired into by the Governor or in any proceeding after the demand for extradition, accompanied by a charge of crime in legal form as provided in this title, has been presented to the Governor, except as it may be involved in identifying the accused as the person charged with the crime.

§9–121.

The Governor may recall a warrant of arrest or may issue another warrant whenever the Governor deems proper.

§9–122.

Whenever the Governor demands a person charged with crime or with escaping from confinement or breaking the terms of bail, probation, or parole in this State from the executive authority of any other state, the Governor shall issue a warrant under the seal of this State to an agent, commanding the agent to receive the person so charged and convey the person to the proper officer of the county in which the crime was committed.

§9–123.

(a) (1) When the return to this State of a person charged with a crime in this State is required, the State's Attorney shall present to the Governor a written application for a requisition for the return of the person charged.

(2) The application shall state:

(i) the name of the person charged;

(ii) the crime charged against the person;

(iii) the approximate time, place, and circumstances of its commission; and

(iv) the state in which the person is believed to be, including the location of the accused therein, when the application is made.

(3) The application shall certify that in the opinion of the State's Attorney, the ends of justice require the arrest and return of the accused to this State for trial, and the proceeding is not instituted to enforce a private claim.

(b) (1) When the return to this State is required of a person who has been convicted of a crime in this State and has escaped from confinement or broken the terms of bail, probation, or parole, the State's Attorney of the county in which the crime was committed, the parole commission, or the managing official of the correctional facility or sheriff of the county from which escape was made shall present to the Governor a written application for a requisition for the return of the person.

(2) The application shall state:

(i) the name of the person;

(ii) the crime of which the person was convicted;

(iii) the circumstances of the escape from confinement or of the breach of the terms of bail, probation, or parole; and

(iv) the state in which the person is believed to be, including the location of the person therein when application is made.

(c) (1) The application shall be verified by affidavit, be executed in duplicate, and be accompanied by two certified copies of:

(i) the indictment returned;

(ii) the information and affidavit filed;

(iii) the complaint made to the judge or District Court commissioner, stating the crime with which the accused is charged;

(iv) the citation, stating the incarcerable crime with which the accused is charged; or

(v) the judgment of conviction or the sentence.

(2) The applicant may also attach further affidavits and other documents in duplicate.

(3) One copy of the application with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, affidavits, citation, judgment of conviction, or sentence shall be filed in the office of the Secretary of State, to remain of record in that office.

(4) The other copies of all papers shall be forwarded with the Governor's requisition.

§9–124.

(a) (1) Any person arrested in this State charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of bail, probation, or parole, may waive the issuance and service of the warrant provided for in §§ 9-107 and 9-108 of this title, and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this State a writing that states that the person consents to return to the demanding state.

(2) Before a waiver is executed or subscribed by the person, it shall be the duty of the judge to inform the person of the right to the issuance and service of a warrant of extradition and the right to obtain a writ of habeas corpus as provided in § 9-110 of this title.

(b) (1) If and when a consent has been duly executed, it shall forthwith be forwarded to the office of the Governor of this State and filed therein.

(2) The judge shall:

(i) direct the officer having the person in custody to deliver forthwith the person to a duly accredited agent of the demanding state; and

(ii) deliver or cause to be delivered to the agent a copy of the consent.

(c) (1) This section does not limit the rights of the accused person to return voluntarily and without formality to the demanding state.

(2) This waiver procedure is not an exclusive procedure and does not limit the powers, rights, or duties of the officers of the demanding state or of this State.

§9–125.

(a) Nothing in this title is a waiver by this State of its right, power, or privilege to try a demanded person for a crime committed within this State, or of its right, power, or privilege to regain custody of a person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this State.

(b) A proceeding under this title that results in, or fails to result in, extradition is not a waiver by this State of any of its rights, privileges, or jurisdiction.

§9–126.

After a person has been brought back to this State by or after waiver of extradition proceedings, the person may be tried in this State for other crimes that the person may be charged with having committed here, as well as that specified in the requisition for extradition.

§9–127.

This title shall be interpreted and construed to effectuate its general purposes to make uniform the law of those states that enact it.

§9–128.

This title is the Uniform Criminal Extradition Act.

§10–101. IN EFFECT

(a) In this subtitle the following words have the meanings indicated.

(b) "Central Repository" means the Criminal Justice Information System Central Repository in the Department.

(c) (1) "Court record" means an official record of a court that the clerk of a court or other court personnel keeps about:

(i) a criminal proceeding; or

(ii) any other proceeding, except a juvenile proceeding, concerning a civil offense or infraction enacted under State or local law as a substitute for a criminal charge.

(2) "Court record" includes:

(i) a record of a violation of the Transportation Article for which a term of imprisonment may be imposed; and

(ii) an index, docket entry, charging document, pleading, memorandum, transcription of proceedings, electronic recording, order, and judgment.

(d) "Expunge" means to remove information from public inspection in accordance with this subtitle.

(e) "Expungement" with respect to a court record or a police record means removal from public inspection:

(1) by obliteration;

(2) by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or

(3) if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of it or the part of it that provides access.

(f) "Law enforcement unit" means a State, county, or municipal police department or unit, the office of a sheriff, the office of a State's Attorney, the Office of the State Prosecutor, or the Office of the Attorney General of the State.

(g) "Minor traffic violation" means a nonincarcerable violation of the Maryland Vehicle Law or any other traffic law, ordinance, or regulation.

(h) "Police record" means an official record that a law enforcement unit, booking facility, or the Central Repository maintains about the arrest and detention of, or further proceeding against, a person for:

(1) a criminal charge;

(2) a suspected violation of a criminal law;

(3) a violation of the Transportation Article for which a term of imprisonment may be imposed; or

(4) a civil offense or infraction, except a juvenile offense, enacted under State or local law as a substitute for a criminal charge.

§10–101. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 26 OF 2022 **

** TAKES EFFECT JANUARY 1, 2023 PER CHAPTER 26 OF 2022 **

(a) In this subtitle the following words have the meanings indicated.

(b) "Central Repository" means the Criminal Justice Information System Central Repository in the Department.

(c) (1) "Court record" means an official record of a court that the clerk of a court or other court personnel keeps about:

(i) a criminal proceeding; or

(ii) any other proceeding, except a juvenile proceeding, concerning a civil offense or infraction enacted under State or local law as a substitute for a criminal charge.

(2) "Court record" includes:

(i) a record of a violation of the Transportation Article for which a term of imprisonment may be imposed; and

(ii) an index, docket entry, charging document, pleading, memorandum, transcription of proceedings, electronic recording, order, and judgment.

(d) "Expunge" means to remove information from public inspection in accordance with this subtitle.

(e) Except as otherwise provided in this subtitle, "expungement" with respect to a court record or a police record means removal from public inspection:

(1) by obliteration;

(2) by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or

(3) if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of it or the part of it that provides access.

(f) "Law enforcement unit" means a State, county, or municipal police department or unit, the office of a sheriff, the office of a State's Attorney, the Office of the State Prosecutor, or the Office of the Attorney General of the State.

(g) "Minor traffic violation" means a nonincarcerable violation of the Maryland Vehicle Law or any other traffic law, ordinance, or regulation.

(h) "Police record" means an official record that a law enforcement unit, booking facility, or the Central Repository maintains about the arrest and detention of, or further proceeding against, a person for:

(1) a criminal charge;

(2) a suspected violation of a criminal law;

(3) a violation of the Transportation Article for which a term of imprisonment may be imposed; or

(4) a civil offense or infraction, except a juvenile offense, enacted under State or local law as a substitute for a criminal charge.

§10–102.

(a) A police record or a court record is subject to expungement under this subtitle.

(b) (1) A court record or a police record that existed before July 1, 1975, and is still maintained, may be expunged under this subtitle.

(2) A person who is entitled to the expungement of a court record or a police record that existed before July 1, 1975, may use the procedures for expungement provided under this subtitle.

(3) The limitation periods provided in § 10–105 of this subtitle begin when the person becomes entitled to expungement of a court record or a police record that existed before July 1, 1975.

(4) The custodian of court records or police records that were made before July 1, 1975, and that may be expunged under this subtitle:

(i) shall make a reasonable search for a record requested for expungement; but

(ii) need not expunge a court record or a police record that is not found after a reasonable search.

(c) This subtitle does not apply to:

(1) a record about a minor traffic violation;

(2) the published opinion of a court;

(3) a cash receipt or disbursement record that is necessary for audit purposes;

(4) a transcript of court proceedings made by a court reporter in a multiple defendant case;

(5) an investigatory file; or

(6) a record of the work product of a law enforcement unit that is used solely for police investigation.

§10–103.

(a) For arrests, detentions, or confinements occurring before October 1, 2007, a person who is arrested, detained, or confined by a law enforcement unit for the suspected commission of a crime and then is released without being charged with the commission of a crime may request the expungement of the police record.

(b) The person shall request expungement within 8 years after the date of the incident.

(c) (1) On receipt of a timely filed request, the law enforcement unit promptly shall investigate and try to verify the facts stated in the request.

(2) If the law enforcement unit finds the facts are true, the law enforcement unit shall:

(i) search diligently for each police record about the arrest, detention, or confinement of the person;

(ii) expunge each police record it has about the arrest, detention, or confinement within 60 days after receipt of the request; and

(iii) send a copy of the request and the law enforcement unit's verification of the facts in the request to:

1. the Central Repository;

2. each booking facility or law enforcement unit that the law enforcement unit believes may have a police record about the arrest, detention, or confinement; and

3. the person requesting expungement.

(d) Within 60 days after receipt of the request, the Central Repository, booking facility, and any other law enforcement unit shall search diligently for and expunge a police record about the arrest, detention, or confinement.

(e) If the law enforcement unit to which the person has sent a request finds that the person is not entitled to an expungement of the police record, the law enforcement unit, within 60 days after receipt of the request, shall advise the person in writing of:

(1) the denial of the request for expungement; and

(2) the reasons for the denial.

(f) (1) (i) If a request by the person for expungement of a police record is denied under subsection (e) of this section, the person may apply for an order of expungement in the District Court that has proper venue against the law enforcement unit.

(ii) The person shall file the application within 30 days after the written notice of the denial is mailed or delivered to the person.

(2) After notice to the law enforcement unit, the court shall hold a hearing.

(3) If the court finds that the person is entitled to expungement, the court shall order the law enforcement unit to expunge the police record.

(4) If the court finds that the person is not entitled to expungement of the police record, the court shall deny the application.

(5) (i) The law enforcement unit is a party to the proceeding.

(ii) Each party to the proceeding is entitled to appellate review on the record, as provided in the Courts Article for appeals in civil cases from the District Court.

(g) A person who is entitled to expungement under this section may not be required to pay any fee or costs in connection with the expungement.

§10–103.1.

(a) For arrests or confinements occurring on or after October 1, 2007, a person who is arrested or confined by a law enforcement unit and then is released without being charged with the commission of a crime is entitled to expungement of all police records, including photographs and fingerprints, relating to the matter.

(b) Within 60 days after release of a person entitled to expungement of a police record under subsection (a) of this section, the law enforcement unit shall:

(1) search diligently for and expunge each police record about the arrest or confinement of the person; and

(2) send a notice of expungement containing all relevant facts about the expungement and underlying arrest or confinement to:

(i) the Central Repository;

(ii) each booking facility or law enforcement unit that the law enforcement unit believes may have a police record about the arrest or confinement; and

(iii) the person entitled to expungement.

(c) Within 60 days after receipt of the notice, the Central Repository, a booking facility, and any other law enforcement unit shall:

(1) search diligently for and expunge each police record about the arrest or confinement of the person; and

(2) advise in writing the person entitled to expungement of compliance with the order.

(d) (1) A police record expunged under this section may not be expunged by obliteration until 3 years after the date of expungement.

(2) During the 3–year period described in paragraph (1) of this subsection, the records shall be removed to a separate secure area to which persons who do not have a legitimate reason for access are denied access.

(3) For purposes of this subsection, a legitimate reason for accessing the records includes using the records for purposes of proceedings relating to the arrest.

(e) If a law enforcement unit, a booking facility, or the Central Repository fails to expunge a police record as required under subsection (b) or (c) of this section, the person entitled to expungement may:

(1) seek redress by means of any appropriate legal remedy; and

(2) recover court costs.

(f) A person who is entitled to expungement under this section may not be required to pay any fee or costs in connection with the expungement.

§10–104.

(a) Unless the State objects and shows cause why a record should not be expunged, if the State enters a nolle prosequi as to all charges in a criminal case within the jurisdiction of the District Court with which a defendant has not been served, the District Court may order expungement of each court record, police record, or other record that the State or a political subdivision of the State keeps as to the charges.

(b) The District Court may not assess any costs against a defendant for a proceeding under subsection (a) of this section.

§10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article;

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;

(9) the person was convicted of a crime or found not criminally responsible under any State or local law that prohibits:

(i) urination or defecation in a public place;

(ii) panhandling or soliciting money;

(iii) drinking an alcoholic beverage in a public place;

(iv) obstructing the free passage of another in a public place or a public conveyance;

(v) sleeping on or in park structures, such as benches or doorways;

(vi) loitering;

(vii) vagrancy;

(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or

(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article;

(10) the person was found not criminally responsible under any State or local law that prohibits misdemeanor:

(i) trespass;

(ii) disturbing the peace; or

(iii) telephone misuse;

(11) except as provided in subsection (a–1) of this section, the person was convicted of a crime and the act on which the conviction was based is no longer a crime;

(12) the person was convicted of possession of cannabis under § 5–601 of the Criminal Law Article; or

(13) the person was convicted of a crime and the conviction was vacated under § 8–302 of this article.

(a–1) An expungement may not be obtained under subsection (a)(11) of this section for a conviction for sodomy as that offense existed before October 1, 2020, where the offense was committed:

(1) without consent;

(2) with a minor under the age of 16;

(3) with anyone the individual could not marry under § 2–202 of the Family Law Article;

(4) with a mentally incapacitated individual, as defined in § 3–301 of the Criminal Law Article;

(5) with a physically helpless individual, as defined in § 3–301 of the Criminal Law Article; or

(6) with a substantially cognitively impaired individual, as defined in § 3–301 of the Criminal Law Article.

(a–2) A person's attorney or personal representative may file a petition, on behalf of the person, for expungement under this section if the person died before disposition of the charge by nolle prosequi or dismissal.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection and § 10–105.1 of this subtitle, a person shall file a petition in the court in which the proceeding began.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if the proceeding began in one court and was transferred to another court, the person shall file the petition in the court to which the proceeding was transferred.

(ii) If the proceeding began in one court and was transferred to the juvenile court under § 4–202 or § 4–202.2 of this article, the person shall file the petition in the court of original jurisdiction from which the order of transfer was entered.

(3) (i) If the proceeding in a court of original jurisdiction was appealed to a court exercising appellate jurisdiction, the person shall file the petition in the appellate court.

(ii) The appellate court may remand the matter to the court of original jurisdiction.

(c) (1) Except as provided in paragraph (2) of this subsection, a petition for expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within 3 years after the disposition, unless the petitioner files with the petition a written general waiver and release of all the petitioner's tort claims arising from the charge.

(2) A petition for expungement based on a probation before judgment or a stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than the later of:

(i) the date the petitioner was discharged from probation or the requirements of obtaining drug or alcohol abuse treatment were completed; or

(ii) 3 years after the probation was granted or stet with the requirement of drug or alcohol abuse treatment was entered on the docket.

(3) A petition for expungement based on a nolle prosequi with the requirement of drug or alcohol treatment may not be filed until the completion of the required treatment.

(4) A petition for expungement based on a full and unconditional pardon by the Governor may not be filed later than 10 years after the pardon was signed by the Governor.

(5) Except as provided in paragraph (2) of this subsection, a petition for expungement based on a stet or a compromise under § 3–207 of the Criminal Law Article may not be filed within 3 years after the stet or compromise.

(6) A petition for expungement based on the conviction of a crime under subsection (a)(9) of this section may not be filed within 3 years after the conviction or satisfactory completion of the sentence, including probation, that was imposed for the conviction, whichever is later.

(7) A petition for expungement based on a finding of not criminally responsible under subsection (a)(9) or (10) of this section may not be filed within 3 years after the finding of not criminally responsible was made by the court.

(8) A petition for expungement based on the conviction of a crime under subsection (a)(12) of this section may not be filed before satisfactory completion of the sentence, including probation, that was imposed for the conviction.

(9) A court may grant a petition for expungement at any time on a showing of good cause.

(d) (1) Except as provided in § 10–105.1 of this subtitle, the court shall have a copy of a petition for expungement served on the State's Attorney.

(2) Unless the State's Attorney files an objection to the petition for expungement within 30 days after the petition is served, the court shall pass an order requiring the expungement of all police records and court records about the charge.

(e) (1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.

(2) If the court at the hearing finds that the person is entitled to expungement, the court shall order the expungement of all police records and court records about the charge.

(3) If the court finds that the person is not entitled to expungement, the court shall deny the petition.

(4) The person is not entitled to expungement if:

(i) the petition is based on the entry of probation before judgment, except a probation before judgment for a crime where the act on which the conviction is based is no longer a crime, and the person within 3 years of the entry of the probation before judgment has been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime; or

(ii) the person is a defendant in a pending criminal proceeding.

(f) Except as provided in § 10–105.1 of this subtitle and unless an order is stayed pending an appeal, within 60 days after entry of the order, every custodian of the police records and court records that are subject to the order of expungement shall advise in writing the court and the person who is seeking expungement of compliance with the order.

(g) (1) The State's Attorney is a party to the proceeding.

(2) A party aggrieved by the decision of the court is entitled to appellate review as provided in the Courts Article.

§10–105.1.

(a) Beginning October 1, 2021, any police record, court record, or other record maintained by the State or a political subdivision of the State relating to the charging of a crime or a civil offense under § 5–601(c)(2)(ii) of the Criminal Law Article, including a must–appear violation of the Transportation Article, shall be expunged 3 years after a disposition of the charge if no charge in the case resulted in a disposition other than:

(1) acquittal;

(2) dismissal;

(3) not guilty; or

(4) nolle prosequi, except nolle prosequi with a requirement of drug or alcohol treatment.

(b) For a case described in subsection (a) of this section, the court shall send notice of the disposition of each charge in the case and the date on which expungement is required to:

(1) the Central Repository;

(2) each booking facility, law enforcement unit, and other unit of the State and political subdivision of the State that the court believes may have a record subject to expungement under this section; and

(3) the person entitled to expungement.

§10–105.2.

(a) Subject to subsection (b) of this section, after disposition of all charges in a case involving a criminal offense or a civil offense under § 5–601(c)(2)(ii) of the Criminal Law Article, including a must–appear violation of the Transportation Article, the court shall notify the defendant of the defendant's right to expungement under § 10–105 of this subtitle if no charge in the case resulted in a disposition other than:

(1) acquittal;

(2) dismissal;

(3) not guilty; or

(4) nolle prosequi, except nolle prosequi with a requirement of drug or alcohol treatment.

(b) (1) If the defendant is not present in court for the disposition, the court shall notify the defendant by mail.

(2) The notice provided under this section shall include a written form for general waiver and release of all tort claims relating to the charge or charges eligible for expungement under § 10–105 of this subtitle.

§10–105.3. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 26 OF 2022 **

** TAKES EFFECT JANUARY 1, 2023 PER CHAPTER 26 OF 2022 **

(a) A person incarcerated after having been convicted of possession of cannabis under § 5–601 of the Criminal Law Article may present an application for resentencing to the court that sentenced the person.

(b) The court shall grant the application and resentence the person to time served.

(c) If the person is not serving a concurrent or consecutive sentence for another crime, the person shall be released from incarceration.

§10–106.

(a) A person may file, and a court shall grant, a petition for expungement of a criminal charge transferred to the juvenile court under § 4–202 or § 4–202.2 of this article.

(b) A petition for expungement filed under this section shall be filed in the court of original jurisdiction from which the order of transfer was entered.

§10–107.

(a) (1) In this subtitle, if two or more charges, other than one for a minor traffic violation or possession of cannabis under § 5–601 of the Criminal Law Article, arise from the same incident, transaction, or set of facts, they are considered to be a unit.

(2) A charge for a minor traffic violation or possession of cannabis under § 5–601 of the Criminal Law Article that arises from the same incident, transaction, or set of facts as a charge in the unit is not a part of the unit.

(b) (1) If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit.

(2) The disposition of a charge for a minor traffic violation that arises from the same incident, transaction, or set of facts as a charge in the unit does not affect any right to expungement of a charge or conviction in the unit.

§10–108.

(a) A person may not open or review an expunged record or disclose to another person any information from that record without a court order from:

(1) the court that ordered the record expunged; or

(2) the District Court that has venue in the case of a police record expunged under § 10-103 of this subtitle.

(b) A court may order the opening or review of an expunged record or the disclosure of information from that record:

(1) after notice to the person whom the record concerns, a hearing, and the showing of good cause; or

(2) on an ex parte order, as provided in subsection (c) of this section.

(c) (1) The court may pass an ex parte order allowing access to an expunged record, without notice to the person who is the subject of that record, on a verified petition filed by a State's Attorney alleging that:

(i) the expunged record is needed by a law enforcement unit for a pending criminal investigation; and

(ii) the investigation will be jeopardized or life or property will be endangered without immediate access to the expunged record.

(2) In an ex parte order, the court may not allow a copy of the expunged record to be made.

(d) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(2) In addition to the penalties provided in paragraph (1) of this subsection, an official or employee of the State or a political subdivision of the State who is convicted under this section may be removed or dismissed from public service.

§10–109.

(a) (1) Disclosure of expunged information about criminal charges in an application, interview, or other means may not be required:

(i) by an employer or educational institution of a person who applies for employment or admission; or

(ii) by a unit, official, or employee of the State or a political subdivision of the State of a person who applies for a license, permit, registration, or governmental service.

(2) A person need not refer to or give information concerning an expunged charge when answering a question concerning:

(i) a criminal charge that did not result in a conviction; or

(ii) a conviction that the Governor pardoned.

(3) Refusal by a person to disclose information about criminal charges that have been expunged may not be the sole reason for:

(i) an employer to discharge or refuse to hire the person; or

(ii) a unit, official, or employee of the State or a political subdivision of the State to deny the person's application.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both for each violation.

(2) In addition to the penalties provided in paragraph (1) of this subsection, an official or employee of the State or a political subdivision of the State who is convicted under this section may be removed or dismissed from public service.

§10–110.

(a) A person may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if the person is convicted of:

(1) a misdemeanor that is a violation of:

(i) § 6–320 of the Alcoholic Beverages Article;

(ii) an offense listed in § 17–613(a) of the Business Occupations and Professions Article;

(iii) § 5–712, § 19–304, § 19–308, or Title 5, Subtitle 6 or Subtitle 9 of the Business Regulation Article;

(iv) § 3–1508 or § 10–402 of the Courts Article;

(v) § 14–1915, § 14–2902, or § 14–2903 of the Commercial Law Article;

(vi) § 5–211 of this article;

(vii) § 3–203 or § 3–808 of the Criminal Law Article;

(viii) § 5–601 not involving the use or possession of cannabis, § 5–602(b)(1), § 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law Article;

(ix) § 6–105, § 6–108, § 6–205 (fourth degree burglary), § 6–206, § 6–303, § 6–306, § 6–307, § 6–402, or § 6–503 of the Criminal Law Article;

(x) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the Criminal Law Article;

(xi) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, § 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;

(xii) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;

(xiii) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the Criminal Law Article;

(xiv) § 11–303, § 11–306, or § 11–307 of the Criminal Law Article;

(xv) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, § 12–204, § 12–205, or § 12–302 of the Criminal Law Article;

(xvi) § 13–401, § 13–602, or § 16–201 of the Election Law Article;

(xvii) § 4–509 of the Family Law Article;

(xviii) § 18–215 of the Health – General Article;

(xix) § 4–411 or § 4–2005 of the Housing and Community Development Article;

(xx) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, § 27–407.1, or § 27–407.2 of the Insurance Article;

(xxi) § 8–725.4, § 8–725.5, § 8–725.6, § 8–725.7, § 8–726, § 8–726.1, § 8–727.1, or § 8–738.2 of the Natural Resources Article or any prohibited act related to speed limits for personal watercraft;

(xxii) § 5–307, § 5–308, § 6–602, § 7–402, or § 14–114 of the Public Safety Article;

(xxiii) § 7–318.1, § 7–509, or § 10–507 of the Real Property Article;

(xxiv) § 9–124 of the State Government Article;

(xxv) § 13–1001, § 13–1004, § 13–1007, or § 13–1024 of the Tax – General Article;

(xxvi) § 16–303 of the Transportation Article; or

(xxvii) the common law offenses of affray, rioting, criminal contempt, battery, or hindering;

(2) a felony that is a violation of:

(i) § 7–104 of the Criminal Law Article;

(ii) the prohibition against possession with intent to distribute a controlled dangerous substance under § 5–602 of the Criminal Law Article; or

(iii) § 6–202(a), § 6–203, or § 6–204 of the Criminal Law Article; or

(3) an attempt, a conspiracy, or a solicitation of any offense listed in item (1) or (2) of this subsection.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person shall file a petition for expungement in the court in which the proceeding began.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if the proceeding began in one court and was transferred to another court, the person shall file the petition in the court to which the proceeding was transferred.

(ii) If the proceeding began in one court and was transferred to the juvenile court under § 4–202 or § 4–202.2 of this article, the person shall file the petition in the court of original jurisdiction from which the order of transfer was entered.

(3) (i) If the proceeding in a court of original jurisdiction was appealed to a court exercising appellate jurisdiction, the person shall file the petition in the appellate court.

(ii) The appellate court may remand the matter to the court of original jurisdiction.

(c) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a petition for expungement under this section may not be filed earlier than 10 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

(2) A petition for expungement for a violation of § 3–203 of the Criminal Law Article, common law battery, or for an offense classified as a domestically related crime under § 6–233 of this article may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

(3) Except as provided in paragraph (4) of this subsection, a petition for expungement of a felony may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

(4) A petition for expungement of a conviction of possession with intent to distribute cannabis under § 5–602 of the Criminal Law Article may not be filed earlier than 3 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

(d) (1) If the person is convicted of a new crime during the applicable time period set forth in subsection (c) of this section, the original conviction or convictions are not eligible for expungement unless the new conviction becomes eligible for expungement.

(2) A person is not eligible for expungement if the person is a defendant in a pending criminal proceeding.

(3) If a person is not eligible for expungement of one conviction in a unit, the person is not eligible for expungement of any other conviction in the unit.

(e) (1) The court shall have a copy of a petition for expungement served on the State's Attorney.

(2) The court shall send written notice of the expungement request to each listed victim in the case in which the petitioner is seeking expungement at the address listed in the court file, advising the victim of the right to offer additional information relevant to the expungement petition to the court.

(3) Unless the State's Attorney or a victim files an objection to the petition for expungement within 30 days after the petition is served, the court shall pass an order requiring the expungement of all police records and court records about the charge.

(f) (1) If the State's Attorney or a victim files a timely objection to the petition, the court shall hold a hearing.

(2) The court shall order the expungement of all police records and court records about the charge after a hearing, if the court finds and states on the record:

(i) that the conviction is eligible for expungement under subsection (a) of this section;

(ii) that the person is eligible for expungement under subsection (d) of this section;

(iii) that giving due regard to the nature of the crime, the history and character of the person, and the person's success at rehabilitation, the person is not a risk to public safety; and

(iv) that an expungement would be in the interest of justice.

(g) If at a hearing the court finds that a person is not entitled to expungement, the court shall deny the petition.

(h) Unless an order is stayed pending appeal, within 60 days after entry of the order, every custodian of the police records and court records that are subject to the order of expungement shall advise in writing the court and the person who is seeking expungement of compliance with the order.

(i) (1) The State's Attorney is a party to the proceeding.

(2) A party aggrieved by the decision of the court is entitled to the appellate review as provided in the Courts Article.

§10–111.

The Maryland Judiciary Case Search may not in any way refer to the existence of a criminal case in which:

(1) possession of cannabis under § 5–601 of the Criminal Law Article is the only charge in the case; and

(2) the charge was disposed of before July 1, 2023.

§10–112.

(a) In this section, "expunge" means to remove all references to a specified criminal case from the Central Repository.

(b) On or before July 1, 2024, the Department of Public Safety and Correctional Services shall expunge all cases in which:

(1) possession of cannabis under § 5–601 of the Criminal Law Article is the only charge in the case; and

(2) the charge was issued before July 1, 2023.

§10–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Advisory Board" means the Criminal Justice Information Advisory Board.

(c) "Central Repository" means the Criminal Justice Information System Central Repository established under § 10–213 of this subtitle.

(d) (1) "Criminal history record information" means data that are developed or collected by a criminal justice unit about a person and that pertain to a reportable event.

(2) "Criminal history record information" includes:

(i) data from a unit that is required to report to the Central Repository under Title 3 of this article;

(ii) data about a person following waiver of jurisdiction by a juvenile court; and

(iii) data described under §§ 10–215(a)(20) and (21) and 10–216 of this subtitle.

(3) "Criminal history record information" does not include:

(i) data contained in intelligence or investigatory files or police work product records used only for police investigations;

(ii) except as provided in paragraph (2)(ii) and (iii) of this subsection, data about a proceeding under Title 3, Subtitle 8A of the Courts Article;

(iii) wanted posters, police blotter entries, court records of public judicial proceedings, or published court opinions;

(iv) data about a violation of:

1. a traffic law of this State or any other traffic law, ordinance, or regulation;

2. a local ordinance or a State or local regulation; or

3. the Natural Resources Article or a public local law;

(v) data about the point system established by the Motor Vehicle Administration under Title 16 of the Transportation Article; or

(vi) a presentence investigation report or other report that a probation department prepares for a court to use in the exercise of criminal jurisdiction or for the Governor to use in the exercise of the Governor's power to grant a pardon, reprieve, commutation, or nolle prosequi.

(e) (1) "Criminal justice information system" means equipment, facilities, procedures, agreements, and personnel that are used to collect, process, preserve, and disseminate criminal history record information.

(2) "Criminal justice information system" includes computer hardware and software.

(f) (1) "Criminal justice unit" means a government unit or subunit that allocates a substantial part of its annual budget to any of the following functions and that by law:

(i) may arrest, detain, prosecute, or adjudicate persons suspected of or charged with a crime;

(ii) is responsible for the custodial treatment or confinement under Title 3 of this article of persons charged or convicted of a crime or relieved of criminal punishment by reason of a verdict of not criminally responsible;

(iii) is responsible for the correctional supervision, rehabilitation, or release of persons convicted of a crime; or

(iv) is responsible for criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(2) "Criminal justice unit" includes, when exercising jurisdiction over criminal matters, alternative dispositions of criminal matters, or criminal history record information:

(i) a State, county, or municipal police unit, sheriff's office, or correctional facility;

(ii) a unit required to report to the Central Repository under § 3–107 or § 3–112 of this article;

(iii) the offices of the Attorney General, State's Attorneys, and any other person or unit that by law may prosecute persons accused of a crime; and

(iv) the Administrative Office of the Courts, the Court of Appeals, the Court of Special Appeals, the circuit courts, the District Court of Maryland, and the offices of the clerks of these courts.

(3) Except as provided in §§ 10–215(a)(20) and (21), 10–216(d), and 10–220 of this subtitle, "criminal justice unit" does not include:

(i) the Department of Juvenile Services; or

(ii) a juvenile court.

(g) (1) "Disseminate", with respect to records, means to transmit criminal history record information in any form.

(2) "Disseminate" does not include:

(i) transmitting criminal history record information within a criminal justice unit;

(ii) reporting criminal history record information as required under § 10–214 of this subtitle; or

(iii) transmitting criminal history record information between criminal justice units to allow the initiation of subsequent criminal justice proceedings against a person relating to the same crime.

(h) "Reportable event" means an event specified or provided for in § 10–215 of this subtitle.

§10–202.

The General Assembly finds that there is a need:

(1) to create a central repository for criminal history record information;

(2) to require the reporting of accurate, relevant, and current criminal history record information to the Central Repository by all criminal justice units;

(3) to ensure that criminal history record information is kept accurate and current; and

(4) to prohibit the improper dissemination of criminal history record information.

§10–203.

The purpose of this subtitle is:

(1) to create and maintain an accurate and efficient criminal justice information system in the State consistent with:

(i) applicable federal law and regulations;

(ii) the need of criminal justice units in the State for accurate and current criminal history record information; and

(iii) the right of persons to be free from improper and unwarranted intrusions into their privacy; and

(2) to provide a basic statutory framework within which the objectives of § 10-202 of this subtitle can be attained.

§10–204.

Notwithstanding any other provision of this subtitle, a person may not maintain or disseminate criminal history record information in a way inconsistent with Subtitle 1 of this title.

§10–205.

It is the intent of the General Assembly that the police department of the Johns Hopkins University, established in accordance with Title 24, Subtitle 12 of the Education Article, shall function as a criminal justice unit for the purposes of this subtitle.

§10–207.

(a) There is a Criminal Justice Information Advisory Board.

(b) The Advisory Board is in the Department for administrative and budgetary purposes only.

§10–208.

(a) The Advisory Board consists of the following 25 members:

(1) one member of the Senate appointed by the President;

(2) one member of the House of Delegates appointed by the Speaker;

(3) three members from the Judicial Branch of State government appointed by the Chief Judge of the Court of Appeals;

(4) the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services;

(5) three members recommended by the Secretary;

(6) two members who are executive officials from State, county, or municipal police units;

(7) the director or chair of a criminology studies program at a university or college in the State;

(8) two elected county officials;

(9) the Attorney General;

(10) two elected officials from separate municipal corporations;

(11) one State's Attorney;

(12) one member of the State Council on Child Abuse and Neglect recommended by the Council chairperson;

(13) one representative of the Maryland Department of Health recommended by the Secretary of Health;

(14) one representative of the Department of Juvenile Services recommended by the Secretary of Juvenile Services;

(15) one representative from the Motor Vehicle Administration recommended by the Secretary of Transportation;

(16) the State Chief Information Officer;

(17) the Executive Director of the Governor's Office of Homeland Security; and

(18) one member from the public.

(b) Except for ex officio members and members appointed by the President of the Senate, the Speaker of the House of Delegates, or the Chief Judge of the Court of Appeals, the Governor shall appoint the members of the Advisory Board.

(c) The Governor shall designate a member of the Advisory Board as the Chairman.

(d) (1) Subject to § 10–209 of this subtitle, the term of a member is 3 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) (1) Except for the member of the Advisory Board from the public, each member may designate a person to represent the member at any meeting or other activity of the Advisory Board.

(2) A person designated by a member under paragraph (1) of this subsection may vote on behalf of the member.

§10–209.

(a) A majority of the members of the Advisory Board then serving is a quorum.

(b) The Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services, the Attorney General, and the Director of the Maryland Justice Analysis Center of the Department of Criminology and Criminal Justice of the University of Maryland shall serve on the Advisory Board as ex officio members.

(c) The Advisory Board sets the times and places of its meetings.

(d) A member of the Advisory Board:

(1) shall serve without compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) Subject to the approval of the head of the appropriate unit, the Advisory Board may use the staff and facilities of the Department, the Administrative Office of the Courts, and the Governor's Office of Crime Prevention, Youth, and Victim Services in the performance of its functions.

§10–210.

The Advisory Board shall:

(1) advise the Secretary, the Court of Appeals, and the Chief Judge of the Court of Appeals on:

(i) the development, operation, and maintenance of the Criminal Justice Information System; and

(ii) standards, procedures, or protocols to ensure the compatibility and interoperability of communication and information management systems maintained by the judiciary;

(2) propose and recommend regulations to the Secretary, including standards, procedures, or protocols necessary:

(i) to develop, operate, and maintain the Criminal Justice Information System; and

(ii) to ensure the compatibility and interoperability of communication and information management systems maintained by State public safety units;

(3) propose and recommend rules, in conjunction with the Standing Committee on Rules of Practice and Procedure of the Court of Appeals, to the Court of Appeals and the Chief Judge of the Court of Appeals necessary to develop, operate, and maintain the Criminal Justice Information System;

(4) monitor the operation of the Criminal Justice Information System;

(5) recommend:

(i) procedures and methods for criminal history record information to be used in the research, evaluation, and statistical analysis of criminal activity;

(ii) any legislation necessary to implement, operate, and maintain the Criminal Justice Information System; and

(iii) any legislation for consideration by the Governor and the General Assembly as necessary to implement the recommendations regarding compatibility and interoperability of communication and information management systems maintained by State, county, and municipal public safety units; and

(6) submit a report on interoperability on or before December 1 of each year to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

§10–213.

(a) There is a Criminal Justice Information System Central Repository in the Department.

(b) The Secretary:

(1) has administrative control of the Central Repository; and

(2) shall operate the Central Repository with the advice of the Advisory Board.

(c) (1) The Central Repository is the official State repository for criminal history record information.

(2) The Central Repository:

(i) shall maintain and disseminate criminal history record information required under this subtitle; and

(ii) may maintain a repository of fingerprints, latent prints, palm prints, photographs, or other such identification submitted to the Central Repository as determined by the Secretary.

§10–214.

(a) Each criminal justice unit shall report in accordance with this section the criminal history record information that it collects to the Central Repository.

(b) Subject to subsection (c) of this section:

(1) the data pertaining to an arrest or the issuance of an arrest warrant shall be reported within 72 hours after the earlier of the arrest or the issuance of the arrest warrant; and

(2) the data pertaining to any other reportable event shall be reported within 60 days after the reportable event occurs.

(c) The Secretary by regulation or the Court of Appeals by rule may reduce the time for reporting the criminal history record information specified in subsection (b) of this section.

(d) The criminal history record information may be reported under subsection (b) of this section to the Central Repository:

(1) directly by the criminal justice unit;

(2) if the criminal history record information can be readily collected and reported through the court system, by the Administrative Office of the Courts; or

(3) if the criminal history record information can be readily collected and reported through criminal justice units that are part of a geographically based information system, by those criminal justice units.

(e) (1) A criminal justice unit may maintain criminal history record information that is more detailed than required for reporting to the Central Repository.

(2) A criminal justice unit may disseminate criminal history record information maintained under paragraph (1) of this subsection only in accordance with § 10–219 of this subtitle.

§10–215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10–214 of this subtitle:

(1) the issuance or withdrawal of an arrest warrant;

(2) an arrest;

(3) the filing of a charging document;

(4) a release pending trial or an appeal;

(5) a commitment to an institution of pretrial detention;

(6) the dismissal of an indictment or criminal information;

(7) a nolle prosequi;

(8) the marking of a charge "stet" on the docket;

(9) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;

(10) the imposition of a sentence;

(11) a commitment to a State correctional facility or local correctional facility;

(12) a commitment to the Maryland Department of Health under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;

(13) a release from detention or confinement;

(14) a conditional release, revocation of conditional release, or discharge of a person committed to the Maryland Department of Health under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;

(15) an escape from confinement or commitment;

(16) a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;

(17) an entry of an appeal to an appellate court;

(18) a judgment of an appellate court;

(19) an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;

(20) an adjudication of a child as delinquent:

(i) if the child is at least 14 years old, for an act described in § 3–8A–03(e)(1) of the Courts Article; or

(ii) if the child is at least 16 years old, for an act described in § 3–8A–03(e)(4) or (5) of the Courts Article;

(21) the issuance or withdrawal of a writ of attachment by a juvenile court;

(22) the initial registration of a person under Title 11, Subtitle 7 of this article;

(23) the imposition of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article;

(24) a finding that a defendant has been convicted of or received a probation before judgment disposition for a domestically related crime under § 6–233 of this article; and

(25) any other event arising out of or occurring during the course of a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes a reportable event.

(b) To avoid duplication in the reporting of criminal history record information, the Secretary by regulation and the Court of Appeals by rule may determine those reportable events described under subsection (a) of this section to be reported by each criminal justice unit to the Central Repository.

§10–216.

(a) In this section, "law enforcement unit" means:

(1) a State, county, or municipal police unit; or

(2) a sheriff's office.

(b) (1) If a defendant was not fingerprinted at the time of arrest for the sentenced crime, the sentencing judge shall order the defendant to be fingerprinted by the appropriate and available law enforcement unit when the defendant:

(i) is found guilty or pleads guilty or nolo contendere to a crime that is reportable as criminal history record information under this subtitle; and

(ii) is sentenced to commitment in a local correctional facility or receives a suspended sentence, probation, probation before judgment under § 6-220 of this article, or a fine.

(2) If the defendant cannot be fingerprinted at the time of sentencing, the sentencing judge shall order the defendant to report to a designated law enforcement unit to be fingerprinted within 3 days after the date of the sentencing.

(c) If a defendant fails to report to the designated law enforcement unit as ordered under subsection (b)(2) of this section, the defendant is in contempt of court.

(d) (1) This subsection only applies to an adjudication of delinquency of a child:

(i) for an act described in § 3–8A–03(e)(1) of the Courts Article if the child is at least 14 years old; or

(ii) for an act described in § 3–8A–03(e)(4) or (5) of the Courts Article if the child is at least 16 years old.

(2) If a child has not been previously fingerprinted as a result of arrest for the delinquent act, the court that held the disposition hearing of the child adjudicated delinquent shall order the child to be fingerprinted by the appropriate and available law enforcement unit.

(3) If the child cannot be fingerprinted at the time of the disposition hearing held under paragraph (2) of this subsection, the court shall order the child to report to a designated law enforcement unit to be fingerprinted within 3 days after making a disposition on an adjudication of delinquency.

§10–217.

(a) The Secretary and the Chief Judge of the Court of Appeals shall develop agreements between the Central Repository and each criminal justice unit.

(b) The agreements required by this section shall include provisions on:

(1) the method the criminal justice unit will use to report criminal history record information, including a method of identifying an offender in a way that allows other criminal justice units to locate the offender at any stage in the criminal justice system, the time of reporting, the specific data to be reported, and the place of reporting;

(2) the services the Central Repository is to provide to the criminal justice unit;

(3) the conditions and limitations on dissemination of criminal history record information by the criminal justice unit;

(4) the maintenance of security in all transactions between the Central Repository and the criminal justice unit;

(5) the method of complying with the right of a person to inspect, challenge, and correct criminal history record information that the criminal justice unit keeps;

(6) the audit requirements to be used to ensure the accuracy of criminal history record information reported or disseminated;

(7) the timetable to carry out the agreement;

(8) the penalties to be imposed if a criminal justice unit fails to comply with this subtitle, including the revocation of the agreement between the unit and the Central Repository and appropriate judicial or administrative proceedings to enforce compliance; and

(9) any other matter that the Secretary and the Chief Judge of the Court of Appeals consider necessary.

§10–218.

The Secretary and the Chief Judge of the Court of Appeals may develop procedures consistent with this subtitle to share criminal history record information

with federal criminal justice units and criminal justice units of other states and countries.

§10–219.

(a) Except in accordance with applicable federal law and regulations, a criminal justice unit and the Central Repository may not disseminate criminal history record information.

(b) (1) The Central Repository shall disseminate on a monthly basis information concerning a child charged as an adult to the Maryland Justice Analysis Center of the Institute of Criminal Justice and Criminology of the University of Maryland.

(2) In addition to any reportable event, as defined in § 10-215 of this subtitle, the Central Repository shall include in its dissemination of information to the Maryland Justice Analysis Center the age, race, and gender of the child.

(3) The Central Repository may disseminate to the Maryland Justice Analysis Center unique identifiers relating to the child, including the name of the child, fingerprint identification numbers, and record or file numbers.

(4) The information disseminated to the Maryland Justice Analysis Center in accordance with this subsection shall be used only for the purposes of research, evaluation, and statistical analysis.

(5) Except as otherwise required under State law, the Maryland Justice Analysis Center may not disseminate criminal history record information received from the Central Repository.

(6) By June 30 and December 31 of each year, the Maryland Justice Analysis Center shall report to the Governor, and, subject to § 2-1257 of the State Government Article, the General Assembly, on the results of its research, evaluation, and statistical analysis.

§10–220.

(a) Except as provided in subsections (b) and (c) of this section, notwithstanding any other provision of this subtitle, a criminal justice unit and the Central Repository may not maintain or disseminate criminal history record information in a way that is inconsistent with § 3-8A-27 of the Courts Article.

(b) Notwithstanding § 3-8A-27(a) of the Courts Article, criminal history record information on a child and a record of the fingerprinting of a child required

under § 10-216(d) of this subtitle need not be maintained separate from such records on adults.

(c) For juveniles arrested and brought to the Baltimore City Juvenile Justice Center for intake processing, identification, and assessment, the Department of Juvenile Services may:

(1) submit fingerprints to the Criminal Justice Information System Central Repository; and

(2) obtain juvenile data described under § 9–229 of the Human Services Article.

§10–221.

(a) To carry out this subtitle and to establish, operate, and maintain the criminal justice information system:

(1) the Secretary shall adopt regulations consistent with this subtitle for:

(i) units in the Executive Branch of government; and

(ii) criminal justice units that are not in the Judicial Branch of government; and

(2) the Court of Appeals and the Chief Judge of the Court of Appeals under Article IV, § 18 of the Maryland Constitution shall adopt rules consistent with this subtitle for the Judicial Branch of government.

(b) Subject to Title 3.5, Subtitle 3 of the State Finance and Procurement Article, the regulations adopted by the Secretary under subsection (a)(1) of this section and the rules adopted by the Court of Appeals under subsection (a)(2) of this section shall:

(1) regulate the collection, reporting, and dissemination of criminal history record information by a court and criminal justice units;

(2) ensure the security of the criminal justice information system and criminal history record information reported to and collected from it;

(3) regulate the dissemination of criminal history record information in accordance with Subtitle 1 of this title and this subtitle;

(4) regulate the procedures for inspecting and challenging criminal history record information;

(5) regulate the auditing of criminal justice units to ensure that criminal history record information is:

(i) accurate and complete; and

(ii) collected, reported, and disseminated in accordance with Subtitle 1 of this title and this subtitle;

(6) regulate the development and content of agreements between the Central Repository and criminal justice units and noncriminal justice units; and

(7) regulate the development of a fee schedule and provide for the collection of the fees for obtaining criminal history record information for other than criminal justice purposes.

§10–222.

(a) Subject to § 10-226 of this subtitle, a person or a person's attorney having satisfactory identification and written authorization from the person may inspect criminal history record information on the person that is maintained by a criminal justice unit.

(b) A person with the right to inspect criminal history record information under this section may make notes of the information.

(c) This section does not:

(1) require a criminal justice unit to copy any criminal history record information; or

(2) allow a person to remove a document for copying.

§10–223.

(a) A person who has inspected the person's own criminal history record information may challenge the completeness, contents, accuracy, or dissemination of the information.

(b) A person challenging criminal history record information under subsection (a) of this section shall give written notice of the challenge to the Central

Repository and, if the inspection was not at the Central Repository, to the criminal justice unit where the person inspected the information.

(c) The notice under subsection (b) of this section shall:

(1) state:

(i) the part of the criminal history record information being challenged;

(ii) the reason for the challenge; and

(iii) the change requested to correct or complete the criminal history record information or its dissemination;

(2) include any available certified documentation or other evidence supporting the challenge; and

(3) contain a sworn statement, under penalty of perjury, that the information in or supporting the challenge is accurate and the challenge is made in good faith.

(d) (1) After receiving the notice under subsection (b) of this section, the Central Repository shall audit that part of the criminal history record information that is necessary to determine the validity of the challenge.

(2) As part of the audit, the Central Repository may require the criminal justice unit that was the source of the challenged criminal history record information to verify the information.

(e) Within 90 days after receiving notice of the challenge, the Central Repository shall notify the person challenging the criminal history record information in writing of the audit results and its decision.

(f) If the challenge is denied as a whole or in part, the notice required under subsection (e) of this section shall inform the person of the right to appeal the decision.

(g) If the challenge is denied as a whole or in part, the Central Repository shall send written notice of this decision to each criminal justice unit that was sent a copy of the challenge.

§10–224.

(a) If a challenge of criminal history record information under § 10-223 of this subtitle is determined as a whole or in part to be valid, the Central Repository shall:

(1) correct its records; and

(2) give notice of the correction to each criminal justice unit that has custody of the incomplete or inaccurate criminal history record information or any part of that information.

(b) A criminal justice unit notified under subsection (a) of this section shall:

(1) correct its records; and

(2) certify to the Central Repository that the correction was made.

(c) (1) A criminal justice unit required by subsection (b) of this section to correct criminal history record information shall give written notice of the correction to each unit or person to which the criminal justice unit had disseminated the information before the correction.

(2) The unit or person that receives the notice of correction under paragraph (1) of this subsection promptly shall correct its records and certify to the disseminating criminal justice unit that the correction was made.

§10–225.

(a) This section applies only to criminal history record information recorded before July 1, 1976.

(b) Subject to subsection (c) of this section, a person has a right to inspect and challenge criminal history record information in accordance with this subtitle.

(c) On request by a person to inspect criminal history record information, a criminal justice unit:

(1) shall make a reasonable search for the information; but

(2) need not provide for the inspection of information that is not found after a reasonable search.

§10–226.

(a) A person may not inspect or challenge criminal history record information under this subtitle if any of the criminal history record information is relevant to a pending criminal proceeding.

(b) This section does not affect a person's right of inspection or discovery allowed under the Maryland Rules or under any statute, rule, or regulation not a part of or adopted under this subtitle.

§10–227.

(a) A person aggrieved by a decision of a criminal justice unit concerning the inspection of or a challenge to criminal history record information under this subtitle may file an administrative appeal of the decision in accordance with regulations adopted by the Secretary and rules adopted by the Court of Appeals under subsection (b) of this section.

(b) The Secretary by regulation and the Court of Appeals by rule shall adopt appropriate procedures for administrative appeals from a decision by a criminal justice unit to deny a person the right to inspect or challenge criminal history record information.

(c) The rules and regulations adopted under subsection (b) of this section shall include provisions for:

(1) the forms, way, and time for filing an appeal;

(2) the official or panel that will hear the appeal;

(3) hearing and making a decision on the appeal; and

(4) carrying out the decision on the appeal.

(d) A person, the Central Repository, or a criminal justice unit that is aggrieved by a decision on an administrative appeal may seek judicial review of the decision in accordance with Title 10, Subtitle 2 of the State Government Article (Administrative Procedure Act - Contested Cases) and the Maryland Rules.

§10–228.

(a) An employer or prospective employer may not require a person to inspect or challenge any criminal history record information relating to that person for the purpose of obtaining a copy of the person's record to qualify for employment.

(b) A person that violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 6 months or both for each violation.

§10–229.

A State Record of Arrest and Prosecution ("RAP" sheet) that is accessible by judicial officers for purposes of making pretrial release determinations shall prominently indicate, if applicable, that the individual who is the subject of the report is:

(1) a registered sex offender; or

(2) subject to a term of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article.

§10–231.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Personnel Officer of Anne Arundel County may request from the Central Repository a State and national criminal history records check for a prospective or current employee or volunteer of Anne Arundel County.

(c) (1) As part of the application for a criminal history records check, the Personnel Officer of Anne Arundel County shall submit to the Central Repository:

(i) two complete sets of the prospective or current employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–250 of this subtitle, the Central Repository shall forward to the prospective or current employee or volunteer and the Personnel Officer of Anne Arundel County the prospective or current employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective or current employee or volunteer of the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The Anne Arundel County Council shall adopt guidelines to carry out this section.

§10–231.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The County Administrative Officer of Baltimore County or a designee of the County Administrative Officer, which shall be the Director of Human Resources or the Director's designee, may request from the Central Repository a State and national criminal history records check for a prospective employee or volunteer of Baltimore County.

(c) (1) As part of the application for a criminal history records check, the County Administrative Officer of Baltimore County or the designee of the officer shall submit to the Central Repository:

(i) two complete sets of the prospective employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with this subtitle, the Central Repository shall forward to the prospective employee or volunteer and the County Administrative

Officer of Baltimore County or the designee of the officer the prospective employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective employee or volunteer of the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The governing body of Baltimore County shall adopt guidelines to carry out this section.

§10–231.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Director of Human Resources of Caroline County may request from the Central Repository a State and national criminal history records check for a prospective employee or volunteer of Caroline County.

(c) (1) As part of the application for a criminal history records check, the Director of Human Resources for Caroline County shall submit to the Central Repository:

(i) two complete sets of the prospective employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–250 of this subtitle, the Central Repository shall forward to the prospective employee or volunteer and the Director of Human Resources of Caroline County the prospective employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective employee or volunteer for the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The governing body of Caroline County shall adopt guidelines to carry out this section.

§10–232.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Department of Human Resources of Carroll County may request from the Central Repository a State and national criminal history records check for a prospective employee or volunteer of Carroll County who will be assigned to a position that involves:

(1) inspections;

(2) approval or denial of a permit, a license, or any other grant of authority;

(3) work in the offices of the County Commissioners, sheriff, State's Attorney, circuit court, or county attorney;

(4) collecting or handling money; or

(5) care or supervision of a minor.

