



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of HB 345
Fish and Wildlife – Endangered and Threatened Species – Definitions,
Petitions, and Regulations**

HB 345 will help ensure the continued protection of our state's biodiversity by codifying in law existing practices and regulations regarding endangered species protections.

This legislation clarifies several aspects of the state's current Endangered Species Act to address gaps and ambiguities in the law. These changes aim to make the law more reflective of the current measures being taken to safeguard Maryland's unique biodiversity and protected species for future generations.

Our state's Endangered Species Act is modeled after the federal law of the same name. The federal law celebrated its 50th anniversary last year and has successfully saved hundreds of species from extinction, protecting and preserving some of our most beloved animals and plants. It is estimated that 99% of species protected by this law have avoided extinction.¹ Under Maryland's Cooperative Agreement with the federal government, the State protects federally-listed animals and plants and any state-identified species of concern.

Regular Review and Update of Protected Species Lists

HB 345 requires review and update of the animal and plant protected species lists by the Department of Natural Resources (DNR) at least every 5 years.

The Department currently follows an internal, uncodified process in which it reviews the lists to prepare a "package" of new listings and delistings fairly frequently – typically every year or two. It's then up to the Secretary to review the package and initiate any necessary regulatory changes. The two most recent lists of protected species were issued within 5 years.²

The proposed time frame is in line with other states. Nineteen states require their protected species lists to be updated at least every 5 years.³

¹ U.S. Fish and Wildlife Service; *Scientific American*; *Center for Biological Diversity*; *World Wildlife Fund*.

² The most recent lists are dated 2021; the prior lists were issued in 2019 (plants) and 2016 (animals).

³ Alaska, Arizona, California, Colorado, Connecticut, Florida, Indiana, Illinois, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Mexico, South Carolina, South Dakota, and Tennessee

Maryland's protections for rare species can only be as good as our list of protected species. A periodic reassessment to add or remove species ensures that the state's protected species lists remain relevant and responsive to changes in ecological conditions.

Clarification of the Definitions of Fish and Wildlife

HB 345 clarifies the definitions of fish and wildlife in the Endangered Species Act to make clear that the Act includes all species. (Note: these definitions of fish and wildlife do not impact other parts of the Natural Resources article, just the Endangered Species Act.)

Maryland's statutory definition of wildlife currently excludes animals that cannot move, like mussels, barnacles, corals, sponges, and other animals. It also excludes some life cycle phases of animals, like butterfly pupae.

Including invertebrates in the legal definitions aligns with the federal Endangered Species Act and with current DNR practice. Current interpretation in Maryland is that all animals are included; DNR's current list of protected animals includes invertebrates and other animals not listed in the current statutory definition.⁴ Many other states clearly include all species in their legal definitions.⁵

Explicitly stating that protection extends to all species ensures that state law reflects DNR's current, comprehensive conservation efforts.

Codification of Scientific Evidence Requirement

Lastly, HB 345 codifies the current requirements in state regulation for scientific evidence to be presented to list or delist a species.

Under current state law, "an interested person" can petition for a species to be added or removed from the protected species list as long as they present "substantial evidence which warrants a review." DNR regulations specify the particular requirements associated with making a petition, but these requirements are not codified in law.⁶

Requiring scientific evidence for the listing or delisting of a species is a fundamental tenet of effective conservation management in both the state and federal Endangered Species Act.⁷ Codifying the state's current regulatory requirements ensures that decisions affecting the status of a species are grounded in sound scientific principles, fostering transparency and accountability in the decision whether to list or delist a species as protected.

⁴ https://dnr.maryland.gov/wildlife/Pages/plants_wildlife/rte/rteanimals.aspx

⁵ According to the National Caucus of Environmental Legislators, 18 states plus Puerto Rico provide protection to all species and a total of 24 states include all animals in their definition of wildlife.

⁶ [COMAR 08.03.08.02](#)

⁷ 16 U.S.C. § 1533: "The Secretary shall make determinations [...] solely on the basis of the best scientific and commercial data available".