



THE MARYLAND HOUSE OF DELEGATES
JUDICIARY COMMITTEE

April 28, 2022

Dear Members of the Maryland Bench and Bar:

I'm pleased to present you with a summary of legislation passed by the House Judiciary Committee during the 2022 Legislative Session of the Maryland General Assembly. A bill passed, but not yet enacted, is still subject to a veto by the Governor and is indicated by its House Bill (HB) or Senate Bill (SB) number. A chapter number (Ch.) indicates that the bill has been enacted. Legislation that received a veto by Governor Hogan after the completion of the 2021 Legislative Session or during the 2022 Legislative Session, but received a veto override by the General Assembly, is marked accordingly in this summary.

Please note that most of the legislation will not become effective until later this year.

Cannabis Legalization

HB 1 (Ch. 45) – Constitutional Amendment – Cannabis – Adult Use and Possession is a proposed constitutional amendment, which if approved by the voters at the next general election to be held in November 2022, will authorize an individual who is at least 21 years old to use and possess cannabis in the State beginning July 1, 2023. The provision is subject to a requirement that the General Assembly pass legislation regarding the use, distribution, possession, regulation, and taxation of cannabis.

HB 837 (Ch. 26)– Cannabis Reform alters various provisions of law applicable to the use, possession, and distribution of cannabis, subject to the ratification of the constitutional amendment in HB 1. Among other things, the Act:

- repeals the term marijuana and replaces it with cannabis;
- legalizes possession by a person at least 21 years old of no more than 1.5 ounces of cannabis, or equivalent amounts including no more than 2 cannabis plants, effective July 1, 2023;
- makes it a fineable civil offense for a person to possess up to 2.5 ounces of cannabis;

- reduces possession with intent to distribute cannabis to a misdemeanor subject to maximum penalties of three years imprisonment and/or a \$5,000 fine and provides that possession of less than 2.5 ounces of cannabis without other evidence of an intent to distribute or dispense does not constitute possession with intent to distribute;
- repeals criminal penalties associated with cannabis paraphernalia;
- authorizes a person incarcerated for a conviction related to possession of cannabis to apply to the court for resentencing, and requires the court to grant the application and resentence the person to time served;
- authorizes a person who is convicted of possession of cannabis to file a petition for expungement of the conviction after the satisfactory completion of the sentence including probation;
- authorizes a person who is convicted of possession with the intent to distribute cannabis to file a petition for expungement of the conviction three years after satisfaction of the sentence;
- requires the Attorney General to provide the General Assembly with a formal opinion regarding the impact of cannabis legalization on the authority of police officers to conduct searches of individuals and vehicles based on detection of the odor of cannabis;
- requires certain agencies and entities to complete studies, collect and report data, and develop standards regarding the use of cannabis, the medical cannabis industry, and the adult-use cannabis industry;
- creates a Cannabis Public Health Advisory Council; and
- establishes various funds relating to business assistance and public health.

Criminal Law

HB 33/SB 614 Criminal Law – Controlled Dangerous Substances – Schedules – Adjustment repeal the specific list of substances included in Schedules I through V of the Maryland Controlled Dangerous Substances Act and instead incorporate by reference (1) CDS added to any Schedule I through V by the Maryland Department of Health; (2) CDS scheduled by the federal government on any Schedule I through V unless the Maryland Department of Health objects; and (3) CDS analogues, as defined and designated under existing statute.

HB 645/SB 151 (Chs. 166 and 167) – Hate Crimes – False Statement to a Law Enforcement Officer clarify that it is a hate crime for a person to make or cause to be made a false statement, report, or complaint that the person knows to be false, either as a whole or in material part, to a specified law enforcement officer, in violation of § 9-501 of the Criminal Law Article, about a group or person with the intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint when the perpetrator’s actions were motivated in whole or in substantial part by the subject’s race, color, religious beliefs, sexual orientation, gender, gender identity, disability, national origin, or homeless status. Violators are subject to existing penalties for violations of the State’s hate crimes statute.

HB 148/SB 328 (Chs. 148 and 149) – Criminal Law – Stalking – Definition alter the definition of stalking to include conduct currently defined as stalking that occurs in person, by electronic communication, or through the use of a device that can pinpoint or track the location of another without the person’s knowledge or consent.

HB 1062 (Ch. 180) – Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal establishes procedures for an officer or authorized agent of a humane society, or a police officer or other public official required to protect animals, to petition the District Court to order the owner or custodian of an animal that has been seized to protect it from cruelty or for its health to pay for the reasonable costs of caring for the animal. Among its provisions, the bill establishes requirements for filing petitions for reasonable costs of care and related court hearings. The bill’s provisions may not be construed to prevent individuals from seeking restitution as part of sentencing if a person does not seek costs of care as authorized in the bill.

Criminal Procedure

HB 210 – Criminal Trials – Spousal Privilege – Exception establishes that the spouse of a person on trial for a crime may be compelled to testify as an adverse witness if the person on trial and the spouse married after the date on which the alleged crime for which the person is on trial occurred.