(c) (1) As part of the application for a criminal history records check, the Department of Human Resources of Carroll County shall submit to the Central Repository:

(i) two complete sets of the prospective employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with this subtitle, the Central Repository shall forward to the prospective employee or volunteer and the Department of Human Resources of Carroll County the prospective employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective employee or volunteer for the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The governing body of Carroll County shall adopt guidelines to carry out this section.

§10–232.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Director of Human Resources of Dorchester County may request from the Central Repository a State and national criminal history records check for a prospective employee or volunteer of Dorchester County.

(c) (1) As part of the application for a criminal history records check, the Director of Human Resources of Dorchester County shall submit to the Central Repository:

(i) two complete sets of the prospective employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–250 of this subtitle, the Central Repository shall forward to the prospective employee or volunteer and the Director of Human Resources the prospective employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective employee or volunteer of the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The governing body of Dorchester County shall adopt guidelines to carry out this section.

§10–233.

(a) The County Administrator of Howard County shall apply to the Central Repository for a State and national criminal history records check for each prospective employee of Howard County.

(b) As part of the application for a criminal history records check, the Administrator of Howard County shall submit to the Central Repository:

(1) two complete sets of the prospective employee's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(3) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with this subtitle, the Central Repository shall forward to the prospective employee and the Administrator of Howard County the prospective employee's criminal history record information.

(d) Information obtained from the Central Repository under this section:

(1) is confidential and may not be disseminated; and

(2) shall be used only for the employment purpose authorized by this section.

(e) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided under § 10–223 of this subtitle.

§10–233.1.

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

(2) "Massage establishment license":

(i) means a certificate, license, permit, or similar document that would allow a person to own, operate, or manage a massage establishment in Howard County; and

(ii) includes any renewal of a document described in item (i) of this paragraph.

(3) "Pawnbroker or secondhand dealer establishment license":

(i) means a certificate, license, permit, or similar document that would allow a person to own, operate, or manage a pawnbroker or secondhand dealer establishment in Howard County; and

(ii) includes any renewal of a document described in item (i) of this paragraph.

(4) "Taxicab license":

(i) means a certificate, license, permit, or similar document that would allow a person to own, operate, or drive a taxicab in Howard County; and

(ii) includes any renewal of a document described in item (i) of this paragraph.

(b) This section does not apply to an applicant that:

(1) is a licensed massage therapist or registered massage practitioner under Title 6 of the Health Occupations Article; and

(2) is the owner, manager, or operator of a sole proprietorship or other massage therapy establishment in which each massage therapist is a licensed massage therapist or registered massage practitioner.

(c) The Howard County Department of Inspections, Licenses and Permits may request from the Central Repository a State and national criminal history records check on an applicant for:

(1) a massage establishment license;

(2) a pawnbroker or secondhand dealer establishment license; or

(3) a taxicab license.

(d) (1) As part of the application for a criminal history records check, the Howard County Department of Inspections, Licenses and Permits shall submit to the Central Repository:

(i) two complete sets of the applicant's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with this subtitle, the Central Repository shall forward to the applicant and the Howard County Department of Inspections, Licenses and Permits the applicant's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be disseminated; and

(ii) may be used only for a license–related purpose concerning an applicant for a massage establishment license, a pawnbroker or secondhand dealer establishment license, or a taxicab license as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided under § 10–223 of this subtitle.

(e) The governing body of Howard County may adopt guidelines to carry out this section.

§10–233.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Director of Human Resources of Kent County may request from the Central Repository a State and national criminal history records check for a prospective employee or volunteer of Kent County.

(c) (1) As part of the application for a criminal history records check, the Director of Human Resources of Kent County shall submit to the Central Repository:

(i) two complete sets of the prospective employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–250 of this subtitle, the Central Repository shall forward to the prospective employee or volunteer and the Director of Human Resources of Kent County the prospective employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective employee or volunteer for the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The governing body of Kent County shall adopt guidelines to carry out this section.

§10–234.

(a) In this section, "taxicab license":

(1) means a license or similar document that would allow a person to drive a taxicab in Montgomery County; and

(2) includes any renewal of a license as described in item (1) of this subsection.

(b) In accordance with this subtitle, Montgomery County may request a criminal history records check from the Central Repository or through the Department from the Federal Bureau of Investigation on an applicant for a taxicab license or licensee seeking a renewal of a taxicab license.

(c) Montgomery County shall pay to the Department the fee and administrative cost that the Department imposes for each request made under subsection (b) of this section.

(d) If the request for a criminal history records check under subsection (b) of this section includes a request for criminal history record information from the Federal Bureau of Investigation, the applicant for a taxicab license or renewal of a

taxicab license shall submit to the Department a complete set of legible fingerprints on standard fingerprint cards.

§10–234.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Chief Administrative Officer of Prince George's County may request with reference to a prospective employee of Prince George's County a State and national criminal history records check from the Central Repository.

(c) (1) As part of the application for a criminal history records check, the Chief Administrative Officer of Prince George's County shall submit to the Central Repository:

(i) two complete sets of the prospective employee's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–234 of this subtitle, the Central Repository shall forward to the prospective employee and the Chief Administrative Officer of Prince George's County the prospective employee's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for the employment purpose authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The County Executive of Prince George's County shall propose and the County Council of Prince George's County shall adopt guidelines to carry out this section.

§10–234.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Director of Administrative Services of Talbot County may request from the Central Repository a State and national criminal history records check for a prospective employee or volunteer of Talbot County.

(c) (1) As part of the application for a criminal history records check, the Director of Administrative Services shall submit to the Central Repository:

(i) two complete sets of the prospective employee's or volunteer's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–250 of this subtitle, the Central Repository shall forward to the prospective employee or volunteer and the Director of Administrative Services of Talbot County the prospective employee's or volunteer's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for a personnel–related purpose concerning a prospective employee of or volunteer for the county as authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The governing body of Talbot County shall adopt guidelines to carry out this section.

§10–235.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The County Administrator in Washington County may request with reference to a prospective employee of Washington County:

(1) a State and national criminal history records check from the Central Repository; or

(2) a background investigation from an independent private investigation agency.

(c) (1) As part of the application for a criminal history records check, the County Administrator of Washington County shall submit to the Central Repository:

(i) two complete sets of the prospective employee's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–234 of this subtitle, the Central Repository shall forward to the prospective employee and the County Administrator of Washington County the prospective employee's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for the employment purpose authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The County Administrator of Washington County shall pay to the independent private investigation agency the fee that is imposed for each request made under subsection (b) of this section.

(e) The County Commissioners of Washington County may adopt regulations, guidelines, and policies to carry out this section.

§10–236.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Director of Administration of Wicomico County may request from the Central Repository a State and national criminal history records check for a prospective or current employee of Wicomico County.

(c) (1) As part of the application for a criminal history records check, the Director of Administration shall submit to the Central Repository:

(i) two complete sets of the prospective or current employee's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with this subtitle, the Central Repository shall forward to the prospective or current employee and the Director of Administration the prospective or current employee's criminal history record information.

(3) Information obtained from the Central Repository under this section:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for the employment purpose authorized by this section.

(4) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

(d) The County Executive of Wicomico County shall propose and the County Council of Wicomico County shall adopt guidelines to carry out this section.

§10–236.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The City of Frederick Police Department may request from the Central Repository State and national criminal history records checks for each taxi driver applicant in the City of Frederick.

(c) (1) As part of the application for a criminal history records check, the City of Frederick Police Department shall submit to the Central Repository:

(i) two complete sets of the taxi driver applicant's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–234 of this subtitle, the Central Repository shall forward to the taxi driver applicant and the City of Frederick Police Department the taxi driver applicant's criminal history record information.

(d) Information obtained from the Central Repository under this section:

(1) is confidential and may not be redisseminated; and

(2) may be used only for the employment purpose authorized by this section.

(e) A taxi driver applicant who is the subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

§10–236.3.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) The Ocean City Police Department may request from the Central Repository State and national criminal history records checks for each taxi driver applicant in Ocean City.

(c) (1) As part of the application for a criminal history records check, the Ocean City Police Department shall submit to the Central Repository:

(i) two complete sets of the taxi driver applicant's legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of this subtitle for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–234 of this subtitle, the Central Repository shall forward to the taxi driver applicant and the Ocean City Police Department the taxi driver applicant's criminal history record information.

(d) Information obtained from the Central Repository under this section:

(1) is confidential and may not be redisseminated; and

(2) may be used only for the employment purpose authorized by this section.

(e) A taxi driver applicant who is the subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of this subtitle.

§10–237.

The National Crime Prevention and Privacy Compact is hereby entered into and enacted with any and all of the states and the federal government legally joining the Compact in the form substantially as follows.

§10–238.

(a) This Compact organizes an electronic information sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment.

(b) Under this Compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and to party states for authorized purposes. The FBI shall also manage the federal data facilities that provide a significant part of the infrastructure for the system.

§10–239.

(a) In this part the following words have the meanings indicated.

(b) "Attorney General" means the Attorney General of the United States.

(c) "Compact officer" means:

(1) with respect to the federal government, an official so designated by the Director of the FBI; and

(2) with respect to a party state, the chief administrator of the state's criminal history records repository or a designee of the chief administrator who is a regular full–time employee of the repository.

(d) "Council" means the Compact Council established under Section 10–244 of this subtitle.

(e) "Criminal history records":

(1) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(2) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(f) "Criminal history records repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized record keeping functions for criminal history records and services in the state.

(g) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(h) "Criminal justice agency":

(1) means:

(i) courts; and

(ii) a governmental agency or any subunit thereof that:

1. performs the administration of criminal justice pursuant to a statute or executive order; and

2. allocates a substantial part of its annual budget to the administration of criminal justice; and

(2) includes federal and state inspectors general offices.

(i) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(j) "Criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(k) "Direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(l) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(m) "FBI" means the Federal Bureau of Investigation.

(n) "Interstate Identification Index System" or "III System":

(1) means the cooperative federal–state system for the exchange of criminal history records; and

(2) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

(o) "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(p) "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(q) "National indices" means the National Identification Index and the National Fingerprint File.

(r) "Nonparty state" means a state that has not ratified this Compact.

(s) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(t) "Party state" means a state that has ratified this Compact.

(u) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(v) "Sealed record information" means:

(1) with respect to adults, that portion of a record that is:

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(2) with respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(w) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§10–240.

The purposes of this Compact are to:

(1) provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each party state, and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Section 10-244 of this subtitle;

(3) require party states to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history records repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Section 10-244 of this subtitle;

(4) provide for the establishment of a council to monitor III System operations and to prescribe System rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each party state to adhere to III System standards concerning record dissemination and use, response times, System security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

§10–241.

(a) The Director of the FBI shall:

(1) appoint an FBI Compact officer who shall:

(i) administer this Compact within the Department of Justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Section 10-243(c) of this subtitle;

(ii) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Section 10-244 of this subtitle are complied with by the Department of Justice and the federal agencies and other agencies and organizations referred to in item (i) of this item; and

(iii) regulate the use of records received by means of the III System from party states when such records are supplied by the FBI directly to other federal agencies;

(2) provide to federal agencies and to state criminal history records repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Section 10-242 of this subtitle including:

(i) information from nonparty states; and

(ii) information from party states that is available from the FBI through the III System, but is not available from the party state through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in subsection (b)(4) of this section, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with nonparty state criminal history records repositories to require them to establish record request procedures conforming to those prescribed in Section 10-243 of this subtitle.

(b) Each party state shall:

(1) appoint a Compact officer who shall:

(i) administer this Compact within that state;

(ii) ensure that Compact provisions and rules, procedures, and standards established by the Council under Section 10-244 of this subtitle are complied with in the state; and

(iii) regulate the in-state use of records received by means of the III System from the FBI or from other party states;

(2) establish and maintain a criminal history records repository, which shall provide:

(i) information and records for the National Identification Index and the National Fingerprint File; and

(ii) the state's III System-indexed criminal history records for noncriminal justice purposes described in Section 10-242 of this subtitle;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) In carrying out their responsibilities under this Compact, the FBI and each party state shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, System security, accuracy, privacy protection, and other aspects of III System operation.

(d) (1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

§10–242.

(a) To the extent authorized by Section 552A of Title 5, (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history records repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) The FBI, to the extent authorized by Section 552A of Title 5, (commonly known as the "Privacy Act of 1974"), and state criminal history records repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Section 10-244 of this subtitle, which procedures shall protect the accuracy and privacy of the records, and shall:

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

§10–243.

(a) Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history records checks for noncriminal justice purposes.

(b) Each request for a criminal history records check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history records repository. A state criminal history records repository

shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another state criminal history records repository or the FBI.

(c) Each request for a criminal history records check utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history records repository consents to process fingerprint submissions, through the criminal history records repository in the state in which such request originated. Direct access to the National Identification Index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) A state criminal history records repository or the FBI:

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) (1) If a state criminal history records repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history records repository under paragraph (1) of this subsection, the FBI positively identifies the subject as having a III System-indexed record or records:

(i) the FBI shall so advise the state criminal history records repository; and

(ii) the state criminal history records repository shall be entitled to obtain the additional criminal history records information from the FBI or other state criminal history records repositories.

§10–244.

(a) (1) There is established a Council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) The Council shall:

(i) continue in existence as long as this Compact remains in effect;

(ii) be located, for administrative purposes, within the FBI; and

(iii) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) nine members, each of whom shall serve a two-year term, who shall be selected from among the Compact officers of party states based on the recommendation of the Compact officers of all party states, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history records repositories of nonparty states shall be eligible to serve on an interim basis.

(2) two at-large members, nominated by the Director of the FBI, each of whom shall serve a three-year term, of whom:

(i) one shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

(ii) one shall be a representative of the noncriminal justice agencies of the federal government.

(3) two at-large members, nominated by the chairman of the Council, once the chairman is elected pursuant to this section, each of whom shall serve a three-year term, of whom:

(i) one shall be a representative of state or local criminal justice agencies; and

(ii) one shall be a representative of state or local noncriminal justice agencies.

(4) one member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's Advisory Policy Board on Criminal Justice Information Services, nominated by the membership of that policy board.

(5) one member, nominated by the Director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

(c) (1) From its membership, the Council shall elect a chairman and a vice chairman of the Council, respectively. Both the chairman and vice chairman of the Council:

(i) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the chairman may be an at-large member; and

(ii) shall serve a two-year term and may be reelected to only one additional two-year term.

(2) The vice chairman of the Council shall serve as the chairman of the Council in the absence of the chairman.

(d) (1) The Council shall meet at least once each year at the call of the chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) The chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

§10–245.

(a) This Compact shall take effect upon being entered into by two or more states as between those states and the federal government. Upon subsequent entering into this Compact by additional states, it shall become effective among those

states and the federal government and each party state that has previously ratified it.

(b) When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

§10–246.

(a) Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's Advisory Policy Board (APB) chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history records repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Section 10-244 of this subtitle, regarding the use and dissemination of criminal history records and information.

§10–247.

(a) This Compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this Compact by a party state shall:

(1) be effected in the same manner by which the party state ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

§10–248.

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of

any participating state, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any party state, all other portions of this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

§10–249.

(a) The Council shall:

(1) have initial authority to make determinations with respect to any dispute regarding:

(i) interpretation of this Compact;

(ii) any rule or standard established by the Council pursuant to Section 10-244 of this subtitle; and

(iii) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Section 10-244(e) of this subtitle.

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain System policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) The FBI or a party state may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate District Court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a state court shall be removed to the appropriate District Court of the United States in the manner provided by Section 1446 of Title 28, or other statutory authority.

§10–250.

The Secretary of the Department of Public Safety and Correctional Services shall designate a Compact officer in accordance with Section 10-239 of this subtitle.

§10–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Court record" has the meaning stated in § 10–101 of this title.

(c) "Criminal justice unit" has the meaning stated in § 10–201 of this title.

(d) "Police record" has the meaning stated in § 10–101 of this title.

(e) "Shield" means to render a court record and police record relating to a conviction of a crime inaccessible by members of the public.

(f) "Shieldable conviction" means a conviction of one of the following crimes:

(1) disorderly conduct under § 10–201(c)(2) of the Criminal Law Article;

(2) disturbing the peace under § 10–201(c)(4) of the Criminal Law Article;

(3) failure to obey a reasonable and lawful order under § 10–201(c)(3) of the Criminal Law Article;

(4) malicious destruction of property in the lesser degree under § 6–301 of the Criminal Law Article;

(5) trespass on posted property under § 6–402 of the Criminal Law Article;

(6) possessing or administering a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(7) possessing or administering a noncontrolled substance under § 5–618(a) of the Criminal Law Article;

(8) use of or possession with intent to use drug paraphernalia under § 5–619(c)(2) of the Criminal Law Article;

(9) driving without a license under § 16–101 of the Transportation Article;

(10) driving while privilege is canceled, suspended, refused, or revoked under § 16–303 of the Transportation Article;

(11) driving while uninsured under § 17–107 of the Transportation Article; or

(12) a prostitution offense under § 11–303 of the Criminal Law Article if the conviction is for prostitution and not assignation.

(g) "Unit" means two or more convictions that arise from the same incident, transaction, or set of facts.

§10–302.

(a) This subtitle does not apply to a conviction of a domestically related crime under § 6–233 of this article.

(b) A shielded record shall remain fully accessible by:

(1) criminal justice units for legitimate criminal justice purposes;

(2) prospective or current employers or government licensing agencies that are subject to a statutory or regulatory requirement or authorization to inquire into the criminal background of an applicant or employee for purposes of carrying out that requirement or authorization;

(3) a person that is authorized or required to inquire into an individual's criminal background under § 5–561(b), (c), (d), (e), (f), or (g) of the Family Law Article;

(4) the person who is the subject of the shielded record and that person's attorney;

(5) health occupations boards established under the Health Occupations Article;

(6) the Natalie M. LaPrade Medical Cannabis Commission established under Title 13, Subtitle 33 of the Health – General Article;

(7) a person that uses volunteers who care for or supervise children;

(8) a person that attests under the penalty of perjury that the person employs or seeks to employ an individual to care for or supervise a minor or vulnerable adult, as defined in § 3–604 of the Criminal Law Article; and

(9) a person who is accessing a shielded record on behalf of and with written authorization from a person or governmental entity described in items (1) through (8) of this subsection.

§10–303.

(a) A person may petition the court to shield the person's court and police records relating to one or more shieldable convictions entered in the circuit court or the District Court in one county no earlier than 3 years after the person satisfies the sentence or sentences imposed for all convictions for which shielding is requested, including parole, probation, or mandatory supervision.

(b) (1) If the person is convicted of a new crime during the applicable time period set forth in subsection (a) of this section, the original conviction or convictions are not eligible for shielding unless the new conviction becomes eligible for shielding.

(2) A person is not eligible for shielding if the person is a defendant in a pending criminal proceeding.

(c) If a person is not eligible for shielding of one conviction in a unit, the person is not eligible for shielding of any other conviction in the unit.

(d) (1) The court shall have a copy of a petition for shielding served on the State's Attorney.

(2) Unless the State's Attorney files an objection to the petition for shielding within 30 days after the petition is served, the court may order the shielding of all police records and court records relating to the conviction or convictions after taking into consideration any objections or additional information provided by the State's Attorney or the victim.

(e) (1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.

(2) If the court, at the hearing, finds that the person is entitled to shielding, the court shall order the shielding of all police records and court records relating to the conviction or convictions.

(3) The court may grant a petition under this subsection for good cause.

(4) A person may be granted only one shielding petition over the lifetime of the person.

(f) The court shall send written notice of the proposed action to all listed victims in the case in which the petitioner is seeking shielding at the address listed in the court file advising the victim or victims of the right to offer additional information relevant to the shielding petition to the court.

§10–304.

The Maryland Judiciary Case Search may not in any way refer to the existence of specific records shielded in accordance with this subtitle.

§10–305.

A conviction that has been shielded under this subtitle may not be considered a conviction for purposes of § 10–105(e)(4)(i) of this title.

§10–306.

(a) A person authorized to access a shielded record under § 10–302(b) of this subtitle may not disclose any information from a shielded record to a person who is not authorized to access shielded records under § 10–302(b) of this subtitle.

(b) (1) Except as provided in § 10–302(b) of this subtitle, an employer may not:

(i) require a person who applies for employment to disclose shielded information about criminal charges in an application, an interview, or otherwise; or

(ii) discharge or refuse to hire a person solely because the person refused to disclose information about criminal charges that have been shielded.

(2) An educational institution may not:

(i) require a person who applies for admission to the institution to disclose shielded information about criminal charges in an application, an interview, or otherwise; or

(ii) expel or refuse to admit a person solely because the person refused to disclose information about criminal charges that have been shielded.

(3) Except as provided in § 10–302(b) of this subtitle, a unit, an official, or an employee of the State or a political subdivision of the State may not:

(i) require a person who applies for a permit, registration, or government service to disclose shielded information about criminal charges in an application, an interview, or otherwise; or

(ii) deny a person's application for a permit, registration, or government service solely because the person refused to disclose information about criminal charges that have been shielded.

§10–401.

The Maryland Judiciary Case Search may not in any way refer to the existence of records of a charge in a case with electronic records if the charge resulted in:

(1) acquittal;

(2) dismissal; or

(3) nolle prosequi, except nolle prosequi with the requirement of drug or alcohol treatment.

§11–101.

(a) In this title the following words have the meanings indicated.

(b) "Child respondent" means a person who:

(1) in a petition filed in juvenile court, is alleged to have committed a delinquent act; or

(2) has committed a delinquent act.

(c) "Delinquent act" has the meaning stated in § 3–8A–01 of the Courts Article.

(d) "MDEC system" means the system of electronic filing and case management established by the Maryland Court of Appeals.

(e) "Prosecuting attorney" means:

(1) the State's Attorney;

(2) the State's Attorney's designee;

(3) when performing a prosecutorial function at the trial level, the Attorney General or the Attorney General's designee; or

(4) the State Prosecutor or the State Prosecutor's designee.

(f) "Victim stay–away alert technology" means a system of electronic monitoring that is capable of notifying a victim if the defendant is at or near a location from which the defendant has been ordered by the court to stay away.

§11–102.

(a) If practicable, a victim or victim's representative who has filed a notification request form under § 11-104 of this subtitle has the right to attend any proceeding in which the right to appear has been granted to a defendant.

(b) As provided in § 9-205 of the Courts Article, a person may not be deprived of employment solely because of job time lost because the person attended a proceeding that the person has a right to attend under this section.

§11–103.

(a) (1) In this section, "crime" means:

(i) a crime;

(ii) a delinquent act that would be a crime if committed by an adult; or

(iii) except as provided in paragraph (2) of this subsection, a crime or delinquent act involving, causing, or resulting in death or serious bodily injury.

(2) "Crime" does not include an offense under the Maryland Vehicle Law or under Title 8, Subtitle 7 of the Natural Resources Article unless the offense is punishable by imprisonment.

(b) Although not a party to a criminal or juvenile proceeding, a victim of a crime for which the defendant or child respondent is charged may file an application for leave to appeal to the Court of Special Appeals from an interlocutory order or

appeal to the Court of Special Appeals from a final order that denies or fails to consider a right secured to the victim by subsection (e)(4) of this section, § 4–202 of this article, § 11–102 or § 11–104 of this subtitle, § 11–302, § 11–402, § 11–403, or § 11–603 of this title, § 3–8A–06, § 3–8A–13, or § 3–8A–19 of the Courts Article, or § 6–112 of the Correctional Services Article.

(c) The filing of an application for leave to appeal under this section does not stay other proceedings in a criminal or juvenile case unless all parties consent.

(d) (1) For purposes of this section, a victim's representative, including the victim's spouse or surviving spouse, parent or legal guardian, child, or sibling, may represent a victim of a crime who dies or is disabled.

(2) If there is a dispute over who shall be the victim's representative, the court shall designate the victim's representative.

(e) (1) In any court proceeding involving a crime against a victim, the court shall ensure that the victim is in fact afforded the rights provided to victims by law.

(2) If a court finds that a victim's right was not considered or was denied, the court may grant the victim relief provided the remedy does not violate the constitutional right of a defendant or child respondent to be free from double jeopardy.

(3) A court may not provide a remedy that modifies a sentence of incarceration of a defendant or a commitment of a child respondent unless the victim requests relief from a violation of the victim's right within 30 days of the alleged violation.

(4) (i) A victim who alleges that the victim's right to restitution under § 11–603 of this title was not considered or was improperly denied may file a motion requesting relief within 30 days of the denial or alleged failure to consider.

(ii) If the court finds that the victim's right to restitution under § 11–603 of this title was not considered or was improperly denied, the court may enter a judgment of restitution.

§11–104.

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

(2) "DNA" has the meaning stated in § 2–501 of the Public Safety Article.

(3) "Statewide DNA database system" has the meaning stated in § 2–501 of the Public Safety Article.

(4) "Victim" means a person who suffers actual or threatened physical, emotional, or financial harm as a direct result of a crime or delinquent act.

(5) "Victim's representative" includes a family member or guardian of a victim who is:

(i) a minor;

(ii) deceased; or

(iii) disabled.

(b) On first contact with a victim or victim's representative, a law enforcement officer, District Court commissioner, or juvenile intake officer shall give the victim or the victim's representative the pamphlet described in § 11–914(9)(i) of this title.

(c) Unless to do so would impede or compromise an ongoing investigation or the victim's representative is a suspect or a person of interest in the criminal investigation of the crime involving the victim, on written request of a victim of a crime of violence as defined in § 14–101 of the Criminal Law Article or the victim's representative, the investigating law enforcement agency shall give the victim or the victim's representative timely notice as to:

(1) whether an evidentiary DNA profile was obtained from evidence in the case;

(2) when any evidentiary DNA profile developed in the case was entered into the DNA database system; and

(3) when any confirmed match of the DNA profile, official DNA case report, or DNA hit report is received.

(d) (1) Within 10 days after the filing or the unsealing of an indictment or information in circuit court, whichever is later, the prosecuting attorney shall:

(i) mail or deliver to the victim or victim's representative the pamphlet described in § 11–914(9)(ii) of this title and the notification request form described in § 11–914(10) of this title; and

(ii) certify to the clerk of the court that the prosecuting attorney has complied with this paragraph or is unable to identify the victim or victim's representative.

(2) If the prosecuting attorney files a petition alleging that a child is delinquent for committing an act that could only be tried in the circuit court if committed by an adult, the prosecuting attorney shall:

(i) inform the victim or victim's representative of the right to request restitution under § 11–606 of this title;

(ii) mail or deliver to the victim or victim's representative the notification request form described in § 11–914(10) of this title; and

(iii) certify to the clerk of the juvenile court that the prosecuting attorney has complied with this paragraph or is unable to identify the victim or victim's representative.

(3) For cases described under this subsection, the prosecuting attorney may provide a State's witness in the case with the guidelines for victims, victims' representatives, and witnesses available under §§ 11–1001 through 11–1004 of this title.

(e) (1) A victim or victim's representative may:

(i) file a completed notification request form with the prosecuting attorney; or

(ii) follow the MDEC system protocol to request notice.

(2) (i) If the jurisdiction has not implemented the MDEC system, the prosecuting attorney shall send a copy of the completed notification request form to the clerk of the circuit court or juvenile court.

(ii) If the jurisdiction has implemented the MDEC system and the victim or victim's representative has filed a completed notification request form, the prosecuting attorney shall electronically file the form with the clerk of the circuit court or juvenile court in the MDEC system.

(3) By filing a completed notification request form or completing the MDEC system protocol, a victim or victim's representative complies with Article 47 of the Maryland Declaration of Rights and each provision of the Code that requires a victim or victim's representative to request notice.

(4) To keep the address and electronic mail address of a victim or victim's representative confidential, the victim or victim's representative shall:

(i) designate in the notification request form a person who has agreed to receive notice for the victim or victim's representative; or

(ii) request as part of the MDEC system protocol, without filing a motion to seal, that the address and electronic mail address remain confidential and available, as necessary to only:

1. the court;

2. the prosecuting attorney;

3. the Department of Public Safety and Correctional Services;

4. the Department of Juvenile Services;

5. the attorney of the victim or victim's representative;

6. the State's Victim Information and Notification Everyday vendor; and

7. a commitment unit that a court orders to retain custody of an individual.

(f) (1) Unless provided by the MDEC system, the prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11–402 of this title if:

(i) prior notice is practicable; and

(ii) the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section.

(2) (i) If the case is in a jurisdiction in which the office of the clerk of the circuit court or juvenile court has an automated filing system, the prosecuting attorney may ask the clerk to send the notice required by paragraph (1) of this subsection.

(ii) If the case is in a jurisdiction that has implemented the MDEC system, the victim may follow the MDEC system protocol to receive notice by electronic mail, to notify the prosecuting attorney, and to request additional notice available through the State's Victim Information and Notification Everyday vendor.

(3) As soon after a proceeding as practicable, the prosecuting attorney shall tell the victim or victim's representative of the terms of any plea agreement, judicial action, and proceeding that affects the interests of the victim or victim's representative, including a bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi, stetting of charges, trial, disposition, and postsentencing court proceeding if:

(i) the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section and prior notice to the victim or victim's representative is not practicable; or

(ii) the victim or victim's representative is not present at the proceeding.

(4) Whether or not the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section, the prosecuting attorney may give the victim or victim's representative information about the status of the case if the victim or victim's representative asks for the information.

(g) If a victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section, the clerk of the circuit court or juvenile court:

(1) shall include a copy of the form with any commitment order or probation order that is passed or electronically transmit the form or the registration information for the victim or the victim's representative through the MDEC system; and

(2) if an appeal is filed, shall send a copy of the form or electronically transmit the form or the registration information for the victim or the victim's representative through the MDEC system to the Attorney General and the court to which the case has been appealed.

(h) This section does not prohibit a victim or victim's representative from filing a notification request form with a unit to which a defendant or child respondent has been committed.

(i) (1) After filing a notification request form under subsection (e) of this section, a victim or victim's representative may discontinue further notices by filing a written request with:

(i) the prosecuting attorney, if the case is still in a circuit court or juvenile court; or

(ii) the unit to which the defendant or child respondent has been committed, if a commitment order has been issued in the case.

(2) After following the MDEC system protocol for electronic notices, a victim or victim's representative may discontinue further notices by following the MDEC system protocol to terminate notice.

§11–105.

On a finding of probable cause and before the issuance of an arrest warrant or a summons, a judicial officer shall provide to an individual filing an application for a statement of charges under Maryland Rule 4–211(b) an opportunity to request reasonable protections for the safety of an alleged victim or the victim's family.

§11–107.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Charged" means to be the subject of an indictment, an information, or a petition alleging a delinquent act.

(c) "Health officer" has the meaning stated in § 1–101 of the Health – General Article.

(d) "HIV" means any human immunodeficiency virus that causes Acquired Immune Deficiency Syndrome (AIDS).

(e) (1) "Prohibited exposure" means a crime or delinquent act that may have caused or resulted in exposure to HIV or hepatitis C.

(2) "Prohibited exposure" includes:

(i) contact that occurs on penetration, however slight, between the penis and the vulva or anus; and

(ii) contact between the mouth and the penis, vulva, or anus.

(f) (1) "Victim" means the victim of a prohibited exposure.

(2) "Victim" includes:

(i) a law enforcement officer who is exposed to HIV or hepatitis C while acting in the performance of duty;

(ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV or hepatitis C while acting in the performance of duty;

(iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV or hepatitis C while acting in the performance of duty; and

(iv) an individual who is licensed, certified, or otherwise authorized to provide health care under the Health Occupations Article who is exposed to HIV or hepatitis C while working under the direction of a law enforcement agency or while performing a sexual assault medical evidence collection examination.

(g) "Victim's representative" means:

(1) the parent of a victim who is a minor;

(2) the legal guardian of a victim; or

(3) the person authorized to give consent for the victim under § 5–605 of the Health – General Article.

§11–108.

For the purposes of Part II of this subtitle, a person is convicted when in a criminal proceeding the person:

(1) is found guilty; or

(2) enters a plea of guilty or nolo contendere and the plea is accepted by the court.

§11–109.

(a) In this section, "body fluids" has the meaning stated in § 18–338.1 of the Health – General Article.

(b) Exposure to HIV or hepatitis C between a victim and a person charged with a prohibited exposure occurs:

(1) by percutaneous or mucocutaneous contact with blood or body fluids;

(2) by contact for a prolonged period with blood or body fluids of an open wound, including dermatitis, exudative lesions, and chapped skin;

(3) by intact skin contact for a prolonged period with large amounts of blood or body fluids; or

(4) under any other condition or circumstance under which a person may be exposed to HIV or hepatitis C.

§11–110.

In addition to testing allowed under § 11–112 of this subtitle, the court may order a person charged with a prohibited exposure to give a blood sample to be tested for the presence of HIV or hepatitis C if:

(1) the person is charged with a prohibited exposure within 1 year after the prohibited exposure occurred;

(2) a victim or victim's representative requests the testing in writing to the State's Attorney in the county where the prohibited exposure occurred; and

(3) the court finds probable cause to believe that a prohibited exposure occurred.

§11–110.1.

(a) In this section, "health care provider" has the meaning stated in § 18–336 of the Health – General Article.

(b) (1) A circuit court judge or a District Court judge may issue an emergency order to obtain an oral swab from a person to be tested for the presence of HIV whenever it is made to appear to a judge, by application as described in paragraph (2) of this subsection, that there is probable cause to believe that the person has caused prohibited exposure to a victim.

(2) An application for an emergency order shall be:

(i) made as soon as possible after the alleged prohibited exposure, and in no event later than 72 hours after the alleged prohibited exposure;

(ii) in writing, signed and sworn to by the applicant, and accompanied by an affidavit that sets forth the basis to believe that the person from whom an oral swab is requested has caused a prohibited exposure to a victim;

(iii) sealed; and

(iv) subject to rules developed by the Court of Appeals.

(3) An emergency order issued under this subsection shall meet the requirements under § 1–203 of this article.

(4) The Court of Appeals may adopt rules to carry out the requirements of this subsection.

(c) (1) A law enforcement officer who has obtained an oral swab from a person pursuant to an emergency order issued in accordance with this section shall deliver the oral swab to a local health official or health care provider to be tested for the presence of HIV.

(2) A test for the presence of HIV shall be immediately performed on the sample.

(d) After receiving the results of a test conducted under subsection (c) of this section, the local health officer or health care provider immediately shall provide the results to:

(1) the victim or victim's representative; and

(2) the person from whom the oral swab was taken.

(e) The results of a test conducted under subsection (c) of this section are:

(1) subject to the disclosure restriction in § 11–114 of this subtitle; and

(2) not admissible as evidence of guilt or innocence in a criminal proceeding arising out of the alleged prohibited exposure.

(f) The Maryland Department of Health shall adopt regulations to carry out the requirements of subsections (c) through (g) of this section.

(g) A health care provider that offers the immediate testing of a sample under subsection (c) of this section shall adopt procedures to meet the requirements under this section.

§11–111.

(a) (1) Before ordering a test under § 11-110 of this subtitle and subject to the provisions of subsection (d) of this section, the court shall hold a hearing at which both the victim or victim's representative and the person charged with a prohibited exposure have the right to be present.

(2) The victim or victim's representative and the person charged with a prohibited exposure shall be notified of:

(i) the date, time, and location of the hearing; and

(ii) their right to be present at the hearing.

(b) During the hearing, a court may admit into evidence only affidavits, counter-affidavits, and medical records that:

(1) relate to the material facts of the case; and

(2) support or rebut a finding of probable cause to issue a court order.

(c) The written request of the victim or victim's representative shall be filed by the State's Attorney with the court and sealed by the court.

(d) Except for good cause, the court shall:

(1) hold the hearing within 30 days of the State's Attorney's presentment of the victim's written request to the court; and

(2) issue an order granting or denying the request within 3 days of the conclusion of the hearing.

§11–112.

(a) Within 10 days of a written request of a victim or victim's representative to the State's Attorney in the county where a prohibited exposure occurred, the court shall order a test of a blood sample for HIV and any other identified causative agent of AIDS or hepatitis C.

(b) The blood sample shall be given by:

(1) a person who has been convicted of a crime that includes a prohibited exposure;

(2) a person who has been granted probation before judgment under § 6-220 of this article in a case involving a prohibited exposure; or

(3) a child respondent who has been found to have committed a delinquent act that includes a prohibited exposure.

(c) The written request shall be filed by the State's Attorney with the court and sealed by the court.

§11–113.

(a) (1) After conviction or a finding of a prohibited exposure, a finding of probable cause under § 11–110(3) of this subtitle, or a granting of probation before judgment under § 11–112 of this subtitle, the State's Attorney shall within 3 days notify the local health officer of the written request by the victim or victim's representative for testing.

(2) On receipt of a court order for testing issued under § 11–110(3) or § 11–112 of this subtitle, the local health officer or the local health officer's designee from any other governmental unit shall:

(i) collect the blood sample within 7 days from the person who is charged with, convicted of, or found to have committed a prohibited exposure;

(ii) test the blood sample; and

(iii) if the test is conducted for the presence of HIV, give pretest and posttest counseling to the victim or victim's representative and the person subject to testing in accordance with Title 18, Subtitle 3, Part VI of the Health – General Article.

(b) (1) After receiving the results of a test conducted under subsection (a) of this section, the local health officer shall promptly send notice of the test results to:

(i) the victim or victim's representative; and

(ii) the person charged with, convicted of, or found to have committed a prohibited exposure.

(2) The local health officer may not disclose positive test results to a victim or victim's representative or a person charged with, convicted of, or found to have committed a prohibited exposure without also giving, offering, or arranging for appropriate counseling to:

(i) the victim or victim's representative; and

(ii) the person.

(c) The following shall notify a victim of prohibited exposure or the victim's representative of the provisions of Part II of this subtitle:

(1) a sexual assault crisis program established under § 11–923 of this title when a victim or victim's representative contacts the program;

(2) an intake officer who receives a complaint for the alleged prohibited exposure under § 3–8A–10 of the Courts Article; or

(3) on the filing of a charging document or delinquency petition for the alleged prohibited exposure:

(i) the Department of State Police;

(ii) the Police Department of Baltimore City;

(iii) the police unit of a county;

(iv) the police unit of a municipal corporation;

(v) the office of the sheriff of a county;

(vi) the office of the State's Attorney of a county;

(vii) the Office of the Attorney General;

(viii) the Office of the State Prosecutor;

(ix) the Department of Juvenile Services; or

(x) the police unit of a bicounty unit or the University System of Maryland.

§11–114.

(a) A victim or victim's representative who receives notification under § 11-113(b) of this subtitle may disclose the results of the test to another person to protect the health and safety of, or to seek compensation for, the victim, the victim's sexual partner, or the victim's family.

(b) (1) Except as otherwise provided in Part II of this subtitle, a person who receives notification or disclosure of the results of the test under subsection (a) of this section may not knowingly disclose the results of that test.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $5,000 or both.

§11–115.

The results of a test held under Part II of this subtitle are not admissible as evidence of guilt or innocence in a criminal proceeding arising out of the alleged prohibited exposure.

§11–116.

An agent or employee of the Maryland Department of Health or any other State employee who complies with Part II of this subtitle has the immunity from liability described under § 5–522 of the Courts Article for actions taken in accordance with Part II of this subtitle.

§11–117.

The Maryland Department of Health shall adopt regulations to carry out Part II of this subtitle, including regulations on:

(1) the confidentiality of HIV or hepatitis C test results; and

(2) giving the victim or victim's representative counseling regarding HIV or hepatitis C, HIV or hepatitis C testing, and referral for appropriate health care and support services.

§11–201.

A victim of an assault has the rights provided under § 3-207 of the Criminal Law Article.

§11–202.

(a) In this section, "victim" has the meaning stated in § 3-8A-01 of the Courts Article.

(b) A victim of a delinquent act has the rights provided under Title 3, Subtitle 8A of the Courts Article.

§11–203.

As provided under § 5-201 of this article or § 3-8A-15 of the Courts Article, the court, a juvenile intake officer, or a District Court commissioner shall consider:

(1) the safety of the alleged victim in setting conditions of:

(i) the pretrial release of a defendant; or

(ii) the prehearing release of a child respondent who is alleged to have committed a delinquent act; and

(2) a condition of no contact with the alleged victim or the alleged victim's premises or place of employment.

§11–204.

As provided under § 3–122 of this article, the Maryland Department of Health shall notify a victim of a crime of violence or a victim or victim's representative who has filed a notification request form under § 11–104 of this title whenever the Department receives a court order to examine a defendant to determine whether the defendant was criminally responsible for the alleged crime or is competent to stand trial.

§11–205.

(a) In this section, "domestically related crime" has the meaning stated in § 6–233 of this article.

(b) On request of the State, a victim of or witness to a felony or domestically related crime or delinquent act that would be a felony or domestically related crime if committed by an adult, or a victim's representative, a judge, State's Attorney, District Court commissioner, intake officer, or law enforcement officer may withhold the address or telephone number of the victim, victim's representative, or witness before the trial or adjudicatory hearing in a juvenile delinquency proceeding, unless a judge determines that good cause has been shown for the release of the information.

§11–301.

On motion of the State or on request of a victim or witness, during a criminal trial or a juvenile delinquency adjudicatory hearing, a court may prohibit the release of the address or telephone number of the victim or witness unless the court determines that good cause is shown for the release of the information.

§11–302.

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

(2) "Representative" means a person who is designated by:

(i) the next of kin or guardian of a victim who is deceased or disabled; or

(ii) the court in a dispute over who will be the representative.

(3) "Victim" means a person who is the victim of a crime or delinquent act.

(b) This section applies to:

(1) a criminal trial; and

(2) a juvenile delinquency adjudicatory hearing that is held in open court or that a victim or representative may attend under § 3-8A-13 of the Courts Article.

(c) Except as provided in subsections (d) and (e) of this section:

(1) a representative has the right to be present at the trial of the defendant or juvenile delinquency adjudicatory hearing of the child respondent; and

(2) after initially testifying, a victim has the right to be present at the trial of the defendant or juvenile delinquency adjudicatory hearing of the child respondent.

(d) The court may sequester a representative or, after a victim has initially testified, the victim from any part of the trial or juvenile delinquency adjudicatory hearing on request of the defendant, child respondent, or the State only after the court determines, with specific findings of fact on the record, that:

(1) there is reason to believe that the victim will be recalled or the representative will be called to testify at the trial or juvenile delinquency adjudicatory hearing; and

(2) the presence of the victim or representative would influence the victim's or representative's future testimony in a manner that would materially affect a defendant's right to a fair trial or a child respondent's right to a fair hearing.

(e) The court may remove a victim or representative from the trial or juvenile delinquency adjudicatory hearing for the same causes and in the same manner as the law provides for the exclusion or removal of a defendant or a child respondent.

(f) As provided in § 9-205 of the Courts Article, a person may not be deprived of employment solely because of job time lost because the person attended a proceeding that the person has a right to attend under this section.

(g) This section does not limit a victim's or representative's right to attend a trial or juvenile delinquency adjudicatory hearing as provided in § 3-8A-13 of the Courts Article or § 11-102 of this title.

§11–303.

(a) This section applies to a case of abuse of a child under Title 5, Subtitle 7 of the Family Law Article or § 3-601 or § 3-602 of the Criminal Law Article.

(b) A court may order that the testimony of a child victim be taken outside the courtroom and shown in the courtroom by closed circuit television if:

(1) the court determines that testimony by the child victim in the presence of a defendant or a child respondent will result in the child victim's suffering serious emotional distress such that the child victim cannot reasonably communicate; and

(2) the testimony is taken during the proceeding.

(c) (1) In determining whether testimony by the child victim in the presence of the defendant or child respondent will result in the child victim's suffering such serious emotional distress that the child cannot reasonably communicate, the court may:

(i) observe and question the child victim inside or outside the courtroom; and

(ii) hear testimony of a parent or custodian of the child victim or other person, including a person who has dealt with the child victim in a therapeutic setting.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, each defendant or child respondent, one attorney for a defendant or child respondent, one prosecuting attorney, and one attorney for the child victim may be present when the court hears testimony on whether to allow a child victim to testify by closed circuit television.

(ii) If the court decides to observe or question the child victim in connection with the determination to allow testimony by closed circuit television:

1. the court may not allow the defendant or child respondent to be present; but

2. one attorney for each defendant or child respondent, one prosecuting attorney, and one attorney for the child victim may be present.

(d) (1) Only the following persons may be in the room with the child victim when the child victim testifies by closed circuit television:

(i) one prosecuting attorney;

(ii) one attorney for each defendant or child respondent;

(iii) one attorney for the child victim;

(iv) the operators of the closed circuit television equipment; and

(v) subject to the Maryland Rules, any person whose presence, in the opinion of the court, contributes to the well-being of the child victim, including a person who has dealt with the child victim in a therapeutic setting concerning the abuse.

(2) During the child victim's testimony by closed circuit television, the court and the defendant or child respondent shall be in the courtroom.

(3) The court and the defendant or child respondent shall be allowed to communicate with the persons in the room where the child victim is testifying by any appropriate electronic method.

(4) (i) In a juvenile delinquency proceeding or criminal proceeding, only one prosecuting attorney, one attorney for each defendant or child respondent, and the court may question the child victim.

(ii) In a child in need of assistance case, only one attorney for each party and the court may question the child victim.

(e) This section does not apply if a defendant or child respondent is without counsel.

(f) This section may not be interpreted to prevent a child victim and a defendant or child respondent from being in the courtroom at the same time when the child victim is asked to identify the defendant or child respondent.

(g) This section does not allow the use of two-way closed circuit television or other procedure that would let a child victim see or hear a defendant or child respondent.

§11–304.

(a) In this section, "statement" means:

(1) an oral or written assertion; or

(2) nonverbal conduct intended as an assertion, including sounds, gestures, demonstrations, drawings, and similar actions.

(b) Subject to subsections (c), (d), and (e) of this section, the court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement to prove the truth of the matter asserted in the statement made by a child victim or witness who:

(1) (i) is under the age of 13 years; and

(ii) is an alleged victim or a child alleged to need assistance in the case before the court concerning:

1. child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

2. rape or sexual offense under §§ 3–303 through 3–307 of the Criminal Law Article;

3. attempted rape in the first or second degree under §§ 3–309 and 3–310 of the Criminal Law Article;

4. in a juvenile court proceeding, abuse or neglect as defined in § 5–701 of the Family Law Article; or

5. neglect of a minor under § 3–602.1 of the Criminal Law Article; or

(2) (i) is under the age of 13 years; and

(ii) is an alleged victim or a witness in a case before the court concerning a crime of violence as defined under § 14–101 of the Criminal Law Article.

(c) An out of court statement may be admissible under this section only if the statement was made to and is offered by a person acting lawfully in the course of the person's profession when the statement was made who is:

(1) a physician;

(2) a psychologist;

(3) a nurse;

(4) a social worker;

(5) a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school;

(6) a counselor licensed or certified in accordance with Title 17 of the Health Occupations Article; or

(7) a therapist licensed or certified in accordance with Title 17 of the Health Occupations Article.

(d) (1) Under this section, an out of court statement by a child victim or witness may come into evidence in a criminal proceeding or in a juvenile court proceeding other than a child in need of assistance proceeding under Title 3, Subtitle 8 of the Courts Article to prove the truth of the matter asserted in the statement:

(i) if the statement is not admissible under any other hearsay exception; and

(ii) if the child victim or witness testifies.

(2) (i) In a child in need of assistance proceeding in the juvenile court under Title 3, Subtitle 8 of the Courts Article, an out of court statement by a child victim may come into evidence to prove the truth of the matter asserted in the statement:

1. if the statement is not admissible under any other hearsay exception; and

2. regardless of whether the child victim testifies.

(ii) If the child victim does not testify, the child victim's out of court statement will be admissible only if there is corroborative evidence that the alleged offender had the opportunity to commit the alleged abuse or neglect.

(3) To provide the defendant, child respondent, or alleged offender with an opportunity to prepare a response to the statement, the prosecuting attorney shall serve on the defendant, child respondent, or alleged offender and the attorney for the defendant, child respondent, or alleged offender within a reasonable time before the juvenile court proceeding and at least 20 days before the criminal proceeding in which the statement is to be offered into evidence, notice of:

(i) the State's intention to introduce the statement;

(ii) any audio or visual recording of the statement; and

(iii) if an audio or visual recording of the statement is not available, the content of the statement.

(4) (i) The defendant, child respondent, or alleged offender may depose a witness who will testify under this section.

(ii) Unless the State and the defendant, child respondent, or alleged offender agree or the court orders otherwise, the defendant, child respondent, or alleged offender shall file a notice of deposition:

1. in a criminal proceeding, at least 5 days before the date of the deposition; or

2. in a juvenile court proceeding, within a reasonable time before the date of the deposition.

(iii) Except where inconsistent with this paragraph, Maryland Rule 4–261 applies to a deposition taken under this paragraph.

(e) (1) A child victim's or witness's out of court statement is admissible under this section only if the statement has particularized guarantees of trustworthiness.

(2) To determine whether the statement has particularized guarantees of trustworthiness under this section, the court shall consider, but is not limited to, the following factors:

(i) the child victim's or witness's personal knowledge of the event;

(ii) the certainty that the statement was made;

(iii) any apparent motive to fabricate or exhibit partiality by the child victim or witness, including interest, bias, corruption, or coercion;

(iv) whether the statement was spontaneous or directly responsive to questions;

(v) the timing of the statement;

(vi) whether the child victim's or witness's young age makes it unlikely that the child victim or witness fabricated the statement that represents a graphic, detailed account beyond the child victim's or witness's expected knowledge and experience;

(vii) the appropriateness of the terminology of the statement to the child victim's or witness's age;

(viii) the nature and duration of the abuse or neglect;

(ix) the inner consistency and coherence of the statement;

(x) whether the child victim or witness was suffering pain or distress when making the statement;

(xi) whether extrinsic evidence exists to show the defendant or child respondent had an opportunity to commit the act complained of in the child victim's or witness's statement;

(xii) whether the statement was suggested by the use of leading questions; and

(xiii) the credibility of the person testifying about the statement.

(f) In a hearing outside of the presence of the jury or before the juvenile court proceeding, the court shall:

(1) make a finding on the record as to the specific guarantees of trustworthiness that are in the statement; and

(2) determine the admissibility of the statement.

(g) (1) In making a determination under subsection (f) of this section, the court shall examine the child victim or witness in a proceeding in the judge's chambers, the courtroom, or another suitable location that the public may not attend unless:

(i) the child victim or witness:

1. is deceased; or

2. is absent from the jurisdiction for good cause shown or the State has been unable to procure the child victim's or witness's presence by subpoena or other reasonable means; or

(ii) the court determines that an audio or visual recording of the child victim's or witness's statement makes an examination of the child victim or witness unnecessary.

(2) Except as provided in paragraph (3) of this subsection, any defendant or child respondent, attorney for a defendant or child respondent, and the prosecuting attorney may be present when the court hears testimony on whether to admit into evidence the out of court statement of a child victim or witness under this section.

(3) When the court examines the child victim or witness as paragraph (1) of this subsection requires:

(i) one attorney for each defendant or child respondent, one attorney for the child victim or witness, and one prosecuting attorney may be present at the examination; and

(ii) the court may not allow a defendant or child respondent to be present at the examination.

(h) (1) This section does not limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.

(2) This section does not prohibit the court in a juvenile court proceeding from hearing testimony in the judge's chambers.

§11–401.

In this subtitle, "victim's representative" means:

(1) a member of the victim's immediate family; or

(2) another family member, the personal representative, or guardian of the victim if the victim is:

(i) deceased;

(ii) under a mental, physical, or legal disability; or

(iii) otherwise unable to provide the required information.

§11–402.

(a) A presentence investigation that the Division of Parole and Probation completes under § 6-112 of the Correctional Services Article or a predisposition investigation that the Department of Juvenile Services completes shall include a victim impact statement if:

(1) the defendant or child respondent caused physical, psychological, or economic injury to the victim in committing a felony or delinquent act that would be a felony if committed by an adult; or

(2) the defendant caused serious physical injury or death to the victim in committing a misdemeanor.

(b) If the court does not order a presentence investigation or predisposition investigation, the prosecuting attorney or the victim may prepare a victim impact statement to be submitted to the court and the defendant or child respondent in accordance with the Maryland Rules.

(c) (1) The prosecuting attorney shall notify a victim who has filed a notification request form under § 11-104 of this title of the victim's right to submit a victim impact statement to the court in a transfer hearing under § 4-202 of this article or a waiver hearing under § 3-8A-06 of the Courts Article.

(2) This subsection does not preclude a victim who has not filed a notification request form under § 11-104 of this title from submitting a victim impact statement to the court.

(3) The court may consider a victim impact statement in determining whether to transfer jurisdiction under § 4-202 of this article or waive jurisdiction under § 3-8A-06 of the Courts Article.

(d) The court shall consider the victim impact statement in determining the appropriate sentence or disposition and in entering a judgment of restitution for the victim under § 11-603 of this title.

