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Testimony in Support of HB 578
Fish and Wildlife – Endangered and Threatened Species and Migratory Birds –
Regulations, Lists, Petitions, Essential Habitats, and Takings

HB 578 insulates Maryland’s biodiversity from proposed federal rollbacks of Endangered Species Act (ESA) protections. The bill would ensure that Maryland maintains the same strong conservation standards that have been in place for decades.

Passed in the 1970s with broad bipartisan support, the Endangered Species Act (ESA) has been the foundation of biological conservation efforts nationwide. For more than fifty years, Maryland has operated under this framework. Unfortunately, the Trump Administration is moving ahead with regulatory changes that would significantly weaken federal ESA protections by making it more difficult to list an imperiled species or to protect critical habitat. The Administration has also reinstated a legal opinion that significantly weakens the federal Migratory Bird Treaty Act by ending protections against unintentional harming of birds. HB 578 counteracts these changes by codifying the federal protections that have successfully guided our state’s conservation efforts for years.

Federal Rollbacks to Habitat Protection

Habitat loss and fragmentation are leading drivers of species extinction. The Trump Administration has proposed to weaken the federal rules of what constitutes “harm” to a protected species by removing consideration of habit modification. This would mean destroying a protected species’ habitat would not be considered harmful and therefore, not subject to the ESA. Current Maryland regulations already define harm to include significant habitat modification. HB 578 simply codifies the existing Maryland definition.

Other proposed changes to ESA federal rules would make it more difficult to conserve the habitat of protected species. Although states cannot directly counteract these federal changes, we can ensure that we are taking proactive steps to protect habitats. The bill takes two actions. First, it would allow, but not require, the Secretary of Natural Resources to designate areas as essential habitat for protected species. Ten states

plus Puerto Rico have already taken a similar action.¹ Second, the bill updates a 2022 law that directed the Department of Natural Resources (DNR) to create the Irreplaceable Natural Areas program to preserve Maryland's native biodiversity on state-owned lands. The law directed a one time designation of Irreplaceable Natural Areas. HB 578 clarifies that DNR has the ability to add and remove Irreplaceable Natural Areas as warranted and requires the agency to update the list of designated areas at least every ten years.

Other Attacks

In November 2025, federal agencies proposed a number of additional rollbacks to the Endangered Species Act. HB 578 would codify existing federal provisions (those in effect before the proposed weakening) into Maryland law.

- *No economic considerations in species listing decisions.* Since 1984, decisions about protecting a species have been based *solely* on the best scientific data, “without reference to any possible economic impacts or other impacts.” This requirement was directed in a bill that passed by voice vote through a divided Congress and then was signed into law by President Reagan. HB 578 simply maintains the same principles that the U.S. followed for the past 40+ years.
- *Using an appropriate timeframe for assessing future threats to a species.* Protections for threatened species hinge on how the term ‘foreseeable future’ is defined. The bill would codify the existing federal definition, which dates back to a policy issued by the George W. Bush Administration.
- *Delisting a species.* In 1984, the Reagan Administration issued rules to make clear when a species could be delisted from the ESA. These rules were changed from guidance on delisting to requiring delisting by the Biden Administration. This bill codifies the current federal regulations.

Protecting Migratory Birds

The federal Migratory Bird Treaty Act has been interpreted since at least the 1970's to include both direct and incidental harming of migratory birds. In practice, this means that someone can't kill a bird or disturb its nest (direct harm), nor could lawful activities accidentally kill or harm birds (incidental harm). The Trump Administration has limited the scope of federal protections to only include *intentional* injuries and killing of migratory birds. Current Maryland law only prohibits *direct* harm to migratory birds and their nests. HB 578 would add protections against incidental harm, as have existed for years at the federal level. Eighteen other states already protect against direct and incidental takings.²

¹ AK, CT, IL, ME, MA, MN, NE, NH, NC, VT and PR

² AK, AR, AZ, CA, FL, GA, HI, IL, IN, KY, MT, NY, OH, OR, PA, SD, UT, VA

Conclusion

This bill just codifies protections that have existed in Maryland and the U.S. for years. These are not new practices or policies in terms of how DNR implements the ESA. Given the direct threats to the federal ESA from the Trump Administration, now is the time to enact these policies into state law. We cannot control federal policy changes, but we can ensure that Maryland's state laws and regulations on endangered and threatened species are strong and protective. This bill will ensure that Maryland continues to operate under the same protections that we—and the rest of the nation—have for decades.