HB 284/SB 20 (Chs. 161 and 162) – Criminal Procedure – Out of Court Statements – Child Victims and Witnesses expand statutory evidentiary provisions, sometimes referred to as the “tender years statute,” that authorize the admission of an out of court statement in a juvenile court or criminal proceeding made by a child victim under specified circumstances to include (1) a statement made by a child victim who is younger than age 13 and is an alleged victim or a child alleged to be in need of assistance in a case before the court concerning neglect of a minor and (2) a statement made by a child victim or witness who is younger than age 13 and is an alleged victim or a witness in a case before the court concerning a crime of violence under § 14-101 of the Criminal Law Article.

Corrections

VETO OVERRIDE During the 2021 regular session, the General Assembly passed **SB 202 – Correctional Services – Parole – Life Imprisonment**, which was subsequently vetoed by the Governor. The General Assembly overrode the veto during the 2021 special session, and the bill became Chapter 30 of the 2021 special session. Chapter 30 eliminates the role of the Governor in the parole process for individuals serving life imprisonment. The Act also (1) increases, from 15 years to 20 years (or the equivalent of 20 years with allowance for diminution credits), the amount of time that an inmate who has been sentenced to life imprisonment after being convicted of a crime committed on or after October 1, 2021, must serve before being eligible for parole consideration; and (2) modifies requirements for parole hearings by requiring the affirmative votes of at least six commissioners of the Maryland Parole Commission in order to

approve an inmate for parole who has been sentenced to life imprisonment for a crime committed on or after October 1, 2021.

SB 704 – Conditions of Pretrial Release – Home Detention Monitoring – Alterations and Extension (1) repeals the August 15, 2022, termination date for the payment-related provisions of Chapter 597 of 2021, which established that a pretrial defendant may not be required to pay a private home detention monitoring agency (PHDMA) monitoring fee or pay for a home detention monitoring device or global positioning system device under specified circumstances, instead requiring the State to pay any associated fees or costs for eligible defendants; (2) adds language specifying that State payments for PHDMA costs and fees are subject to the availability of federal funding; and (3) requires the State to use available federal funds to pay for PHDMA costs and fees. The bill also extends to December 31, 2023, the termination date of the Workgroup on Home Detention Monitoring, adds additional reporting requirements for the workgroup, and specifies that the PHDMA representatives on the workgroup are nonvoting members.

HB 67 – Correctional Services – Restrictive Housing – Direct Release specifies that, to the extent possible, the Commissioner of Correction may not prohibit an inmate placed in restrictive housing from having access to a reentry specialist or case manager within 180 days before the inmate is released to the community.

Firearms

HB 425/SB 387 (Chs. 18 and 19) – Public Safety - Untraceable Firearms prohibit a person from purchasing, receiving, selling, offering to sell, or transferring an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms. Except as otherwise authorized, a person may not sell, offer to sell, or transfer a firearm unless it is imprinted with a specified serial number. A violator of the provisions relating to required imprinting is guilty of a misdemeanor and on conviction is subject to imprisonment for up to five years and/or a fine of up to \$10,000. Each violation is a separate crime.

Under the Acts, beginning March 1, 2023, a person may not possess a firearm unless the firearm has been registered with the Secretary of State Police and (1) the firearm is required by federal law to be, and has been, imprinted by a federally licensed firearms manufacturer or federally licensed firearms importer, or other federal licensee authorized to provide marking services, with a serial number in compliance with all federal laws and regulations applicable to the manufacture and import of firearms; or (2) the firearm has been imprinted by a federally licensed firearms dealer, federal firearms manufacturer, or other federal licensee authorized to provide marking services with specified information. A violator of the provisions beginning March 1, 2023, is guilty of a misdemeanor and on conviction is subject to imprisonment for up to two years and/or a fine of up to \$10,000. Each violation is a separate crime.

The prohibition does not apply to (1) possession of a firearm unless a person knew or reasonably should have known that the firearm was not imprinted with a serial number, as specified; (2) possession of a firearm that does not comply with the marking requirements by a person who received the firearm through inheritance, and is not otherwise prohibited from possessing the firearm, for up to 30 days after inheriting the firearm; or (3) possession of an unfinished frame or receiver by a person that made or manufactured the unfinished frame or receiver, without the use of any prefabricated parts, and who is not otherwise prohibited from possessing the unfinished frame or receiver for up to 30 days after the person made or manufactured the unfinished frame or receiver.

***VETO OVERRIDE* HB 1021 (Ch. 55) – Public Safety – Licensed Firearms Dealers – Security Requirements** prohibits a licensed firearms dealer from conducting business and storing firearms at a location unless (1) the premises on which the licensed dealer operates is equipped with specified security features or (2) outside business hours, the licensed dealer locks all firearms stored on the premises in a vault, a safe, or a room or building that meets specified requirements. The Secretary of State Police must adopt rules and regulations to determine whether a licensed dealer has met these requirements. A violator is subject to a maximum civil penalty of \$1,000 imposed by the Secretary.