(e) A victim impact statement for a crime or delinquent act shall:

(1) identify the victim;

(2) itemize any economic loss suffered by the victim;

(3) identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;

(4) describe any change in the victim's personal welfare or familial relationships;

(5) identify any request for psychological services initiated by the victim or the victim's family;

(6) identify any request by the victim to prohibit the defendant or child respondent from having contact with the victim as a condition of probation, parole, mandatory supervision, work release, or any other judicial or administrative release of the defendant or child respondent, including a request for electronic monitoring or electronic monitoring with victim stay–away alert technology; and

(7) contain any other information related to the impact on the victim or the victim's family that the court requires.

(f) If the victim is deceased, under a mental, physical, or legal disability, or otherwise unable to provide the information required under this section, the information may be obtained from the victim's representative.

§11–403.

(a) In this section, "sentencing or disposition hearing" means a hearing at which the imposition of a sentence, disposition in a juvenile court proceeding, or alteration of a sentence or disposition in a juvenile court proceeding is considered.

(b) In the sentencing or disposition hearing the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition:

(1) at the request of the prosecuting attorney;

(2) at the request of the victim or the victim's representative; or

(3) if the victim has filed a notification request form under § 11–104 of this title.

(c) (1) If the victim or the victim's representative is allowed to address the court, the defendant or child respondent may cross–examine the victim or the victim's representative.

(2) The cross–examination is limited to the factual statements made to the court.

(d) (1) A victim or the victim's representative has the right not to address the court at the sentencing or disposition hearing.

(2) A person may not attempt to coerce a victim or the victim's representative to address the court at the sentencing or disposition hearing.

(e) (1) If the victim or the victim's representative fails to appear at a hearing on a motion for a revision, modification, or reduction of a sentence or disposition in circuit court or juvenile court, the prosecuting attorney shall state on the record that proceeding without the appearance of the victim or the victim's representative is justified because:

(i) the victim or victim's representative was contacted by the prosecuting attorney and waived the right to attend the hearing;

(ii) efforts were made to contact the victim or the victim's representative and, to the best knowledge and belief of the prosecuting attorney, the victim or victim's representative cannot be located; or

(iii) the victim or victim's representative has not filed a notification request form under § 11–104 of this title.

(2) If the court is not satisfied by the statement that proceeding without the appearance of the victim or the victim's representative is justified, or, if no statement is made, the court may postpone the hearing.

(f) A victim or victim's representative who has been denied a right provided under this section may file an application for leave to appeal in the manner provided under § 11–103 of this title.

§11–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a direct result of a crime or delinquent act.

(c) "Victim's representative" includes:

(1) a family member of a victim who is a minor, an incompetent, or a victim of homicide; or

(2) a guardian of a minor or an incompetent.

§11–503.

(a) In this section, "subsequent proceeding" includes:

(1) a sentence review under § 8–102 of this article;

(2) a hearing on a request to have a sentence modified or vacated under the Maryland Rules;

(3) in a juvenile delinquency proceeding, a review of a commitment order or other disposition under the Maryland Rules;

(4) an appeal to the Court of Special Appeals;

(5) an appeal to the Court of Appeals;

(6) a hearing on an adjustment of special conditions of lifetime sexual offender supervision under § 11–723 of this title or a hearing on a violation of special conditions of lifetime sexual offender supervision or a petition for discharge from special conditions of lifetime sexual offender supervision under § 11–724 of this title; and

(7) any other postsentencing court proceeding.

(b) Following conviction or adjudication and sentencing or disposition of a defendant or child respondent, the State's Attorney shall notify the victim or victim's representative of a subsequent proceeding in accordance with § 11–104(f) of this title if:

(1) before the State's Attorney distributes notification request forms under § 11–104(d) of this title, the victim or victim's representative submitted to the State's Attorney a written request to be notified of subsequent proceedings; or

(2) after the State's Attorney distributes notification request forms under § 11–104(d) of this title, the victim or victim's representative submits a notification request form in accordance with § 11–104(e) of this title.

(c) (1) The State's Attorney's office shall:

(i) notify the victim or victim's representative of all appeals to the Court of Special Appeals and the Court of Appeals; and

(ii) send an information copy of the notification to the Office of the Attorney General.

(2) After the initial notification to the victim or victim's representative or receipt of a notification request form, as defined in § 11–104 of this title, the Office of the Attorney General shall:

(i) notify the victim or victim's representative of each subsequent date pertinent to the appeal, including dates of hearings, postponements, and decisions of the appellate courts; and

(ii) send an information copy of the notification to the State's Attorney's office.

(d) A notice sent under this section shall include the date, the time, the location, and a brief description of the subsequent proceeding.

§11–504.

(a) Before the Board of Review for Patuxent Institution grants work release or leave of absence to an eligible person, the Board shall give the victim or victim's representative notice and opportunity for comment as provided under § 4-303(b) of the Correctional Services Article.

(b) (1) Before the Board of Review for Patuxent Institution decides whether to grant parole to an eligible person, the Board shall give the victim or victim's representative notice and the opportunity for comment as provided under § 4-305(d) of the Correctional Services Article.

(2) If the Board of Review for Patuxent Institution petitions a court to suspend or vacate the sentence of a person who has successfully completed 3 years on parole without violation and who the Board concludes is safe to be permanently released, the Board shall notify the victim or victim's representative as provided under § 4-305(f) of the Correctional Services Article.

§11–505.

(a) This section applies to a victim or victim's representative who:

(1) has made a written request to the Department for notification under § 7–801(b)(1)(ii) of the Correctional Services Article; or

(2) has filed a notification request form under § 11–104 of this title.

(b) (1) If a parole release hearing is scheduled for an inmate who has been convicted of and sentenced for a crime, the victim or victim's representative has the rights provided under § 7–801 of the Correctional Services Article.

(2) At a parole release hearing, a victim or victim's representative has the rights provided under § 7–304 of the Correctional Services Article.

(c) (1) Whenever a person who was convicted of a crime is found in violation of a condition of parole, the Department shall notify the victim or victim's representative as provided under § 7–804 of the Correctional Services Article.

(2) Whenever a warrant or subpoena is issued for a person who was convicted of a crime for an alleged violation of a condition of parole, the Department shall notify the victim or victim's representative as provided under § 7–804 of the Correctional Services Article.

(d) Whenever a person who is sentenced is considered for a commutation, pardon, or remission of sentence:

(1) the Department shall notify the victim or victim's representative as provided under § 7–805(a) and (e) of the Correctional Services Article; and

(2) a victim or victim's representative has the additional rights regarding submission and consideration of a victim impact statement provided under § 7–805(b) and (c) of the Correctional Services Article.

(e) (1) Whenever a person convicted of a crime is found in violation of a condition of mandatory supervision, the Department shall notify the victim or victim's representative as provided under § 7–505(b) of the Correctional Services Article.

(2) Whenever a warrant or subpoena is issued for a person convicted of a crime for an alleged violation of a condition of mandatory supervision, the Department shall notify the victim or victim's representative as provided under § 7–804 of the Correctional Services Article.

(f) Before entering into a predetermined parole release agreement with an inmate, the Maryland Parole Commission shall notify the victim or victim's representative as provided under § 7–803 of the Correctional Services Article.

§11–506.

Whenever a person has been committed to the Maryland Department of Health under § 3–112 of this article for a crime of violence and a victim of the crime or a victim's representative has submitted a written request to the Maryland Department of Health for notification or submitted a notification request form under § 11–104 of this title, the victim or victim's representative has the rights provided under § 3–123 of this article.

§11–507.

The Department or the Department of Juvenile Services shall notify the victim or victim's representative of an alleged violation of a condition of probation whenever:

(1) a warrant, subpoena, or writ of attachment is issued for the alleged violation for a person who was convicted of a violent crime or who was adjudged to have committed a delinquent act that would be a violent crime if committed by an adult; and

(2) a victim of the crime or delinquent act or a victim's representative has submitted a written request to the Department for notification or has submitted a notification request form under § 11-104 of this title.

§11–508.

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

(2) "Commitment unit" means a unit that a court orders to retain custody of a defendant or a child respondent and that receives a notification request form under § 11–104(g)(1) or (h) of this title.

(3) "Release from confinement" means work release, home detention, or other administrative or statutorily authorized release of a defendant or child respondent from a confinement facility.

(4) "Witness" means a person who:

(i) knows of facts relating to a crime of violence or conspiracy or solicitation to commit a crime of violence; and

(ii) 1. makes a declaration under oath that is received as evidence for any purpose; or

2. has been served with a subpoena issued under the authority of a court of this or any other state or of the United States.

(b) This section applies to a victim or victim's representative who has submitted a notification request form under § 11–104 of this title.

(c) This section applies if a witness requests in writing that a commitment unit notify the witness in writing of the release from confinement of a defendant or child respondent.

(d) On receipt of a notification request form under § 11–104(g)(1) or (h) of this title or a written request from a witness for notification, a commitment unit, if practicable, shall notify the victim, victim's representative, or witness of:

(1) receipt of the notification request form;

(2) the date when the defendant or child respondent was placed in the custody of the commitment unit;

(3) how to change the address to receive notice for the victim, victim's representative, witness, or the person to receive notice for the victim; and

(4) how to elect not to receive future notices.

(e) The commitment unit shall notify a victim, victim's representative, or witness, in advance if practicable, if any of the following events occur concerning the defendant or child respondent:

(1) an escape;

(2) a recapture;

(3) a transfer to another commitment unit;

(4) a release from confinement and any conditions attached to the release; and

(5) the death of the defendant or child respondent.

(f) A commitment unit may not disclose to a defendant or child respondent the address or telephone number of a witness, victim, victim's representative, or person who receives notice for the victim.

(g) An elected public official, public employee, or public unit has the immunity described in §§ 5–302 and 5–522 of the Courts Article regarding civil liability for damages arising out of an action relating to this section, unless the official, employee, or unit acts with gross negligence or in bad faith.

§11–601.

(a) In Part I of this subtitle the following words have the meanings indicated.

(b) "Central Collection Unit" means the Central Collection Unit in the Department of Budget and Management.

(c) "Child" means a person under the age of 18 years.

(d) (1) "Crime" means an act committed by a person in the State that is a crime under:

(i) common law;

(ii) § 109 of the Code of Public Local Laws of Caroline County;

(iii) § 8A–1 of the Code of Public Local Laws of Talbot County; or

(iv) except as provided in paragraph (2) of this subsection, the Annotated Code.

(2) "Crime" does not include a violation of the Transportation Article that is not punishable by a term of confinement.

(e) "Defendant" means a person:

(1) who has received probation before judgment;

(2) who has been found guilty of a crime, even if the defendant has been found not criminally responsible; or

(3) whose plea of nolo contendere to a crime has been accepted by the court.

(f) "Division" means the Division of Parole and Probation.

(g) "Judgment of restitution" means a direct order for payment of restitution or an order for payment of restitution that is a condition of probation in an order of probation.

(h) "Liable parent" means a parent:

(1) whose child has committed a crime or delinquent act; and

(2) who has been ordered to pay restitution under § 11-604 of this subtitle.

(i) "Restitution obligor" means a defendant, child respondent, or liable parent against whom a judgment of restitution has been entered.

(j) "Victim" means:

(1) a person who suffers death, personal injury, or property damage or loss as a direct result of a crime or delinquent act; or

(2) if the person is deceased, the personal representative of the estate of the person.

§11–602.

On conviction, the finding of a delinquent act, acceptance of a plea of nolo contendere, or imposition of probation before judgment for a crime under § 10-404 of the Criminal Law Article, the following persons may act on behalf of a victim:

(1) the owner of the burial site; and

(2) a person related by blood or marriage to the person buried in the burial site.

§11–603.

(a) A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if:

(1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;

(2) as a direct result of the crime or delinquent act, the victim suffered:

(i) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses;

(ii) direct out–of–pocket loss;

(iii) loss of earnings; or

(iv) expenses incurred with rehabilitation;

(3) the victim incurred medical expenses that were paid by the Maryland Department of Health or any other governmental unit;

(4) a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as defined in § 25–201 of the Transportation Article;

(5) the Criminal Injuries Compensation Board paid benefits to a victim; or

(6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title.

(b) A victim is presumed to have a right to restitution under subsection (a) of this section if:

(1) the victim or the State requests restitution; and

(2) the court is presented with competent evidence of any item listed in subsection (a) of this section.

(c) (1) A judgment of restitution does not preclude the property owner or the victim who suffered personal physical or mental injury, out–of–pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor.

(2) A civil verdict shall be reduced by the amount paid under the criminal judgment of restitution.

(d) In making a disposition on a finding that a child at least 13 years old has committed an act of graffiti under § 6–301(d) of the Criminal Law Article, the court shall order the child to perform community service or pay restitution or both.

§11–604.

(a) Subject to subsection (b) of this section and notwithstanding any other law, if a child is the defendant or child respondent, the court may order the child, the child's parent, or both to pay restitution.

(b) A judgment of restitution for $10,000 issued under Part I of this subtitle is the absolute limit for each child's acts arising out of a single incident.

(c) (1) A court may not enter a judgment of restitution against a parent under Part I of this subtitle unless the parent has been afforded a reasonable opportunity to be heard and to present evidence.

(2) A hearing under this subsection may be held as part of the sentencing or disposition hearing.

§11–605.

(a) A court need not issue a judgment of restitution under Part I of this subtitle if the court finds:

(1) that the restitution obligor does not have the ability to pay the judgment of restitution; or

(2) that there are extenuating circumstances that make a judgment of restitution inappropriate.

(b) A court that refuses to order restitution that is requested under Part I of this subtitle shall state on the record the reasons.

§11–606.

(a) The court may order that restitution be paid to:

(1) the victim;

(2) the Maryland Department of Health, the Criminal Injuries Compensation Board, or any other governmental unit;

(3) a third–party payor, including:

(i) an insurer; or

(ii) any other person that has, under Part I of this subtitle:

1. compensated the victim for a property or pecuniary loss; or

2. paid an expense on behalf of a victim;

(4) any person for whom restitution is authorized by law; or

(5) a person who has provided to or for a victim goods, property, or services for which restitution is authorized under § 11–603 of this subtitle.

(b) (1) Subject to paragraph (2) of this subsection and § 11–617(b) of this subtitle, payment of restitution to the victim has priority over any payments to any other person or governmental unit.

(2) If the victim has been fully compensated for the victim's loss by a third–party payor, the court may issue a judgment of restitution that directs the restitution obligor to pay restitution to the third–party payor.

§11–607.

(a) (1) When a judgment of restitution has been entered under § 11–603 of this subtitle, compliance with the judgment of restitution:

(i) may be a requirement in the judgment of conviction or disposition in a juvenile delinquency proceeding;

(ii) if work release is ordered or allowed, shall be a condition of work release; and

(iii) if probation is ordered, shall be a condition of probation:

1. in addition to a sentence or disposition; or

2. instead of a sentence if the probation is ordered before judgment under § 6–220 of this article.

(2) Subject to federal law, the Department or the Department of Juvenile Services shall obtain the Social Security number of the restitution obligor to facilitate the collection of restitution.

(b) (1) The restitution obligor shall make restitution to the Department or the Department of Juvenile Services under the terms and conditions of the judgment of restitution.

(2) The Department or the Department of Juvenile Services:

(i) shall keep records of payments or return of property in satisfaction of the judgment of restitution;

(ii) shall forward property or payments in accordance with the judgment of restitution and Part I of this subtitle to the person or governmental unit specified in the judgment of restitution; and

(iii) may require the restitution obligor to pay additional fees not exceeding 2% of the amount of the judgment of restitution to pay for the administrative costs of collecting payments or property.

(c) (1) Whenever an obligor's restitution payment, as ordered by the court or established by the Department, is overdue, the Department or the Department of Juvenile Services shall:

(i) notify the court; and

(ii) if an earnings withholding order is not in effect and the restitution obligor is employed, request an earnings withholding order.

(2) The court may hold a hearing to determine whether the restitution obligor is in contempt of court or has violated the terms of the probation.

(3) If the court finds that the restitution obligor intentionally became impoverished to avoid payment of the restitution, the court may find the restitution obligor in contempt of court or in violation of probation.

§11–608.

(a) A judgment of restitution is a money judgment in favor of the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution.

(b) The judgment of restitution may be enforced by the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution in the same manner as a money judgment in a civil action.

(c) Except as otherwise expressly provided under Part I of this subtitle, a person, governmental unit, or third-party payor to whom a restitution obligor has been ordered to pay restitution has all the rights and obligations of a money judgment creditor under the Maryland Rules, including the obligation under Maryland Rule 2-626 or 3-626 on receiving all amounts due under the judgment to file a statement that the judgment has been satisfied.

§11–609.

(a) A judgment of restitution that a circuit court orders under Part I of this subtitle shall be recorded and indexed in the civil judgment index by the clerk of the circuit court as a money judgment as the Maryland Rules provide.

(b) A judgment of restitution that is recorded and indexed in the civil judgment index as a money judgment under subsection (a) of this section:

(1) in the county of entry of the judgment, is a lien from the date of entry in the amount of the judgment on the restitution obligor's interest in land located in the county of the entry of the judgment; but

(2) in a county other than the county of entry of the judgment, is a lien from the date of recording in the amount of the judgment on the restitution obligor's interest in land located in that county.

§11–610.

(a) (1) Except as provided in paragraph (2) of this subsection, the provisions of this section do not apply in Baltimore City.

(2) In Baltimore City, a judgment of restitution shall:

(i) be entered, indexed, and recorded under Maryland Rule 3-601; and

(ii) constitute a lien as provided under Maryland Rule 3-621(b).

(3) A judgment of restitution that the District Court orders under Part I of this subtitle may not be recorded and indexed by the Clerk of the District Court as a money judgment in the District Court until the person or governmental unit to whom the restitution obligor has been ordered to pay restitution files with the Clerk of the District Court a written request for the recording and indexing.

(b) Once a judgment of restitution is recorded and indexed as a money judgment under subsection (a) of this section:

(1) the Clerk of the District Court shall immediately forward a notice of lien of judgment to the circuit court for the county of entry of judgment; and

(2) on the receipt of the written statement from the person or governmental unit to whom a restitution obligor has been ordered to pay restitution, the Clerk of the District Court shall forward a notice of lien of judgment to the circuit court of any other county as the Maryland Rules provide.

(c) Whenever the Clerk of the District Court forwards a notice of lien under subsection (b) of this section to a circuit court, the clerk of the circuit court shall record and index the notice of lien as the Maryland Rules provide.

(d) (1) A judgment of restitution that is issued by the District Court and is recorded and indexed as a money judgment under subsection (a) of this section is a lien in the amount of the judgment on the restitution obligor's interest in land in a county.

(2) The lien is in effect from the date that a notice of lien is recorded and indexed in the circuit court of the county.

(e) (1) If the District Court enters a judgment of restitution under Part I of this subtitle, the Clerk of the District Court shall send a written notice to the person or governmental unit in whose favor the judgment of restitution is entered.

(2) The notice shall say in substance:

"The District Court has awarded you a judgment of restitution.

"The judgment of restitution is not a money judgment until it is recorded and indexed in the civil judgment records of the District Court.

"On your written request and without charge, the Clerk of the District Court will record and index the judgment of restitution as a money judgment. Then, without charge, the Clerk of the District Court will also send a notice of lien to the circuit court for the county, and, without charge, the notice of lien will be recorded and indexed in the circuit court for the county.

"On your further written request, the Clerk of the District Court will send a notice of lien to the circuit court for any other county that you specify."

§11–611.

A court may not assess costs on a person or governmental unit to whom a restitution obligor has been ordered to pay restitution:

(1) for recording and indexing an order of restitution as a money judgment in the court in which the judgment of restitution was issued;

(2) for recording and indexing a notice of lien that the District Court forwards to a circuit court; or

(3) for filing a notice of satisfaction.

§11–612.

(a) (1) If a District Court decides to terminate a probation before a judgment of restitution has been recorded and indexed as a money judgment, the court shall direct the Clerk of the Court:

(i) to record and index the judgment of restitution as a money judgment and forward a notice of lien to the circuit court of the county of entry of judgment before terminating the probation; and

(ii) to forward a written notice to the person or governmental unit to whom the restitution obligor was ordered to pay restitution.

(2) The written notice shall state that:

(i) the judgment of restitution has been recorded and indexed as a money judgment in the District Court; and

(ii) a notice of lien has been forwarded to the circuit court of the county of entry of judgment.

(b) Subject to the Maryland Rules, unless a restitution obligor pays complete restitution, termination of probation by a court does not affect a money judgment that has been recorded and indexed under Part I of this subtitle.

§11–613.

(a) Notwithstanding any other provision of Part I of this subtitle and except as provided in subsection (b) of this section, a victim or other person or governmental unit may not execute on a judgment recorded and indexed under Part I of this subtitle if the restitution obligor:

(1) files a motion under the Maryland Rules to stay execution of the judgment of restitution and the motion has not been decided by the court; and

(2) challenges the conviction, sentence, or judgment of restitution by:

(i) filing an appeal in a State court or in federal court;

(ii) applying for leave to appeal following a plea of guilty in a circuit court;

(iii) filing a motion for exercise of revisory power by the sentencing court under the Maryland Rules;

(iv) filing an application for review of criminal sentence under Title 8 of this article; or

(v) filing a notice for in banc review under the Maryland Rules.

(b) If a restitution obligor has complied with the requirements of subsection (a) of this section and the court has not yet ruled on the request for a stay, a person or governmental unit may not execute on a judgment recorded and indexed under Part I of this subtitle until a court issues a final judgment that upholds the conviction, sentence, or judgment of restitution.

(c) A person or governmental unit may not execute on a judgment recorded and indexed under Part I of this subtitle until the time has expired in which a restitution obligor may file any of the actions listed under subsection (a)(2)(i) through (v) of this section.

(d) The judgment of restitution may be enforced in the same way that a monetary judgment is enforced.

§11–614.

(a) If practicable, the State's Attorney should:

(1) notify an eligible victim of the victim's right to request restitution; and

(2) help the victim to prepare the request and advise the victim as to the steps for collecting restitution that is awarded.

(b) If a victim cannot be located, all money collected from a judgment of restitution shall be treated as abandoned property under Title 17 of the Commercial Law Article.

§11–615.

(a) In a restitution hearing held under § 11-603 of this subtitle, a written statement or bill for medical, dental, hospital, counseling, funeral, or burial expenses is legally sufficient evidence of the amount, fairness, and reasonableness of the charges and the necessity of the services or materials provided.

(b) A person who challenges the fairness and reasonableness or the necessity of the amount on the statement or bill has the burden of proving that the amount is not fair and reasonable.

§11–616.

(a) The Division or the Department of Juvenile Services:

(1) in addition to other actions authorized under Part I of this subtitle, may refer an overdue restitution account for collection to the Central Collection Unit; and

(2) if probation or other supervision is terminated and restitution is still owed, shall refer the overdue restitution account for collection to the Central Collection Unit.

(b) Subject to subsection (c) of this section, the Central Collection Unit may:

(1) collect overdue restitution in accordance with Title 3, Subtitle 3 of the State Finance and Procurement Article; and

(2) certify a restitution obligor who is in arrears on restitution payments exceeding $30 under the judgment of restitution to:

(i) the Comptroller for income tax refund interception in accordance with Title 13, Subtitle 9, Part III of the Tax – General Article; and

(ii) the State Lottery and Gaming Control Agency for State lottery prize and video lottery facility prize payout interception in accordance with § 11–618 of this subtitle.

(c) (1) The Central Collection Unit may not compromise and settle a judgment of restitution unless:

(i) the Division or the Department of Juvenile Services obtains the consent of the victim; or

(ii) the court orders otherwise because a victim cannot be located.

(2) The Division or the Department of Juvenile Services shall contact the victim to determine whether the victim consents to compromise and settle a judgment of restitution.

(d) If complete restitution and interest have been paid or a judgment of restitution has been compromised and settled as provided in subsection (c) of this section, the Division, the Department of Juvenile Services, or the Central Collection Unit immediately shall notify:

(1) the court that issued the judgment by filing the statement as provided under § 11–608(c) of this subtitle that the judgment has been satisfied; and

(2) the last known employer of a restitution obligor to terminate an earnings withholding order issued under § 11–617 of this subtitle.

(e) (1) Restitution is overdue if the restitution or a restitution payment is not paid:

(i) by the date that the court orders; or

(ii) if no date is ordered, by the later of:

1. the date the Division or the Department of Juvenile Services directs the restitution obligor to pay restitution or make a restitution payment; or

2. 30 days after the court enters a judgment of restitution.

(2) If restitution is overdue, the amount of the arrearage is the amount of restitution ordered and any interest allowed by law, minus any amount previously paid or received under the judgment of restitution.

§11–617.

(a) (1) If a court issues a judgment of restitution under § 11-603 of this subtitle, the court may enter an immediate and continuing earnings withholding order in an amount sufficient to pay the restitution.

(2) The court may enter the order:

(i) at the sentencing or disposition hearing;

(ii) when the defendant or child respondent is placed on work release or probation; or

(iii) when the payment of restitution is overdue.

(b) Subject to federal law, the order of priority of execution of an earnings withholding order is:

(1) first, an earnings withholding order issued under § 10-128 of the Family Law Article;

(2) second, an earnings withholding order issued under this section; and

(3) lastly, any other lien or legal process.

(c) (1) This subsection applies whenever a court orders an earnings withholding order under this section.

(2) On entry of the order, the clerk of the court immediately shall:

(i) serve a copy on any current or subsequent employer of the restitution obligor, if known; and

(ii) mail a copy to the restitution obligor at the last known address or place of incarceration or commitment of the restitution obligor.

(3) A restitution obligor immediately shall notify the court, the Central Collection Unit, and the Division or Department of Juvenile Services of:

(i) any objection to an earnings withholding order;

(ii) the current home address of the restitution obligor;

(iii) the name of the employer;

(iv) the work address of the restitution obligor; and

(v) any change of employer, home address, or work address of the restitution obligor.

(4) An employer who is served with an earnings withholding order under this section immediately shall notify the court, the Central Collection Unit, and the Division or Department of Juvenile Services of:

(i) any justification for the employer's inability to comply with the earnings withholding order;

(ii) the home address of the restitution obligor on the termination of employment;

(iii) information regarding the new place of employment of the restitution obligor; or

(iv) the employer's reemployment of the restitution obligor.

(5) Unless the information has been provided to the court, the Division, Department of Juvenile Services, or the Central Collection Unit shall notify the court of a current or subsequent home address of the restitution obligor and the employer and work address of the restitution obligor.

(d) (1) Except as otherwise provided in this section, an earnings withholding order issued under this section shall:

(i) comply with the requirements of §§ 10-128(a) and 10-129(a) through (c) of the Family Law Article; and

(ii) set forth the obligations and responsibilities of an employer and a restitution obligor under an earnings withholding order and the consequences of violating this section.

(2) Each amount withheld in an earnings withholding order under this section is payable to the Division, Department of Juvenile Services, or Central Collection Unit.

(3) An earnings withholding order is binding on each present and future employer of the restitution obligor who is served with the order.

(e) (1) Subject to paragraphs (2) and (3) of this subsection, the payment amount under an earnings withholding order under this section is 20% of the earnings of a restitution obligor less other deductions required by law to be paid out of any funds earned under a work release plan.

(2) If the restitution obligation of the restitution obligor is overdue, the court may impose a payment exceeding the amount allowed in paragraph (1) of this subsection.

(3) (i) The amount of an earnings withholding order issued under this section may not exceed the limits of the federal Consumer Credit Protection Act.

(ii) The court shall reduce an amount of an earnings withholding order that exceeds the limits of the federal Consumer Credit Protection Act to the maximum allowed under the Act.

(f) (1) This subsection applies to a restitution obligor and the employer of a restitution obligor.

(2) A person who violates this section is subject to a fine not exceeding $250.

(3) A fine collected under this section shall be distributed in the same way as costs are distributed under § 7-409 of the Courts Article.

(4) In addition to a fine imposed under this subsection, an employer is liable for damages for the failure to deduct the earnings of a restitution obligor or failure to make a timely payment as required in the earnings withholding order.

§11–618.

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

(2) "Agency" means the State Lottery and Gaming Control Agency.

(3) "Video lottery facility" has the meaning stated in § 9–1A–01 of the State Government Article.

(4) "Video lottery operation licensee" has the meaning stated in § 9–1A–01 of the State Government Article.

(b) A certification of arrearage on restitution payments that the Central Collection Unit sends to the Agency under § 11–616 of this subtitle shall contain:

(1) the full name of the restitution obligor and any other name known to be used by the restitution obligor;

(2) the Social Security number of the restitution obligor; and

(3) the amount of the arrearage.

(c) If a restitution obligor who is overdue in restitution payments wins a lottery prize to be paid by check directly by the Agency, the Agency shall send a notice to the restitution obligor that:

(1) the restitution obligor has won a prize to be paid by the State Lottery and Gaming Control Agency;

(2) the State Lottery and Gaming Control Agency has received notice from the Central Collection Unit of the restitution obligor's restitution arrearage in the amount specified;

(3) State law requires the State Lottery and Gaming Control Agency to withhold the prize and to pay it towards the restitution obligor's restitution arrearage;

(4) the restitution obligor has 15 days to appeal to the Central Collection Unit if the restitution obligor disputes the existence or the amount of the arrearage; and

(5) on interception of the prize, the State Lottery and Gaming Control Agency will transfer the prize or the part of the prize that equals the restitution arrearage to the Central Collection Unit.

(d) If a restitution obligor who is overdue in restitution payments wins a prize at a video lottery facility requiring the issuance of Internal Revenue Service form W–2G or a substantially equivalent form by a video lottery operation licensee, the video lottery operation licensee shall send a notice to the restitution obligor that:

(1) the restitution obligor has won a prize to be paid by cash or check directly by the video lottery operation licensee;

(2) the State Lottery and Gaming Control Agency has received notice from the Central Collection Unit of the restitution obligor's restitution arrearage in the amount specified;

(3) State law requires the video lottery operation licensee to withhold the prize and pay it towards the restitution obligor's restitution arrearage;

(4) the restitution obligor has 15 days to appeal to the Central Collection Unit if the restitution obligor disputes the existence or the amount of the arrearage; and

(5) on interception of the prize, the video lottery operation licensee will transfer the prize or the part of the prize that equals the restitution arrearage to the Central Collection Unit.

(e) (1) The Agency or the video lottery operation licensee shall:

(i) withhold and transfer all or part of the prize up to the amount of the arrearage to the Central Collection Unit; and

(ii) pay the excess to the restitution obligor.

(2) The Agency and a video lottery operation licensee shall honor interception requests in the following order:

(i) an interception request under § 10–113.1 of the Family Law Article;

(ii) an interception request under this section; and

(iii) an interception request under § 3–307 of the State Finance and Procurement Article.

(f) (1) On receipt of a notice from the Agency or a video lottery operation licensee, a restitution obligor who disputes the existence or amount of the arrearage may appeal the transfer.

(2) If an appeal is not filed within 15 days after the date of the notice, the Central Collection Unit may retain the withheld prize.

(3) If the restitution obligor appeals the transfer, after a hearing by the Central Collection Unit, the withheld prize shall be:

(i) paid to the restitution obligor;

(ii) retained by the Central Collection Unit; or

(iii) partly paid to the restitution obligor and partly retained by the Central Collection Unit.

(g) The Secretary of Budget and Management and the Director of the Agency may jointly adopt regulations to carry out this section.

(h) A video lottery operation licensee may not be held liable for an act or omission taken in good faith to comply substantially with the requirements of this section.

§11–619.

(a) Subject to subsection (b) of this section, any order of restitution made by a court shall be governed by the provisions of this subtitle.

(b) This subtitle may not be construed to limit the authority of a court to direct a defendant or a child found to have committed a delinquent act to make restitution or to perform certain services, as specified by the court, for the victim as an alternative means of restitution.

§11–621.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) (1) "Defendant" means a person charged with or convicted of a crime in the State that involves or causes personal injury, death, or property loss as a direct result of the crime.

(2) "Defendant" includes a person found not criminally responsible for criminal conduct under § 3-109 of this article.

(c) "Notoriety of crimes contract" means a contract or other agreement with a defendant, or a representative or assignee of a defendant, with respect to:

(1) the reenactment of a crime in a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, or live entertainment of any kind;

(2) the expression of the defendant's thoughts, feelings, opinions, or emotions regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or

(3) the payment or exchange of money or other consideration or the proceeds or profits that directly or indirectly result from a crime, a sentence, or the notoriety of a crime or sentence.

(d) "Victim" means a person who suffers personal injury, death, or property loss as a direct result of crime.

(e) "Victim's representative" includes the personal representative of the estate of a deceased victim and a beneficiary under a wrongful death action.

§11–622.

A person who makes a notoriety of crimes contract with a defendant or a representative or assignee of that defendant shall:

(1) submit to the Attorney General a copy of all written terms and a summary of all oral terms of the notoriety of crimes contract; and

(2) pay over to the Attorney General any money or other consideration not subject to a judgment of restitution under § 11-603 of this subtitle that by the terms of the notoriety of crimes contract otherwise would be owed to the defendant or a representative or assignee of the defendant.

§11–623.

(a) On receipt of a submission under § 11-622 of Part II of this subtitle, the Attorney General shall mail notice of the receipt to each victim or victim's representative at the last known address of the victim or victim's representative.

(b) The Attorney General shall decide whether a contract is a notoriety of crimes contract:

(1) after 30 days but before 180 days following receipt of the submission under § 11-622 of Part II of this subtitle; or

(2) after 180 days, for cause.

(c) (1) For a decision under this section, there is a rebuttable presumption that the contract is a notoriety of crimes contract.

(2) The defendant or defendant's assignee may rebut this presumption by establishing to the satisfaction of the Attorney General that the subject matter of the contract only tangentially or incidentally relates to the crime.

(d) The Attorney General:

(1) shall notify the defendant or defendant's assignee and the victim or victim's representative of the decision under this section; and

(2) may not disburse money collected under § 11-622 of Part II of this subtitle until 60 days after the defendant or defendant's assignee and the victim or victim's representative have been notified of the decision.

(e) (1) The decision of the Attorney General under this section is a final decision and may be appealed by a defendant or defendant's assignee or a victim or victim's representative only in accordance with § 11-630 of Part II of this subtitle and within 60 days after receiving notice of the decision.

(2) If the decision is appealed, the Attorney General shall keep any money collected in escrow until the Attorney General receives a final order of the court.

§11–624.

(a) The Attorney General shall deposit money received under this subtitle in an interest bearing escrow account.

(b) Except as provided in § 11-625 of Part II of this subtitle and subsection (e) of this section, the Attorney General shall hold money for the benefit of and payable to the victim or victim's representative, as provided in subsection (c) of this section.

(c) (1) Subject to the priority of claims stated in § 11-628 of Part II of this subtitle, the Attorney General shall pay to the victim or victim's representative money from the escrow account to the extent of the money judgment or the amount of restitution if, within 5 years after the escrow account is established, the victim or victim's representative:

(i) brings or has pending a civil action against the defendant in a court of competent jurisdiction;

(ii) has recovered a money judgment for damages against the defendant; or

(iii) has been awarded restitution.

(2) Any money that then remains in the escrow account shall be paid as this section provides.

(3) Money may not be paid under this subsection until the defendant:

(i) has been found guilty;

(ii) has pleaded nolo contendere;

(iii) has been placed on probation before judgment; or

(iv) has been found not criminally responsible for criminal conduct under § 3-109 of this article.

(d) (1) At least once every 6 months for 5 years after the date the Attorney General receives money or other consideration under this subtitle, the Attorney General shall publish a legal notice in a newspaper of general circulation in the county where the crime was committed and in counties contiguous to that county.

(2) The notice shall advise the victim or victim's representative that escrow money is available to satisfy money judgments under this subtitle.

(3) The Attorney General may provide for any further notice that the Attorney General considers necessary.

(e) Except as provided in subsection (f) of this section, the Attorney General shall pay over to the defendant all of the money from the escrow account if:

(1) the charges against the defendant are dismissed;

(2) a nolle prosequi is entered;

(3) the defendant is acquitted;

(4) the defendant is found to be incompetent to stand trial under § 3-106 of this article and at least 5 years have passed since that finding without a further disposition of the charge; or

(5) the charges against the defendant are placed on the stet docket, and at least 3 years have passed.

(f) Notwithstanding § 11-628 of Part II of this subtitle, if a defendant was convicted before July 1, 1987, the Attorney General shall pay over to the defendant:

(1) all money in the escrow account if:

(i) at least 5 years have passed since the escrow account was established; and

(ii) no action by the victim or victim's representative is pending against the defendant; or

(2) all money remaining in the escrow account after payment of the claims described in § 11-628 of Part II of this subtitle.

§11–625.

(a) The Attorney General shall pay the defendant from the escrow account the money that a court of competent jurisdiction in an order finds will be used to hire legal counsel at any stage of the criminal case, including an appeal.

(b) After notice to each victim or victim's representative, the Attorney General shall pay money from the escrow account to a representative of a defendant for the necessary expenses of production of the money paid into the escrow account if the Attorney General finds that the payments are necessary and are not contrary to public policy.

(c) The Attorney General may pay from the escrow account the costs of legal notices required under § 11-624 of Part II of this subtitle.

(d) The total of all payments made from the escrow account under this section may not exceed 25% of the total payments that are:

(1) made into the escrow account; and

(2) available to satisfy judgments obtained by the victim or victim's representative.

§11–626.

Notwithstanding any other law, including the statute of limitations for a wrongful death action, a victim or victim's representative who seeks to bring a civil action under Part II of this subtitle shall bring the action against a defendant within 5 years after the Attorney General establishes an escrow account.

§11–627.

Any action that a defendant takes to defeat the purpose of Part II of this subtitle, including an execution of a power of attorney, creation of a corporate entity, or designation of the defendant's interest, is void as against public policy.

§11–628.

(a) Notwithstanding any other law, a claim on money in the escrow account has the following priorities in this order:

(1) payments ordered by the Attorney General or a court under § 11-625 of Part II of this subtitle;

(2) subrogation claims of the State under § 11-817 of this title;

(3) a court order of restitution under § 11-603 of this subtitle;

(4) a civil judgment of a victim or victim's representative; and

(5) a civil judgment of a person, other than a victim or victim's representative, arising out of the crime.

(b) The Attorney General may bring an action of interpleader or an action for declaratory judgment when the Attorney General is unable to determine the priority of claims and the proper disposition of the escrow account.

(c) After payment of the claims described in subsection (a) of this section, the Attorney General shall deposit the money remaining in the escrow account in the State Victims of Crime Fund that is established under § 11-916 of this title.

§11–629.

(a) Notwithstanding any other law, the Attorney General has exclusive jurisdiction and control as escrow agent over money or other consideration subject to Part II of this subtitle.

(b) Money in an escrow account may be distributed only by a determination and order of the Attorney General under Part II of this subtitle.

(c) The Attorney General may adopt regulations to carry out Part II of this subtitle.

§11–630.

A person aggrieved by a final determination and order of the Attorney General under Part II of this subtitle may seek judicial review.

§11–631.

(a) A person may not willfully fail:

(1) to submit to the Attorney General a copy of all written terms and a summary of all oral terms of a notoriety of crimes contract described in § 11-622 of Part II of this subtitle; or

(2) to pay over to the Attorney General any money or other consideration as this subtitle requires.

(b) (1) A person who violates this section is subject to a civil penalty of not less than $10,000 for each offense and not exceeding 3 times the notoriety of crimes contract amount.

(2) If two or more persons are subject to the penalties provided in this section, those persons shall be jointly and severally liable for the payment of the penalty imposed.

(3) After notice and opportunity to be heard is provided, the Attorney General by order may assess the penalties described in this subsection.

(4) A penalty assessed under this subsection that is not paid within 30 days after the date of the order shall bear interest at the rate of 1% per month, compounded monthly.

(5) (i) An action to recover a civil penalty assessed under this subsection may be brought by the Attorney General in a court of competent jurisdiction within 6 years after the cause of action accrues.

(ii) Any money recovered under subparagraph (i) of this paragraph shall be paid into the State Victims of Crime Fund that is established under § 11-916 of this title.

§11–632.

(a) The Attorney General may bring a proceeding in a court of competent jurisdiction against a person who violates or threatens to violate Part II of this subtitle to restrain the person from continuing the violation or carrying out the threat.

(b) In a proceeding under this section, a court has jurisdiction to grant to the Attorney General, without bond or other undertaking, a prohibitory or mandatory injunction as the facts may warrant, including temporary restraining orders and preliminary injunctions to prevent payments under a notoriety of crimes contract that violates Part II of this subtitle.

§11–633.

A person may not:

(1) conceal the existence of a notoriety of crimes contract; or

(2) except as otherwise provided in Part II of this subtitle, make or receive payments under a notoriety of crimes contract.

§11–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Board" means the Sexual Offender Advisory Board.

(c) "Employment" means an occupation, job, or vocation that is full time or part time for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) (1) "Habitually lives" means any place where a person lives, sleeps, or visits with any regularity, including where a homeless person is stationed during the day or sleeps at night.

(2) "Habitually lives" includes any place where a person visits for longer than 5 hours per visit more than 5 times within a 30–day period.

(e) "Homeless" means having no fixed residence.

(f) "Imprisonment" means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence.

(g) "Jurisdiction" means a state or a Native American tribe that elects to function as a registration jurisdiction under federal law.

(h) "Local law enforcement unit" means the law enforcement unit in a county that has been designated by resolution of the county governing body as the primary law enforcement unit in the county.

(i) (1) Except as otherwise provided in this subsection, "release" means any type of release from the custody of a supervising authority.

(2) "Release" means:

(i) release on parole;

(ii) mandatory supervision release;

(iii) release from a correctional facility with no required period of supervision;

(iv) work release;

(v) placement on home detention; and

(vi) the first instance of entry into the community that is part of a supervising authority's graduated release program.

(3) "Release" does not include:

(i) an escape; or

(ii) leave that is granted on an emergency basis.

(j) "Sexually violent offense" means:

(1) a violation of § 3–303, § 3–304, § 3–309, or § 3–310 of the Criminal Law Article, or § 3–305, § 3–306, § 3–311, or § 3–312 of the Criminal Law Article as the sections existed before October 1, 2017;

(2) assault with intent to commit rape in the first or second degree or a sexual offense in the first or second degree as prohibited on or before September 30, 1996, under former Article 27, § 12 of the Code; or

(3) a crime committed in another jurisdiction, federal or military court, or foreign country that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection.

(k) "Sexually violent predator" means a person who:

(1) is convicted of a sexually violent offense; and

(2) has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense.

(l) "Sex offender" means a person who has been convicted of:

(1) an offense that would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender;

(2) an offense committed in another state or in a federal, military, or tribal jurisdiction that, if committed in this State, would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender; or

(3) an offense in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if committed in this State, would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender.

(m) "Student" means an individual who is enrolled in or attends an education institution, including a public or private secondary school, trade or professional school, or an institution of higher education.

(n) "Supervising authority" means an agency or person that is responsible for collecting the information for the initial registration of a sex offender and is:

(1) the Secretary, if the registrant is in the custody of a correctional facility operated by the Department;

(2) the administrator of a local correctional facility, if the registrant, including a participant in a home detention program, is in the custody of the local correctional facility;

(3) the court that granted the probation or suspended sentence, except as provided in item (9) of this subsection, if the registrant is granted probation before judgment, probation after judgment, or a suspended sentence;

(4) the Director of the Patuxent Institution, if the registrant is in the custody of the Patuxent Institution;

(5) the Secretary of Health, if the registrant is in the custody of a facility operated by the Maryland Department of Health;

(6) the court in which the registrant was convicted, if the registrant's sentence does not include a term of imprisonment or if the sentence is modified to time served;

(7) the Secretary, if the registrant is in the State under terms and conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

(8) the local law enforcement unit where the sex offender is a resident, is a transient, or habitually lives on moving from another jurisdiction or foreign country that requires registration if the sex offender is not under the supervision, custody, or control of another supervising authority;

(9) the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

(10) the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

(o) "Tier I sex offender" means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of § 3–308 of the Criminal Law Article;

(2) conspiring to commit, attempting to commit, or committing a violation of § 3–902 or § 11–208 of the Criminal Law Article, if the victim is a minor;

(3) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection;

(4) any of the following federal offenses:

(i) misleading domain names on the Internet under 18 U.S.C. § 2252B;

(ii) misleading words or digital images on the Internet under 18 U.S.C. § 2252C;

(iii) engaging in illicit conduct in foreign places under 18 U.S.C. § 2423(c);

(iv) failure to file a factual statement about an alien individual under 18 U.S.C. § 2424;

(v) transmitting information about a minor to further criminal sexual conduct under 18 U.S.C. § 2425;

(vi) sex trafficking by force, fraud, or coercion under 18 U.S.C. § 1591; or

(vii) travel with intent to engage in illicit conduct under 18 U.S.C. § 2423(b);

(5) any military offense specified by the Secretary of Defense under Section 115(A)(8)(C)(i) of Public Law 105–119 (codified at 10 U.S.C. § 951 Note) that is similar to those offenses listed in item (4) of this subsection; or

(6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if the crime were committed in this State, would constitute one of the crimes listed in items (1) through (5) of this subsection.

(p) "Tier II sex offender" means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of § 3–307(a)(4) or (5), § 3–324, § 11–207, or § 11–209 of the Criminal Law Article;

(2) conspiring to commit, attempting to commit, or committing a violation of § 3–1102, § 3–1103, § 11–303, § 11–305, § 11–306, or § 11–307 of the Criminal Law Article, if the intended prostitute or victim is a minor;

(3) conspiring to commit, attempting to commit, or committing a violation of § 3–314 or § 3–603 of the Criminal Law Article, if the victim is a minor who is at least 14 years old;

(4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I sex offender after the person was already registered as a tier I sex offender;

(5) a crime that was committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; or

(6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if the crime were committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection.

(q) "Tier III sex offender" means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of:

(i) § 2–201(a)(4)(viii), (x), or (xi) of the Criminal Law Article;

(ii) § 3–303, § 3–304, § 3–307(a)(1) or (2), § 3–309, § 3–310, § 3–311, § 3–312, § 3–315, § 3–323, or § 3–602 of the Criminal Law Article;

(iii) § 3–502 of the Criminal Law Article, if the victim is a minor;

(iv) § 3–502 of the Criminal Law Article, if the victim is an adult, and the person has been ordered by the court to register under this subtitle;

(v) the common law offense of sodomy, as that offense existed before October 1, 2020, or § 3–322 of the Criminal Law Article if the offense was committed with force or threat of force; or

(vi) § 3–305 or § 3–306 of the Criminal Law Article as the sections existed before October 1, 2017;

(2) conspiring to commit, attempting to commit, or committing a violation of § 3–307(a)(3), § 3–314, § 3–503, or § 3–603 of the Criminal Law Article, if the victim is under the age of 14 years;

(3) conspiring to commit, attempting to commit, or committing the common law offense of false imprisonment, if the victim is a minor;

(4) conspiring to commit, attempting to commit, or committing an offense that would require the person to register as a tier I or tier II sex offender after the person was already registered as a tier II sex offender;

(5) a crime committed in a federal, military, tribal, or other jurisdiction that, if committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection; or

(6) a crime in a court of Canada, Great Britain, Australia, New Zealand, or any other foreign country where the United States Department of State has determined in its Country Reports on Human Rights Practices that an independent judiciary generally or vigorously enforced the right to a fair trial during the year in which the conviction occurred that, if the crime were committed in this State, would constitute one of the crimes listed in items (1) through (3) of this subsection.

(r) "Transient" means a nonresident registrant who enters a county of this State with the intent to be in the State or is in the State for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year for a purpose other than employment or to attend an educational institution.

§11–702.

For the purposes of this subtitle, a person is convicted when the person:

(1) is found guilty of a crime by a jury or judicial officer;

(2) enters a plea of guilty or nolo contendere;

(3) is granted a probation before judgment after a finding of guilt for a crime if the court, as a condition of probation, orders compliance with the requirements of this subtitle; or

(4) is found not criminally responsible for a crime.

§11–702.1.

(a) Notwithstanding any other provision of law to the contrary, this subtitle shall be applied retroactively to include a person who:

(1) is under the custody or supervision of a supervising authority on October 1, 2010;

(2) was subject to registration under this subtitle on September 30, 2010;

(3) is convicted of any felony on or after October 1, 2010, and has a prior conviction for an offense for which registration as a sex offender is required under this subtitle; or

(4) was convicted on or after October 1, 2010, of a violation of § 3–324 of the Criminal Law Article, regardless of whether the victim was a minor.

(b) The term of registration for a sex offender registered under subsection (a) of this section shall be calculated from the date of release.

§11–703.

(a) (1) Subject to subsections (b) and (c) of this section, if a person is convicted of a sexually violent offense, the State's Attorney before sentencing may ask the court to determine whether the person is a sexually violent predator.

(2) If the State's Attorney makes a request under paragraph (1) of this subsection, the court shall determine, before or at sentencing, whether the person is a sexually violent predator.

(b) In making a determination under subsection (a) of this section, the court shall consider:

(1) evidence that the court considers appropriate to the determination of whether the person is a sexually violent predator, including the presentencing investigation and sexually violent offender's inmate record;

(2) evidence introduced by the person convicted; and

(3) at the request of the State's Attorney, evidence that a victim of the sexually violent offense presents.

(c) The State's Attorney may not ask a court to determine whether a person is a sexually violent predator under this section unless the State's Attorney serves written notice of intent to make the request on the defendant or the defendant's counsel at least 30 days before trial.

§11–704.

(a) A person shall register with the person's supervising authority if the person is:

(1) a tier I sex offender;

(2) a tier II sex offender;

(3) a tier III sex offender; or

(4) a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government, and who is not a resident of this State, and who enters this State:

(i) to begin residing or to habitually live;

(ii) to carry on employment;

(iii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full–time or part–time student; or

(iv) as a transient.

(b) Notwithstanding any other provision of law, a person is no longer subject to registration under this subtitle if:

(1) the underlying conviction requiring registration is reversed, vacated, or set aside; or

(2) the registrant is pardoned for the underlying conviction.

(c) (1) A person who has been adjudicated delinquent for an act that, if committed by an adult, would constitute a violation of § 3–303 or § 3–304 of the Criminal Law Article, § 3–305 or § 3–306 of the Criminal Law Article as the sections existed before October 1, 2017, or § 3–307(a)(1) or (2) or § 3–308(b)(1) of the Criminal Law Article involving conduct described in § 3–301(e)(2) of the Criminal Law Article, shall register with the person's supervising authority if:

(i) the person was a minor who was at least 13 years old at the time the delinquent act was committed;

(ii) the State's Attorney or the Department of Juvenile Services requests that the person be required to register;

(iii) 90 days prior to the time the juvenile court's jurisdiction over the person terminates under § 3–8A–07 of the Courts Article, the court, after a

hearing, determines under a clear and convincing evidence standard that the person is at significant risk of committing a sexually violent offense or an offense for which registration as a tier II sex offender or tier III sex offender is required; and

(iv) the person is at least 18 years old.

(2) If the person has committed a delinquent act that would cause the court to make a determination regarding registration under paragraph (1) of this subsection:

(i) the State's Attorney shall serve written notice to the person or the person's counsel at least 30 days before a hearing to determine if the person is required to register under this section; and

(ii) the Department of Juvenile Services shall:

1. provide the court with any information necessary to make the determination; and

2. conduct any follow–up the court requires.

(3) The form of petitions and all other pleadings under this subsection and, except as otherwise provided under Title 3 of the Courts Article, the procedures to be followed by the court under this subsection shall be specified in the Maryland Rules.

(4) The court may order an evaluation of the person in making the determination under paragraph (1) of this subsection.

§11–704.1.

(a) In this section, "juvenile registrant" means a person who is required to be included in the registry of juvenile sex offenders under subsection (b) of this section.

(b) A person shall be included in a registry of juvenile sex offenders that is maintained by the Department separately from the sex offender registry if:

(1) the person has been adjudicated delinquent for an act that, if committed by an adult:

(i) would constitute a violation of § 3–303, § 3–304, or § 3–307(a)(1) or (2) of the Criminal Law Article; or

(ii) would constitute a violation of § 3–305 or § 3–306(a)(1) or (2) of the Criminal Law Article as the sections existed before October 1, 2017; and

(2) the person was a minor who was at least 14 years old at the time the delinquent act was committed.

(c) The registry of juvenile sex offenders shall be accessible only by law enforcement personnel for law enforcement purposes.

(d) When the juvenile court's jurisdiction over a juvenile registrant terminates under § 3–8A–07 of the Courts Article, the juvenile registrant shall be removed from the registry.

(e) A juvenile registrant shall appear in person at a location designated by the Department of Juvenile Services every 3 months to:

(1) update and verify with the Department of Juvenile Services the information included in the registry of juvenile sex offenders under this section; and

(2) allow the Department of Juvenile Services to take a digital image of the juvenile registrant.

§11–704.2.

(a) On written request by a federal agency operating a federal witness security program established under 18 U.S.C. 3521, the registration requirement for a sex offender under the protection of a federal witness security program is waived and the person under protection is exempt from registration.

