

SENATE BILL 523

M3

6lr2675
CF HB 701

By: Senator M. Washington

Introduced and read first time: February 4, 2026

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Department of the Environment – Water Resources – Protection of Vernal Pools**
3 **(Vernal Pool Wetlands Protection Act of 2026)**

4 FOR the purpose of requiring the Department of the Environment to adopt regulations in
5 a certain manner to identify and protect certain vernal pools in the State; requiring
6 the Department, when issuing a certain permit, to protect certain vernal pools that
7 are located within the geographic area covered by the permit; and generally relating
8 to the regulatory protection of water resources and vernal pools in the State.

9 BY adding to

10 Article – Environment
11 Section 5–205
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2025 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Environment
16 Section 5–901(a), (b), (f), and (m)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2025 Supplement)

19 Preamble

20 WHEREAS, Vernal pools are unique, small-scale ecosystems that contribute
21 significantly to the biodiversity of Maryland by providing habitat for species that cannot
22 reproduce in alternative habitats, including the wood frog, mole salamanders, and fairy
23 shrimp; and

24 WHEREAS, Vernal pools provide a significant amount of ecosystem services as they
25 occur frequently throughout Maryland and have the capacity to replenish groundwater and
26 filter stormwater flows; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Nontidal wetlands that meet the three federal wetland delineation
2 criteria of hydrology, hydric soils, and hydrophytic vegetation, including vernal pools that
3 satisfy those criteria, are regulated and protected by the State; and

4 WHEREAS, Vernal pools that do not meet all three federal wetland delineation
5 criteria are not afforded the regulatory protections applicable to nontidal wetlands in the
6 State and may suffer impairments or losses without regulatory review or approval; now,
7 therefore,

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

Article – Environment

11 5-205.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

(3) "FORESTRY ACTIVITY" HAS THE MEANING STATED IN § 5-901 OF THIS TITLE.

18 (4) "NONTIDAL WETLAND" HAS THE MEANING STATED IN § 5-901 OF
19 THIS TITLE.

22 (6) "QUALIFIED VERNAL POOL" MEANS A CONFINED DEPRESSION
23 THAT:

(1) HAS SURFACE WATER FOR PART OF THE YEAR:

25 (II) PROVIDES A PERSISTENT OR BREEDING HABITAT FOR
26 OBLIGATE SPECIES, INCLUDING NATIVE AMPHIBIANS AND INVERTEBRATES; AND

2. THE CHANGING OF EXISTING DRAINAGE CHARACTERISTICS, SEDIMENTATION PATTERNS, FLOW PATTERNS, OR FLOOD RETENTION CHARACTERISTICS;

(II) "REGULATED ACTIVITY" DOES NOT INCLUDE AN AGRICULTURAL ACTIVITY OR FORESTRY ACTIVITY AS DEFINED IN THIS SECTION.

20 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS TO:

21 (1) ESTABLISH AND MAINTAIN A LIST OF QUALIFIED VERNAL POOLS
22 IN THE STATE;

27 (4) REQUIRE THAT A PERSON CONDUCTING A REGULATED ACTIVITY
28 RESULTING IN IMPAIRMENTS OR LOSSES TO A QUALIFIED VERNAL POOL OR A
29 BUFFER AROUND A QUALIFIED VERNAL POOL:

5 (III) PROVIDE COMPENSATION OR OTHER MITIGATION AS
6 DETERMINED BY THE DEPARTMENT FOR ANY REMAINING UNAVOIDABLE
7 IMPAIRMENTS AND LOSSES.

8 **(C) THE REGULATIONS ADOPTED UNDER SUBSECTION (B) OF THIS SECTION**
9 **SHALL APPLY ONLY TO QUALIFIED VERNAL POOLS THAT HAVE BEEN IDENTIFIED OR**
10 **DOCUMENTED BY:**

11 (1) THE DEPARTMENT;

12 (2) A PERSON USING IDENTIFICATION METHODS APPROVED BY THE
13 DEPARTMENT, INCLUDING MAPPING OR OTHER SCIENTIFIC INFORMATION; OR

16 (D) (1) IN DEVELOPING THE REGULATIONS UNDER SUBSECTION (B) OF
17 THIS SECTION, THE DEPARTMENT SHALL, TO THE EXTENT PRACTICABLE:

28 (I) USE MAPPING OR OTHER SCIENTIFIC INFORMATION TO
29 IDENTIFY ADDITIONAL QUALIFIED VERNAL POOLS FOR INCLUSION ON THE
30 DEPARTMENT'S LIST OF QUALIFIED VERNAL POOLS; AND

4 (E) IN ISSUING A PERMIT FOR A REGULATED ACTIVITY, THE DEPARTMENT
5 SHALL PROVIDE PROTECTIONS FOR ANY QUALIFIED VERNAL POOLS THAT ARE:

(1) LISTED BY THE DEPARTMENT IN ACCORDANCE WITH
SUBSECTIONS (B) AND (C) OF THIS SECTION; AND

10 5-901.

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

(b) (1) "Agricultural activity" means aquaculture and farming activities.

(2) "Agricultural activity" includes:

14 (i) Plowing, tillage, cropping, seeding, cultivating, and harvesting
15 for the production of food and fiber products; and

16 (ii) The grazing of livestock.

(f) "Forestry activity" means planting, cultivating, thinning, harvesting, or any activity undertaken to use forest resources or to improve their quality or productivity.

(m) (1) "Nontidal wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

26 (3) "Nontidal wetlands" do not include tidal wetlands regulated under Title
27 16 of this article.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2026.