In addition to the civil penalty, a person who knowingly and willfully violates the Act's provisions is subject to (1) for a second offense, suspension of the person's dealer's license and (2) for a third or subsequent offense, revocation of the person's dealer's license. These penalties do not apply if the equipment or alarm system became temporarily inoperable through no fault of the licensed dealer. On April 8, 2022, the Governor vetoed HB 1021 for policy reasons, but the General Assembly overrode the veto before the end of the 2022 session.

Public Safety

SB 861 (Ch. 142) – Crimes - Firearms and Inmates - Enforcement, Procedures, and Reporting establishes the Maryland State Police Gun Center within the Department of State Police (DSP) as a statewide firearms enforcement center for the tracking, screening, and vetting of all firearm crimes committed in the State. Beginning in 2023, and annually thereafter, the Governor must include in the annual State budget an appropriation sufficient to fund the operations of the center. Additionally, the bill (1) expands the types of cases in which the State may appeal from a decision of a trial court; (2) requires the Commissioner of Correction to include in a certain report certain statistics related to the cost of living of inmates at certain facilities; and (3) requires the Division of Correction to include in a certain report regarding Maryland Correctional Enterprises certain statistics regarding the race, age, and sex of certain inmates, disaggregated in a certain manner.

HB 441/SB 586 – Criminal Procedure and Public Safety – Courts and Criminal Justice in Baltimore City require the Department of Public Safety and Correctional Services to notify the Baltimore Police Department (BPD) within 24 hours if a defendant is released before trial. Additionally, SB 586 requires BPD to submit an annual report to the Governor and the General

Assembly regarding the firearms destroyed, seized, or recovered by BPD during the preceding calendar year. Senate Bill 586 also establishes the Jobs Court Pilot Program in Baltimore City. 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. For each of fiscal years 2024 through 2028, the Governor must include in the annual State budget an appropriation of at least \$500,000 to the Baltimore Workforce Development Board to be distributed to local workforce investment boards or other nonprofit entities that participate in the pilot program by identifying employers and training programs.

SB 134 – Maryland Police Training and Standards Commission – Training Requirements – Electronic Stalking requires the Maryland Police Training and Standards Commission to require, for entrance-level police training and at least every three years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning stalking as they pertain to electronic surveillance or tracking, including services available to victims, related prevention methods for victims, and how victims may request additional assistance to identify and preserve digital evidence.

SB 216 (Ch. 226) – Evidence – Approval of Breath and Blood Tests for Alcohol, Drugs, or Controlled Dangerous Substances transfers approval and oversight authority relating to breath alcohol and blood alcohol and drug tests in the investigation of specified motor vehicle and vessel offenses from the State Toxicologist in the Office of the Chief Medical Examiner within the Maryland Department of Health to the toxicologist in the Department of State Police Forensic Sciences Division.

SB 585 (Ch. 174) – Public Safety – Warrants and Absconding requires the Governor, for fiscal 2024 through 2026, to include each year in the annual budget bill an appropriation of \$2 million for local law enforcement agencies to be used as grants for warrant apprehension efforts. The Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) must administer the grant funds. The bill also modifies the definition of “absconding” as it relates to parole and probation to include leaving an inpatient residential treatment facility that an individual was placed in pursuant to a court order for drug or alcohol treatment without the permission of the administrator.

SB 763 (Ch. 141) – Public Safety and Criminal Justice – Transparency and Accountability requires the Division of Parole and Probation (DPP) to submit to the Senate Judicial Proceedings Committee and the House Judiciary Committee an annual report on (1) measures DPP will take to improve oversight of offenders under its supervision who are involved in homicides and (2) the number of offenders supervised by DPP who were victims of or charged with certain crimes. The bill also requires the Maryland State Commission on Criminal Sentencing Policy to include in its annual report specified information regarding sentences for crimes of violence

(disaggregated by judicial circuit) and post such information publicly on its website. The bill also establishes a Task Force to Study Transparency Standards for State's Attorneys to study the possibility of establishing minimum transparency standards for State's Attorneys.

In addition, the bill (1) renames the Independent Investigative Unit within the Office of the Attorney General as the "Independent Investigations Division"; (2) specifies that the division is the primary investigative unit for police-involved incidents that result in the death of civilians or injuries likely to result in death; and (3) specifies that OAG must determine whether an incident is police-involved and whether an injury is likely to result in death. Additionally, for the limited purpose of furthering an ongoing criminal investigation, the bill grants the Attorney General the authority to issue a subpoena to a person to produce telephone, business, government, or corporate records or documents.