(b) On written request by a nonfederal agency that operates a witness protection program comparable to a federal program established under 18 U.S.C. 3521, the registration requirement for a sex offender under the protection of a witness protection program is waived and the person under protection is exempt from registration.

(c) A waiver granted under this section is terminated, and registration is required, if a sex offender exempted from registration under this section subsequently is convicted of an offense that requires registration under this subtitle.

§11–705.

(a) In this section, "resident" means a person who has a home or other place where the person habitually lives located in this State when the person:

(1) is released;

(2) is granted probation;

(3) is granted a suspended sentence;

(4) receives a sentence that does not include a term of imprisonment; or

(5) is released from the juvenile court's jurisdiction under § 3–8A–07 of the Courts Article, if the person was a minor who lived in the State at the time the act was committed for which registration is required.

(b) A registrant shall register with the appropriate supervising authority in the State:

(1) if the registrant was sentenced to a term of imprisonment before the date that the registrant is released; or

(2) within 3 days of the date that the registrant:

(i) is granted probation before judgment;

(ii) is granted probation after judgment;

(iii) is granted a suspended sentence; or

(iv) receives a sentence that does not include a term of imprisonment;

(3) if the registrant was a resident who was a minor at the time the act was committed for which registration is required, within 3 days after the juvenile court's jurisdiction over the person terminates under § 3–8A–07 of the Courts Article;

(4) if the registrant moves into the State, within 3 days after the earlier of the date that the registrant:

(i) establishes a temporary or permanent residence in the State;

(ii) begins to habitually live in the State; or

(iii) applies for a driver's license in the State; or

(5) if the registrant is not a resident, within 3 days after the registrant:

(i) begins employment in the State;

(ii) registers as a student in the State; or

(iii) enters the State as a transient.

(c) (1) A sex offender shall also register in person with the local law enforcement unit of each county where the sex offender resides within 3 days of:

(i) release from any period of imprisonment or arrest; or

(ii) registering with the supervising authority, if the registrant is moving into this State and the local law enforcement unit is not the supervising authority.

(2) A sex offender may be required to give to the local law enforcement unit more information than required under § 11–706 of this subtitle.

(d) (1) A homeless registrant also shall register in person with the local law enforcement unit in each county where the registrant habitually lives:

(i) within 3 days after the earlier of the date of release or after registering with the supervising authority; and

(ii) within 3 days after entering and remaining in a county.

(2) After initially registering with a local law enforcement unit under this subsection, a homeless registrant shall register once a week in person during the time the homeless registrant habitually lives in the county.

(3) The registration requirements under this subsection are in addition to any other requirements the homeless registrant is subject to according to the registrant's classification as a tier I sex offender, tier II sex offender, tier III sex offender, or sexually violent predator.

(4) If a registrant who was homeless obtains a fixed address, the registrant shall register with the appropriate supervising authority and local law enforcement unit within 3 days after obtaining a fixed address.

(e) Within 3 days of any change, a registrant shall notify the local law enforcement unit where the registrant most recently registered and each local law enforcement unit where the registrant will reside or habitually live of changes in:

(1) residence;

(2) the county in which the registrant habitually lives;

(3) vehicle or license plate information;

(4) electronic mail or Internet identifiers;

(5) home or cell phone numbers; or

(6) employment.

(f) (1) A registrant who commences or terminates enrollment as a full–time or part–time student at an institution of higher education in the State shall provide notice in person to the local law enforcement unit where the institution of higher education is located within 3 days after the commencement or termination of enrollment.

(2) A registrant who commences or terminates carrying on employment at an institution of higher education in the State shall provide notice in person to the local law enforcement unit where the institution of higher education is located within 3 days after the commencement or termination of employment.

(g) A registrant who is granted a legal change of name by a court shall send written notice of the change to each local law enforcement unit where the registrant resides or habitually lives within 3 days after the change is granted.

(h) A registrant shall notify each local law enforcement unit where the registrant resides or habitually lives at least 21 days prior to leaving the United States to commence residence or employment or attend school in a foreign country.

(i) (1) A registrant shall notify each local law enforcement unit where the registrant resides or habitually lives when the registrant obtains a temporary residence or alters the location where the registrant resides or habitually lives for more than 5 days or when the registrant will be absent from the registrant's residence or location where the registrant resides or habitually lives for more than 7 days.

(2) Notification under this subsection shall:

(i) be made in writing or in person prior to obtaining a temporary residence, commencing the period of absence, or temporarily altering a location where the registrant resides or habitually lives;

(ii) include the temporary address or detailed description of the temporary location where the registrant will reside or habitually live; and

(iii) contain the anticipated dates that the temporary residence or location will be used by the registrant and the anticipated dates that the registrant will be absent from the registrant's permanent residence or locations where the registrant regularly resides or habitually lives.

(j) A registrant who establishes a new electronic mail address, computer log–in or screen name or identity, instant–message identity, or electronic chat room identity shall send written notice of the new information to the State registry within 3 days after the electronic mail address, computer log–in or screen name or identity, instant–message identity, or electronic chat room identity is established.

§11–706.

(a) For all sex offenders in the State, a registration statement shall include:

(1) the registrant's full name, including any suffix, and all addresses and places where the registrant resides or habitually lives;

(2) the name and address of each of the registrant's employers and a description of each location where the registrant performs employment duties, if that location differs from the address of the employer;

(3) the name of the registrant's educational institution or place of school enrollment and the registrant's educational institution or school address;

(4) a description of the crime for which the registrant was convicted;

(5) the date that the registrant was convicted;

(6) the jurisdiction and the name of the court in which the registrant was convicted;

(7) a list of any aliases, former names, names by which the registrant legally has been known, traditional names given by family or clan under ethnic or tribal tradition, electronic mail addresses, computer log–in or screen names or identities, instant–messaging identities, and electronic chat room identities that the registrant has used;

(8) the registrant's Social Security number and any purported Social Security numbers, the registrant's date of birth, purported dates of birth, and place of birth;

(9) all identifying factors, including a physical description;

(10) a copy of the registrant's passport or immigration papers;

(11) information regarding any professional licenses the registrant holds;

(12) the license plate number, registration number, and description of any vehicle, including all motor vehicles, boats, and aircraft, owned or regularly operated by the registrant;

(13) the permanent or frequent addresses or locations where all vehicles are kept;

(14) all landline and cellular telephone numbers and any other designations used by the sex offender for the purposes of routing or self–identification in telephonic communications;

(15) a copy of the registrant's valid driver's license or identification card;

(16) the registrant's fingerprints and palm prints;

(17) the criminal history of the sex offender, including the dates of all arrests and convictions, the status of parole, probation, or supervised release, and the existence of any outstanding arrest warrants; and

(18) the registrant's signature and date signed.

(b) If the registrant is determined to be a sexually violent predator, the registration statement shall also include:

(1) anticipated future residence, if known at the time of registration; and

(2) documentation of treatment received for a mental abnormality or personality disorder.

§11–707.

(a) (1) (i) A tier I sex offender and a tier II sex offender shall register in person every 6 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a digital image that shall be updated every 6 months.

(2) (i) A tier III sex offender shall register in person every 3 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a digital image that shall be updated every 6 months.

(3) (i) A sexually violent predator shall register in person every 3 months with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(ii) Registration shall include a digital image that shall be updated every 6 months.

(4) Subject to subsection (c) of this section, the term of registration is:

(i) 15 years, if the registrant is a tier I sex offender;

(ii) 25 years, if the registrant is a tier II sex offender;

(iii) the life of the registrant, if the registrant is a tier III sex offender; or

(iv) up to 5 years, if the registrant is a person described under § 11–704(c)(1) of this subtitle, subject to reduction by the juvenile court on the filing of a petition by the registrant for a reduction in the term of registration.

(5) A registrant who is not a resident of the State shall register for the appropriate time specified in this subsection or until the registrant's employment, student enrollment, or transient status in the State ends.

(b) A term of registration described in this section shall be computed from:

(1) the last date of release;

(2) the date granted probation;

(3) the date granted a suspended sentence; or

(4) the date the juvenile court's jurisdiction over the registrant terminates under § 3–8A–07 of the Courts Article if the registrant was a minor who lived in the State at the time the act was committed for which registration is required.

(c) The term of registration for a tier I sex offender shall be reduced to 10 years if, in the 10 years following the date on which the registrant was required to register, the registrant:

(1) is not convicted of any offense for which a term of imprisonment of more than 1 year may be imposed;

(2) is not convicted of any sex offense;

(3) successfully completes, without revocation, any period of supervised release, parole, or probation; and

(4) successfully completes an appropriate sex offender treatment program.

§11–708.

(a) When a registrant registers, the supervising authority shall:

(1) give written notice to the registrant of the requirements of this subtitle;

(2) explain the requirements of this subtitle to the registrant, including:

(i) the duties of a registrant when the registrant changes residence address in this State or changes the county in which the registrant habitually lives;

(ii) the duties of a registrant under § 11–705 of this subtitle;

(iii) the requirement for a sex offender to register in person with the local law enforcement unit of each county where the sex offender will reside or habitually live or where the sex offender who is not a resident of this State is a transient or will work or attend school; and

(iv) the requirement that if the registrant changes residence address, employment, or school enrollment to another state that has a registration requirement, the registrant shall register with the designated law enforcement unit or sex offender registration unit of that state within 3 days after the change; and

(3) obtain a statement signed by the registrant acknowledging that the supervising authority explained the requirements of this subtitle and gave written notice of the requirements to the registrant.

(b) (1) The supervising authority shall obtain an updated digital image, fingerprints, and palm prints of the registrant and forward the updated digital image, fingerprints, and palm prints to the Department.

(2) For a registrant who has not submitted a DNA sample, as defined in § 2–501 of the Public Safety Article, for inclusion in the statewide DNA database system of the Department of State Police Crime Laboratory, the supervising authority shall:

(i) obtain a DNA sample from the registrant at the registrant's initial registration; and

(ii) provide the sample to the statewide DNA database system of the Department of State Police Crime Laboratory.

(c) (1) Within 3 days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints, palm prints, and updated digital image of the registrant to the local law enforcement unit in each county where the registrant will reside or habitually live or where a registrant who is not a resident is a transient or will work or attend school.

(2) (i) If the registrant is enrolled in or carries on employment at, or is expecting to enroll in or carry on employment at, an institution of higher education in the State, within 3 days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints, palm prints, and updated digital image of the registrant to the campus police agency of the institution of higher education.

(ii) If an institution of higher education does not have a campus police agency, the copy of the registration statement with the attached fingerprints, palm prints, and updated digital image of the registrant shall be provided to the local law enforcement agency having primary jurisdiction for the campus.

(d) As soon as possible but not later than 3 working days after the registration is complete, a supervising authority that is not a unit of the Department shall send the registration statement to the Department.

§11–709.

(a) (1) (i) Within 3 days after a tier III sex offender or a sexually violent predator completes the registration requirements of § 11–707(a) of this subtitle, a local law enforcement unit shall send notice of the tier III sex offender's or sexually violent predator's quarterly registration to the Department.

(ii) Every 6 months within 3 days after a tier I sex offender or a tier II sex offender completes the registration requirements of § 11–707(a) of this subtitle, a local law enforcement unit shall send notice of the tier I sex offender's or tier II sex offender's biannual registration to the Department.

(2) Every 6 months, a local law enforcement unit shall send a tier III sex offender's and sexually violent predator's updated digital image to the Department within 6 days after the digital image is submitted.

(b) (1) As soon as possible but not later than 3 working days after receiving a registration statement of a sex offender, notice of a change of address of a sex offender, or change in a county in which a homeless sex offender habitually lives, a local law enforcement unit shall send written notice of the registration statement, change of address, or change of county to the county superintendent, as defined in § 1–101 of the Education Article, and all nonpublic primary and secondary schools in the county within 1 mile of where the sex offender is to reside or habitually live or where a sex offender who is not a resident of the State is a transient or will work or attend school.

(2) As soon as possible but not later than 10 working days after receiving notice from the local law enforcement unit under paragraph (1) of this subsection, the county superintendent shall send written notice of the registration statement to principals of the schools under the superintendent's supervision that the superintendent considers necessary to protect the students of a school from a sex offender.

(c) A local law enforcement unit that receives a notice from a supervising authority under this subtitle shall send a copy of the notice to the police department, if any, of a municipal corporation if the registrant:

(1) is to reside or habitually live in the municipal corporation after release;

(2) escapes from a facility but resided or habitually lived in the municipal corporation before being committed to the custody of a supervising authority; or

(3) is to change addresses to another place of residence within the municipal corporation.

(d) As soon as possible but not later than 3 working days after receiving notice from a local law enforcement unit under this section, a police department of a municipal corporation shall send a copy of the notice to the commander of each local police precinct or district in which the sex offender is to reside or habitually live or where a sex offender who is not a resident of the State will work or attend school.

(e) As soon as possible but not later than 3 working days after receiving a notice from a supervising authority under this subtitle, a local law enforcement unit shall send a copy of the notice to the commander of the law enforcement unit in each district or area in which the sex offender is to reside or habitually live or where a sex offender who is not a resident of the State will work or attend school.

(f) A local law enforcement unit may notify the following entities that are located within the community in which a sex offender is to reside or habitually live or where a sex offender who is not a resident of the State will work or attend school of the filing of a registration statement or notice of change of address or county where the registrant will habitually live by the sex offender:

(1) family child care homes or child care centers registered, licensed, or issued a letter of compliance under Title 5, Subtitle 5 of the Family Law Article;

(2) child recreation facilities;

(3) faith institutions; and

(4) other organizations that serve children and other individuals vulnerable to sex offenders who victimize children.

(g) As soon as possible, but not later than 3 working days after receipt of a registrant's change of residence or change in the county in which the registrant habitually lives, the local law enforcement unit shall notify the Department of the change.

(h) As soon as possible, but not later than 3 working days after receipt of notice under § 11–705(e) of this subtitle, the local law enforcement unit shall give notice to the Department of the registrant's intent to change residence, a county in

which the registrant habitually lives, vehicle or license plate information, electronic mail or Internet identifiers, or landline or cellular phone numbers.

(i) As soon as possible, but not later than 3 working days after receipt of notice under § 11–705(g) of this subtitle, the local law enforcement unit shall give notice to the Department of the change of name.

(j) As soon as possible, but not later than 3 working days after receipt of notice under § 11–705(h) of this subtitle, the local law enforcement unit shall give notice to the Department of the registrant's intent to leave the United States.

(k) As soon as possible, but not later than 3 working days after receipt of notice under § 11–705(i) of this subtitle, the local law enforcement unit shall give notice to the Department of the registrant's intent to obtain temporary lodging or to be absent from the registrant's permanent residence or locations where the registrant habitually lives.

§11–710.

(a) As soon as possible but not later than 3 working days after receipt of notice of a registrant's change of address, a county in which a registrant habitually lives, vehicle or license plate information, electronic mail or Internet identifiers, or landline or cellular phone numbers, the Department shall give notice of the change:

(1) if the registration is premised on a conviction under federal, military, or Native American tribal law, to the designated federal unit;

(2) to any other jurisdiction or foreign country where the sex offender is required to register; and

(3) (i) to each local law enforcement unit in whose county the new residence is located or where the registrant intends to habitually live; or

(ii) if the new residence or location where the registrant will habitually live is in a different state that has a registration requirement, to the designated law enforcement unit or sex offender registration unit in that state.

(b) (1) (i) As soon as possible but not later than 3 working days after receipt of notice under § 11–705(f) of this subtitle, the Department shall give notice to the campus police agency of the institution of higher education where the registrant is commencing or terminating enrollment or employment.

(ii) If an institution of higher education does not have a campus police agency, the notice required under this section shall be provided to the local law enforcement unit having primary law enforcement authority for the campus.

(2) Institutions of higher education currently required to disclose campus security policy and campus crime statistics data shall advise the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained.

(3) An institution of higher education is not prohibited from disclosing information provided to the institution under this subtitle concerning registered sex offenders.

(c) As soon as possible but not later than 3 working days after receipt of notice under § 11–705(g) of this subtitle, the Department shall give notice of the change of name:

(1) if the registration is due to a conviction under federal, military, or Native American tribal law, to the designated federal unit;

(2) to each local law enforcement unit in whose county the registrant resides or habitually lives or where a registrant who is not a resident of the State will work or attend school; and

(3) if the registrant is enrolled in or employed at an institution of higher education in the State, to:

(i) the campus police agency of the institution of higher education; or

(ii) if the institution does not have a campus police agency, the local law enforcement unit having primary jurisdiction for the campus.

§11–712.

(a) If a registrant escapes from a facility, the supervising authority of the facility by the most reasonable and expedient means available shall immediately notify:

(1) each local law enforcement unit where the registrant resided or habitually lived before the registrant was committed to the custody of the supervising authority; and

(2) each person who is entitled to receive notice under § 11–715(a) of this subtitle.

(b) If the registrant is recaptured, the supervising authority shall send notice, as soon as possible but not later than 2 working days after the supervising authority learns of the recapture, to:

(1) each local law enforcement unit where the registrant resided or habitually lived before the registrant was committed to the custody of the supervising authority; and

(2) each person who is entitled to receive notice under § 11–715(a) of this subtitle.

§11–713.

The Department:

(1) as soon as possible but not later than 3 working days after receiving the conviction data and fingerprints of a registrant, shall transmit the data and fingerprints to the Federal Bureau of Investigation if the Bureau does not have that information;

(2) shall keep a central registry of registrants and a listing of juvenile sex offenders;

(3) shall weekly transmit the central registry of registrants to the State Department of Education in a format that can be used by the State Superintendent to cross–reference with the database of licensed child care centers, registered family child care homes, and approved Child Care Subsidy Program informal providers;

(4) shall reimburse local law enforcement units for the cost of processing the registration statements of registrants, including the cost of taking fingerprints, palm prints, and digital images;

(5) shall reimburse local law enforcement units for the reasonable costs of implementing community notification procedures;

(6) shall be responsible for receiving and distributing all intrastate, federal, and foreign government communications relating to the registration of sex offenders; and

(7) shall notify all jurisdictions where the registrant will reside, carry on employment, or attend school within 3 days of changes in the registrant's registration.

§11–714.

A registration statement given to a person under this subtitle shall include a copy of the completed registration form and a copy of the registrant's digital image, but need not include the fingerprints or palm prints of the registrant.

§11–715.

(a) (1) On request for a copy of a registration statement about a specific person, the supervising authority shall send a copy to:

(i) each witness who testified against the registrant in a court proceeding involving the crime; and

(ii) each person specified in writing by the State's Attorney.

(2) Subject to paragraph (3) of this subsection, the supervising authority shall send a copy of a registration statement to each:

(i) victim of the crime for which the registrant was convicted; or

(ii) if the victim is a minor, the parents or legal guardian of the victim.

(3) A copy of the registration statement shall be sent if:

(i) a request is made in writing about a specific registrant; or

(ii) a notification request form has been filed under § 11-104 of this title.

(b) Information about a person who receives a copy of a registration statement under this section is confidential and may not be disclosed to the registrant or any other person.

(c) A supervising authority shall send a notice required under subsection (a)(2) of this section or § 11-712(a)(2) or (b)(2) of this subtitle to the last address given to the supervising authority.

§11–716.

(a) Subject to subsection (b) of this section, on written request to a local law enforcement unit, the unit shall send to the person who submitted the request one copy of the registration statement of each registrant on record with the unit.

(b) A request under subsection (a) of this section shall contain:

(1) the name and address of the person who submits the request; and

(2) the reason for the request.

(c) A local law enforcement unit shall keep records of all written requests received under subsection (a) of this section.

§11–717.

(a) (1) The Department shall make available to the public registration statements or information about registration statements.

(2) Information about registration statements shall include, in plain language that can be understood without special knowledge of the criminal laws of the State, a factual description of the crime of the offender that is the basis for the registration, excluding details that would identify the victim.

(3) Registration information provided to the public may not include a sex offender's Social Security number, driver's license number, medical or therapeutic treatment, travel and immigration document numbers, and arrests not resulting in conviction.

(b) The Department shall post on the Internet:

(1) a current listing of each registrant's name and other identifying information; and

(2) in plain language that can be understood without special knowledge of the criminal laws of the State, a factual description of the crime of the offender that is the basis for the registration, excluding details that would identify the victim.

(c) The Department, through an Internet posting of current registrants, shall:

(1) allow the public to electronically transmit information the public may have about a registrant to the Department, a parole agent of a registrant, and each local law enforcement unit where a registrant resides or habitually lives or where a registrant who is not a resident of the State will work or attend school; and

(2) provide information regarding the out–of–state registration status for each registrant who is also registered in another state as available through a national sex offender public registry website.

(d) The Department shall allow members of the public who live in a county in which a registrant is to reside or habitually live or where the registrant, if not a resident of the State, will work or attend school, by request, to receive electronic mail notification of the release from incarceration of the registered offender and the registration information of the offender.

(e) The Department shall establish regulations to carry out this section.

§11–718.

(a) (1) If the Department or a local law enforcement unit finds that, to protect the public from a specific registrant, it is necessary to give notice of a registration statement, a change of address of the registrant, or a change in a county in which the registrant habitually lives to a particular person not otherwise identified under § 11–709 of this subtitle, then the Department or a local law enforcement unit shall give notice of the registration statement to that person.

(2) This notice is in addition to the notice required under § 11–709(b)(1) of this subtitle.

(b) (1) The Department and local law enforcement units shall establish procedures to carry out the notification requirements of this section, including the circumstances under and manner in which notification shall be provided.

(2) Appropriate notification procedures include those identified in § 11-709 of this subtitle.

(c) A local law enforcement unit and the Department may not release the identity of a victim of a crime that requires registration under this subtitle.

(d) A disclosure under this section does not limit or prohibit any other disclosure allowed or required under law.

§11–719.

An elected public official, public employee, or public unit has the immunity described in §§ 5-302 and 5-522 of the Courts Article regarding civil liability for damages arising out of any action relating to the provisions of this subtitle, unless it is proven that the official, employee, or unit acted with gross negligence or in bad faith.

§11–720.

With advice from the Criminal Justice Information Advisory Board established under § 10-207 of this article, the Secretary shall adopt regulations to carry out this subtitle.

§11–721.

(a) A registrant may not knowingly fail to register, knowingly fail to provide the notice required under § 11–705 of this subtitle, knowingly fail to provide any information required to be included in a registration statement described in § 11–706 of this subtitle, or knowingly provide false information of a material fact as required by this subtitle.

(b) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both; and

(2) for a second or subsequent offense, is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both.

(c) A person who violates this section is subject to § 5–106(b) of the Courts Article.

§11–722.

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

(2) "County board" has the meaning stated in § 1–101 of the Education Article.

(3) "State Board" has the meaning stated in § 1–101 of the Education Article.

(b) This section does not apply to a registrant who enters real property:

(1) where the registrant's child is a student or receives child care, if:

(i) within the past year the registrant has been given the specific written permission of the Superintendent of Schools, the local school board, the principal of the school, or the owner or operator of the registered family child care home, licensed child care home, or licensed child care institution, as applicable; and

(ii) the registrant promptly notifies an agent or employee of the school, home, or institution of the registrant's presence and purpose of visit; or

(2) for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote and the registrant's polling place is at the school.

(c) Except as provided in subsection (e) of this section, a registrant may not knowingly enter onto real property:

(1) that is used for public or nonpublic elementary or secondary education; or

(2) on which is located:

(i) a family child care home registered under Title 5, Subtitle 5 of the Family Law Article;

(ii) a child care home or a child care institution licensed under Title 5, Subtitle 5 of the Family Law Article; or

(iii) a home where informal child care, as defined in child care subsidy regulations adopted under Title 13A of the Code of Maryland Regulations, is being provided or will be provided to a child who does not reside there.

(d) A person who enters into a contract with a county board or a nonpublic school may not knowingly employ an individual to work at a school if the individual is a registrant.

(e) (1) A registrant who is a student may receive an education in accordance with State law in any of the following locations:

(i) a location other than a public or nonpublic elementary or secondary school, including by:

1. participating in the Home and Hospital Teaching Program for Students; or

2. participating in or attending a program approved by a county board under paragraph (2) of this subsection;

(ii) a Regional Institute for Children and Adolescents; or

(iii) a nonpublic educational program as provided by § 8–406 of the Education Article if:

1. the registrant has notified an agent or employee of the nonpublic educational program that the registrant is required to register under this subtitle; and

2. the registrant has been given specific written permission by an agent or employee of the nonpublic educational program to attend the nonpublic educational program.

(2) Each county board shall develop and adopt a policy that enables a registrant who is a student to receive an education as described under paragraph (1) of this subsection.

(3) The State Board shall develop and adopt guidelines and a model policy to assist a county board with the development of a policy under paragraph (2) of this subsection.

(f) A person who violates subsection (c) or (d) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

§11–723.

(a) Except where a term of natural life without the possibility of parole is imposed, a sentence for the following persons shall include a term of lifetime sexual offender supervision:

(1) a person who is a sexually violent predator;

(2) a person who has been convicted of a violation of:

(i) § 3–303 or § 3–304 of the Criminal Law Article; or

(ii) § 3–305 or § 3–306(a)(1) or (2) of the Criminal Law Article as the sections existed before October 1, 2017;

(3) a person who has been convicted of a violation of § 3–309 or § 3–310 of the Criminal Law Article, § 3–311 of the Criminal Law Article as the section existed before October 1, 2017, or an attempt to commit a violation of § 3–306(a)(1) or (2) of the Criminal Law Article as the section existed before October 1, 2017;

(4) a person who has been convicted of a violation of § 3–602 of the Criminal Law Article involving a child under the age of 12 years;

(5) a person who is required to register under § 11–704(c) of this subtitle; and

(6) a person who has been convicted more than once arising out of separate incidents of a crime that requires registration under this subtitle.

(b) Except where a term of natural life without the possibility of parole is imposed, a sentence for a violation of § 3–307(a)(1) or (2) of the Criminal Law Article may include a term of lifetime sexual offender supervision.

(c) (1) Except as provided in paragraph (2) of this subsection, the term of lifetime sexual offender supervision imposed on a person for a crime committed on or after October 1, 2010, shall:

(i) be a term of life; and

(ii) commence on the expiration of the later of any term of imprisonment, probation, parole, or mandatory supervision.

(2) For a person who is required to register under § 11–704(c) of this subtitle, the term of lifetime sexual offender supervision imposed for an act committed on or after October 1, 2010, shall:

(i) commence when the person's obligation to register commences; and

(ii) expire when the person's obligation to register expires, unless the juvenile court:

1. finds after a hearing that there is a compelling reason for the supervision to continue; and

2. orders the supervision to continue for a specified period of time.

(d) (1) For a sentence that includes a term of lifetime sexual offender supervision, the sentencing court, or juvenile court in the case of a person who is required to register under § 11–704(c) of this subtitle, shall impose special conditions of lifetime sexual offender supervision on the person at the time of sentencing, or imposition of the registration requirement in juvenile court, and advise the person of the length, conditions, and consecutive nature of that supervision.

(2) Before imposing special conditions, the sentencing court or juvenile court shall order:

(i) a presentence investigation in accordance with § 6–112 of the Correctional Services Article; and

(ii) for a sentence for a violation of § 3–307(a)(1) or (2) of the Criminal Law Article, a risk assessment of the person conducted by a sexual offender treatment provider.

(3) The conditions of lifetime sexual offender supervision may include:

(i) monitoring through global positioning satellite tracking or equivalent technology;

(ii) where appropriate and feasible, restricting a person from living in proximity to or loitering near schools, family child care homes, child care centers, and other places used primarily by minors;

(iii) restricting a person from obtaining employment or from participating in an activity that would bring the person into contact with minors;

(iv) requiring a person to participate in a sexual offender treatment program;

(v) prohibiting a person from using illicit drugs or alcohol;

(vi) authorizing a parole and probation agent to access the person's personal computer to check for material relating to sexual relations with minors;

(vii) requiring a person to take regular polygraph examinations;

(viii) prohibiting a person from contacting specific individuals or categories of individuals; and

(ix) any other conditions deemed appropriate by the sentencing court or juvenile court.

(4) The sentencing court or juvenile court may adjust the special conditions of lifetime sexual offender supervision, in consultation with the person's sexual offender management team.

§11–724.

(a) A person subject to lifetime sexual offender supervision may not knowingly or willfully violate the conditions of the lifetime sexual offender supervision imposed under § 11–723 of this subtitle.

(b) A person who violates any conditions imposed under § 11–723 of this subtitle:

(1) for a first offense, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both; and

(2) for a second or subsequent offense, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $10,000 or both.

(c) Imprisonment for a lifetime sexual offender supervision violation is not subject to diminution credits.

(d) (1) A violation of subsection (a) of this section does not discharge a person from lifetime sexual offender supervision.

(2) On release from a sentence imposed under subsection (b) of this section, a person remains on lifetime sexual offender supervision, subject to the original terms of supervision, until discharged under subsection (f) of this section.

(e) During the period of lifetime sexual offender supervision, the court may:

(1) remand the person to a correctional facility or release the person with or without bail pending the hearing or determination of a charge of violation of a condition of lifetime sexual offender supervision; and

(2) if the court finds that the person committed a violation of a condition of supervision, impose a sentence as prescribed in subsection (b) of this section.

(f) (1) The sentencing court shall hear and adjudicate a petition for discharge from lifetime sexual offender supervision.

(2) A person may file a petition for discharge after serving at least 5 years of extended sexual offender supervision.

(3) If a petition for discharge is denied, a person may not renew the petition for a minimum of 1 year.

(4) A petition for discharge shall include:

(i) a risk assessment of the person conducted by a sexual offender treatment provider within 3 months before the date of the filing of the petition; and

(ii) a recommendation regarding the discharge of the person from the sexual offender management team.

(5) (i) The sentencing court may not deny a petition for discharge without a hearing.

(ii) The court may not discharge a person from lifetime sexual offender supervision unless the court makes a finding on the record that the petitioner is no longer a danger to others.

(6) (i) The judge who originally imposed the lifetime sexual offender supervision shall hear a petition for discharge.

(ii) If the judge has been removed from office, has died or resigned, or is otherwise incapacitated, another judge may act in the matter.

§11–725.

(a) Under the supervision of the Division of Parole and Probation, a sexual offender management team shall conduct lifetime sexual offender supervision and the supervision of probation, parole, or mandatory release of a person subject to lifetime sexual offender supervision.

(b) A sexual offender management team:

(1) consists of:

(i) a specially trained parole and probation agent; and

(ii) a representative of a sexual offender treatment program or provider; and

(2) may include:

(i) victim advocates or victim service providers with recognized expertise in sexual abuse and victimization;

(ii) faith counselors;

(iii) employment counselors;

(iv) community leaders;

(v) a polygraph examiner with recognized expertise in sexual offender–specific polygraph examination;

(vi) a law enforcement officer;

(vii) an assistant State's Attorney;

(viii) an assistant public defender; and

(ix) a foreign or sign language interpreter.

(c) (1) A sexual offender management team shall submit a progress report on each person under supervision to the sentencing court, or juvenile court in the case of a person who is required to register under § 11–704(c) of this subtitle, once every 6 months.

(2) Unless disclosure of a report would be in violation of laws regarding confidentiality of treatment records, a sexual offender management team shall provide copies of each progress report to local law enforcement units of the county in which the person resides.

§11–726.

The Department of Public Safety and Correctional Services shall adopt regulations necessary to carry out the duties of the Department relating to lifetime sexual offender supervision under this subtitle.

§11–727.

(a) Unless waived by the State's Attorney and defense counsel, before sentencing a defendant who is required to register under § 11–704 of this subtitle for a violation of § 3–602 of the Criminal Law Article, the court shall order the defendant to submit to:

(1) a presentence investigation conducted by the Division of Parole and Probation; and

(2) a mental health assessment, including whether the defendant is a danger to self or others, conducted by a qualified mental health professional employed or engaged by the Maryland Department of Health.

(b) The court shall consider the presentence investigation and mental health evaluation when sentencing the defendant.

§11–801.

(a) In this subtitle the following words have the meanings indicated.

(b) "Board" means the Criminal Injuries Compensation Board.

(c) "Claimant" means the person filing a claim under this subtitle.

(d) (1) "Crime" means:

(i) except as provided in paragraph (2) of this subsection, a criminal offense under state, federal, or common law that is committed in:

1. this State; or

2. another state against a resident of this State; or

(ii) an act of international terrorism as defined in Title 18, § 2331 of the United States Code that is committed outside of the United States against a resident of this State.

(2) "Crime" does not include an act involving the operation of a vessel or motor vehicle unless the act is:

(i) a violation of § 20–102, § 20–104, § 21–902, or § 21–904 of the Transportation Article;

(ii) a violation of § 8–738 of the Natural Resources Article;

(iii) a violation of the Criminal Law Article;

(iv) operating a motor vehicle or vessel that results in an intentional injury; or

(v) a violation of federal law or the law of another state that is substantially equivalent to a violation under this paragraph, as required under 34 U.S.C. § 20102(b)(5) and (6).

(e) "Dependent" means:

(1) a surviving spouse or child of a person; or

(2) a person who is dependent on another person for principal support.

(f) "Executive Director" means the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services.

(g) "Victim" means a person:

(1) who suffers physical injury or death as a result of a crime or delinquent act;

(2) who suffers psychological injury as a direct result of:

(i) a fourth degree sexual offense or a delinquent act that would be a fourth degree sexual offense if committed by an adult;

(ii) a felony or a delinquent act that would be a felony if committed by an adult; or

(iii) physical injury or death directly resulting from a crime or delinquent act; or

(3) who suffers physical injury or death as a direct result of:

(i) trying to prevent a crime or delinquent act or an attempted crime or delinquent act from occurring in the person's presence;

(ii) trying to apprehend an offender who had committed a crime or delinquent act in the person's presence or had committed a felony or a delinquent act that would be a felony if committed by an adult; or

(iii) helping a law enforcement officer in the performance of the officer's duties or helping a member of a fire department who is being obstructed from performing the member's duties.

§11–802.

(a) The General Assembly finds:

(1) that many innocent persons suffer personal physical or psychological injury or die because of crimes or delinquent acts or in their efforts to prevent them or apprehend persons committing or attempting to commit them;

(2) that these persons or their dependents may as a result suffer disability, incur financial hardships, or become reliant on public assistance; and

(3) that there is a need for government financial assistance for these victims.

(b) The policy of the State is that help, care, and support be provided by the State, as a matter of moral responsibility, for these victims.

§11–803.

The Executive Director may designate a person to carry out the duties of the Executive Director.

§11–804.

(a) There is a Criminal Injuries Compensation Board in the Governor's Office of Crime Prevention, Youth, and Victim Services.

(b) (1) The Board consists of five members.

(2) Of the five members of the Board:

(i) one shall be a family member of a homicide victim;

(ii) no more than four may belong to the same political party; and

(iii) one shall have been admitted to practice law in the State for at least 5 years immediately preceding the appointment.

(3) The Executive Director shall appoint the members of the Board, with the approval of the Governor and the advice and consent of the Senate.

(c) (1) The term of a member is 5 years.

(2) A member who is appointed to fill a vacancy occurring other than by expiration of a term serves for the rest of the unexpired term.

(d) (1) With the approval of the Governor, the Executive Director shall designate one member of the Board as chairman.

(2) The chairman serves at the pleasure of the Executive Director.

(e) (1) Each member of the Board shall devote the time necessary to perform the duties listed under this subtitle.

(2) Each member of the Board is entitled to:

(i) compensation in accordance with the State budget; and

(ii) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§11–805.

(a) Subject to the authority of the Executive Director, the Board has the following powers and duties:

(1) to establish and maintain an office and to appoint and prescribe the duties of a claims examiner, a secretary, clerks, and any other employees and agents as may be necessary;

(2) to adopt regulations to carry out the provisions and purposes of this subtitle, including procedures for the review and evaluation of claims and regulations for the approval of attorneys' fees for representation before the Board or before the court on judicial review;

(3) to request from the State's Attorney, the Department of State Police, or county or municipal police departments any investigation and information that will help the Board to determine:

(i) whether a crime or a delinquent act was committed or attempted; and

(ii) whether and to what extent the victim or claimant was responsible for the victim's or claimant's own injury;

(4) to hear and determine each claim for an award filed with the Board under this subtitle and to reinvestigate or reopen a case as the Board determines to be necessary;

(5) to direct medical examination of victims;

(6) to hold hearings, administer oaths, examine any person under oath, and issue subpoenas requiring the attendance and testimony of witnesses or requiring the production of documents or other evidence;

(7) to take or cause to be taken affidavits or depositions within or outside the State; and

(8) to submit each year to the Governor, to the Executive Director, and, subject to § 2–1257 of the State Government Article, to the General Assembly a written report of the activities of the Board.

(b) Except as otherwise provided by law, an employee of the Board is subject to the State Personnel and Pensions Article.

(c) (1) The Board may delegate to a member or employee of the Board its powers under this section to hold hearings, administer oaths, examine a person under oath, and issue subpoenas.

(2) A subpoena issued under this section is subject to the Maryland Rules.

§11–806.

(a) Except as provided under subsection (b) of this section, the record of a proceeding before the Board or a Board member is a public record.

(b) If the confidentiality of a record or report that the Board obtains is protected by law or regulation, the record or report shall remain confidential, subject to the law or regulation.

§11–807.

(a) In this section, "law enforcement unit" means:

(1) the Department of State Police;

(2) the Police Department of Baltimore City;

(3) the police department, bureau, or force of a county;

(4) the police department, bureau, or force of a municipal corporation;

(5) the office of the sheriff of a county;

(6) the office of the State's Attorney for a county;

(7) the Office of the Attorney General; or

(8) the Office of the State Prosecutor.

(b) When a report of a violent crime is filed with a law enforcement unit, the law enforcement unit shall give to a victim of that violent crime written information that the Board supplies about compensation for victims.

(c) A failure to comply with this section is not grounds for any civil or criminal action against a law enforcement unit.

§11–808.

(a) (1) Except as provided in paragraph (2) of this subsection, the following persons are eligible for awards in the manner provided under this subtitle:

(i) a victim;

(ii) a dependent of a victim who died as a direct result of:

1. a crime or delinquent act;

2. trying to prevent a crime or delinquent act or an attempted crime or delinquent act from occurring in the victim's presence or trying to apprehend a person who had committed a crime or delinquent act in the victim's presence or had committed a felony or a delinquent act that would be considered a felony if committed by an adult; or

3. helping a law enforcement officer perform the officer's duties or helping a member of a fire department who is obstructed from performing the member's duties;

(iii) any person who paid or assumed responsibility for the funeral expenses of a victim who died as a direct result of:

1. a crime or delinquent act;

2. trying to prevent a crime or delinquent act or an attempted crime or delinquent act from occurring in the victim's presence or trying to apprehend a person who had committed a crime or delinquent act in the victim's presence or had committed a felony; or

3. helping a law enforcement officer perform the officer's duties or helping a member of a fire department who is obstructed from performing the member's duties; and

(iv) 1. a parent, child, or spouse of a victim who resides with the victim; or

2. a parent, child, or spouse of an individual who is incarcerated for abuse as defined in § 4-501 of the Family Law Article and who, prior to incarceration:

A. resided with the parent, child, or spouse; and

B. provided financial support to the parent, child, or spouse.

(2) A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award with respect to the claim.

(b) A resident of the State is eligible for an award under this subtitle if the resident becomes a victim in another state other than this State that:

(1) does not operate a criminal injuries compensation program;

(2) operates a criminal injuries compensation program for which the victim is ineligible; or

(3) operates a criminal injuries compensation program for which money has not been appropriated or made available.

(c) (1) A person eligible to receive an award under subsection (a) or (b) of this section may file a claim under this subtitle.

(2) If a person eligible to receive an award is under 18 years of age, the person's parent or guardian may file a claim under this subtitle.

(3) If a person eligible to receive an award is mentally incompetent, the person's guardian or other person authorized to administer the person's estate may file the claim on the person's behalf.

§11–809.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a claimant shall file a claim within 3 years after the later of:

(i) the discovery of the occurrence of the crime or delinquent act or the death of the victim; or

(ii) the earlier of:

1. the date the claimant discovered an attempt to obtain a reversal of a conviction, a sentence, or an adjudication for the crime or delinquent act; or

2. the date the claimant, exercising ordinary diligence, should have discovered an attempt to obtain a reversal of a conviction, a sentence, or an adjudication for the crime or delinquent act.

(2) In a case of child abuse, a claimant may file a claim:

(i) up to the date the child who was the subject of the abuse reaches the age of 25 years; or

(ii) if the Board determines that there was good cause for failure to file a claim before the date the child who was the subject of the abuse reached the age of 25 years, at any time.

(3) In a case of sexual assault, a claimant may file a claim at any time if the Board determines that there was good cause for failure to file a claim within the time limits provided under paragraphs (1) and (2) of this subsection.

(b) (1) Claims shall be filed in the office of the Board:

(i) in person;

(ii) by mail; or

(iii) electronically, in the manner provided under procedures established by the Board.

(2) The Board shall:

(i) accept for filing each claim that meets the requirements of this subtitle and the regulations of the Board; and

(ii) notify the claimant within 10 days after receipt of the claim.

(c) (1) (i) In this subsection, "debt collection activities" means:

1. repeatedly calling or writing to a claimant or other person eligible for benefits associated with a claim and threatening to refer the unpaid health care matter, funeral expense, or other death–related expense to a debt collection agency or an attorney for collection; or

2. filing a legal action or pursuing any legal process or legal proceeding.

(ii) "Debt collection activities" does not include routine billing or inquiries about the status of the claim.

(2) When a claimant files a claim under this subtitle, all health care providers, as defined in § 3–2A–01 of the Courts Article and § 4–301(h) of the Health – General Article and persons that have provided funeral or death–related services in relation to the death of a victim, that have been given notice of a pending claim shall refrain from all debt collection activities relating to the claim until a final decision is made by the Executive Director on the claim.

(3) On filing by a party of a notice of a claim filed under this subtitle, a court shall stay all proceedings in an action related to health care or funeral or death–related services provided to a claimant in connection with the claim until the court is notified that a final decision on the claim has been made.

(4) Claimants under this subtitle are protected under the Maryland Consumer Debt Collection Act in Title 14, Subtitle 2 of the Commercial Law Article.

(5) (i) A health care provider or person that has provided funeral or death–related services who receives notice that a claim has been filed under this subtitle may notify the Board in writing of the debt owed by the claimant in connection with the claim.

(ii) If a health care provider or person that has provided funeral or death–related services notifies the Board under subparagraph (i) of this paragraph, the Board shall notify the health care provider or person that has provided funeral or death–related services in writing when a final decision is made on the claim.

(6) After a final decision on the claim under this subtitle, a health care provider or person that has provided funeral or death–related services that has received notice of a pending claim under this subtitle may engage in debt collection activities or file a civil action in court until the later of:

(i) the expiration of the time for filing a civil action in court; or

(ii) 6 months after the date of the final decision on the claim under this subtitle.

§11–810.

(a) (1) The Board may make an award only if the Board finds that:

(i) a crime or delinquent act was committed;

(ii) the crime or delinquent act directly resulted in:

1. physical injury to or death of the victim; or

2. psychological injury to the victim that necessitated mental health counseling;

(iii) police, other law enforcement, or judicial records show that the crime or delinquent act or the discovery of child abuse was reported to the proper authorities within 48 hours after the occurrence of the crime or delinquent act or the discovery of the child abuse; and

(iv) the victim has cooperated fully with all law enforcement units.

(2) For good cause, the Board may waive the requirements of paragraph (1)(iii) and (iv) of this subsection.

(b) Unless total dependency is established, family members are considered to be partly dependent on a parent with whom they reside without regard to actual earnings.

(c) The Board may make an award only if the claimant, as a result of the injury on which the claim is based, has:

(1) incurred at least $100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for:

(i) medical care;

(ii) expenses for eyeglasses and other corrective lenses;

(iii) mental health counseling;

(iv) funeral expenses;

(v) repairing, replacing, or cleaning property;

(vi) disability or dependent claim; or

(vii) other necessary services; or

(2) lost at least $100 in earnings or support.

(d) (1) (i) Except as provided under subparagraph (ii) of this paragraph, in considering a claim and in determining the amount of an award, the Board shall determine whether the victim's conduct contributed to the infliction of the victim's injury, and, if so, reduce the amount of the award or reject the claim.

(ii) The Board may disregard the responsibility of the victim for the victim's own injury if that responsibility is attributable to efforts by the victim:

1. to prevent a crime or delinquent act or an attempted crime or delinquent act from occurring in the victim's presence; or

2. to apprehend an offender who had committed a crime or delinquent act in the victim's presence or had committed a felony or delinquent act that would be a felony if committed by an adult.

(2) A claimant filing for injuries incurred as the occupant of a motor vehicle or a dependent of an occupant of a motor vehicle operated in violation of § 21–902 of the Transportation Article may not receive an award unless the claimant proves that the occupant did not know or could not have known of the condition of the operator of the vehicle.

(3) A claimant may not receive an award if:

(i) the victim initiated, consented to, provoked, or unreasonably failed to avoid a physical confrontation with the offender; or

(ii) the victim was participating in a crime or delinquent act when the injury was inflicted.

(e) (1) A victim or dependent may not be denied compensation solely because the victim:

(i) is a relative of the offender; or

(ii) was living with the offender as a family member or household member at the time of the injury or death.

(2) If the Board can reasonably determine that the offender will not receive any economic benefit or undue enrichment from the compensation, the Board may award compensation to a victim or dependent who is a relative, family member, or household member of the offender.

§11–811.

(a) (1) (i) Except as otherwise provided in this subsection, an award under this subtitle shall be made in accordance with the schedule of benefits, as it existed on January 1, 2001, and degree of disability as specified in Title 9, Subtitle 6 of the Labor and Employment Article and any other applicable provisions of the Labor and Employment Article, except for Title 9, Subtitle 8 of the Labor and Employment Article.

(ii) For determining the amount of an award under this subtitle, the term "average weekly wages" does not include tips, gratuities, and wages that are undeclared on the claimant's State or federal income tax returns for the applicable years.

(iii) If a claimant does not have "average weekly wages" to qualify under the formula in Title 9, Subtitle 6 of the Labor and Employment Article,

the award shall be in an amount equal to the average of the maximum and minimum awards listed in the applicable portion of that subtitle.

(2) An award for loss of earnings or support made under this subtitle may be up to two–thirds of the victim's gross average wage, but may not be less than the amount provided in paragraph (1) of this subsection.

(3) The parent or guardian of a victim who is a child and who resides with the victim may be eligible for an award of up to 30 days of lost earnings as a result of caring for the victim.

(4) An award for funeral expenses may not exceed $7,500.

(5) Subject to the limitation under subsection (b)(3) of this section and § 11–812 of this subtitle, a person who is eligible for an award as the result of the death of a victim or psychological injury may be eligible, under the regulations that the Board adopts, to receive psychiatric, psychological, or mental health counseling.

(6) Subject to the limitation under subsection (b)(6) of this section and § 11–812 of this subtitle, a parent, child, or spouse of a victim who resides with the victim and who is eligible for an award as the result of the injury of a victim is eligible to receive psychiatric, psychological, or mental health counseling.

(7) Subject to the limitation under subsection (b)(7) of this section and § 11–812 of this subtitle, a parent, child, or spouse of a victim who died as a direct result of a crime or delinquent act is eligible for an award of up to 2 weeks of lost average weekly wages.

(b) Compensation awarded under this subtitle may not exceed:

(1) for a disability–related or dependency–related claim:

(i) except as provided in item (ii) of this paragraph, $25,000; or

(ii) if the injury to the victim results in permanent total disability, up to an additional $25,000 after a disability–related claim has been awarded to the victim;

(2) $45,000 for a medical claim;

(3) $10,000 for each claimant for psychiatric, psychological, or mental health counseling under subsection (a)(5) of this section;

(4) except as provided in item (1)(ii) of this subsection, a total of $45,000, including any subsequent and supplemental awards;

(5) $250 for each claimant for repair, replacement, or cleaning of property damaged, soiled, or littered as a result of a crime or law enforcement investigation of a crime;

(6) for an award for psychiatric, psychological, or mental health counseling made under subsection (a)(6) of this section:

(i) $10,000 for each claimant; and

(ii) $20,000 for each incident; or

(7) $2,000 for lost average weekly wage claims made under subsection (a)(7) of this section.

(c) An award made under this subtitle shall be reduced by the amount of any payments received or to be received as a result of the injury:

(1) from or on behalf of the offender;

(2) except as provided in item (3) of this subsection, from any other public or private source, including an award of the State Workers' Compensation Commission under the Maryland Workers' Compensation Act;

(3) from any proceeds of life insurance in excess of $25,000; or

(4) as an emergency award under § 11–813 of this subtitle.

(d) If there are two or more persons entitled to an award as a result of the death of a victim, the award shall be apportioned among the claimants.

(e) The Board may negotiate a settlement with:

(1) a health care provider for the medical and medically related expenses; or

(2) a person that has provided funeral or death–related services in relation to the death of a victim.

§11–812.

(a) The Board may not make an award unless money is appropriated and available for the full amount of the award.

(b) If a multiyear award is made, the total amount of the award shall be obligated and held for the time necessary to complete payment in accordance with the provisions of the award.

(c) If payment of an award is terminated for any reason after June 30 of the fiscal year in which the award was made, the rest of the award shall revert to the Criminal Injuries Compensation Fund established under § 11-819 of this subtitle.

§11–813.

(a) The Board may make an emergency award to the claimant before making a final decision in the case, if the Board determines, before taking action on the claim, that:

(1) an award likely will be made on the claim; and

(2) the claimant will suffer undue hardship unless immediate payment is made.

(b) (1) The amount of an emergency award under this section:

(i) may not exceed $5,000; and

(ii) shall be deducted from any final award made to the claimant.

(2) Except as provided in paragraph (3) of this subsection, a claimant shall repay the Board:

(i) the excess of the amount of the emergency award over any final award; or

(ii) if a final award is not made, all of the emergency award.

(3) On written request by a claimant, for a compelling reason the Board may waive the requirement that a claimant repay an emergency award under paragraph (2) of this subsection.

§11–814.

(a) Within 30 days after the receipt of a claim, the Board shall notify the claimant if additional material is required.

(b) (1) Except as provided in paragraph (2) of this subsection, within 90 days after the receipt of a claim and all necessary supporting material, the Board shall:

(i) complete the review and evaluation of each claim; and

(ii) file with the Executive Director a written report setting forth the decision and the reasons in support of the decision.

(2) For good cause shown, for a period not to exceed 1 year the Board may extend the time to file its report with the Executive Director after receipt of the claim and all necessary supporting material until the first to occur of the following events:

(i) the claimant no longer has expenses related to the crime; or

(ii) the claimant has been awarded the maximum amount authorized under §§ 11–811(b) and 11–812 of this subtitle.

(c) Within 30 days after the receipt of a written report from the Board, the Executive Director shall modify, affirm, or reverse the decision of the Board.

(d) The decision of the Executive Director to affirm, modify, or reverse the decision of the Board is final.

(e) The claimant shall be given a copy of the final report on request.

§11–815.

(a) A claim under this subtitle is subject to the applicable provisions of the Administrative Procedure Act.

(b) If a claimant requests a hearing after the Board has issued proposed findings of fact, conclusions of law, or orders, the Board shall hold a hearing in accordance with the applicable provisions of the Administrative Procedure Act before the Board issues final findings of fact, conclusions of law, or orders.

(c) Within 30 days after the final decision of the Executive Director, a claimant aggrieved by that decision may appeal the decision under §§ 10–222 and 10–223 of the State Government Article.

§11–816.

(a) An award under this subtitle shall be paid in the manner that the Board specifies in its decision.

(b) An award under this subtitle is not subject to execution or attachment other than for expenses resulting from the injury that is the basis for the claim.

(c) In each case under this subtitle that provides for compensation to an employee or the employee's dependent, the Board may convert the compensation to be paid in a partial or total lump sum without discount, if in the Board's opinion the facts and circumstances of the case warrant.

§11–816.1.

(a) Notwithstanding any other provision of this title, only the provisions of § 11–1007 of this title and any applicable regulations adopted to carry out the provisions of that section apply to reimbursement for forensic examinations and other eligible expenses for cases involving rape, sexual offenses, or child sexual abuse.

(b) As required under § 11–1007 of this title, the Board shall pay for forensic examinations and other eligible expenses for cases involving rape, sexual offenses, or child sexual abuse.

§11–817.

Acceptance of an award made under this subtitle subrogates the State, to the extent of the award, to any right or right of action of the claimant or the victim to recover payments on account of losses resulting from the crime or delinquent act with respect to which the award is made, including the right to recover restitution ordered under § 11-603 of this title.

§11–818.

(a) A person may not assert a false claim under this subtitle.

(b) A person who violates this section:

(1) is guilty of a misdemeanor and on conviction is subject to a fine not less than $500 or imprisonment not exceeding 1 year or both; and

(2) shall forfeit any benefit received and reimburse the State for payments received or paid on the person's behalf under this subtitle.

§11–819.