Finally, the bill modifies requirements relating to the disciplinary process for police officers established by Chapter 59 of 2021. Specifically, the bill:

- requires all complaints of police misconduct involving a member of the public to be forwarded to the appropriate administrative charging committee regardless of whether the complaint originated from within the law enforcement agency or from an external source;
- requires each law enforcement agency to adopt the uniform State disciplinary matrix for all matters that may result in discipline of a police officer;
- modifies the composition of a trial board for a statewide or bi-county law enforcement agency, except for the Baltimore Police Department, to require a trial board to be composed of (1) an actively serving or retired administrative law judge appointed by the Chief Administrative Law Judge of the Maryland Office of Administrative Hearings; (2) a civilian who is not a member of an administrative charging committee or the Maryland Police Training and Standards Commission (MPTSC); and (3) a police officer of equal rank to the police officer who is accused of misconduct appointed by the head of the law enforcement agency;
- requires that the actively serving or retired administrative law judge or retired judge of the District Court or circuit court who serves on a trial board be the chair of the trial board, be responsible for ruling on all motions before the trial board, and prepare the written decision of the trial board;
- requires a trial board to issue a written decision reflecting the findings, conclusions, and recommendations of a majority of the trial board within 45 days after the final hearing by the trial board;
- modifies the appeal process after a decision of a trial board to authorize the decision of a trial board for a statewide or bi-county law enforcement agency to be appealed by the police officer to a circuit court in a county in which the incident that gave rise to the disciplinary proceeding occurred; and
- prohibits the use of collective bargaining to establish or alter any aspect of the disciplinary process for police officers.

- **SB 881 (Ch. 150) – Task Force to Study the Practice Known as “Swatting”** establishes the Task Force to Study the Practice Known as “Swatting” to (1) study the laws applicable to, and otherwise relating to, the practice known as “swatting” and (2) make recommendations relating to legislative changes needed to prohibit the practice known as “swatting.” The term “swatting” refers to the making of fake calls to 9-1-1 in an effort to elicit a significant response by law enforcement and other emergency services personnel.

Administrative Measures

SB 819 – Governor’s Office of Crime Prevention, Youth, and Victim Services – Executive Director – Appointment requires the Governor to appoint the Executive Director of the Governor’s Office of Crime Prevention, Youth, and Victim Services with the advice and consent of the Senate. The Executive Director of the office must serve at the pleasure of the Governor. The Executive Director who is serving on October 1, 2022, may continue to serve until two years after the bill’s effective date and may be reappointed after the expiration of the term.

SB 817 (Ch. 186) – Criminal History Record Checks – Youth Camps and Youth Development Organizations and Programs authorizes the operator of a youth camp or youth development organization or program, before making a formal offer of employment to a job applicant, to request from the Maryland Department of Health (MDH) a determination as to whether the results of a federal criminal history records check (CHRC) would be the basis for prohibiting the hiring of the applicant. On receipt of a request, MDH must issue a written determination to the youth camp or youth development organization or program as to whether the results of a federal CHRC would be the basis for prohibiting the hiring of the applicant. A determination issued by MDH is binding on MDH and the youth camp or youth development organization or program unless the applicant has subsequently been convicted of a crime, has pending criminal charges, or has previously undisclosed criminal convictions. MDH may set a reasonable fee to cover the cost of a CHRC.

SB 777 – Task Force to Study Public Information Act Requests Made to Law Enforcement – Establishment establishes a Task Force to Study Public Information Act Requests Made to Law Enforcement to review and study (1) costs charged by law enforcement agencies in relation to disclosure of records requested under the Maryland Public Information Act (PIA); (2) procedures applied by law enforcement agencies in the disclosure of records requested under PIA; and (3) the status and operations of the Maryland Public Information Act Compliance Board.

Courts and Judicial Proceedings

HB 519/SB 74 (Chs. 188 and 189) – Circuit Court Clerks - Salary Increase Clerks of the Circuit Court increase the maximum annual salary that the Board of Public Works may set for the clerk of each circuit court from \$124,500 to \$146,500. The salary increase takes effect at the beginning of the next term of office.

SB 232 – Registers of Wills – Maximum Salary – Increase increases the maximum annual salary that the Board of Public Works may set for a register of wills from \$124,500 to \$146,500. The salary increase takes effect at the beginning of the next term of office.

HB 205/SB 97 – Clerks of the Circuit Courts – Bonds, Licenses, Oaths, and Commissions amend provisions under the Courts and Judicial Proceedings Article relating to administrative duties of a clerk of a circuit court. The bills repeal a provision specifying that a clerk who fails to execute the required bond (1) may not receive fees or compensation and (2) is subject to a penalty of \$1,000. The bills also require a clerk to coordinate with (instead of apply to) the Comptroller by May 1 of each year regarding the issuance of licenses by the clerk on behalf of the Comptroller and repeal the penalty of \$1,000 for each failure to apply for blank licenses that are anticipated to be required for use by the county. Additionally, the bills require a clerk to coordinate with the Comptroller (instead of return an account under oath by specified dates) on certain information regarding licensing. Lastly, the bills repeal a provision requiring the Comptroller to charge the clerk with the costs of licenses and direct a suit in the event a clerk fails to make a required account of licensing activity.