(a) (1) There is a Criminal Injuries Compensation Fund.

(2) The Fund consists of:

(i) money distributed to the Fund from the additional court costs collected from defendants under § 7–409 of the Courts Article;

(ii) any investment earnings or federal matching funds received by the State for criminal injuries compensation; and

(iii) funds made available to the Fund from any other source.

(3) The Fund is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(4) The Treasurer shall separately hold the Fund and the Comptroller shall account for it.

(5) The Fund shall be invested and reinvested in the same manner as other State Funds.

(6) The Fund is subject to audit by the Office of Legislative Audits as provided in § 2–1220 of the State Government Article.

(b) The Criminal Injuries Compensation Fund:

(1) shall be used to:

(i) carry out the provisions of this subtitle; and

(ii) distribute restitution payments forwarded to the Fund under § 9–614 of the Correctional Services Article; and

(2) may be used for:

(i) any award given under this subtitle; and

(ii) the costs of carrying out this subtitle.

(c) This section does not prohibit the Fund from receiving money from any other source.

§11–901.

(a) In Part I of this subtitle the following words have the meanings indicated.

(b) "Fund" means the Victim and Witness Protection and Relocation Fund.

(c) "Program" means the Victim and Witness Protection and Relocation Program.

§11–902.

There is a Victim and Witness Protection and Relocation Program.

§11–903.

The State's Attorneys' Coordinator shall carry out the Program in accordance with regulations that the State's Attorneys' Coordination Council adopts under § 15–205 of this article.

§11–904.

(a) Money appropriated to the Program shall be used:

(1) to protect victims and witnesses and the families of victims and witnesses;

(2) to relocate victims and witnesses to protect them or to facilitate their participation in court proceedings; and

(3) to pay the costs of carrying out the Program.

(b) To the extent possible, the Program shall be used to maximize the use of federal matching funds or programs.

(c) Expenditures under this section shall be made in accordance with the State budget.

§11–905.

(a) There is a Victim and Witness Protection and Relocation Fund.

(b) The Fund shall be used to pay for the Program.

§11–906.

(a) (1) The Fund is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall separately hold the Fund and the Comptroller shall account for it.

(b) (1) The Fund shall be invested and reinvested in the same manner as other State funds.

(2) Any investment earnings or federal matching funds received by the State for victim and witness protection or relocation shall be credited to the Fund.

(c) This section does not prohibit the Fund from receiving money from any source.

§11–907.

Both the Program and the Fund are subject to an audit by the Office of Legislative Audits under § 2-1220 of the State Government Article.

§11–910.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Board" means the State Board of Victim Services.

(c) (1) "Crime" means conduct that is a crime under:

(i) common law;

(ii) § 109 of the Code of Public Local Laws of Caroline County;

(iii) § 4-103 of the Code of Public Local Laws of Carroll County;

(iv) § 8A-1 of the Code of Public Local Laws of Talbot County; or

(v) except as provided in paragraph (2) of this subsection, the Annotated Code.

(2) "Crime" does not include a violation of the Transportation Article that is not punishable by a term of confinement.

(d) "Executive Director" means the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services.

(e) "Fund" means the State Victims of Crime Fund.

(f) (1) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a direct result of a crime or of a violation of § 21-902 of the Transportation Article.

(2) "Victim" includes a family member of a minor, incompetent, or homicide victim.

§11–911.

There is a State Board of Victim Services in the Governor's Office of Crime Prevention, Youth, and Victim Services.

§11–912.

(a) The Board consists of the following 22 members:

(1) as ex officio members:

(i) the Governor or the Governor's designee;

(ii) the Attorney General or the Attorney General's designee;

(iii) the chairman of the Maryland Criminal Injuries Compensation Board;

(iv) the Secretary of Human Services or the Secretary's designee;

(v) the Secretary of Juvenile Services or the Secretary's designee;

(vi) the Secretary of Public Safety and Correctional Services or the Secretary's designee; and

(vii) the Executive Director or the Executive Director's designee;

(2) 14 persons appointed by the Governor as follows:

(i) two State's Attorneys, recommended by the Attorney General;

(ii) six members of the public, recommended by the Executive Director;

(iii) four professional victim service providers, recommended by the Executive Director;

(iv) one representative of the Maryland Chiefs of Police; and

(v) one representative of the Maryland State Sheriffs' Association; and

(3) one member of the judiciary of the State, appointed by the Chief Judge of the Court of Appeals.

(b) (1) The term of an appointed member is 5 years.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Board on October 1, 2001.

(3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) The Governor may remove a member for incompetence or misconduct.

(d) The Governor or the Governor's designee shall serve as chairman.

§11–913.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board sets the times and places of its meetings.

(c) A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§11–914.

Subject to the authority of the Executive Director, the Board shall:

(1) submit to the Governor an annual written report of its activities, including its administration of the Fund;

(2) monitor the service needs of victims;

(3) advise the Governor on the needs of victims;

(4) recommend the appointment of the Victim Services Coordinator to the Executive Director;

(5) review and approve the Victim Services Coordinator's plans and annual reports, and the Victim Services Coordinator's implementation, operation, and revision of programs;

(6) approve or disapprove each grant application submitted by the Governor's Office of Crime Prevention, Youth, and Victim Services;

(7) advise the State's Attorneys' Coordination Council on the adoption of regulations governing the administration of the Victim and Witness Protection and Relocation Program established under § 11–902 of this subtitle;

(8) advise the State's Attorneys' Coordinator on the administration of the Victim and Witness Protection and Relocation Program;

(9) (i) develop pamphlets to notify victims and victim's representatives of the rights, services, and procedures provided under Article 47 of the Maryland Declaration of Rights or State law, how to request information regarding an unsolved case, and how to request that an offender be placed on electronic monitoring or electronic monitoring with victim stay–away alert technology, including:

1. one pamphlet relating to the MDEC system protocol registration process and the time before and after the filing of a charging document other than an indictment or information in circuit court; and

2. a second pamphlet relating to the time after the filing of an indictment or information in circuit court; and

(ii) develop a poster to notify victims of the right to request a private room in a law enforcement agency or unit to report crimes under Title 3 of the Criminal Law Article; and

(10) develop a notification request form and an MDEC system protocol in consultation with the Administrative Office of the Courts, through which a victim or victim's representative may request to be notified under § 11–104 of this title.

§11–915.

(a) The Executive Director shall appoint a Victim Services Coordinator.

(b) Subject to the authority of the Executive Director, the Victim Services Coordinator shall:

(1) provide staff support to the Board on victim services matters;

(2) monitor, assess, and make recommendations on State and local victim compensation programs and procedures;

(3) provide technical assistance to local public and private programs that provide victim assistance;

(4) research and gather data on victims and victim assistance programs, and disseminate the data to the public;

(5) submit to the Governor, the Attorney General, the Secretary of Public Safety and Correctional Services, and the Board an annual report that includes recommendations on how to improve victim assistance programs;

(6) ensure that the rights of victims are observed;

(7) help victims to get the information to which they have a right; and

(8) monitor compliance with the guidelines for treatment of and assistance to victims and witnesses under §§ 11-1002 and 11-1003 of this title.

(c) The Victim Services Coordinator is entitled to compensation as provided in the State budget.

§11–916.

(a) There is a State Victims of Crime Fund.

(b) (1) The Fund shall be used to pay for:

(i) carrying out Article 47 of the Maryland Declaration of Rights;

(ii) carrying out the guidelines for the treatment and assistance for victims and witnesses of crimes and delinquent acts provided in §§ 11–1002 and 11–1003 of this title;

(iii) carrying out any laws enacted to benefit victims and witnesses of crimes and delinquent acts; and

(iv) supporting child advocacy centers established under § 11–923(h) of this subtitle.

(2) The Fund may pay for the administrative costs of the Fund.

(c) The Board shall administer the Fund.

(d) Grants awarded by the Board shall be equitably distributed among all purposes of the Fund described in subsection (b) of this section.

§11–917.

(a) (1) The Fund is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(3) The Comptroller shall make payments from the Fund that the Board approves.

(b) (1) The Fund shall be invested and reinvested in the same manner as other State funds.

(2) Any investment earnings shall be credited to the Fund.

(c) This section does not prohibit the Fund from receiving money from any source.

§11–918.

(a) The Fund is subject to an audit by the Office of Legislative Audits under § 2-1220 of the State Government Article.

(b) Disbursements from the Fund shall supplement and may not be a substitute for any State, local government, or other funds existing on July 1, 1991, for assistance to crime victims or witnesses.

§11–919.

(a) There is a grant program.

(b) The Governor's Office of Crime Prevention, Youth, and Victim Services shall:

(1) adopt regulations for the administration and award of grants under Part II of this subtitle; and

(2) submit all approved grant applications to the Board.

(c) The Board shall:

(1) approve each grant application received by the Governor's Office of Crime Prevention, Youth, and Victim Services before any money is released from the Fund;

(2) ensure that the money obtained from unclaimed restitution under § 17–317(a)(3)(i) of the Commercial Law Article is used for annual grants to provide legal counsel to victims of crimes and delinquent acts to protect the victims' rights as provided by law; and

(3) ensure that grants to child advocacy centers established under § 11–923(h) of this subtitle shall:

(i) support the development and operation of child advocacy centers; and

(ii) supplement and not supplant money that the child advocacy centers receive from other sources.

§11–922.

In this part, "sexual assault" means rape or a sexual offense in any degree that is specified in §§ 3–303 through 3–310, § 3–314, or § 3–315 of the Criminal Law Article.

§11–923.

(a) The General Assembly finds that an increasing number of sexual assault offense victims in the State:

(1) lack necessary counseling and follow–up services; and

(2) in some parts of the State, have only the help of extremely limited support services.

(b) The purpose of this section is to provide for sexual assault crisis programs that address the special needs of sexual assault victims.

(c) (1) The Governor's Office of Crime Prevention, Youth, and Victim Services shall help establish sexual assault crisis programs in the State.

(2) The programs shall be developed and located to facilitate their use by alleged victims residing in surrounding areas.

(3) The programs shall:

(i) provide specialized support services to adult and minor alleged victims of sexual assault crimes;

(ii) include a hotline and counseling service;

(iii) provide information to alleged victims of sexual assault crimes regarding:

1. criminal prosecutions of sexual assault crimes;

2. civil law remedies available to victims of sexual assault;

3. sexual assault evidence collection; and

4. victim rights; and

(iv) participate in the sexual assault response team in each county in which the program regularly provides services.

(d) The Governor's Office of Crime Prevention, Youth, and Victim Services may award grants to public or private nonprofit organizations to operate the sexual assault crisis programs certified by the federally recognized State sexual assault coalition.

(e) The Governor's Office of Crime Prevention, Youth, and Victim Services shall regularly consult, collaborate with, and consider the recommendations of the federally recognized State sexual assault coalition regarding sexual assault crisis programs and policies, practices, and procedures that impact victims of sexual assault.

(f) (1) Money for the sexual assault crisis programs shall be as provided in the annual State budget and shall be used to supplement, but not supplant, money that the programs receive from other sources.

(2) Except as provided in paragraph (3) of this subsection, in each fiscal year the Governor shall include in the annual budget bill an appropriation of not less than $3,000,000 for the federally recognized State sexual assault coalition and sexual assault crisis programs funded under this section.

(3) In each fiscal year beginning with fiscal year 2019, the Governor shall include in the annual budget bill submitted to the General Assembly a General Fund appropriation for sexual assault crisis programs funded under this section in an amount not less than the appropriation made for the sexual assault crisis programs in the immediately preceding fiscal year, increased by not less than the percentage by which the projected total General Fund revenues for the upcoming fiscal year exceed the revised estimate of total General Fund revenues submitted by the Board of Revenue Estimates to the Governor under § 6–106(b) of the State Finance and Procurement Article.

(4) (i) If a federally recognized State sexual assault coalition and sexual assault crisis program receive a new award of funds under the federal Victims of Crime Act for a purpose for which funds are appropriated under paragraphs (2) and (3) of this subsection, the Governor may reduce the appropriation required under paragraphs (2) and (3) of this subsection by the amount received under the federal Victims of Crime Act.

(ii) The reduction authorized under this paragraph may not exceed 40% of the appropriation required under paragraphs (2) and (3) of this subsection.

(iii) The Governor may not reduce the appropriation under this paragraph if the funds received under the federal Victims of Crime Act have been

awarded on or before June 1, 2017, or are awarded for continuation of services previously funded by the federal Victims of Crime Act.

(5) An appropriation made under this subsection shall be allocated as follows:

(i) at least $100,000 to the federally recognized State sexual assault coalition;

(ii) at least $100,000 to each of the sexual assault crisis programs provided for in subsection (d) of this section; and

(iii) the balance of the appropriation to be distributed to the sexual assault crisis programs provided for in subsection (d) of this section with each sexual assault crisis program receiving a proportionate share relative to the number of individuals who reside in the geographic area regularly served by the sexual assault crisis program.

(g) The Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services shall include a report on the sexual assault crisis programs in the annual report submitted by the Governor's Office of Crime Prevention, Youth, and Victim Services to the General Assembly, in accordance with § 2–1257 of the State Government Article.

§11–924.

(a) The nearest facility to which a victim of sexual assault may be taken shall be designated by the Maryland Department of Health in cooperation with:

(1) the Medical and Chirurgical Faculty of the State of Maryland; and

(2) the State's Attorney in the subdivision where the sexual assault occurred.

(b) (1) A police officer, sheriff, or deputy sheriff who receives a report of an alleged sexual assault shall offer the alleged victim the opportunity to be taken immediately to the nearest facility.

(2) The offer shall be made without regard for the place of the alleged sexual assault or where it is reported.

§11–925.

Applicable health care services shall be given without charge to a victim of sexual abuse, as provided under § 11–1007 of this title.

§11–926.

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

(2) "Child advocacy center" has the meaning stated in § 13–2201 of the Health – General Article.

(3) "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

(b) A health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault shall provide the victim with:

(1) contact information for the investigating law enforcement agency that the victim may contact about the status and results of the kit analysis; and

(2) written information describing the laws and policies governing the testing, preservation, and disposal of a sexual assault evidence collection kit.

(c) An investigating law enforcement agency that receives a sexual assault evidence collection kit, within 30 days after a request by the victim from whom the evidence was collected, shall provide the victim with:

(1) information about the status of the kit analysis; and

(2) all available results of the kit analysis except results that would impede or compromise an ongoing investigation.

(d) (1) A sexual assault evidence collection kit shall be transferred to a law enforcement agency:

(i) by a hospital or a child advocacy center within 30 days after the exam is performed; or

(ii) by a government agency in possession of a kit, unless the agency is otherwise required to retain the kit by law or court rule.

(2) Except as provided in paragraph (3) of this subsection, within 20 years after the evidence is collected, a law enforcement agency may not destroy or dispose of:

(i) a sexual assault evidence collection kit; or

(ii) other crime scene evidence relating to a sexual assault that has been identified by the State's Attorney as relevant to prosecution.

(3) A law enforcement agency is not required to comply with the requirements in paragraph (2) of this subsection if:

(i) the case for which the evidence was collected resulted in a conviction and the sentence has been completed; or

(ii) all suspects identified by testing a sexual assault evidence collection kit are deceased.

(4) On written request by the victim from whom the evidence was collected, a law enforcement agency with custody of a sexual assault evidence collection kit or other crime scene evidence relating to a sexual assault shall:

(i) notify the victim no later than 60 days before the date of intended destruction or disposal of the evidence; or

(ii) retain the evidence for 12 months longer than the time period specified in paragraph (2) of this subsection or for a time period agreed to by the victim and the law enforcement agency.

(e) A sexual assault evidence collection kit shall be submitted to a forensic laboratory for analysis unless:

(1) there is clear evidence disproving the allegation of sexual assault;

(2) the facts alleged, if true, could not be interpreted to violate a provision of Title 3, Subtitle 2, Title 3, Subtitle 3, Title 3, Subtitle 6, or Title 11, Subtitle 3 of the Criminal Law Article;

(3) the victim from whom the evidence was collected declines to give consent for analysis; or

(4) the suspect's profile has been collected for entry as a convicted offender for a qualifying offense in the Combined DNA Index System (CODIS) maintained by the Federal Bureau of Investigation and the suspect has pleaded guilty to the offense that led to the sexual assault evidence collection kit.

(f) (1) If a victim of sexual assault wishes to remain anonymous and not file a criminal complaint, the victim shall be informed that the victim may file a criminal complaint at a future time.

(2) If a provision of subsection (e) of this section is determined to be satisfied after the submission of the victim's sexual assault evidence collection kit for analysis, testing may be terminated or not initiated.

(g) Except as provided in subsection (e) of this section, an investigating law enforcement agency that receives a sexual assault evidence collection kit shall:

(1) submit the kit and all requested associated reference standards to a forensic laboratory for analysis within 30 days of receipt of the kit and all requested associated reference standards; and

(2) make use of certified sexual assault crisis programs or other qualified community–based sexual assault victim service organizations that can provide services and support to survivors of sexual assault.

(h) (1) (i) A forensic laboratory that receives a sexual assault evidence collection kit and all requested associated reference standards for analysis shall determine suitability and complete screening, testing, and analysis in a timely manner.

(ii) Failure to complete the screening, testing, and analysis in a timely manner as required in subparagraph (i) of this paragraph may not constitute the basis for excluding the analysis or results as evidence in a criminal proceeding.

(2) Forensic laboratories shall report annually to the Maryland Sexual Assault Evidence Kit Policy and Funding Committee regarding the duration required to complete testing, beginning with receipt of the kit until a report is prepared, of each sexual assault evidence collection kit.

(i) (1) The eligible results of an analysis of a sexual assault evidence collection kit shall be entered into CODIS.

(2) The DNA collected from a victim under this section may not be used for any purpose except as authorized by this section.

(j) The Attorney General shall adopt regulations for uniform statewide implementation of this section.

§11–927.

(a) In this section, "Committee" means the Maryland Sexual Assault Evidence Kit Policy and Funding Committee.

(b) The General Assembly finds that:

(1) there is a lack of consistent policies regarding sexual assault evidence collection in the State;

(2) effective policies regarding collection of medical forensic evidence are an important component of providing sexual assault victims with access to justice and of holding the perpetrators of sexual assaults accountable;

(3) sexual assault evidence collection exams are unavailable at many hospitals;

(4) there is a shortage of forensic nurse examiners qualified to perform sexual assault evidence collection;

(5) law enforcement agencies lack a uniform approach for testing and retaining sexual assault evidence kits;

(6) hospitals, law enforcement agencies, and others in the justice system lack the resources and funding necessary to ensure consistency in sexual assault evidence collection; and

(7) policies regarding sexual assault evidence collection are part of the justice system and require coordination with multiple State agencies and victim services providers.

(c) The purposes of this section are to:

(1) provide for a statewide sexual assault evidence kit policy and funding committee to increase access to justice for sexual assault victims;

(2) hold the perpetrators of sexual assault accountable;

(3) increase availability of sexual assault evidence collection exams; and

(4) create effective statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases.

(d) (1) There is a Maryland Sexual Assault Evidence Kit Policy and Funding Committee.

(2) The Committee consists of the following members:

(i) the following members of the Senate of Maryland, appointed by the President of the Senate, as ex officio members:

1. one member of the Senate Budget and Taxation Committee; and

2. one member of the Senate Judicial Proceedings Committee;

(ii) the following members of the House of Delegates, appointed by the Speaker of the House, as ex officio members:

1. one member of the House Appropriations Committee; and

2. one member of the House Judiciary Committee;

(iii) the Attorney General, or the Attorney General's designee;

(iv) the Superintendent of the State Police, or the Superintendent's designee;

(v) the Secretary of Human Services, or the Secretary's designee who has expertise in responding to child sexual abuse;

(vi) the Secretary of Health, or the Secretary's designee who has expertise in the procurement of sexual assault evidence kits;

(vii) the Executive Director of the Criminal Injuries Compensation Board, or the Executive Director's designee;

(viii) the following members appointed by the Attorney General:

1. one representative of the Maryland State's Attorneys' Association;

2. the Executive Director of the Maryland Coalition Against Sexual Assault, or the Executive Director's designee;

3. one representative of the Maryland Association of Chiefs of Police;

4. one representative of a legal services program or agency that works primarily to represent sexual assault victims;

5. one forensic nurse examiner who works in a county in which there is more than one hospital; and

6. one representative of a crime lab who has expertise in sexual assault forensic evidence kit analysis; and

(ix) the following members appointed by the Governor:

1. one representative of the State Board of Nursing who has expertise in forensic nursing; and

2. one representative of the Governor's Office of Crime Prevention, Youth, and Victim Services.

(3) The Attorney General, or the Attorney General's designee, is the Committee chair.

(4) A member of the Committee:

(i) may not receive compensation as a member of the Committee; but

(ii) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(5) (i) The term of an appointed member of the Committee is 4 years.

(ii) The terms of the appointed members are staggered as required by the terms provided for members of the Committee on June 1, 2017.

(iii) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(iv) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) A majority of the authorized membership of the Committee is a quorum.

(7) (i) The Committee shall meet quarterly at the times and places that the Committee determines.

(ii) The Committee may hold additional meetings at the call of the Committee chair or any six members of the Committee after giving proper notice in the manner provided in the rules of the Committee.

(e) (1) The Committee shall develop and disseminate best practices information and recommendations regarding:

(i) the testing and retention of sexual assault evidence collection kits;

(ii) coordination between State agencies, victim services providers, local law enforcement, and local sexual assault response teams;

(iii) payment for sexual assault evidence collection kits;

(iv) increasing the availability of sexual assault evidence collection exams for alleged victims of sexual assault;

(v) reducing the shortage of forensic nurse examiners;

(vi) increasing the availability of information to sexual assault victims regarding:

1. criminal prosecutions of sexual assault crimes;

2. civil law remedies available to victims of sexual assault;

3. sexual assault evidence collection kits; and

4. victim rights;

(vii) creating and operating a statewide sexual assault evidence collection kit tracking system that is accessible to victims of sexual assault and law enforcement; and

(viii) establishing an independent process to review and make recommendations regarding a decision of a law enforcement agency not to test a sexual assault evidence collection kit.

(2) The Committee may adopt rules governing the administration and proceedings of the Committee.

(f) The Attorney General, in consultation with the Committee, shall adopt regulations based on the Committee's recommendations providing for the collection, testing, and retention of sexual assault evidence collection kits in the State.

(g) (1) The Committee shall evaluate State and local funding needs to determine whether funding allocations are sufficient and appropriate to implement the best practices developed by the Committee under subsection (e) of this section and the regulations adopted by the Attorney General under subsection (f) of this section.

(2) The Committee's evaluation under this subsection shall include considerations of whether the costs associated with hospital personnel training and the availability of sexual assault examinations may be included as part of a hospital's required community benefit.

(h) In fiscal year 2018 and in each fiscal year thereafter, the Governor shall include funds in the State budget to implement this section, including funds to:

(1) employ a full–time Assistant Attorney General to:

(i) staff the Committee; and

(ii) assist with the implementation of regulations adopted under this section; and

(2) operate and maintain an office.

(i) On or before January 1 annually, beginning January 1, 2019, the Committee shall report on the Committee's activities during the prior fiscal year to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

§11–928.

(a) The Governor's Office of Crime Prevention, Youth, and Victim Services shall establish and sustain child advocacy centers in the State and ensure that every child in the State has access to a child advocacy center.

(b) The child advocacy centers:

(1) may be based in private nonprofit organizations, local departments of social services, local law enforcement agencies, or a partnership among any of these entities;

(2) shall be developed and located to facilitate their use by alleged victims residing in the surrounding areas;

(3) shall assist in the response to or investigation of allegations of sexual crimes against children under Title 3, Subtitle 3 of the Criminal Law Article and sexual abuse of minors under Title 3, Subtitle 6 of the Criminal Law Article and Title 5, Subtitle 7 of the Family Law Article;

(4) may assist in the response to or investigation of allegations of child abuse and neglect under Title 3, Subtitle 6 of the Criminal Law Article and Title 5, Subtitle 7 of the Family Law Article and allegations of a crime of violence in the presence of a minor under § 3–601.1 of the Criminal Law Article;

(5) shall provide a level of care that meets or exceeds the national accreditation standards for child advocacy centers established by the Maryland Statewide Organization for Child Advocacy Centers under subsection (d) of this section; and

(6) shall be included in all joint investigation procedures developed in accordance with § 5–706 of the Family Law Article.

(c) The Governor's Office of Crime Prevention, Youth, and Victim Services may contract with public or private nonprofit organizations to operate child advocacy centers.

(d) (1) The Governor's Office of Crime Prevention, Youth, and Victim Services shall contract with a nonprofit organization that is qualified under § 501(c)(3) of the Internal Revenue Code and represents urban, rural, and suburban child advocacy centers in the State to establish a Maryland Statewide Organization for Child Advocacy Centers.

(2) The purpose of the Maryland Statewide Organization for Child Advocacy Centers is to provide training, technical assistance, data collection, and capacity building to meet local, State, and national requirements for child advocacy centers.

(3) The Maryland Statewide Organization for Child Advocacy Centers shall establish standards for child advocacy centers in the State that meet national accreditation standards for child advocacy centers and shall include:

(i) multidisciplinary teams that include representation from law enforcement, prosecutors, child protective services, the medical and mental health fields, and victim advocacy;

(ii) cultural competency and diversity;

(iii) forensic interviews that are neutral, fact–finding, and avoid duplicative interviewing;

(iv) victim support and advocacy for children and caregivers, including appropriate counseling, legal, and medical services or referrals;

(v) medical evaluations;

(vi) mental health services;

(vii) a formal case review process;

(viii) a case tracking, monitoring, and outcomes process;

(ix) organizational capacity;

(x) creating a child–focused setting that is comfortable, safe, and private; and

(xi) any additional necessary standards.

(e) Money for child advocacy centers:

(1) shall be distributed to child advocacy centers in accordance with a formula agreed on by the Maryland Statewide Organization for Child Advocacy Centers and the Governor's Office of Crime Prevention, Youth, and Victim Services;

(2) shall be used to supplement, not supplant, money that the program receives from other sources; and

(3) may be used to assist child advocacy centers in meeting the standards under subsection (d) of this section.

(f) On or before June 1 each year, the Governor's Office of Crime Prevention, Youth, and Victim Services shall submit an annual report, in accordance with § 2–1257 of the State Government Article, on child advocacy centers to the General Assembly.

§11–929.

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

(2) "Law enforcement agency" has the meaning stated in § 3–201(d) of the Public Safety Article.

(3) "Sexually assaultive behavior" has the meaning stated in § 10–923 of the Courts Article.

(4) "Victim" means any person suspected to have been subjected to sexually assaultive behavior or who claims to have been subjected to sexually assaultive behavior.

(b) In an interaction with a victim, a law enforcement agency may not present to the victim a form purporting to:

(1) relieve the law enforcement agency of an obligation to the victim;

(2) preclude or define the scope of an investigation by the law enforcement agency into an act allegedly committed against the victim;

(3) prevent or limit a prosecution of an act allegedly committed against the victim; or

(4) limit a private right of action of the victim pertaining to an act allegedly committed against the victim or the victim's interaction with the law enforcement agency.

(c) If a victim requests that the scope of an investigation be limited or that an investigation be temporarily or permanently suspended, the law enforcement agency shall:

(1) thoroughly document the request; and

(2) follow up with the victim in accordance with practices recommended by the Maryland Police Training and Standards Commission.

(d) If a law enforcement agency violates this section, an affected victim may bring an action seeking injunctive or declaratory relief.

(e) (1) On or before January 1, 2021, each law enforcement agency in the State shall adopt a policy to enforce the provisions of this section.

(2) On or before January 15, 2021, each law enforcement agency shall provide a copy of the policy required under this subsection to the Maryland Sexual Assault Evidence Kit Policy and Funding Committee.

§11–930.

(a) In this part the following words have the meanings indicated.

(b) "Certifying entity" means:

(1) a State or local law enforcement agency;

(2) a State's Attorney or deputy or assistant State's Attorney;

(3) any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; or

(4) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including child protective services, the Commission on Civil Rights, and the Maryland Department of Labor.

(c) "Certifying official" means:

(1) the head of a certifying entity;

(2) an individual in a supervisory role who has been specifically designated by the head of a certifying entity to provide U Nonimmigrant Status certifications on behalf of that entity; or

(3) any other certifying official defined under Title 8, § 214.14(a)(3)(i) of the Code of Federal Regulations.

(d) "Qualifying crime" includes a criminal offense for which the nature and elements of the offense are substantially similar to the criminal activity described in subsection (e) of this section and the attempt, conspiracy, or solicitation to commit the offense.

(e) "Qualifying criminal activity" means criminal activity under § 1101(a)(15)(U)(iii) of the United States Code.

§11–931.

(a) For purposes of filing a petition with the United States Citizenship and Immigration Services for U Nonimmigrant Status, a victim or the victim's parent,

guardian, or next friend may request a certifying official of a certifying entity to certify victim helpfulness on a Form I–918, Supplement B certification if the victim:

(1) was a victim of a qualifying criminal activity and has been helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity;

(2) was under the age of 16 years on the date that an act that constitutes an element of qualifying criminal activity first occurred and the victim's parent, guardian, or next friend has been helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity; or

(3) is incapacitated or incompetent and the victim's parent, guardian, or next friend has been helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity.

(b) For purposes of determining helpfulness under subsection (a) of this section, if the victim or the victim's parent, guardian, or next friend is assisting, has assisted, or is likely to assist law enforcement authorities in the detection, investigation, or prosecution of qualifying criminal activity, the victim or the victim's parent, guardian, or next friend shall be considered to be helpful, to have been helpful, or likely to be helpful.

(c) If the victim or the victim's parent, guardian, or next friend satisfies the criteria specified under subsection (a) of this section, the certifying official shall fully complete and sign the Form I–918, Supplement B certification and, with respect to victim helpfulness, include:

(1) specific details about the nature of the crime investigated or prosecuted;

(2) a detailed description of the victim's helpfulness or likely helpfulness to the detection, investigation, or prosecution of the criminal activity; and

(3) copies of any documents in the possession of the certifying official that evince the harm endured by the victim due to the criminal activity.

(d) (1) Except as provided in paragraph (2) of this subsection, the certifying entity shall certify or decline certification of the Form I–918, Supplement B certification within 90 days after receiving a request under subsection (a) of this section.

(2) If a noncitizen victim is the subject of removal, exclusion, or deportation proceedings or subject to a final order of removal, exclusion, or

deportation, the certifying entity shall certify or decline certification of the Form I–918, Supplement B certification within 14 days after receiving a request under subsection (a) of this section.

(e) A current investigation, the filing of charges, a prosecution, or a conviction is not required for a victim or the victim's parent, guardian, or next friend to request and obtain the Form I–918, Supplement B certification under this section.

(f) A certifying official may withdraw the certification provided under this section only on refusal to provide information and assistance when reasonably requested of:

(1) the victim; or

(2) the victim's parent, guardian, or next friend if the victim was under the age of 16 years on the date that an act that constitutes an element of qualifying criminal activity first occurred or if the victim is incapacitated or incompetent.

(g) A certifying entity may disclose information relating to a victim who is seeking or has obtained U Nonimmigrant Status only:

(1) in order to comply with federal law, court order, or a discovery obligation in the prosecution of a criminal offense; or

(2) after adult petitioners for U Nonimmigrant Status or adult U Nonimmigrant Status holders have provided written consent for the disclosure of the information.

(h) (1) Except in cases of willful or wanton misconduct, a certifying entity or certifying official who acts or fails to act in good faith in compliance with this section has the immunity from liability described under § 5–643 of the Courts Article.

(2) A person who brings an action to seek enforcement of this section may not be awarded attorney's fees or costs unless the action demonstrates willful or wanton misconduct by a certifying entity or certifying official.

§11–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Crime" means conduct that is a crime under the law of this State or federal law.

(c) (1) "Disposition" means the sentencing or determination of penalty or punishment to be imposed on a person convicted of a crime or against whom a finding of sufficient facts for conviction is made.

(2) "Disposition" includes dismissal of charges or other disposition under a plea bargain agreement.

(d) "Restitution" means money or services that a defendant is ordered to pay or render to a victim, victim's representative, or other person or governmental unit.

(e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.

(f) "Victim's representative" includes:

(1) a spouse, child, sibling, or a parent of a victim who is a minor, incompetent, or a victim of a homicide; or

(2) a guardian of a minor or an incompetent.

(g) "Witness" means a person who is or expects to be a State's witness.

§11–1002.

(a) The appropriate criminal justice unit should inform a victim of a crime, a victim's representative, or a witness of the guidelines listed in subsection (b) of this section.

(b) A victim of a crime, victim's representative, or witness:

(1) should be treated with dignity, respect, courtesy, and sensitivity;

(2) should receive crisis intervention help, if needed, or be told by the appropriate criminal justice unit where crisis intervention help, emergency medical treatment, creditor intercession services, or other social services and counseling may be obtained;

(3) should be notified in advance of dates and times of trial court proceedings in the case and, on written request, of postsentencing proceedings, and be notified if the court proceedings to which the victim of a crime, victim's representative, or witness has been subpoenaed will not proceed as scheduled;

(4) should be told of the protection available, and, on request, be protected by a criminal justice unit, to the extent reasonable, practicable, and, in the unit's discretion, necessary, from harm or threats of harm arising out of the crime victim's or witness's cooperation with law enforcement and prosecution efforts;

(5) during each phase of the investigative or court proceedings, should be provided, to the extent practicable, with a waiting area that is separate from a suspect and the family and friends of a suspect;

(6) should be told by the appropriate criminal justice unit of financial assistance, criminal injuries compensation, and any other social services available to the victim of a crime or victim's representative and receive help or information on how to apply for services;

(7) should be told of and, on request, should be given employer intercession services, when appropriate, by the State's Attorney's office or other available resource to seek employer cooperation in minimizing an employee's loss of pay or other benefits resulting from participation in the criminal justice process;

(8) on written request, should be kept reasonably informed by the police or the State's Attorney of the arrest of a suspect and closing of the case, and should be told which office to contact for information about the case;

(9) should be told of the right to have stolen or other property promptly returned and, on written request, should have the property promptly returned by a law enforcement unit when evidentiary requirements for prosecution can be satisfied by other means, unless there is a compelling law enforcement reason for keeping it;

(10) for a crime of violence, on written request, should be kept informed by pretrial release personnel, the State's Attorney, or the Attorney General, as appropriate, of each proceeding that affects the crime victim's interest, including:

(i) bail hearing;

(ii) dismissal;

(iii) nolle prosequi;

(iv) stetting of charges;

(v) trial; and

(vi) disposition;

(11) on request of the State's Attorney and in the discretion of the court, should be allowed to address the court or jury or have a victim impact statement read by the court or jury at:

(i) sentencing before the imposition of the sentence; or

(ii) any hearing to consider altering the sentence;

(12) should be told, in appropriate cases, by the State's Attorney of the right to request restitution and, on request, should be helped to prepare the request and should be given advice as to the collection of the payment of any restitution awarded;

(13) should be entitled to a speedy disposition of the case to minimize the length of time the person must endure responsibility and stress in connection with the case;

(14) on written request to the parole authority, should be told each time there is to be a hearing on provisional release from custody and each time the criminal will receive a provisional release;

(15) on written request to the Patuxent Institution, Division of Correction, or Parole Commission, as appropriate, should have a victim impact statement read at a hearing to consider temporary leave status or a provisional release; and

(16) on written request to the unit that has custody of the offender after sentencing, should be told by the unit whenever the criminal escapes or receives a mandatory supervision release.

(c) (1) The Department shall make the guidelines in subsection (b) of this section available to the units involved with carrying out the guidelines.

(2) To the extent feasible, the guidelines in subsection (b) of this section shall be printed by Maryland Correctional Enterprises.

(d) (1) In this subsection, "law enforcement agency" has the meaning stated in § 3–201 of the Public Safety Article.

(2) Each law enforcement agency shall:

(i) display a poster developed by the State Board of Victim Services that informs a victim of the right to request a private room to report information related to a crime under Title 3 of the Criminal Law Article; and

(ii) provide, on request, a private room to a victim to report information related to a crime under Title 3 of the Criminal Law Article.

§11–1003.

(a) The appropriate juvenile services unit should tell a victim of a delinquent act, victim's representative, or witness of the guidelines listed in subsection (b) of this section.

(b) A victim of a delinquent act, victim's representative, or witness:

(1) should be treated with dignity, respect, courtesy, and sensitivity;

(2) should be told in advance of dates and times of juvenile court proceedings in the case and should be told if the court proceedings to which the victim, victim's representative, or witness has been summoned will not proceed as scheduled;

(3) during any phase of the investigative or court proceedings, should be provided, to the extent practicable, with a waiting area that is separate from a child respondent and the family and friends of the child respondent;

(4) should be told by the appropriate juvenile services unit of financial help, criminal injuries compensation, and any other social services available to the victim and receive help or information on how to apply for services;

(5) on written request, should be kept reasonably informed by the police or the State's Attorney of the apprehension of a child respondent and of the closing of the case, and should be told which office to contact for information about the case;

(6) should be told of the right to have stolen or other property promptly returned and, on written request, have the property promptly returned by a law enforcement unit when evidentiary requirements for prosecution can be satisfied by other means unless there is a compelling law enforcement reason for keeping it;

(7) should be told, in appropriate cases, by the State's Attorney of the right to request restitution and, on request, should be helped to prepare the request and should be given advice as to the collection of the payment of any restitution awarded; and

(8) on written request to the appropriate unit, should be told any time that the child respondent is to be released or escapes.

(c) The Department of Juvenile Services shall make the guidelines in subsection (b) of this section available to the units involved with carrying out the guidelines.

§11–1004.

This subtitle does not create a cause of action on behalf of a person against a public official, public employee, a State or local government, or unit, including a unit responsible for the guidelines set forth in this subtitle.

§11–1005.

As provided under § 16–203(a)(4) of the Health – General Article, a victim of sexual abuse, physical abuse, or a crime of violence who is a responsible relative of the perpetrator may not be held liable for the cost of health services provided to the perpetrator of the offense by the Maryland Department of Health.

§11–1006.

(a) The General Assembly finds that survivors of homicide victims in the State:

(1) lack necessary counseling and follow–up services to:

(i) treat the survivors with dignity, respect, and sensitivity; and

(ii) inform the survivors of the rights to which they are entitled by law; and

(2) have the help of only extremely limited support services in some parts of the State.

(b) The purpose of this section is to facilitate programs that address the special needs of survivors of homicide victims.

(c) (1) The Governor's Office of Crime Prevention, Youth, and Victim Services shall help establish and expand programs for survivors of homicide victims in the State.

(2) The programs shall:

(i) serve survivors of homicide victims in all parts of the State;

(ii) provide or facilitate referrals to appropriate counseling, legal, mental health, and advocacy services for survivors of homicide victims including specialized support services to adult and minor survivors of homicide victims; and

(iii) provide a toll–free telephone number and assistance to exercise the rights to which the survivors are entitled by law.

(d) The Governor's Office of Crime Prevention, Youth, and Victim Services shall award grants to public or private nonprofit organizations to operate the programs for survivors of homicide victims.

(e) The Governor's Office of Crime Prevention, Youth, and Victim Services regularly shall consult, collaborate with, and consider the recommendations of service providers to survivors of homicide victims regarding programs, policies, practices, and procedures that impact survivors of homicide victims.

(f) Money for the programs for survivors of homicide victims shall be as provided in the annual State budget and shall be used to supplement, but not supplant, money that the programs receive from other sources.

(g) On or before October 1 each year, the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services shall include a report on the programs for survivors of homicide victims in the annual report submitted by the Governor's Office of Crime Prevention, Youth, and Victim Services to the General Assembly, in accordance with § 2–1257 of the State Government Article.

§11–1007.

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

(2) "Child" means any individual under the age of 18 years.

(3) "Initial assessment" includes:

(i) a psychological evaluation;

(ii) a parental interview; and

(iii) a medical evaluation.

(4) "Physician" means an individual who is authorized under the Maryland Medical Practice Act to practice medicine in the State.

(5) "Qualified health care provider" means an individual who is licensed by a health occupations board established under the Health Occupations Article.

(6) (i) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child whether or not the sexual molestation or exploitation of the child is by a parent or other individual who has permanent or temporary care, custody, or responsibility for supervision of a child, or by any household or family member.

(ii) "Sexual abuse" includes:

1. incest, rape, or sexual offense in any degree; and

2. unnatural or perverted sexual practices.

(b) If a physician, a qualified health care provider, or a hospital provides a service described in subsection (c) of this section to a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse:

(1) the services shall be provided without charge to the individual; and

(2) the physician, qualified health care provider, or hospital:

(i) is entitled to be paid by the Criminal Injuries Compensation Board as provided under Subtitle 8 of this title for the costs of providing the services;

(ii) shall provide written or electronic verification signed by a physician or qualified health care provider to the Criminal Injuries Compensation Board that services described in subsection (c) of this section were rendered to a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse; and

(iii) may not include in any request to obtain payment under this subsection a narrative describing the alleged offense of a victim or a photograph of the victim.

(c) This section applies to the following services:

(1) a physical and sexual assault forensic examination to gather information and evidence as to an alleged crime when the examination is conducted within 15 days of the alleged crime or a longer period as provided by regulation;

(2) emergency hospital treatment and follow–up medical testing for up to 90 days after the initial physical examination; and

(3) for up to 5 hours of professional time to gather information and evidence of the alleged sexual abuse, an initial assessment of a victim of alleged child sexual abuse by:

(i) a physician;

(ii) qualified hospital health care personnel;

(iii) a qualified health care provider;

(iv) a mental health professional; or

(v) an interdisciplinary team expert in the field of child abuse.

(d) (1) A physician or a qualified health care provider who examines a victim of alleged child sexual abuse under the provisions of this section is immune from civil liability that may result from the failure of the physician or qualified health care provider to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child.

(2) The immunity extends to:

(i) any hospital with which the physician or qualified health care provider is affiliated or to which the child is brought; and

(ii) any individual working under the control or supervision of the hospital.

§11–1008.

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

(2) "Child" means any individual under the age of 18 years.

(3) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.

(4) "Physician" has the meaning stated in § 11–1007 of this subtitle.

(5) "Qualified health care provider" has the meaning stated in § 11–1007 of this subtitle.

(6) "Sexual abuse" has the meaning stated in § 11–1007 of this subtitle.

(b) (1) There is a Program for Preventing HIV Infection for Rape Victims.

(2) The purpose of the program is to prevent HIV infection for victims of an alleged rape or sexual offense or victims of alleged child sexual abuse.

(3) The Governor's Office of Crime Prevention, Youth, and Victim Services shall administer the program.

(c) (1) To accomplish the purpose of the program, a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse shall be provided with a full course of treatment and follow–up care for postexposure prophylaxis for the prevention of HIV infection at the request of the victim and as prescribed by a health care provider.

(2) (i) A victim who receives treatment under this subsection may decline to provide health insurance information or submit personal information to a payment assistance program if the victim believes that providing the information would interfere with personal privacy or safety.

(ii) The physician, qualified health care provider, or hospital providing a victim with treatment and follow–up care under paragraph (1) of this subsection shall inform the victim of the victim's right to decline to provide health insurance information or submit personal information to a payment assistance program.

(iii) If a victim declines to provide health insurance information or to submit personal information to a payment assistance program:

1. the treatment and follow–up care shall be provided without charge to the victim; and

2. the physician, qualified health care provider, or hospital providing the treatment or follow–up care is entitled to be paid by the Criminal Injuries Compensation Board as provided under Subtitle 8 of this title for the costs of providing the services.

(d) (1) A physician or a qualified health care provider who examines a victim of alleged child sexual abuse under the provisions of this section is immune from civil liability that may result from the failure of the physician or qualified health care provider to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child.

(2) The immunity provided under paragraph (1) of this subsection extends to:

(i) any hospital with which the physician or qualified health care provider is affiliated or to which the child is brought; and

(ii) any individual working under the control or supervision of the hospital.

(e) On or before December 1, 2022, and every 2 years thereafter, the Governor's Office of Crime Prevention, Youth, and Victim Services shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on the operation and results of the program during the immediately preceding 2–year period, including:

(1) the number of patients that qualified to receive postexposure prophylaxis under the program;

(2) the number of patients that chose to receive postexposure prophylaxis;

(3) the total amount reimbursed to providers for the postexposure prophylaxis; and

(4) the cost of the postexposure prophylaxis treatment and follow–up care provided under the program.

§11–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Director" means the Director of the Victim Services Unit.

(c) "Executive Director" means the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services.

(d) "Unit" means the Victim Services Unit.

§11–1102.

(a) There is a Victim Services Unit in the Governor's Office of Crime Prevention, Youth, and Victim Services.

(b) The Unit consists of:

(1) the Criminal Injuries Compensation Board under Subtitle 8 of this title;

(2) the program for sexual assault forensic examinations under § 11–1007 of this title;

(3) a restitution section; and

(4) any other program that provides victim services under the Governor's Office of Crime Prevention, Youth, and Victim Services that the Executive Director determines would benefit from inclusion under the Unit.

§11–1103.

(a) The head of the Unit is the Director, who shall be appointed by and serves at the pleasure of the Executive Director.

(b) The Director shall receive the salary provided in the State budget.

(c) The Director shall regularly consult with, collaborate with, and consider the recommendations of the federally recognized State sexual assault coalition regarding sexual assault crisis programs and policies, practices, and procedures that impact victims of sexual assault, including administration of the program for sexual assault forensic examinations under § 11–1007 of this title.

§11–1104.

The Unit shall coordinate with the Judiciary, the Department of Public Safety and Correctional Services, the Department of Juvenile Services, the Central Collection Unit, State's Attorney's offices, and local correctional facilities to:

(1) collect data;

(2) develop best practices, using data and other evidence to the extent available, for restitution collection;

(3) coordinate and improve efforts of State and local entities regarding restitution;

(4) ensure the interoperability of justice system databases;

(5) require that each of the databases has a data field to indicate that there are outstanding restitution orders; and

(6) coordinate efforts to improve restitution collection.

§11–1105.

(a) The Unit shall:

(1) monitor and provide guidance to the Secretary on the adoption of regulations establishing minimum mandatory standards for State and local correctional facilities regarding victim notification, restitution, and administrative record keeping;

(2) encourage the use of earnings withholding orders to collect restitution;

(3) coordinate with the Central Collection Unit to improve restitution collection;

(4) coordinate with the Division of Parole and Probation to modernize and improve collections and collaborate on communicating with parole and probation agents on their role in restitution collection;

(5) coordinate with the Division of Parole and Probation and the Central Collection Unit on ways to expedite the referral of cases to the Central Collection Unit;

(6) develop programs to be presented to the Maryland State's Attorneys' Association to emphasize statutory obligations regarding restitution;

(7) promote notification to victims; and

(8) examine the current remedies available to enforce restitution orders to determine whether the remedies are being effectively used and make recommendations regarding the need for additional remedies.

(b) Except as provided in § 11–805(a)(2) of this title and subject to the authority of the Executive Director, the Unit may adopt regulations to carry out the duties of the Unit.

§12–101.

(a) In this title the following words have the meanings indicated.

(b) "Chief executive officer" means:

(1) for Baltimore City, the Mayor;

(2) for a charter county, the county executive or, if there is no county executive, the county council;

(3) for a code county, the county commissioners or county council;

(4) for a county commissioner county, the county commissioners; or

(5) for a municipal corporation, the legislative body established by municipal charter.

(c) "Controlled Dangerous Substances law" means Title 5 of the Criminal Law Article.

(d) "Convicted" means found guilty.

(e) "Final disposition" means a dismissal, entry of a nolle prosequi, the marking of a criminal charge "stet" on the docket, entry of a not guilty verdict, the pronouncement of sentence, or imposition of probation under § 6-220 of this article.

(f) "Forfeiting authority" means:

(1) the unit or person designated by agreement between the State's Attorney for a county and the chief executive officer of the governing body having jurisdiction over assets subject to forfeiture to act on behalf of the governing body regarding those assets; or

(2) if the seizing authority is a unit of the State, a unit or person that the Attorney General or the Attorney General's designee designates by agreement

with a State's Attorney, county attorney, or municipal attorney to act on behalf of the State regarding assets subject to forfeiture by the State.

(g) "Governing body" includes:

(1) the State, if the seizing authority is a unit of the State;

(2) a county, if the seizing authority is a unit of a county;

(3) a municipal corporation, if the seizing authority is a unit of a municipality; and

(4) Baltimore City, if the seizing authority is the Police Department of Baltimore City.

(h) "Lien" includes a mortgage, deed of trust, pledge, security interest, encumbrance, or right of setoff.

(i) "Lienholder" means a person who has a lien or a secured interest on property created before the seizure.

(j) "Local financial authority" means:

(1) if the seizing authority is a unit of a county, the treasurer or director of finance of the county; or

(2) if the seizing authority is a unit of a municipal corporation, the treasurer or director of finance of that municipal corporation.

(k) (1) "Owner" means a person having a legal, equitable, or possessory interest in property.

(2) "Owner" includes:

(i) a co-owner;

(ii) a life tenant;

(iii) a remainderman to a life tenancy in real property;

(iv) a holder of an inchoate interest in real property; and

(v) a bona fide purchaser for value.

(l) "Proceeds" includes property derived directly or indirectly in connection with or as a result of a crime under the Controlled Dangerous Substances law.

(m) (1) "Property" includes:

(i) real property and anything growing on or attached to real property;

(ii) tangible and intangible personal property, including:

1. securities;

2. negotiable and nonnegotiable instruments;

3. vehicles and conveyances of any type;

4. privileges;

5. interests;

6. claims; and

7. rights;

(iii) an item, object, tool, substance, device, or weapon used in connection with a crime under the Controlled Dangerous Substances law; and

(iv) money.

(2) "Property" does not include:

(i) an item unlawfully in the possession of a person other than the owner when used in connection with a crime under the Controlled Dangerous Substances law; or

(ii) a lessor's interest in property subject to a bona fide lease, unless the forfeiting authority can show that the lessor participated in a crime under the Controlled Dangerous Substances law or that the property was the proceeds of a crime under the Controlled Dangerous Substances law.

(n) (1) "Real property" means land or an improvement to land.

(2) "Real property" includes:

(i) a leasehold or other limited interest in real property;

(ii) an easement; and

(iii) a reversionary interest in a 99-year ground lease renewable forever.

(o) "Seizing authority" means a law enforcement unit in the State that is authorized to investigate violations of the Controlled Dangerous Substances law and that has seized property under this title.

§12–102.

(a) The following are subject to forfeiture:

(1) controlled dangerous substances manufactured, distributed, dispensed, acquired, or possessed in violation of the Controlled Dangerous Substances law;

(2) raw materials, products, and equipment used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting a controlled dangerous substance in violation of the Controlled Dangerous Substances law;

(3) property used or intended for use as a container for property described in item (1) or (2) of this subsection;

(4) except as provided in § 12–103 of this subtitle, conveyances, including aircraft, vehicles, or vessels used or intended to be used to transport, or facilitate the transportation, sale, receipt, possession, or concealment of property described in item (1) or (2) of this subsection;

(5) books, records, and research, including formulas, microfilm, tapes, and data used or intended for use in violation of the Controlled Dangerous Substances law;

(6) subject to subsection (b) of this section, weapons used or intended to be used in connection with the unlawful manufacture, distribution, or dispensing of a controlled dangerous substance or controlled paraphernalia;

(7) subject to subsection (b) of this section, any amount of money that is used or intended to be used in connection with the unlawful manufacture, distribution, or dispensing of a controlled dangerous substance;

(8) drug paraphernalia under § 5–619 of the Criminal Law Article;

(9) controlled paraphernalia under § 5–620 of the Criminal Law Article;

(10) except as provided in § 12–103 of this subtitle, the remaining balance of the proceeds of a sale by a holder of an installment sale agreement under § 12–626 of the Commercial Law Article of goods seized under this subtitle;

(11) except as provided in § 12–103 of this subtitle, real property; and

(12) everything of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Controlled Dangerous Substances law, all proceeds traceable to the exchange, and all negotiable instruments and securities used, or intended to be used, to facilitate any violation of the Controlled Dangerous Substances law.

(b) (1) All rights in, title to, and interest in the money or weapons immediately shall vest in:

(i) the State, if the seizing authority was a State unit;

(ii) the county in which the money or weapons were seized, if the seizing authority was a county law enforcement unit, including a sheriff's office; or

(iii) the municipal corporation in which the money or weapons were seized, if the seizing authority was a law enforcement unit of a municipal corporation.

(2) The money or weapons may be returned to the claimant only as this title provides.

§12–103.

(a) Property or an interest in property described in § 12–102(a)(4), (11), and (12) of this subtitle may not be forfeited unless the State establishes by a preponderance of the evidence that the violation of the Controlled Dangerous Substances law was committed with the owner's actual knowledge.

(b) (1) A conveyance used as a common carrier or vehicle for hire in the transaction of business as a common carrier or vehicle for hire may not be seized or forfeited under this title unless it appears that the owner or other person in charge

of the conveyance was a consenting party or privy to a violation of the Controlled Dangerous Substances law.