HB 176 – Courts – Service of Process – Fees Collected by Sheriff increases, from \$40 to \$60, the fees that a sheriff must generally collect (1) for service of a paper not including an execution or attachment and (2) for service of process papers arising out of administrative agency proceedings where the party requesting the service is a nongovernmental entity. However, the bill specifies that, consistent with existing requirements, a sheriff must collect \$40 for service of a paper for (1) a breach of lease; (2) a tenant holdover; (3) a warrant of restitution; (4) a wrongful entry and detainer; or (5) an order of levy in distress. The bill does not alter other existing exceptions to these general fee requirements, nor does it alter the existing \$40 fee for service including an execution or attachment by taking a person into custody or seizing real or personal property

HB 208/SB 775 – Courts - Payment for Jury Service increase, from \$15 to \$30, the basic State per diem for jury service and the per diem for trial jurors for the first five days of jury service. The bills do not alter the \$50 per diem for trials lasting longer than five days.

HB 868 – Circuit Court for Howard County – Judges Sitting as Orphans’ Court proposes a constitutional amendment that repeals the requirement for voters in Howard County to elect three orphans’ court judges and instead requires the judges of the circuit court for the county to sit as the orphans’ court. Contingent on the adoption of the constitutional amendment, the bill makes a conforming statutory change to establish that, in Howard County, a party does not have the option to appeal a final judgment of an orphans’ court to the circuit court for the county and must instead directly appeal to the Court of Special Appeals.

Civil Actions and Procedures

HB 244 – Civil Actions - Damages - Use of Race, Ethnicity, and Gender Data prohibits a calculation of damages for loss of earnings resulting from personal injury or wrongful death from being reduced based on race, ethnicity, or gender. The bill applies prospectively to causes of action arising on or after October 1, 2022.

HB 349/SB 452 – Small Claims - Examination in Aid of Enforcement and Interrogatories in Aid of Execution – Prohibition prohibit the District Court, in a small claims action (a civil action in which the amount in controversy does not exceed \$5,000), from ordering an individual to answer interrogatories in aid of execution of a money judgment or to appear in court for an examination in aid of enforcement of a money judgment.

HB 1448 – District Court – Concurrent Civil Jurisdiction – Violation of Ordinances establishes that the District Court has concurrent civil jurisdiction with a governing body of a county or the Mayor and City Council of Baltimore over a proceeding for adjudication of a violation of an ordinance enacted (1) by a charter county for which a civil penalty is provided under § 10-202 of the Local Government Article; (2) by the Mayor and City Council of Baltimore for which a civil penalty is provided by ordinance; or (3) by a code county for which a civil citation is issued under Title 11, Subtitle 3 of the Local Government Article. The governing body of a county or the Mayor and City Council of Baltimore may delegate the authority (described above) to a board, commission, agency, or officer under its jurisdiction and control. Correspondingly, the bill amends § 10-305 of the Local Government Article to specify that a county board of appeals may have original jurisdiction or jurisdiction to review the action of an administrative officer or unit of county government over matters arising under any law, ordinance, or regulation of the county council that concerns the adjudication of a violation of an ordinance that has been delegated in the manner authorized under the bill.

Family Law

HB 83 (Ch. 175) – Family Law – Marriage of Minors prohibits individuals under the age of 17 from marrying. The legislation establishes that an individual who is 17 years old may not marry unless (1) the individual has the consent of each living parent, guardian, or legal custodian or (2) if the individual does not have this consent, either party to be married can produce a certificate from a medical professional stating that the medical professional has examined the woman to be married and has found that she is pregnant or has given birth to a child. Furthermore, an individual who is 17 years old may not marry unless the individual also presents a certified copy of an order granting authorization to marry to the clerk of the circuit court no earlier than 15 days after the order was issued. The legislation expands the jurisdiction of an equity court to include petitions for authorization for minors to marry and specifies procedures for judicial review and criteria for the granting or denial of petitions. A minor who is married may file an action for divorce and is deemed emancipated for the limited purpose of obtaining a divorce.

HB 369 – Marriage Records – Name Change establishes specified procedures and requirements for the issuance of a new marriage record when the name of a party to the marriage has been changed.

HB 1248 (Ch. 200) – Child Abuse and Neglect – Investigations – Timeliness responds to concerns raised by repeat audit findings that the Department of Human Services (DHS) failed to investigate child abuse and neglect reports in a timely manner in accordance with statutory requirements. The Act requires DHS to implement policies to ensure that specified actions are

taken if the agency fails to see a child who is the suspected victim of child abuse or neglect within the timeframes specified in statute. Additionally, DHS must prepare and issue various quarterly and annual reports to the General Assembly identifying investigations that are not completed within required timeframes, detailing the progress of the agency in complying with statutory timeframes, and assessing child welfare systems workloads.

SB 203 (Ch. 228) – Children in Need of Assistance – Custody and Guardianship and Review Hearings adds additional requirements for hearings to review the permanency plan of a child in need of assistance who is in an out-of-home placement in order to bring the State into compliance with federal law. Most significantly, the legislation (1) repeals the existing exception for a review hearing every 12 months if the child is continued in an out-of-home placement with a specific caregiver and, instead, requires that a review hearing be held every 6 months and (2) requires the court at review hearings to determine the appropriateness of and the extent of compliance with the case plan for the child. When the permanency plan is another planned permanent living arrangement, the bill also requires the review hearing to include specified determinations, including the adequacy of the steps that the local department is taking to ensure that the child’s foster family home or child care institution is following the reasonable and prudent parent standard, and an assessment of the opportunities for the child to engage in age or developmentally appropriate activities.