(2) A conveyance may not be forfeited under this title for an act or omission that the owner shows was committed or omitted by a person other than the owner while the person other than the owner possessed the conveyance in criminal violation of federal law or the law of any state.

(c) An owner's interest in real property may not be forfeited for a violation of § 5-601, § 5-619, or § 5-620 of the Criminal Law Article.

(d) (1) Except as provided in paragraph (2) of this subsection, real property used as the principal family residence may not be forfeited under this subtitle unless one of the owners of the real property was convicted of a violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.

(2) Without a conviction, a court may order a forfeiture of real property used as the principal family residence if the owner of the family residence:

(i) fails to appear for a required court appearance; and

(ii) fails to surrender to the jurisdiction of the court within 180 days after the required court appearance.

(e) Real property used as the principal family residence by a husband and wife and held by the husband and wife as tenants by the entirety may not be forfeited unless:

(1) the property was used in connection with a violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or with an attempt or conspiracy to violate Title 5 of the Criminal Law Article; and

(2) both the husband and wife are convicted of a violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.

§12–104.

(a) At the time of seizure, the seizing authority shall provide a receipt to the person from whom the property was seized, that includes:

(1) a detailed description of the property;

(2) a case number, property inventory number, or any other reference number used by the seizing authority to connect the property to the circumstances of the seizure;

(3) the name and contact information of an individual or office within the seizing authority that can provide information concerning the seized property;

(4) notice that the owner of the property may make a written request for return of the seized property; and

(5) notice that within 60 days after receipt of a written request for return of the seized property, the seizing authority will decide whether to return the property and notify the owner of the decision.

(b) If the person who received a receipt under subsection (a) of this section is not the owner of the property, within 15 days after the seizure of property by a seizing authority, the seizing authority shall send by first–class mail written information to the owner of the seized property, if known, providing:

(1) the location and description of the seized property; and

(2) the name and contact information of an individual or office within the seizing authority that can provide further information concerning the seized property, including information on how the property may be returned to the owner.

(c) The written information distributed by a seizing authority as required under this section shall state: "Seizure and forfeiture of property is a legal matter. Nothing in this document may be construed as legal advice. You may wish to consult an attorney concerning this matter.".

§12–201.

(a) A Schedule I substance listed in § 5–402 of the Criminal Law Article shall be seized and summarily forfeited to the State if the substance is:

(1) possessed, transferred, sold, or offered for sale in violation of the Controlled Dangerous Substances law; or

(2) possessed by the State and its owner is not known.

(b) A plant may be seized and summarily forfeited to the State if the plant:

(1) is one from which a Schedule I or Schedule II substance listed in § 5–402 or § 5–403 of the Criminal Law Article may be derived; and

(2) (i) has been planted or cultivated in violation of the Controlled Dangerous Substances law;

(ii) has an unknown owner or cultivator; or

(iii) is a wild growth.

(c) The Maryland Department of Health may seize and subject a plant to forfeiture if the person that occupies or controls the place where the plant is growing or being stored fails, on demand from the Maryland Department of Health, to produce an appropriate registration or proof that the person is the holder of a registration.

§12–202.

(a) Property subject to forfeiture under this title may be seized:

(1) on a warrant issued by a court that has jurisdiction over the property; and

(2) without a warrant when:

(i) the seizure is incident to an arrest or a search under a search warrant;

(ii) the seizure is incident to an inspection under an administrative inspection warrant;

(iii) the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this title;

(iv) there is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(v) there is probable cause to believe that the property has been used or is intended to be used in violation of the Controlled Dangerous Substances law or this title.

(b) The seizing authority that seizes money that is contraband shall immediately:

(1) photograph the contraband money and record the quantity of each denomination of coin or currency seized; and

(2) deposit the money to the account of the appropriate local financial authority.

(c) A photograph taken under subsection (b) of this section may be substituted for money as evidence in a criminal or forfeiture proceeding.

§12–203.

(a) Property seized under this title is in the custody of the seizing authority, and, unless returned to the owner as provided in subsection (c) of this section or § 12–207 of this subtitle, is subject only to the orders, judgments, and decrees of the court or the official having jurisdiction over the property.

(b) A seizing authority may place seized property under seal and remove the property to a place designated by the court.

(c) (1) The owner of seized property may make a written request to the seizing authority for the return of the seized property.

(2) Within 60 days after receipt of a written request under paragraph (1) of this subsection, the seizing authority shall make a decision as to the disposition of the seized property and shall notify the owner that:

(i) the seizing authority does not have custody of the property and shall provide contact information for the law enforcement agency that does have custody of the property;

(ii) the seizing authority does have custody of the property and will file a complaint for forfeiture;

(iii) the seizing authority does have custody of the property and will retain it for evidentiary purposes until after the conclusion of a criminal case; or

(iv) the seizing authority does have custody of the property and will promptly return the property to the owner.

§12–204.

(a) In exercising the authority to seize motor vehicles under this title, a seizing authority shall apply the standards listed in subsection (b) of this section.

(b) A motor vehicle used in violation of the Controlled Dangerous Substances law or this title shall be seized and forfeiture shall be recommended to the forfeiting authority if:

(1) any quantity of a controlled dangerous substance is sold or attempted to be sold in violation of the Controlled Dangerous Substances law or this title;

(2) an amount of the controlled dangerous substance or paraphernalia is found that reasonably shows that the violator intended to sell the controlled dangerous substance in violation of the Controlled Dangerous Substances law; or

(3) the total circumstances of the case as listed in subsection (c) of this section dictate that seizure and forfeiture are justified.

(c) Circumstances to be considered in deciding whether seizure and forfeiture are justified include:

(1) the possession of controlled dangerous substances;

(2) an extensive criminal record of the violator;

(3) a previous conviction of the violator for a controlled dangerous substances crime;

(4) evidence that the motor vehicle was acquired by use of proceeds from a transaction involving a controlled dangerous substance;

(5) circumstances of the arrest; and

(6) the way in which the motor vehicle was used.

§12–205.

A motor vehicle used in violation of this title may not be seized and forfeiture may not be recommended to the forfeiting authority if:

(1) the motor vehicle falls within § 12-103(b) of this title;

(2) (i) an innocent registered owner lends the motor vehicle to another person; and

(ii) that person, or someone invited into the motor vehicle by that person, brings a controlled dangerous substance or paraphernalia into the motor vehicle without the registered owner's knowledge; or

(3) (i) a member of the family other than the registered owner uses the motor vehicle, and a controlled dangerous substance or paraphernalia is in the motor vehicle in an amount insufficient to suggest a sale is contemplated;

(ii) a sale was not made or attempted; and

(iii) the registered owner did not know that the controlled dangerous substance or paraphernalia was in the motor vehicle.

§12–206.

(a) The chief law enforcement officer of the seizing authority that seizes a motor vehicle used in violation of this title shall recommend to the appropriate forfeiting authority in writing that the motor vehicle be forfeited only if the officer:

(1) determines from the records of the Motor Vehicle Administration the names and addresses of all registered owners and secured parties as defined in the Code;

(2) personally reviews the facts and circumstances of the seizure; and

(3) personally determines, according to the standards listed in § 12-204(b) of this subtitle, and represents in writing that forfeiture is warranted.

(b) (1) A sworn affidavit by the chief law enforcement officer that the officer followed the requirements of this paragraph is admissible in evidence in a proceeding under this section.

(2) The chief law enforcement officer may not be subpoenaed or compelled to appear and testify if another law enforcement officer with personal knowledge of the facts and circumstances surrounding the seizure and the recommendation of forfeiture appears and testifies at the proceeding.

§12–207.

(a) The forfeiting authority shall surrender the motor vehicle on request to the owner if the forfeiting authority determines, independent of the decision of the seizing authority, that:

(1) the motor vehicle falls within the purview of § 12-205 of this subtitle; or

(2) the standards listed under § 12-204(b) of this subtitle were not met.

(b) In a proceeding under this title, the court may determine, based on the standards listed in § 12-204(b) of this subtitle, whether the seizing authority or forfeiting authority abused its discretion or was clearly erroneous:

(1) in recommending the forfeiture of a motor vehicle; or

(2) in not surrendering on request a motor vehicle to an owner.

§12–208.

(a) (1) Except as provided in §§ 12-209 and 12-210 of this subtitle, an owner of seized property who wishes to obtain possession of the property, to convey an interest in real property, or to remove a building or fixture from real property shall notify the clerk of the proper court.

(2) If forfeiture proceedings have begun, the proper court is the court where the proceedings have begun.

(3) If criminal proceedings have begun but forfeiture proceedings have not begun, the proper court is the court where the criminal proceedings have begun.

(4) If neither forfeiture nor criminal proceedings have begun, the proper court is the circuit court for the county where the property was seized.

(b) (1) Unless the forfeiting authority and the owner agree to a bond in another amount, if a motor vehicle is not needed for evidentiary purposes in a judicial proceeding:

(i) the court shall appraise the value of the motor vehicle on the basis of the average value of the motor vehicle set forth in the National Automobile Dealer's Association official used car guide; or

(ii) if the owner shows that a lien is on the motor vehicle and the owner agrees to make the required payments to the lienholder, the court shall require a bond in an amount of the average value of the motor vehicle set forth in the National Automobile Dealer's Association official used car guide, less the amount owed on the lien.

(2) For a motor vehicle, the court shall appraise the value in the manner provided in this subsection and provide the appraisal in writing to the clerk of the court.

(c) (1) If property other than a motor vehicle is not needed for evidentiary purposes in a judicial proceeding, the clerk shall obtain an independent appraisal of the value of the property.

(2) The sheriff or other person responsible for an appraisal under this subsection shall promptly:

(i) inspect and appraise the value of the property; and

(ii) return the appraisal in writing under oath to the clerk of the court.

(d) Notice of the appraisal shall be sent to all lienholders shown in the records required by law for notice or the perfection of the lien.

(e) (1) On the filing of an appraisal, the owner may give bond payable to the clerk of the court in an amount equal to the greater of:

(i) the appraised value of the property plus any accrued costs; or

(ii) the aggregate amount of the liens on the property that are shown in the records required by law for the notice or perfection of liens.

(2) A person may give a bond under this section by cash, through a surety, through a lien on real property, or by other means that the clerk approves.

(3) A bond authorized under this section:

(i) shall be conditioned for performance on final judgment by the court;

(ii) shall be filed in the District Court or circuit court where the criminal action that gave rise to the seizure is pending; and

(iii) unless a complaint for forfeiture has been filed, shall be part of the same criminal proceeding.

(4) If a criminal action is not pending or a forfeiture complaint has not been filed, the bond shall be filed in the circuit court or District Court where the property was seized.

(f) (1) If the court orders that property or an interest or equity in the property or proceeds be forfeited under this title, the court shall enter judgment in the amount of the bond against the obligors on the bond without further proceedings.

(2) Payment of the amount of the bond shall be applied as provided under § 12-402(d)(2) of this title.

§12–209.

Seizure of real property occurs on the earlier of the filing:

(1) of a complaint for forfeiture under this title; or

(2) of a notice of pending litigation in the circuit court of the county where the real property is located.

§12–210.

(a) Subject to the rights of a lienholder to sell the real property, an owner or owner's tenant may remain in possession of seized real property until forfeiture is ordered.

(b) The forfeiting authority may apply to the court for the appointment of a receiver to apply income from income-producing property.

(c) If a person who is an owner or owner's tenant remains in possession of the real property and the person's interest in the real property is forfeited, the person shall immediately surrender the real property to the seizing authority in substantially the same condition as when seized.

§12–211.

(a) This section does not apply if:

(1) an act is agreed to by a forfeiting authority or is ordered by the court; or

(2) an owner posts a bond under § 12-208 of this subtitle.

(b) Subject to subsection (a) of this section, until the court enters judgment in favor of the owner, an owner may not attempt:

(1) to convey or encumber an interest in seized real property; or

(2) to remove a building or fixture on seized real property.

§12–212.

A seizing authority or prosecuting authority may not directly or indirectly transfer seized property to a federal law enforcement authority or agency unless:

(1) a criminal case related to the seizure is prosecuted in the federal court system under federal law;

(2) the owner of the property consents to the forfeiture;

(3) the property is cash of at least $50,000; or

(4) the seizing authority transfers the property to a federal authority under a federal seizure warrant issued to take custody of assets originally seized under State law.

§12–301.

Except as provided in § 12–304(d) of this subtitle, if property is seized under § 12–202(a)(2)(iv) and (v) of this title because there is probable cause to believe that the property is directly or indirectly dangerous to health or safety and that the property was or will be used to violate this title, forfeiture proceedings under this subtitle shall be filed promptly.

§12–302.

(a) To apply for the forfeiture of money, the appropriate local financial authority or the Attorney General shall file a complaint and affidavit in the District Court or the circuit court for the county in which the money was seized.

(b) The complaint and affidavit shall be served in accordance with the Maryland Rules of Procedure.

§12–303.

Except as provided in § 12-302 of this subtitle and § 4-401(9) of the Courts Article, the appropriate forfeiting authority shall file proceedings under this title in the circuit court.

§12–304.

(a) Except as provided under subsections (b), (c), and (d) of this section, a complaint seeking forfeiture shall be filed within the earlier of:

(1) 90 days after the seizure; or

(2) 1 year after the final disposition of the criminal charge for the violation giving rise to the forfeiture.

(b) A complaint for the forfeiture of a motor vehicle shall be filed within 45 days after the motor vehicle is seized.

(c) If the State or a political subdivision of the State does not file a timely complaint seeking forfeiture under subsection (a) or (b) of this section, the property shall be promptly released to the owner, if known.

(d) (1) A proceeding about money shall be filed within 90 days after the final disposition of criminal proceedings that arise out of the Controlled Dangerous Substances law.

(2) If the State or a political subdivision does not file proceedings about money within the 90–day period, the money seized under this title shall be returned to the owner on request by the owner.

(3) If the owner fails to ask the return of the money within 1 year after the final disposition of criminal proceedings, as provided under § 12–403 of this title, the money shall revert to:

(i) the political subdivision in which the money was seized; or

(ii) the State, if the money was seized by State authorities.

§12–305.

(a) A complaint seeking forfeiture shall contain:

(1) a description of the property seized;

(2) the date and place of the seizure;

(3) the name of the owner, if known;

(4) the name of the person in possession, if known;

(5) the name of each lienholder, if known or reasonably subject to discovery;

(6) an allegation that the property is subject to forfeiture;

(7) if the forfeiting authority seeks to forfeit a lienholder's interest in property, an allegation that the lien was created with actual knowledge that the property was being or was to be used in violation of the Controlled Dangerous Substances law;

(8) a statement of the facts and circumstances surrounding the seizure;

(9) a statement setting forth the specific grounds for forfeiture; and

(10) an oath or affirmation by the forfeiting authority that the contents of the complaint are true to the best of the forfeiting authority's knowledge, information, and belief.

(b) Within 20 days after the filing of the complaint, copies of the summons and complaint shall be sent by certified mail requesting "restricted delivery – show to whom, date, address of delivery" and first–class mail to all known owners and lienholders whose identities are reasonably subject to discovery, including all real property owners and lienholders shown in the records required by law for notice or perfection of the lien.

§12–306.

(a) A notice shall be signed by the clerk and shall:

(1) include the caption of the case;

(2) describe the substance of the complaint and the relief sought;

(3) state the latest date on which a response may be filed;

(4) state that the property shall be forfeited if a response is not filed on time;

(5) state that the owner of the property may have possession of the property pending forfeiture by posting a bond as provided in § 12-208 of this title; and

(6) tell where to file a response and whom to contact for more information concerning the forfeiture.

(b) Within 20 days after the filing of the complaint, the notice shall be:

(1) posted by the sheriff on the door of the courthouse where the action is pending or on a bulletin board within the immediate vicinity of the door;

(2) posted by the sheriff in a conspicuous place on the land, if forfeiture of real property is sought; and

(3) published at least once a week in each of 3 successive weeks in a newspaper of general circulation published in the county in which the action is pending, unless the property is a boat or motor vehicle.

§12–307.

The answer to a complaint shall:

(1) comply with the Maryland Rules;

(2) state the nature and extent of the person's right in, title to, or interest in the property;

(3) state how and when the person acquired a right in, title to, or interest in the property; and

(4) contain a request for relief and a request for a prompt hearing.

§12–308.

(a) If an answer has been filed on time, the court shall set a hearing on the forfeiture claim within 60 days after the later of:

(1) posting of notice under § 12-306(b)(1) or (2) of this subtitle; or

(2) final publication of notice under § 12-306(b)(3) of this subtitle.

(b) Without a hearing, the court may order forfeiture of the property interest of a person who fails to timely file an answer.

§12–309.

Except as provided in §§ 12-103(e) and 12-312 of this title, an owner's interest in real property may be forfeited if the real property was used in connection with a violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or is convicted of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.

§12–310.

(a) Forfeiture proceedings for real property may be brought in the jurisdiction where:

(1) the criminal charges are pending;

(2) the owner resides; or

(3) the real property is located.

(b) (1) If forfeiture proceedings for real property are brought in a jurisdiction other than where the real property is located, a notice of pending litigation shall be filed in the jurisdiction where the property is located.

(2) A notice of pending litigation required under this subsection shall include at least:

(i) the name and address of the owner of the real property;

(ii) a description of the real property; and

(iii) a description of the reasons for the filing of the forfeiture proceedings and notice of pending litigation.

§12–311.

If an owner of real property used as the principal family residence is convicted under §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or is convicted of an attempt or conspiracy to violate Title 5 of the Criminal Law Article and the owner files an appeal of the conviction, the court shall stay forfeiture proceedings under § 12-103(e) or § 12-312(b) of this title against the real property during the pendency of the appeal.

§12–312.

(a) Except as provided in subsection (b) of this section, property or part of a property in which a person has an ownership interest is subject to forfeiture as proceeds, if the State establishes by clear and convincing evidence that:

(1) the person has violated §§ 5–602 through 5–609, §§ 5–612 through 5–614, § 5–617, § 5–618, or § 5–628 of the Criminal Law Article or has attempted or conspired to violate Title 5 of the Criminal Law Article;

(2) the property was acquired by the person during the violation or within a reasonable time after the violation; and

(3) there was no other likely source for the property.

(b) Real property used as the principal family residence may not be forfeited under this section unless:

(1) an owner of the real property was convicted of a crime described under subsection (a) of this section; or

(2) the real property is covered by § 12–103(d)(2) of this title.

§12–313.

Except for purposes of impeachment, a statement made by a person regarding ownership of seized property during the course of a forfeiture proceeding is not admissible in a related criminal prosecution.

§12–401.

In a proceeding under this title, a court:

(1) may grant requests for mitigation or remission of forfeiture or take other action that protects the rights of innocent persons, is consistent with this title, and is in the interest of justice;

(2) may resolve claims arising under this title; and

(3) may take appropriate measures to safeguard and maintain property forfeited under this title pending the disposition of the property.

§12–402.

(a) After a full hearing, if the court determines that the property should not be forfeited, the court shall order that the property be released.

(b) Subject to § 12-403(b) of this subtitle, if the court determines that the property should be forfeited, the court shall order that the property be forfeited to the appropriate governing body.

(c) If the court determines that the forfeited property is subject to a valid lien created without actual knowledge of the lienholder that the property was being or was to be used in violation of the Controlled Dangerous Substances law, the court shall order that the property be released within 5 days to the first priority lienholder.

(d) (1) The lienholder shall sell the property in a commercially reasonable manner.

(2) The proceeds of the sale shall be applied as follows:

(i) to the court costs of the forfeiture proceeding;

(ii) to the balance due the lienholder, including all reasonable costs incident to the sale;

(iii) to payment of all other expenses of the proceedings for forfeiture, including expenses of seizure or maintenance of custody; and

(iv) except as provided in § 12-403(b) of this subtitle, to the General Fund of the State or of the political subdivision that seized the property.

§12–403.

(a) (1) Whenever property is forfeited under this title, the governing body where the property was seized may:

(i) keep the property for official use;

(ii) require an appropriate unit to take custody of the property and destroy or otherwise dispose of it; or

(iii) sell the property if:

1. the law does not require the property to be destroyed; and

2. the property is not harmful to the public.

(2) The proceeds of a sale under this subsection shall first be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.

(b) If the seizing authority was a State law enforcement unit:

(1) under § 12-402(b) of this subtitle, the court shall order the property to be forfeited to the State law enforcement unit; or

(2) under § 12-402(d)(2)(iv) of this subtitle, the proceeds of the sale shall be paid to the State law enforcement unit.

(c) Except as provided in subsection (d) of this section, the State law enforcement unit that receives forfeited property or proceeds from a sale of forfeited property under this section shall:

(1) dispose of the forfeited property as provided in subsection (a) of this section; and

(2) pay to the General Fund of the State any proceeds of the sale of the forfeited property.

(d) Except as otherwise provided under federal law, a law enforcement unit other than a State law enforcement unit that participated with a State law enforcement unit in seizing property forfeited under this section:

(1) shall be paid by the State law enforcement unit the share of the proceeds from the sale of the forfeited property as agreed by the law enforcement units; or

(2) may ask the Governor's Office of Crime Prevention, Youth, and Victim Services to determine its share.

(e) Proceeds that a law enforcement unit other than a State law enforcement unit receives under subsection (d) of this section shall be deposited in the general fund of the political subdivision of that law enforcement unit.

§12–404.

A sale of property ordered under this title shall be made for cash and gives the purchaser clear and absolute title.

§12–405.

Notwithstanding any other provision of law, the Governor shall include in the annual budget bill an appropriation equal to 100% of the proceeds deposited in the General Fund of the State under this subtitle to the Maryland Department of Health for the purpose of funding drug treatment and education programs.

§12–501.

(a) Before exercising the right to sell property that has been seized under this title, a lienholder shall give to the forfeiting authority:

(1) written notice of the intention to sell;

(2) copies of documents giving rise to the lien;

(3) an affidavit under oath by the lienholder:

(i) stating that the underlying obligation is in default; and

(ii) stating the reasons for the default.

(b) On request of the lienholder, the forfeiting authority shall release the property to the lienholder.

§12–502.

(a) Except as provided in subsection (b) of this section, the law governing the sale of collateral securing an obligation in default governs a lienholder's repossession and sale of property that has been seized under this title.

(b) A lienholder may not be required to take possession of the property before the sale of the property.

§12–503.

(a) Any part of the proceeds from a sale of property that has been seized under this title that would be paid to an owner of the property under the applicable law relating to distribution of proceeds:

(1) shall be paid to the seizing authority; and

(2) shall be property subject to forfeiture.

(b) If an order of forfeiture is not entered, the State shall return to the owner that part of the proceeds and any costs of the forfeiture proceedings paid from the proceeds of the sale.

§12–504.

(a) If the interest of the owner in property that has been seized under this title is redeemed, the lienholder shall mail a notice of the redemption to the forfeiting authority within 10 days after the redemption.

(b) (1) If property that has been seized under this title has been repossessed or otherwise lawfully taken by the lienholder, the lienholder shall return the property to the seizing authority within 21 days after the redemption.

(2) The seizing authority and the forfeiting authority may then proceed with the forfeiture of the property or the proceeds from the sale of the property.

(c) Time limitations required under this title for notice and filing of the complaint for forfeiture run from the date of redemption or purchase of the property that has been seized under this title.

§12–505.

This title does not prohibit a lienholder from exercising rights under applicable law, including the right to sell property that has been seized under this title, if a default occurs in the obligation giving rise to the lien.

§12–601.

In this subtitle, "MSAC" means the Maryland Statistical Analysis Center of the Governor's Office of Crime Prevention, Youth, and Victim Services.

§12–602.

(a) On an annual basis, each seizing authority in consultation with the corresponding forfeiting authority shall report how any funds appropriated to the authority as a result of forfeiture were spent in the preceding fiscal year and the following information about each individual seizure and forfeiture completed by the agency under this title:

(1) the date that currency, vehicles, houses, or other types of property were seized;

(2) the type of property seized, including year, make, and model, as applicable;

(3) the outcome of related criminal action, including whether charges were brought, a plea bargain was reached, a conviction was obtained, or an acquittal was issued;

(4) whether a unit of federal government took custody of the seized property, and the name of the unit;

(5) for property other than money, the market value of the property seized;

(6) if money was seized, the amount of money;

(7) the amount the seizing authority received in the prior year from the federal government as part of an equitable sharing agreement;

(8) the race and gender of the person or persons from whom the property was seized, if known; and

(9) whether the property was returned to the owner.

(b) MSAC may require a seizing authority to provide relevant information not specified in subsection (a) of this section.

(c) (1) Each seizing authority shall file with MSAC the report required under subsection (a) of this section for the seizing authority and the corresponding forfeiting authority.

(2) A null report shall be filed by a seizing authority that did not engage in seizures or forfeitures under this title during the reporting period.

(d) (1) MSAC shall develop a standard form, a process, and deadlines for electronic data entry for annual submission of forfeiture data by seizing authorities.

(2) MSAC shall compile the submissions and issue an aggregate report of all forfeitures under this title in the State.

(e) (1) By March 1 of each year, MSAC shall make available on its website the reports submitted by seizing authorities and the aggregate report of MSAC.

(2) The Governor's Office of Crime Prevention, Youth, and Victim Services shall submit the aggregate report to the Governor, the General Assembly, as provided in § 2–1257 of the State Government Article, and each seizing authority before September 1 of each year.

(f) (1) The Governor's Office of Crime Prevention, Youth, and Victim Services shall include in the aggregate report the total amount from forfeitures deposited in the General Fund of the State under § 12–405 of this title that were appropriated to the Maryland Department of Health for the purpose of funding drug treatment and education programs and how the funds were spent.

(2) The Governor's Office of Crime Prevention, Youth, and Victim Services may include, with the aggregate report of MSAC, recommendations to the legislature to improve forfeiture statutes to better ensure that forfeiture proceedings are reported and handled in a manner that is fair to crime victims, innocent property owners, secured interest holders, citizens, and taxpayers.

(g) (1) If a seizing authority fails to comply with the reporting provisions of this section:

(i) The Governor's Office of Crime Prevention, Youth, and Victim Services shall report the noncompliance to the Police Training and Standards Commission; and

(ii) the Police Training and Standards Commission shall contact the seizing authority and request that the agency comply with the required reporting provisions.

(2) If the seizing authority fails to comply with the required reporting provisions within 30 days after being contacted by the Police Training and Standards Commission, the Governor's Office of Crime Prevention, Youth, and Victim Services and the Police Training and Standards Commission jointly shall report the noncompliance to the Governor and the Legislative Policy Committee of the General Assembly.

(h) (1) MSAC may recoup its costs by charging a fee to each seizing authority that engages in seizures or forfeitures during the reporting period.

(2) A seizing authority may use forfeiture proceeds to pay the cost of compiling and reporting data under this subtitle, including any fee imposed by MSAC.

§13–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Final disposition" includes an acquittal, dismissal, nolle prosequi, finding of guilty, probation before judgment, plea of guilty or of nolo contendere, marking the charge "stet" on the docket, and an order of an appellate court ending a criminal case.

(c) "Financial authority" means:

(1) if the seizing authority is the State, the State Treasurer;

(2) if the seizing authority is a unit of a county, the treasurer or director of finance of that county; or

(3) if the seizing authority is a unit of a municipal corporation, the treasurer or director of finance of that municipal corporation.

§13–102.

(a) Money is prima facie contraband if a law enforcement officer in the State seizes the money in connection with an arrest for:

(1) unlawfully playing or operating a bookmaking scheme;

(2) unlawfully betting on a horse race, athletic event, lottery, or game; or

(3) using an unlawful gaming table or gaming device.

(b) (1) For purposes of this subsection, the Police Department of Baltimore City is not a State authority.

(2) All rights in, title to, and interest in money seized under subsection (a) of this section shall immediately vest in and to:

(i) the county or the municipal corporation, if the money is seized by the police of the local government, including a sheriff's department that is the local law enforcement unit; or

(ii) the State, if the money is seized by a State authority.

§13–103.

(a) The seizing authority that seizes money that is contraband shall immediately:

(1) photograph the money and record the quantity of each denomination of coin or currency seized; and

(2) deposit the money to the account of the financial authority.

(b) A photograph taken under subsection (a) of this section may be substituted for money as evidence in a criminal or forfeiture proceeding.

§13–104.

Pending final disposition, the financial authority shall account for and deposit seized money in an interest–bearing bank account or invest the seized money in accordance with Title 17 of the Local Government Article.

§13–105.

(a) (1) Each application for the forfeiture of contraband shall be by complaint and shall be filed in the District Court or circuit court of the county in which the contraband was seized.

(2) The complaint shall be served in accordance with Maryland Rule 2-121 or 3-121(a), or if service of process is unable to be made and the summons is returned non est, substitute service may be made in accordance with Maryland Rule 2-122 or 3-121(b) or (c).

(b) (1) If a conviction, including a plea of guilty or plea of nolo contendere, is entered against a person arrested in connection with the seizure of the money, the financial authority shall apply to the District Court or circuit court for an order forfeiting the money to the jurisdiction that the financial authority serves.

(2) The financial authority shall apply for the order within 90 days after entry of the conviction or plea, unless the case is appealed.

(c) Before ordering a forfeiture of the money, the court must be satisfied that no undetermined proceeding to recover the money is pending in court against the financial authority.

§13–106.

(a) Seized money may be returned only as provided in this section.

(b) Subject to subsection (c) of this section, on a final disposition a claimant may ask the appropriate court for a determination that the money is the property of the claimant and an order that the money be returned.

(c) A claimant under subsection (b) of this section must:

(1) apply within 1 year after the judgment or order was entered or the final disposition was taken; and

(2) give written notice to the financial authority at least 10 days before filing the complaint.

§13–107.

(a) In a proceeding on a complaint for a return of money, an acquittal, dismissal, or nolle prosequi with respect to the gambling charges or indictments involved in the seizure of the money is prima facie evidence that the money is not contraband.

(b) A conviction, plea of guilty or of nolo contendere, or probation under § 6-220 of this article is prima facie evidence that the money is contraband.

(c) Marking a charge "stet" on the docket does not create any presumption as to whether money is contraband.

§13–108.

(a) Subject to subsection (b) of this section, if a complaint is not timely and properly filed or if the action is finally decided against the claimant, the seized money not disposed of shall be forfeited to the custodian without further judicial action.

(b) For the seized money to be forfeited, timely notice must be given by certified mail or other appropriate means to any known claimants, at their last known addresses, of the requirements of this section for making claim for the return of seized money.

§13–109.

This subtitle does not prohibit the trial judge, after an acquittal or dismissal, from ordering the immediate return of all property seized.

§13–201.

The following property is subject to seizure and forfeiture:

(1) a handgun worn, carried, or transported in violation of § 4-203 or § 4-204 of the Criminal Law Article or sold, rented, transferred, or possessed in violation of § 5-103, § 5-104, § 5-118, § 5-119, § 5-120, § 5-121, § 5-122, § 5-123, § 5-124, § 5-125, § 5-126, § 5-127, § 5-128, § 5-129, § 5-133(a), (b), and (d), § 5-134, or § 5-136 of the Public Safety Article; and

(2) ammunition, handgun parts, or handgun appurtenances that are:

(i) worn, carried, or transported in violation of § 4-203 or § 4-204 of the Criminal Law Article; or

(ii) found in the immediate vicinity of a handgun worn, carried, or transported in violation of § 4-203 or § 4-204 of the Criminal Law Article.

§13–202.

(a) An authorized law enforcement officer may seize property listed under § 13-201 of this subtitle as an incident to an arrest or search and seizure.

(b) An officer who seizes property under this section shall place the property under seal or remove the property to a location designated by the Department of State Police or by the law enforcement unit having jurisdiction in the locality.

§13–203.

(a) (1) By an appropriate inquiry and investigation, the seizing authority shall attempt to identify and locate the owner of a handgun that is seized.

(2) If the owner is a resident of the State, the seizing authority may return the handgun to the owner.

(3) If the owner of the handgun is not a resident of the State, the seizing authority shall send the handgun for disposition to the appropriate law enforcement unit where the owner is a resident if the handgun:

(i) is not needed for investigation or evidence; or

(ii) is not disposed of under subsection (b) of this section.

(b) (1) If the seizing authority under subsection (a) of this section does not return the handgun to its owner, the seizing authority shall promptly notify the owner that the owner may apply within 30 days to the seizing authority for a review to determine whether the owner knew or should have known that the handgun was

worn, carried, transported, or used in violation of § 4-203 or § 4-204 of the Criminal Law Article, and whether the owner is qualified to possess the handgun.

(2) Qualification for possession of a handgun is the same as for sale or transfer of a handgun under §§ 5-103, 5-104, 5-118, 5-119, 5-120, 5-121, 5-122, 5-123, 5-124, 5-125, 5-126, and 5-127 of the Public Safety Article.

(c) A person who knowingly gives false information or makes a material misstatement in an application for review or an investigation relating to an application is subject to the penalties under § 5-139 of the Public Safety Article.

§13–204.

(a) (1) On timely receipt of an application, the seizing authority shall hold an informal review to determine whether the owner knew or should have known of the use or intended use of a handgun that is seized in violation of § 4-203 or § 4-204 of the Criminal Law Article.

(2) The review is not subject to the Administrative Procedure Act.

(b) (1) Subject to paragraph (2) of this subsection, the handgun that is seized shall be released to the owner if the seizing authority decides in favor of the owner and the owner is qualified to possess the handgun.

(2) If the handgun is needed as evidence in a criminal case or investigation, the handgun shall be promptly returned when the case or investigation ends.

(c) (1) After review, if the seizing authority determines that the handgun should be forfeited to the State, the owner shall be notified at the owner's last known address.

(2) Within 30 days after notification, the owner may ask the appropriate District Court for release of the handgun.

(3) The State's Attorney shall represent the State in the action.

(4) The District Court shall hear the matter and grant proper relief in accordance with this subtitle.

§13–205.

(a) (1) In a proceeding in a criminal cause involving a seized handgun, a court may order forfeiture or release of the seized handgun in accordance with this subsection.

(2) A person who has made a written claim of ownership of a handgun to the seizing authority or the State's Attorney shall be notified of the proceeding and of the claimant's right to present the claim at the proceeding.

(3) A claimant who has completed the review procedure provided for by this subtitle is not entitled to a second review under this subsection.

(b) If a timely application for a review or a complaint to the court under § 13-204 of this subtitle does not occur, and an order for release under subsection (a) of this section is not issued, the handgun shall be:

(1) forfeited to the State without further proceedings; and

(2) destroyed by the seizing authority or disposed of in accordance with § 13-206 of this subtitle.

(c) If an owner of a seized handgun is not identified and located, the handgun is forfeited to the State without further proceedings.

§13–206.

(a) Whenever property is forfeited under this subtitle, the law enforcement unit that sought forfeiture of the property may only:

(1) order the property retained for the official use of the law enforcement unit;

(2) destroy the forfeited property; or

(3) sell, exchange, or transfer the forfeited property to another law enforcement unit for official use by that unit.

(b) Within 30 days after disposing of forfeited property, a law enforcement unit shall send to the Secretary of State Police:

(1) a description of the property forfeited;

(2) the type of disposition made; and

(3) the identity of the person to whom the property was transferred for disposal, retention, or official use.

§13–301.

(a) This section does not apply to a vehicle unless the owner authorized or allowed the vehicle to be used or employed in concealing, conveying, or transporting explosives during the course of a violation of Title 11, Subtitle 1 of the Public Safety Article.

(b) In addition to any other penalty provided for a violation of Title 11, Subtitle 1 of the Public Safety Article, if a person on whom a penalty is imposed under § 11-116 of the Public Safety Article uses or employs a motor vehicle, other vehicle, vessel, or aircraft in concealing, conveying, or transporting explosives during the course of a violation of Title 11, Subtitle 1 of the Public Safety Article, the court on conviction of the person shall order the motor vehicle, other vehicle, vessel, or aircraft to be forfeited to the State or a county, based on which jurisdiction initiated the investigation.

(c) If a court orders forfeiture under subsection (b) of this section, the interest transferred to the State or county is subordinate to the holder of a perfected security interest in the motor vehicle, other vehicle, vessel, or aircraft.

(d) (1) After discharging any perfected security interest in a forfeited motor vehicle, other vehicle, vessel, or aircraft, the Secretary of State Police or the local governing body of a county may:

(i) use the forfeited motor vehicle, other vehicle, vessel, or aircraft for public purposes; or

(ii) sell, exchange, or convey the forfeited motor vehicle, other vehicle, vessel, or aircraft.

(2) Any money received from the sale, exchange, or conveyance shall be deposited in the General Fund of the State or county.

§13–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Forfeiting authority" has the meaning stated in § 12–101 of this article.

(c) "Governing body" has the meaning stated in § 12–101 of this article.

(d) "Lienholder" has the meaning stated in § 12–101 of this article.

(e) "Mortgage Fraud law" means the Maryland Mortgage Fraud Protection Act, Title 7, Subtitle 4 of the Real Property Article.

(f) "Owner" has the meaning stated in § 12–101 of this article.

(g) "Proceeds" includes property derived directly or indirectly in connection with or as a result of a violation of the Mortgage Fraud law.

(h) (1) "Property" includes:

(i) real property and anything growing on or attached to real property;

(ii) personal property; and

(iii) money.

(2) "Property" does not include a lessor's interest in property subject to a bona fide lease, unless the forfeiting authority can show that:

(i) the lessor participated in a violation of the Mortgage Fraud law; or

(ii) the property was the proceeds of a violation of the Mortgage Fraud law.

(i) "Seizing authority" has the meaning stated in § 12–101 of this article.

§13–402.

The following property is subject to forfeiture:

(1) property used or intended for use in the course of a violation of the Mortgage Fraud law;

(2) property derived from or realized through a violation of the Mortgage Fraud law; and

(3) proceeds of property described in item (1) or (2) of this section.

§13–403.

(a) Property or an interest in property may not be forfeited if the owner establishes by a preponderance of the evidence that the violation of the Mortgage Fraud law was committed without the owner's actual knowledge.

(b) (1) Except as provided in paragraph (2) of this subsection, property used as the principal family residence may not be forfeited under this subtitle unless one of the owners of the property was convicted of a violation of the Mortgage Fraud law.

(2) Without a conviction, a court may order a forfeiture of property used as the principal family residence if the owner of the family residence:

(i) fails to appear for a required court appearance; and

(ii) fails to surrender to the jurisdiction of the court within 180 days after the required court appearance.

(c) Property used as the principal family residence by a husband and wife and held by the husband and wife as tenants by the entirety may not be forfeited unless:

(1) the property was used in connection with:

(i) a violation of the Mortgage Fraud law; or

(ii) an attempt or conspiracy to violate the Mortgage Fraud law; and

(2) both the husband and wife are convicted of:

(i) a violation of the Mortgage Fraud law; or

(ii) an attempt or conspiracy to violate the Mortgage Fraud law.

§13–404.

(a) Except as provided in subsection (b) of this section, property subject to forfeiture under this subtitle may be seized in accordance with the procedures set forth in §§ 12–202, 12–203, and 12–208 through 12–211 of this article.

(b) The probable cause required under § 12–202(a)(2)(v) of this article is probable cause to believe that the property has been used or is intended to be used in violation of the Mortgage Fraud law.

§13–405.

(a) Except as provided in subsection (b) of this section, forfeiture of property under this subtitle shall be conducted in accordance with the procedures set forth in §§ 12–301 through 12–308 of this article.

(b) The allegation required under § 12–305(a)(7) of this article refers to the Mortgage Fraud law rather than the Controlled Dangerous Substances law.

§13–406.

(a) Except as provided in subsections (e) and (f) of this section and § 12–403(c) of this article, an owner's interest in real property may be forfeited if the real property was used in connection with a violation of the Mortgage Fraud law.

(b) Forfeiture proceedings for real property may be brought in the jurisdiction where:

(1) the criminal charges are pending;

(2) the owner resides; or

(3) the real property is located.

(c) (1) If forfeiture proceedings for real property are brought in a jurisdiction other than where the real property is located, a notice of pending litigation shall be filed in the jurisdiction where the real property is located.

(2) A notice of pending litigation required under this subsection shall include at least:

(i) the name and address of the owner of the real property;

(ii) a description of the real property; and

(iii) a description of the reasons for the filing of the forfeiture proceedings and notice of pending litigation.

(d) If an owner of real property used as the principal family residence is convicted under the Mortgage Fraud law and the owner files an appeal of the conviction, the court shall stay forfeiture proceedings under § 12–403(c) of this article or subsection (f) of this section against the real property during the pendency of the appeal.

(e) (1) Except as provided in subsection (f) of this section, there is a rebuttable presumption that property or part of a property in which a person has an ownership interest is subject to forfeiture as proceeds, if the State establishes by clear and convincing evidence that:

(i) the person has violated the Mortgage Fraud law;

(ii) the property was acquired by the person during the violation or within a reasonable time after the violation; and

(iii) there was no other likely source for the property.

(2) A claimant of the property has the burden of proof to rebut the presumption established under paragraph (1) of this subsection.

(f) Real property used as the principal family residence may not be forfeited under subsection (e) of this section unless:

(1) an owner of the real property was convicted under subsection (e)(1) of this section; or

(2) the real property is covered by § 13–403(b)(2) of this subtitle.

§13–407.

(a) Except as provided in this section, disposition of property after forfeiture under this subtitle shall be subject to §§ 12–401, 12–402, and 12–404 of this article.

(b) The court determination under § 12–402(c) of this article shall include that the property was being used or was to be used in violation of the Mortgage Fraud law rather than the Controlled Dangerous Substances law.

(c) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Identifiable losses" include:

1. expenses necessary to:

A. discover the extent of a violation of the Mortgage Fraud law;

B. repair damages resulting from a violation of the Mortgage Fraud law, including repairing credit ratings and correcting errors in consumer reports; and

C. prevent further damages resulting from a violation of the Mortgage Fraud law; and

2. lost wages resulting from time away from work in order to rectify any fraud caused by a violation of the Mortgage Fraud law.

(iii) "Victim" includes a business that loses any thing of value as a result of a violation of the Mortgage Fraud law.

(2) Disposition of forfeited property under this subtitle shall follow the procedures in this subsection.

(3) Whenever property is forfeited under this subtitle, the governing body where the property was seized shall sell the property at public auction.

(4) The proceeds of a sale under this subsection shall be distributed as follows:

(i) first, to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

(ii) second, for restitution as ordered by the court to victims to pay for identifiable losses resulting from the violation of the Mortgage Fraud law; and

(iii) finally, to the General Fund of the State.

§13–408.

Lienholders of property seized under this subtitle shall have the rights and obligations set forth in Title 12, Subtitle 5 of this article.

§13–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Chief executive officer" means:

(1) for Baltimore City, the Mayor;

(2) for a charter county, the county executive or, if there is no county executive, the county council;

(3) for a code county, the county commissioners;

(4) for a commission county, the county commissioners; or

(5) for a municipal corporation, the legislative body established by municipal charter.

(c) "Convicted" means found guilty.

(d) "Final disposition" means dismissal, entry of a nolle prosequi, marking of a criminal charge "stet" on the docket, entry of a not guilty verdict, pronouncement of sentence, or imposition of probation under § 6–220 of this article.

(e) "Forfeiting authority" means:

(1) the unit or person designated by agreement between the State's Attorney for a county and the chief executive officer of the governing body having jurisdiction over assets subject to forfeiture to act on behalf of the governing body regarding those assets; or

(2) if the seizing authority is a unit of the State, a unit or person that the Attorney General or the Attorney General's designee designates by agreement with a State's Attorney, county attorney, or municipal attorney to act on behalf of the State regarding assets subject to forfeiture by the State.

(f) "Governing body" includes:

(1) the State, if the seizing authority is a unit of the State;

(2) a county, if the seizing authority is a unit of a county;

(3) a municipal corporation, if the seizing authority is a unit of a municipality; and

(4) Baltimore City, if the seizing authority is the Baltimore Police Department.

(g) "Human trafficking law" means § 3–324, § 3–1102, § 3–1103, § 11–207, § 11–304, and § 11–305 of the Criminal Law Article.

(h) "Lien" includes a mortgage, a deed of trust, a pledge, a security interest, an encumbrance, and a right of setoff.

(i) "Lienholder" means a person who has a lien or a secured interest on property created before the seizure.

(j) "Local financial authority" means:

(1) if the seizing authority is a unit of a county, the treasurer or director of finance of the county; or

(2) if the seizing authority is a unit of a municipal corporation, the treasurer or director of finance of the municipal corporation.

(k) (1) "Owner" means a person having a legal, equitable, or possessory interest in property.

(2) "Owner" includes:

(i) a co–owner;

(ii) a life tenant;

(iii) a remainderman to a life tenancy in real property;

(iv) a holder of an inchoate interest in real property; and

(v) a bona fide purchaser for value.

(l) "Proceeds" means profits derived from a violation of the human trafficking law or property obtained directly or indirectly from those profits.

(m) (1) "Property" includes:

(i) real property and anything growing on or attached to real property;

(ii) motor vehicles; and

(iii) money.

(2) "Property" does not include:

(i) an item unlawfully in the possession of a person other than the owner when used in connection with a violation of the human trafficking law; or

(ii) a lessor's interest in property subject to a bona fide lease, unless the forfeiting authority can show that the lessor participated in a violation of the human trafficking law or that the property was the proceeds of a violation of the human trafficking law.

(n) (1) "Real property" means land or an improvement to land.

(2) "Real property" includes:

(i) a leasehold or any other limited interest in property;

(ii) an easement; and

(iii) a reversionary interest in a 99–year ground lease renewable forever.

(o) "Seizing authority" means a law enforcement unit in the State that is authorized to investigate violations of the human trafficking law and that has seized property under this subtitle.

§13–502.

The following are subject to forfeiture:

(1) except as provided in § 13–503 of this subtitle, a motor vehicle used in connection with a violation of and conviction under § 3–1102 or § 3–1103 of the Criminal Law Article;

(2) money used in connection with a violation of and conviction under the human trafficking law, found in close proximity to or at the scene of the arrest for a violation of the human trafficking law; and

(3) except as provided in § 13–503 of this subtitle, real property used in connection with a violation of and conviction under § 3–1102 or § 3–1103 of the Criminal Law Article.

§13–503.

(a) Property or an interest in property described in § 13–502(1) or (3) of this subtitle may not be forfeited if the owner establishes by a preponderance of the

evidence that the violation of the human trafficking law was committed without the owner's actual knowledge.

(b) (1) A motor vehicle for hire in the transaction of business as a common carrier or a motor vehicle for hire may not be seized or forfeited under this subtitle unless it appears that the owner or other person in charge of the motor vehicle was a consenting party or privy to a violation of the human trafficking law.

(2) A motor vehicle may not be forfeited under this subtitle for an act or omission that the owner shows was committed or omitted by a person other than the owner while the person other than the owner possessed the motor vehicle in criminal violation of federal law or the law of any state.

(c) Subject to subsection (d) of this section, real property used as the principal family residence may not be forfeited under this subtitle unless one of the owners of the real property was convicted of a violation of § 3–1102 or § 3–1103 of the Criminal Law Article or of an attempt or conspiracy to violate § 3–1102 or § 3–1103 of the Criminal Law Article.

(d) Real property used as the principal family residence by a husband and wife and held by the husband and wife as tenants by the entirety may not be forfeited unless:

(1) the property was used in connection with a violation of § 3–1102 or § 3–1103 of the Criminal Law Article or with an attempt or a conspiracy to violate § 3–1102 or § 3–1103 of the Criminal Law Article; and

(2) both the husband and wife are convicted of a violation of § 3–1102 or § 3–1103 of the Criminal Law Article or of an attempt or conspiracy to violate § 3–1102 or § 3–1103 of the Criminal Law Article.

§13–504.

Personal property subject to forfeiture under this subtitle may be seized:

(1) on a warrant issued by a court that has jurisdiction over the property; and

(2) without a warrant when:

(i) the seizure is incident to an arrest or a search under a search warrant;

(ii) the seizure is incident to an inspection under an administrative inspection warrant;

(iii) the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this subtitle; or

(iv) there is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

§13–505.

(a) A seizing authority that seizes money under this subtitle immediately shall:

(1) photograph the money and record the quantity of each denomination of coin or currency seized; and

(2) deposit the money to the account of the appropriate local financial authority.

(b) A photograph taken under subsection (a) of this section may be substituted for money as evidence in a criminal or forfeiture proceeding.

§13–506.

(a) Property seized under this subtitle:

(1) is not repleviable; but

(2) is in the custody of the seizing authority, subject only to the orders, judgments, and decrees of the court or the official having jurisdiction over the property.

(b) A seizing authority may place seized property under seal and remove the property to a place designated by the court.

§13–507.

(a) A seizing authority may seize a motor vehicle used in violation of § 3–1102 or § 3–1103 of the Criminal Law Article and recommend forfeiture to the forfeiting authority if the total circumstances of the case as listed in subsection (b) of this section dictate that seizure and forfeiture are justified.

(b) Circumstances to be considered in deciding whether seizure and forfeiture are justified include:

(1) evidence that the motor vehicle was acquired by use of proceeds from a transaction involving a violation of § 3–1102 or § 3–1103 of the Criminal Law Article;

(2) the circumstances of the arrest; and

(3) the way in which the motor vehicle was used.

§13–508.

(a) The chief law enforcement officer of the seizing authority that seizes a motor vehicle used in violation of § 3–1102 or § 3–1103 of the Criminal Law Article may recommend to the appropriate forfeiting authority in writing that the motor vehicle be forfeited only if the officer:

(1) determines from the records of the Motor Vehicle Administration the names and addresses of all registered owners and secured parties as defined in the Code;

(2) personally reviews the facts and circumstances of the seizure; and

(3) personally determines, according to the standards listed in § 13–507 of this subtitle, and represents in writing that forfeiture is warranted.

(b) A sworn affidavit by the chief law enforcement officer that the officer followed the requirements of subsection (a) of this section is admissible in evidence in a proceeding under this subtitle.

§13–509.

(a) The forfeiting authority shall surrender the motor vehicle on request to the owner if the forfeiting authority determines, independent of the decision of the seizing authority, that the total circumstances of the case as listed under § 13–507(b) of this subtitle do not justify forfeiture.

(b) In a proceeding under this subtitle, the court may determine, based on the circumstances listed in § 13–507(b) of this subtitle, whether the seizing authority or forfeiting authority abused its discretion or was clearly erroneous:

(1) in recommending the forfeiture of a motor vehicle; or

(2) in not surrendering on request a motor vehicle to an owner.

§13–510.

(a) (1) Except as provided in §§ 13–512 and 13–513 of this subtitle, an owner of seized property who wishes to obtain possession of the property, to convey an interest in real property, or to remove a building or fixture from real property shall notify the clerk of the proper court.

(2) If forfeiture proceedings have begun, the proper court is the court where the proceedings have begun.

(3) If criminal proceedings have begun but forfeiture proceedings have not begun, the proper court is the court where the criminal proceedings have begun.

(4) If both forfeiture proceedings and criminal proceedings have not begun, the proper court is the circuit court for the county where the property was seized.

(b) (1) Unless the forfeiting authority and the owner agree to a bond in another amount, if a motor vehicle is not needed for evidentiary purposes in a judicial proceeding:

(i) the court shall appraise the value of the motor vehicle on the basis of the average value of the motor vehicle set forth in the National Automobile Dealers Association official used car guide; or

(ii) if the owner shows that a lien is on the motor vehicle and the owner agrees to make the required payments to the lienholder, the court shall require a bond in an amount of the average value of the motor vehicle set forth in the National Automobile Dealers Association official used car guide, less the amount owed on the lien.

(2) For a motor vehicle, the court shall appraise the value in the manner provided in this subsection and provide the appraisal in writing to the clerk of the court.

(c) (1) If property other than a motor vehicle is not needed for evidentiary purposes in a judicial proceeding, the clerk shall obtain an independent appraisal of the value of the property.

(2) The sheriff or other person responsible for an appraisal under this subsection shall promptly:

(i) inspect and appraise the value of the property; and

(ii) return the appraisal in writing under oath to the clerk of the court.

(d) Notice of the appraisal shall be sent to all lienholders shown in the records required by law for notice or the perfection of the lien.

(e) (1) On the filing of an appraisal, the owner may give bond payable to the clerk of the court in an amount equal to the greater of:

(i) the appraised value of the property plus any accrued costs; or

(ii) the aggregate amount of the liens on the property that are shown in the records required by law for the notice or perfection of liens.

(2) A person may give a bond under this subsection by cash, through a surety, through a lien on real property, or by other means that the clerk approves.

(3) A bond authorized under this subsection:

(i) shall be conditioned for performance on final judgment by the court;

(ii) shall be filed in the District Court or circuit court where the criminal action that gave rise to the seizure is pending; and

(iii) unless a complaint for forfeiture has been filed, shall be part of the same criminal proceeding.

(4) If a criminal action is not pending or a forfeiture complaint has not been filed, the bond shall be filed in the circuit court or District Court where the property was seized.

(f) (1) If the court orders that property or an interest or equity in the property or proceeds be forfeited under this subtitle, the court shall enter judgment in the amount of the bond against the obligors on the bond without further proceedings.

(2) Payment of the amount of the bond shall be applied as provided under § 13–528(c)(3) of this subtitle.

§13–511.

Seizure of real property occurs on the earlier of the filing:

(1) of a complaint for forfeiture under this subtitle; or

(2) of a notice of pending litigation in the circuit court of the county where the real property is located.

§13–512.

(a) Subject to the rights of a lienholder to sell the real property, an owner or an owner's tenant may remain in possession of seized real property until forfeiture is ordered.

(b) The forfeiting authority may apply to the court for the appointment of a receiver to apply income from income–producing property.

(c) If a person who is an owner or an owner's tenant remains in possession of the real property and the person's interest in the real property is forfeited, the person immediately shall surrender the real property to the seizing authority in substantially the same condition as when seized.

§13–513.

(a) This section does not apply if:

(1) an act is agreed to by a forfeiting authority or is ordered by the court; or

(2) an owner posts a bond under § 13–510 of this subtitle.

(b) Until the court enters judgment in favor of the owner, an owner may not attempt:

(1) to convey or encumber an interest in seized real property; or

(2) to remove a building or fixture on seized real property.

§13–514.

Except as provided in § 13–517(c) of this subtitle, if property is seized under § 13–504(2)(iv) of this subtitle because there is probable cause to believe that the property is directly or indirectly dangerous to health or safety and that the property was or will be used to violate § 3–1102 or § 3–1103 of the Criminal Law Article, forfeiture proceedings under this subtitle shall be filed promptly.

§13–515.

Except as provided in § 13–516 of this subtitle, the appropriate forfeiting authority shall file proceedings under this subtitle in the circuit court.

§13–516.

(a) To apply for the forfeiture of money, the appropriate local financial authority or the Attorney General shall file a complaint and affidavit in the District Court or the circuit court for the county in which the money was seized.

(b) The complaint and affidavit shall be served in accordance with the Maryland Rules of Procedure.

§13–517.

(a) Except as provided under subsections (b) and (c) of this section, a complaint seeking forfeiture shall be filed within the earlier of:

(1) 90 days after the seizure; or

(2) 1 year after the final disposition of the criminal charge for the violation giving rise to the forfeiture.

(b) A complaint for the forfeiture of a motor vehicle shall be filed within 45 days after the motor vehicle is seized.

(c) (1) A proceeding about money shall be filed within 90 days after the final disposition of criminal proceedings that arise out of the human trafficking law.

(2) If the State or a political subdivision does not file proceedings about money within the 90–day period, the money seized under this subtitle shall be returned to the owner on request by the owner.

(3) If the owner fails to ask for the return of the money within 1 year after the final disposition of criminal proceedings, the money shall revert to:

(i) the political subdivision in which the money was seized; or

(ii) the State, if the money was seized by State authorities.

§13–518.

(a) A complaint seeking forfeiture shall contain:

(1) a description of the property seized;

(2) the date and place of the seizure;

(3) the name of the owner, if known;

(4) the name of the person in possession, if known;

(5) the name of each lienholder, if known or reasonably subject to discovery;

(6) an allegation that the property is subject to forfeiture;

(7) if the forfeiting authority seeks to forfeit a lienholder's interest in property, an allegation that the lien was created with actual knowledge that the property was being or was to be used in violation of § 3–1102 or § 3–1103 of the Criminal Law Article;

(8) a statement of the facts and circumstances surrounding the seizure;

(9) a statement setting forth the specific grounds for forfeiture; and

(10) an oath or affirmation by the forfeiting authority that the contents of the complaint are true to the best of the forfeiting authority's knowledge, information, and belief.

(b) Within 20 days after the filing of the complaint, copies of the summons and complaint shall be sent by certified mail requesting "restricted delivery – show to whom, date, address of delivery" and first–class mail to all known owners and lienholders whose identities are reasonably subject to discovery, including all real property owners and lienholders shown in the records required by law for notice or perfection of the lien.

§13–519.

(a) A notice shall be signed by the clerk of the court and shall:

(1) include the caption of the case;

(2) describe the substance of the complaint and the relief sought;

(3) state the latest date on which a response may be filed;

(4) state that the property shall be forfeited if a response is not filed on time;

(5) state that the owner of the property may have possession of the property pending forfeiture by posting a bond as provided in § 13–510 of this subtitle; and

(6) tell where to file a response and whom to contact for more information concerning the forfeiture.

(b) Within 20 days after the filing of the complaint, the notice shall be:

(1) posted by the sheriff on the door of the courthouse where the action is pending or on a bulletin board within the immediate vicinity of the door;

(2) posted by the sheriff in a conspicuous place on the land, if forfeiture of real property is sought; and

(3) published at least once a week in each of 3 successive weeks in a newspaper of general circulation published in the county in which the action is pending, unless the property is a boat or motor vehicle.

§13–520.

The answer to a complaint shall:

(1) comply with the Maryland Rules;

(2) state the nature and extent of the person's right in, title to, or interest in the property;

(3) state how and when the person acquired a right in, title to, or interest in the property; and

(4) contain a request for relief and a request for a prompt hearing.

§13–521.

(a) If an answer has been filed on time, the court shall set a hearing on the forfeiture claim within 60 days after the later of:

(1) posting of notice under § 13–519(b)(1) or (2) of this subtitle; or

(2) final publication of notice under § 13–519(b)(3) of this subtitle.

(b) Without a hearing, the court may order forfeiture of the property interest of a person who fails to timely file an answer.

§13–522.

Except as provided in §§ 13–503 and 13–524 of this subtitle, an owner's interest in real property may be forfeited if the owner of the real property is convicted of violating § 3–1102 or § 3–1103 of the Criminal Law Article or attempting or conspiring to violate § 3–1102 or § 3–1103 of the Criminal Law Article.

§13–523.

(a) Forfeiture proceedings for real property may be brought in the jurisdiction where:

(1) the criminal charges are pending;

(2) the owner resides; or

(3) the real property is located.

(b) (1) If forfeiture proceedings for real property are brought in a jurisdiction other than where the real property is located, a notice of pending litigation shall be filed in the jurisdiction where the property is located.

(2) A notice of pending litigation required under this subsection shall include at least:

(i) the name and address of the owner of the real property;

(ii) a description of the real property; and

(iii) a description of the reasons for the filing of the forfeiture proceedings and notice of pending litigation.

§13–524.

If an owner of real property used as the principal family residence is convicted under § 3–1102 or § 3–1103 of the Criminal Law Article or is convicted of an attempt or conspiracy to violate § 3–1102 or § 3–1103 of the Criminal Law Article and the owner files an appeal of the conviction, the court shall stay forfeiture proceedings under § 13–503 of this subtitle against the real property during the pendency of the appeal.

§13–525.

(a) (1) Except as provided in subsection (b) of this section, there is a rebuttable presumption that property or part of a property in which a person has an ownership interest is subject to forfeiture as proceeds, if the State establishes by clear and convincing evidence that:

(i) the person was convicted of violating § 3–1102 or § 3–1103 of the Criminal Law Article or attempting or conspiring to violate § 3–1102 or § 3–1103 of the Criminal Law Article;

(ii) the property was acquired by the person during the violation or within a reasonable time after the violation; and

(iii) there was no other likely source for the property.

(2) A claimant of the property has the burden of proof to rebut the presumption in paragraph (1) of this subsection.

(b) Real property used as the principal family residence may not be forfeited under this section unless:

(1) an owner of the real property was convicted of a crime described under subsection (a)(1)(i) of this section; or

(2) § 13–503(d) of this subtitle applies.

§13–526.

(a) The court may order the forfeiture of other property of the owner up to the value of any property seized under this subtitle, with the exception of real property, if as a result of an act or omission of the owner the property to be forfeited:

(1) cannot be located after the exercise of due diligence;

(2) has been transferred, sold to or deposited with a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property and cannot be divided without difficulty.

(b) The court may order the owner to return property to the jurisdiction of the court.

§13–527.

In a proceeding under this subtitle, a court:

(1) may grant requests for mitigation or remission of forfeiture or take other action that protects the rights of innocent persons, is consistent with this subtitle, and is in the interest of justice;

(2) may resolve claims arising under this subtitle; and

(3) may take appropriate measures to safeguard and maintain property forfeited under this subtitle pending the disposition of the property.

§13–528.

(a) After a full hearing, if the court determines that the property should not be forfeited, the court shall order that the property be released.

(b) Subject to § 13–529 of this subtitle, if the court determines that the property should be forfeited, the court shall order that the property be forfeited to the appropriate governing body.

(c) (1) If the court determines that the forfeited property is subject to a valid lien created without actual knowledge of the lienholder that the property was being or was to be used in violation of § 3–1102 or § 3–1103 of the Criminal Law Article, the court shall order that the property be released within 5 days to the first priority lienholder.

(2) The lienholder shall sell the property in a commercially reasonable manner.

(3) The proceeds of the sale shall be applied as follows:

(i) to the court costs of the forfeiture proceeding;

(ii) to the balance due the lienholder, including all reasonable costs incident to the sale;

(iii) to payment of all other expenses of the proceedings for forfeiture, including expenses of seizure or maintenance of custody; and

(iv) to the General Fund of the State or of the political subdivision that seized the property.

§13–529.

If property is forfeited under this subtitle, the governing body where the property was seized may:

(1) keep the property for official use;

(2) require an appropriate unit to take custody of the property and destroy or otherwise dispose of it; or

(3) sell the property if:

(i) the law does not require the property to be destroyed; and

(ii) the property is not harmful to the public.

§13–530.

(a) The proceeds from a sale or the retention of property declared to be forfeited and any interest accrued shall be applied, first, to the proper expenses of the proceeding for forfeiture and resulting sale, including the expense of seizing and maintaining custody of the property and advertising.

(b) Any balance remaining after the distribution required under subsection (a) of this section shall be distributed to the General Fund of the State or of the political subdivision that seized the property.

§13–531.

A sale of property ordered under this subtitle shall be made for cash and gives the purchaser clear and absolute title.

§13–532.

(a) Before exercising the right to sell property that has been seized under this subtitle, a lienholder shall give to the forfeiting authority:

(1) written notice of the intention to sell;

(2) copies of documents giving rise to the lien; and

(3) an affidavit under oath by the lienholder:

(i) stating that the underlying obligation is in default; and

(ii) stating the reasons for the default.

(b) On request of the lienholder, the forfeiting authority shall release the property to the lienholder.

§13–533.

(a) Except as provided in subsection (b) of this section, the law governing the sale of collateral securing an obligation in default governs a lienholder's repossession and sale of property that has been seized under this subtitle.

(b) A lienholder may not be required to take possession of the property before the sale of the property.

§13–534.

(a) Any part of the proceeds from a sale of property that has been seized under this subtitle that would be paid to an owner of the property under the applicable law relating to distribution of proceeds:

(1) shall be paid to the seizing authority; and

(2) shall be property subject to forfeiture.

(b) If an order of forfeiture is not entered, the State shall return to the owner that part of the proceeds and any costs of the forfeiture proceedings paid from the proceeds of the sale.

§13–535.

(a) If the interest of the owner in property that has been seized under this subtitle is redeemed, the lienholder shall mail a notice of the redemption to the forfeiting authority within 10 days after the redemption.

(b) (1) If property that has been seized under this subtitle has been repossessed or otherwise lawfully taken by the lienholder, the lienholder shall return the property to the seizing authority within 21 days after the redemption.

(2) The seizing authority and the forfeiting authority may then proceed with the forfeiture of the property or the proceeds from the sale of the property.

(c) Time limitations required under this subtitle for notice and filing of the complaint for forfeiture run from the date of redemption or purchase of the property that has been seized under this subtitle.

§13–536.

This subtitle does not prohibit a lienholder from exercising rights under applicable law, including the right to sell property that has been seized under this subtitle, if a default occurs in the obligation giving rise to the lien.

§14–101.

In this title, "Commission" means the State Prosecutor Selection and Disabilities Commission.

§14–102.

(a) (1) There is an Office of the State Prosecutor.

(2) The Office of the State Prosecutor is an independent unit in the Office of the Attorney General.

(b) (1) An individual is eligible to be the State Prosecutor only if the individual:

(i) executes an affidavit that the individual will not accept appointment to, or be a candidate for, a State or local office during the period of service as the State Prosecutor and for at least 3 years immediately after the individual last serves as the State Prosecutor; and

(ii) has lawfully and actively practiced law in the State for at least 5 years.

(2) The State Prosecutor shall renew the affidavit every 2 years during the period of service.

(3) A failure to renew the affidavit under this subsection shall subject the State Prosecutor to removal from office under this section.

(c) (1) The State Prosecutor shall be:

(i) nominated by the Commission; and

(ii) appointed by the Governor with the advice and consent of the Senate.

(2) The term of the State Prosecutor is 6 years.

(3) At the end of a term, the State Prosecutor continues to serve until a successor is appointed and qualifies.

(d) Only on the recommendation of the Commission, the Governor may remove the State Prosecutor for:

(1) misconduct in office;

(2) persistent failure to perform the duties of the office; or

(3) conduct prejudicial to the proper administration of justice.

(e) The State Prosecutor is entitled to the salary provided in the State budget, but not less than the salary of a judge of a circuit court.

§14–103.

(a) There is a State Prosecutor Selection and Disabilities Commission.

(b) The Commission consists of:

(1) the Attorney General; and

(2) six individuals appointed by the Governor as follows:

(i) two individuals shall be appointed from a list of two or more nominees submitted by the President of the Senate:

1. only one of the individuals appointed shall be a lawyer; and

2. none of the nominees may be a member of the General Assembly or a full–time State employee;

(ii) two individuals shall be appointed from a list of two or more nominees submitted by the Speaker of the House of Delegates:

1. only one of the individuals appointed shall be a lawyer; and

2. none of the nominees may be a member of the General Assembly or a full–time State employee;

(iii) one individual who:

1. shall be appointed from a list of one or more nominees submitted by the Board of Governors of the Maryland State Bar Association; and

2. is a lawyer admitted to practice law in the State; and

(iv) one individual who:

1. shall be appointed from a list of one or more nominees submitted by the governing board of the Maryland State's Attorneys Association; and

2. is a State's Attorney at the time of appointment and throughout the individual's term on the Commission.

(c) (1) The Governor shall appoint the members of the Commission from the nominees submitted to the Governor under this section.

(2) The Governor may reject an individual as a nominee only for cause.

(3) If the Governor rejects an individual as a nominee, the Governor shall request the appropriate nominating authority to submit another nominee.

(d) (1) The term of an appointed member is 4 years.

(2) The terms of appointed members are staggered as required by the terms in effect for members on October 1, 2008.

(3) An appointed member serves until a successor is appointed and qualifies.

(4) An appointed member is eligible for reappointment.

(e) From among the members, the Governor shall designate the chair of the Commission for the period that the Governor determines.

(f) A vacancy that occurs on the Commission shall be filled by the Governor in the same manner as provided for appointments in this section.

(g) A member of the Commission:

(1) may not receive compensation for serving on the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§14–104.

(a) On notification by the Governor that a vacancy exists or is about to occur in the position of State Prosecutor, the Commission shall:

(1) seek and review applications of proposed nominees;

(2) notify and request recommendations from the Maryland State Bar Association; and

(3) seek recommendations from members of the Commission and interested citizens and groups.

(b) The Commission shall:

(1) interview and evaluate each eligible applicant; and

(2) nominate to the Governor, on a vote taken by secret ballot, one or more individuals whom a majority of the authorized membership of the Commission finds to be legally and professionally qualified.

(c) The Commission shall report, in writing, to the Governor the name of the individual or individuals it nominates within 70 days after notification that a vacancy exists or is about to occur.

(d) (1) (i) The Governor may reject a nominee for cause.

(ii) If a nominee is rejected for cause, the Commission shall submit another nominee.

(2) If the Governor rejects a nominee:

(i) the Governor shall send to the Commission a written statement that contains the reasons for the rejection; and

(ii) a copy of the statement of rejection shall be furnished to the nominee.

(3) The statement shall be confidential and privileged, unless the privilege is deemed waived by the Commission by the acts of the nominee in presenting to the public the reason for the rejection.

(4) The Commission may make the statement public.

(e) The Governor shall exercise the power of appointment or rejection within 30 days after receipt of the Commission's report.

§14–105.

(a) The Commission may reprimand or recommend to the Governor the removal of the State Prosecutor if, after a hearing, the Commission finds that the State Prosecutor is guilty of:

(1) misconduct in office;

(2) persistent failure to perform the duties of the office; or

(3) conduct prejudicial to the proper administration of justice.

(b) (1) Except as provided in paragraph (2) of this subsection, the proceedings, testimony, and other evidence before the Commission are confidential and privileged.

(2) On taking final action, the Commission may make its order and the proceedings, testimony, and other evidence public.

(c) (1) On complaint or on its own initiative, the Commission may investigate allegations against the State Prosecutor that may warrant removal or reprimand.

(2) The Commission may:

(i) conduct hearings;

(ii) administer oaths and affirmations;

(iii) issue process to compel the attendance of witnesses and the production of evidence; and

(iv) require a person to testify and produce evidence by granting the person immunity from prosecution, penalty, or forfeiture.

§14–106.

The State Prosecutor has the powers and duties established under §§ 14–107 through 14–111 of this title.

§14–107.

(a) (1) Except as provided in paragraph (2) of this subsection, the State Prosecutor may investigate:

(i) a criminal offense under the State election laws;

(ii) a criminal offense under the State Public Ethics Law;

(iii) a violation of the State bribery laws in which an official or employee of the State, a political subdivision of the State, or a bicounty or multicounty unit of the State was the offeror, offeree, or intended offeror or offeree of a bribe;

(iv) an offense constituting criminal malfeasance, misfeasance, or nonfeasance in office committed by an officer or employee of the State, of a political subdivision of the State, or of a bicounty or multicounty unit of the State;

(v) a violation of the State extortion, perjury, or obstruction of justice laws related to an activity described in this paragraph; and

(vi) a criminal offense related to voting in a municipal election under § 4–108.1 of the Local Government Article.

(2) The State Prosecutor may not investigate an offense alleged to have been committed by the State Prosecutor or a member of the State Prosecutor's staff.

(3) The State Prosecutor may investigate an alleged offense under paragraph (1) of this subsection on the State Prosecutor's own initiative or on request of:

(i) the Governor;

(ii) the Attorney General;

(iii) the General Assembly;

(iv) the State Ethics Commission; or

(v) a State's Attorney.

(4) An individual who is advised by the State Prosecutor that the individual is under investigation under paragraph (1)(iv) of this subsection may release this information to the public, as well as any results of the investigation that pertain to the individual.

(b) On request of the Governor, the Attorney General, the General Assembly, or a State's Attorney, the State Prosecutor may investigate criminal activity that is committed:

(1) partly in the State and partly in another jurisdiction; or

(2) in more than one political subdivision of the State.

§14–108.

(a) (1) Except as provided in paragraph (2) of this subsection, if the State Prosecutor finds that an alleged violation of the criminal law set forth in § 14–107 of this title has occurred, the State Prosecutor shall make a confidential report of the findings and any recommendations for prosecution to the Attorney General and the State's Attorney for the county in which jurisdiction exists to prosecute the matter.

(2) A report of the findings and recommendations regarding allegations of offenses committed by a State's Attorney need not be made to that State's Attorney.

(b) (1) If the State Prosecutor finds that there has not been a violation of criminal law or the State Prosecutor does not recommend prosecution, the State Prosecutor shall report the findings to the person who requested the investigation.

(2) If the General Assembly requested the investigation, the report shall be made to the President of the Senate and the Speaker of the House of Delegates.

(3) On request of the person who was the subject of the investigation, the report shall be made available to the public as soon as possible.

§14–109.

(a) (1) The State Prosecutor may prosecute a criminal offense set forth in the State Prosecutor's report of the findings and recommendations if, within 45 days after receipt of the report, the State's Attorney fails to file charges and begin prosecution in accordance with the recommendations.

(2) Notwithstanding paragraph (1) of this subsection, the State Prosecutor may immediately prosecute a criminal offense that is set forth in the State Prosecutor's report and that is alleged to have been committed by the State's Attorney.

(b) (1) The State Prosecutor shall represent the State in each appeal and postconviction proceeding that arises from a prosecution that the State Prosecutor conducts.

(2) Notwithstanding paragraph (1) of this subsection, the Attorney General may represent the State or assist the State Prosecutor:

(i) on the request of the State Prosecutor; or

(ii) as required by law in an appeal or collateral proceeding described in paragraph (1) of this subsection.

§14–110.

(a) The State Prosecutor has all the powers and duties of a State's Attorney, including the use of a grand jury in any county, when the State Prosecutor:

(1) investigates a case under § 14–107 of this title; or

(2) prosecutes a case under § 14–109 of this title.

(b) (1) For the limited purpose of furthering an ongoing criminal investigation under § 14–107 of this title, the State Prosecutor may issue a subpoena to a person to produce telephone, business, governmental, or corporate records or documents.

(2) The subpoena may be served in the same manner as one issued by a circuit court.

(c) (1) A person may have an attorney present during any contact with the State Prosecutor made under subsection (b) of this section.

(2) The State Prosecutor shall advise a person of the right to counsel when the subpoena is served.

(d) (1) (i) The State Prosecutor immediately may report the failure of a person to obey a lawfully served subpoena under subsection (b) of this section to the circuit court of the county having jurisdiction.

(ii) The State Prosecutor shall provide a copy of the subpoena and proof of service to the circuit court.

(2) After conducting a hearing at which the person who allegedly failed to comply with a subpoena issued under subsection (b) of this section has an opportunity to be heard and represented by counsel, the court may grant appropriate relief.

(e) This section does not allow the contravention, denial, or abrogation of a privilege or right recognized by law.

§14–111.

The trial of a case that the State Prosecutor prosecutes in accordance with § 14–109 of this title shall take place before the court having jurisdiction in the county in which the offense was entirely or partly committed, subject to removal in accordance with the Maryland Rules.

§14–112.

(a) The budget of the State Prosecutor and the Office of the State Prosecutor shall be a part of the budget of the Office of the Attorney General.

(b) The State Prosecutor may appoint and employ the professional, investigative, and clerical staff provided in the State budget.

(c) The State Prosecutor and the staff attorneys appointed by the State Prosecutor shall devote full time to their official duties and may not engage in the private practice of law.

(d) (1) To the extent practicable, the State Prosecutor shall use the services and personnel of:

(i) the Office of the Attorney General;

(ii) the Department of State Police; and

(iii) other State and law enforcement units.

(2) The units listed in paragraph (1) of this subsection shall cooperate, to the extent feasible, with the State Prosecutor and the State Prosecutor's staff.

§14–113.

The State Prosecutor shall meet and confer regularly with the Attorney General and the State's Attorneys.

§14–114.

The State Prosecutor shall submit an annual report on activities of the Office of the State Prosecutor that are not confidential to:

(1) the Governor;

(2) the Attorney General; and

(3) subject to § 2–1257 of the State Government Article, the General Assembly.

§15–101.

(a) In this title the following words have the meanings indicated.

(b) "Coordinator" means the State's Attorneys' Coordinator.

(c) "Council" means the State's Attorneys' Coordination Council.

(d) "State's Attorney" means the individual holding that office under Article V, § 7 of the Maryland Constitution.

§15–102.

Subject to Title 14 of this article, a State's Attorney shall, in the county served by the State's Attorney, prosecute and defend on the part of the State all cases in which the State may be interested.

§15–104.

(a) Each State's Attorney shall annually provide a corporate surety bond payable to the State in the amount of $5,000.

(b) The bond shall be conditioned on the State's Attorney faithfully:

(1) performing the duties of the office; and

(2) accounting for funds and property received under color of the office.

(c) (1) The bond shall be deposited with the Comptroller.

(2) Premiums on the bond shall be an expense of the office of the State's Attorney.

§15–105.

A State's Attorney shall prepare and submit to the Division of Parole and Probation and the Division of Correction a summary of the facts and evidence in each case tried in the circuit court for the county served by the State's Attorney in which:

(1) the defendant was sentenced to imprisonment for 18 months or more; and

(2) the Division of Parole and Probation did not prepare a presentence investigation report.

§15–108.

(a) (1) For the limited purpose of furthering an ongoing criminal investigation, a State's Attorney or a deputy State's Attorney designated in writing by the State's Attorney may issue in the county served by the State's Attorney a subpoena to a person to produce telephone, business, governmental, or corporate records or documents.

(2) The subpoena may be served in the same manner as one issued by a circuit court.

(b) (1) A person may have an attorney present during any contact made under subsection (a) of this section with a State's Attorney or an agent of the State's Attorney.

(2) The State's Attorney shall advise a person of the right to counsel when the subpoena is served.

(c) (1) (i) The State's Attorney immediately may report the failure of a person to obey a lawfully served subpoena under subsection (a) of this section to the circuit court of the county served by the State's Attorney.

(ii) The State's Attorney shall provide a copy of the subpoena and proof of service to the circuit court.

(2) After conducting a hearing at which the person who allegedly failed to comply with a subpoena issued under subsection (a) of this section has an opportunity to be heard and represented by counsel, the court may grant appropriate relief.

(d) This section does not allow the contravention, denial, or abrogation of a privilege or right recognized by law.

§15–109.

(a) If necessary due to an absence, sickness, resignation, or death of a State's Attorney, the circuit court for the county may appoint a competent individual to perform the duties of the State's Attorney in conducting criminal or civil cases arising or pending in the circuit court until:

(1) the State's Attorney is able to attend and act in person; or

(2) a new State's Attorney is appointed and qualified.

(b) An individual appointed under subsection (a) of this section shall receive the same compensation as the State's Attorney who is replaced.

§15–201.

There is a State's Attorneys' Coordination Council.

§15–202.

(a) The Council consists of:

(1) the Attorney General;

(2) the State's Attorney for Anne Arundel County;

(3) the State's Attorney for Baltimore City;

(4) the State's Attorney for Baltimore County;

(5) the State's Attorney for Montgomery County;

(6) the State's Attorney for Prince George's County;

(7) the State's Attorney for Allegany County, Frederick County, Garrett County, or Washington County who is chosen by a majority vote of the State's Attorneys for those counties;

(8) the State's Attorney for Calvert County, Charles County, or St. Mary's County who is chosen by a majority vote of the State's Attorneys for those counties;

(9) the State's Attorney for Caroline County, Cecil County, Kent County, Queen Anne's County, or Talbot County who is chosen by a majority vote of the State's Attorneys for those counties;

(10) the State's Attorney for Carroll County, Harford County, or Howard County who is chosen by a majority vote of the State's Attorneys for those counties; and

(11) the State's Attorney for Dorchester County, Somerset County, Wicomico County, or Worcester County who is chosen by a majority vote of the State's Attorneys for those counties.

(b) (1) This subsection only applies to members chosen in accordance with subsection (a)(7) through (11) of this section.

(2) The term of a member of the Council is 2 years.

(3) A member continues to serve until a successor is chosen and qualifies.

(4) A member may serve only during the time the member holds the office that qualifies the member for membership.

(5) A member is eligible to serve more than one term.

(6) A vacancy on the Council shall be filled in the same manner used to choose the original membership in subsection (a) of this section.

(c) Membership on the Council does not constitute holding an office of profit.

§15–203.

The Council shall designate from among its members a chair and vice chair who:

(1) shall serve for a term of 2 years; and

(2) are eligible for reelection.

§15–204.

(a) A majority of the members of the Council is a quorum.

(b) (1) The Council shall meet at least four times each year.

(2) The Council shall hold special meetings when called by:

(i) the chair, on the chair's own initiative or on the written request of three Council members; or

(ii) the vice chair, in the absence of the chair.

(3) The Council shall establish procedures and requirements with respect to meetings, deliberations, and the administration of the functions of the Council.

(c) The Coordinator shall serve as the secretary to the Council and perform the duties and responsibilities the Council directs in order to carry out the functions of the Council.

§15–205.

After consultation with the State Board of Victim Services, the Council shall adopt regulations for the administration of the Victim and Witness Protection and Relocation Program established under § 11–902 of this article.

§15–301.

(a) (1) There is an office of State's Attorneys' Coordinator.

(2) The Coordinator shall be appointed by and serve at the pleasure of the Council.

(b) An individual is eligible to be the Coordinator if, at the time of appointment, the individual is admitted to practice law in the State.

(c) The Coordinator shall receive the salary provided in the State budget.

(d) The Coordinator shall devote full time to the Coordinator's official duties and may not engage in the private practice of law.

(e) The Coordinator may appoint and employ the professional and clerical staff approved by the Council and as provided in the State budget.

(f) The Council shall prepare and submit to the Governor a budget for the office each fiscal year.

(g) Each unit of State and local government shall cooperate to the extent practicable with the Coordinator and the staff of the Coordinator in the discharge of the Coordinator's duties.

§15–302.

The Coordinator shall:

(1) establish and implement standard and specialized training programs for and provide materials to State's Attorneys and professional staffs of State's Attorneys;

(2) provide and coordinate continuing legal education programs and services for State's Attorneys and professional staffs of State's Attorneys, including:

(i) legal research;

(ii) technical assistance;

(iii) technical and professional publications; and

(iv) the compiling and disseminating of information concerning and the advising of State's Attorneys about developments in the criminal law and the administration of criminal justice relating to the duties of the office of State's Attorney;

(3) with the approval of the Council, establish and implement uniform reporting procedures for State's Attorneys and professional staffs of State's Attorneys to maintain and provide statistical data and information relating to prosecutorial functions and standards of the office of State's Attorney;

(4) with the approval of the Council, accept and expend funds, grants, and gifts and accept services from public or private sources;

(5) with the approval of the Council, enter into agreements and contracts with public or private agencies or educational institutions;

(6) provide services and functions as the Council directs to carry out the duties of the office of Coordinator;

(7) administer the Victim and Witness Protection and Relocation Program established under § 11–902 of this article, including consideration of and approving the release of moneys from the Program;

(8) consult with the State Board of Victim Services on the administration of the Victim and Witness Protection and Relocation Program; and

(9) meet and confer regularly with the Attorney General, the State's Attorneys, and the Council.

§15–401.

(a) (1) The State's Attorney for a county shall receive:

(i) an annual salary for performing the duties of the office as set forth in the public general laws and the public local laws of the county; and

(ii) an annual payment for office, travel, and other expenses as provided by law and the current practice of the county.

(2) Unless otherwise specified, a county shall pay the salary and expenses in equal monthly installments.

(b) (1) Except for necessary travel and other expenses incurred in trying a case removed to another county, a State's Attorney may not receive any other compensation for performing the duties of the office.

(2) Any fees to which the State's Attorney may be entitled shall be:

(i) collected and paid to the governing body of the county; and

(ii) credited to the general fund of the county.

§15–402.

(a) This section applies only in Allegany County.

(b) The State's Attorney's salary is 90% of the salary of a judge of the District Court of Maryland in effect on December 31 of the year immediately before the start of the State's Attorney's term of office.

(c) As determined by the State's Attorney, the State's Attorney, a deputy State's Attorney, or an assistant State's Attorney shall:

(1) present cases to the grand jury; and

(2) perform other necessary duties in relation to the grand jury, the District Court of Maryland, and the circuit court, including the juvenile court.

(d) The State's Attorney may appoint:

(1) two deputy State's Attorneys who shall serve full time and whose salaries may not be less than 80% of the salary of the State's Attorney; and

(2) as many assistant State's Attorneys that the county commissioners authorize and fund.

(e) (1) The State's Attorney shall appoint a county investigator and an assistant county investigator in accordance with §§ 12–1A and 12–1B of the Allegany County Code.

(2) The county investigator and assistant county investigator shall be funded in accordance with § 12–1A of the Allegany County Code.

(f) The State's Attorney may not engage in the private practice of law.

§15–403.

(a) This section applies only in Anne Arundel County.

(b) The State's Attorney's salary:

(1) for calendar year 2003, is equal to the salary of a circuit court judge as of December 31, 2002; and

(2) shall be increased each calendar year thereafter by 3% over the salary of the State's Attorney for the previous calendar year.

(c) (1) The State's Attorney may:

(i) 1. appoint two deputy State's Attorneys; and

2. subject to the approval of the county, set salaries for the deputy State's Attorneys that may not exceed 90% of the State's Attorney's salary; and

(ii) 1. appoint the number of assistant State's Attorneys as provided by the county; and

2. subject to approval by the county, set salaries for the assistant State's Attorneys that may not exceed 80% of the State's Attorney's salary.

(2) Subject to approval by the administrative judge of the circuit court, the State's Attorney may:

(i) appoint a temporary assistant State's Attorney for a particular case or series of cases; and

(ii) subject to the approval of the county, set the compensation for the temporary assistant State's Attorney.

(d) The State's Attorney may appoint clerical, administrative, investigative, and other staff the State's Attorney considers necessary for the proper conduct of the office.

(e) (1) (i) Except in connection with performing the duties of the office, the State's Attorney may not appear as counsel or represent any party before a court or unit of the State or a political subdivision of the State.

(ii) The State's Attorney may not engage in the private practice of law.

(2) The deputy State's Attorneys shall serve full time and may not engage in the private practice of criminal law.

(3) Subject to paragraph (4) of this subsection, the assistant State's Attorneys:

(i) may not engage in the private practice of criminal law; and

(ii) except for one assistant State's Attorney, shall serve full time.

(4) In accordance with the Anne Arundel County Code, the State's Attorney may designate two or more assistant State's Attorneys to share one or more full–time positions.

§15–404.

(a) This section applies only in Baltimore County.

(b) (1) Subject to Article III, § 35 of the Maryland Constitution and paragraph (2) of this subsection, beginning with the term of the State's Attorney who was elected to that position in 1982, the State's Attorney's salary:

(i) is equal to the salary of a circuit court judge; and

(ii) shall be increased 5% each year during the State's Attorney's term of office.

(2) (i) Beginning with the term of the State's Attorney elected to that position in 2010, the salary of the State's Attorney is $194,276; and

(ii) for the year beginning on January 1, 2012, and each year thereafter until January 1, 2023, the salary shall be increased by 1%.

(c) (1) (i) The State's Attorney shall appoint two deputy State's Attorneys, one of whom shall be designated deputy State's Attorney of trial and administration and the other shall be designated deputy State's Attorney of operations.

(ii) A deputy State's Attorney shall perform the work that the State's Attorney requires.

(iii) Subject to the approval of the County Executive and the County Council, the State's Attorney shall set the salaries of the deputy State's Attorneys.

(2) (i) As authorized by the County Executive, the State's Attorney may appoint assistant State's Attorneys.

(ii) Subject to the approval of the County Executive and the County Council, the State's Attorney shall set the salaries of the assistant State's Attorneys.

(3) The deputy and assistant State's Attorneys have the same legal powers as the State's Attorney to represent the State before the grand jury and in criminal proceedings.

(d) (1) The State's Attorney may appoint clerical, administrative, and other staff that the State's Attorney considers necessary for the proper conduct of the office.

(2) The staff appointed under paragraph (1) of this subsection shall perform clerical and other work as directed by the State's Attorney.

(e) The State's Attorney and the deputy State's Attorneys shall serve full time and may not engage in the private practice of law.

§15–405.

(a) This section applies only in Calvert County.

(b) (1) The State's Attorney's salary is equal to the salary of a circuit court judge.

(2) A salary increase shall take effect at the beginning of the elected term of office and may not increase during the term of office.

(c) (1) Subject to approval of the county commissioners, the State's Attorney shall appoint a deputy State's Attorney and an assistant State's Attorney, as needed.

(2) The county commissioners shall set the salaries of the deputy and assistant State's Attorneys.

(3) The deputy and assistant State's Attorneys:

(i) shall serve at the pleasure of the State's Attorney;

(ii) shall perform work as directed by the State's Attorney; and

(iii) may present cases to the grand jury, sign indictments and criminal informations, and perform other functions necessary to the operation of the Office.

(d) The State's Attorney shall serve full time and may not engage in the private practice of law.

§15–406.

(a) This section applies only in Caroline County.

(b) (1) The State's Attorney's salary is 85% of the salary of a judge of the District Court of Maryland.

(2) The State's Attorney is entitled to reimbursement for expenses under the Standard State Travel Regulations.

(c) The State's Attorney may not engage in the private practice of law.

§15–407.

(a) This section applies only in Carroll County.

(b) (1) (i) The State's Attorney's salary is the following percentages of the salary of a judge of the District Court of Maryland:

1. 80%, ending on December 3, 2018;

2. 90%, beginning on December 4, 2018; and

3. 100%, beginning on December 3, 2019, and thereafter.

(ii) A salary increase shall take effect at the beginning of the elected term of office and may not increase during the term of office.

(2) The county commissioners shall:

(i) provide space for the offices of the State's Attorney and pay the expenses of the office, including general operating expenses, equipment costs, and reasonable costs for secretarial or stenographic needs; or

(ii) as determined by the county commissioners, pay a reasonable allowance to reimburse the State's Attorney for the costs of the operation of the office.

(c) (1) The State's Attorney:

(i) may appoint two deputy State's Attorneys and the number of assistant State's Attorneys necessary to staff the office; and

(ii) subject to the approval of the county commissioners, shall set the salaries for the deputy and assistant State's Attorneys.

(2) (i) In addition to the assistant State's Attorneys appointed under paragraph (1) of this subsection, if both the State's Attorney and the resident judge of the circuit court of the county consider it necessary and the judge approves, the State's Attorney may appoint an assistant State's Attorney.

(ii) The county commissioners shall set the salary of an assistant State's Attorney appointed under this paragraph.

(d) The State's Attorney shall serve full time and may not engage in the private practice of law.

§15–408.

(a) This section applies only in Cecil County.

(b) (1) The State's Attorney is entitled to:

(i) a salary that is 95% of the salary of a judge of the District Court of Maryland; and

(ii) the same benefits as a full–time county employee.

(2) The State's Attorney:

(i) is entitled to a reasonable expense allowance for the operation of the office and performance of the duties of State's Attorney as provided in the county budget; and

(ii) subject to the approval of the administrative judge of the circuit court for the county, may spend $1,500 each year for special work and employing extra help.

(c) (1) (i) The State's Attorney may appoint one deputy State's Attorney and the number of assistant State's Attorneys as provided in the county budget.

(ii) The salary of the deputy State's Attorney and the assistant State's Attorneys shall be as provided in the county budget.

(2) The deputy State's Attorney and the assistant State's Attorneys have the same legal powers as the State's Attorney to represent the State before the grand jury and in criminal proceedings.

(3) The deputy State's Attorney and the assistant State's Attorneys:

(i) serve at the pleasure of the State's Attorney;

(ii) serve part time; and

(iii) are entitled to the same benefits as a full–time county employee.

(d) (1) (i) The State's Attorney may appoint clerical, secretarial, administrative, investigative, and other support staff that the State's Attorney considers necessary for the proper conduct of the office.

(ii) The State's Attorney's executive secretary and criminal investigators serve at the pleasure of the State's Attorney.

(iii) Except for the State's Attorney's executive secretary and criminal investigators, the positions appointed under this subsection are subject to county personnel policies and procedures governing county employees.

(2) The salaries of the positions appointed under this subsection shall be as provided in the county budget.

(e) The State's Attorney shall serve full time and may not engage in the private practice of law.

§15–409.

(a) This section applies only in Charles County.

(b) (1) The State's Attorney's salary is equal to the salary of a circuit court judge.

(2) Subject to the approval of the county commissioners, the State's Attorney is entitled to reimbursement for reasonable expenses incurred during the performance of the duties of the office.

(c) (1) The State's Attorney may appoint deputy State's Attorneys and assistant State's Attorneys.

(2) Subject to the approval of the county commissioners and paragraph (3) of this subsection, the State's Attorney shall set the salary for positions appointed under this subsection.

(3) The salary of an assistant State's Attorney may not exceed the salary of the State's Attorney.

(4) The deputy and assistant State's Attorneys:

(i) shall serve at the pleasure of the State's Attorney;

(ii) shall perform work as directed by the State's Attorney or as authorized by law; and

(iii) may present cases to the grand jury, sign indictments and criminal informations, and perform other functions necessary to operate the office.

(d) (1) The State's Attorney may appoint clerical, administrative, investigative, and other staff that the State's Attorney considers necessary for the proper conduct of the office.

(2) Subject to the approval of the county commissioners, the State's Attorney shall set the salaries for the employees appointed under this subsection.

(3) An employee appointed under this subsection is entitled to the same benefits as a county employee.

(e) (1) The State's Attorney:

(i) shall serve full time; and

(ii) except in connection with performing the duties of the office, may not:

1. appear as counsel or represent any party before a court or unit of the State or a political subdivision of the State; or

2. otherwise engage in the private practice of law.

(2) A deputy State's Attorney shall serve full time and may not engage in the private practice of law.

(3) An assistant State's Attorney may serve full time or part time and may not engage in the private practice of criminal law.

§15–410.

(a) This section applies only in Dorchester County.

(b) (1) The State's Attorney's salary is 80% of the salary of a judge of the District Court of Maryland.

(2) Subject to the approval of the County Council, the State's Attorney is entitled to an allowance for the expenses of operating the office, including the costs of telephone charges, office supplies and equipment, postage, travel, training, conferences, books and publications, and premiums on office bonds.

(c) (1) The State's Attorney may appoint the number of full–time or part–time deputy State's Attorneys and assistant State's Attorneys that the County Council approves.

(2) The deputy and assistant State's Attorneys shall:

(i) serve at the pleasure of the State's Attorney;

(ii) receive compensation as approved by the County Council; and

(iii) have the same legal powers as the State's Attorney to present cases to the grand jury and perform all other necessary duties in relation to the grand jury and the operation of the office.

(d) Subject to the approval of the County Council, the State's Attorney may employ administrative and clerical employees who shall:

(1) receive salaries in accordance with the county pay scale; and

(2) be considered county employees and members of the pension system in which a county employee is eligible for membership.

(e) (1) Subject to the approval of the County Council, the State's Attorney may appoint full–time or part–time criminal investigators.

(2) If the State's Attorney appoints more than one criminal investigator, the State's Attorney may designate one as chief investigator and assign other ranks and titles to the other criminal investigators.

(3) A criminal investigator who is appointed under this subsection:

(i) shall serve at the pleasure of the State's Attorney;

(ii) is subject to the regulations of the State's Attorney;

(iii) shall perform the duties that the State's Attorney designates;

(iv) shall take an oath of office that the clerk of the circuit court administers;

(v) shall meet the criteria regarding training and experience that the State's Attorney requires;

(vi) may serve a summons or subpoena that the State's Attorney issues;

(vii) may wear or display appropriate metallic badges that the State's Attorney authorizes; and

(viii) is not subject to Title 3, Subtitle 1 of the Public Safety Article.

(4) The State's Attorney may designate a criminal investigator as a peace officer if the criminal investigator meets the selection and training standards of the Maryland Police Training and Standards Commission as set forth in Title 3, Subtitle 2 of the Public Safety Article.

(5) A criminal investigator designated as a peace officer may not be subject to Title 3, Subtitle 1 of the Public Safety Article.

(6) In addition to the authority, duties, and limitations described under paragraph (3) of this subsection, a criminal investigator designated as a peace officer may:

(i) arrest a person who commits a crime in the county or in a municipal corporation in the county;

(ii) serve a warrant, summons, or subpoena that the District Court of Maryland in the county or a circuit court issues; and

(iii) possess and carry a firearm, including a handgun, or any other weapon that the State's Attorney requires.

(f) The State's Attorney:

(1) shall serve full time;

(2) may not engage in the private practice of law; and

(3) except in connection with performing the duties of the office, may not appear professionally in a criminal proceeding in the State.

§15–411.

(a) This section applies only in Frederick County.

(b) (1) The State's Attorney's annual salary is $188,777.

(2) The State's Attorney's salary shall be increased annually in a percentage equal to the average annual increment and salary adjustment given to Frederick County employees over the State's Attorney's prior 4–year term.

(3) The county commissioners shall:

(i) provide an office in the courthouse for the State's Attorney;

(ii) pay the office expenses, including general operating expenses and the cost of equipment; and

(iii) pay the reasonable salary of a stenographer to be appointed by the State's Attorney.

(c) (1) (i) The State's Attorney may appoint two deputy State's Attorneys who shall:

1. serve at the pleasure of the State's Attorney; and

2. under the direction of the State's Attorney, present cases to the grand jury and perform other necessary duties in relation to the grand jury and the operation of the office.

(ii) Subject to the approval of the county commissioners, the State's Attorney shall set the salary of each deputy State's Attorney.

(2) The State's Attorney may appoint the number of full–time and part–time assistant State's Attorneys that are approved by the county commissioners and who:

(i) serve at the pleasure of the State's Attorney;

(ii) receive the compensation that the county commissioners approve; and

(iii) have the same legal powers that the State's Attorney has to present cases to the grand jury and perform other necessary duties in relation to the grand jury and the operation of the office.

(d) (1) Subject to the approval of the county commissioners, the State's Attorney may appoint other staff.

(2) Employees appointed under this subsection shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) receive the compensation that the county commissioners approve.

(e) The State's Attorney and deputy State's Attorneys may not engage in the private practice of law.

§15–412.

(a) This section applies only in Garrett County.

(b) (1) The county commissioners shall set the State's Attorney's salary in accordance with Chapter 91 of the Public Local Laws of Garrett County.

(2) (i) The State's Attorney's allowance for office expenses shall be at least $10,000.

(ii) An allowance of more than $10,000 shall be at the discretion of the county commissioners.

(c) (1) Subject to the approval of the county commissioners and as provided for in the county budget, the State's Attorney may appoint assistant State's Attorneys.

(2) An assistant State's Attorney shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) receive a salary of at least $25,000.

(d) (1) Subject to the approval of the county commissioners and if provided for in the county budget, the State's Attorney may appoint investigators who shall:

(i) be law enforcement officers in the State; and

(ii) have the same powers, rights, protections, and benefits as a county deputy sheriff.

(2) (i) The State's Attorney may employ clerical, administrative, investigative, and other staff necessary for the proper conduct of the office.

(ii) Subject to the approval of the county commissioners and in conformity with the county pay and classification plans, the State's Attorney shall set the salaries and classifications for the employees described in subparagraph (i) of this paragraph.

(e) The State's Attorney shall serve full time.

§15–413.

(a) This section applies only in Harford County.

(b) (1) The State's Attorney's annual salary is equal to the salary of a judge of the District Court of Maryland.

(2) The county government shall pay all reasonable expenses for the conduct of the office.

(c) (1) The State's Attorney may appoint:

(i) not more than two deputy State's Attorneys; and

(ii) the number of assistant State's Attorneys authorized by the County Executive and County Council.

(2) The deputy and assistant State's Attorneys:

(i) serve at the pleasure of the State's Attorney;

(ii) receive compensation as provided by the County Executive and County Council; and

(iii) have the same legal powers as the State's Attorney to represent the State before the grand jury and in criminal proceedings.

(d) (1) The State's Attorney may appoint a secretary or clerical assistant who shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) receive a salary that conforms to the exempt classification and pay plan authorized by the County Executive and County Council.

(2) (i) The State's Attorney may employ clerical, administrative, investigative, and other staff necessary for the proper conduct of the office.

(ii) Subject to the approval of the County Executive and County Council and in conformity with the county pay and classification plans, the State's Attorney shall set salaries and classifications for employees appointed under this paragraph.

(iii) An employee appointed under this paragraph is entitled to the same benefits as a similarly classified county employee.

(e) Except in connection with performing the duties of the office, the State's Attorney may not engage in the private practice of law or appear as counsel or represent any party before a court or unit of the State or a political subdivision of the State.

§15–414.

(a) This section applies only in Howard County.

(b) The State's Attorney's salary is equal to the salary of a judge of the District Court of Maryland.

(c) (1) The State's Attorney may appoint two deputy State's Attorneys and the number of assistant State's Attorneys authorized by the County Executive.

(2) The deputy and assistant State's Attorneys:

(i) shall serve at the pleasure of the State's Attorney;

(ii) subject to paragraph (3) of this subsection, shall receive a salary set by the County Executive with the approval of the County Council;

(iii) shall have the same legal power as the State's Attorney to represent the State before the grand jury and in criminal proceedings; and

(iv) under the direction of the State's Attorney, may present cases to the grand jury, sign indictments and criminal informations, and perform other necessary duties relating to the grand jury and the operation of the office as directed by the State's Attorney or authorized by law.

(3) The salary for a deputy State's Attorney may not be less than $6,000 each year.

(d) (1) The State's Attorney may employ an administrative assistant who may:

(i) collect and distribute moneys payable for the support of dependents under orders issued from courts in this State or another state; and

(ii) retain 2% of the moneys collected to be paid to the County Council to defray the costs of the service.

(2) The salary of the administrative assistant shall be set by the County Executive with the approval of the County Council.

(e) (1) Not later than 3 months after the close of each fiscal year, the County Auditor shall examine the books and accounts of the State's Attorney's office and prepare a financial audit for the preceding fiscal year.

(2) The financial audit shall be:

(i) submitted to the County Executive and County Council; and

(ii) included in the annual audit of the county required by §§ 16–305 through 16–308 of the Local Government Article.

(3) At any time the County Executive or County Council may order a special audit of the State's Attorney's office in accordance with § 213 of the Howard County Charter.

(f) The State's Attorney may not engage in the private practice of law.

§15–415.

(a) This section applies only in Kent County.

(b) (1) The State's Attorney's salary is 80% of the salary of a judge of the District Court of Maryland.

(2) (i) The county commissioners shall set the State's Attorney's allowance for office expenses.

(ii) The State's Attorney shall submit expense vouchers to the county commissioners for approval and payment.

(3) (i) The State's Attorney has a special fund allowance of $4,000 for the costs of investigations.

(ii) At the end of each fiscal year:

1. the State's Attorney shall account to the county commissioners for expenditures from the fund; and

2. any balance remaining in the fund shall revert to the general fund of the county.

(c) (1) The State's Attorney may employ one or more deputy State's Attorneys and assistant State's Attorneys who shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) be members in good standing of the local bar.

(2) The county commissioners shall set the salaries of the deputy and assistant State's Attorneys.

(d) (1) The State's Attorney may employ a criminal investigator who serves at the pleasure of the State's Attorney.

(2) The State's Attorney may employ an administrative coordinator and other administrative and clerical staff that the State's Attorney considers necessary for the conduct of the office.

(3) The county commissioners shall set the salaries of the criminal investigator, administrative coordinator, and administrative and clerical staff.

(e) (1) The State's Attorney shall serve full time and may not engage in the private practice of law.

(2) Subject to the approval of the county commissioners, a deputy or assistant State's Attorney may engage in the private practice of law.

§15–416.

(a) This section applies only in Montgomery County.

(b) (1) The County Council shall set the salary of the State's Attorney.

(2) Subject to approval by the County Council, the State's Attorney is entitled a reasonable expense allowance for the operation of the office and performance of the duties of the State's Attorney.

(c) (1) The State's Attorney may appoint two deputy State's Attorneys and the number of assistant State's Attorneys that the County Council approves.

(2) Each deputy and assistant State's Attorney is:

(i) subject to the exclusive control of the State's Attorney; and

(ii) entitled to the same benefits as a county employee under the merit system.

(3) The deputy and assistant State's Attorneys:

(i) shall perform the work directed by the State's Attorney or authorized by law; and

(ii) under the direction of the State's Attorney, may present cases to the grand jury, sign indictments and criminal informations, and perform other necessary duties relating to the grand jury and the operation of the office.

(4) (i) In addition to the assistant State's Attorneys appointed in accordance with paragraph (1) of this subsection, the State's Attorney may file a petition in circuit court for authority to appoint additional assistant State's Attorneys.

(ii) The State's Attorney shall:

1. include the reasons for the appointment in the petition; and

2. deliver notice of the petition to the County Executive and County Council.

(iii) The County Executive and County Council may file a response to each petition.

(iv) The county shall pay the salary and expenses of an assistant State's Attorney appointed under this paragraph.

(d) (1) The State's Attorney may appoint the number of special investigators approved by the County Council.

(2) (i) In addition to the special investigators appointed in accordance with paragraph (1) of this subsection, the State's Attorney may file a petition in circuit court for authority to appoint additional special investigators.

(ii) The State's Attorney shall:

1. include the reasons for the appointment in the petition; and

2. deliver notice of the petition to the County Executive and County Council.

(iii) The County Executive and County Council may file a response to each petition.

(3) The county shall pay the salary and expenses of a special investigator appointed under this subsection.

(4) A special investigator appointed under this subsection:

(i) is directly under the supervision of the State's Attorney; and

(ii) shall perform each duty designated by the State's Attorney.

(5) A special investigator appointed under this subsection is:

(i) subject to the exclusive control of the State's Attorney; and

(ii) entitled to the same benefits as a county employee under the merit system.

(e) (1) The State's Attorney may appoint the number of administrative assistants, clerks, administrative aides, paralegal interns, and other staff that the County Council approves.

(2) The employees appointed under this subsection are:

(i) subject to the exclusive control of the State's Attorney; and

(ii) entitled to the same benefits as county employees under the merit system.