SB 17 – Child Custody – Cases Involving Child Abuse or Domestic Violence – Training for Judges stems from the recommendations of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations established by Chapter 52 of 2019 and requires the Judiciary, in consultation with domestic violence and child abuse organizations, to develop (and update, as appropriate) a specified training program for judges and magistrates presiding over child custody cases involving child abuse or domestic violence. The Judiciary must adopt procedures to identify custody cases involving child abuse or domestic violence as soon as possible to ensure that only judges who have received the required training are assigned such cases. Beginning July 1, 2024, within a judge’s first year of presiding over child custody cases involving child abuse or domestic violence, the judge must receive at least 20 hours of initial training approved by the Judiciary that meets the requirements of the training program, as established by the bill.

HB 296/SB 280 – Temporary Protective Orders – Electronic Filing and Video Conferencing Hearings authorize a victim of domestic violence to file electronically a petition for a temporary protective order from specified locations, including (1) a domestic violence and sexual assault prevention or assistance program and (2) a hospital where the petitioner is receiving medical treatment while the petitioner is at the hospital. A court that receives a petition filed electronically in accordance with the bills’ provisions must hold a hearing on the petition through the use of video conferencing on (1) the same business day if the petition is filed during regular court hours and the court is open or (2) the next business day that the court is open if the petition is not filed during regular court hours.

HB 817 (Ch. 168) – Criminal Law – Violation of a Protective Order – Merger Prohibition and Separate Sentence Authorization prohibits a conviction under § 4-509 of the Family Law Article for the violation of specified provisions of an interim, temporary, or final domestic violence protective order from merging with a conviction for any other crime based on the act establishing the violation. The bill also authorizes a sentence under § 4-509 of the Family Law Article to be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation under § 4-509.

Juvenile Law

HB 459/SB 691 (Chs. 42 and 41) – Juvenile Justice Reform make numerous changes to the juvenile justice process in the State by generally implementing the recommendations of the Juvenile Justice Reform Council established by Chapter 253 of 2019. Among other provisions, the Acts (1) limit the circumstances under which a child younger than age 13 is subject to the jurisdiction of the juvenile court; (2) alter the use of informal adjustments; (3) establish limitations on terms of probation imposed by a juvenile court, the use of detention, and out-of-home placements; (4) create a permanent Commission on Juvenile Justice Reform and Emerging and Best Practices; and (5) establish numerous reporting requirements.

***VETO OVERRIDE* SB 53 (Ch. 50) – Child Interrogation Protection Act** prohibits a law enforcement officer from conducting a custodial interrogation of a child until the child has consulted with an attorney and the law enforcement officer has made an effort reasonably calculated to give actual notice to the parent, guardian, or custodian of the child that the child will be interrogated. The bill establishes a rebuttable presumption that a statement made by a child during a custodial interrogation is inadmissible in specified proceedings against that child if a law enforcement officer willfully failed to comply with the bill's requirements. A law enforcement officer may conduct an otherwise lawful custodial interrogation of a child (without parental notification or consultation with an attorney) if (1) the officer reasonably believes that the information sought is necessary to protect against a threat to public safety and (2) the questions posed to the child are limited in scope, as specified. On April 8, 2022, the Governor vetoed SB 53 for policy reasons, but the General Assembly overrode the veto before the end of the 2022 session.

Estates and Trusts

HB 576/SB 36 (Chs. 176 and 177) – Wills and Trust Instruments – Electronic Execution, emergency legislation, authorize the execution of an electronic will or remotely witnessed will without a notary public if (1) the will is signed, acknowledged, and sworn to before a supervising attorney; (2) the supervising attorney attaches a specified form to the will; and (3) the supervising attorney does not serve as a witness to the will. A notary public may perform a notarial act using communication technology for a remotely located individual with respect to a trust instrument, as defined under § 14.5-103 of the Estates and Trusts Article, if specified requirements under the State Government Article are met. The bills further make a clarifying change to remove a will as an exception to the authorization for a notary public to perform a notarial act using communication technology for a remotely located individual.

HB 187 – Estates and Trusts – Administration of Estates – Fees alters the existing statutory fee schedule that may be assessed by the registers of wills, including (1) eliminating the probate fees assessed for small estates (valued at \$50,000 or less) and (2) altering the probate fees for other estates in a manner that in most cases reduces fees for smaller estates and increases fees for larger estates. The bill applies prospectively and may not be applied to any estate opened before the bill's October 1, 2022 effective date.

SB468 – Estates and Trusts - Personal Representatives - Payment of Commissions and Attorney's Fees Without Court Approval clarifies the circumstances under which the payment of commissions to personal representatives and attorney's fees may be made without court approval. Further, the bill specifies, under certain circumstances, that unless a consent form is filed simultaneously with the final administration account or final report under a modified administration, each payment consented to must be for services rendered by the attorney or personal representative prior to the date of consent.