(f) (1) The State's Attorney, deputy State's Attorneys, and assistant State's Attorneys shall serve full time and may not engage in the private practice of law.

(2) A special investigator shall serve full time and may not engage in other employment.

§15–417.

(a) This section applies only in Prince George's County.

(b) (1) The State's Attorney's salary is $199,000.

(2) The State's Attorney's salary and expenses shall be paid in equal semimonthly installments.

(c) (1) The State's Attorney may appoint the number of deputy State's Attorneys and assistant State's Attorneys as authorized by law by the County Executive and County Council.

(2) The deputy and assistant State's Attorneys serve at the pleasure of the State's Attorney.

(3) The salary of a deputy State's Attorney shall be within the discretion of the State's Attorney but may not exceed a maximum salary authorized by law by the County Executive and County Council.

(4) The salary of an assistant State's Attorney shall be within the discretion of the State's Attorney but may not exceed a maximum salary authorized by law by the County Executive and County Council.

(5) The county shall pay the salaries of the deputy and assistant State's Attorneys in equal semimonthly installments.

(6) The deputy and assistant State's Attorneys:

(i) shall perform the work directed by the State's Attorney or as authorized by law; and

(ii) under the direction of the State's Attorney, may present cases to the grand jury, sign indictments and criminal informations, and perform other necessary duties relating to the grand jury and the operation of the office.

(d) (1) (i) The State's Attorney may appoint an administrative assistant who serves at the pleasure of the State's Attorney.

(ii) The salary of the administrative assistant shall be within the discretion of the State's Attorney but may not exceed a maximum salary authorized by law by the County Executive and County Council.

(iii) The administrative assistant is not subject to the regulations of the county merit system but is entitled to the same benefits as a county employee under the merit system.

(2) (i) Each eligible, full–time, nonexempt employee, as described in the Prince George's County Labor Code, of the State's Attorney's office is subject to the Prince George's County personnel law.

(ii) Employees described in subparagraph (i) of this paragraph:

1. may organize and bargain collectively; and

2. are subject to the Prince George's County Labor Code with regard to collective bargaining for compensation, including pension and fringe benefits, hours, and other terms and conditions of employment.

(iii) The County Executive is the employer of an employee described in subparagraph (i) of this paragraph for the purpose of collective bargaining for hours and compensation, including pension and fringe benefits.

(iv) 1. The State's Attorney is the employer of an employee described in subparagraph (i) of this paragraph for the purpose of collective bargaining for other terms and conditions of employment.

2. The funding required for a collective bargaining agreement negotiated by the State's Attorney under this subparagraph is subject to the approval of the County Executive.

(e) (1) Except in connection with duties of the office, the State's Attorney or a deputy or assistant State's Attorney may not appear as counsel or represent any party before a court or unit of the State, or political subdivision of the State.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the State's Attorney or a deputy or assistant State's Attorney may not engage in the private practice of law.

(ii) The State's Attorney or a deputy or assistant State's Attorney may participate in the pro bono program administered by the Prince George's County Bar Foundation.

§15–418.

(a) This section applies only in Queen Anne's County.

(b) (1) (i) The State's Attorney's salary is equal to the salary of a judge of the District Court of Maryland.

(ii) The salary shall be set before the start of the elected term of office.

(2) The State's Attorney is entitled to reasonable expenses as provided in the county budget for the operation of the office and the performance of the State's Attorney's duties.

(c) (1) Subject to the approval of the county commissioners, the State's Attorney may appoint one or more deputy State's Attorneys or assistant State's Attorneys.

(2) The county commissioners shall set the salary of each deputy and assistant State's Attorney.

(3) The State's Attorney, deputy State's Attorneys, or assistant State's Attorneys shall present cases to the grand jury and perform other duties in relation to the grand jury, the circuit court, including the juvenile court, and the District Court that the State's Attorney considers necessary.

(d) The State's Attorney may not:

(1) engage in the private practice of law; or

(2) except in connection with the duties of the office, appear professionally in a criminal proceeding in the State.

§15–419.

(a) This section applies only in St. Mary's County.

(b) (1) (i) The State's Attorney's salary is equal to the salary of a circuit court judge and shall be paid biweekly.

(ii) A salary increase shall take effect at the beginning of the elected term of office and may not increase during the term of office.

(2) (i) The county commissioners shall provide for the administrative support staff, independent office facilities, office equipment, supplies, books, and other items necessary for the operation of the office.

(ii) The State's Attorney shall present vouchers to the county commissioners for the payment of office expenses.

(c) (1) The State's Attorney may appoint one deputy State's Attorney and two or more assistant State's Attorneys who:

(i) shall serve at the pleasure of the State's Attorney; and

(ii) may be full–time or part–time employees.

(2) The State's Attorney shall pay the salaries of the deputy and assistant State's Attorneys biweekly from money that the county commissioners appropriate each year.

(d) (1) The State's Attorney may appoint:

(i) administrative staff necessary for the operation of the office; and

(ii) one or more full–time or part–time investigators as employees.

(2) The staff appointed under paragraph (1) of this subsection shall be in the county merit system.

(3) The State's Attorney shall pay the salaries of the investigators appointed under paragraph (1)(ii) of this subsection biweekly from money that the county commissioners appropriate each year.

(e) The State's Attorney may not:

(1) engage in the private practice of law; and

(2) except in connection with performing the duties of the office, appear professionally in a criminal proceeding in the State.

§15–420.

(a) This section applies only in Somerset County.

(b) The State's Attorney's salary is 80% of the salary of a judge of the District Court of Maryland.

(c) (1) The State's Attorney may appoint a deputy State's Attorney who shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) present cases to the grand jury, sign indictments and criminal informations, and perform other functions necessary to the operation of the office and as directed by the State's Attorney or as authorized by law.

(2) The county commissioners shall set a salary for the deputy State's Attorney that may not exceed the salary of the State's Attorney.

(d) The State's Attorney may:

(1) appoint one or more assistants at salaries that the county commissioners set; and

(2) hire one or more investigators at salaries provided in the county budget.

(e) The State's Attorney may not engage in the private practice of law.

§15–421.

(a) This section applies only in Talbot County.

(b) (1) The State's Attorney's salary is 80% of the salary of a judge of the District Court of Maryland.

(2) Subject to the approval of the County Council, the State's Attorney is entitled to a reasonable allowance for the expenses of operating the office, including the costs of:

(i) administrative, clerical, and secretarial expenses, including salaries and benefits;

(ii) telephone charges;

(iii) office supplies and equipment;

(iv) postage;

(v) travel, training, and conferences;

(vi) books and publications; and

(vii) premiums on office bonds.

(c) (1) (i) The State's Attorney may appoint the number of full–time or part–time deputy State's Attorneys and assistant State's Attorneys that the County Council approves.

(ii) Each deputy and assistant State's Attorney appointed under this paragraph shall:

1. serve at the pleasure of the State's Attorney;

2. receive the compensation that the County Council approves; and

3. have the same legal powers as the State's Attorney to present cases to the grand jury and perform necessary duties in relation to the grand jury and the operation of the office.

(2) (i) The State's Attorney may appoint special assistant State's Attorneys as the State's Attorney considers necessary to serve in an investigation or a case.

(ii) A special assistant State's Attorney appointed under this paragraph:

1. shall serve on a temporary basis;

2. subject to paragraph (3) of this subsection, shall receive compensation from the County Council in the form and amount authorized by order of the circuit court; and

3. may not be considered to hold an office for profit or to have vacated a public office or employment in another State's Attorney's office by serving as a special assistant State's Attorney.

(3) (i) The county may not compensate an individual who is appointed as a special assistant State's Attorney and is employed by the Office of the Attorney General, the Office of the State Prosecutor, or the Office of the State's Attorney in another county.

(ii) Notwithstanding subparagraph (i) of this paragraph, the county may enter into an agreement to reimburse the appropriate governmental unit for the services of an individual employed by that governmental unit who is appointed as a special assistant State's Attorney under paragraph (2) of this subsection.

(d) (1) Subject to the approval of the County Council, the State's Attorney may appoint full–time or part–time criminal investigators.

(2) If the State's Attorney appoints more than one criminal investigator, the State's Attorney may designate one as chief investigator and assign other ranks and titles to the other criminal investigators.

(3) A criminal investigator who is appointed under this subsection:

(i) shall serve at the pleasure of the State's Attorney;

(ii) is subject to the regulations of the State's Attorney;

(iii) shall perform the duties that the State's Attorney designates;

(iv) shall take an oath of office that the clerk of the circuit court administers;

(v) shall meet the criteria regarding training and experience that the State's Attorney requires;

(vi) may serve a summons or subpoena that the State's Attorney issues;

(vii) may wear or display appropriate metallic badges that the State's Attorney authorizes; and

(viii) is not subject to Title 3, Subtitle 1 of the Public Safety Article.

(4) The State's Attorney may designate a criminal investigator as a peace officer if the criminal investigator meets the selection and training standards of the Maryland Police Training and Standards Commission as set forth in Title 3, Subtitle 2 of the Public Safety Article.

(5) A criminal investigator designated as a peace officer may not be subject to Title 3, Subtitle 1 of the Public Safety Article.

(6) In addition to the authority, duties, and limitations described under paragraph (3) of this subsection, a criminal investigator designated as a peace officer may:

(i) arrest a person who commits a crime in the county or in a municipal corporation in the county;

(ii) serve a warrant, summons, or subpoena that the District Court of Maryland in the county or a circuit court issues; and

(iii) possess and carry a firearm, including a handgun, or other weapon that the State's Attorney requires.

(e) (1) The State's Attorney shall serve full time and may not engage in the private practice of law.

(2) An attorney appointed as a special assistant State's Attorney under subsection (c)(2) of this section may not be precluded from the private practice of criminal law.

§15–422.

(a) This section applies only in Washington County.

(b) The State's Attorney's salary is 90% of the salary of a judge of the District Court of Maryland.

(c) (1) The State's Attorney shall appoint:

(i) at least one but not more than two deputy State's Attorneys; and

(ii) as many assistant State's Attorneys that are approved by the county commissioners and provided for in the county budget.

(2) The county commissioners shall set the salaries of the deputy and assistant State's Attorneys.

(3) The deputy and assistant State's Attorneys shall serve at the pleasure of the State's Attorney.

(4) Under the direction of the State's Attorney or in the State's Attorney's absence, the deputy and assistant State's Attorneys shall have the same legal powers as the State's Attorney to:

(i) perform acts and duties in relation to all criminal proceedings; and

(ii) represent the State in all proceedings in relation to the grand jury, circuit court, District Court of Maryland, and units of the State or a political subdivision of the State.

(d) The State's Attorney may not engage in the private practice of law.

§15–423.

(a) This section applies only in Wicomico County.

(b) (1) The State's Attorney's salary is 90% of the annual salary of a judge of the District Court of Maryland.

(2) After receiving a voucher submitted by the State's Attorney, the County Council shall pay all expenses that the State's Attorney considers necessary for the conduct of the office, including clerical and secretarial expenses, telephone charges, office supplies, postage, and premiums on official bonds.

(3) The State's Attorney shall maintain and staff an office in the Wicomico County courthouse.

(c) (1) Subject to the terms, conditions, and salaries as approved by the County Council, the State's Attorney may appoint assistant State's Attorneys who shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) have the same legal powers as the State's Attorney to represent the State before the grand jury and in criminal proceedings.

(2) In addition to the assistant State's Attorneys appointed under paragraph (1) of this subsection, the State's Attorney may appoint special assistant State's Attorneys to serve for one or more cases:

(i) with the prior approval of the resident judge of the circuit court and the County Council; and

(ii) subject to the terms, conditions, and salaries that the County Council approves.

(d) The State's Attorney shall serve full time and may not engage in the private practice of law.

§15–424.

(a) This section applies only in Worcester County.

(b) (1) Subject to paragraph (2) of this subsection, the State's Attorney's salary is 90% of the salary of a judge of the District Court of Maryland.

(2) By enacting an ordinance before the election filing deadline for the next term of office for the State's Attorney, the county commissioners may set the

salary at an amount exceeding 90% of the salary of a judge of the District Court of Maryland.

(3) (i) All other salaries, compensation, employee benefits, and expenses of the Office of the State's Attorney are subject to the annual budget process and approval of the county commissioners in accordance with the budget and fiscal policies and purchasing laws of the county.

(ii) Processing the payroll of the Office of the State's Attorney as part of the payroll of the county does not make employees of the Office of the State's Attorney the employees of the county.

(c) (1) The State's Attorney may appoint the number of full–time or part–time deputy State's Attorneys and assistant State's Attorneys that the county commissioners approve.

(2) The deputy and assistant State's Attorneys appointed under paragraph (1) of this subsection shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) have the same legal powers as the State's Attorney to present cases to the grand jury, represent the State in criminal proceedings, and perform necessary duties in relation to the grand jury and operation of the office that the State's Attorney requires.

(d) If authorized by an ordinance enacted by the county commissioners, the State's Attorney may appoint special investigators who:

(1) shall serve at the pleasure of the State's Attorney; and

(2) shall perform work as directed by and under the supervision of the State's Attorney.

(e) The State's Attorney shall serve full time and may not engage in the private practice of law.

(f) On approval of the county commissioners, the State's Attorney may hire the clerical, secretarial, and office employees that the State's Attorney determines are needed.

(g) All employees of the Office of the State's Attorney, including deputy State's Attorneys, assistant State's Attorneys, investigators, clerical workers, secretaries, and office employees:

(1) are employees of the Office of the State's Attorney and not of the county commissioners;

(2) shall receive the same insurance, retirement, and leave benefits as county employees; and

(3) are under the control of the State's Attorney, subject to this section and the personnel rules and regulations that the county commissioners adopt by resolution for county employees.

(h) The State's Attorney shall perform the appointment, disciplinary, termination, and managerial functions for all employees of the Office of the State's Attorney who are covered by the personnel rules and regulations that the county commissioners adopt.

(i) The State's Attorney may adopt office practices, manuals, rules of conduct, and other procedures to serve as conditions of employment for employees of the Office of the State's Attorney.

(j) (1) Except for members of the State Bar who serve as deputy or assistant State's Attorneys, employees of the Office of the State's Attorney may be disciplined or terminated for cause only in accordance with this section and the personnel rules and regulations that the county commissioners adopt.

(2) When a new State's Attorney takes office or at the beginning of a new term of a State's Attorney, all clerical, secretarial, office, and other employees except for deputy and assistant State's Attorneys shall remain in their positions and shall be considered rehired.

(k) On request of the State's Attorney, the county commissioners may provide in–kind support to the State's Attorney for personnel matters.

§16–101.

(a) In this title the following words have the meanings indicated.

(b) "Board of Trustees" means the Board of Trustees of the Office of the Public Defender established under § 16–301 of this title.

(c) "District" means an area conforming to the geographic boundaries of a District Court district established in § 1–602 of the Courts Article.

(d) "Indigent individual" means an individual who qualifies as an indigent individual under § 16–210 of this title.

(e) (1) "Office" means the Office of the Public Defender.

(2) "Office" includes each district office and branch office of the Public Defender.

(f) "Panel attorney" means an attorney who is eligible for appointment as an attorney for an indigent individual.

(g) "Regional advisory board" means a public defender regional advisory board.

(h) "Serious offense" means:

(1) a felony;

(2) a misdemeanor or offense punishable by confinement;

(3) a delinquent act that would be a serious offense if committed by an adult; or

(4) an offense in which, in the opinion of the court, the complexity of the matter or the youth, inexperience, or mental capacity of the accused requires representation of the accused by an attorney.

§16–102.

Except as otherwise provided in § 16–206 of this title, this title applies only to representation in or with respect to the courts of the State.

§16–201.

It is the policy of the State to:

(1) provide for the realization of the constitutional guarantees of counsel in the representation of indigent individuals, including related necessary services and facilities, in criminal and juvenile proceedings in the State;

(2) assure the effective assistance and continuity of counsel to indigent accused individuals taken into custody and indigent individuals in criminal and juvenile proceedings before the courts of the State; and

(3) authorize the Office of the Public Defender to administer and ensure enforcement of this title.

§16–202.

There is an Office of the Public Defender in the Executive Branch of State government.

§16–203.

(a) (1) The head of the Office is the Public Defender.

(2) The Public Defender shall be appointed by the Board of Trustees.

(3) By a vote of at least seven members, the Board of Trustees may remove the Public Defender for:

(i) misconduct in office;

(ii) persistent failure to perform the duties of the Office; or

(iii) conduct prejudicial to the proper administration of justice.

(4) To qualify for appointment as Public Defender, an individual shall be an attorney admitted to practice law in the State by the Court of Appeals of Maryland who has engaged in the practice of law for at least 5 years before appointment.

(5) The Public Defender shall receive the same salary as a judge of a circuit court.

(6) The Public Defender may not engage in the private practice of law.

(7) The Public Defender serves for a term of 6 years.

(b) (1) With the approval of the Board of Trustees, the Public Defender shall appoint:

(i) a deputy public defender who is in the executive service of the State Personnel Management System; and

(ii) one district public defender for each district of the District Court, each of whom is in the management service of the State Personnel Management System.

(2) The deputy public defender and each district public defender shall have the same qualifications as the Public Defender.

(3) A district public defender shall:

(i) assist the Public Defender to perform the duties of the Office; and

(ii) subject to the supervision of the Public Defender, be in charge of the public defender offices in the district for which the district public defender is appointed.

(c) (1) With the advice of the district public defenders, the Public Defender may employ assistant public defenders in accordance with the State budget.

(2) To qualify for employment as an assistant public defender, an individual shall be an attorney and admitted to practice law in the State by the Court of Appeals of Maryland.

(3) Assistant public defenders are in the professional service of the State Personnel Management System and may be terminated or otherwise disciplined only for cause in accordance with Title 11 of the State Personnel and Pensions Article.

(d) (1) The deputy public defender and district public defenders shall serve at the pleasure of the Public Defender.

(2) The deputy public defender, district public defenders, and assistant public defenders may not engage in the private practice of criminal law.

(e) The Public Defender shall employ investigators, stenographic assistants, clerical assistants, and other personnel as may be required to assist the Public Defender and the district public defenders to perform the duties of the Office in accordance with the State budget.

(f) (1) Subject to subsections (b)(1) and (c)(3) of this section, all other positions in the Office are in the executive, management, professional, or skilled service of the State Personnel Management System.

(2) Employees in the professional or skilled service may be terminated or otherwise disciplined only for cause in accordance with Title 11 of the State Personnel and Pensions Article.

(g) (1) Subject to paragraph (2) of this subsection, the Public Defender shall establish and maintain suitable offices in the State.

(2) At least one Public Defender's office shall be in each district.

(h) The number of positions, compensation, and expenses for the Office shall be in accordance with the State budget.

§16–204.

(a) Representation of an indigent individual may be provided in accordance with this title by the Public Defender or, subject to the supervision of the Public Defender, by the deputy public defender, district public defenders, assistant public defenders, or panel attorneys.

(b) (1) Indigent defendants or parties shall be provided representation under this title in:

(i) a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a serious offense;

(ii) a criminal or juvenile proceeding in which an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge;

(iii) a postconviction proceeding for which the defendant has a right to an attorney under Title 7 of this article;

(iv) any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result;

(v) a proceeding involving children in need of assistance under § 3–813 of the Courts Article; or

(vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part III of the Family Law Article, including:

1. for a parent, a hearing in connection with guardianship or adoption;

2. a hearing under § 5–326 of the Family Law Article for which the parent has not waived the right to notice; and

3. an appeal.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, representation shall be provided to an indigent individual in all stages of a proceeding listed in paragraph (1) of this subsection, including, in criminal proceedings, custody, interrogation, bail hearing before a District Court or circuit court judge, preliminary hearing, arraignment, trial, and appeal.

(ii) Representation is not required to be provided to an indigent individual at an initial appearance before a District Court commissioner.

§16–205.

Representation of an indigent individual by the Office or by a panel attorney shall continue until the final disposition of the case or until the assigned attorney is relieved by the Public Defender or order of the court in which the case is pending.

§16–206.

(a) This title does not prohibit the Office from representing an indigent individual in federal court at federal expense if the matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the State.

(b) Compensation paid by the federal court to the Public Defender, the deputy public defender, a district public defender, or an assistant public defender shall be remitted to the General Fund of the State.

§16–207.

(a) The primary duty of the Public Defender is to provide representation for indigent individuals in accordance with this title.

(b) The Public Defender shall:

(1) be responsible generally for the operation of the Office and all district offices;

(2) prepare schedules of professional fees and expenses for panel attorneys and other professional and technical services rendered to indigent individuals other than by the Public Defender's staff, taking into consideration the

nature of the services, the time spent, the skill or experience required, and any other pertinent factor;

(3) consult and cooperate with professional groups about the causes of criminal conduct and the development of effective means to:

(i) reduce and discourage the commission of crime;

(ii) rehabilitate and correct individuals charged and convicted of crime;

(iii) administer criminal justice; and

(iv) administer and conduct the Office; and

(4) maintain financial and statistical records about each case in which the Office provides legal assistance to an indigent individual, including data to calculate all direct and indirect costs to the Office.

(c) The Public Defender may:

(1) adopt regulations to carry out the purposes of this title and promote the efficient conduct of the work and general administration of the Office, its professional staff, and other employees;

(2) make necessary arrangements to coordinate services of the Office with any federal program to provide an attorney to indigent individuals;

(3) arrange for the Office to receive money or services available to assist in the duties under this title; and

(4) accept the services of volunteer workers or consultants at no compensation or at nominal or token compensation and reimburse them for their necessary expenses.

(d) (1) Subject to paragraph (2) of this subsection, in Baltimore City, the Public Defender may contract with private or public organizations to provide legal, administrative, or technical services for indigent individuals.

(2) A contract shall require that:

(i) the level and quality of the work at least equal that of the Office; and

(ii) the Public Defender supervise and control all services rendered.

§16–208.

(a) (1) Subject to the authority and supervision of the Public Defender, each district public defender shall maintain a confidential list of private attorneys available to be appointed as attorneys for indigent individuals eligible for representation under this title.

(2) Each attorney on the list shall be:

(i) admitted to practice law in the State; and

(ii) placed on various panels in accordance with qualification criteria that the Public Defender sets forth, based on:

1. the nature and complexity of the offense requiring representation;

2. the trial or appellate experience of the attorney; and

3. any other factor necessary to ensure competent representation.

(b) (1) Except in cases in which an attorney in the Office provides representation, the district public defender, subject to the supervision of the Public Defender, shall appoint an attorney from an appropriate panel to represent an indigent individual.

(2) Panel attorneys shall be used as much as practicable.

(c) (1) The primary duty of a panel attorney is to the indigent individual represented by the panel attorney with the same effect and purpose as though privately engaged by that individual and without regard to the use of public funds to provide the service.

(2) A panel attorney shall report to the Office as the regulations of the Public Defender require.

(3) This subsection does not preclude the designation or assignment of different individuals to perform various parts of the service.

(d) (1) A panel attorney shall file a petition to be compensated by the Public Defender for fees and expenses incident to representing indigent individuals, including investigation, other pretrial preparation, trial, and appeal.

(2) The Office shall authorize payment of fees and expenses according to schedules prepared under § 16–207(b)(2) of this subtitle and from funds appropriated by the State budget.

(3) A panel attorney may not receive a fee for services in addition to that provided in accordance with this title.

(4) To be compensated for fees or expenses that the Public Defender disapproves or that exceed those authorized for payment, a panel attorney may seek a review by a regional advisory board.

(5) All fees and expenses paid to panel attorneys, including any authorized by a regional advisory board, shall be paid out of funds appropriated by the State budget.

(e) The Office may provide staff and technical assistance to a panel attorney appointed to represent an indigent individual.

§16–209.

(a) Communications between an indigent individual and an individual in the Office or engaged by the Public Defender are protected by the attorney–client privilege to the same extent as though an attorney had been privately engaged.

(b) (1) Subject to paragraph (2) of this subsection, this section does not preclude the Public Defender from using material in the Public Defender's files that is otherwise privileged to prepare and disclose statistical, case study, and other sociological data.

(2) Material used to prepare and disclose sociological data may not disclose the identity of a particular indigent individual.

§16–210.

(a) An individual may apply for services of the Office as an indigent individual, if the individual states in writing under oath or affirmation that the individual, without undue financial hardship, cannot provide the full payment of an attorney and all other necessary expenses of representation in proceedings listed under § 16–204(b) of this subtitle.

(b) For an individual whose assets and net annual income are less than 100 percent of the federal poverty guidelines, eligibility for services of the Office may be determined without an assessment regarding the need of the applicant.

(c) (1) For an individual whose assets and net annual income equal or exceed 100 percent of the federal poverty guidelines, eligibility for the services of the Office shall be determined by the need of the applicant.

(2) Need shall be measured according to the financial ability of the applicant to engage and compensate a competent private attorney and to provide all other necessary expenses of representation.

(3) Financial ability shall be determined by:

(i) the nature, extent, and liquidity of assets;

(ii) the disposable net income of the applicant;

(iii) the nature of the offense;

(iv) the length and complexity of the proceedings;

(v) the effort and skill required to gather pertinent information; and

(vi) any other foreseeable expense.

(4) If eligibility cannot be determined before the Office or a panel attorney begins representation, the Office may represent an applicant provisionally.

(5) If the Office subsequently determines that an applicant is ineligible:

(i) the Office shall inform the applicant; and

(ii) the applicant shall be required to engage the applicant's own attorney and reimburse the Office for the cost of the representation provided.

(d) (1) A District Court commissioner shall determine whether an individual qualifies as indigent.

(2) An individual charged with a crime that carries a penalty of incarceration may apply for representation by the Office to a District Court commissioner during commissioner operating hours.

(3) (i) For the purpose of an initial appearance proceeding or bail review, a District Court commissioner shall make a preliminary determination as to whether an individual qualifies as indigent.

(ii) An indigent individual shall be represented by the Office if the initial appearance or bail review is before a judge.

(iii) Representation at the initial appearance shall terminate at the conclusion of the proceeding, unless the commissioner has made a final determination that the individual qualifies as indigent and the Office has entered a general appearance.

(4) The commissioner shall:

(i) make a final determination as to whether an individual is:

1. indigent and qualified for services of the Office; or

2. not qualified for services of the Office; or

(ii) determine that the individual's financial status is subject to further verification.

(5) If the commissioner makes a final determination under paragraph (4)(i) of this subsection, the commissioner shall notify the individual in writing of the determination.

(6) An individual whose financial status is subject to further verification may submit to the commissioner additional information to be qualified for services of the Office.

(e) (1) A District Court commissioner shall investigate the financial status of an applicant when the circumstances warrant.

(2) A District Court commissioner may:

(i) require an applicant to execute and deliver written requests or authorizations that are necessary under law to provide the commissioner with access to confidential records of public or private sources that are needed to evaluate eligibility; and

(ii) on request, obtain information without charge from a public record office or other unit of the State, county, or municipal corporation.

(3) (i) A District Court commissioner may submit requests to the Maryland Department of Labor and the Comptroller for information regarding the employment status and income of applicants.

(ii) Each request shall be accompanied by an authorization for release of information that is:

1. in a form acceptable to the agency to which the request is submitted; and

2. signed by the applicant.

(iii) The Maryland Department of Labor and the Comptroller shall comply with requests for information made by a District Court commissioner under this paragraph.

(iv) Requests and responsive information may be exchanged by facsimile transmission.

§16–211.

(a) (1) If it appears that an indigent individual has or reasonably expects to have means to meet some of the expenses for services rendered, the indigent individual shall reimburse the Office:

(i) by a single payment or in installments; and

(ii) in the amount that the indigent individual can reasonably be expected to pay.

(2) A default or failure by an indigent individual to make a payment may not affect the rendering of services to the indigent individual.

(b) The Central Collection Unit of the Department of Budget and Management, on behalf of the Public Defender and in the name of the State, shall do all things necessary to collect all reimbursement money due to the State for services rendered in accordance with this title.

(c) (1) A court exercising criminal jurisdiction shall order a defendant to reimburse the State for services rendered to the defendant by the Public Defender as a term or condition of a sentence, judgment, or probation imposed by the court, unless the court:

(i) affirmatively finds that the defendant cannot make the reimbursement; and

(ii) waives the term or condition.

(2) The court shall establish the amount, time, and method of payment.

(3) In all other cases of reimbursement for services rendered, collection shall be made in accordance with subsection (b) of this section.

(d) (1) A court exercising other than criminal jurisdiction shall order an indigent individual represented by the Public Defender to reimburse the State for the reasonable value of services rendered to the indigent individual in an amount that the indigent individual may reasonably be able to pay.

(2) If the indigent individual is a minor, the court shall order the parents, guardian, or custodian of the minor to reimburse the State for the reasonable value of services rendered in an amount that the parents, guardian, or custodian may reasonably be able to pay.

(3) The court shall establish the amount, time, and method of payment.

(e) Before ordering reimbursement under subsection (d) of this section, a court shall grant an opportunity to be heard to the indigent individual or the parents, guardian, or custodian of a minor.

§16–212.

(a) The reasonable value of the services rendered to an indigent individual in accordance with this title is a lien on real or personal property in which the indigent individual has or acquires an interest, except for the residence of the indigent individual.

(b) To perfect the lien, the Public Defender shall submit to the court having jurisdiction in the matter an affidavit setting forth the services rendered to the indigent individual and their reasonable value.

(c) (1) The court shall set a hearing date and shall notify the indigent individual of the date and the fact that the Public Defender filed an affidavit to perfect the lien.

(2) The indigent individual may:

(i) appear;

(ii) be represented by an attorney;

(iii) present evidence; and

(iv) examine witnesses.

(3) The indigent individual may contest the affidavit.

(4) If the court determines that the Public Defender is not entitled to a lien, the proceeding shall be dismissed.

(5) If the court determines that the Public Defender is entitled to a lien, the court shall determine the reasonable value of the services rendered to the indigent individual.

(d) (1) On adjudication, a lien shall be filed or docketed with the clerk of the circuit court or District Court where the services were performed or where the indigent individual works or resides.

(2) The lien shall:

(i) constitute a lien on the indigent individual's property for 10 years from the date of filing or docketing unless the lien is discharged sooner; and

(ii) have the force and effect of a judgment at law.

(3) (i) The clerks of the circuit courts and the District Court shall provide separate books to record liens under this section.

(ii) The books shall be properly indexed in the name of the debtor.

(iii) The Public Defender may not be required to pay filing or recording fees.

§16–213.

This subtitle does not prohibit the appointment of an attorney, other than through the Office, to represent an indigent individual by the District Court, a circuit court, or the Court of Special Appeals if:

(1) there is a conflict in legal representation in a matter involving multiple defendants, and one of the defendants is represented by or through the Office; or

(2) the Office declines to provide representation to an indigent individual entitled to representation under this subtitle.

§16–301.

(a) There is a Board of Trustees of the Office of the Public Defender.

(b) The Board of Trustees consists of 13 members.

(c) (1) Each member of the Board of Trustees shall be a resident of the State.

(2) 11 members of the Board of Trustees shall be appointed by the Governor with the advice and consent of the Senate and shall include a representative of each judicial circuit of the State.

(3) All members of the Board of Trustees shall be active attorneys admitted to practice before the Court of Appeals of Maryland.

(4) One member shall be appointed by the President of the Senate.

(5) One member shall be appointed by the Speaker of the House of Delegates.

(6) Each member appointed to the Board of Trustees shall:

(i) have significant experience in criminal defense or other matters relevant to the work of the Board of Trustees; or

(ii) have demonstrated a strong commitment to quality representation of indigent defendants, including juvenile respondents.

(7) A member of the Board of Trustees may not be:

(i) a current member or employee of:

1. the Judicial Branch; or

2. a law enforcement agency in the State; or

(ii) 1. a State's Attorney of a county or municipal corporation of the State;

2. the Attorney General of Maryland; or

3. the State Prosecutor.

(d) (1) The term of an appointed member of the Board of Trustees is 3 years.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Board of Trustees on October 1, 2010.

(3) A vacancy occurring on the Board of Trustees during the term of a member shall be filled for the remainder of the unexpired term in the same manner as provided for appointments in this section.

(4) At the end of a term a member continues to serve until a successor is appointed and qualifies.

(5) A member whose term has expired may be reappointed to the Board of Trustees.

(e) (1) The Board of Trustees annually shall elect a chair from among its members.

(2) The chair shall preside over and represent the interests of the Board of Trustees in carrying out this title.

(f) Seven members of the Board of Trustees are a quorum.

(g) (1) The Board of Trustees shall hold at least one regular annual meeting at a time and place that the chair designates.

(2) Additional meetings shall be held as necessary and may be called on notice by the chair or at the request of at least two members of the Board of Trustees.

(h) A member of the Board of Trustees:

(1) may not receive compensation for serving on the Board of Trustees; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§16–302.

The Board of Trustees shall:

(1) study and observe the operation of the Office;

(2) coordinate the activities of the regional advisory boards; and

(3) advise the Public Defender on panels of attorneys, fees, and other matters about the operation of the public defender system.

§16–303.

(a) There are four regional advisory boards of the Office.

(b) Each regional advisory board consists of five members appointed by the Governor.

(c) Of the four regional advisory boards:

(1) the first shall advise public defender districts one, eight, and nine, which encompass Baltimore City, Baltimore County, and Harford County;

(2) the second shall advise public defender districts two and three, which encompass Caroline County, Cecil County, Dorchester County, Kent County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, and Worcester County;

(3) the third shall advise public defender districts four, five, and seven, which encompass Anne Arundel County, Calvert County, Charles County, Prince George's County, and St. Mary's County; and

(4) the fourth shall advise public defender districts six, ten, eleven, and twelve, which encompass Allegany County, Carroll County, Frederick County, Garrett County, Howard County, Montgomery County, and Washington County.

(d) Each member of a regional advisory board shall be:

(1) a resident of a district represented by that regional advisory board; and

(2) (i) a judge of a circuit court;

(ii) a judge of the District Court; or

(iii) an active attorney admitted to practice before the Court of Appeals of Maryland.

(e) (1) The term of a member of a regional advisory board is 3 years.

(2) A vacancy occurring on a regional advisory board during the term of a member shall be filled by the Governor for the remainder of the unexpired term.

(f) (1) The Governor shall annually designate a chair of each regional advisory board from among the members of that regional advisory board.

(2) The chair shall preside over and represent the interests of that regional advisory board in carrying out this title.

(g) Three members of a regional advisory board are a quorum.

(h) (1) Each regional advisory board shall hold at least one regular annual meeting at a time and place that the chair designates.

(2) Additional meetings may be called:

(i) on notice by the chair;

(ii) on notice by the Public Defender;

(iii) on notice by the district public defender from a district represented by that regional advisory board; or

(iv) at the request of at least three members of the regional advisory board.

(i) A member of a regional advisory board:

(1) may not receive compensation for serving on the regional advisory board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§16–304.

Each regional advisory board shall:

(1) study and observe the operation of district public defender offices; and

(2) advise the Public Defender and district public defenders on panels of attorneys, fees, and other matters about the operation of district public defender offices and the public defender system.

§16–401.

(a) On or before September 30 of each year, the Public Defender shall submit a report to:

(1) the Board of Trustees;

(2) the Governor; and

(3) in accordance with § 2–1257 of the State Government Article, the General Assembly.

(b) The report shall include:

(1) pertinent data about the operations of the Office, including projected needs, a breakdown of the number and type of cases handled, and relative dispositions; and

(2) recommendations for statutory changes, including changes in the criminal law or Maryland Rules to control crime and improve the criminal justice system.

§16–402.

Funds for carrying out this title shall be as provided in the State budget.

§16–403.

(a) The provisions of this title are severable.

(b) The invalidity of a provision of this title does not affect other provisions that can be given effect without the invalid provision.

§17–101.

(a) In this title the following words have the meanings indicated.

(b) "CODIS" has the meaning stated in § 2–501 of the Public Safety Article.

(c) "Direct–to–consumer genetic genealogy services" means genetic genealogy services that are offered by private companies directly to members of the public and law enforcement agencies rather than through clinical health care providers, typically via customer access to secure online websites.

(c–1) "Express consent" has the meaning stated in § 14–4401 of the Commercial Law Article.

(d) "FGG profile" means a genetic profile using SNPs or other sequencing methods generated from a forensic or reference sample by a laboratory for the purpose of conducting an FGGS.

(e) "Forensic genetic genealogical DNA analysis and search" or "FGGS" means:

(1) the forensic genetic genealogical DNA analysis of biological material using SNP or other sequencing techniques to develop an FGG profile;

(2) a subsequent search using the FGG profile in a publicly available open–data personal genomics database or a direct–to–consumer genetic genealogy service to find individuals related to the source of the FGG profile; and

(3) a genealogical search using public records and other lawful means to obtain information in accordance with this title.

(f) (1) "Forensic sample" means biological material reasonably believed by investigators to have been deposited by a putative perpetrator and that was collected from a crime scene or a person, an item, or a location connected to the criminal event.

(2) "Forensic sample" includes biological material from unidentified human remains.

(g) "Publicly available open–data personal genomics database" means a database in which persons voluntarily submit their genomics data or genetic profiles, typically processed through direct–to–consumer genetic genealogy services, for the purposes of comparison or searching against the genetic profiles of other individuals to evaluate potential familial relationships between the reference sample and other service user samples.

(h) "Putative perpetrator" means one or more criminal actors reasonably believed by investigators to have committed the crime under investigation and to be the source of, or a contributor to, a forensic sample deposited during or incident to the commission of a crime.

(i) "Reasonable investigative leads" means credible, case–specific facts, information, or circumstances that would lead a reasonably cautious investigator to believe that the pursuit would have a fair probability of identifying a putative perpetrator.

(j) "Reference sample" means biological material from a known source.

(k) (1) "Single–nucleotide polymorphisms" or "SNPs" means DNA sequence variations that occur when a single nucleotide (A, T, G, or C) in a genomic sequence varies.

(2) "Single–nucleotide polymorphisms" includes variations that may be used to distinguish people for purposes of biological relationship testing.

(l) "STR DNA profile" means a genetic profile that examines genetic locations on the non–sex chromosomes that are used for the statewide DNA database system or the national DNA database system.

(m) "Third party" means a person who is not a suspect in the investigation.

§17–102.

(a) (1) FGGS may not be initiated without judicial authorization and without certifying before the court that the forensic sample and the criminal case satisfy the criteria set forth in this section.

(2) If an FGGS is certified before a court in accordance with this section, the court shall authorize the initiation of the FGGS.

(b) A sworn affidavit shall be submitted by a law enforcement agent with approval of a prosecutor from the relevant jurisdiction asserting that:

(1) the crime is the commission of, or the attempt to commit, murder, rape, a felony sexual offense, or a criminal act involving circumstances presenting a substantial and ongoing threat to public safety or national security;

(2) the forensic sample to be subjected to the FGGS is biological material reasonably believed by investigators to have been deposited by a putative perpetrator and that the forensic sample was collected from:

(i) a crime scene;

(ii) a person, an item, or a location connected to the criminal event; or

(iii) the unidentified human remains of a suspected homicide victim;

(3) an STR DNA profile has already been developed from the forensic sample, was entered into the statewide DNA database system and the national DNA database system, and failed to identify a known individual; and

(4) unless the crime being investigated presents an ongoing threat to public safety or national security concerns, reasonable investigative leads have been pursued and failed to identify the perpetrator.

(c) Biological samples subjected to FGG DNA analysis, whether the forensic sample or third party reference samples, may not be used to determine the sample donor's genetic predisposition for disease or any other medical condition or psychological trait.

(d) FGGS may only be conducted using a direct–to–consumer or publicly available open–data personal genomics database that:

(1) provides explicit notice to its service users and the public that law enforcement may use its service sites to investigate crimes or to identify human remains; and

(2) seeks acknowledgement and consent from its service users regarding the substance of the notice described in item (1) of this subsection.

(e) The laboratory conducting SNP or other sequencing–based testing and the genetic genealogist participating in FGGS shall be licensed by the Office of Health Care Quality in accordance with § 17–104 of this title.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, informed consent in writing shall be obtained from any third party whose DNA sample is sought for the purpose of assisting an FGGS and all statements made in obtaining the informed consent shall be documented from beginning to end by video or audio recording.

(ii) If the use of informed consent will compromise the investigation as demonstrated under subsection (g)(1)(ii) of this section and the third party has not already refused to consent, investigators may seek authorization to covertly collect a DNA sample in accordance with subsection (g) of this section.

(2) The person obtaining the informed consent shall have training from a genetic counselor approved by the Office of Health Care Quality under § 17–104 of this title within 1 year after the Office of Health Care Quality has identified and approved a genetic counselor or within 1 year after the person joins the investigative unit conducting the investigation, whichever is later.

(3) The third party shall be informed, at a minimum, of the following before giving informed consent in writing:

(i) the investigation involves a crime specified under subsection (b)(1) of this section;

(ii) the third party is not a suspect in the investigation and has the right to refuse to consent to the collection of a DNA sample;

(iii) the law prohibits the covert collection of a DNA sample if the third party refuses to consent to the collection of a DNA sample;

(iv) the third party has been identified through a search of a direct–to–consumer or publicly available open–data personal genomics database as a potential relative of an individual believed to have committed a crime specified under subsection (b)(1) of this section;

(v) investigators are seeking the third party's DNA to assist in identifying the person or persons who committed the crime, or to identify the victim of a homicide, and for no other purpose; and

(vi) 1. the third party's DNA sample and any information obtained from its analysis will be kept confidential in accordance with a court order during the course of the investigation;

2. the DNA sample and any data obtained from it will be destroyed when the investigation or any criminal case arising from the investigation ends; and

3. in accordance with a court order, the third party will receive notice by certified delivery that the destruction has occurred.

(4) If the third party does not consent to providing a reference sample for an FGGS investigation, law enforcement may not collect a covert reference sample from the individual.

(g) (1) If investigators determine that one or more persons are putative perpetrators of the crime under investigation and it is necessary to collect a covert DNA sample from the putative perpetrator or a third party:

(i) the authorizing court shall be notified prior to the covert collection of the putative perpetrator's or the third party's reference sample;

(ii) subject to paragraph (2) of this subsection, for a covert collection of a DNA sample of a third party, investigative authorities shall provide an affidavit to the court demonstrating that seeking informed consent from a third party creates substantial risk that a putative perpetrator will flee, that essential evidence will be destroyed, or that other imminent or irreversible harm to the investigation will occur;

(iii) investigative authorities shall make a proffer to the court explaining how they plan to conduct the covert collection in a manner that avoids unduly intrusive surveillance of individuals or invasions to their privacy and follows the laws of the State;

(iv) for a covert collection of a DNA sample of a putative perpetrator, any putative perpetrator DNA sample that is collected covertly may only be subjected to an STR test to see if it matches an STR DNA profile obtained from a forensic sample;

(v) any covertly collected DNA sample, including SNPs and other genetic profiles or related information, that does not match the STR DNA profile obtained from a forensic sample shall be destroyed and may not be uploaded to any DNA database, including local, state, or federal DNA databases within CODIS, or any DNA database not authorized by local, state, or federal statute; and

(vi) 1. the law enforcement officer conducting the covert collection shall report back to the authorizing court every 30 days about the progress of the covert collection and shall make a proffer about future plans in accordance with item (iii) of this paragraph; and

2. without good cause shown, covert collection efforts to obtain a sample shall cease after 6 months.

(2) The fear that a third party will refuse informed consent may not constitute a basis for seeking covert collection of a DNA sample from the third party.

(h) (1) (i) Except as provided in subparagraph (ii) of this paragraph, on completion of an FGGS investigation that does not result in a prosecution or results in an acquittal, or on completion of a sentence and postconviction litigation associated with a conviction obtained through the use of FGGS, or on completion of any criminal prosecution that may arise from the FGGS, the authorizing court, or any court that ultimately has jurisdiction over any criminal case that arose from the FGGS, shall issue orders to all persons in possession of DNA samples gathered in the FGGS and all genetic genealogy information derived from the FGG analysis of those samples to destroy the samples and information.

(ii) 1. On the completion of an FGGS investigation, the genetic genealogist participating in the FGGS shall turn over to the investigator all records and materials collected in the course of the FGGS, including material sourced from public records, family trees constructed, and any other genetic or nongenetic data collected in the FGGS.

2. The genetic genealogist may not keep any records or materials in any form, including digital or hard copy records.

3. The genetic genealogist shall ensure that all records described under this subparagraph have been deleted or removed from any FGG website.

4. The prosecutor shall retain and disclose any records or materials as required under the Maryland Constitution or the United States Constitution and the rules of discovery as provided in Maryland Rules 4–262 and 4–263, but may not otherwise use or share the records or materials.

(2) The court orders shall include the removal and destruction of any FGG profiles previously uploaded to direct–to–consumer or publicly available open–data personal genomics databases.

(3) All individuals who were not the source of the STR DNA profile obtained from the forensic sample and whose DNA was collected through informed consent or covertly during the course of the FGGS shall receive notice of that destruction by certified delivery.

(i) (1) A person may not disclose genetic genealogy data, FGG profiles, or DNA samples not authorized by a court order in the course of an FGGS, or in the course of any criminal proceeding that arises from an FGGS.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000, or both.

(j) (1) A person may not willfully fail to destroy genetic genealogy information, FGG profiles, or DNA samples that are required to be destroyed in accordance with subsection (h) of this section.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(k) A person whose genetic genealogy information, FGG profile, or DNA sample is wrongfully disclosed, collected, or maintained in violation of this title has a private right of action under relevant State law guiding tort claims, and is entitled to minimum liquidated damages of $5,000 for a violation.

(l) A prosecutor in a criminal case that involves an FGGS investigation may file with the Court of Special Appeals an appeal from an interlocutory order by a court that excludes or suppresses evidence in the form of an STR DNA profile obtained from the FGGS.

§17–103.

(a) A defendant in a criminal case charged with a crime of violence under § 14–101 of the Criminal Law Article or a defendant convicted of a crime of violence under § 14–101 of the Criminal Law Article and seeking postconviction DNA testing is entitled to seek judicial authorization for an FGGS by filing an affidavit with a trial court or postconviction court certifying that:

(1) the forensic sample to be subjected to the FGGS is biological material reasonably believed to have been deposited by a putative perpetrator and collected from:

(i) a crime scene;

(ii) a person, an item, or a location connected to the criminal event; or

(iii) the unidentified human remains of a suspected homicide victim;

(2) an STR DNA profile has already been developed from the forensic sample, was entered into the State DNA database system and the national DNA database system, and failed to identify a known individual;

(3) biological samples subjected to FGG DNA analysis, whether the forensic sample or third party reference samples, will not be used to determine the sample donor's genetic predisposition for disease or any other medical condition or psychological trait;

(4) an FGGS shall only be conducted using a direct–to–consumer or publicly available open–data personal genomics database that:

(i) provides explicit notice to its service users and the public that law enforcement may use its service sites to investigate crimes or to identify human remains; and

(ii) seeks acknowledgment and express consent from its service users regarding the substance of the notice described in item (i) of this item;

(5) the laboratory conducting SNP or other sequencing–based testing, and the genetic genealogist participating in the FGGS, are licensed by the Office of Health Care Quality in accordance with § 17–104 of this title; and

(6) (i) informed consent in writing shall be obtained from any third party whose DNA sample is sought for the purpose of assisting an FGGS and all requirements described in § 17–102(f)(1) through (3) of this title are satisfied; and

(ii) if the third party does not consent to providing a reference sample for an FGGS investigation, neither defense nor postconviction counsel, nor anyone acting on their behalf, may covertly collect a reference sample from the third party.

(b) (1) If defense or postconviction counsel determines that one or more persons are putative perpetrators of the crime under investigation and it is necessary to collect a covert DNA sample from the putative perpetrator or a third party:

(i) the authorizing court shall be notified prior to the covert collection of the putative perpetrator's or the third party's reference sample;

(ii) subject to paragraph (2) of this subsection, for a covert collection of a DNA sample of a third party, investigative authorities shall provide an affidavit to the court demonstrating that seeking informed consent from a third party creates substantial risk that a putative perpetrator will flee, that essential evidence

will be destroyed, or that other imminent or irreversible harm to the investigation will occur;

(iii) counsel shall make a proffer to the court explaining how counsel plans to conduct the covert collection in a manner that avoids unduly intrusive surveillance of individuals or invasions to their privacy and follows the laws of the State;

(iv) for a covert collection of a DNA sample of a putative perpetrator, any putative perpetrator DNA sample that is collected covertly may only be subjected to an STR test to see if it matches an STR DNA profile obtained from a forensic sample;

(v) any covertly collected DNA sample, including SNPs and other genetic profiles or related information, that does not match the STR DNA profile obtained from a forensic sample shall be destroyed and may not be uploaded to any DNA database, including local, state, or federal DNA databases within CODIS, or any DNA database not authorized by local, state, or federal statute; and

(vi) 1. defense or postconviction counsel conducting the covert collection shall report back to the authorizing court every 30 days about the progress of the covert collection and shall make a proffer about future plans in accordance with item (iii) of this paragraph; and

2. without good cause shown, covert collection efforts to obtain a sample shall cease after 6 months.

(2) The fear that a third party will refuse informed consent may not constitute a basis for seeking covert collection of a DNA sample from the third party.

(3) Any individual acting under court supervision in accordance with this subsection shall be treated as an agent of the State for purposes of enforcing State and federal constitutional protections.

(c) (1) The State shall be notified that an application for judicial authorization to conduct an FGGS has been made by defense or postconviction counsel and a copy of the application shall be served on the State at the time the application is filed unless the applicant is also requesting permission from the court to redact certain portions of the application.

(2) Once a court has ruled on the motion for redactions, a copy of the application shall be served on the State within 5 days of receipt of the court order.

(3) The authorizing court shall ensure that the State is informed of the progress of the FGGS unless defense counsel or postconviction counsel can show good cause as to why that information may not be disclosed.

(d) The provisions of § 17–102(h) through (k) of this title apply to any FGGS conducted by defense or postconviction counsel.

(e) A court considering an application for an FGGS from a criminal defendant shall issue the order on a showing that testing has the scientific potential to produce exculpatory or mitigating evidence and the defendant has complied with all other requirements of this section.

(f) A court order issued in accordance with subsection (e) of this section shall incorporate all certifications made in subsections (a) through (c) of this section and may describe the specific items of evidence to be tested, designate the specific laboratory facility to be used for the DNA testing, and designate the conditions under which consumptive testing can occur.

§17–104.

(a) The Office of Health Care Quality shall establish:

(1) a licensing program for laboratories performing SNP or other sequencing–based testing on evidence in support of FGGS on or before October 1, 2022; and

(2) a licensing program for individuals performing genetic genealogy on or before October 1, 2024.

(b) The Office of Health Care Quality shall:

(1) develop a training program on obtaining informed consent under §§ 17–102 and 17–103 of this title; and

(2) identify and approve one or more genetic counselors to administer the training.

(c) The Maryland Forensic Laboratory Advisory Committee shall:

(1) establish best practices for laboratories performing SNP or other sequencing–based methods; and

(2) recommend regulations that establish minimum qualifications for individuals performing genetic genealogy.

(d) (1) Prohibitions may not be placed on any laboratory conducting SNP or other sequencing–based testing or on genetic genealogists participating in an FGGS before the relevant licensing program is established under subsection (a) of this section.

(2) Within 1 year after the Office of Health Care Quality establishes the relevant licensing program under subsection (a) of this section, laboratories conducting SNP or other sequencing–based testing and genetic genealogists participating in an FGGS shall apply for the license required.

(e) Neither the laboratory conducting SNP or other sequencing–based testing, nor a law enforcement official, may disclose genetic genealogy information without authorization.

§17–105.

(a) On or before June 1 annually, the Governor's Office of Crime Prevention, Youth, and Victim Services shall submit a publicly available report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly, that shall include, for the preceding calendar year:

(1) the number of requests for FGGS made, broken down by number of requests made by prosecutors, pretrial defendants, and postconviction defendants;

(2) the number of times FGGS was granted and the basis of each grant or denial;

(3) the number of putative perpetrators identified through FGGS;

(4) the number of covert collections of reference samples from putative perpetrators, a description of the methods used during the covert collection, the time period needed to perform the covert collection, any complaints from individuals subject to surveillance during the covert collections, and any complaints or suggestions from judges supervising the covert collections;

(5) an evaluation of the "pursued reasonable investigative leads" requirement in accordance with § 17–102(b)(4) of this title, including scientific, public, and nonforensic;

(6) the costs of the FGGS procedures;

(7) the race and age of those identified as putative perpetrators;

(8) the number of times a third party reference sample was requested and collected, and the race and age of the third parties;

(9) the number of requests made by defendants and postconviction lawyers; and

(10) the outcome of each authorized search, including whether the search resulted in an arrest or a conviction for the target offense.

(b) A panel comprising judges, prosecutors, defense attorneys, public defenders, law enforcement officials, crime laboratory directors, bioethicists, racial justice experts, criminal justice researchers, civil and privacy rights organizations, and organizations representing families impacted by the criminal justice system, shall be convened to review the annual report each year and make policy recommendations.