HB 1049/SB 878 – Maryland Trust Act - Trustee Liability - Release by Interested Parties modify the procedures a trustee may elect to follow to seek the trustee's release from liability for the administration of the trust by (1) authorizing a trustee to send a specified report (that provides certain information and notice) to the interested party from whom the trustee is seeking release instead of to each interested party; (2) allowing for the interested party to whom the report was sent to submit within 120 days a written statement to the trustee that the interested party does not object, in addition to the existing option to submit a written objection within 120 days; (3) allowing for an interested party who submits a written statement that they do not object to be deemed to have released the trustee and consented to and ratified all actions of the trustee; and (4) if each interested party to whom a report was sent provides a written statement that they do not object, allowing for the trustee to distribute the trust property prior to the end of the 120-day period after the mailing of the report. If an interested party to whom a report was sent submits a written objection to the trustee within 120 days after the trustee mailed the report, the bills limit the interested parties to whom notice must be given of a court proceeding to resolve the objection or who must be in agreement along with the trustee in resolving the objection to those interested parties to whom a report was sent.

HB 808/SB 508 – Estates and Trusts - Guardianship of Minors - Appointment by Court establish circumstances under which an individual may be appointed as a guardian of the person and/or as a guardian of the property of a minor. The orphans' courts and the circuit courts have specified concurrent jurisdiction over guardians of the person of a minor and proceedings to appoint a guardian of the person of a minor. The bills alter the circumstances under which a court may appoint a guardian of the person for an unmarried minor by requiring the court to find, by a preponderance of the evidence, that the appointment is in the best interests of the minor, that no testamentary appointment has been made, and that (1) no parent is willing or able to serve as the guardian of the person of the minor; (2) each parent consents to the appointment of the guardian of the person; or (3) no parent objects to the appointment of the guardian of the person. The bills clarify that the appointment of a guardian of the person of a minor may not be construed to require the termination of any parental rights with respect to the minor under Title 5 of the Family Law Article.

HB 990/SB 694 – Estates and Trusts - Guardianship of the Property of Disabled Persons - Court-Appointed Attorneys authorize the court, on petition and after notice or hearing as required by law or the Maryland Rules, to appoint a guardian of the property for a minor or a disabled person and requires the court to appoint a guardian for a disabled person under certain circumstances. Unless an alleged disabled person has chosen counsel, the court must appoint an attorney to represent the alleged disabled person in a protective proceeding. Effective October 1, 2023, the bills require the State to pay a reasonable attorney’s fee for an alleged disabled person that is indigent in a protective proceeding. In any action in which payment for the services of a court-appointed attorney for the alleged disabled person is the responsibility of the local department of social services, the court must appoint an attorney who is under contract with the Department of Human Services (DHS) to provide legal representation for the alleged disabled person, unless the court finds that the appointment would not be in the best interests of the alleged disabled person. In such an action, if an attorney has previously been appointed, the court must strike and replace the previously appointed attorney with an attorney who is under contract with DHS, unless the previously appointed attorney is willing to accept the same fee, and the court does not find a conflict of interest.

SB 559 – Estates and Trusts - Supported Decision Making authorizes the use of “supported decision making” to (1) assist adults by obtaining support for the adult to make, communicate, or effectuate decisions that correspond to the adult’s will, preferences, and choices and (2) prevent the need for the appointment of a substitute decision maker, including a guardian of the person or property. “Supported decision making” means a process by which an adult, with or without having entered a supported decision-making agreement, utilizes support from a series of relationships in order to make, communicate, or effectuate the adult’s own life decisions. The bill specifies that an adult may use supported decision making to (1) increase the adult’s self-determination; (2) prevent the need for the appointment of a substitute decision maker; or (3) limit or terminate the use of a substitute decision maker. Further, the bill outlines the role of a supporter, establishes a process for entering a supported decision-making agreement, and establishes specified immunity for third parties. Lastly, the bill establishes that a competent adult individual who is able to communicate with support, including supported decision making in accordance with the bill, is not considered incapable of making an informed decision under the Health Care Decisions Act.

Immigration

VETO OVERRIDE During the 2021 regular session, the General Assembly passed **HB23 – Personal Information - State and Local Agencies - Restrictions on Access (Maryland Driver Privacy Act)**, which was subsequently vetoed by the Governor. The General Assembly overrode the veto during the 2021 special session, and the bill became Chapter 18 of the 2021 special session. Chapter 18 modifies Maryland’s Public Information Act (PIA) to require an officer, an employee, an agent, or a contractor of the State or a political subdivision to deny inspection of records that contain specified personal information, and deny inspection using facial recognition searches, by any federal agency seeking access for the purpose of enforcing federal immigration law unless provided with a valid warrant. In addition, a person who receives specified personal information under PIA may not disclose the information to a federal agent or federal agency for the purpose of federal immigration enforcement unless presented with a valid warrant. The

Motor Vehicle Administration, the Department of State Police, and the Department of Public Safety and Correctional Services must submit an annual report to the General Assembly on records requests from federal agencies seeking access for immigration enforcement purposes. Finally, the Act restricts access to databases operated by State and local law enforcement agencies.

Real Property

HB 571/SB 279 (Chs. 20 and 21) – Access to Counsel in Evictions Special Fund – Alteration, the General Assembly passed Chapter 746 during the 2021 session. Chapter 746 established the Access to Counsel in Evictions Program, which provides covered individuals with access to legal representation in specified landlord-tenant proceedings. The program is administered by the Maryland Legal Services Corporation (MLSC). Chapter 746 also established the Access to Counsel in Evictions Special Fund to fund the program. HB 571 and SB 279 alter the funding sources of the Access to Counsel in Evictions Special Fund to include funds received by the Consumer Protection Division in the Office of the Attorney General from any final settlement, agreement, or judgment related to an investigation or enforcement action of the Maryland Consumer Protection Act for an unfair, abusive, or deceptive trade practice regarding residential rental property. The Acts exclude from the fund any restitution and costs incurred by the Office of the Attorney General to bring the action.

SB 662 (Ch. 40) – Access to Counsel in Evictions Special Fund – Funding provides additional funding for the Access to Counsel in Evictions Special Fund. The Act requires, for fiscal 2024 only, the Comptroller to distribute \$14 million from the State's Unclaimed Property Fund to the Access to Counsel in Evictions Special Fund. The Act also requires the Governor to include in the annual budget bill for fiscal 2024 an appropriation of \$14 million from the Access to Counsel in Evictions Special Fund to MLSC.

SB 563 – Real Property - Actions to Repossess - Judgment for Tenants and Proof of Rental Licensure requires a landlord (in a jurisdiction that requires licensure) to plead and demonstrate that residential rental property is licensed in compliance with or exempt from applicable local rental licensing requirements. This requirement is generally applicable upon the filing of a failure to pay rent, tenant holding over, or breach of lease action (subject to limited exception, including in circumstances involving a clear and imminent danger). At trial, the landlord must demonstrate to the satisfaction of the court that the property is licensed or exempt from licensing requirements. A landlord may provide electronic proof of licensure to satisfy this requirement. A landlord is not required to demonstrate compliance or exemption from local licensing requirements in a breach of lease or tenant holding over action if the landlord shows that the actions of the tenant caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license. If a landlord asserts that rental property is not licensed as required due to actions of a tenant, the landlord may file a breach of lease or tenant holding over action only after the landlord provides written notice of the assertion to the tenant at least 30 days before filing the action.

HB 521 – Landlord and Tenant - Repossession for Failure to Pay Rent - Shielding of Court Records authorizes a tenant to petition the court to shield court records relating to an action for repossession for failure to pay rent filed on or after March 5, 2020, but before January 1, 2022, if the failure to pay rent was due to a loss of income arising out of the COVID-19 pandemic. A tenant may not file a petition until the appeal period for the action has lapsed.

The bill does not apply to any record relating to an action for repossession for failure to pay rent that resulted in a money judgment in favor of a landlord unless the petitioner provides evidence to the court that the judgment has been satisfied. A court is required to grant a petition to shield records in actions in which there was not a judgment entered in favor of a landlord. For a record in which a judgment was entered in favor of a landlord, the bill requires the petitioner to serve a copy of the petition on the landlord and requires that a hearing take place if the landlord files a timely objection. If the petitioner demonstrates at the hearing that the failure to pay rent was due to a loss of income arising out of the COVID-19 pandemic, the court may grant the petition to shield records relating to that judgment. If a landlord fails to file a timely objection, the court may grant or deny the petition to shield records relating to that judgment but must provide specific reasons for a denial.

HB 824 – Landlord and Tenant - Eviction Data - Collection and Distribution requires the Judiciary to collect, compile, and share residential eviction data on a monthly basis in a manner required by the Department of Housing and Community Development (DHCD). “Eviction data” means, in regard to specified landlord/tenant actions, the (1) county and zip code of the subject premises; (2) date of execution of the warrant of restitution or writ of possession; and (3) the type of action from which the warrant or writ was issued. DHCD must organize and format the data and publish the data on DHCD’s website in a specified manner. The data must be made available as specified, on request by (1) a State agency; (2) an agency of a county or municipal corporation; or (3) an academic institution located in the State.

HB 777/SB 92 – Real Property - Partition of Property establish new procedures for the partition of real property, including procedures for the purchase of interests in real property by cotenants and for the partition in kind of real property among cotenants. The bills specify that the statutory provisions under the Estates and Trusts Article in regard to partition of property are subject to the requirements under the bills. The bills apply prospectively to a partition action filed on or after October 1, 2022.

More information about these bills and other legislation can be found at the Maryland General Assembly’s webpage mgaleg.maryland.gov, or please contact the House Judiciary Committee at 410-841-3488 or by email at Luke.Clippinger@house.state.md.us.

Best regards,



Chair Luke Clippinger